

NATIONAL ASSEMBLY

OFFICIAL REPORT

Thursday, 19th November, 1998

The House met at 2.30 p.m.

[Mr. Deputy Speaker in the Chair]

PRAYERS

ORAL ANSWERS TO QUESTIONS

Question No.634

MISUSE OF THE CHIEF'S ACT

Mr. Deputy Speaker: Mr. Anyona is not here? We will come back to that Question.

Question No.703

ESTABLISHMENT OF A POLICE
STATION IN MUTITU

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

- (a) whether he is aware that the Government promised the establishment of a Police Station at Mutitu on 23rd December, 1992,
- (b) whether he is further aware that Mutitu Constituency which is a bandit prone area has no police station to date; and,
- (c) if the answers to "a" and "b" are in the affirmative, when he will establish a well-equipped police station in Mutitu.

Mr. Deputy Speaker: Anybody from the Office of the President? We will come back to it later.

Question No.636

NON-PAYMENT OF SALARIES TO
KNFU EMPLOYEES

Mr. Sungu asked the Minister for Agriculture:-

- (a) whether he is aware that the Kenya National Farmers Union (K.N.F.U.) collected money from its members for the purposes of constructing premises along Lang'ata Road,
- (b) whether he is further aware that the employees of the organisation have not been paid their salaries for the last six months and that these employees are about to lose their jobs; and,
- (c) if the answers to "a" and "b" are in the affirmative, whether he is satisfied that the collected money was properly used and when the employees will be paid their dues.

The Assistant Minister for Agriculture (Dr. Wamukoya): Mr. Deputy Speaker, Sir, I beg to reply.

(a) The linkage market was constructed by KNFU using its own funds. No collections were raised from the members. These stalls have been allotted to successful members. Members are expected to pay Kshs10,000 token fee to the union with the monthly rental fee of between Kshs1,500 and Kshs2,000, depending on the size and frontage of the stall.

(b) Out of 24 employees only six are to be laid off. The six employees have not received their salaries for the last four months. The union intends to pay them by December 1998. Their terminal benefits will be paid as per the law provided.

(c) The token fee for the stalls is paid in instalments. As at 31st October, 1998 a total of Kshs647,000 had

been collected. This money is being properly utilised in the day-to-day running of the union.

Mr. Sungu: Mr. Deputy Speaker, Sir, I would like to take this opportunity to thank the Assistant Minister for that very good answer. But, nevertheless, I would like to ask the Minister to tell us on what basis the union is now employing temporary workers while it is laying off other employees who are more qualified, experienced and have worked with the organisation for a long time. The other thing I wanted the Assistant Minister to do is to perhaps lay on the Table the number of employees---

Mr. Deputy Speaker: Order! Let us have one question at a time.

Dr. Wamukoya: Thank you, Mr. Deputy Speaker, Sir. I do not have any information to the effect that KNFU is employing casual workers. I have a list of their permanent workers which I can lay on the Table.

Mr. Sungu: I would be grateful to the Assistant Minister if he would perhaps also lay on the Table the list of the beneficiaries of the plots that are said to be allocated to the members.

Dr. Wamukoya: I have got both lists which I can lay on the Table. One list is for those people who are currently employed by KNFU and the six who are being laid off. I also have a list of 228 people who got the stalls at Lang'ata. I beg to lay them on the Table.

*(Dr. Wamukoya laid the documents
on the Table)*

Dr. Ochuodho: On a point of order, Mr. Deputy Speaker, Sir. I am standing to ask a question if you can allow it.

Mr. Deputy Speaker: Next Question!

Question No.687

ESTABLISHMENT OF EDUCATION
ZONES IN SIAKAGO

Mr. Ita asked the Minister for Education and Human Resource Development when the Ministry is going to approve the establishment of Karerema, Kathanje and Muchonoke Education zones in Evurori and Siakago Divisions of Siakago Constituency.

The Minister for Education and Human Resource Development (Mr. Musyoka): Mr. Deputy Speaker, Sir, I apologise for coming slightly late. I wish to reply as follows:

My Ministry has received requests for the creation of new education zones from Mbeere District, among other districts, and the requests are being considered.

Mr. Ita: Mr. Deputy Speaker, Sir, I am grateful to the Minister for the answer which "meets my Question halfway". I think the Minister has not fully answered my Question because there is the issue of "when" and he is talking of "considered", but when are these zones going to be established?

Mr. Musyoka: Mr. Deputy Speaker, Sir, this will be as soon as it is practicable and the funding situation as well allowing, but it is also important to recognise that nationally, we have between 1,500 and 1,600 education zones. The Inspectorate Division of the Ministry has advised that the optimum figure is about 1,032. Be that as it may, I will still have to look at the matter of Mbeere District because it is a new district, and the hon. Ita, knows that among other things, he is a neighbour and I think it is good to live well as neighbours.

Mr. Mwenje: Mr. Deputy Speaker, Sir, I do not think it is a question of neighbourliness, it is a question of money. We just voted the money for the Ministry of Education and Human Resource Development recently. Could the Ministry get a portion of that money and utilise it for this purpose?

Mr. Musyoka: Mr. Deputy Speaker, Sir, we do not have enough money and the Member for Embakasi will well appreciate that when, for instance, you look at the question of the school bursaries, we were, in fact, under-funded by up to Kshs12 million. That is only in the case of bursaries alone, leave alone the question of capital expenditure and the rest.

On the Recurrent Expenditure itself, we were under-funded. So, it is not an exaggeration to say that we do not have enough money for this purpose. However, we will do the best we can to get the people of Mbeere, at least, one or two extra zones.

Mr. Ita: Mr. Deputy Speaker, Sir, I agree with the Minister that we are neighbours and he would like us to live as good neighbours. The question of funds, I think, does not arise here in that earlier on, we were told by the Ministry that where there was under-staffing, the Ministry was going to remove teachers from areas where

there was over-staffing to those under-staffed areas.

Mbeere is one of the areas where there is a lot of under-staffing. So, as the Minister does that, then he just needs to move teachers to run the zones who are already in employment and they do not require any extra funds. It is only to establish the zones and post the teachers who are competent to run the zones.

Mr. Musyoka: Mr. Deputy Speaker, Sir, there is the need for a lot of money and besides, when we upgrade teachers from being classroom teachers to zonal inspectors, that also has implications with regard to the question of money. I think it is also important to point out that I hope it will be possible, in the case of Mbeere, to have at least a minimum of 16 schools to every zone. Let us begin from that and I think we will progress as we get along.

Question No.688

AUDITING OF SCHOOLS FUNDS

Mr. Mugalla asked the Minister for Education and Human Resource Development:-

(a) whether he is aware that school funds in schools are mismanaged due to lack of proper and timely auditing services; and,

(b) if the answer to "a" above is in the affirmative, whether he could allow secondary schools Boards of Governors to appoint their own auditors who will be responsible to the Boards for making sure that the schools' books of accounts are timely audited on an annual basis.

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

(a) Although it is true that schools and, therefore, public funds in some schools are mismanaged, my Ministry has observed that it is not due to lack of proper and timely auditing services. Rather, it is due to the inability of secondary schools in particular, to afford competent accounts staff to prepare books of accounts in time for audit.

(b) The Education Act, Chapter 211 of the Laws of Kenya, does not provide for the Boards of Governors (BOGs) to appoint private auditors. In addition, the financial situation of most secondary schools will not enable them to afford private auditors.

Mr. Mugalla: Mr. Deputy Speaker, Sir, is the Minister aware that accounting of secondary schools is simple accounting and, therefore, does not need auditing?

Mr. Musyoka: Mr. Deputy Speaker, Sir, could my good friend repeat that question?

Mr. Mugalla: Mr. Deputy Speaker, Sir, my question here is whether the Minister aware that the account of secondary schools are simple accounts and they do not need an accountant? They just need an accounts clerk.

Mr. Musyoka: Mr. Deputy Speaker, Sir, I do not believe that one can properly assert that there are simple and complicated accounts when dealing with public funding. I believe the problem in a lot of schools is that some of the bursars are not competent. I think we cannot, as a Ministry, compromise on the standards in terms of bookkeeping. We recognise and identify that this is indeed the problem.

Mr. Kikuyu: Mr. Deputy Speaker, Sir, in his first part of the answer, the Minister agrees that there is a lot of mishandling of public funds in schools. He has agreed that we do not have competent bursars or accounts clerks in the schools to do this work. What policy has the Ministry put in place to make sure there is accountability in every secondary school and college such that we do not continue losing public funds, yet, he knows about it and he does not have the way? Is he saying that we should sit down and "eat"?

Mr. Musyoka: Mr. Deputy Speaker, Sir, the hon. Member for Machakos Town will note that one of the things we intend to do, as a Ministry, is to strengthen our audit unit, because such a unit does exist, with a view to improving and streamlining its operations at the district as well as provincial level, as well as holding management and financial seminars all over in order to get headteachers become more accountable. In addition to that, we are collaborating with some of our development partners with a view to giving the necessary capacity to head teachers to manage finances in addition to the accounting staff that they have.

Mr. Obwocha: Mr. Deputy Speaker, Sir, this is a very important Question. If I can tell the Minister, all qualified accountants in East and Central Africa are meeting in Nairobi today for five days, for the ECSAFA Conference. It would be a great honour if the Minister took this thing seriously.

The mismanagement of school funds arises because there are no frequent audits. I would like to remind the Minister that, in his reply, he said there are no competent staff. But he knows, at the same time, that an

auditor, while auditing, can also write the books. He can do some accountancy services including audits. He only needs to charge some little money.

Could the Minister allow the Board of Governors to appoint private auditors to assist in updating these accounts of schools?

Mr. Musyoka: Mr. Deputy Speaker, Sir, I well appreciate that my hon. colleague is a professional accountant. Indeed, I am also aware that this very important meeting is taking place in our capital city. The Government, I am sure, is taking it very seriously.

However, if Boards of Governors were to be given a leeway to appoint auditors, the financial burden to meet the auditors' fees would, of necessity, be shifted to the parents. It is clearly noted that the Kenyan parents are already over-stressed when it comes to meeting their school financial obligations. The parents, therefore, need to be protected by my Ministry and, therefore, the Government from further exploitation. So, I do not think this is feasible given the circumstances.

Mr. Sambu: On a point of order, Mr. Deputy Speaker, Sir. The Minister is misleading the House by saying that his Ministry is protecting the parents when thousands and thousands of shillings get lost because there are no auditors. Most secondary schools accounts are not audited for even 20 years since they were established. Is he not misleading the House? We lose more money through fraud in schools than what we would pay to the auditors.

Mr. Deputy Speaker: Order! Order, Mr. Sambu!

Mr. Musyoka: Mr. Deputy Speaker, Sir, it is not my habit to mislead this august House, and hon. Sambu will do very well to report cases of misappropriation of public funds to the nearest police station.

(Several hon Members stood up in their places)

Mr. Deputy Speaker: Order! Order, hon. Members! Dr. Ochuodho, ask your question.

Dr. Ochuodho: Mr. Deputy Speaker, the fact that school funds are being misappropriated on a large scale in this country is not secret. Only yesterday, in this very House, the Minister did tell us of a case where Kshs700,000 was misappropriated in a school in Busia District. Now that he seems to have the facts, and we have been told that it is cheaper to pay the auditors or the accountants than the money that is misappropriated, could the Minister tell us whether he is going to consider to save the money which is being misappropriated to pay the accountants and the auditors?

Mr. Musyoka: Mr. Deputy Speaker, Sir, how I wish we could have a national quantification of such figures! But that is not easy. What we will do, as a Ministry, is to strengthen our audit department and that is the pledge I give to this House.

Question No.601

REHABILITATION OF BUNA HEALTH CENTRE

Dr. Ali asked the Minister for Health:-

- (a) whether he is aware that the Buna Health Centre is in a deplorable state and even the Ministry of Public Works and Housing has condemned the building;
- (b) whether he is further aware that Buna, Bute, Ajawa, and Gumar dispensaries are each staffed by one subordinate staff; and,
- (c) if the answers to "a" and "b" above are in the affirmative, whether he could, as a matter of urgency, rehabilitate the health centres and post qualified medical personnel.

The Assistant Minister for Health (Mr. Criticos): Mr. Deputy Speaker, Sir, I beg to reply.

This question was brought before this House two weeks ago and I promised to go and revise the answer and bring a proper reply to this House. After, we, in the Ministry of Health went back to the ground to find out what was happening, we have come up with the same answer. However, there are a few points which we will iron out with the hon. Member next week. Should I continue to read the answer which is exactly the same?

Mr. Deputy Speaker: No. Are you ready to answer this Question in a complete manner today?

The Assistant Minister for Health (Mr. Criticos): I am not, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: You are not. So, we will defer the Question? Hon. Dr. Ali, what do you have to say?

Dr. Ali: Mr. Deputy Speaker, Sir, this is the third time now that this Question is being asked. I have

talked to the Minister and we have agreed that we will talk in his office. As far as he is concerned, it will do us better to go to the field because he is not getting any answers from there, and I was there a week ago.

Mr. Deputy Speaker: Is it Tuesday or Wednesday next week, or I ask him to answer it today? Mr. Minister, will it be Tuesday or Wednesday?

The Assistant Minister for Health (Mr. Criticos): Tuesday, Mr. Deputy Speaker, Sir.

(Question deferred)

Mr. Deputy Speaker: Next Question; Dr. Oburu Odinga.

Question No. 251

CONFISCATION OF PROPERTY BY SIAYA
COUNTY COUNCIL OFFICERS

Dr. Oburu asked the Minister for Local Authorities:-

(a) if he is aware that the Siaya County Council enforcement officers invade business premises allegedly to inspect trade licences and end up illegally confiscating property from business premises; and,

(b) whether he is further aware that confiscated property is never returned to the owners even after they have paid for the licences; and,

(c) if the answers to "a" and "b" above are in the affirmative, what urgent steps he is taking against the offending officers and to arrange for compensation to the victims.

The Assistant Minister for Local Authorities (Mr. Sasura): Mr. Deputy Speaker, Sir, I beg to reply.

(a) I am aware.

(b) I am aware that confiscated property which is taken as exhibits is returned to the owners immediately licences or Local Authority Services Charge is paid, except for a few incidents.

(c) I have directed that officers of Siaya County Council act within the by-laws as stipulated under the Local Government Act

Dr. Oburu: Mr. Deputy Speaker, Sir, it is not true to say that the incidents are few. This is because I have with me here a letter written from one single market in Bondo, called the "Daraja market" where more than 15 people had their properties confiscated by the Local Authorities. Could the Assistant Minister tell us which particular Section of the Local Government Act, Cap 265, allows Local Government officers to confiscate wananchi's property because they have not paid for their licences? Are they allowed to seize people's properties without going to court?

Mr. Sasura: Mr. Deputy Speaker, Sir, enforcement officers, once in a while, visit business premises as a routine to collect revenue on licences. However, to answer Dr. Oburu's question, there is no Section in the Act which allows that. But these properties are taken as exhibits with a view to taking the said people to court. I would like to add also that, as much as we want the councils to be financially viable, sometimes they get difficulties and face resistance from traders who do not want to pay trade licences and the Council sometimes over-reacts as far as the by-laws are concerned.

Dr. Oburu: Mr. Deputy Speaker, Sir, the Assistant Minister has said that there is no law allowing these people to confiscate wananchi's properties. Can he tell me how confiscation of people's property will help the council to collect revenue by acting illegally instead of using the legal means of taking these people to court for failing to pay for their licences? How does confiscation of people's property help the council gain revenue? We know that this property never comes back to the person, neither is it sold by the council; it is stolen by those officers.

Mr. Sasura: Mr. Deputy Speaker, Sir, the council officers do not confiscate these properties with the aim of stealing them. I have said that some of these traders do not want to pay for these licences and there is no way we can expect the council to survive financially, when traders want to trade without licences. In the first place, that in itself is illegal. Secondly, the only case we know and we are aware about happened in Madiani Trading Centre where one, Mr. George Ochumi Nyakinya, had to do away with his machine and after he paid the licence fee, the machine was returned to him, it was not kept. In fact, he was expected to pay the council without the council going for the money.

Mr. Ndicho: Mr. Deputy Speaker, Sir, the Government abolished trade licences early this year, and the

Assistant Minister, in part "a" of his answer, said that he is aware these people in Siaya County Council are asked to produce trade licences. Is it that Siaya is not in this country? Is it that they are not in Kenya to be charged trade licences when trade licences have been abolished and they are not being charged in any part of this country? Or are we talking about county council or municipal council licences? This is because if it is trade licences, they have been abolished. What are you talking about?

Mr. Sasura: Mr. Deputy Speaker, Sir, I think that is very far from the original Question. I am talking about revenue from the market.

Mr. Ndicho: On a point of order, Mr. Deputy Speaker, Sir. The Assistant Minister must listen very carefully. In his answer to part "a" of the Question, he said that he is aware that county council enforcement officers from Siaya County Council invade business premises to inspect trade licences. He said that he is aware, and yet trade licences have been abolished in this country; they are no longer in operation. So, what trade licences are the people from Siaya County Council being asked to produce?

Mr. Sasura: Mr. Deputy Speaker, Sir, Dr. Oburu was addressing a specific market where he said he had 15 cases. And in markets, normally, the council goes for revenue. In my answer, I even mentioned the local authority services Charge which was payable. Why does hon. Ndicho not address that issue?

Dr. Oburu: On a point of order, Mr. Deputy Speaker, Sir. The Question is asking the Minister whether he is aware that Siaya County Council enforcement officers invade business offices allegedly to inspect trade licences. It is not specific to one market. It is general, but the only specific thing I have is a letter from business people from a single market, though this is happening all over the district. Is it in order for the Assistant Minister to say that I am addressing a specific market?

Mr. Sasura: Mr. Deputy Speaker, Sir, I think this is a very clear case. It is very difficult for the Ministry to understand why the people of Siaya agree to part with their property, for example, the case of Mr. Ochung' who parted with his weighing machine. It is definitely in order that if these council officers went there, they went there for the right thing. Because if they went to check the trade licences which are non-existent, these traders would have resisted. Mr. Ochung's machine was returned to him after he paid what was due to the council.

Mr. Deputy Speaker: Next Question!

Question No.625

RELOCATION OF DUMPING SITE

Mr. Mwenje asked the Minister for Local Authorities:-

- (a) that due to the serious health hazard exposed to Dandora residents by the recent uncontrolled dumping at Dandora garbage dumping site, he would immediately stop this dumping and order the City Council to take the garbage elsewhere; and,
- (b) if he would further ensure that those less fortunate citizens who live in the dumping site are given first priority in settling them in the garbage plot once cleared.

The Assistant Minister for Local Authorities (Mr. Sasura): Mr. Deputy Speaker, Sir, I beg to reply.

(a) Plans are at an advanced stage to relocate the current dumping site at Dandora to another suitable site where proper and modern health operations will be practised to minimise secondary pollution. The new site will be located at Ruai, next to Ruai sewerage treatment plot. This is in line with the master plan prepared by JICA in conjunction with the Ministry. Implementation of the masterplan is under discussion between the Government of Kenya and the Government of Japan. Once discussions are over, the proposed site will be established and dumping of garbage at the Dandora site will stop forthwith.

(b) When the Dandora dumping site will be cleared, the Council will work a proper fiscal plan for the area and the interests of the local residents will be taken care of along with those of other deserving Kenyans. It will also cater for other mandatory public needs.

Mr. Mwenje: Mr. Deputy Speaker, Sir, there is urgency to remove this dumping site from Dandora because they are dumping syringes and other medical disposals which are very dangerous. How far are these plans and could the Assistant Minister tell us precisely when this dumping site will be transferred to this other site he is referring to?

Mr. Sasura: Mr. Deputy Speaker, Sir, it is true that this is an urgent issue, but it will not help us very much if we go in a rush. If we say we are going to transfer the dumping site immediately to another area, it is like transferring a problem from one place to another one. An immediate stoppage of dumping at Dandora cannot be undertaken until a suitable alternative solution is arrived at. Immediate relocation of the site, as I said, is like

transferring a problem. At the moment, to minimise health hazards at the site, the Council has hired a private firm to manage garbage at the site.

Mr. N. Nyagah: Mr. Deputy Speaker, Sir, the problem is not to move the site from one place to the other, it is the management of that disposal. It is documented that 50 per cent of solid waste is never collected in Nairobi. Could the Ministry consider improving Ruai and putting incinerators, so that the waste can be burnt down completely without creating any environmental problems on the environment and the human beings?

Mr. Sasura: Mr. Deputy Speaker, Sir, the proposed site at Ruai will be properly managed in a modern way that will minimise secondary pollution and will be away from residential areas. It will be next to the sewerage treatment site.

Mr. Ngure: Mr. Deputy Speaker, Sir, could the Assistant Minister tell the House what rationale the municipalities use to choose dumping sites within residential areas?

Mr. Sasura: Mr. Deputy Speaker, Sir, this depends on the growth of towns. Once there is a dumping site somewhere, that town and its population are bound to grow. Translocation of that site is because of the cluster of the population around there.

Mr. Mwenje: Mr. Deputy Speaker, Sir, I appreciate that the problem is that all garbage from Dagoretti, Westlands and other parts of Nairobi is taken to Dandora. While the Ministry is organising for that, could the Assistant Minister consider taking garbage from far areas like Dagoretti, Westlands and other areas, to those respective areas instead of taking it to Dandora? This garbage is littered everywhere enroute to Dandora. This is dangerous, and I am sure they can decentralise garbage dumping.

Mr. Sasura: Mr. Deputy Speaker, Sir, as I said earlier on, the most important thing is to manage this garbage and not really the size of the garbage. We have hired a private firm to do that and we have acquired two new bulldozers worth Kshs6 million to manage the garbage currently there. Definitely, the firm which has been hired will know how to manage the garbage.

Question No.577

MORE COACHES FOR VOI-TAVETA LINE

Mr. Mwakiringo asked the Minister for Transport and Communications when the Kenya Railways Corporation will provide more coaches on the Voi-Taveta line, since the current three serving coaches are inadequate especially during market days.

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

The Kenya Railway Corporation will definitely provide more coaches on the Voi-Taveta line when the current Government's effort to refurbish and rehabilitate locomotives is achieved. We will also require more funds to be able to bring up the locomotives to be able to work on the Taita-Taveta Railway Line. We need lighter locomotives, and we are trying to get the right locomotives for this. I can assure the hon. Members that we are now refurbishing about 62 locomotives, and when they are ready, we will definitely put two or three on the Voi-Taveta line.

Mr. Mwakiringo: Mr. Deputy Speaker, Sir, as much as I appreciate the Minister's reply, this is the lifeline of most of the traders in Voi and other parts of Taita-Taveta. I would like to request the Minister to provide a new locomotive engine which can be able to pull the three coaches which are currently there. The current locomotive engine sometimes fails on the railway line especially when it is climbing the hill because it is very weak. How soon will those engines be supplied and when will the rehabilitation work be completed?

Mr. ole Ntimama: Mr. Deputy Speaker, Sir, I cannot give the time frame for now, but I can assure the hon. Member that among the first locomotives to be rehabilitated, three of them will go to Voi-Taveta line.

Mr. Deputy Speaker: Next Question!

Question No.699

PAYMENT OF COMPENSATION TO
MR. NDASYA'S FAMILY

Mr. Musila asked the Minister for Natural Resources:-

(a) whether he is aware that Mr. Erastus Gideon Ndasya was killed by a crocodile at Kiambere

on 2nd April, 1996;

(b) if the answer to "a" above is in the affirmative, why it has taken so long to pay compensation to the family of the deceased; and,

(c) whether he could state when the compensation claim will be paid and the amount involved.

The Minister for Natural Resources (Mr. F.P.L. Lotodo): Mr. Deputy Speaker, Sir, I beg to reply.

(a) I am aware that Mr. Erastus Gideon Ndasya was killed by a crocodile at Kiambere on 2nd April 1996.

(b) Payment of compensation to the family of the deceased has taken so long due to compensation administrative procedures, inadequate budgetary provisions under the relevant item and Ministerial change-over. Nevertheless, the possibility of this particular claim being at the district level is very high. So far, this claim is not reflected in the records of the Ministry of Tourism and Wildlife.

(c) It may not be possible to state the actual time, date and month when the compensation claim will be paid, since claims are considered on a first-come-first-served basis. There are other older claims of 1995 which have not been honoured to-date due to shortage of funds. The amounts indicated are likely to increase between now and June, since more claims are expected from the field and across the whole country.

However, I can confirm that the family of the deceased will receive a flat rate of Kshs30,000 payable to all other similar cases, through the respective District Wildlife Compensation Committee (DWCC) which is chaired by the area DC. Since 1995 to date, there are claims from all parts of the country totalling Kshs14,039,500.

Mr. Kathangu: Bw. Naibu Spika, nasimama kwa sababu nashangaa kwamba Waziri anasema ridhaa inayolipwa yule ambaye ameuwawa na mamba ni Kshs30,000 wakati tunajua kwamba mamba mmoja ananunuliwa kwa zaidi ya Kshs500,000. Ni kweli kwamba binadamu katika Wizara hii anatakiwa alipwe kama Kshs30,000, ikilinganishwa na bei ya mamba?

Mr. F.P.L. Lotodo: Bw. Naibu Spika, sina namna ya kusaidia Mhe. Kathangu kwa sababu hivyo ndivyo imepangwa.

(Laughter)

Mr. Deputy Speaker: Order! Order! Mr. Lotodo, you can continue in English; you do not have to speak in Kiswahili just because the hon. Member has spoken in Kiswahili.

Mr. Musila: Mr. Deputy Speaker, Sir, I would like to thank the Minister for his reply which is very unsatisfactory.

(Laughter)

When this young boy was killed in April, 1996, I personally took the forms and the post-mortem to the DC, Embu. Two months later, when I checked on the DC, he said that the matter had been referred to the DC, Mbeere. I followed up that matter---

Mr. Deputy Speaker: Order! Order Mr. Musila! That narrative sounds very well, but should ask your question.

Mr. Musila: Mr. Deputy speaker, Sir, I am just surprised because I am told by the hon. Minister, whom I respect very much, that because of administrative procedures, this application is not in the Ministry. It is over a year since I did this. Could the Minister at least, promise the family of the deceased that they will get compensated? We know that if that boy had killed the crocodile, he would be in prison today. Is it fair to keep that family uncompensated when---

Mr. Deputy Speaker: Order! Ask the Minister whether he could assure the House that the family will be compensated.

Mr. Musila: Sorry, Mr. Deputy Speaker, Sir. But I cannot understand this. Could the Minister tell us whether---

Mr. Deputy Speaker: Order! Mr. Musila, you have to know better; you in particular. Let him answer the question. Will you answer the question, Mr. Minister?

Mr. F.P.L. Lotodo: Mr. Deputy Speaker, Sir, he did not ask a question.

An hon. Member: He asked!

Mr. F.P.L. Lotodo: Which question? He did not ask a question!

Mr. Deputy Speaker: Order! Mr. Lotodo, the Member asked you to give an assurance to this House that

the family of this boy will be compensated.

Mr. F.P.L. Lotodo: Mr. Deputy Speaker, Sir, I am listening very well and I am saying---

Mr. Deputy Speaker: Order! Answer the question!

Mr. F.P.L. Lotodo: Yes, I am answering the question, Mr. Deputy Speaker, Sir. If I am given the money, we will pay the family Kshs30,000.

Hon. Members: But we gave you the money!

Mr. F.P.L. Lotodo: When? I do not have the money now!

Hon. Members: Where is it?

Mr. F.P.L. Lotodo: Well, it is over.

(Laughter)

Mr. Deputy Speaker: Order! Order! There is no need for hon. Members to raise their voices in this august Assembly. Just talk in a normal tone and we will hear you. These microphones work very well. Mr. Kajwang'.

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

Mr. Deputy Speaker: Yes, Mr. Ita?

Mr. Ita: Mr. Deputy Speaker, Sir, did you hear what the Minister said? Even after giving the assurance that he is going to pay the family a compensation of Kshs30,000, he said the money we gave him is already finished. So, is he telling us that this compensation will be paid in the next Financial Year?

Mr. F.P.L. Lotodo: Exactly, Mr. Deputy Speaker, Sir. The money I was given for the 1998/99 Financial Year is over. I was given Kshs3,416,400 and it is over.

Mr. Kajwang: Mr. Deputy Speaker, Sir, is the Minister aware that if the Ministry of Natural Resources is keen to keep very wild and hostile animals, like the Minister himself, he should make sure---

(Laughter)

Mr. Deputy Speaker: Order! Order! If that was meant to be a joke, I think it is a very poor one. Will you withdraw?

Mr. Kajwang: With a light touch, Mr. Deputy Speaker, Sir, I withdraw. Is the Minister aware that if he is keeping wild and dangerous animals and he lets them loose to cause damage, it is his responsibility to pay compensation and not to come here and tell us that he will pay when money is available? You must be sure that, you either have the money or you do not keep those animals. We will kill all of them!

(Laughter)

Mr. F.P.L. Lotodo: Mr. Deputy Speaker, Sir, I do not want hon. Members not to kill the animals. I require Kshs14,039,500 from this House, if I have to clear all the outstanding compensations. Otherwise, this issue will drag on for another 20 years.

Mr. Musila: Mr. Deputy Speaker, Sir, in one of his replies, the hon. Minister said that the claim form was not in the Ministry. Could he now assure us that he will ensure that this claim form, wherever it is, is brought to the Ministry because it appears to have been misplaced? If it is misplaced, I would be pleased to provide the Minister with another application form.

Mr. F.P.L. Lotodo: Mr. Deputy Speaker, Sir, I do not have the claim form. I will ask the hon. [Mr. F.P.L. Lotodo] Member to give me the one he has.

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

Mr. Anyona: Mr. Deputy Speaker, Sir, I beg to apologise to the Chair and the House for not being here to ask the Question when it was first called. Before I ask the Question, I would like to bring to the notice of the Chair, in view of the repeated warnings you have given, that I have not got my copy of the written answer, contrary to the provisions of Standing Order No.35, paragraph 5.

Question No 634

MISUSE OF CHIEF'S ACT

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

(a) whether he is aware that the Chief of East Kitutu Location and the Assistant Chiefs of Bocharia and Embaro sub-locations in Kitutu Masaba are using repealed provisions of the Chief's Act (Cap.128) to arrest and impose forced labour on innocent residents;

(b) if the answer to "a" above is in the affirmative, in what circumstances did the said Chief and Assistant Chiefs arrest the following people on 17th June, 1998: Nicholas Onwenga, Samuel Atuti, Samuel Abuga, Boy Onyari, Kenyatta Ogero, Osuto Motari, Kenyinyo Ogutu, Okaru Baraka, James Nyaata, Gekonge Okioma and Machoni Nyamesa; and,

(c) what disciplinary measures he will take against the Chief and the Assistant Chiefs for the notorious violations of the constitutional and human rights of the citizens.

The Minister of State, Office of the President (Maj. Madoka): Mr. Deputy Speaker, Sir, first, I apologise to the hon. Member if he has not got his copy, but I thought they had already been sent to the Speaker. I beg to reply.

(a) I am not aware.

(b) I am aware that on the 17th of June, there was a meeting called by the residents to discuss security issues, particularly on the upsurge of stock theft. At that meeting, the residents pinpointed 12 people whom they said were the major suspects and they wanted to lynch

them. In the wisdom of the Chief and his Assistants, they decided to take those people to the police station to save them from lynching by the residents. That is why they took them to the police station, booked them and they were released.

Mr. Anyona: Mr. Deputy Speaker, Sir, in the first place, I would like to inform this Minister that there is no cattle rustling in Kitutu-Masaba. We are a civilised constituency. There is no cattle rustling there at all. Some of these are church leaders and ministers and yet, the Minister is telling us that church ministers were involved in cattle rustling. Could he tell us under what law, if their security was threatened, the Chief and his APs were there and he should have arrested the people who threatened their security since they had committed no offence? But under what law did he take them to the police station and lock them up there?

Maj. Madoka: Mr. Deputy Speaker, Sir, I have said before, in this House, that the fact that people maybe preachers does not mean that they do not commit some of these crimes. We know that some of these preachers do a lot of funny things. As I said, it was in the wisdom of the chief that they decided to take them, book them and release them just to get them away from the public who wanted to lynch them.

Mr. Anyona: Mr. Deputy Speaker, Sir, this is really a serious slur on the reputation of the constituency and this Government will pay heavily for it. Could he tell us what cases of cattle rustling have ever taken place in Kitutu-Masaba which was a consequence of this meeting?

Maj. Madoka: Mr. Deputy Speaker, Sir, I believe there were cases of stock theft and not major cattle rustling and the residents called for this special security meeting.

Mr. Anyona: On a point of order, Mr. Deputy Speaker, Sir. This Government is fond of running down the reputation of Kenyans. This Minister will not get away with this one. Could he give us actual cases where there was cattle rustling, minor or major, because there have been none and the people of Kitutu-Masaba will be very angry with this Government tonight when they hear this answer? Could you tell us because you cannot get away with it?

Maj. Madoka: Mr. Deputy Speaker, Sir, I will go and get specific cases and report appropriately.

Mr. Deputy Speaker: Order, Mr. Minister. That Question will be deferred until we have got proper answers. Next Question!

(Question deferred)

Question No.703

ESTABLISHMENT OF A POLICE STATION IN MUTITU

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

- (a) whether he is aware that the Government promised the establishment of a Police Station at Mutitu on 23rd December, 1992; and,
- (b) whether he is further aware that Mutitu Constituency which is a bandit-prone area has no police station to-date; and,
- (c) if the answers to "a" and "b" are in the affirmative, when he will establish a well-equipped police station in Mutitu.

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

- (a) Yes, I am aware that a police station was requested or ordered to be put up at Mutitu.
- (b) I am aware that there is no police station in Mutitu Constituency but there is a police post at Endau plus an anti-stock theft unit to help in that area.
- (c) A police station will be constructed when funds become available. A plot has already been given and we are looking at how best to put up this police station.

Mr. Kitonga: Mr. Deputy Speaker, Sir, I appreciate the answer given by the Minister. However, further to that and considering that Mutitu Constituency is a very vast constituency and it is bigger than the Republic of Djibouti and considering that it is 3,800 square kilometres and now considering that from Kitui Town where we have the only police station upto Endau where we there is this police post it is about 110 kilometres, away and there are so many bandits--- Our people have been killed; including our children and our women. Mothers have been raped; we are not satisfied to have a police post in that area. This area is all a bandit-prone area from Nguni--

Mr. Deputy Speaker: Mr. Kitonga, ask your question.

Mr. Kitonga: Mr. Deputy Speaker, Sir, the question is: What measures is the Government going to take to make sure that at least in the meantime, the Endau Police Post is provided with a motor vehicle because there is a police post but there is no motor vehicle and there are only about ten police officers? Tumeelewana?

Maj. Madoka: Ndio, tumeelewana. I am aware that there is no transport. We are just about to get some vehicles and a Land Rover will be given to that police post. In addition, I would like to say that we have Administration Policemen attached to the various chiefs' camps at Zombe Market, Mutito Market, Endau Market, Malalani, Mwitika, Kaliko and Katumbi areas. These are supposed to help in trying to maintain security.

QUESTIONS BY PRIVATE NOTICE

REGISTRATION OF COFFEE FARMERS BANK

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

(a) Is the Minister aware that the Central Bank of Kenya gave consent to the registration of the Kenya Coffee Farmers Bank Limited which was indeed registered in July, 1998?

(b) Is he further aware that the Coffee Board of Kenya has deposited over Kshs200 million in a Kenya Commercial Bank account in readiness to start operating the said Bank after Central Bank has licensed it?

(c) If the answers to "a" and "b" above are in the affirmative, why has the Central Bank of Kenya declined to issue licence to Kenya Coffee Farmers Bank Limited for it to start operations? **The Assistant Minister for Finance**

(Mr. Keah): Mr. Deputy Speaker, Sir, I beg to reply.

(a) Yes, I am aware that the Central Bank of Kenya gave consent to the use or for registration of the name Kenya Coffee Farmers Bank Limited for the proposed bank, under the auspices of the Coffee Board of Kenya as required under Section 3 (1) (b) of the Banking Act. This authorization did enable the proposed institution to be incorporated and registered under the Companies Act. This was done on the 3rd of July 1998.

(b) The proposed institution has submitted documentary evidence, indicating that it has deposited Kshs211 million in Kenya Commercial Bank Limited to cater for the paid up capital. This is in satisfaction of the Central Bank guidelines and Banking Act requirements.

(c) The Central Bank does not issue licences to banks. It only analyses their applications and submits recommendations to the Minister for Finance for approval. The application for licence for Kenya Coffee Farmers Bank Ltd is still being evaluated by the Central Bank and being considered alongside others. When the evaluation is complete, it will then be forwarded to the Minister and it should be noted that, before licensing the proposed bank, certain very clear aspects must be complied with and will be considered with, for example:

(i) Integrity and qualification of the proposed managers and directors of the proposed bank. This is necessary to ensure that their appointments conform to the requirements of the Banking Act.

(ii) Many farmers have, in fact, written to the Coffee Board of Kenya with copies to the Central Bank and Treasury, protesting against utilisation of their surplus money as capital for the proposed bank. This aspect will also be considered.

(iii) Since one of the promises of the proposed bank is to give farmers loans at low interest rates, it will be necessary for the proposers of the bank to demonstrate how they will raise cheap capital for lending to the farmers. In the absence of this, the proposed bank may end up tying down the farmers money and finally, failing to give cheap loans or any loans at all.

(iv) Finally, consideration will include if the bank targets external borrowing, an evaluation as to whether, it will need to provide for exposure to exchange risk fluctuations. At this stage, it is premature to conclude whether the bank will be licensed or not.

Mr. Wamae: Mr. Deputy Speaker, Sir, the hon. Assistant Minister has put so many conditions against this bank, as if it is an indication that the Central Bank and the Ministry of Finance are against the registration of this bank. Are these the conditions which are put to every other applicant for a banking licence?

Mr. Keah: Mr. Deputy, Sir, indeed, this law is applicable to all banks. Hon. Members should know what will be considered in licensing this bank.

Mr. Gatabaki: On a point of order, Mr. Deputy Speaker, Sir. Is it in order for the Assistant Minister to mislead the House about conditions for licensing banks when he knows that an Indian can come to Nairobi today and get a licence tomorrow to operate a commercial bank?

(Applause)

Mr. Keah: Mr. Deputy Speaker, Sir, I am not misleading the House. The hon. Member is out of order to insinuate that I am misleading the House.

Mr. Deputy Speaker: Order! Mr. Assistant Minister, let the Chair rule whether the hon. Member is out of order or not. Hon. Ndicho, proceed!

Mr. Ndicho: Mr. Deputy Speaker, Sir, the Assistant Minister has agreed that recommended submissions must be taken to him for approval, and that this bank has already been considered together with others. The proposals were submitted on 3rd July, 1998, and today is 19th November, 1998. So, could the Assistant Minister tell us whether he has received the submission from the Central Bank of Kenya (CBK) for approval, and whether he has approved the same? Could he, also, tell us the other banks he is considering to license apart from this one?

Mr. Keah: Mr. Deputy Speaker, Sir, the registration was done on 3rd July, 1998, but the application was submitted by the Coffee Board of Kenya on 30th September, 1998. The CBK responded on 7th October, 1998. The evaluation to establish whether the bank qualifies for licensing is now being done by the CBK. When the process of evaluation is complete, the CBK will submit its recommendations to the Minister for consideration and approval. On the question of other banks being considered for licensing, we have received applications from many organisations, including maize farmers, the Horticultural Crop Development Authority (HCDA) and tea farmers. Everybody is asking for a bank, and we have to evaluate each application on its own merit.

Mr. Murathe: On a point of order, Mr. Deputy Speaker, Sir. I am getting very worried here. It seems as if we have two sets of rules in this country. This also applies to the licensing of the Press. When it comes to issuing a licence to the Daily Nation, it takes two or more years to do so. Farmers have resolved to establish a bank. There are farmers' representatives and Members of Parliament who are recruiting members of the proposed bank. We know the main reason for not registering this bank. It is the fear of the established commercial banks in this country. You will agree with me that there is a crisis in this country's banking sector. Also, our people are worried about what is likely to happen to their money. Some of these organisations have deposited about Kshs18 million in commercial banks.

Mr. Deputy Speaker: Order! Order, Mr. Murathe! Ask your question, do not make a speech.

Mr. Murathe: Mr. Deputy Speaker, Sir, my question is simple. The issue of exposure does not arise since coffee and other farmers' produce is sold in US Dollars.

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

Mr. Murage: The coffee farmers want to know whether the bank will be licensed, and when.

Mr. Keah: Mr. Deputy Speaker, Sir, at this point in time, the application is in the process of being evaluated. I am not in a position to say whether the bank will be licensed, and when it will be licensed. I have said that until the evaluation process is complete, I will not be able to say anything about it.

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

Mr. Deputy Speaker: Order, hon. Members! I am allowing one more Question by Private Notice. We

have run out of time. Hon. Otieno-Kajwang', ask your Question.

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

Mr. Deputy Speaker: Hon. Members, if you do not want to continue, then I am going to end Question Time. Mr. Otieno-Kajwang!

RENEWAL OF SONY SUGAR COMPANY
MANAGEMENT CONTRACT

Mr. Otieno-Kajwang: Mr. Deputy Speaker, Sir, I beg to ask the Minister for Agriculture the following Question by Private Notice:-

(a) Is the Minister aware that the management contract between South Nyanza Sugar Company Limited (SONY) and Booker-T-International is due to expire towards the end of this year?

(b) Is he further aware that the Board of Directors of SONY is trying to have the said contract renewed without international tendering?

(c) If the answers to "a" and "b" above are in the affirmative, could the Minister direct that the management contract be placed for international tendering system?

The Assistant Minister for Agriculture (Mr. Karauri): Mr. Deputy Speaker, Sir, I beg to be allowed to answer this Question on Thursday next week because there is some information we are seeking.

Mr. Sambu: On a point of order, Mr. Deputy Speaker, Sir. I have information that the Board has already met, and that by next week the contract will have been signed. There is no point of answering the Question next week if the Assistant Minister cannot do so now.

The Assistant Minister for Agriculture (Mr. Karauri): Mr. Deputy Speaker, Sir, the answer I got is not satisfactory to me. It will not be fair for me to give the hon. Member such an answer.

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

Mr. Deputy Speaker: Order! Order, hon. Members! I know that this matter is very dear to you. However, if you refuse to hear the Assistant Minister, you cannot raise points of order. So, let us hear what he wants to do in view of what hon. Sambu has said.

The Assistant Minister for Agriculture (Mr. Karauri): Mr. Deputy Speaker, Sir, what hon. Sambu has said is not true. The contract will end on 31st December. I am seeking further information, so that I can give the hon. Member a satisfactory answer.

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

Mr. Deputy Speaker: Order! Order!

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

Mr. Deputy Speaker: Order! Mr. Karauri, when will you provide the answer to Mr. Otieno-Kajwang's Question by Private Notice?

The Assistant Minister for Agriculture (Mr. Karauri): Mr. Deputy Speaker, Sir, I will answer the Question on Tuesday next week.

Mr. Deputy Speaker: Hon. Members, we are supposed to spend only one hour on Question Time. We are well past it. There is other Business to transact. Therefore, Mr. Adolf Muchiri's Question by Private Notice will be deferred. We must, now, go to other business.

ALLOCATION OF PUBLIC UTILITY
PLOTS BY CITY COUNCIL

(Mr. Muchiri) to ask the Minister for Lands and Settlement:-

(a) Is the Minister aware that the Office of the Commissioner of Lands has illegally allocated over 100 public utility plots surrendered to Nairobi City Council by land buying companies for nursery, primary and secondary schools, dispensaries, open spaces and hospitals within Kasarani Constituency to individuals and companies without approval or resolution of the Nairobi City Council?

(b) Is he further aware that LR/71/7/8, allocated to Messrs E. Kibe, Duncan Muriuki, James Nyanyira and Harrison Mwangi, is a plot on which a nursery school built by the public stands and that the new allottees are now harassing the nursery school children?

(c) If the answers to "a" and "b" above are in the affirmative, could the Minister revoke the said allocation as a matter of urgency?

(Question deferred)

POINTS OF ORDER

OWNERSHIP OF PLOT NEXT TO CENTRAL POLICE STATION

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

Mr. Deputy Speaker: Yes, Mr. Mwenje!

Mr. Mwenje: Mr. Deputy Speaker, Sir, I rise on a point of order to ask for a Ministerial Statement from the Ministry of Lands and Settlements regarding the plot next to Central Police Station, where the office of the Survey Department used to be. Is the plot about to be grabbed, or has it been grabbed already? Officers at the Police Station have been waiting to be given that plot, so that more houses can be put up for them. There already exist a church building on the said plot, which was opened by the Commissioner of Police. I, therefore, would like to ask the Minister to make a statement to tell us the position on the piece of land, and assure us that it will not be grabbed by anybody. It is purposely there for the police officers, the church and their children. Thank you.

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

Mr. Deputy Speaker: Order! There is no such thing as a point of information. Please, sit down!

MINISTERIAL STATEMENT: ALLEGATIONS AGAINST JUDGES IN MOI BIOGRAPHY

Mr. Orengo: On a point of order, Mr. Deputy Speaker, Sir. I stand to request for a Ministerial Statement from the Attorney-General. This concerns very serious allegations which have been made in a publication known as "*Moi: The Making of an African Statesman*", against specific judges of the Court of Appeal. The book raises allegations that the judges were compromised during the proceedings of the Ouko Commission of Inquiry. The book casts very serious aspersions on the three senior most judges in the land. I would like to request the Attorney-General to clear the air, so that the public fear regarding this matter, which involves the integrity of the said senior judges, is put to rest. Also, since the murder of Dr. Ouko is the one which has instigated these comments, could the Attorney-General tell us what has happened to the investigations concerning the disappearance and subsequent murder of Dr. Ouko?

Mr. Deputy Speaker: Next Order.

BILL

Second Reading

THE CONSTITUTION OF KENYA REVIEW COMMISSION (AMENDMENT) BILL

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

I would request that I refer extensively to my notes in view of the importance of the Bill which I am now moving. On 14th October, 1997, when I moved the Constitution of Kenya Review Commission Bill, whose Act is now being proposed for amendment, I stated that it was the most important Bill since Independence for two main reasons. First, with the enactment of the Bill, for the first time in the history of Kenya, it was going to be possible to undertake the most systematic and comprehensive review of the entire Constitution since Independence. Secondly, again for the first time, with the enactment of the Bill, the people of this country were going to be given the golden opportunity to be actively involved in the constitutional review process.

Mr. Deputy Speaker, Sir, what I stated then is as valid today as it was at that time. However, the Bill that I am moving today is different from the Bill that I moved at that time because of the wider net of persons and groups of people who have given an input into that Bill. The Chair may recall that, that Bill was itself a milestone in that, it was a product of the Inter-Parties Parliamentary Group meetings (IPPG) and more or less, for the first time, Members of Parliament from both sides of the House had met, discussed and agreed on the major provisions of the Bill. In fact, I do recollect that at that time, I pointed out in my contribution the major areas of improvement

that the IPPG had made to the original Bill that had been published by the Government on 31st July, 1997. In fact, I went further to state that the process which brought together Parliamentarians from both sides of the House was a welcome factor. It was a factor which was most welcome because it accorded with the traditional African notion of democracy, which as you know, according to many of us, the Africans discussed under a tree until they agreed. There was, therefore, at all times a quest for consensus through discussions.

Mr. Deputy Speaker, Sir, I went on to state that, in as much as the dynamics of constitutionalism reflect the historical and social realities, if they have to be permanent in any given society and that also applies to the democratic process; it will be a good idea, if we captured that concept of the traditional African democracy. I had brought it into the multi-party democratic State. The IPPG had proved that it was possible to do that, that it was possible to capture those positive aspects of our African traditions and customs, our African viewpoints on democracy and merge them into the modern multi-party democratic States. When you do that, then our democracy or constitutionalism will be based on a firm foundation. So, that was the first thing that we did last year and the Bill was passed, enacted and it became an Act of Parliament.

Mr. Deputy Speaker, Sir, arising out of the Bill becoming an Act of Parliament and immediately after the elections, voices of concern were raised about the Act as it was. Many people felt that we should look again at the entire process with a view to making it what one would say, a people-driven process with a view to making it a more independent process and with a view of making it transparent and accountable. I am very pleased to state that the amendment Bill which I am presenting today had the input not only of Parliamentarians, but of religious organisations, women, youths, disabled people, professional organisations, NGOs, the civil society, interest groups and individuals.

Mr. Deputy Speaker, Sir, because of the concern that had been expressed, you may recall that His Excellency the President, on the occasion of the State Opening of the Eighth Parliament on 31st March, 1998, stated in reference to the Constitution of Kenya Review Commission Act as follows:-

"It is upon this House to assess the views of wananchi and decide whether the Act requires any further amendments. I urge Members to move with speed to smoothen the way towards an orderly and peaceful debate of our Constitution."

Around that time, Mr. Deputy Speaker, Sir, some informal discussions had been going on between Parliamentarians from all political parties represented in this House in their individual capacities. Following those informal discussions, a committee of Parliamentarians from all political parties was constituted on 2nd April, 1998.

When the Committee met, in my view and those of Kenyans, it wisely decided to provide a forum for all those individuals, groups or organisations who had a position on the process of the constitutional review as enacted in the Constitution of Kenya Review Commission Act. All those participants were to be provided a forum in which they could share their views with others.

Mr. Deputy Speaker, Sir, I may, at this juncture, mention that at its meeting on 2nd April, 1998, the Committee asked me to chair its meetings. I did thank them for the confidence they reposed in me to chair the meetings of the Committee. At its meeting on 7th April, 1998, the Committee decided that a meeting be held at the Bomas of Kenya on 11th May, 1998, of all those interested groups and individuals who had a position on the process of the constitutional review. It was further decided that those who had a position and were sufficiently interested, and wished to participate at the Bomas of Kenya meeting, should be invited to come by indicating in writing their interest. Also, together with that indication, they should state their position in writing. This information was to reach the Attorney-General before 30th April, 1998.

Mr. Deputy Speaker, Sir, I am pleased to inform you that we did publish widely in both the print and the electronic media to inform the public of the decision of the Committee. I am pleased to report that there was, indeed, an overwhelming response to the public notices. All those who indicated their interest in writing were invited to the Bomas of Kenya meeting. In furtherance to the principles of transparency, and just in case somebody felt that he or she or even an organisation submitted his name or a memorandum, and was overlooked, it is good to note that we did publish the names of all those people and organisations who had indicated an interest and submitted their views in writing. All those were published in the newspapers, so that if anybody felt that he or she had indicated an interest to participate, and did not see his or her name in the newspapers, then he would have complained and said: "You have left out my name." But, all those people were invited to the Bomas of Kenya meeting on 11th May, 1998.

Mr. Deputy Speaker, Sir, I am pleased to inform this august assembly, and for the purposes of the records, that between 500 and 600 persons attended the meeting at the Bomas of Kenya. The Committee, in its wisdom, agreed that in addition to those who had indicated in writing their interest to attend the meeting, that also all hon. Members of this august assembly be invited. So, they were also invited, and I am glad to report that they

came in overwhelming numbers. The Bomas of Kenya meeting was a one-day meeting. Therefore, naturally, because of the constraints of time, not all the 500 to 600 persons and groups could make oral presentations. So, out of necessity, the oral presentations had to be limited to five minutes, and the Chair tried as much as possible to ensure that there was representation from the various groups which were there.

Mr. Deputy Speaker, Sir, on that day, I can report that the following organisations made their oral presentations. There were 11 religious organisations, seven professional organisations, 16 individuals in their own individual capacities, 14 political parties and 4-four students' and youth organisations. You can see that in that one day, all these organisations did make their oral presentations. Therefore, as far as I am concerned, the Bomas meeting achieved its objective of enabling the participants and Kenyans as a whole to simply hear what other interested persons or organisations had to say on the issue of the process of constitutional review.

Mr. Deputy Speaker, Sir, two days after the Bomas meeting, a Committee of all Parliamentarians met on 30th May, 1998 and decided, at that time, to move on to the next stage in the process of building a consensus on the amendments to be made to the Act. It now became necessary to have a forum in which all the views and opinions received could be considered and discussed with a view to developing a common approach to the process of constitutional review. Therefore, in order to have a meaningful discussion, exchange of views, consultations and dialoguing, the number of participants, out of necessity, had to be restricted. We could not have a meeting of 500 to 600 people, particularly when talking of one or two days of discussion. Therefore, that was the decision of the Committee to restrict the groups participating at what was now called "The Consultative Forum" at Safari Park.

Mr. Deputy Speaker, Sir, I can assure you that, although those participating at the Safari Park Consultative Forum meetings were restricted, the information available to them was not restricted. In fact, because I spoke earlier about a few people speaking at the Bomas of Kenya, one may feel that maybe the ideas contained in the various memoranda of all these people and organisations were forgotten. But not so, because at the first consultative forum meeting at the Bomas of Kenya which was held on 22nd and 23rd June, 1998, all participants were given a copy of the Act and the verbatim reports of the proceedings of the meeting at the Bomas of Kenya. Therefore, all that was said at the Bomas of Kenya meeting was availed to the participants. But, what is more important is that more information was availed to the participants.

A detailed summary of the memoranda that had been submitted, stated that so and so or that organisation made the following submissions. The entire summary of all the memoranda that had been submitted relevant to the issue of the process of constitutional review was also given to the participants at the Consultative Forum at the Safari Park Hotel. Although the meeting was restricted to facilitating dialogue, discussions and consultations with a view to building a consensus, the members at the Consultative Forum were given all that was available from Kenyans and from organisations on the issue of the process of constitutional review.

[Mr. Deputy Speaker left the Chair]

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

The first Consultative Forum meeting was held on 22nd and 23 June, 1998, and further meetings held on 29th June, 24th August and 5th October, 1998.

Mr. Temporary Deputy Speaker, Sir, as we all know, following the General Elections, and following dissatisfaction with the Act as it was at that time, there was a lot of acrimony, heated exchanges of views, confrontations and so on, on how the process should move. Of course, that was reflected at the Bomas of Kenya meeting, being the first meeting. I must say that it began with a very high level of mistrust, doubt, suspicion, cynicism and scepticism in the entire process. The sincerity and commitment to the constitutional reform process was questioned by many against each other. However, my pleasure is to inform this august House that what we witnessed through the Bomas of Kenya and the Safari Park Hotel meetings is that this high level of mistrust and suspicion was capable of being reduced to a level where there was at least some trust and that trust enabled real exchange of views to be made and enabled us to reach an agreement by consensus and hence the Bill which is before you. Each of the consultative fora progressively led to a greater understanding and each one of them built on the foundation of the previous one.

Mr. Temporary Deputy Speaker, Sir, it was particularly during the Consultative Forum of 29th June, that a consensus emerged on the three-tier structure consisting of the Commission, the District Forum and the National Consultative Forum. A Drafting Committee was then constituted to examine the verbatim report of the proceedings of the Consultative Forum.

Mr. Temporary Deputy Speaker, Sir, at this juncture, I would like to put on record my appreciation to this

Parliament and the Clerk for making available the verbatim reporters who came and ensured that all our Safari Park Hotel meetings, from the third one onwards, were reported verbatim. They helped us a great deal and in any of the areas that Members tended to forget, one could just turn to the verbatim reports and point out that last time, "this is what we agreed on". That cleared a lot of ground and mistrust among the Members. The Drafting Committee was, therefore, to consider and examine the verbatim reports of the proceedings of the Consultative Forums and draft proposals for the amendment to the Act. Where they could find a consensus on any particular issue, they would convert that into a legislative proposal.

Mr. Temporary Deputy Speaker, Sir, the Drafting Committee was not only composed of Parliamentarians, but also of persons who represented the religious communities, the civil society, women groups, youth groups and so on. The Drafting Committee consisted of:-

Rt. Rev. Sulumeti - Chairman
Hon. Raila Odinga
Hon. Ms. Martha Karua
Hon. George Anyona
Hon. Gitobu Imanyara
Hon. Julius Sunkuli
Hon. Mrs. Zipporah Kittony
Dr. Wanjiku Kabira
Prof. Kivutha Kibwana
Mr. Erastus Wa Mugo
Mrs. Phoebe Asiyo
Ms. Abida Ali

My office provided the technical staff to assist the Drafting Committee. It was for the Drafting Committee to make decisions and my staff provided the necessary technical assistance to ensure that what they had decided was in proper legislative form.

Mr. Munyao: Mrs. Seii was there!

The Attorney-General (Mr. Wako): No, it was Ms. Abida Ali. The technical staff from my office consisted of Mrs. Margaret Nduku Nzioka who is the Acting Chief Parliamentary Counsel and Mr. Dan Ameyo who is the Chief State Counsel in charge of treaties and agreements.

Mr. Temporary Deputy Speaker, Sir, I hope when Members contribute, they will add their appreciation to my voice. I want to put on record my appreciation and the appreciation of all those who took part in the Consultative Forum meetings and, indeed, the appreciation of all Kenyans for the sterling job that has been done by each and every Member of that Drafting Committee. Special mention must go to the Chairman, the Rt. Rev. Bishop Sulumeti, for successfully steering the meetings of the Committee. The Committee's contributions to the success of the entire process cannot be over-estimated.

Thanks to their report, the Consultative Forum Meeting on 24th August, that, that Consultative Meeting was able to agree on most of the amendments contained in this Bill. That meeting also agreed - and here again, I would like to make special mention of the presence of His Excellency the President and his contribution at that meeting. His contribution made it possible for us to agree on all the issues. In particular, to agree on one remaining issue of the composition of the Commission. That meeting was able to reach a consensus that we should have a Commission of about 25 members. Now, the only major issue that was left at the end of that Consultative Forum Meeting was how the 25 members of the Commission were to be appointed. Indeed, those who took part will recall that on the afternoon of that meeting, starting at lunchtime, many groups met in different corners and so on, to try to hammer out an agreement on how the 25 members were to be appointed. As I summarised the discussions at the end of that day, I could even then say, that emerging from the various proposals on how the 25 members were to be appointed, there was also an emerging consensus on the issue of how many members of the political parties, civil societies and so on, will be in the 25 members. Therefore, this is what the Drafting Committee was asked to look at. So, that meeting of 24th of August mandated the Drafting Committee to look again at the verbatim report, and in particular, the verbatim reports as they related to this particular issue, hammer out the details of it, and report at the next Consultative Forum Meeting.

I think it is important that I put the exact terms of reference to the Drafting Committee at that stage. Here, I quote:

"The Drafting Committee was to receive any suggestions to refine the issue of appointment in accordance with the proposals and sentiments which has been expressed here, together with any other consequential amendments. Also, touch on some issues that may have been left out, to give us documents relating to those issues and to announce when we shall meet".

The Drafting Committee had many meetings and, when they were ready to present their Report, they did call the 5th Consultative Meeting which was held on 5th of October, 1998. At the end of this last meeting, a Resolution was passed unanimously. After they had made their report and recommendations on the details of appointing the 25 Commissioners, and after, other issues had also been discussed, which are also part of this Bill, and when everybody was satisfied that now the Bill reflects what we want, and what the Kenyans want, and what the Consultative Forum Meeting wants, at the end of that day, the 5th Consultative Forum held at the Safari Park Hotel on 5th of October, 1998, passed the following Resolution unanimously and by acclamation. Here I quote:

"The Consultative Forum on the Constitutional Review Process meeting at Safari Park Hotel, this 5th October, 1998, having received and debated the Draft Bill, presented by the Drafting Committee previously appointed, adopts the said Draft, together with the additional various amendments made here, to be incorporated in the text by the Drafting Committee, and mandates the Chairman, after consultation and approval of the Drafting Committee, to prepare the final Bill for introduction in the National Assembly".

Mr. Temporary Deputy Speaker, Sir, and this will be borne out by the verbatim report of all those meetings, one of the issues that kept on coming up again and again is: "How are we sure that whatever we agree on at this Consultative Forum, will be implemented faithfully?" Those were issues of trust and confidence. Many felt that we had discussed many good issues and agreed on them. But something might happen between the conclusion of the meeting and the presentation of the Bill to Parliament. Many people raised that issue. In fact, **[The Attorney-General]**

it is that issue of trust and confidence which also influenced some of the proposals that are here, so as to ensure that everything is above board, transparent and accountable to the people of this country. So, if you look at the verbatim report, there were constant appeals by delegates and other people that they knew that when the Bill goes to Parliament, it has a right to amend and to do everything. But they pleaded with the Chairman to ask Parliament to pass the Bill as it is, because it is a product of discussion, consultation, balancing act, compromises here and there and, therefore, that balance had to be retained. They recognised the authority of Parliament to deal with this Bill the way it deems fit. But at the same time, they asked me, as the Chairman, to appeal to Parliament to pass the Bill as it is.

Mr. Temporary Deputy Speaker, Sir, following that Resolution which was passed unanimously on 5th of October, 1998, the Drafting Committee then went back, sat, met a number of times and now formalised the Draft in accordance with what had been agreed at the Consultative Forum. After finalising the Draft, they then handed over the Draft to me on the afternoon of Friday, 23rd October, 1998.

Mr. Temporary Deputy Speaker, Sir, when the Committee handed over this Bill to me on that afternoon, led by their Chairman, Bishop Sulumeti, I assured Kenyans that this Bill, which was handed over to me, by the Drafting Committee, will be published as it is; just the way it was. I can assure you, and the Members who took part are here, that this Bill, which is now at the Seconding Reading, has been published as it was given to me, by the Drafting Committee, headed by Bishop Sulumeti.

Mr. Temporary Deputy Speaker, Sir, when he handed over this Draft Bill to me, Bishop Philip Sulumeti made several statements. In part, this is what he said:-

"In presenting this approved draft to you, Mr. Attorney-General, our duties and responsibilities as members of the Drafting Committee come to an end; and it is only fair that I put on record the Committee's deep sense of appreciation and gratitude, firstly, to the members of the forum beginning at Bomas of Kenya on 11th May, 1998 and ending at the Safari Park Hotel on 5th October, for entrusting us with the onerous responsibility of reading through thousands of pages of memoranda, recommendations and suggestions of the Kenyan people, and reducing them into a 43-page legal document that provides the Kenyan people with an historic opportunity of beginning a peaceful process of reforming our Constitution."

Mr. Temporary Deputy Speaker, Sir, he then went on to express appreciation to each and every member of that Drafting Committee and, in particular, mentioned their strong points and how each member contributed positively to the entire process. I think it is good that whatever he said should come out in the HANSARD record for future reference. He said:-

"I must thank hon. Martha Karua and Dr. Wanjiku Kabira for their ability to reduce our exchanges into written minutes. I must thank Prof. Kivutha Kibwana and Mr. Erastus Wamugo for their sharp interventions and for providing the terminologies and learned interventions, even if occasionally, coupled with warnings of dire consequences should the Committee fail to adopt their input. Their contributions greatly enriched our deliberations.

Mrs. Abida Ali, hon. Zipporah Kittony and Mrs. Phoebe Asiyu never failed to remind us of the

need to be gender sensitive. Their voices, together with those of hon. Martha Karua and Dr. Wanjiku Kabira, provided an essential input of the voice of women who constitute more than half of the Kenyan population.

Hon. George Anyona, hon. Julius Sunkuli, hon. Raila Odinga and hon. Gitobu Imanyara, occasionally found themselves in the not so unusual situation of being a minority group when there are women united in pursuit of gender equity. But they were magnanimous and gracious even in their role and their contributions enabled us to find the necessary balance in the choice of language.

Mrs. Margaret Nzioka and Mr. Dan Ameyo were no doubt the unsung heroes of this process. Without their expertise and fine way with the legal language, there would have been no document to present to you. I thank them.

Mr. Attorney-General, the responsibility of those of us who are not Members of Parliament ends now. But for you who are hon. Members and you, Mr. Attorney-General, in particular, lies the heavy burden of ensuring that our work has not been in vain. You have the responsibility and obligation to persuade your colleagues in Parliament not to alter a document that has been so painstakingly crafted. Kenyans expect that the hon. Members of the National Assembly will enact a law that faithfully reflects the contents of this Bill. We do not expect anything less."

Mr. Temporary Deputy Speaker, Sir, those are the words of the Chairman of the Drafting Committee, Bishop Philip Sulumeti.

So, this Bill that I am presenting to you is, indeed, a product of that process; a very important process which has been all-inclusive and which has involved Kenyans in deciding on a way forward on the process of the constitutional review.

It is important that this process be emphasised because, at the end of the day, this Constitution is the single most important document in any country. A famous scholar by the name of George F. Thytos(?) stated, and here I quote,--- Just to underline the importance of the Constitution; what we are discussing today marks a new beginning because, at the end of this process, we are going to have a new Kenyan Constitution. It is important that when we begin it, we realise the importance of what is going to be the new Constitution for the Republic of Kenya. This famous scholar by the name of George F. Thytos(?) said:-

"The good and bad fortune of a nation depends on three factors; first; its Constitution, secondly, the way the Constitution is made to work; thirdly, the respect with which the Constitution is held by members of the public. Hence, the central role of the people."

Without the people having the respect for that document, then that document will not serve any useful purpose.

Another scholar has said that the constitution may serve as a binding statement of a peoples' aspirations for themselves as a nation. The text states what the people of a given country would like to become; not only their governmental structures, procedures and basic rights, but also their goals, ideals and the moral standards by which they want others including their own posterity to judge the community. In short, the constitutional text may guide as well as express the peoples' hope for themselves as a society. The ideals that the words enshrine, the prophesies they describe, the action they legitimise must either help the citizenry or at least reflect their current values. Here comes the warning: If a constitutional text is not congruent with the ideals that form or will reform its people and so express the political character they have or are willing to try to put on, then that constitution will quickly fail. In other words, without the peoples' involvement in this process to ensure that, that constitution reflects their aspirations and ideals--- If that constitution is contrary to those ideals and everything else, then that constitution will fail.

Mr. Temporary Deputy Speaker, Sir, we know that constitutions have played a very important role in changing a peoples' attitudes towards themselves and the society as a whole. We know that constitutions, indeed, vary from one country to another. They also vary from time to time. It has been said that constitutions also affect the attitudes of the people. But somebody said the French Constitution was the only exception. He argued that in spite of the fact that France has had different constitutions since the beginning of the century, the French have not changed since the revolution. In other words those constitutions have not really changed the essence of their character. Whether France was under a monarchy, military dictatorship or a republic, the French have not changed. But the same cannot apply to Germany. Somebody said that the character of Germans has always changed with their Constitution. This means that Germans have been a different people under Kaiser, the Weimer Republic, Third Reich and the Federal Republic. Having said that most scholars are now agreeing in what is called the polygroted society. This means a society which has many people with different languages. I believe that Kenya is one of them and the United States of America (USA) and India are the other such countries.

It has been shown that in this type of society there maybe no other basis of uniting a nation than a constitution. Therefore, a constitution may function as a unifying force in those societies. This is because it maybe the only principle of order. For example, somebody said that what has united the USA, a country which has been called a "nation of immigrants" are the political ideals, which are enshrined in their particular Constitution. Therefore, reference to a constitution may transform it to a holy symbol of the people themselves. The creature they created can become their own mythical creator. The Constitution we are amending may itself become our "creator" as a united and prosperous nation.

Mr. Temporary Deputy Speaker, Sir, it is important as we embark on this process of Constitutional Review, and this is what I really believe in, that the process itself may provide the catalyst for uniting the people of Kenya. We shall examine the Bill and see how it has been structured. I believe that if we faithfully follow what is in this Bill, this process, which has been agreed to by the people of Kenya, will, in my view, contribute significantly to uniting the people of Kenya. Once the Constitution, which the people have made and is consistent with their aspirations and hopes, is faithfully implemented then that itself will speed up the process of building us into a dynamic and prosperous nation. Therefore, the Bill we will discuss today is very important. It is an historic debate which, in my view, will positively affect the future of Kenyans.

Mr. Temporary Deputy Speaker, Sir, as I said here earlier, the potential of Kenyans to unite, progress, develop economically and come up with innovative ideas is great. Each time in our history, before and after Independence, when Kenyans have been faced with calamities that potential has come up. I mentioned earlier the IPPG meeting, where the potential was seen to work. It was also seen to work in the national tragedy that this country faced recently. It has also been seen and identified in the discussions that have taken place in this country concerning the Constitution of Kenya review process, since the first meeting held at the Bomas of Kenya on 11.5.98 to the last meeting held at the Safari Park Hotel. It is my view that on the passage of this Bill, that potential will not only be identified, but will also be realised. This will happen on a permanent basis rather than just seeing the potential when we are faced with a crisis. As we go through this Bill, you will note that the common feature of the proposed amendments is to make the process, as I stated earlier, more people driven and accountable to the people of Kenya.

Mr. Temporary Deputy Speaker, Sir, I would like to touch on the proposed amendments. If hon. Members have got the Bill, I would like them to turn to page 411. Hon. Members will see that the first amendment touches on the title. The former title has been deleted and we now have a new title. The differences are significant in that whereas in the Act that we have now--- The Commission was to facilitate the collection and collation of the views of the people of Kenya.

In other words, it was merely to receive the different views of the people of Kenya by going round the country in all the districts and provinces just to receive the views of Kenyans. Under the amendment you can see it is intended to facilitate the comprehensive review of the Constitution by the people of Kenya. So, now it is not just a question of collecting views, but also to facilitate the comprehensive review of the Constitution by the people of Kenya.

The second amendment which differs from the other one is that whereas the former only provided for the establishment of the Commission only, now we are stating that this Act is to provide for the establishment of the powers and functions not only of the Commission, but also of the District Constitutional Forum and the National Constitutional Consultative Forum and for connected purposes. So, you can see right from the word go, there is that shift from mere collection and the shift is to the people being facilitated to do it. The second amendment again on that page is the deletion of the word "commission" from the title. Whereas now it is known as the Constitution of Kenya Review Commission Act, the word "commission" has now been removed so that it is now going to read: "The Constitution of Kenya Review Act". It has been removed because we have now provided for other organs apart from the Commission, such as the district fora and the National Consultative Forum.

The other amendment is that the Bill, when enacted by this House, "shall come into operation on such dates as the President shall, by notice in the gazette, appoint not being later than 30 days from the date of publication---" This is a very big improvement on the previous one which more or less left it hanging in the air. But here it is stated that as soon as this Bill is passed in Parliament, then the President must, within 30 days, give assent and the Bill must be published and come into operation. I would like at this juncture to, maybe, inform the various organisations that have some responsibility of appointing commissioners. Really to start on the basis of faith; that this Bill is going to be passed by Parliament and that it is going to come into force and, therefore, to start the process of identifying the people whom they would wish nominated as commissioners--- There is simply no time, once this Bill is enacted, to give serious consideration on the calibre of people who you would wish to see as commissioners. Therefore, we should start thinking now so that we do not waste much time once the Bill is enacted and comes into operation. We would like the whole process to be over well before the next general

elections and we should not delay the process too much on appointments struggling on this and that when the Commission ought to be doing its work and brings us closer to the next elections.

My appeal to all these organisations, which have such responsibility for nominating commissioners, is that they should start thinking now on the people they would wish to see in the Commission. I now go to page 412 where you will see that Section 2, which is normally what one calls a definition Section of a Bill, we are adding new definitions. These are the new bodies that we are creating. We now have a definition of what a District Forum is. When we come to it, I will explain. We now have a definition of Kenya Broadcasting Corporation which was not mentioned at all in the Act as it is now, but if you look at page 437 you will see that other responsibilities that shall be coming have been given to the KBC to really publicise the activities of the Commission and the various organs. It is because KBC has been given those responsibilities that they now appear in the definition Section. We now have a definition of Kenya National Library Services Board. Again if you look at page 437 you will see that, that Board has now been given special responsibilities under the Act. Then there is the definition for National Forum because is a new organ. Who is a youth? It is not someone who is young at heart; it is somebody who is below the age of 35 years. That is the definition of a youth, as far as this document is concerned. I do not know how many hon. Members in this august Assembly would qualify to be youth.

We then come to amendments to Section 2. We have new Sections; 2(a), 2(b) and 2(c). This Bill will be the object and purpose of the constitutional review. What is the purpose? Why are we undertaking constitutional review? The object and purpose of the review and eventual alteration of the Constitution is to secure positions therein. We want this Constitution to be a living document. We want this Constitution to serve a purpose. What is that purpose? We want that Constitution to guarantee peace, national unity and integrity of the Republic of Kenya in order to safeguard well-being of the people of Kenya. The society is not worth being called a society if it does not safeguard peace and well-being of its people. Here we want that to be one of the purposes for which we shall have the Constitution. The other one is to establish a free and democratic system of Government that enshrines good governance, constitutionalism, the rule of law, human rights and gender equity. That particular phraseology was there and is there in the Act. The only additions that we have which strengthen it is the word "free". Under the Act we just state "a democratic system", but here we are now saying "a free and democratic system".

(c) Mr. Temporary Deputy Speaker, Sir, we want the Constitution to recognise the demarcation of divisions of responsibilities among the set organs of the Executive, the Legislature and the Judiciary, so as to create checks and balances between them and ensure accountability of the Government and its officers to the people of Kenya.

Those words are not there under the current Act. As I said earlier, we will see again and again the words, "accountable to the people of Kenya" is the focus not only of the process itself, but of the Constitution that is to come.

(d) Then we have a new provision of promoting the people's participation in the governance of the country through democratic, free and fair elections and the devolution and exercise of power.

(e) Respecting ethnic and regional diversity and communal rights including the rights of communities to organise and participate in cultural activities and the expressions of their identities: More recognised in the origin and the diversity of the people in Kenya, but we say, "unity in diversity".

(f) Ensuring - and I believe this will be very welcome, particularly to the "Shadow Attorney-General" in view of the recent seminars he has held recently on the whole issue of basic economic rights - that the Constitution should ensure the provision of basic needs of all Kenyans through the establishment of equitable framework for economic growth and equitable access to national resources. We will have to speak more on those issues, I think, in the process of constitution review on the so-called economic, social and cultural rights.

As this particular Section says, I know that the International Covenant on Economic, Social and Cultural Rights states that these rights are rights which must be progressed. They cannot be realised at once, but they can be progressively realised. The obligation is on the State to use to its maximum the resources available to it, both nationally and internationally, to ensure optimum use of those resources so that the standard of living of its people goes up. We will talk more on this later. This particular paragraph provides a focus for discussion those type of matters.

(g) Promoting and facilitating regional and economic co-operation to ensure economic development, peace, stability and support, democracy and human rights.

Those are the objects and purposes of the Constitutional review. Of course, issues of regional and international co-operation are issues which I assume all of us are aware that we have to integrate economically and socially between countries. We are doing that at the East African level through COMESA. Hopefully, we shall achieve the OAU Lagos Plan of having Africa as a common market, I think by the year 2026, if not earlier.

Really, without these economic and social integration and even political integration, African countries

cannot have a future to talk about. It becomes even more difficult for them to ensure that their people progressively realise their economic and social rights.

Clause 2(b) then touches on the organs of review which are the Commission, the District Forum and the National Forum. Clause 2(c) is very important. We have stated the object and purpose of constitutional review. We are now asking, what will be the guiding principles in this exercise?

Again, this is a new thing under the Act, as we have it now; we do not really have the guiding principles. In fact, where mentioned, it is just mentioned in just one line somewhere, that the guiding principles will be good governance, human rights and so on. Here we have had an elaboration of those guiding principles. The very first one, again and again, this comes through the proposed Bill.

The very first guiding principle of all these organs, be it the Commission, the District Forum or the National Consultative Forum in their operations, must, is and shall be that they are accountable to the people of Kenya.

The other guiding principle is to ensure that the review process - the accountability to the people of Kenya stands on its own because it is important - the rest come together.

(i) That the review process must accommodate the diversities of the people of Kenya including socio-economic status, race, ethnicity, gender, religion, age, occupation, learning, person's liabilities and the disadvantaged.

This is a very important guiding principle. We do not want this process, as it were, to be "hijacked" by any one group, Section or class of the people, or to be "hijacked" almost exclusively either by men or by women, by youth, the aged, the disabled or the professionals.

At times, there are dangers that the process can easily be "hijacked". If it is hijacked, then the end result will only serve those people who hijacked it. Those who were left out will feel aggrieved and we shall start all over again on constitution making.

A constitution is there for posterity. We are trying to make a Constitution that will be there even in the times of our great, great, great grand children! Therefore, it is important that every Kenyan be involved in the process. He should feel that he is involved in the process and he should actually be involved in the process.

I have seen areas where even members of my legal profession have "hijacked" a process in some countries in Africa that I know. Those constitutions did not last more than one term. I have seen countries where certain powerful Sections of the community with economic interests have "hijacked" the process that has not lasted because those without resources have said, "this is not our Constitution, it is a Constitution of the people who have".

Therefore, everybody, the diversity of all Kenyans, all tribes, races, the youth, the old and the people with disabilities should be engaged in this exercise. In fact, it is their engagement that it going to prove a very exciting and challenging time for the next few years.

I would like every Kenyan not to be an on-looker; not to be part of the millions who do not know what is happening, but to be part of the few who not only know what is happening, but are also influencing and affecting what is happening. Every Kenyan has that right and is being given an opportunity under this process to do that. Every Kenyan should take that right and exercise that right. The guiding principle must be that, the people of Kenya are all given an opportunity to actively, freely and meaningfully participate in generating and debating proposals to make the Constitution. Let us all actively participate in this. As I will be submitting, these proposals do actually achieve that. They actually enable and give an opportunity to every Kenyan who wants to participate in the process to do so. Another guiding principle is that the whole process must be open and conducted in an open manner.

As I have stated before, these are new ideas which are very good and emanating from this Bill. The fourth guiding principle which exists under the current Act is that, it must be guided by respect for the universal principles of basic human rights, gender equity and democracy. What is the purpose of all these guiding principles? The purpose of all these guiding principles is to ensure that the entire review process, right from day one until this Parliament brings in a new Constitution, faithfully reflects the wishes of the people of Kenya. It must be accountable to the people of Kenya, and the end result must also faithfully reflect the wishes of the people of Kenya.

We will now go to the changes proposed under Section III. The entire Section is, by what I have just stated, completely repealed. We now have a new Section III which provides for the establishment and membership of the Commission. If hon. Members would look at the current provisions, they basically were to the effect that, literally any person, or thousands of organisations could submit names of the people they consider fit to be commissioners. At the second stage, under the current Act, after everybody has submitted all those names to the Attorney-General, - and they could be thousand of names submitted - the Attorney-General would then convene a

meeting of about 10 different organisations who would sit down and go through the list of nominated persons and their curriculum vitae and so on. From that big number, they will short-list 45 names from that big number. But of course, in short-listing the names to 45, they have to have regard not only to merit, but also to the diversity of the people of Kenya. The Attorney-General was supposed to submit the 45 names to the President and the President was to appoint 29 persons from the list of 45. That is what is there under the current Act and this what is now repealed completely by this Bill.

This was one of the most difficult Sections to be tackled by the National Consultative Forum. In fact, this was one of the last issues that was agreed to. It was the most difficult one. Others were fairly straightforward and everybody agreed on them. But the appointment of the Commission and the number of members of that Commission became a very ticklish issue during the consultative discussion. However, as I had said earlier, the figure of 25 Commissioners was agreed upon and the method of appointing the 25 commissioners is set out in Clause 6 of the Bill which will be Section III, if the Bill is enacted.

Mr. Temporary Deputy Speaker, Sir, we now have the provision that various organisations will nominate people and the President will appoint those people. Thirteen persons nominated by the political parties will be presented in the Inter-Parties Parliamentary Committee of whom, at least, two shall be women. In other words, the Parliamentary political parties are given a slot of 13 persons. The question of how those 13 persons will be distributed among the Parliamentary political parties was an issue which the National Consultative Forum felt was an administrative matter. Therefore, they felt that it had better be left to the Parliamentary political parties to sit down and agree on how many persons each of the Parliamentary political parties will nominate. This is not an entirely new provision because hon. Members will recall that under the Constitution, when it comes to appointing members of the Electoral Commission, the new provision states that those members will be appointed by the President on submission by the Parliamentary political parties to the Electoral Commission. Those submissions will be proportional to the strengthen of that Parliamentary political party in Parliament. That is what happened just before the general elections. So, there are some precedents to go by, but what has been provided here is that, at least, 13 seats are given to Parliamentary political parties and I know they will be able to meet and agree on the distribution of those seats.

Being mindful of gender sensitivity, this Section states that, at least, two of the persons nominated by the Parliamentary political parties will be women.

Mr. Temporary Deputy Speaker, Sir, one person will be nominated by the Muslim Consultative Council and the Supreme Council of Kenya Muslims. One person will be nominated by the Kenya Episcopal Conference, that is the Roman Catholic Church. One person will be nominated by the protestant churches in Kenya represented by the National Council of Churches of Kenya, the Seventh Day Adventist Church, the Church of God, the Kenya Indigenous Christian Churches and the Evangelical Fellowship of Kenya. There it means, these various protestant churches will have to have a forum in which they will meet, discuss and agree on the one person they will nominate to the Commission.

Mr. Temporary Deputy Speaker, Sir, there will be five persons nominated by women organizations through the Kenya Women Political Caucus. We have a definition of the Kenya Women Political Caucus at page 418, and from what we were informed from the Consultative Forum, it is really a network of many women organizations and nearly all the women organizations which were at the Consultative Forum supported this particular proposal, including Maendeleo ya Wanawake Organization.

Mr. Temporary Deputy Speaker, Sir, four persons will be nominated by the civil society through the National Council of Non-Governmental Organizations. In particular regard, the youth, the disabled and the professional organizations of whom at least one shall be a woman. What it is, is that, the civil society has been given four seats. Of those four seats, at least one must be a woman. Again, of those four seats, at least there must be a youth, a disabled person and one must represent the professional organizations. That can quite be a complicated process. I hope the civil society - I have seen it being advertised in the newspapers - has already embarked on a process on how they will be able to present the four names which obey and are consistent with the preferences mentioned under this Sub-Section; the youth, the disabled and professional associations, but also which take into account the gender sensitivity by appointing at least one of them.

Mr. Temporary Deputy Speaker, Sir, the Attorney-General or his representative shall be an ex-officio commissioner. That is already there under the current Act. Now, there are also some guiding principles. The membership of the Commission shall include at least two representatives from each province in Kenya. In other words, once the various organizations have submitted their names, the totality of the 25 members must obey the principles that at least two must have come from each province. The totality of those members must also obey the other principle that at least, eight must be women. When you now come to look at the Commission as a whole, we have at least two people from each province and eight women on the Commission.

Mr. Temporary Deputy Speaker, Sir, the qualifications for the commissioners has been set out at page 417, Sub-paragraph 4, under (a), and these are the points that must be taken into account by these organizations when they are nominating: They must give preference to persons who in addition to qualifications specified in 4(a), hold relevant professional or technical qualifications. Section 4(b), they must have regard to Kenya's ethnic, geographical, cultural, political, social and economic diversity. Section 4(c), save in the case of women's organizations, they should take into account the principle of gender equity. I think that means in effect, that although there is a minimum of eight persons given to women on the Commission, for those organizations which are more than gender sensitive and which want to bend over backwards, in obedience to the principle of affirmative action, if you want to nominate more women, there is nothing to stop them from doing so. If they want to nominate 12 or 13 women, there is nothing to stop them from doing so. Let them take that into account. But at least, the eight seats are reserved for women. That in itself, actually, is affirmative action.

Mr. Temporary Deputy Speaker, Sir, because of the new words that we have used, and the organizations that we have given this responsibility, it then became necessary also to define these organizations. So, when we say four seats are allocated to the civil society, who is the civil society? The definition is there. The civil society means private ordinary groupings of individuals or associations including, but not limited to those specified in part (b) of the first Schedule. Now, the first Schedule is at page 447. Part (b) lists 24 different organizations who are automatically part of the civil society. They include, the Central Organization of Trade Unions, the Kenya National Union of Teachers, the Law Society of Kenya, the Association of Professional Societies of East Africa, the International Commission of Jurists, the Kenya Human Rights Commission, the Kenya Medical Association, the Kenya National Association of the Deaf, the United Disabled Persons of Kenya, the Kenya Society for the Disabled, the Kenya Alliance for the Advancement of Children, the Kenya National Youth Alliance, the Kenya Law Students Society, the Media Institute, the Kenya National Farmers Union, the Kenya National Federation of Co-operatives, the Federation of Kenya Employers, the Kenya Association of Manufacturers, the National Chamber of Commerce and Industry, the Kenya Pastoralist Forum, the National Council of Non-Governmental Organizations, the Citizen Coalition for Constitutional Change(4Cs), the National Convention Executive Council (NCEC) and the Association of Local Government Authorities in Kenya. Those 24 organizations, come under the rubric of civil society. But the definition has not closed the doors. It says, including. So, if other people feel they are part of it, they should go through the National Council of Non-Governmental Organizations. It is the National Council of Non-Governmental Organizations which has been given the responsibility of co-ordinating these 24 plus, associations and ensuring that the Commission has four members from the civil society, one of whom must be disabled, another one, a youth, then a professional and also a woman.

Mr. Temporary Deputy Speaker, Sir, we said 13 commissioners had been allocated to the Inter-Parties Parliamentary Committee. The Inter-Parties Parliamentary Committee means, a committee of Members of Parliament from all Parliamentary political parties, constituted on 2nd April, 1998, to facilitate consultations on the Constitutional Review process. Therefore, it is that committee which will sit and decide on the proportionality of the numbers to be given to the various Parliamentary political parties to submit names.

You will see that Part c of the First Schedule, which are the women organisations under the Kenya Women Political Caucus consists of the Kenya Women Political Caucus itself, Maendeleo ya Wanawake, the League of Kenya Women Voters, Corroborative Centre for Gender and Development, the Kenya Widows and Orphans Association, the Federation of Women Lawyers (Kenya Chapter), the National Council of Women of Kenya and the Muslim Consultative Council Sisters' Network. All those organisations come under the Kenya Women Political Caucus but again, other women organisations are entitled to participate and submit names, but through the Kenya Women Political Caucus and from them, we hope to get five.

Then, of course, we have the International Council for Non-Governmental Organisations. So, that is the way the issues will be dealt with as far as the Commission is concerned. The procedure is set out in Clause 7 which will be Section 4 if we do enact this. That is why I told all these organisations to start now looking at this because once the Act comes into operation, on the day it comes into operation, all these organisations will have only 15 days to submit their names to the Attorney-General. Only 15 days, which is a very short time indeed, particularly for some of these umbrella organisations to be able to organise their member societies to meet, argue and bring forward the correct names. So, I am appealing to them again to start thinking now so that, when the Act comes into operation, within 15 days the names are ready. Otherwise they may be left out of board.

Once I receive the names, I will go through them and ensure that the principles have been followed as enshrined in the Act. That they indeed, have those qualifications. Indeed, there are known conditions for disqualification, but we have two people per province as enshrined in the Act. That indeed, there are eight women as enshrined in the Act. If those guiding principles are not there, then the Attorney-General will call the various groups together, sit down, hammer it out until we agree This is because the President has no role whatsoever in

this exercise for the President works is the signature. Therefore, at the time we present these names for the formal appointment and gazettments, they must be names which are consistent with the provisions of the Act. So, I do hope that if all organisations submit the names properly, there will be no need for me to call for a meeting. I will just get them and forward them to the President. But if we have those difficulties, then I will have to summon a meeting of all these members; we sit down, we hammer it out until we get the requisite number properly appointed in accordance with the Act.

Mr. Temporary Deputy Speaker, Sir, the Attorney-General is supposed to verify compliance within ten days. Everything has a time limit. Then, the Attorney-General shall, within 15 days of the expiry of the period, compile and submit to the President the list of nominees submitted to him. So, once the Act comes into operation, the first three weeks are really a hive of activity and we must achieve the appointment within that time. The President is not given an open-ended thing. In other words, when the Attorney-General submits the names to him, he cannot sit on them *ad infinitum* or forever. He has to gazette those names within 15 days. So, a time limit has now been imposed even on the Head of State, to gazette the names presented to him.

Mr. Temporary Deputy Speaker, Sir, in addition to the qualifications of members, which I mentioned earlier, that preference should be given to people holding professional or technical qualifications and also the diversity of the people of Kenya. Under Clause 8, the new subSection 4(a); it goes without saying that the Commissioners must be of sound mind. That has been made very clear. So, when you submit the names, make sure that the person is of a sound mind. I am also appealing to the organisations to ensure that the person must be a person of integrity, of good character and good standing and with experience in public affairs. I hope the organisations themselves will be organisations of good standing and good character. But even if they are not, please ensure that the persons you nominate are persons of good standing and good character. The person must have a minimum education of "O" Level or its equivalent.

Mr. Temporary Deputy Speaker, Sir, the Bill also has specific provisions for disqualifying persons for appointment if a person is an undischarged bankrupt. If he has been convicted of an offence other than an offence of a political nature and sentenced to imprisonment for a term of six months or more without the option of a fine, I am sorry he does not qualify for nomination. So, I had to go through those provisions carefully because they were the subject of intense debate and end result is a very careful balance, which I hope Members will accept as it is because to upset one, merely sets an imbalance in the process and may affect the entire process. This is because people attach a lot of importance on the appointment of the Commissioners.

Mr. Temporary Deputy Speaker, Sir, once the Commission is appointed, we now come to Clause 9 on page 421, where there are a number of things that the Commission must first do which are different from the current Act. For example, under the current Act, it is the President to appoint the Chairman. But even before I come to that one, under the current Act, we have the provisions for Chairman and Vice-Chairman. But, because of the gender sensitivity issue, that has been changed to Chairperson and Vice-Chairperson. So, if we enact this Bill, the titles of the persons who will sit on the chair will change from Chairman to Chairperson and Vice-Chairman to Vice-Chairperson. So, that is one difference between this Act and the former.

Mr. Temporary Deputy Speaker, Sir, the second one is different. It is the one that I have just stated under the current Act, where it is the President who appoints the chairman but under the Bill, it is the members of the Commission themselves who appoint a chairman. Here, you may see at page 22, paragraph 4 at the very top that "The Commission may not necessarily elect one of their own to be the chairperson". The Commission can elect somebody else if they think in their wisdom that they want somebody else who is not a member of the Commission. They can elect him to be the chairperson of the Commission and by that election, he will also become a member of the Commission.

An hon. Member: Even if it is a woman?

The Attorney-General (Mr. Wako): Yes, that is true. God has put together man and woman and they have produced a person. So, that is the point that I wanted to mention; that the chairperson does not necessarily have to be a member of the Commission. The Commission may, in its collective wisdom, say we want somebody else to be chairman or in its collective wisdom say that we want Dr. Mukhisa Kituyi to be the chairperson and then, he will resign from being a Member of Parliament for Kimilili. That is also possible.

Mr. Temporary Deputy Speaker, Sir, now to enable the election of the chairperson and the vice-chairperson to take place, the Attorney-General shall, within 15 days of the appointment of the commissioners, convene the first meeting of the Commission at which the commissioners shall nominate the chairperson and the vice-chairperson of the Commission. In other words, the duty is given to the Attorney-General to convene, within 15 days, the very first meeting of the Commission for the purpose of electing or nominating the chairperson or the vice-chairperson. Now, what are the qualifications? In addition to the qualifications that we have mentioned, there are some additional qualifications for a person to be appointed as chairperson of the Commission. To be a

chairperson of the Commission, you must be a person who holds or has held office as a Judge of the High Court or Court of Appeal. In other words, any of the current members of the bench. High Court judges are eligible for appointment or any of those who may have retired honourably. Or if you are not a judge, you must be an advocate qualified for appointment as a Judge of the High Court under Section 61 of the Constitution of Kenya.

Mr. Temporary Deputy Speaker, Sir, Section 61 of the Constitution of Kenya and without even reading it basically, states that if I have been an advocate for at least seven years, I am eligible to be appointed as a judge and therefore, also now eligible to be appointed as a chairperson. I do not know whether any of the members here qualify. I think they do and so, there is an opportunity for you in case you want to serve as chairperson of this Commission for the remainder of duration of Parliament. Also, now looking at the legal academicians, if you have been one and you have engaged yourself in the teaching of law in a recognised university in Kenya for at least 15 years, you are also eligible to be appointed chairperson of the Commission. So, the chairperson must be a member of that honourable profession to which the Attorney-General belongs and of which the Attorney-General is the titular head. There is no position for a shadow Attorney-General or a shadow titular head of the profession. We may have to put one there under our law reform exercises. There is also another important provision that I must draw your attention to and that is, if the chairperson is a lady, the vice-chairperson is a man and vice-versa. That is in paragraph 2 which says: "The chairperson and the vice-chairperson of the Commission shall be of opposite gender".

Mr. Temporary Deputy Speaker, Sir, we now come to Clause 10 of the principal Act which is contained in Section 7. The current Section 7 (1) of the Act provides for the staff of the Commission and under the current Act, it was envisaged that the Commission may not really have a staff of its own but its staff will be seconded from the Public Service. In fact the current provision reads:

"The President may upon the request of the Commission avail to the Commission the services of such public officers as may be necessary for the proper and efficient exercise of the functions and powers of the Commission".

Therefore, under the current Act, the President was the one to make available to the Commission the staff to enable it to discharge its functions. That is now deleted and instead, the duty and functions of appointing the staff of the Commission lies on the Commission itself and not on the President; seconding public officers to the Commission. This, of course, enhances the independence of the Commission and also ensures that the staff of the Commission will be loyal to the Commission and not to anybody else.

Mr. Temporary Deputy Speaker, Sir, however, it may very well be that the Commission may require the services of certain public officers. If they do so require, and it can only be at the Commission's request, the research officers will be seconded to the Commission, not again by the President but by the Public Service Commission which is a constitutional Commission and whose members enjoy a security of tenure for the number of years that they have been appointed.

So, Mr. Temporary Deputy Speaker, Sir, the responsibility of providing officers to serve the Commission rests on the Public Service Commission. The Bill goes on to make it very clear that when officers are seconded to the Commission they shall be deemed to be officers of the Commission, and they will be subject to the direction and control of the Commission during the period of secondment. The secretariat and staff of the Commission will owe their loyalty to the Commission itself. Therefore, as I said earlier, this amendment enhances the independence of the Commission.

Of course hon. Members will note that the current provision for the Commission to employ experts and consultants to assist it as appropriate is still preserved. The Commission can, apart from its full-time staff, hire experts and consultants to help it discharge its functions. So, those of us who are constitutional experts can also make significant contributions under this provision. I hope that as the process progresses, we will have some experts from other countries to come and share their experiences with us, so that we can have the best constitution.

The changes introduced to Clause 11, which affects Section 8 of the Act, are minor. The changes in this Clause provide a way of giving affirmation to those who do not confess to any religious belief. The Section deals with the swearing of the Commissioners, secretaries and other people who will be serving the Commission. The oath has been prescribed on pages 448 and 449 of the Draft Bill. We have the Oath of the Commissioners, the Solemn Affirmation of the Commissioners, and the Oath of the Secretary and Deputy Secretary.

Mr. Temporary Deputy Speaker, Sir, I would, now, like to move very quickly to Clause 12, which is very important. If enacted, this Clause will be the new Section 8(a) of the Act. This Clause provides that those who will be serving the Commission, whether commissioners or staff, must subscribe to a code of conduct. The current Act does not provide for a code of conduct. All that the Act says is that, once appointed, a commissioner shall serve in his personal capacity. This means that, once appointed, a commissioner does not espouse or represent the views of the organisation or society which put forward his name for appointment. In this commission, people will not sit

round a table to discuss the interests of those who elected or nominated them: This will be a professional Commission to collect views. Therefore, we may declare in the current Bill that once appointed a Commissioner one will serve in his personal capacity. For example, if Embakasi Ranching Company forwards the name of a person for appointment, that person will not go to the Commission to represent the views of the ranching company, or those of the area Member of Parliament. The appointee will represent his own personal views even if those views may be contrary to those of the Embakasi Ranching Company, which is chaired by the area Member of Parliament.

Mr. Temporary Deputy Speaker, Sir, this Bill contains considerable improvements. It requires that those who will serve the Commission subscribe to a code of conduct. Hon. Members, the code of conduct is in the Third Schedule of the draft Bill, which is on page 450. The code of conduct will apply to the Commissioners, members of the District and National Fora, and the staff of the Commission. It will, specifically, ensure the impartiality and independence of Commissioners and all its servants.

It reads, in part, as follows:-

"Every member of the Commission, at District Forum or National Forum must and, shall, serve impartially, independently, and perform the functions of his office in good faith, and without fear, favour, or prejudice."

So, if a Member of Parliament wants to be a member of the Commission, he must cease to be a Member of Parliament first. Then, he can become an expert in his own right. He will not be representing a political party or a tribe. He will be representing himself as a person of good character and integrity who is knowledgeable in public affairs. He will, therefore, serve impartially, independently and in good faith, without fear, favour or prejudice.

Further, the Schedule reads:-

"No member of the Commission, District Forum or National Forum shall, during the tenure of office, be eligible for appointment or nomination to any political office."

In other words, no member of the Commission, District Forum or National Forum may, by his or her membership, association, statement, conduct, or in any other manner, jeopardise the perceived independence of the members, or in any other manner prejudice the credibility, impartiality, independence, or integrity of the Commission, the district forum or the national forum. It goes on to say:-

"No member of the Commission shall make private use of, or---"

Kenyans are known to make profit out of anything. They use their offices for personal gains. We are going to change this culture.

That is a culture we are going to change. We will start with the Members of this august House; either in a Commission or a National Consultative Forum or District Forum who are now going to help the people of Kenya put in place a new Constitution. So, a member of the Commission or the District Forum or the National Consultative Forum shall not make deals of or profit from any confidential information gained as a result of being a member of the Commission of the District Forum and of the national forum. Also, the code puts an obligation on the members of all these three organs to disclose any conflicting interest. If a member of the Commission is directly or indirectly interested in any proposed contract or other matter before the Commission, such member shall disclose the facts and shall not take part in the consideration or discussion of or vote on any question with respect to the contract or other matter. So, you have to disclose your interest. So, the starting of the new culture in public offices is going to start with those members. They must themselves be transparent, clean so that they can also ensure that the process is transparent so that they can also ensure that the end result will create an enabling environment for transparency and accountability in Kenya.

Mr. Temporary Deputy Speaker, Sir, it will be a serious matter if any of those members breaches the provisions of the code of conduct. If a commissioner or the secretary of the Commission or a member of the District Forum or National Forum breaches the code, he will be disqualified from holding that office. So, this code of conduct is a very serious solemn undertaking. If you breach it, you will be disqualified. If the staff of the Commission breaches the code of conduct, they will be liable to such disciplinary action as the Commission itself may prescribe.

Mr. Temporary Deputy Speaker, Sir, I now wish to comment on Clause 13 which affects Section 9 of the Act. Basically there, the proposed amendments are again amendments which ensure the integrity of the Commission. Under the current Act, if a commissioner's appointment is in any way terminated either by resignation, illness or terminated in accordance with the procedures set out here, it is upon the commissioner to notify the President in writing of the resignation. The small amendment is meant to ensure that the commissioner has no direct access to the President. Therefore, if he is resigning, he does not resign directly, but he has to do that through the chairperson of the Commission. Once that is done, again, the President does not sit on that vacancy; under the proposed amendment, the President has to gazette the resignation within 15 days from the date of

notification so that the process of appointment to fill the vacancy can take place.

Mr. Temporary Deputy Speaker, Sir, Clause 13 which affects Section 9(3) is more or less the same as what we have under the current Act except that one of the reasons for termination of a commissioner or any member of that organ is the breach of the code of conduct which I have just alluded to. Sub-Section (5) deals with the issue where a vacancy has arisen and how it is filled. Basically, you go through a process, but the filling of the vacancy is by that umbrella organisation which may have nominated that person to the Commission or to wherever.

Mr. Temporary Deputy Speaker, Sir, we now come to the most important aspect of the Commission, Clause 15; I will skip the other Clauses because of time. Under Clause 15, the principal Act is amended by repealing the entire Section 10 and replacing it with the following new Section. I will highlight those new additional functions that have been added pursuant to the Consultative Forum meetings. Most of them are already under the current Act, but through those discussions, a few were added. The one which was added is under the proposed Clause 10A which reads:-

"That the functions of the Commission shall be to facilitate the conducting of civic education in order to stimulate public discussions and awareness on constitutional issues."

Mr. Temporary Deputy Speaker, Sir, it was said very strongly during the talks that many Kenyans may not know the issues involved in that constitutional process or what a Constitution should contain or the type of things that should be provided for in the Constitution. Therefore, it was necessary for the Commission, at the very beginning, to embark on civic education. That is why it was felt necessary that we have this law for the Commission facilitating the conducting of civic education. I would like the Members to read that particular Clause together with Clause 12A(6) which appears at page 434. Right at the very bottom, you will see subClause (6); there you will see that, in fact, one of the major functions of the District Forum shall be to mobilise communities at the local level for the purpose of civic education in preparation for the Commission's work and to perform such duties as the Commission may assign. We know that we shall be coming to the formation of District Forums, but that is the major function of the District Forums. Therefore, when the Commission is facilitating civic education, one of the main organs that it will use will be the mobilisation of communities at the local level by the District Forums in order to ensure that civic education is carried out at that level. Facilitation, of course, also may and can involve the civil society who are engaged in civic education on matters relating to the Constitution, law, human rights and so on. The Commission will be there and I hope they will work in very close co-ordination and conjunction with the Commission in this whole area of civic education.

Mr. Temporary Deputy Speaker, Sir, I want to make it clear that civic education is not advocacy. We should not engage in advocacy of any particular idea like saying that "we want a Prime Minister, *Majimbo*, an executive President or whatever." That would be advocacy for a particular view point of what should be a specific position in the Constitution. That is not civic education. We should not politicise in a partisan way the civic education. The civic education should remain the way it is. It should merely be to educate the citizens of this country on the Constitution and what it provides and so on. This is to be done in order for them, without getting influenced, to make their own intelligent decisions and view points on what they would like in the Constitution.

Mr. Temporary Deputy Speaker, Sir, so, I hope that when the Commission is appointed, it will immediately look into this whole area of civic education and embark on a crash programme to ensure that everybody in Kenya is or has an informed knowledge of the Constitution and the Constitution making process. Without informed knowledge, then it would be really an obstacle for the Commission to go to its main agenda which is to get peoples' views on the proposals for the type of Constitution they want. So, the Commission, the District Forums, and the civil society have to work together in a coordinated manner. We also must ensure that what people learn in Mbeere on civic education is what the people in Matayos in Busia District are learning. That should be the aim; that everybody in Kenya has more or less the same basic knowledge on what the Constitution is all about. It should not be lop-sided. Here I know, that, if the District Forums work well and the NGO's community also work well in a coordinated manner under the Commission, we should be able to cover the entire Kenya in the area of civic education.

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

[Mr. Deputy Speaker resumed the Chair]

Mr. Deputy Speaker, Sir, the other functions in (b) are already there under the current Act; that is, to collect and collate the views of Kenyans on the proposals to alter the Constitution. What has been added is only

this: Whereas under the current Act the Commission's work is merely to collect the views of Kenyans, here the proposal is to add an obligation on the Commission to ensure that after collecting that information from members of the public, it is only on that basis that the Commission will draft a Bill to alter the Constitution for presentation to the National Assembly.

Mr. Deputy Speaker, Sir, the other duties in (c) and (d) are there under the current Act. The other additional one, which is under the proposals, is that the Commission now has to examine the federal and unitary systems of Government and recommend an appropriate system for Kenya. This was not there under the current Act. Although it was implicit under the current Act, that they had to examine it, it is now made more clear and explicit that the Commission must look at the different forms of Government; the unitary Government on one hand, and maybe, as the hon. Member from Shirikisho party would say, they should also look at the federal system of Government on the other hand.

Maybe, Dr. Omamo would also suggest that we should look at the strengthening of the Local Authorities as an alternative in this whole structure of Government. I believe he would want to say that. That is how I read his mind at one time.

Dr. Omamo: Mr. Wako, I agree with you.

The Attorney-General (Mr. Wako): Thank you. So, this is now explicit. I think they have to consider all these alternative systems of Government.

Mr. Deputy Speaker, Sir, the next one is the same as the old one; about examining the Constitutional offices, institutions and so on, for better governance and the rest. But, three words have been added; which the Commission has also to take into account; "and gender equity." Otherwise, that Clause is the same as the one under the current Act.

Mr. Deputy Speaker, Sir, another Clause which was very implicit and important under the current Act, but not specifically mentioned, and is now highlighted under the proposed Bill is that "the Commission shall examine and recommend improvements to the electoral system of Kenya." Again, as I said, it was implicit under the current Act, but now it is highlighted. In fact, it may very well be that after the whole exercise has gone through, and we have a new Constitution, depending on the recommendations and provisions of that new Constitution, the very first Acts we shall have to look at very quickly; after the new Constitution is in place, will be the legislation and the laws which affect elections. So, it is proper that this aspect of the Commission's work be highlighted by bringing attention specifically on the issue of improvements to the electoral systems of Kenya.

Mr. Deputy Speaker, Sir, the Commission is also asked to look at the Judiciary generally and, in particular, the establishment and jurisdiction of courts aiming at measures necessary to ensure the competence, accountability, efficiency, discipline and independence of the Judiciary. The Commission will be looking into these areas very closely. Of course, as hon. Members are aware, the Judiciary itself has begun looking into some of these very issues. I am sure it will be a very good input into the Commission work. We already have the Kwach Committee which has made its recommendations in these very areas of the Judiciary and we are following that up. We have already set up the Legal Sector Reform Coordinating Committee. The Judiciary, the Attorney-General's office, the Law Society of Kenya and others are represented on this Committee. Their mandate is to look at the entire administration of justice and find out whether we cannot come close to being accountable, efficient, disciplined and independent in our operations, particularly as we approach the next century. That Committee is in place, and I would like to inform this august House that interviews for the secretary to the Committee were carried out last week. The Committee will have a secretary working on a full-time basis with this high powered Committee on these very issues which, of course I know, will also assist the Constitution of Kenya Review Commission when they come to consider those issues. We shall already have information for them on those issues.

Mr. Deputy Speaker, Sir, I have also talked about the devolution of powers to the local authorities. The other paragraphs are as under the existing Act. But the one which is under the existing Act, and I am surprised that people are not aware of it because they are commenting as if it is not there, is this: "The Commission, under the existing Act has the mandate and functions to examine and review succession to office and recommend a suitable system for the smooth and dignified transfer of power after an election or otherwise". That is already there, but some people talk as if this particular Commission does not have that mandate. I would like to say that even if that specific Clause was not there, the functions given to the Commission, under those general powers, would, of course, make it necessary for the Commission to consider this aspect of the matter. So, we are saying that this Commission will look into the electoral process in this country and the issues of succession, and a smooth and dignified transfer of power. That is there and the Commission will look at it. So, let there be no doubt whatsoever in the minds of everybody; that somehow, a lacuna or a loophole is there in our legislation. The only other additional---

Mr. Mwenje: On a point of order, Mr. Deputy Speaker, Sir. I do not want to interrupt the Attorney-

General, but he is raising a very important point. Now that he has referred to the issue of succession in this Bill, will he, therefore, legislate or request that the debate on succession stops immediately so that we can facilitate this one?

Mr. Deputy Speaker: Order, Mr. Mwenje! That was not a point of order. Proceed, Mr. Attorney-General!

The Attorney-General (Mr. Wako): Mr. Deputy Speaker, Sir, this Commission says that we must enhance human rights, protect them and the people in the exercise of their human rights. It will be very difficult for us to issue edicts which will violate those rights, particularly when we are debating a very important Bill like this one.

Mr. Temporary Deputy Speaker, Sir, the three sub-paragraphs which are new and are not there in the current Act are as follows:-

"The Commission is to examine and review the right to citizenship and recommend improvements that will, in particular, ensure gender parity in the conferment of the rights."

That is not there under the current Act. It would have been done anyway, but it is now highlighted to show that we are gender-sensitive in these matters. We do not want a situation where, if I marry a foreigner, my wife becomes a Kenyan citizen, but if my daughter marries a foreigner, that foreigner's citizenship is questioned. He does not automatically become a Kenyan citizen. So, those are the type of things that the Commission will look into under this particular mandate.

The other one which is not there under the current Act, but is now included say:-

"To examine and review the social-cultural obstacles that promote various forms of discrimination and recommend improvements to secure equal rights for all."

The other one say:-

"To examine and review the rights of the child and recommend mechanisms that will guarantee the protection of the rights of the child."

Mr. Deputy Speaker, Sir, as you know, we have the United Nations Convention on the Rights of the Child which Kenya is a party to, we also have the African Charter on the Rights of the Child. We also have the Children's Department. The Government has done a lot in the area of children, but we need now to really focus on the children because they are the guarantors for the continuation of our society. I now leave the functions of the Clauses I have read because the rest of the functions are there under the current Act. I have highlighted those that have been added onto the current functions of the Act.

Mr. Deputy Speaker, Sir, we now come to Clause 18 which touches on Section 12. Section 12(a) deals with the establishment of the District Forums which is not a responsibility of the Provincial Administration as some people say. The establishment of the District Forums is really a responsibility of the county councils which will facilitate the establishment of the Commission of the District Forum. The District Forums shall consist of three elected representatives from each location in the district, one of whom must be a woman and another one must be a youth and elected representatives of the major religious organisations to comprise not more than 10 per cent of the total membership. Members of Parliament and members of any local authority are also members of the District Forums although they do not count for the purposes of the quorum. In that regard, you will be like the Attorney-General in Parliament. I am here and I have no vote and I do not count at all, but I can speak although I cannot vote. So, for you at the District Forums, you can participate and speak, but you do not count for the purposes of forming a quorum.

Mr. Deputy Speaker, Sir, co-ordinators of the District Forums will be appointed by the Commission and those will be the only people on the payroll of the Commission. We hope that those who will be members of the District Forums will volunteer their services free of charge. I have already mentioned that the duty of the District forums is to mobilise communities at the local level for the purpose of civic education. The details of the procedure for meetings of District Forums, the details on the manner of discharging those functions, the details of how some of the expenses of the meetings shall be made, will be details which the Commission itself will go into and make regulations. We do not want to make regulations now for the Commission. It is for them to see how best they can proceed with their work.

Mr. Deputy Speaker, Sir, under Clause 19, it is specifically provided for that all meetings of the Commission must be public, except on the written request of any person being heard that he wants his submissions to be in private. Otherwise, automatically, all meetings will be in public. The minor, but important amendment in Clause 19 is to ensure that the secretary of the Commission does not become the chief executive of the Commission. So, we have deleted the phrase which was there, which would have made the secretary to direct the work of the Commission. We have deleted that because it was going to create problems. The secretary of the Commission is only in charge of the administrative aspects of the Commission and not policy issues and he works

under the direction of the Commission. So, that now clears the small amendment that you may have seen.

Clause 20, which affects Section 13, is a very important Clause because it provides not only for the involvement of the people, but most importantly, it enables every Kenyan, if he wants to, to know what is going on at any given time when the Commission is meeting.

It states that the verbatim reports of every meeting of the Commission shall be made available within ten days of the meeting. They will be made available at documentation centres throughout the country. They will be made available in the libraries provided by the Kenya National Library Service Board throughout the country. They will be made available through the print and electronic media. So, within ten days, the verbatim report will be made available to any person at any place so that he or she can have access to what is going on. If the Commission is sitting in Nakuru and you are from Mombasa, you can go to your local library or any local documentation centre and know what is going on in Nakuru. But at the same time, it is now the duty of the Kenya Broadcasting Corporation to allocate to the Commission, free air time on both radio and television as follows:

In the case of the radio, at least, one hour per day on the Kiswahili and English service, as such air time as the Corporation may, in consultation with the Commission, deem sufficient for the vernacular services. In the case of television, at least, one hour per day. The documentation centres will be there throughout the Republic, and the county councils are supposed to establish those centres in their areas of jurisdiction. Once it becomes a centre, all the documentation must, after ten days, be received at the documentation centres throughout the country.

Mr. Deputy Speaker, Sir, every right is given to any Kenyan to go to any documentation centre, look at the documentation during the working hours, inspect the documentation and even request for a copy thereof, to carry home and read. They will have that right. But, of course, there will be a fee to be paid. I know hon. Members of Parliament will facilitate members of their constituents to pay for the fees to obtain the copies from the documentation centres, for them to read in their houses.

Mr. Deputy Speaker, Sir, what is the programme like? The programme is this: The Commission will start working on its civic work and collecting views from the public within 13 months from the date that they are appointed. After 13 months, they have six months to complete their report, together with the summary of their recommendations. On the basis thereof, they have to draft a Bill to alter the Constitution. So, within six months, they should have done that. Then, that report has to go to the President and here it says, "for information". Then, the Commission has to cause the contents of the report, the summary of the recommendations and the Draft Bill, to be disseminated throughout the district forums, throughout the libraries provided by the Kenya National Library Services throughout the country and through print and electronic media. This whole process will be giving an opportunity to the people of this country to examine what the recommendations of the Commission are all about. They are given three months to do that. After those three months, the Commission now has to convene a meeting of the National Constitutional Consultative Forum. The people comprising of this Forum are all Members of Parliament. You are all members of the National Constitutional Consultative Forum if this Bill is passed by you. All members of the Commission are also members. Then, we have three representatives of each district, to be nominated by the District Forum, at least, one of whom must be a woman, and another one a youth. Then, we have two representatives of each of the bodies specified in the First Schedule. These are bodies which participated in the various consultative forums, and who have indicated a very keen interest in this whole process, and who could not all be contained to nominate people to the Commission. Those are the members of the Commission. The Commission is also entitled to nominate other interests who are not adequately covered by the organisations listed in the First Schedule, provided that when they do so, those organisations that will be called upon to be members of the National Constitutional Consultative Forum should not be more than one third of the total membership of the Forum.

Mr. Deputy Speaker, Sir, the Commission may employ expert consultants as the Commission may consider necessary for the performance of the functions of the National Forum. So, when the three months elapse for the people to consider the various proposals and so on, the Commission now convenes this National Forum and the convening of this National Forum must be within 30 days after the three months. But in so doing, they must ensure that 21 days before the first meeting, all the members of the National Forum also have all the documentation which is going to be considered at the National Forum. At the National Consultative Forum, the Forum may approve the whole thing without any amendments, they may wish to refer everything back to the Commission to clarify and report back to it again, or all these processes may go on. But there is a time limit. Within three months, that exercise should be over. Once it is over, it is the Draft Bill, as adopted by the National Forum, that will be presented to the Attorney-General for introduction to the National Assembly. The Attorney-General does not just sit on the Bill, that maybe he does not have enough people to look at it and so on, or he does not have enough staff. The Attorney-General is again given a time limit. That, within 30 days of receiving that

Bill, he must bring that Bill to the House for debate.

Mr. Deputy Speaker, Sir, Part 5 deals with the Commission's expenses and so on. We have made sure that the expenses of the Commission are charged on and issued out of the Consolidated Fund without further appropriation than this Act. I do not want to go into that debate. It emanated in one of the Safari Park Hotel meetings with views that we have to come up with a budget like any other organisation. But that is wrong and I have the Constitution here to back me up. I will refer, in particular, to Sections 99 and 100 of the Constitution, under which this Act is based. The mere fact that we have passed this Act that can itself be charged on the Consolidated Fund without any further appropriations. The Accounting Officer of the Commission will be the Secretary of the Commission. The accounting processes, gifts and so on will have to conform to the Exchequer and Audit Act, and the Fund must be managed in accordance with the provisions of the Constitution, and the provisions of the laws that we have. Once the Bill is presented to Parliament and it is passed, only then, does this Act, which we are now going to pass, gets repealed. The enactment of the Bill to alter the Constitution tabled before the National Assembly under the relevant Sub-Section shall operate to repeal the Act and dissolve the Commission. The submission of the Report and the Draft Bill to the Attorney-General will operate to dissolve the District Forums and the National Forums. The only thing that will be left may be administrative work to wind up the affairs of the Commission. But, otherwise, all those will stand dissolved when we now are in the new era, the new constitutional dispensation and we have passed the Act and paralysed the exercise.

Mr. Deputy Speaker, Sir, I would like to go into the details of a number of these issues, but I think I have covered most of the points that required to be covered on moving this Bill. Just to summarise, this is a very important Bill. It is the only Bill that I know of, which has been well discussed properly, inside and outside Parliament. Therefore, I hope that it is a Bill which this House will pass unanimously.

With those few remarks, I beg to move.

The Minister for Agriculture (Mr. Mudavadi): Mr. Deputy Speaker, Sir, I beg to second the Mover of the Bill and hopefully reserve the right to make some comments next week because I can see that time has caught up with us. I think it will go on record that the Attorney-General has made a very elaborate presentation. I think it was necessary that he took the kind of time he did take to be able to---

Mr. Deputy Speaker: Hon. Members, the time being 6.30 p.m. and today being Thursday, we shall now proceed as per Standing Order 20A(1), the so-called zero-hour.

MEMBERS' HALF-HOUR STATEMENTS

REPAIR OF THWAKE BRIDGE

Mr. Katuku: Mr. Deputy Speaker, Sir, I would like to seek a Ministerial statement regarding Thwake Bridge, a bridge in my Constituency. The Thwake Bridge links Miu Market and Mumbuni Market which are in Mwala and Mbooni constituencies, respectively. I would like the Minister for Public Works and Housing to give us a Ministerial Statement regarding this bridge. This bridge is on the verge of collapse. It has been eroded on both sides and if no urgent measures are taken, it will be washed away. Should this happen, it will cost this Government a lot of money to build another bridge. If the Government moves fast and repairs this bridge, it may not even cost more than Kshs500,000. But if it is not repaired, it will cost the Government more than Kshs300 million to construct another bridge. So, I would like the Minister to tell us what he plans to do about this bridge since the rains have started and it might be washed away.

STATUS OF NATIONAL BANK OF KENYA

Mr. Murathe: Mr. Deputy Speaker, Sir, I wish to request for a Ministerial Statement on the status of the National Bank of Kenya (NBK). There is a crisis in the banking sector in this country and a lot of depositors' money is now considered to be in a very risky position. Banks are collapsing almost on a weekly basis. This problem has now come to the precincts of Parliament. We have hon. Members who have been applying for loans from the NBK, but they have been told that this bank is not able to advance them money because of a credit squeeze; a facility that hon. Members enjoy through the NBK. So, I seek a Ministerial statement directing--- If the NBK is not able to perform, then hon. Members should be advised accordingly to deal with another bank.

POLICE HARASSMENT IN KISUMU EAST CONSTITUENCY

Mr. Sungu: Mr. Deputy Speaker, Sir, I rise to demand a Ministerial Statement from the Office of the President regarding police harassment in my Kisumu Town East Constituency, particularly in Nyalenda and Manyatta. The common occurrence now is for the policemen, every evening at 7.00 p.m., to drive into Manyatta and Nyalenda with their lorries and demand that people board into them without giving them reasons as to why they are being arrested. Even on the production of an identity card, the policemen also demand employers identity card to show that somebody is working. I wonder whether it is illegal for one to be unemployed or to travel at 7.00 p.m. in Kisumu Town. In that connection, I would like to demand a Ministerial Statement from the Office of the President to tell us whether there is a curfew in Kisumu and whether it is illegal to travel after 7.00 p.m., and what the people of Kisumu have done to warrant this kind of treatment.

The Assistant Minister, Office of the President (Mr. Sunkuli): Mr. Deputy Speaker, Sir, I will be able to give a Ministerial Statement to that effect in due course.

Mr. Deputy Speaker: When?

The Assistant Minister, Office of the President (Mr. Sunkuli): Mr. Deputy Speaker, Sir, next week on Thursday.

NON-REMITTANCE OF NSSF CONTRIBUTIONS
BY CITY COUNCIL

Mr. Muchiri: Mr. Deputy Speaker, Sir, I rise to seek a Ministerial Statement from the Minister for Local Authorities on why Nairobi City Council has failed to pay its employees since July this year. Nairobi City Council has not also been remitting NSSF and Local Government Provident Fund deductions and NHIF contributions. It would appear, currently, that Nairobi City Council is at a standstill and the public think that it is collapsing. We want to know what action the Minister is taking to safeguard the interests of the public in Nairobi City Council.

The Assistant Minister for Local Authorities (Mr. Mwakalu): Mr. Deputy Speaker, Sir, the Ministry would like to give a very detailed Ministerial Statement to that effect because of the grave magnitude of the matter raised by the hon. Member. Therefore, I would like the Chair to defer our response to next week on Thursday. It is my hope that the hon. Member will accept our position.

ENACTMENT OF KENYA COMMUNICATIONS BILL

Mr. Maore: Mr. Deputy Speaker, Sir, I wish to seek the following two Ministerial Statements. One from the Ministry of Transport and Communications. The Kenya Communications Bill that was passed in this House in July did receive Presidential assent on 1st October, 1998. We would like the Minister to state when the commencement of the Act will be made and when the Communications Commission of Kenya will be constituted. In the meantime, we would seek the Minister's indulgence to prevail upon Kenya Posts and Telecommunication to freeze the megadeals that they are rushing to get into, at this time, between the time when the Act was passed and when it will be made effective. There are indications that before they transfer the assets of the Corporation to the intended Telecommunications Kenya Limited and the Postal Corporation of Kenya, the current management are in a rush to get into a lot of deals that involve major procurement totalling to hundreds of millions of shillings. So, we want the public to be safeguarded from this predatory behaviour by the Board at the moment. The Minister should also state the date of the commencement of the Communications Commission. It is very important. Otherwise, they are subverting the intentions of this House.

Mr. Deputy Speaker: Order, Mr. Maore! Standing Order 20A(1) allows a Member only 120 seconds to make or seek Ministerial Statement.

Secondly---

The Minister for Transport and Communications (Mr. Ntimama): Thank you, Mr. Temporary Deputy Speaker, Sir. First of all, I would like to assure the hon. Member that the Bill has been assented to by the President. I would like to thank him for assenting to the Bill which was passed by the House about one-and-half months ago. Secondly, I had said in this House when the Bill was being discussed here last time that we are determined to get the liberalisation process going without any hitches or hiccups at all. The Government is also preparing the Kenya Posts and Telecommunications Corporations (KPTC) to be the Kenya Telekom Limited, which will be a corporate body or a company with limited liability. First, the Government has to complete the process of transforming the KPTC from a monopoly to a corporate body. The accounts have to be scrutinised properly. This requires a little bit of time, experts and expertise, to get the accounts audited properly. I note that my friend, hon. Maore, talks of a "mega-deal". I do not know what a "mega-deal" or a "small deal" is.

Mr. Deputy Speaker: Hon. Minister, you have to be as brief as possible in your response.

The Minister for Transport and Communications (Mr. ole Ntimama): Mr. Deputy Speaker, Sir. I do not know what is a "mega-deal" or a "small deal" is. The Government is preparing the KPTC to be a good corporate body, so that we can attract investment. The Government will not be tied up by anything at all in carrying out this task. We will try and make the KPTC good enough so as to attract investment. Thank you, Mr. Deputy Speaker, Sir.

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

Mr. Deputy Speaker: There is no point of order under this order.

BREWING OF KARUBU IN UKAMBANI

Mr. Munyao: Thank you, Mr. Deputy Speaker, Sir. I have got two issues which I would like the Minister of State, Office of the President to clarify. First, I would like to request the Minister to make a Ministerial Statement on an illegal activity, which is taking place in some parts of Ukambani and other parts of the country. There is a local brew called Karubu, which is sold all over Ukambani. There are many brewers of Karubu at the sub-location and locational level. Our concern is that the brew is sold with the full knowledge of the sub-chiefs, chiefs, police officers in the local area and senior administrative officers. It is apparent that the officers get a commission from the brewers, because the brewers sell the brew without being arrested and taken to court. We are wondering how this is happening without being checked by the local administrators. Karubu is also brewed and sold in Embu District. The Minister should tell us why the Provincial Administration is not stamping out the practice. We feel that the officers concerned are getting some commission out of this.

Mr. Deputy Speaker: Is there anybody here from the Office of the President?

Hon. Members: The Assistant Minister, Mr. Angwenyi is here!

Mr. Deputy Speaker: Order! Hon. Angwenyi, can you respond to what has been raised by hon. Munyao?

The Assistant Minister, Office of the President (Mr. Angwenyi): Mr. Deputy Speaker, Sir, I did not get what hon. Munyao raised in this House.

Hon. Members: Why did you not do get it?

The Assistant Minister, Office of the President (Mr. Angwenyi): Mr. Deputy Speaker, Sir, I was talking to one of my colleagues.

(Laughter)

Mr. Deputy Speaker: Mr. Angwenyi, all that we need from you is the commitment that you will read the HANSARD, understand what the hon. Member has said and then make a statement next week.

The Assistant Minister, Office of the President (Mr. Angwenyi): Mr. Deputy Speaker, Sir, I would like to make a Ministerial Statement next week.

Mr. Deputy Speaker: Hon. Angwenyi, on which day next week will you make the statement?

The Assistant Minister, Office of the President (Mr. Angwenyi): Mr. Deputy Speaker, Sir, I will make the statement on Thursday next week.

DESTRUCTION OF NORTH IMENTI FOREST

Mr. Mwiraria: Mr. Deputy Speaker, Sir, pursuant to Standing Order 20A(1), I would like the Minister for Natural Resources to make a Ministerial Statement regarding the destruction of North Imenti Forest. Following the Presidential directive that people who had been farming in the forest would continue to cultivate it, the people of North Imenti District thought that they had been given the freedom to take over the forest. They set it on fire, cut down trees, cultivated, and grew seasonal food crops. Since this forest has been allocated previously by foresters, who charged about Kshs5,000 per acre, it has become very difficult for the people to be driven out of the forest. Could the Minister tell us what he will do to restore this indigenous forest? This is because the forest is a very important water catchment area for the northern parts of Kenya. I note that the Minister is opposed to the shamba system in indigenous forests, which complicates the matter.

The Minister for Natural Resources (Mr. F.P.L. Lotodo): Mr. Deputy Speaker, Sir, I will respond to the matter raised by the hon. Member, who is my former Permanent Secretary, on Wednesday afternoon next week.

(Laughter)

Mr. Deputy Speaker: Order! I have been notified of another matter, which needs to be raised, but since hon. Orengo had already raised it after Question time, we will not go to it again. Since we have some time left, I will give a chance to hon. Maore and hon. Munyao to make their second points.

EXCISION OF MOUNT KENYA FOREST

Mr. Maore: Thank you, Mr. Deputy Speaker, Sir, for your generosity. I would also like to seek a Ministerial Statement from the Minister for Natural Resources regarding a Kenya Gazette notice of 23.10.98. The notice contained the Minister's intention to excise 2,000 acres of Mount Kenya Forest, which is in Meru District. We would like to have the names of the intended beneficiaries made public by the Minister beforehand. We would also like to know what will be the fate of millions of flora and fauna, which include human beings, that depend on this catchment area after the intended destruction of the forest. We would also like to know whether the Minister could consider this statement as an objection and cancel the degazattement notice altogether because we need the forest. We will not have enough land to settle everybody.

The Minister for Natural Resources (Mr. P.F. Lotodo): I shall respond to the same on Wednesday Afternoon.

COLLECTION OF EXAMINATION FEE IN MAKUENI

Mr. Munyao: Mr. Deputy Speaker, Sir, I must appreciate your generosity. I am calling on the Minister for Education and Human Resource Development to make a Statement in this House on what I recently raised concerning some illegal collection in form of examination fees in some parts of Makueni District and especially in Kalawa Division whereby, small children are perpetually being sent home to collect some fees said to be examination fees. The biggest concern of the parents is on the accountability of this money because we know major decisions on education are made by DEB which go down to divisions, locations and sub-locations. What is happening now is that after collection of this money or when it comes to usage, some teachers and officers in the education sector want to control the usage when the other members of the Committee do not know how they are using this money. We have no problem with collection of this little money which will improve education in some parts of that area. The amount of money collected and the way it is being spent is what is worrying every parent. We want the Committees of all leaders to be involved in collection and also in the usage of this money because that will cut down corruption which is now being initiated at the collection point. We would like the Minister for Education and Human Resource Development to make a Statement because he had promised to issue out a Circular which seems not to have reached all corners of our country. The situation is worse at the moment than it was before.

Mr. Deputy Speaker: The Minister for Education and Human Resource Development is not in.

ADJOURNMENT

Mr. Deputy Speaker: Hon. Members, it is time for us to interrupt our business. The House is, therefore, adjourned until Tuesday the 24th of November, 1998 at 2.30 p.m.

The House rose at 6.55 p.m.