

NATIONAL ASSEMBLY

OFFICIAL REPORT

Thursday, 1st August, 2002

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

NOTICE OF MOTION

ADOPTION OF SESSIONAL PAPER NO.3 OF 2002
ON NATIONAL HOUSING POLICY FOR KENYA

The Minister for Roads and Public Works (Mr. W.C. Morogo): Mr. Speaker, Sir, I beg to give notice of the following Motion:-

THAT, this House adopts Sessional Paper No.3 of 2002 on National Housing Policy for Kenya laid on the Table of the House on Tuesday, 30th July, this year.

ORAL ANSWERS TO QUESTIONS

Question No.431

NGOS WITH REGISTERED STREET
CHILDREN PROGRAMMES

Mr. Speaker: Is Mr. Khamasi not here? Let us move on to the next Question!

Question No.251

RELOCATION OF GARISSA ARMY CAMP

Mr. Weyrah asked the Minister of State, Office of the President whether he could state when the Kenya Army Camp in Garissa will be moved to a new site, to allow the owners of the site, who are now homeless, resettle on their indigenous land.

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

(a) There are no plans of moving the Garissa Military Camp from its present location to a new site. We are in the process of acquiring a title deed for the existing camp, which includes an airstrip and aircraft parking space. The new site which is about 800 acres and which is reserved for the military by the Commissioner of Lands is a training area for troops stationed at the Garissa Military Camp.

Mr. Weyrah: Mr. Speaker, Sir, I do not know whether the Assistant Minister is aware that before 1966, this was a residential area for Abgal community. During the *shifita* war in 1966, the people of this community were told to move out of their houses and close their schools in order to create space for the Kenya military personnel. Up to now, the owners of those houses have not been allocated an alternative site. They are homeless. Is the Assistant Minister aware of that story or not?

Mr. Kochalle: Mr. Speaker, Sir, I am not aware that the land in question belonged to the Abgal Community, but I am aware that the Garissa Military Camp was established many years back before the town expanded to its current status. The Department of Defence (DOD) has never received any claim of ownership over the land in question from anybody or group of people.

Mr. Shidiye: Thank you, Mr. Speaker, Sir. That military camp is right inside the town in a residential area. The camp is a risk to the community because when aircraft land in that place, any disaster can happen. Nonetheless, that land belongs to the local people who were evicted from there during the emergency period. We require military

camps in my area, like Liboi, because we have a lengthy border line with the Somalia Government. I think that military camp should be relocated from its present site to a new site to allow the people who were evicted from that land to settle on it. Nonetheless, we are---

Mr. Speaker: Order, Mr. Shidiye! Bring a Motion on that issue to this House!

Mr. Shidiye: Mr. Speaker, Sir, in view of what I have said, could the Assistant Minister relocate this military camp from that area because aircraft land there and this is risky for a residential area?

Mr. Kochalle: Mr. Speaker, Sir, at the moment, we have no plans of moving this camp from its present location. So, the camp will remain in the same place.

Mr. Speaker: Ask your last question, Mr. Weyrah! Hon. Members, I will have to end Question Time at 3.30 p.m. even if we do not have a Committee of Supply today. We have a lot of other work.

Mr. Weyrah: Mr. Speaker, Sir, the answer given by the Assistant Minister is not satisfactory to me because he has no information that this land belonged to the Abgal Community. The people of this community were forced out of their houses and school, which was the first one to be built in the area before we even gained Independence. Could he go back and get a satisfactory answer for this Question? This is because the owners of that land are homeless and are waiting for the Government to relocate this military camp so that they can be resettled in the area.

Mr. Kochalle: Mr. Speaker, Sir, there is no need for me to go and look for another answer. This is because I know that the military camp has been in that area for many years. The Government's stand is that this camp will remain in that area.

Question No.416

DO FOR URIRI DIVISION

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

- (a) whether he is aware that for more than a year, Uiri Constituency has had no DO; and,
- (b) when he will provide a DO in the division.

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

(a) I am aware.

(b) A District Officer has already been identified and posted to the division.

Mr. Omamba: Thank you, Mr. Speaker, Sir. I am happy and grateful to hear that a DO has been posted to that division. This division has not been having a DO for the last three years. The constituency had received a raw deal because no vetting forms had been signed because there was no DO in that division. So, a good number of people were not issued with voting cards because there was no DO in that division. Could the Assistant Minister consider ordering the new DO who has been posted to this division to hold divisional land board meetings twice a month because there are many pending land cases?

Mr. Kochalle: Mr. Speaker, Sir, the hon. Member should be happy because we recently posted a DO to that division. This officer has been in that division from 1st July, 2002.

Mr. Shitanda: Mr. Speaker, Sir, could the Assistant Minister tell us why it has taken such a long time to have a DO in that division? What was the problem?

Mr. Kochalle: Mr. Speaker, Sir, the problem was that there was a shortage of DOs countrywide. But we have posted one DO to that division now.

Question No.430

DISCIPLINARY ACTION AGAINST YATHUI DO

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

- (a) what he is doing to stop the District Officer (DO), Yathui Division, from collecting monies and construction materials from members of the public for repair of Government vehicles and construction of his office;
- (b) what disciplinary action he will take against the officer; and,
- (c) how much money has been collected, so far, for both projects, and how much has been spent in the years 2000, 2001 and 2002.

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

(a) It is a Nairobi-based Yathui Development Committee that is responsible for steering the development of Yathui Divisional Headquarters, that collects money and construction materials for the project from the public, and not the District Officer.

(b) Arising from my answer to part "a" above, "b" does not arise.

(c) In the year 2000, no money was collected; in the year 2001, Kshs15,600 was collected, but up to the present moment, Kshs195,000 has been collected. The whole amount has been used in the project, and there is no cash balance.

Mr. Katuku: Mr. Speaker, Sir, the answer given by the Assistant Minister is unfortunate. We held a Harambee here in Nairobi and collected over Kshs1 million for that project. Could he tell the House why that DO is collecting monies from the public illegally?

Mr. Kochalle: Mr. Speaker, Sir, if that DO is collecting money from the public, we are going to investigate, and appropriate action will be taken against him. But for now, we do not have that information.

Mr. Wamae: Mr. Speaker, Sir, could the hon. Assistant Minister tell us whether his office authorised that DO to collect money from the public, to repair Government vehicles and build his office?

Mr. Kochalle: Mr. Speaker, Sir, the decision to involve the Yathui community in the construction of Yathui Divisional Headquarters was reached at a divisional leaders meeting held at Yathui on 23rd February, 2001. The meeting mandated a Nairobi-based youth development committee to steer the construction of Yathui divisional offices. So, the DO was not involved in this matter in any way. It is that development committee which is collecting money from the public.

Mr. Wambua: Mr. Speaker, Sir, that DO is also acting in Katangi Division in my constituency, and he is collecting money. Could the Assistant Minister tell us why that DO was returned to Yathui after he had been transferred?

Mr. Kochalle: Mr. Speaker, Sir, I do not know about the transfer of the DO. We are talking about collection of money here, but I will investigate why he was taken back there. But I do not know when he was transferred!

Mr. Katuku: Mr. Speaker, Sir, it is clear that the Assistant Minister is not in the picture. The Question I have asked is about construction of offices and repair of vehicles. He has not handled the issue of the repair of vehicles. We vote money here for the Office of the President to go and repair vehicles. The DO should not collect money from the public for the repair of Government vehicles. How much money has the Government spent on the repair of vehicles in Yathui Division? The DO in that division has been collecting Kshs2,000 from every sub-chief!

Mr. Kochalle: Mr. Speaker, Sir, I am not aware of the repair of vehicles. I am aware of the construction, of which the Yathui Development Committee is concerned with.

Mr. Speaker: Mr. Kochalle, part of the Question which you are supposed to answer is the repair of motor vehicles. That is there on the face of the Question!

Mr. Kochalle: Mr. Speaker, Sir, as far as I know, there is no money collected from the public to repair Government vehicles.

Mr. Mwalulu: On a point of order, Mr. Speaker, Sir. Could the Chair provide guidance on this matter? This problem is not unique to Mr. Mutua's constituency. Even in Taveta, there is such a---

Mr. Speaker: Order, Mr. Mwalulu! when you rise on a point of order, it is to bring to the attention of the Chair a breach of a particular Standing Order, or the breach of orderly conduct in the House, but not to ask a supplementary question. That was a very good supplementary question.

Mr. Mwalulu: Could I now ask a supplementary question?

Mr. Speaker: You cannot! How do I reward you for being out of order?

Mr. Mwenje: On a point of order, Mr. Speaker, Sir. We need your guidance because the Question has not been answered. You have rightly said that the Assistant Minister has omitted part of the Question. It is clear that he has not done any investigations with regard to this Question. Could you order that he goes back and carries out proper investigations and comes back to the House to answer this Question properly?

Mr. Speaker: What is your reaction, Mr. Kochalle? Did you actually investigate the issue?

Mr. Kochalle: Mr. Speaker, Sir, there was no need to investigate the issue because no money was collected for the repair of Government vehicles.

Mr. Katuku: On a point of order, Mr. Speaker, Sir. I wanted to know how much money has been collected or allocated by the Government for the repair of vehicles. The Government must have allocated money for the repair of those vehicles, but the Assistant Minister has not addressed that! Could he go back, look for those figures and bring them here? He has not answered part (b) of my Question! He has only concentrated on the buildings!

Mr. Speaker: Mr. Kochalle, although Mr. Mwalulu was out of order, and he should not benefit from that, you still know what he said about the general repair of DO's vehicles countrywide. Do you actually give DOs money to run vehicles in all divisions in the country?

Mr. Mwalulu: On a point of information, Mr. Speaker Sir.

Mr. Speaker: To who? To me? Just sit down.

Mr. Kochalle: Mr. Speaker, Sir, District Commissioners (DCs) are given money to repair vehicles in their districts. So, it is up to them to decide how much is given to the DOs in their divisions.

Mr. Katuku: On a point of Order, Mr. Speaker, Sir. I think to be fair on this Question, the Assistant Minister should be ordered to go back and get a proper answer. I have also talked about a Harambee where we raised over Kshs1 million, and the Assistant Minister is talking about Kshs195,000. This Assistant Minister should be ordered to go and bring a proper answer!

Mr. Speaker: That bit, I will not! But I think I will defer part (b) of the Question, which deals with the maintenance of Government vehicles. Could you come and tell this House whether you actually give money to DOs for repairs, petrol, tyres and general maintenance of their cars?

Mr. Kochalle: Mr. Speaker, Sir, it is obvious that we give out money to the districts; so, the DOs are being given that money by their DCs.

Mr. Speaker: Order, Mr. Kochalle! This is a specific Question. It should not be that you have given money to the DCs and, therefore, the DOs must have got it. The House wants to know as a matter of fact, whether DCs support the DOs in the divisions, or they take all the money and run their own cars and forget about the DOs. So, you will come back for only that bit on Tuesday, next week?

(Part "b" of the Question deferred)

Question No.487

PAYMENT OF BENEFITS TO MR. WANJAU'S DEPENDANTS

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

- (a) whether he is aware that the late Senior Sergeant Joseph G. Wanjau, No.17036, was involved in a fatal accident with a Government vehicle, registration No. GK W961; and,
- (b) when the widow will be paid his benefits.

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

(a) Yes, I am aware.

(b) The late Senior Sergeant Joseph G. Wanjau's accident benefits will be paid once documentation for this purpose is complete. Terminal benefits amounting to Kshs696,892.50 were paid to him on 24th April, 2001, before his sad demise on 12th January, 2002.

Mr. Wamae: Mr. Speaker, Sir, it is true that the terminal benefits for the late sergeant were paid. But the widow of the late sergeant has come to Nairobi more than six times trying to follow up the accident benefits. She has always been told to go back and come next week, next week, and next week! What documents are really needed to process the benefits and how much money is involved?

Mr. Kochalle: Mr. Speaker, Sir, the late Senior Sergeant Joseph G. Wanjau was, prior to his retirement, attached to Shauri Moyo---

Mr. Speaker: That is not the question, Mr. Kochalle! The question is: "What documents do you require in order to pay this widow? It does not ask what the sergeant was or how he died!"

Mr. Kochalle: Mr. Speaker, Sir, the documents needed are the identity cards and there are some forms to be filled in the pensions office. Therefore, the widow should go there to fill the forms so that she can be paid the benefits.

Mr. Keriri: Mr. Speaker, Sir, you have heard the Assistant Minister say what documents the widow is supposed to present. The hon. Member has said that this lady has been to Nairobi several times, and she is always told to go back! What is she told to go back and do if she has filled all those forms?

Mr. Kochalle: Mr. Speaker, Sir, if the widow has been coming here to Nairobi several times and going to that office without being given the benefits, and she was told to go back and bring documents, I will talk to the officer concerned in order for her to be paid the benefits.

Mr. Wamae: Mr. Speaker, Sir, the hon. Assistant Minister has not said which identity card is required. Is it the identity card for the late officer or for the widow? Secondly, how much money will she be paid for this accident as benefits?

Mr. Kochalle: Mr. Speaker, Sir, for now I do not have the figure indicating the total amount due for the widow. So, she must go and fill in whatever forms she is supposed to fill in so that she can be paid the money.

Mr. Wamae: On a point of order, Mr. Speaker, Sir. Is it in order for the Assistant Minister to avoid answering my question? He should have come with the figure showing how much the accident benefits are! Could he go and bring this information?

Mr. Speaker: Well, I do not think the amount is really important for the House to know. I think, generally, what should really be important is that Ministers must be sympathetic to the families of their deceased servants. I find it extremely difficult to follow the story where Ministers seem to be putting roadblocks in assisting the widows of their own servants! Why do you not help them?

Mr. Kochalle, can you not have some heart for this widow?

Mr. Kochalle: Mr. Speaker, Sir, I will try my best to help the family of the late sergeant. So, let the widow come to my office next week so that I can help her get the money.

Mr. Kitonga: On a point of order, Mr. Speaker, Sir.

Mr. Speaker: What is it?

Mr. Kitonga: Mr. Speaker, Sir, the Assistant Minister has not answered hon. Wamae's first question concerning whose identity card is required.

Mr. Speaker: Mr. Wamae, I have a soft spot for widows and children, and I would encourage the two of you to get together so that you can sort out this issue, so that the widow and children can be helped.

Mr. Wamae: Thank you, Sir.

Question No.400

CONSTRUCTION OF KINYONGO DAM

Mr. Wambua asked the Minister for Water Development:-

(a) whether he is aware that Kinyongo Dam was surveyed more than 25 years ago and has not been constructed to date; and,

(b) what action he will take to ensure that it is constructed.

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

(a) Yes, I am aware.

(b) The construction of Kinyongo Dam is prioritised by the Machakos District Development Committee. The construction of the dam is estimated to cost about Kshs110 million, and it will be constructed when funds are available.

Mr. Wambua: Mr. Speaker, Sir, this has been the habit of the Ministry of Environment and Natural Resources on such questions. This dam was surveyed 25 years ago and the people who were staying near the dam were ordered to vacate the land at that time, and some vacated it. The Assistant Minister is saying that, "of course, when the funds are made available", and the Machakos DDC has already prioritized this project. Could the Assistant Minister tell this House why, for 25 years, they have never put this money into the budget for this project so that the people of this area can benefit from this dam? It will provide water for the whole of Yatta Constituency, and it is the priority of my people.

Mr. Kofa: Mr. Speaker, Sir, the Ministry is not aware. Otherwise, it has not received the report from the Machakos DDC. If that happened, could the hon. Member bring the minutes of the DDC meeting so that we can take action?

Mr. Mbela: Mr. Speaker, Sir, could the Assistant Minister tell us what equipment they have in place for the construction of dams? To the best of my knowledge, all the equipment in the Ministry is out of order.

Mr. Kofa: Mr. Speaker, Sir, I did not get the question! Could the hon. Member repeat his question?

Mr. Speaker: Mr. Mbela, could you repeat your question?

Mr. Mbela: Mr. Speaker, Sir, could the Assistant Minister tell us what serviceable equipment they have in the Ministry for the construction of dams?

Mr. Kofa: Mr. Speaker, Sir, that is a very wide question. To make it worse, I am not an engineer; so, I will go back to the offices and bring the list which the hon. Member wants.

Mr. Mwalulu: Mr. Speaker, Sir, in 1992, a feasibility study was carried out in Taveta District, on Lake Chala, with a view to pump water for agricultural purposes, but to date, it has never been implemented. Could the Assistant Minister tell this House what his Ministry is doing to implement the projects which were abandoned and which could benefit *wananchi*, and even eradicate poverty?

Mr. Kofa: Mr. Speaker, Sir, could the hon. Member repeat his question?

Hon. Members: Aah! That is too much now!

Mr. Mwalulu: Mr. Speaker, Sir, I am concerned about the non-implementation of water projects which could benefit *wananchi*. I am citing a case of 1992, when the water from Lake Chala was supposed to be pumped for agricultural purposes to benefit not only Taita-Taveta Districts, but also parts of Kwale District. That project has been abandoned, even with the assistance of the Israel Government. What is the Assistant Minister doing to make sure that such projects are revived for the benefit of *wananchi*?

Mr. Kofa: Mr. Speaker, Sir, the Question is about Kinyongo Dam. If the hon. Member wishes to know something about Taveta, could he bring a Question?

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

Mr. Wambua: Mr. Speaker, Sir, could the Assistant Minister tell us where he got the figure of Kshs110

million from? The Water Department office at Machakos has been writing to the Ministry's headquarters to provide this money. That is why the project has been given priority by the District Development Committee (DDC). Where did he get this figure from?

Mr. Kofa: Mr. Speaker, Sir, this figure has resulted from the Ministry's effort. However, if the Machakos DDC forwards its minutes to us, we will go ahead and do the needful.

Mr. Mutahi: On a point of order, Mr. Speaker, Sir. Is the Assistant Minister telling us that if the DDC had forwarded the minutes to the Ministry, the money would be available?

Mr. Speaker: Mr. Kofa, would the money be available if the minutes were forwarded to the Ministry's headquarters?

Mr. Kofa: Mr. Speaker, Sir, I did not say so. Let us cross the bridge when we reach it. Let the minutes come to us, and then we will see what can be done.

Question No.189

ALLOCATION OF ROAD MAINTENANCE
MONEY TO SOUTH MUGIRANGO

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

(a) how much money was given to South Mugirango Constituency for maintenance of roads in the 1999/2000 and 2000/2001 financial years from the Fuel Levy Fund (FLF);

(b) how much money was allocated specifically to Kamagambo-Nyansembe Road, which connects Gucha with Migori and Trans Mara District; and,

(c) whether he could table the list of roads gravelled/maintained in the constituency in the said years.

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

(a) During the 1999/2000 financial year, there was no specific constituency allocation from the FLF. However, Gucha District received a block allocation of Kshs1,418,000. In the 2000/2001 financial year, South Mugirango Constituency received Kshs1,651,988 from the FLF towards routine road maintenance.

(b) There was no specific amount allocated to the Kamagambo-Nyansembe Road. However, the Ministry spent Kshs187,500 to spot-grade 7.5 kilometres of the road using the district's block allocation.

(c) The roads which were gravelled and maintained in South Mugirango during that period were as follows: In the 1999/2000 financial year, Magongo-Etago-Nyamarambe Road (Road B204); and Kamagambo-Nyansembe Road (Road D205); 2000/2001 financial year, Tabaka-Nyachenge Road (Road E105); Kamagambo-Nyansembe Road (Road D25); Ikona-Nyamaiya Road (Road D25); Ekona-Etago Road (Road E203); Ikoba-Riosiri Road (Road C20); Nyansembe-Nyamarambe Road (Road D204); Etago-Nyamarambe Road (Road D204); and Etago-Ekona-Nyamaiya-Suguta Road.

Mr. Omingo: Mr. Speaker, Sir, the answer is not satisfactory. Nonetheless, the Assistant Minister knows that the constituency roads fund takes 16 per cent of the FLF, and that 58 per cent of the Fund is used for the maintenance of road classes "A", "B" and "C" all over the country. Several roads that pass through my constituency fall under classes "A", "B" and "C". The Ogembo-Rosini Road, which is a class "C" road, did not receive any funds in the 2000/2001 financial year. What was the reason for this?

Eng. Rotich: Mr. Speaker, Sir, it is true that all class "C" roads in that area did not receive any funds during the 2000/2001 financial year. The problem was a shortage of funds. However, this year, we might repair one or two of those roads.

Dr. Ochuodho: Mr. Speaker, Sir, I am surprised that the Minister accepts that he only issued Kshs1.6 million to that constituency in the 2000/2001 financial year, and yet Parliament resolved that each constituency should receive Kshs5 million. Could he tell us where the rest of the money meant for that constituency went to? Could he further confirm or deny that other constituencies also did not get the Kshs5 million that they were supposed to receive? If the answer to this last question is in the affirmative, where is the rest of the money?

Eng. Rotich: Mr. Speaker, Sir, during the financial year in question, every constituency received Kshs1.65 million. Before you start disbursing money, you have to have enough of it. During that particular time, we did not have the money. So, we could not disburse any more money to the constituencies.

Dr. Ochuodho: On a point of order, Mr. Speaker, Sir. Is the Assistant Minister in order to say that they did not have any more money to disburse to constituencies? We know that, through the FLF, the Ministry raised Kshs7 billion. I am a Member of the Departmental Committee that is concerned with roads. Why did the Ministry not give each constituency Kshs5 million, as per the law passed by this House?

Mr. Speaker: You have repeated the same question. Could you proceed, Mr. Shitanda?

Mr. Shitanda: Mr. Speaker, Sir, could the Assistant Minister confirm whether the Ministry has a special fund for making roads in areas where the President visits? Whenever the President is set to visit an area, roads in that area

are repaired. Where does the Ministry get the money from?

Eng. Rotich: Mr. Speaker, Sir, we have emergency funds for that particular purpose. When we know that the President will visit a certain area, we do a few roads in that area.

Mr. Kiunjuri: On a point of order, Mr. Speaker, Sir. Is the Assistant Minister in order to mislead the House that the President's visit to an area is an emergency?

Mr. Speaker: Mr. Kiunjuri, that is not a point of order.

Mr. Kiunjuri: Mr. Speaker, Sir, Mr. Shitanda asked where the Assistant Minister usually gets money from to repair roads in areas the President is expected to visit, and the Assistant Minister replied that he uses an emergency kitty. So, is he in order to tell us that a presidential visit to, say, Laikipia District, is an emergency?

Eng. Rotich: Mr. Speaker, Sir, I did not say that a presidential visit to an area is an emergency. I meant to say that the item we draw the funds from is for emergency works. Funds under this item are meant for repairs of, say, a road which has been washed away by rain. The item's title is "Emergency Fund", and we draw funds from it to repair roads in any area which is about to be visited by the President.

Question No.486

DISPOSAL OF UNSERVICEABLE MACHINERY

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

- (a) what the Ministry plans to do with the unserviceable machinery lying in the Ministry's garage; and,
- (b) whether he could consider disposing of it and using the proceeds to buy more serviceable machinery.

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

(a) My Ministry is in the process of inspecting all unserviceable vehicles and machines so as to determine the ones which are economical to repair and those which should be considered for boarding and disposal.

(b) I am considering disposal of unserviceable equipment, which is uneconomical to repair, and using the proceeds to buy new equipment.

Mr. Mwenje: Mr. Speaker, Sir, I am the Chairman of Nairobi District Roads Committee. I know that there is nobody who has gone to the garage to inspect or even look at those machines and determine whether they are serviceable. So, the information given by the Assistant Minister is not correct. I knew that this Question would come up this afternoon. So, I went to the garage, but I found nobody doing what the Assistant Minister purports to be happening. Could he tell us the name of the person who is going to inspect the equipment, and when he is going to do the said job? We have a problem. Our graders keep breaking down every time they are taken to the roads. So, when is this exercise going to be undertaken, and when will it be complete?

Eng. Rotich: Mr. Speaker, Sir, the inspection is not undertaken by one person; it is undertaken by a team of three people. In the next two or three weeks, we will publish a tender notice on the disposal of this equipment. Some equipment has already been inspected, and the exercise is on-going.

Mr. N. Nyagah: Mr. Speaker, Sir, honesty is an extremely important virtue. Could the Assistant Minister inform the House the value of the unserviceable machines that hon. Members have talked about, that will be tendered for? He should tell the House whether, indeed, bidders have viewed the machines, and whether, within three weeks, the tenders will be issued. What is the value of the unserviceable machines lying at the Ministry's garage? Could he table this figure before the House?

Eng. Rotich: Mr. Speaker, Sir, I do not have the value of the unserviceable machines with me, but I can table it on Tuesday, next week.

Mr. Muchiri: Mr. Speaker, Sir, I have on several occasions visited the Assistant Minister's office to report to him that one of the graders in Nairobi does not have tyres. He told me that the tyres were being imported from Dubai. Could he now order his officers to provide us with four tyres, so that we can have the grader working on our roads? Ministry workers are just idle in offices because they do not have equipment to work with.

Eng. Rotich: Mr. Speaker, Sir, we do not import tyres from Dubai. We buy them from M/s Firestone East Africa Ltd; they are locally made. The grader Mr. Muchiri has referred to requires six and not four tyres. We shall make arrangements to supply the tyres.

Mr. Mwenje: Mr. Speaker, Sir, in the first place, the Assistant Minister has misled the House. The tyres were bought in my presence. I know that they were bought locally and were of poor quality. We rejected them and they were returned to the supplier who was supposed to give us a refund of their price. We have not received the money back.

Mr. Speaker: Mr. Mwenje, what do you mean by saying that you have not received the money back? Is this a Government grader or a private grader?

Mr. Mwenje: Mr. Speaker, Sir, this is a Government grader.

Mr. Speaker: So, the money goes back to whom? Who is the "we"?

Mr. Mwenje: Mr. Speaker, Sir, the tyres were bought locally and the supplier was supposed to refund the money because they were of poor quality. They could not be used. This is a very serious situation. The supplier who was contracted to supply the tyres bought poor quality tyres.

Mr. Speaker: Who was this supplier?

Mr. Mwenje: Mr. Speaker, Sir, the Ministry knows him and it should tell us who he is. At the moment, none of the graders in Nairobi is in

[Mr. Mwenje]

working condition. Could the Assistant Minister provide money to repair these graders so that road works in Nairobi can continue? Right now, no road works can be done.

Eng. Rotich: Mr. Speaker, Sir, the meeting between the Kenya Roads Board and the Ministry officials to discuss the roads budget ended yesterday. So, possibly, by next week, we will get some money.

Question No.431

NGOS WITH REGISTERED STREET
CHILDREN PROGRAMMES

Mr. Speaker: Mr. Khamasi's Question is deferred.

(Question deferred)

QUESTIONS BY PRIVATE NOTICE

FRAUDULENT USE OF COMPANY CHEQUES

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

(a) Is the Minister aware of the massive fraudulent use of corporate company cheques to clear uncustomed goods by the following agents, leading to the loss at the Exchequer of Kshs404 million:-

Jaham Enterprises Ltd.; S.K. Amin Ltd.; Maritime Freight Co. Ltd.; Sony Freight Forwarders; Water Ways Freighters; Frank Freighters; Shaleck Ltd.; Everfreight Forwarders; Speedbird Cargo Links Ltd.; Cregib Ltd.; Pabast Freighters; Orbit Express; Kelima Comm Freight; Bureau Clearing Agency; Janah Trading and A.S. Karama?

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

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

The Assistant Minister for Finance and Planning (Mr. Marrimoi): Mr. Speaker, Sir, I beg to reply.

(a) I am aware of the fraudulent use of company cheques to clear goods by M/s Everfreight Forwarders, Cregib Ltd., Pabast freighters, Orbit Express, Kelima Commercial Freight and Bureau Clearing Agency. I am not aware of the other companies having fraudulently used cheques. We shall investigate the other listed companies.

(b) I lay the list of the amounts of money involved for each firm on the Table of the House.

(c) The culprits have been taken to court while others are under police investigation. The cases are in court and are on-going.

Mr. Murathe: Mr. Speaker, Sir, this is a very serious case of fraud. The list the Assistant Minister has tabled is just the tip of the iceberg. The extent of the fraud today is more than Kshs2.6 billion. Companies importing petroleum products pay their cheques and the same cheques are used to clear other goods such as tyres, tubes, sugar and so on.

I would like to give a schedule of this week to the Assistant Minister, so that he can come back to the House after a thorough investigation. These companies should have been black-listed and stopped from clearing goods.

Mr. Speaker: Mr. Murathe, this is Question Time! What is the source of your schedule? Has it been prepared by you?

Mr. Murathe: Mr. Speaker, Sir, the schedule has been confirmed by the Assistant Minister's answer. The schedule has been prepared by the officers who investigated this fraud and as a result of doing so, they were fired from the Kenya Revenue Authority (KRA).

Mr. Speaker: Put the question to the Assistant Minister!

Mr. Murathe: Mr. Speaker, Sir, could the Assistant Minister accept to take this schedule, go back, do a

thorough investigation and come back and tell this House why this crime has continued up today? The companies are defrauding the Exchequer of billions of shillings every month.

Mr. Speaker: Mr. Murathe, is the document signed?

Mr. Murathe: Mr. Speaker, Sir, this is an official document.

Mr. Speaker: Is it signed?

Mr. Murathe: Mr. Speaker, Sir, yes, it is. It is KRA's document.

Mr. Speaker: Could you, please, pass it over so that the Chair can see whether it is authentic for purposes of tabling?

(Mr. Murathe passed the document over to Mr. Speaker)

Mr. Murathe: Mr. Speaker, Sir, if the Ministry is aware of these fraudulent activities by people who use corporate company cheques to clear goods, what action is it taking to stop this fraud from going on?

Mr. Marrirmoi: Mr. Speaker, Sir, this is a very serious matter. I have said that a very serious action has been taken. Some companies have been taken to court and others are under investigation. We welcome any information from any hon. Member, or from the members of the public, in respect of the fraud, and we will deal with the culprits seriously.

Mr. Speaker: Mr. Marrirmoi, could you, first, look at this schedule and say whether you would like to study it, so that, maybe, I can give you time to do so? Would you like to look at this document? Are you in a position to proceed, or would you like to have some time to look at the document?

Mr. Marrirmoi: Mr. Speaker, Sir, since the hon. Member has just produced the schedule, I would like to request for some time so that I can study it and see whether it is accurate or not.

Mr. Wamae: On a point of order, Mr. Speaker, Sir. Mr. Murathe stated that the officers who investigated this fraud were subsequently dismissed from the KRA. The Assistant Minister did not say anything about this allegation.

Mr. Marrirmoi: Mr. Speaker, Sir, I am not aware of any officers who were dismissed.

The Minister for Roads and Transport (Mr. W.C. Morogo): On a point of order, Mr. Speaker, Sir. I want to seek your guidance. Mr. Murathe did not lay the document on the Table of the House. He simply said that he wanted to give it to the Assistant Minister. I am just wondering whether that is procedural?

Mr. Speaker: Well, Mr. Murathe has not technically laid the document on the Table of the House. The document was supposed to be tabled and I will take it as having been tabled before the House. I do not know the veracity of it, but I have noted that the Assistant Minister has not disputed it so far. So, we will take it as tabled before the House. So, could we have this Question answered on Tuesday, next week? Mr. Marrirmoi, will you be ready to answer it on Tuesday, next week, or do you require more time?

Mr. Marrirmoi: Mr. Speaker, Sir, this is a huge document which requires some time to go through. Maybe, I could answer the Question on Thursday, next week.

Mr. Speaker: All right! I will give you a week. The Question is deferred to Thursday, next week.

(Question deferred)

Mr. Nderitu: On a point of order, Mr. Speaker, Sir.

Mr. Speaker: You are out of order! The Question has been deferred. If you have any useful information to give to the Assistant Minister, do so.

Mr. Marrirmoi, you will give us our document and you will get a copy of it.

VIOLATION OF STUDENTS' FREEDOM OF WORSHIP

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

(a) Is the Minister aware that some students of Kapsabet Girls High School were recently suspended from school for refusing to sit examinations on a Sabbath Day?

(b) Is he further aware the students' freedom of worship was violated?

(c) What action has he taken to ensure that such violations do not recur?

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

(a) I am aware that some students of Kapsabet Girls High School were recently suspended from school for refusing to sit examinations on a Sabbath Day.

(b) I am also aware that the students' freedom of worship was violated.

(c) As this is a rare occurrence, the Ministry will issue a directive to all schools to make sure that school rules should not be seen to conflict with the constitutional rights of individual students, and should programme their activities in such a manner that they do not raise any conflicts.

Dr. Ochuodho: Mr. Speaker, Sir, I am glad that the Assistant Minister has issued this response. We had a problem during our days at the university with official functions on Sabbath Day (Saturday). Now, that the Assistant Minister has made this ruling, could he tell this House whether he has ordered that these suspended students should be re-admitted? Secondly, have they been re-admitted? Thirdly, if they have not been re-admitted, when are you going to do that?

Mr. Karauri: Mr. Speaker, Sir, five of the 12 students are already back at school and the Minister has directed that the rest be re-admitted.

Mr. Omingo: Mr. Speaker, Sir, why were these students forced to sit examinations on Sabbath Day when they are believers of the Seventh Day Adventist (SDA) church, and the relevant Act is specific on freedom of worship? Could the Assistant Minister, also in the same line, outlaw tuition classes on Sabbath Day because they also violate the freedom of worship?

Mr. Karauri: Mr. Speaker, Sir, I am sorry, I did not get the question.

Mr. Speaker: The hon. Member asked whether tuition classes are also going on, on Sabbath Day. If so, could you order them to be withdrawn?

Mr. Karauri: Mr. Speaker, Sir, I have said that anything that appears to conflict with the individual rights to worship will be withdrawn.

Mr. Kihoro: On a point of order, Mr. Speaker, Sir. I am seeking your guidance in respect of this matter because I am wondering what is going to happen when examinations are also set on a Friday. I am wondering what would happen if Muslims were to say that they cannot be set on that day.

Mr. Speaker: Mr. Assistant Minister, what are you going to do?

Mr. Karauri: Mr. Speaker, Sir, we will handle the situation as it comes. This is Sabbath Day which is set aside for the SDA worshippers. If there is a matter affecting Muslims, we will consider it, but not if it affects national examinations since we are talking about school activities. If national examinations are set on any day, every candidate will be required to sit for them.

Mr. Speaker: Next Question, Mr. Kimeto!

RELOCATION OF POWER LINES IN KAPLONG

Mr. Kimeto: Mr. Speaker, Sir, I beg to ask the Minister for Energy the following Question by Private Notice.

(a) Is the Minister aware that electricity lines are running over the roofs of over 20 shops at Kaplong Shopping Centre, thereby making the construction of storeyed structures impossible?

(b) Could he order the relocation of the power line to the road reserve?

The Minister for Energy (Mr. Okemo): Mr. Speaker, Sir, I beg to reply.

(a) Yes, I am aware that electricity lines are running over the roofs of over 20 shops at Kaplong, thereby making the construction of storeyed structures impossible.

(b) No, I cannot order the relocation of the power line to the road reserve.

Mr. Speaker: Why?

Mr. Okemo: Mr. Speaker, Sir, before power lines are constructed, wayleaves consents are obtained and compensation payments are made either to the legal owners or to those who hold public land on trust. Once that has been done, then the construction takes place and it costs money. So, if the relocation has to take place, then whoever wants the relocation has to pay for the costs of the relocation.

Mr. Kimeto: Mr. Speaker, Sir, the Minister has replied to my Question as if the owners of these shops have been given the money to relocate these electricity lines. If that is the case, could he table the names of the owners of these 20 shops and the amount given to each of them for the relocation of the electricity lines?

Mr. Okemo: Mr. Speaker, Sir, I am not quite sure what the hon. Member is saying. Could he make himself clear?

Mr. Kimeto: Mr. Speaker, Sir, I am saying that the owners of the 20 shops are complaining that they would like to construct storeyed houses but they are unable to do so because electricity lines run over these buildings. The Minister, in turn, is saying that these people have been given money to carry out this exercise of relocating the power lines. Could you table the names and the amount each individual got?

Mr. Okemo: Mr. Speaker, Sir, as a matter of simple procedure, before Kenya Power and Lighting Company (KPLC) puts up overhead lines, the first thing they do is they have to obtain consent for wayleaves and the owners of

the land over which the lines pass are compensated, and compensation is reached through agreement between themselves and KPLC. Now, I wish to say that the power lines were there before the shops were built and the shops came after that, and because they want to build storeyed buildings, they cannot do so because the power lines are there. So, we are saying that there is no problem with relocation, provided those who would like the relocation to take place pay for the cost of doing so.

Mr. Ndicho: Mr. Speaker, Sir, I am happy to hear the Minister say that because in Juja Township, somebody went to where the wayleave is and started constructing his houses on it. Now, because the Minister is saying that, that is the reverse of the way things should be, could he issue a Ministerial directive, or order that anybody who is now constructing his buildings under the electricity lines is doing so illegally, and should be removed so that this person can remove those buildings from that place?

Mr. Okemo: Mr. Speaker, Sir, that is actually the case. If you put up a structure under the power lines, it is illegal in the first place. Secondly, even from the security point of view, for safety, it is very dangerous to put any structure under a high tension power line. So, it is both illegal and unsafe.

Mr. Ndicho: On a point of order, Mr. Speaker, Sir. I expected the Minister to say: "Now, from today, I have issued the directive that, that gentleman should relocate his buildings which are under electric lines". He is just repeating what I have said.

Mr. Speaker: Mr. Ndicho, do you want to be the Minister for Energy?

Mr. Ndicho: No, Mr. Speaker, Sir. I am showing him how to do it.

(Laughter)

Is he in order to refuse to do what I am asking him to do?

Mr. Speaker: Mr. Okemo, would you like to do it his way?

Mr. Okemo: Mr. Speaker, Sir, whether I say it or not, I think the law is very clear and I do not have to say more than what exists today.

Mr. Kimeto: Mr. Speaker, Sir, during those days when these electric lines were constructed, the inhabitants of that area were different from those who reside there today. In fact, the children of the original inhabitants are the ones who occupy these plots. How can they relocate these electric power lines from their plots?

Mr. Okemo: Mr. Speaker, Sir, as I said, what they need to is to apply to KPLC, giving reasons why they would like the power lines to be relocated. In turn, KPLC will go and do an assessment and estimate of what it will cost to move the power lines from where they are today, to wherever they must be. The cost of doing so will have to be borne by these people who would like the power lines to be relocated.

Mr. Speaker: Last Question, Mr. Anyona!

Mr. Anyona: Mr. Speaker, Sir, before I ask my Question, I want guidance on two procedural issues which arise from here.

Mr. Speaker: On the Question before you have asked it? Not before the House!

DESTRUCTION OF MANGA ESCARPMENT FOREST

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

(a) Is the Minister aware that the Clerk of Nyamira County Council has cut down trees and destroyed Manga Escarpment Forest in Kitutu Masaba?

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

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

Mr. Speaker: Where is the Minister? If the Minister is not there, can I defer the Question?

Mr. Anyona: Mr. Speaker, Sir, before you defer the Question, that is why I wanted your guidance. First of all, I have an answer here which does not show which Ministry it comes from, but at the end, there is the name of hon. Uhuru Kenyatta, and it is not signed. Now, if you will remember, this Question came up for the first time and you so directed that it goes back to the Ministry of Environment. The Question did go back to the Ministry of Environment, and on 27th June, it came back here and hon. Kamotho answered it. What remained is that he said that he was doing some little investigations and wanted to be given two extra weeks to be able to come back and give the figures he was required to give. So, today, surprisingly, when I looked at the Order Paper, I saw this Question. I got this answer and now it is under the Ministry of Local Government for the second time. It has an answer which is not signed by the

Minister. This game really---

Mr. Speaker: But now the Minister is not there!

Mr. Anyona: No! But I wanted to make you aware of the issues that I want to raise as a procedure.

Mr. Speaker: You wanted it to go to the Ministry of Environment?

Mr. Anyona: Yes, Mr. Speaker, Sir.

Mr. Speaker: I see it is asked under the Ministry of Environment. Forget about the unsigned answer. What matters is what I have ordered. It is ordered to be answered by the Minister for Environment. He is not here and so shall I postpone it?

Mr. Anyona: Yes, Mr. Speaker, Sir.

Mr. Speaker: Question deferred to Wednesday!

(Question deferred)

COMMUNICATION FROM THE CHAIR

PROCEDURAL MOTION TO EXTEND SITTING OF THE HOUSE

Mr. Speaker: Order, Members! Just before we get to the next Order, I want to say something. I know that Maj. Madoka wants to make a Ministerial Statement. Also, I am aware that Mr. Thirikwa wanted to seek a Ministerial Statement.

(Mr. Angwenyi raised his hand)

I am not aware of Mr. Angwenyi's case because he never saw me about it. But he can come to see me about it.

I want to bring to your attention the fact that we will go to a Supplementary Order Paper after this. The Supplementary Order Paper has a Procedural Motion to extend the sitting time for today. Also, we will have the other issues as shown there. We intend to complete debate on the Constitution of Kenya (Amendment) Bill by 4.30 p.m. We will not go to division if you are less than the quorum required to pass this Bill, the two-thirds majority; 145 Members. So, if by 4.30 p.m. or thereabouts, we cannot achieve that quorum, you know the legal consequences of this. So, it is up to you to ensure that by the time appointed, you do have the requisite number to transact the business on putting the Question, and subsequently on the Committee of the Whole House. If by 4.30 p.m., you do not have the quorum, then you do not want it. So, you do understand. I am putting everybody on notice.

MINISTERIAL STATEMENT

TERMS OF SUDAN PEACE ACCORD

The Minister for Foreign Affairs and International Co-operation (Maj. Madoka): Thank you, Mr. Speaker, Sir. Mr. Imanyara wanted a Ministerial Statement issued on what was considered to be a peace accord signed at Machakos. I want to take this opportunity to clarify that a peace accord was not signed between the Government of Sudan and the Sudan People's Liberation (SPL) Movement or Army, following the five weeks of talks held in Machakos from 17th June to 20th July under the auspices of the IGAD peace process on the conflict of Sudan chaired by Kenya.

The two parties reached an understanding; the Machakos Protocol, on how to conduct future negotiations that will resume in mid-August, 2002. The endorsement by the parties of the Machakos Protocol is a significant development and has enhanced the chances of peace in the Sudan considering that they reached a compromise on two key issues that have hindered previous rounds of talks since 1989. These are: First, the right to self-determination for the people of Sudan. At Machakos, the Government of Sudan accepted that there can be discussions on the question of self-determination. Secondly, there was a question on the relationship between the State and religion. Again, here, they agreed in principle that there shall be freedom of worship. The fact that the parties have agreed to address these issues helps to demystify the fears and concerns that have characterised them before. Equally important is the agreement by the parties that a peaceful and just resolution of the conflict in their country, based on the unity of the

Sudan, is their common objective, and that a military solution is neither viable nor desirable.

The successive meeting in Kampala recently between President Bashir and Col. John Garang, the first ever high level meeting between the two leaders since the eruption of the civil war 18 years ago, underscores the determination and commitment of the parties to resolving the problems in their country. The meeting not only serves as a confidence building measure, but also gives momentum to the peace process.

(Maj. Madoka laid the document on the Table)

Mr. Imanyara: Thank you, Mr. Speaker, Sir. Let me congratulate the Minister, and in particular, Lieutenant Lazarus Sumbeiywo, who has been chairing this peace process on behalf of our President. For the first time, there is a basis for reaching peaceful solution to the Sudan conflict. Peace in Sudan is a peace dividend for this country. Now that the parties have reached the basis for agreement, I would like to know whether this Government, which has been chairing these meetings, has put pressure on the parties to reach a cease-fire so that the killings that have gone on while the peace process has been going on can stop, and in particular, to remove the dangers that Kenyan NGO workers and others who are working in the Southern Sudan are subjected to.

The Minister for Foreign Affairs and International Co-operation (Maj. Madoka): Mr. Speaker, Sir, I appreciate the sentiments raised by the hon. Member. In the next round of talks, which are going to begin mid this month, the first priority will be the discussion on the question of cease-fire. We, certainly, agree that unless that is resolved, the negotiations cannot progress.

POINTS OF ORDER

LIFTING THE BAN ON ALLOCATION OF PUBLIC PLOTS

Mr. Thirikwa: On a point of order, Mr. Speaker, Sir. I rise to seek a Ministerial Statement from the Office of the President. On 21st February this year, the President banned the allocation of public and trust land. There are public institutions which are already existing on the ground, but they have not been allocated the land, for instance, schools. They cannot be registered unless they have proper documents of ownership of particular parcels of land. We want to know what action the Government is taking to lift the ban in areas where public institutions are already existing, so that we can continue to build schools and register them. I know of some schools which were not allowed to register as examination centres because they did not have proper documents for land ownership.

REPORT OF COMMISSION OF INQUIRY INTO LAND SYSTEM IN KENYA

Mr. Maitha: Mr. Speaker, Sir, I rise on a point of order to seek a Ministerial Statement from the Minister for Lands and Settlement with regard to the much awaited report of Commission of Inquiry into the Land System in Kenya chaired by Mr. Njonjo. There is a lot of expectation from the public, especially from the squatters in various provinces, like Coast. Even though this Commission has completed its work, the report has not been made public. I would like to request the Minister to issue a Ministerial Statement in relation to that report.

Mr. Speaker: Very well. We will now go to the next Order. I intend to have the requisite number necessary for the division at 4.30 p.m. on the Constitutional Amendment Bill.

Next Order!

PROCEDURAL MOTION

EXTENSION OF SITTING OF HOUSE

The Vice-President and Minister for Home Affairs (Prof. Saitoti): Mr. Speaker, Sir, I beg to move the following Motion:-

THAT, notwithstanding the provisions of Standing Orders 17(1) and (2), this House orders that the consideration of the Business appearing on today's Order Paper be extended from 6.30 p.m. to 7.30 p.m.

The Minister for Foreign Affairs and International Co-operation (Maj. Madoka) seconded.

(Question proposed)

(Question put and agreed to)

Mr. Speaker: Next Order!

BILL

Second Reading

THE CONSTITUTION OF KENYA (AMENDMENT) BILL

(Mr. Oloo-Aringo on 25.7.2002)

(Resumption of Debate interrupted on 25.7.2002)

Who was on the Floor? Mr. Ethuro?

The Assistant Minister for Labour and Human Resource Development (Mr. Ethuro): Mr. Speaker, Sir, I think I finished.

Mr. Speaker: Good. I encourage all hon. Members to borrow a leaf from Mr. Ethuro's book.

Mr. Ndicho: Thank you, Mr. Speaker, Sir, for giving me this opportunity to talk about this very important Bill on the Constitution. We need to amend our Constitution so that this House shall regain its dignity, supremacy and etiquette which seems to have been eroded over time. We have got three arms of Government; the Executive, the Judiciary and the Legislature. The other two arms of Government; that is, the Executive and the Judiciary, enjoy the independence, supremacy and dignity that their offices carry. When this country attained Independence in 1963, Parliament was one of those institutions that was given a lot of respect. Those days, a Member of Parliament would go to the countryside as a respected leader of this society. Over time, the power of the Executive and the Judiciary eroded the etiquette and importance of the Legislature.

The spirit of the Bill moved by the Member for Alego Usonga, Mr. Oloo-Aringo, seeks to retain the supremacy that this House once commanded. I would even go further and recommend an amendment to this Bill if I--

Mr. Speaker: Order! You cannot amend the Constitution of Kenya (Amendment) Bill on the Floor of the House.

Mr. Ndicho: Mr. Speaker, Sir, I will then bring my amendment later on.

In some countries in the Far East the Speaker of the National Assembly is considered as one of the top three leaders of a nation. In the absence of the President, the Prime Minister or Deputy Minister, the third person in line is the Speaker because of the importance of that institution. In other countries, in the absence of the Prime Minister or President, the leader of the Judiciary takes over the leadership of the country. How is it that today, in our country, the Speaker of this very important institution is not counted as anybody?

We are hearing about constitutional amendments and reforms, where power will be shared by so many people; that is, the President, the Vice-President, the Prime Minister, the First, Second and Third Prime Ministers, the First and Second Vice-Presidents, and other people with all manner of titles. We do not need all that. May I hasten to say that our current constitutional problems started at Lancaster House when the current Constitution was being drafted and written in Great Britain, and not in this country. Kenyans of African origin went to Lancaster House in London to discuss the drafting of the Constitution of the new nation, but the White people that had colonised us took over the process of writing the Constitution of the new country. This is where problems started because it is not the Kenyans themselves who were in charge of writing the new Constitution.

The Constitution of the United States of America, which was written in the 17th Century, has been amended about 11 times. Our Constitution, which is only about 40 years old, has gone through so many amendments because we were not in charge of writing it. Now is the time for us to be either in charge of writing our new Constitution, or risk amending it the way this Bill intends to, so that Kenyans of African origin are in charge. That is why I am opposed to what Prof. Yash Pal Ghai is asking today, that hon. Members agree to the extension of the life of that Commission. The Members in this House should refuse that extension because this Commission started the constitutional review process a long time ago and they promised that by October this year, that document would be ready. Today, instead of submitting to us whatever they have written, the Commission is asking for extension of time, yet we do not even know what they have written. They had better submit what they have, whether they have done it half-way, three-quarter-way or a quarter-way. They should bring to us whatever work they have done so that we can determine whether we will extend their time.

Kenyans today are eager and geared towards going to the general election so that in the next few months, there is a new political dispensation. Kenyans today do not want to hear about that Constitution. They want to hear who will be the new leader of this nation, and their hon. Members and councillors. The Constitution of Kenya Review Commission (CKRC) has played its part, and let Prof. Ghai be told that we are not going to extend the life of that Commission. In fact, writing a new Constitution does not need a period of more than six months; it can be done between three and six months. They have taken ages. So, let us go back to the drawing board and have a Constitution that Kenyans themselves will take charge of.

I agree that this House needs to have its own calendar and that we need to regulate our own time because it is true that when we adjourn this Parliament, or when we go for the Christmas recess in December, we stay at home for four months. When we resume, we hurriedly finish some Bills and Motions. Every time we adjourn, or we go on recess in December, there is a lot of unfinished business. I tend to imagine that the Kenyan Parliament spends a lot of time - not deliberating Parliamentary business -doing other business which should be left to Parliament to do. I agree that we should regulate ourselves, but I envisage a situation where we have leadership of this nation--- I am not saying that we should have a House without its own powers. We want Parliament to have its own powers. Let the people who have destroyed the economy of this country know that this House will discuss them and it will pass and give some orders that ought to be implemented, and Parliament would be feared.

[Mr. Speaker left the Chair]

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

Mr. Temporary Deputy Speaker, Sir, today, the people who have grabbed resources from this country fear the courts or the Judiciary more than they fear this House. This is because they know that some hon. Members can be caught, and we have had instances here; issues have been raised. When somebody is caught red-handed, and he or she knows that a Question is in Parliament inquiring about his or her activities, he or she can have the audacity to call that hon. Member and tell him or her to remove the Question from the Order Paper, or not to ask the Question at all. We do not want to have a House that can be manipulated by outsiders. We do not want to have hon. Members who can be called by outsiders and be told not to ask Questions. We want to have a Parliament that is respected by Kenyans. When this House develops some teeth, then, that is the only time that the people of this country would respect and fear Parliament, and everybody would do everything possible to ensure that his or her name is never mentioned here. But today, even if some very rich people knew that issues concerning them were coming to Parliament, they would say: "*Peleka tu mambo hiyo Bungeni!*" They would ask: "Then after that, what shall you do?"

We have heard and seen people who look down on Parliament because during our time it has proved itself to be just a talking shop or a laughing stock. So, we want to have a Parliament with its own powers. We want a Judiciary that will have its own powers separated from both the Legislature and the Executive. We want an Executive that is going to have its own powers. So, it would be very bad and selfish - because this is the House that makes laws - to pass this Motion. I would be opposed to a constitutional amendment that seeks to remove the powers of the President through a Constitution which this House was mandated to write.

I would not like to have a President who is powerless. The Constitution of the United States of America has given the President of America so much powers that he is the most powerful President in the world. All we want is a powerful President who has been given those powers by the Constitution and Parliament and those powers are used correctly. I have heard people say that the powers of the President should be removed. It is those powers that are not commensurate with today's political, social and economic activities which should be removed. The powers that may interfere with human rights, freedoms and liberties of people should be removed because they were enacted during the single-party system. But I would not like to have a President who cannot be heard or respected. We need to have somebody at the epicentre who can give directions.

So, I am of the opinion that, as we come today to discuss a very important Bill - about Sections 58 and 59 of our Constitution - we should not blindly go about it so as to deprive the powers from the President. We are giving the House its own power to regulate itself. But let this not be a prelude to more Motions being brought to the House to amend the Constitution, such that next time another Motion comes up in order to deprive of the Presidential powers. The President should remain as the head of the military and---

(Loud consultations)

Mr. Temporary Deputy Speaker, Sir, can you protect me from people who just sit down here and they just---

The Temporary Deputy Speaker (Mr. Musila): Order! I am hearing nothing! Proceed.

Mr. Ndicho: Mr. Temporary Deputy Speaker, Sir, all I am saying is that we should not have a President who is powerless. We should not have an hon. Member - like today hon. Members are just powerless in their constituencies - who is powerless in the face of a small DO or chief who would harass him or her. If a chief decides that Dr. Kituyi would not hold a meeting in Kimilili, he would not hold it. If Dr. Kituyi decides to proceed with the meeting, the chief would bring the police and the hon. Member would be harassed.

Mr. Temporary Deputy Speaker, Sir, I am saying that if anybody is elected - right from the councillor to the hon. Member and to the President - let him or her be respected. Let them be given some powers. When Dr. Kituyi arrives in Kimilili, it should be felt that he is around, and the DO would stop doing the funny things that he does when the hon. Member is in Nairobi. Today, it is only one elected person called the President who, when he is around in Kimilili or Kisumu or Vihiga, would be felt when he is around. He would be recognised by all persons; starting from the chief to the DO, DC, PC, police and everybody. They would all know that there is some power around there. Are we trying to envisage a situation where the President is in some place and he or she has no powers and his or her presence cannot be felt, but the DC, DO or any other administrator goes about his or her business and their presence is felt?

Dr. Kituyi: On a point of information, Mr. Temporary Deputy Speaker, Sir. I would like to inform Mr. Ndicho that while he is celebrating the desire for a President to have a lot of powers, when a President abuses too much power, he disgraces the office the way the current occupant has just disgraced his office this afternoon and was heckled in Kisumu.

An hon. Member: Did he?

Mr. Ndicho: Mr. Temporary Deputy Speaker, Sir, this is exactly what I have said; that, we have a President in the USA who is the most powerful President in the world. I did not know what Dr. Kituyi has just informed me because on Tuesday, Dr. Kituyi informed me that President Moi stood in Mt. Elgon and he introduced Mr. Uhuru Kenyatta to be the heir apparent and Mr. Mudavadi walked out on the President. Then, there was hullabaloo and chaos in Mt. Elgon. I went out and I checked that information with my network and I came to find out that it was totally opposite of that. So, what he has just informed me might just be a rumour. We know that my friend, Mr. Uhuru, might not be popular in Kisumu, but he is very popular elsewhere in the country and you are going to see this sooner than later.

Mr. P.K. Mwangi: On a point of order, Mr. Temporary Deputy Speaker, Sir. Did you hear Mr. Ndicho insinuating that Dr. Kituyi is a rumour monger?

The Temporary Deputy Speaker (Mr. Musila): Order, Mr. Kamande! Mr. Ndicho should be serious and focus on the debate we are on.

Mr. Ndicho: Mr. Temporary Deputy Speaker, Sir, I was replying to Dr. Kituyi who has just diverted my attention by referring to what is happening in Kisumu, and yet we are in Nairobi. He is disrupting the business. In any case, Dr. Kituyi is not a rumour monger, but a good Parliamentarian.

I support this Constitution of Kenya (Amendment) Bill, to give Parliament its dignity. Hon. Members of Parliament should be respected both by the Executive and the Judiciary. Hon. Members of Parliament should also reciprocate by respecting the Judiciary and the Executive. Today, when an hon. Member goes to court, the officers of the Judiciary do not recognise hon. Members of Parliament. Mr. Gatabaki is one of the most harassed hon. Members by magistrates and judges. He is about to go to jail, because they are determined to make sure that he is put in the Black Maria. He is an hon. Member of Parliament, and if he is to be taken to jail, let him travel in the front seat of the prisons vehicle so that he is comfortable, instead of being hurled at the back of the Black Maria. Hon. Members of Parliament should be respected the way the President is respected.

Mr. Gitonga: On a point of order, Mr. Temporary Deputy Speaker, Sir. Mr. Ndicho is referring to something that I do not know. He is saying that Mr. Gatabaki will be put at the back of the Black Maria. What is the Black Maria?

The Temporary Deputy Speaker (Mr. Musila): Mr. Ndicho, I am going to discontinue your contribution if you continue drifting from the debate.

Mr. Ndicho: Mr. Temporary Deputy Speaker, Sir, I think, *unanionea*, because, why are you not stopping these hon. Members of Parliament from---

The Temporary Deputy Speaker (Mr. Musila): Order, Mr. Ndicho! You are not supposed to be listening to other hon. Members. You should be addressing the Chair. If there is any problem, I will notice it.

Proceed!

Mr. Ndicho: Mr. Temporary Deputy Speaker, Sir, I was asking that you also be respected by the chiefs in Mwingi Constituency. The other time you were complaining about them harassing you. I would also like the hon. Member for Mwingi to be respected by the area chiefs.

The Temporary Deputy Speaker (Mr. Musila): Continue with your debate!

Mr. Ndicho: Mr. Temporary Deputy Speaker, Sir, Mr. Gitonga has been an Ambassador, and has never been locked in any police station, so he does not know what a Black Maria is, but one day he will know. He should ask Mr. Gatabaki to give him a good lecture.

Mr. Temporary Deputy Speaker, Sir, I support this Bill. It is very good. I hope that by 4.30 p.m., we are going to have many hon. Members of Parliament in the House so that it does not become a cropper, but a success.

I beg to support.

Mr. Ochilo-Ayacko: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me the opportunity to make my humble contribution in respect of this very important subject.

This morning, as I was coming to Parliament, my six-year daughter wanted to know when the General Election will be held. As an hon. Member of Parliament, I could not furnish her with an answer because I doubt whether there is any hon. Member of Parliament, other than the one from Baringo Central, who knows when he intends to call for General Elections.

Mr. Temporary Deputy Speaker, Sir, this important Bill is about that absurdity. You can imagine that, as important as we think we are; as trusted as we think we are by people from all over the country, we do not know when we are likely to face those people and try to tell them how we intend to move forward with momentous matters of this country. This is a very important Bill and anybody who is opposing it does not want to be serious with his work. I am glad to support this Bill from the side of the House that the Government occupies. I believe the Attorney-General who I saw walking into the Chamber will also have favourable words for this Bill.

Mr. Temporary Deputy Speaker, Sir, it should not be thought that this Bill is aimed at trimming the powers of President Moi. Those powers have been effectively trimmed, and I am sure he will not be President beyond the term that is stipulated. So, reference to the question of trimming his powers should not arise. When we pass this Bill, as we intend to do, he should gladly sign it into law, because I am sure one day he will also need this Bill or a law that makes it definite when the House is supposed to sit. Why it is important to---

Mr. Kiunjuri: On a point of order, Mr. Temporary Deputy Speaker, Sir. Did you hear Mr. Ochilo-Ayacko say that the President's powers will be trimmed and he will not require this Bill, and that he might one day require this Bill to call for the dissolution of Parliament? Is he trying to tell the House that the President will come here as a Member of Parliament?

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

Mr. Kiunjuri: Mr. Temporary Deputy Speaker, Sir, is Mr. Ochilo-Ayacko in order to tell this House that President Moi will come back to this House as an hon. Member of Parliament to request for the date of dissolution to be set?

The Temporary Deputy Speaker (Mr. Musila): That is not a point of order.

Mr. Ochilo-Ayacko: Mr. Temporary Deputy Speaker, Sir, I appreciate what Mr. Kiunjuri is saying, but the point I was trying to make is that President Moi, in his retirement, will need a House that is reliable. In Africa, retired Presidents are not safe, and we want to make this country safe for him by having a consistent and reliable House whose tenure of sitting is definite. He may need it.

This Bill is timely because we are in the succession crossroad, and we do not know who eventually will take over from President Moi, but definitely, a Kenyan will take over from him, and that Kenyan will be among the Kenyans that are contesting right now. There will be necessity to have a National Assembly that can convene when finally the Electoral Commission will be returning somebody as having been elected as the President of this country. It would be very bad for all of us to go for elections in a situation where there is need for handing over. There is need for some *quasi* legislation so that handing over is peaceful. The only situation obtaining in the country is that we have President Moi as President; a Cabinet that is not grounded on the principles of Parliament, and a Judiciary that does not legislate. So, when we sit here and debate this Bill and finally pass it into law, we are doing our contribution to the stability of this country, particularly this year that we are doing both succession and the General Elections. So, I am urging all hon. Members of the House from the Government side, be they Ministers, to support this Bill. I am sure Ministers need it more because you can see those who are declaring their candidature in the on-going KANU Presidential nomination race are Ministers. They need this Bill, and should go out of their way, sit in this House and pass it. If they do not pass it, their ambitions will be in vain.

Mr. Temporary Deputy Speaker, Sir, having said that this Bill is very critical for the succession, I wish to add that Parliament has a lot of work to do. The Kenyan Parliament has been accused by both Kenyans and foreigners for doing too little in respect of legislation. This arises from the fact that the programme of Parliament is controlled by the Government, and that this Parliament is merely making legislations that are proposed by Government, and that private Members are not given time to bring to fore the Bills that they may have in mind. In fact, you will find that we go for recess when there is a lot of business that we could have taken care of. We do so because it is the will and desire of the

Government that the House goes on recess. So, there is need for this House to be a place for legislation, and have adequate time for both Government-initiated Bills and Private Members' Bills. Recently, this House was unanimous. It gave me leave to introduce a Bill to amend the Constitution and possibly create more constituencies. But as you can see, and it is very evident, that Bill might not see the light of the day because of time. It may not also see the light of the day because Parliament does not regulate its timetable. If Parliament was regulating its timetable, we would be comfortable and aware that a few weeks from now, we would be doing business that is initiated by Members.

So, I would like to thank Mr. Oloo-Aringo and the House for initiating this Bill. The Bill is not an attempt to have a go at any particular individual. In fact, it is a desire by this House, collectively, to reclaim what it ought to have.

Democracy being represented in democracy, I think it is an absurdity for representatives of the people to be uncertain about their tenure and period within which they are supposed to be representing those people. All of us must pass this Bill. It is unfortunate that one Mr. ole Sunkuli, who has no presidential ambition, was opposing this Bill. I believe I saw him around and, probably, he has changed his mind and is supporting this Bill.

In conclusion, I would like to say that this Bill will also ascertain that people view parliamentary representation as a career because it will be definite. If you are doing some job somewhere and you wanted to take sabbatical leave and engage in politics, you can be able to do that because you are certain that you can take it for five years, engage in politics and return to your calling like church work, mosque work or academic work.

With those very few remarks, I beg to support.

Mr. Imanyara: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to join my colleagues who have supported this very important Bill. In doing so, let me also congratulate Mr. Oloo-Aringo for bringing this Bill, which is one of those Bills that are giving this House the rightful position in the institutional framework of this country. The current constitutional situation in this country leaves a great deal to be desired. Under our current system, the President of this Republic rides roughshod over all the institutions of State, whether Parliament, Judiciary and local authorities. In any form of life in this country; because he is above the law, the President's word is final. That, in a way, explains why today, when we are debating such an important Bill, the President, apart from not being in the House, is supported by a big entourage of Members of Parliament out in Nyanza Province, rather than being in this House to assert the supremacy of this House.

Mr. Temporary Deputy Speaker, Sir, when this Bill is passed, we are going to remove arbitrariness in the conduct of the affairs of this House. There is no country in the world where the will of the people can be subverted by one individual. In Kenya, we elect Members of Parliament for a specific period of five years. But those five years, where the will of the people is determined by the people in an election, can be subverted at will, without any excuse or justifiable reason, by the President in proroguing Parliament. In passing this Bill, we will remove that clause that enables the President to subvert the will of the people of this country. When the Kenyan people vote during elections, their intention is to allow Members of Parliament to perform their duties for five years. After five years, they subject themselves to a fresh election, where they can get a mandate and be returned to this House, or new Members are brought instead of them. But whenever the President has determined that he is not getting what he wants in this House, he can dissolve Parliament at will. The effect of that is that the independence of this House is diminished. The importance of this House as a law-making body is very much diminished. In doing what we are likely to do this afternoon, we will be asserting the role of Parliament as an important institution in the making of laws in this country.

Mr. Temporary Deputy Speaker, Sir, this Bill is not targeting President Moi as a person. It is not targeting whoever is going to succeed President Moi. What we are doing is finishing the process that we began with the establishment of the Parliamentary Service Commission, which gave power to Members of this House to conduct their affairs through it. Now, when we passed that law, it became obvious that the performance of the Parliamentary Service Commission was affected very much by this Section in the current Constitution that enables the President to interfere with the work of Parliament by cutting short the life of Parliament, or by challenging Members of Parliament in the performance of their tasks.

*(Mr. Mudavadi was applauded as
he entered the Chamber)*

Mr. Temporary Deputy Speaker, Sir, you have noticed that when the Deputy Leader of Government Business walked into this House, Members of Parliament were very happy. They are happy because when we have functional institutions, even people who hold offices are respected. That is why Members are clapping when they see the Deputy Leader of Government Business in the House because they know he is going to support this Bill, which gives Parliament the authority to perform its work without interference from external factors.

Mr. Temporary Deputy Speaker, Sir, those who have looked at the Bill would have noticed that it seeks to

remove that confusion which arises when the President prorogues Parliament. The current situation is that the President may prorogue Parliament and continue---

(Loud consultations)

Mr. Temporary Deputy Speaker, Sir, could you protect me from the heckling?

The Temporary Deputy Speaker (Mr. Musila): Order, Hon. Members! Could we pay attention to what Mr. Imanyara is saying?

Mr. Imanyara: Mr. Temporary Deputy Speaker, Sir, I was saying that the current situation is that the President of this Republic can prorogue Parliament and continue governing without Parliament for a period of up to six months. If we pass this law, the President's right to prorogue Parliament and govern this nation without Parliament is removed. That is because Parliament may be recalled at any time when an emergency demands.

Secondly, when Parliament is dissolved, the period between the dissolution of Parliament and the holding of new elections is a very important period for this country; yet, during that time, Members of Parliament's role is zero. The President governs this country with the Cabinet Ministers. With the passage of this law, we are introducing a legislation that enables Parliament and you to re-convene Parliament, even after dissolution, if an emergency arises that requires the intervention of Members of Parliament.

[The Temporary Deputy Speaker

(Mr. Musila) left the Chair]

[Mr. Speaker took the Chair]

Mr. Speaker, Sir, I do notice that my colleague, Dr. Kituyi, is dying to contribute to this very important Bill. We have the mandatory number required to pass this Bill.

Therefore, I beg to support.

Mr. Speaker: Very well. As I had indicated, we intend this matter to come at about 4.30 p.m. I gave a warning and I will urge hon. Members, if they are out somewhere, to avail themselves here at 4.30 p.m. because I will tell you what the rules say. In the meantime, let us hear, Dr. Kituyi.

Dr. Kituyi: Asante sana, Bw. Spika, kwa kunipa fursa hii ili nichangie Mswada huu. Mswada huu ni wa maana sana katika historia ya nchi hii.

Kwanza kabisa ningependa kujiunga na waheshimiwa Wabunge kumshukuru mhe. Oloo-Aringo kwa kuonyesha ya kwamba anastahili hadhi ya kuwa mheshimiwa Mbunge wa waheshimiwa Wabunge. Hii ni kwa sababu kwa muda wa miaka mitano, mhe. Oloo-Aringo amesaidia kuliko Mbunge yeyote katika historia ya Bunge hili kwa kulitea heshima na ukombozi wake kutokana na kukaliwa kimabavu na Serikali ya Rais Moi. Kuna jambo moja la kustajabisha sana katika nchi hii. Tukiwa na swala nyeti la kuamua kama Bunge litajikomboa kutokana na minyororo ya Serikali hii, baadhi ya waheshimiwa Wabunge hawajiheshimu na kuja hapa Bungeni kutoa kauli yao. Nitamheshimu mhe. Mbunge anayepinga Mswada huu kama atakuja hapa Bungeni na kufanya hivyo, kuliko yule kibaraka asiyekuwa na msimamo wowote. Wengine wao hawataki kuonekana katika Bunge hili.

Bw. Spika, waheshimiwa Wabunge ambao wanafikiri wako karibu sana na Rais Moi wanadhuru heshima ya Bunge hili. Wakati tuna Mswada wa maana katika Bunge hili wanaandamana kule Kisumu kwenda kucheza *nyatiti*. Waheshimiwa Wabunge kama Prof. Saitoti na Bw. Mudavadi wanajiheshimu na wako hapa nasi, na tunawaheshimu kwa kuja hapa. Hata kama wataupinga Mswada huu, kuja kwao hapa Bungeni ni jambo la maana sana. Wale wote wanaojulikana kama waheshimiwa Wabunge na wakati wa kikao cha maana kama hiki wanaamua kwenda kucheza *nyatiti* au wanajificha wasije hapa na kuonyesha msimamo wao, hawastahili kuitwa waheshimiwa Wabunge.

Bw. Spika, kwa muda mrefu tumekuwa tukifanya mambo muhimu katika Bunge hili. Tumejaribu kuwaonyesha wenzetu jambo la maana na mwelekeo upi una heshima. Ni vipi tunaweza kujenga uongozi wa siku zijazo na mbinu gani mwafaka za fikra-endelezi? Lakini ukitazama waheshimiwa Wabunge wanaoupinga Mswada huu, hawawezi kutueleza sababu maalum za kupinga

[Dr. Kituyi]

ukombozi wa Bunge hili kutokana na minyororo ya Rais.

Bw. Spika, waheshimiwa Wabunge wamesema Mswada huu ni wa maana kwa sababu haumlengi Rais wa sasa. Hata hivyo, ni jambo la maana kumlenga Rais wa sasa kwa sababu Bunge la Kenya si lazima kumbembeleza Rais Moi wakati anapokosa. Mabadiliko ya Katiba yetu ni lazima ya yamlenge Rais Moi. Hebu tutazame jinsi Rais Moi anavyoongoza taifa hili na tujiulize kama ana heshima ya kutosha kuwa na uwezo wa kuamua lini atavunja Bunge na lini Bunge litakutana. Vitendo vyake wiki hii vinaonyesha hastahili hiyo heshima. Vitendo vyake vya juzi---

Mr. Speaker: Order! Dr. Kituyi, we are not debating the President.

Dr. Kituyi: Mr. Speaker, Sir, I am not debating the President.

Mr. Speaker: You are, in effect!

Dr. Kituyi: Bw. Spika, ninachangia Mswada wa kuondoa mamlaka ya Rais juu ya kuvunja Bunge wakati anataka. Vitendo vyake vya hivi juzi vinaonyesha kuwa hana heshima. Kwa hivyo, nina wasiwasi mwingi kama ataendelea kuwa na uwezo wa kuvunja Bunge hili. Kama mtu anachukua wadhifa wake kwa heshima, basi hata ratiba ya Bunge ataiheshimu.

Juzi alizuru Mkoa wa Magaribi na kwa vile anawadharau Waluhya, alisimamisha kiongozi mmoja wa Waluhya na kutamka matamshi ambayo yalidhuru heshima za watu wa mkoa huo. Yeye alimwaibisha kiongozi wa Waluhya mbele ya watu wake. Hiyo si heshima hata kidogo kwa kiongozi wetu. Kwa hivyo, Rais Moi hastahili kuwa kiongozi anayeweza kuvunja Bunge la taifa. Ikiwa ana fikra-endelezi, tafadhali, aliache taifa letu pamoja. Tunapoandika Katiba yetu si lazima kufikiria sana juu ya Rais wa sasa. Lakini kama anadhuru heshima zetu tunaogopa kama ataliheshimu Bunge letu ikiwa hawaheshimu Wabunge. Ikiwa wale anaowapenda hawaji hapa Bungeni wakati wa kikao cha maana kama hiki, basi sioni heshima zake.

Bw. Spika, ningependa kuwashukuru wezangu kwa sababu Bunge hili la Nane limeweka misingi ya Bunge yenye nguvu hapa nchini. Tumeona katika sehemu zingine, ambako kawaida watu hawajitokezi, kwa wingi kutafuta Ubunge, sasa wamejitokeza wanataka kuja hapa Bungeni. Tumelirejeshea Bunge uwezo wa kufanya kazi ya maana. Tuna heshimiwa sana na watu wetu. Juzi tulijipatia mishahara mikubwa kwa sababu sisi ni waheshimiwa Wabunge wanaofanya kazi ya heshima. Ni kwa nini basi tuwe na uwoga wa kukomboa Bunge hili kutoka kwa minyororo ya Rais? Tunafikiri tukimpendeza Rais, ndipo tutapata heshima zetu kama Wabunge? Jambo hili si kweli. Ikiwa mwito wangu kama Mbunge unapingana na "sauti" kutoka Ikulu Kuu, basi nitasimama kama Mbunge na nifanye yale yanayohitajika kutoka kwangu. Tukifanya hivyo, basi hakuna haja ya kujaribu kutongozana au kutukanana kwa jambo ambalo mwelekeo wake ni rahisi kwetu. Lakini, nikiwatazama wenzangu, waheshimiwa Wabunge, nyuso zao zaonekana kama watu wa kawaida na watu ambao wanaweza kufikiri, lakini ukimuuliza: "Kwa nini unataka kupinga ukombozi wa Bunge lako na wewe ni mhe. Mbunge?", hawezi kukueleza kwa sababu anaogopa "sauti" kutoka Ikulu Kuu. Iwapo unaogopa sauti hiyo, utaiogopa hadi lini? Ni nani ataleta heshima ya Bunge? Je, katika nakala za historia, utanukuliwa vipi?

Bw. Spika, kwa hayo machache, ninaunga mkono Mswada huu.

The Attorney-General (Mr. Wako): Thank you, Mr. Speaker, Sir, for giving me this opportunity to make my contribution. I will be fairly brief in the light of what you have stated. First of all, let me commend very highly the initiative taken by Mr. Oloo-Aringo to bring to this House the Constitution of Kenya (Amendment). We all know that earlier on, through his party, he brought to this House a Constitution of Kenya (Amendment) Bill which established the Parliamentary Service Commission. Both amendments were aimed at strengthening the institution of Parliament. I do agree entirely with the spirit of the Bill that institutions of Parliament should be strengthened.

If one looks at the history of the agitation for constitutional review process, he will find that what prompted it was the immense powers that the President enjoys under our current Constitution. These powers may have been useful in the past, but cannot be maintained in a new constitutional dispensation, which has at its core a vibrant multi-party democratic State; which has at its core institutions which promote and protect human rights; which has at its core separation of powers between the Judiciary, the Executive and the Legislature.

So, I would like to reaffirm that the spirit behind this Constitutional Amendment Bill is one which we all support. Indeed, when we enacted the Constitution of Kenya Review Act, we mandated the Constitution of Kenya Review Commission to examine and recommend the composition and functions of the organs of State, which are the Executive, the Legislature and the Judiciary, with an aim of maximising their mutual checks and balances and securing their independence. Part of the problem of the current Constitution is that it is really a hybrid; a complete separation of powers between the three institutions---

(Loud consultations)

Mr. Ndicho: On a point of order, Mr. Speaker, Sir. There is loud consultations in the House and---

Mr. Speaker: Order, hon. Members! I do understand the anxiety, but it does not waive the Standing Orders! All the Standing Orders are here, and I am looking at them!

So, can we proceed?

The Attorney-General (Mr. Wako): Mr. Speaker, Sir, as I said earlier on, I will be very brief. So, under Section 17(d)(1), the Commission appointed pursuant to this Act is supposed to really ensure that the three organs of the Government operate independently and there are checks and balances between them. The problem we have in our current Constitution is that we do not have complete separation of powers, particularly, between the Executive and the

Legislature. We have a hybrid Constitution which takes into account the parliamentary democracy as practised, for example, in the United Kingdom (UK), under which the Prime Minister can at any time call for a general election. It is well known that in the UK, the Prime Minister normally calls for a general election when he knows that his party has reached a level at which it can win a general election. This is contrary to the Executive President in the United States of America (USA), where all the dates for election and so on are fixed. We are a hybrid of that situation. That is the reason why this Parliament asked the Constitution of Kenya Review Commission to look into that aspect with a view of strengthening the various institutions. I am happy that through the initiative of Mr. Oloo-Aringo, at least, the initiative with regard to strengthening the institution of Parliament has already been taken.

The Constitution of Kenya Review Commission is also mandated to examine and review the issue of succession to office and recommend a suitable system for a smooth and dignified transfer of power after an election or otherwise. In other words, we are saying that there can be a possibility where elections can be held abruptly and there would not be a dignified and smooth transfer of power. In our current Constitution, we do not have provisions for a dignified and smooth transfer of power which would dictate what is to happen after a general election has been held and how the new President would take over. We do not have this provision under the current Constitution. But under the new Constitution we must have, as the Act which was enacted by this House states, provisions for a smooth and dignified transfer of power after an election or otherwise.

My office, in accordance with the ruling of the previous Speakers and so on, did assist Mr. Oloo-Aringo in drafting this Bill. So, we have done our part. So, the only point where we may sort of differ, as a Government, is that in view of the fact that the Ghai Commission is charged with this matter; in view of the fact that a number of persons have made these proposals and that they are likely to appear in the new comprehensive Constitution which we have been promised will be available on---

Hon. Members: No! No!

The Attorney-General (Mr. Wako): Mr. Speaker, Sir, since a draft Constitution will be available on 15th September, this year; as much as we support the spirit and intentions of this Bill, it may be that the way forward is to impress upon Prof. Ghai to come up with this draft Constitution.

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

Mr. Oloo-Aringo: Thank you, Mr. Speaker, Sir. I promise to be very brief. First of all, I would like to appeal to the House to reject the arguments advanced by the Attorney-General that the Ghai Commission has the mandate to usurp the role of Parliament.

(Applause)

The Ghai Commission is a creation of this Parliament and, therefore, it cannot usurp the role of Parliament. If anything, the Ghai Commission should listen to what we say here in Parliament as part of collecting views of Kenyans.

If we go by the argument which the Attorney-General has advanced, we will mislead our people because, at the moment, we are not even sure that there will ever be a Report of the Ghai Commission.

(Applause)

Knowing politics as I do, and I have been here for a quarter of a century, anything can happen, but we have a right to correct the errors of yesterday now and not tomorrow. If Parliament has been sidelined, let us rehabilitate it now and not tomorrow. Secondly, let us take it that there has been a lot of bad faith on the part of the Government, as far as the constitutional review process is concerned. Every attempt has been made to sabotage even the work of Prof. Ghai and his team. The records are there to show this. If it was not for the resoluteness and resilience of the Kenyan people, this "thing" could have been sabotaged long ago by members of the Executive Government who have never had their hearts in constitutional reform, in the first place. Therefore, that cannot be a basis to suspend action by this Parliament.

Thirdly, if you read on the wall in front of our door, you will realise that the Government exists for one purpose. It exists for "The Welfare of Society and the Just Government of Men." For this Government to perform and promote the welfare of the people of Kenya, it must be responsible and accountable. What is lacking in this country is responsible Government. If you listen to the Ministers and the President make speeches, you will know that they have very little respect for "The Welfare of Society and the Just Government of Men."

(Applause)

For us to have a responsible Government, it must be accountable to Parliament. This Government has disregarded

Parliament! There are reports of Public Investments and Public Accounts Committees which are treated with contempt by this Government. We have volumes and volumes of reports of responsible Committees of this House and they have been treated with contempt by this Government, because no action has been taken! It is not that we do not have the law. We have the statutes, but there is no political will! That is why I am asking this Parliament to re-assert itself and reclaim its place in this society, so that it can become the nerve-centre of the Government of Kenya. This is only an early step in that direction. I am asking my colleagues to reject the argument by the Attorney-General, because nobody in the Government has given us any reason as to why Parliament should not control its calendar.

Mr. Speaker, Sir, I have a lot of respect for Mr. Sunkuli, but I was so disappointed when he made his remarks here. If his own arrogance was not exceeded by his sycophancy, I would have had more things to say.

Mr. Speaker: Order, Mr. Oloo-Aringo! If we really need to make this Parliament as strong, supreme and dignified as you say, then that kind of language will not be acceptable. So, please, take note.

Mr. Oloo-Aringo: Mr. Speaker, Sir, I have no intention whatsoever, of alienating my friend because I want his vote for this Bill.

Mr. Speaker, Sir, in conclusion, therefore, we are making a major step to re-invent the institution of Parliament. Indeed, we took the first step by creating the Parliamentary Service Commission and the Parliamentary Service. This is just a corollary of the statutory Parliamentary Service Commission, and the Parliamentary Service. I am asking my colleagues to vote overwhelmingly for this Bill. I am also pleading to hon. Members to know that this Bill is non-partisan. In fact, I am pleased that the Attorney-General, basically, says this is very good. I know that if he were to vote, he would vote with me. But being an *ex-officio* Member, he is not a voting Member of this House. Indeed, the Attorney-General gave me assistance in drafting this Bill. I want to thank him very sincerely for that particular support.

I am asking my colleagues in KANU to vote with their conscience. It is a free vote, and you are dictated to by your conscience and nothing else.

With those few remarks, I beg to move.

Mr. Speaker: Order, hon. Members! As you know, I cannot call a division on a constitutional issue until I am satisfied that the requisite quorum is present. I want to ensure that the quorum required for this particular issue is present and the quorum required for me to call a division is 145 Members. I will give the opportunity to hon. Members who may be outside there to know that we are now going to find out whether we have a quorum. So, I will order the Bell to be rung for five minutes. Take note that, that is not the Division Bell but it is because I have to be satisfied that we have the numbers. Ring the Bell for five minutes.

(Some hon. Members consulted while standing)

Order, hon. Members! It would help a lot if hon. Members sat down, so that the Clerks can take the number of hon. Members present. If you stand all over the place, they will not be able to count you properly. So, please, take your seats, relax and I will activate you when the time comes.

(The Division Bell was rung)

Mr. Speaker: Order! Order, hon. Members! Time is over! I want the Clerks to slowly count hon. Members in the whole House so that I know the number present. For that reason, I very humbly request all hon. Members; please, do now sit completely still.

An hon. Member: Without talking?

Mr. Speaker: You can talk, but do not move! Clerks, please, count hon. Members in the whole House now.

(The Clerks proceeded to count hon. Members)

Mr. Oloo Aringo, please, take your seat! You may be hiding some hon. Members, and we are counting Members!

Mr. Oloo Aringo: Mr. Speaker, Sir, I am just doing consultations.

Mr. Speaker: Yes, I want you to sit so that you do not hide any hon. Member; as you can see, you are big.

(The Clerks presented the results to the Chair after counting)

Order! Order, hon. Members! As you can see, I am actually at a loss. Up to this moment, we have only 116

hon. Members, and we require 145 hon. Members. In essence, we have a shortfall of 29 hon. Members to make a quorum. So, we have no quorum, as a matter of law, to vote on this issue. Then, what next?

An hon. Member: We can vote with those who are present!

Mr. Speaker: Order! I go by the rules!

An hon. Member: Allow us to propose the next course of action!

Mr. Speaker: Order! I do not seek proposals; I look at the law! The law states as follows:-

If we have a quorum, I will order the Division to be taken, and if the matter is negated, then it dies! If it is not negated, and those who are for "Noes" are less than 30 per cent, then I can order for another division to be taken."

(Applause)

We are not there! We are not there yet, because you have not even met the requisite number. So, the position is that we cannot vote on this issue today.

Now, the Standing Orders do not tell me what to do if a quorum is not met. I will now go back to Standing Order No.1, which gives me, as usual, the "dictatorial powers---"

(Laughter)

Which the Speaker can always resort to when there is no other issue. Because I cannot now carry out a division, the matter will now be placed in abeyance. I hope that we will get a day next week to try our luck.

(Applause)

If you do not make the requisite number at the appointed time, next week, I will be inclined not to revisit the issue.

(Loud consultations)

Order! Order, hon. Members! You also understand my problem because Tuesday and Wednesday are days allotted for the Committee of Supply. The only day left out is Thursday, which is also a day for recess. I think we shall make this matter the first business. If you do not make the quorum, we go straight to the Motion of Adjournment and we go for recess. If you will make the quorum, then we will have to finish business on this matter and, thereafter, you will then extend the time to enable you the debate the Motion of Adjournment.

I have arrived at the decision that the Motion be suspended on the following grounds because there must always be reasons for it. I want to be on record, so that in the event of another Speaker coming and finding a situation like this, he will then have to understand the reasons which led the Speaker to decide as he did. I have decided the way I have decided as follows:

This Motion is still before the House and the Question has not been put. Therefore, it has not been decided. So, it is still open because we have not taken a decision; we have only closed it. No hon. Member will contribute on it on Thursday; we will go straight to the question of finding out if you have a quorum. If you do not, then again, as I said, it will disappear!

Secondly, on matters of the Constitution, I think this House ultimately has to make a decision one way or the other. On a matter as momentous as this, no one person will take that decision, including the Chair.

Finally, I will give all of you time, either to come on Thursday or not. You have the freedom; you either come or you do not come. That is it!

So, this matter is now suspended until Thursday next week.

(Vote on the Motion suspended)

(Applause)

Next Order!

(Some hon. Members started moving out of the Chamber amid loud consultations)

Mr. Speaker: Order! Order! By the way, I have not ordered hon. Members to withdraw from the Chamber! The business of this House continues. Therefore, if some of you want to take your leave, could you, please, do so quietly, so that we can proceed to the next Order? By the way, as a result of what happened in the previous Order, the Committee of the Whole House, which is supposed to be our next Order, does not arise. So, we shall proceed to the next Order.

An hon. Member: Now, what is the next Order?

Mr. Speaker: Hon. Members, the business which we are now going to transact is the Motion by the Chairman of the Select Committee on Constitutional Review. I now call upon Mr. Kajwang to move the Motion, which is on the extension of the period of time of the Constitution of Kenya Review Commission.

MOTION

ADOPTION OF REPORT ON EXTENSION OF DURATION OF CKRC

Mr. Kajwang: Mr. Speaker, Sir, I beg to move the following Motion:-

THAT, this House adopts the Report of the Select Committee on the Constitutional Review process on the extension of the duration of the Constitution of Kenya Review Commission (CKRC), laid on the Table on Wednesday, 12th June, 2002.

Mr. Speaker, Sir, I am privileged to initiate debate on this Motion, which ought to be moved by the Chairman of the Select Committee on the Constitutional Review process, Mr. Raila, who is not present. He asked me to move the Motion on his behalf.

Mr. Speaker, Sir, the Select Committee on the Constitutional Review process was constituted on 5th April, 2002, by a resolution of Parliament, in accordance with the provisions of Section 10 of the Constitution of Kenya Review (Amendment) Act, Cap. 3A of 2000, which states as follows:-

"The National Assembly shall, in accordance with its Standing Orders, establish a Select Committee consisting of not less than five and not more than 27 Members."

Mr. Speaker, Sir, the House appointed 27 Members to the Select Committee, whose functions were to recommend to this House---

(Loud consultations)

Mr. Speaker, Sir, I cannot proceed in the midst of this kind of behaviour by hon. Members.

Mr. Speaker: Order! Order! Hon. Members, this particular business is probably even more important than the business which we have just skipped, because it deals with the total review of the Constitution. The business we have just skipped deals with a partial review of the Constitution. So, please, give your attention to the Mover of this Motion, so that you understand the reasons being advanced, and so that when you stand to either oppose or support the Motion, you will understand what you will be talking about. So, could we give audience to Mr. Kajwang?

Mr. Kajwang: Thank you, Mr. Speaker, Sir. Could I address the House from the Dispatch Box microphone, which picks sound more efficiently?

Mr. Speaker: Yes, please.

*(Mr. Kajwang proceeded to address the
House from the Dispatch Box)*

Mr. Kajwang: Mr. Speaker, Sir, the Select Committee comprised of 27 Members, under the Chairmanship of Mr. Raila. The relevant function of the Committee for the purpose of this business was to resolve any dispute arising in the course of the review process, as may be referred to it by the National Assembly, as well as to receive periodical reports from the CKRC on behalf of the National Assembly, and perform such other functions as the National Assembly may, by resolution, assign. The Committee appointed the Members of the CKRC but, later on, there was a dispute as to the membership of that Commission arising from the Ufungamano Initiative. Because of the negotiations that arose, later on the Committee agreed to enlarge the Commission to 27 Members under the Chairmanship of Prof. Yash Pal Ghai.

Mr. Speaker, Sir, all that is history. The most relevant thing here is that the Select Committee received a request from the Commission for an extension of its time. It is stipulated in the Act that the life of the CKRC will end

on 4th October, 2002. The Commission is apprehensive that, if its life ends on 4th October, 2002, it will not be able to deliver a draft Constitution to this House for final enactment. So, the Commission asked us to extend its life to 15th May, 2003. The Commission gave us a timetable of how it intended to carry out its work until 15th May, 2003.

Just to remind hon. Members, the Commission indicated to us that it will be visiting the constituencies up to 8th August, 2002, collate and analyse the views up to 8th September, 2002, compile the national report by 4th October, 2002, and avail the draft Bill to Kenyans on 18th October, 2002, after which the Bill will be published and disseminated to Kenyans. The Commission told us that the publishing of the Bill, having it disseminated and getting the people to understand it will take 60 days. In the Commission's estimation, this will end on 24th December, 2002.

The Act provides for provincial hearing, which the Commission estimates will take only three days and, therefore, end on 31st December, 2002. The Commission said that pre-conference activities - the National Constitutional Conference - should take another 30 days, from 31st December, 2002, and that the National Constitutional Conference will be held for one month, which means it will be completed on 1st February, 2003. The Commission further said that if anything is not agreed at the Conference, it will be referred to a national referendum, which will require 60 days to be completed. So, in the Commission's estimation, it will take us up to 15th May, 2003, to complete all these processes, have the Bill debated and passed by this House, and then assented to by the President.

Mr. Speaker, Sir, when we received this Memorandum and went through this timetable, we decided that it should be shortened as much as possible. So, the Committee decided to remove some days from the schedule. We finally agreed that the Select Committee, being a Committee of Parliament, would not give the Commission more days than remain to the end of the life of the House. Consequently, the Committee made certain recommendations, which I will read out later.

Mr. Temporary Deputy Speaker, Sir, I do not think I have much to say, other than to go through the observations of the Select Committee. On page 12, the Report states:-

"After considering different proposals of both the Commission and other groups which appeared before it, the Committee was unanimous in a recommendation that the next general election should be held under a new Constitution".

In adopting this position, the Committee considered the following:-

(i) Since 1997, there has been a consensus and expectation among Kenyans that the next general election will be held under a new Constitution;

(ii) The next general election accord Kenyans a unique opportunity to write a new Constitution, which many fundamentally change the structures of governance without appearing to target the incumbent;

(iii) The Committee also considered that the earlier completion date of the constitutional review process of 4th October, 2002, was founded on an anticipation that there would be a new Constitution in place before the next general election; and,

(iv) A flawed Constitution and a flawed electoral process would lead to flawed election results.

The Committee was also of the view that the constitutional review process should be completed within the life of the current Parliament. The Committee considered and rejected the proposal for minimum constitutional amendments or reform as part of a pre-electoral package for the following reasons:-

(i) After the experience of the Inter-Parties Parliamentary Group (IPPG) reforms, Kenyans do not need another package of minimum reforms, and have been expecting a comprehensive review process; and,

(ii) The Committee considered that the process of negotiating the minimum reforms would take as much time as completing a comprehensive reform process.

So, hon. Members discussed the provision of the referendum under Section 27(5) of the Act, and were of the opinion that this Section should be amended to provide that the issues to be decided by a referendum should be supported by two-thirds of the voting members of the constitutional conference. We are saying that, for a matter to be weighty enough to be referred to the people for a referendum, it should be supported by two-thirds of those gathered and voting at the conference, so that we do not take to the people for a referendum any flimsy issues.

Mr. Temporary Deputy Speaker, Sir, hon. Members were concerned that the work ethics of some Commissioners leave a lot to be desired. To address this matter, the Committee recommended that the Act be amended to enhance the authority of the Chairman, so as to ensure that the Commissioners devote their full time and attention to the task of the review. After some consultations, we agreed that we need not give the Chairman of the Constitution of Kenya Review Commission (CKRC) so much power as to enable him suspend almost everybody who disagrees with him in the Commission. But we expect the Commissioners to work in concert for the purpose for which the Commission was created.

The recommendation of the Select Committee is as follows:-

In accordance with Section 26(3) of the Constitution of Kenya Review Act, Cap.3A, the Committee, therefore, recommends that the National Assembly do grant an extension of the Commission's life for a further period of four months, namely, from 4th October, 2002, to 4th February, 2003.

After consultations with hon. Members after the Committee made this recommendation, it was the view of the hon. Members of the Committee, and the consultative forums together, that we can only extend the life of the CKRC up to the end of the life of this Parliament, which, by law, should end five years from the date the President was sworn in; this takes us to 3rd January, 2003. So, we will be moving an amendment "that the date appearing on the Report as 4th February, 2003, be amended to 3rd January, 2003". In order to operationalise this recommendation, the Act should, therefore, be amended. The list of the proposed amendments is in Appendix Five.

I have circulated the proposed amendments, and if you need some, you can pick a copy at the back of the Chamber. The proposed amendments are rather straightforward and I want to go to them straightaway. They are given as an appendix to this Report. These amendments are actually directed towards saving time.

It is recommended that Section 27(1)(a)(i) be amended. This Section requires the report of the CKRC and the draft Constitution to be published for a period of 60 days before formal hearing and a meeting of the National Constitutional Conference. It is recommended now that this could be reduced to 30 days instead of 60 days, so that after the draft has been done, then it is published. Thirty days should be enough for Kenyans to say whatever they will want to say, and make whatever recommendations they will want to make. We thought that 60 days could be reduced to 30 days to save time.

The second proposal is on Section 27(1)(b). Currently, it provides that upon the expiry of 60 days, the Commission is required to hold hearings in provinces and invite and receive memoranda. The Committee has recommended that this provision could be deleted altogether. When I read the provision earlier, it provided for three days for provincial hearings. The Committee thought that it was unnecessary that after the Commission has gone to every constituency, it should hold provincial hearings.

The third recommendation deals with Section 27(7), which states that the referendum must be held within two months of the National Constitutional Conference. We were of the view that we could reduce the period allocated to a referendum, especially after reducing the questions which could be referred to the referendum. We thought that 30 days could be sufficient. We will be seeking an amendment to Section 27(7) to reduce that period from 60 to 30 days. Then there is a proposal that, in Section 28(3), we reduce the time between presentation to and publication of the draft Bill by the Attorney-General from "within 14 days" to "within seven days". We think that the Attorney-General, who is an hon. Member of this House and who will be a Member of the Constitutional Conference, will not need a lot of time to read the draft again and publish it. So, we thought that seven days will be sufficient for the Attorney-General to publish the Bill. Then there is Section 28(4). We were trying to reduce the period for the tabling of the Bill in the House. After the Attorney-General has published the Bill, seven days later, it will then be tabled before the House. So, we are reducing the period from 14 days to seven days.

Lastly, there is a provision in Section 28(4), which as it is now, provides for the day when the National Assembly should next meet. This amendment will require the National Assembly to proceed with the enactment of the Bill immediately after the proposed seven days of publication rather than when it might otherwise meet. We suggested then that the House may be convened immediately after the publication to deal with this Bill straightaway without waiting for the formal times when the House otherwise meets.

Mr. Temporary Deputy Speaker, Sir, there are a few other amendments. We suggested that Section 21(6), which, provides for a voting by two-thirds of the Commission on any constitutional proposal, be amended to read 51 per cent of the Commissioners present. We found that a two-thirds majority was a rather higher figure than could be sometimes achieved in normal working circumstances. We suggested that the quorum of 51 per cent should be sufficient for transacting the business of the Commission.

Mr. Temporary Deputy Speaker, Sir, the eighth proposal is that Section 27(5) of this Act should be amended to provide that the issues to be decided by the referendum should be supported by two-thirds of the voting members of the constitutional conference as I had said earlier.

Mr. Temporary Deputy Speaker, Sir, the ninth proposal is continued in Section 27(5) and deals with the method of voting and requires a vote of, at least, two-thirds of the members of the National Constitutional Conference for a decision on a proposal to be included in the Constitution. However, not all members of the conference have a vote. Commissioners of the Review Commission do not. So, Section 27(2)(A) should be amended together with sections 27(5)(1) and 27(5)(2) to state as follows:-

"For the purpose of working out the two-thirds vote, all the number of voting members be taken into account".

That is simply that the members who will be coming to the conference will include some non-voting members. So, when working on the two-thirds which will then be necessary to refer a matter for a referendum, only the members who are present and voting should be counted.

Mr. Temporary Deputy Speaker, Sir, the tenth proposal is in Section 27(5). It is proposed that two-thirds of the vote of all members even if restricted to voting members, seems to be too high given the expected rate of

absenteeism. We were saying that about the members who are invited, some of them may not come. Some of them may not be present at the time when we want to take a vote. Just like in this House, not every Member who is supposed to sit in sits in. So, we were suggesting that instead of saying two-thirds of all the members who have a right to vote, we should amend it to read as follows:-

"The votes be two-thirds of the members present and voting".

This is as an example of the Ugandan Constituent Assembly at the time when they were debating their constitution.

Mr. Temporary Deputy Speaker, Sir, the eleventh recommendation, which is the second last one, is that Section 33, which provides for the dissolution of the Commission be amended to read:-

"The Commission shall stand dissolved on the enactment of the Constitution."

There may not be enough time for a special Bill to dissolve the Commission. So, immediately we come and vote that this is now the new Constitution of Kenya, the Commission will cease to exist. We, therefore, need to amend Section 33 to say exactly that.

Mr. Temporary Deputy Speaker, Sir, the last recommendation was to amend Section 15 (4) to include a new section (D). I think that this is the section which, after consultation, the members were of the view that giving the Chairman the power to withhold salary and allowances of Commissioners, suspend the Commissioners for misconduct and to declare the office of a Commissioner vacant, would be giving the Chairman too much power which would end up causing unnecessary friction in the Commission. So, after consultation again, although it is included here as one of the amendments we seek, the members were of the view that this amendment though proposed should not be included as one of the amendments. So, we shall be seeking an amendment to delete the twelfth proposal.

Ms. Karua: On which page is it?

Mr. Kajwang: If you have taken the proposed amendments it is on the bottom of page 12. We were suggesting here that because some Commissioners were not putting a lot of their time in the review process since they were doing other jobs and they were always not doing the work for which we are paying them, the Chairman should be given certain powers which amount to disciplinary powers and we were saying that he could even withhold their salaries and allowances and even suspend them. We even suggested that he could even declare the office of a Commissioner vacant. After some consultations, we thought that these powers would subject us to a lot of criticism that we are now micro-managing the Commission and so on and sometimes intimidating the Commissioners and so on. So, we suggest that that could be withdrawn so that the Commissioners do not think that we want to disband them through the powers of one Chairman.

Mr. Temporary Deputy Speaker, Sir, I beg to move and ask hon. Affey to second this Motion.

The Temporary Deputy Speaker (Mr. Imanyara): Is he a member of the Select Committee on the Constitutional Review process?

Mr. Kajwang: Yes, he is a member, Mr. Temporary Deputy Speaker, Sir.

The Assistant Minister for Foreign Affairs and International Co-operation (Mr. Affey): Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity. I stand to second this Motion. First of all, I would like to take this opportunity to thank all the members that have served in this particular Committee and especially I would like to thank the Chairman, hon. Raila Odinga, for the manner in which he has chaired the meetings that we have had for the number of meetings that this Committee held. Mr. Temporary Deputy Speaker, Sir, the simple request by the Commission is that they cannot be able to finish the work given within the timetable set out in the current Act, and, therefore, they are asking for an extension of time. I think they have a fair request and this House should grant that extension. I say this because the Commission has found itself in a quagmire or in a position that is not of their own making. When we passed the legislation that brought in this Commission, we spent close to one year. I think this House is basically responsible for that delay because for one year we were not able to have a Commission that could begin work. Therefore, we had the Ufungamano Initiative and the Parliamentary Select Committee and because we wanted to have one unified Commission, we took a great deal of time and in the process the Commission was not able to meet certain obligations as it was supposed to have done. Therefore, because of that, I think it is a fair request that we grant this extension.

Mr. Temporary Deputy Speaker, Sir, according to the timetable here, they have asked for a period until 15th May, 2003. When we sat, we realised that that was not within the mandate of our Committee to be able to give them that time required. Therefore, I think we shied away from a very serious responsibility. We should have given the time they had requested which is until 15th May, but because we were not courageous and not able to face the realities in the country, we are trying to shortcircuit Kenyans. However, that is what we did and I think it was our failure on the part of the Parliamentary Select Committee to have retracted from what we had agreed earlier on because it was very clear in their letter that they cannot finish the process even if we give them until 2nd February. That is not the time they asked for. They asked for until the 15th May and so I do not even know what rationale we shall be basing our judgement on in trying to give them the time they had not requested because they have to come back again on the 5th

February to Parliament and say: "Okay, then we had asked for until 15th May and we were not able to do it, and so can you give us some more time?"

Mr. Temporary Deputy Speaker, Sir, I think we have a reason to be blamed as a Select Committee and we have not told the country the whole truth. The truth is that if we give them time as they have asked, we will be asking for an extension as they say of Parliament and because we decided for Kenyans, we felt that Kenyans did not want an extension of Parliament when, in fact, we have not consulted them whether, indeed, they want an extension or otherwise. We said, therefore, we do not want to go that far. Therefore, I personally think that we should have given them the time they asked. Let the other Parliament that will be in session on 15th May deal with this problem and we go into the general elections. If we can be able to get a new constitutional dispensation before the next general elections, it is the wish of Kenyans to go into the next general elections with a new constitutional order because it is written very clearly here as follows:

"We had street protests which compelled the Government to form this particular Commission so that we go and find whether we can get a new document."

Mr. Temporary Deputy Speaker, Sir, we had people who were arrested. In fact, some people died so that this country can achieve a new constitutional dispensation. It will be very unfair if we do not realise that dream. However, we cannot have the cake and eat it at the same time. There are certain very difficult and harsh decisions that, as leaders, we must be able to take. When we are confronted with difficult decisions, this country has given this Parliament the mandate to lead and not to be led. I think we have failed as a Parliament to be able to give them that particular hope.

Secondly, Mr. Temporary Deputy Speaker, Sir, I think the next general election accords Kenyans a unique opportunity to write a new Constitution which may fundamentally change the structure of governance. I think both KANU and the Opposition have a common interest because, when I looked at certain documents from the National Alliance for Change (NAC), they want the Office of the Prime Minister, the Deputy Prime Minister and President, so that they can secure the next general elections taking into account the interest that is in the country. KANU badly needs that Constitution otherwise all this in-fighting we have now over who will be the next President would have been a foregone conclusion. We would need to sit down as a political party and look for appropriate personalities to fill those posts. In this case, we want to see a situation where the President and the Vice-President are running-mates so that we package them and take them to the countryside so that, at times, the President does not have the sole responsibility to sack at will his Vice-President. Therefore, this is a need that is shared by both sides of the House. I do not see why we should not wait a little longer to get a document that is favourable for everybody.

Mr. Temporary Deputy Speaker, Sir, on the question of amendments, I have a problem with the proposed amendment on Section 15(4). We had discussed this. We are concerned about the behaviour of certain commissioners, but we would not want to give the Chairman of the Commission exclusive powers. Otherwise, there was no point to have appointed 27 commissioners. We would have appointed Prof. Yash Pal Ghai and asked him to go round the country to seek views from wananchi and prepare a report and bring it to Parliament, if we wanted to make him the exclusive executive as it is being suggested here. I agree with the Mover of this Motion that this amendment needs to be deleted. We need to find a way of reprimanding commissioners who do not do their job as they should. But that does not mean that we give the Chairman of the Commission exclusive powers which makes it essentially a one-man commission.

Thirdly, Mr. Temporary Deputy Speaker, Sir, I also have problems with the proposed amendment to Section 27(7). If we have got serious issues which will require to be subjected to a referendum, definitely, one month is not sufficient to organise a referendum. I even have a problem with the two months as I would have suggested. A referendum is as good as a general election. I hope that we will not have issues that will subject us to a referendum because that can save us some time. But if there are, we will need to hold a referendum. We want to do a Constitution for posterity and not a Constitution for the next general election. We want a Constitution that will survive the test of time so that, over the years, we can be proud that the Eighth Parliament had given this country a Constitution that has survived the test of time. That is why we need to give the Commission adequate time to complete their work. If we do so, we will short-circuit the process of the so-called people-driven constitutional reforms. During this month of August, according to their schedule, they are expected to finish the constituency visits. They have asked for a specific period. I think it is fair that this Report is amended. So, let us give them the time that they had asked for.

Mr. Temporary Deputy Speaker, Sir, on the question of a referendum, I think we should delete the words "one month" as proposed and give it a minimum of two months so that the country can have a Constitution that they trust.

Mr. Temporary Deputy Speaker, Sir, I would like to join my colleagues in seconding this Motion and I recommend that we give the Commission the extension they require.

With those few remarks, I beg to second.

(Question proposed)

Mr. Kibaki: Thank you, Mr. Temporary Deputy Speaker, Sir. In supporting this Motion, I am very pleased by the assurance we have received from the Chairman of the Commission that they will have a draft Constitution by September this year. So, it is unnecessary for us, like the previous speaker said, to keep wishing otherwise. The Chairman knows very well how the work is progressing and how much is remaining. That gives us ample time to do all the other things which require to be done before the next general election. Everybody in the nation had wished that we would hold the next general election on the basis of the new Constitution and, now that it is possible to combine both, I do not think we should go on expressing any doubt. Let us be grateful that, that is possible. Let us work as speedily as possible to complete that job and have an election based on the new Constitution. So, that is the perfect position. That is why I agree with the Mover of the Motion that we should not insist on amending Section 15 of the Act. It is no longer necessary to worry about the commissioners and other people. I think they will all now work and complete this job. So, we do not need to sack any commissioner now. Even if they have not worked hard enough, let us give them the benefit of the doubt.

Secondary, Mr. Temporary Deputy Speaker, Sir, when we were debating the Bill which resulted into the enactment of the Act; the Ufungamano Initiative and the Parliamentary Select Committee were working out modalities of merging the two and certain political commitments were agreed upon. One of them was that the Government will not, during this period, interfere with the freedom of organizations like political parties or individuals who want to hold meetings or travel to any part of the country. It is important to re-emphasise that at this time when we are heading towards an election, the Government should refrain, more than any other time, from stopping any meetings or interfering with the freedom of individuals. It is ridiculous for one party to have freedom to move where they want using public resources from the Budget of this nation. They enjoy that and they do not want anybody else to enjoy it. That should be discouraged. Equally, there was a provision that the Kenya Broadcasting Corporation (KBC) would give equal or equitable airtime to all parties in the country. But the KBC still continues to behave as if it belongs to one party, while it is being financed by taxpayers. It is a useless organisation which makes no profit. It earns no money and yet it behaves like it is owned by one party. That is very disgraceful. I hope that one day we can have a KBC which serves the whole nation called Kenya by reporting all events that go on in the country and not just being guided around, dictated to or coerced into only reporting the activities of one party.

Mr. Temporary Deputy Speaker, Sir, the important thing about what we have been asked to do is that we shall be able to finish this work within the life of this Parliament. When Mr. Affey was talking I think he forgot the reason why we had to restrict ourselves to the life of this Parliament. As a Select Committee of this Parliament, we have no authority to give time to any Commission beyond the life of this Parliament. That is not within our mandate. This Parliament goes on up to a certain date and we cannot give any commission authority to go on beyond that date. So, we could not give what we---

The Assistant Minister for Foreign Affairs and International Co-operation (Mr. Affey): On a point of order, Mr. Temporary Deputy Speaker, Sir. The hon. Member is misleading the House. I have a lot of respect for him, but he is suggesting that this country will not have a Parliament in May 2003.

Mr. Kibaki: Mr. Temporary Deputy Speaker, Sir, that was not even a point of order. But for his own education - you can see he needs it - it is important for him to know that the point I am emphasising on is not about the future. I am merely saying that within the rules, the law and the Constitution, any Select Committee of this Parliament has no mandate to allocate time beyond the life of this Parliament to one of its committees because that committee will not be there. It must end when the life of Parliament ends. Those are our rules. That is a fact; it is not something that I came up with. That is the reason that we had no business being there.

Mr. Anyona: On a point of order, Mr. Temporary Deputy Speaker, Sir. Unless Mr. Kibaki can actually pinpoint a legal provision to support what he is saying, I think he is misleading the House.

Mr. Kibaki: Mr. Temporary Deputy Speaker, Sir, people who think whatever they choose to think, should think and keep it to themselves. What I am saying is the logical position, the convention and the tradition that a Parliament does not allocate time beyond its own life. That time will belong to another Parliament which will make those decisions. That is all I am saying. It is not something very strange. Therefore, that is why that limitation had to be put there.

Mr. Anyona: On a point of order, Mr. Temporary Deputy Speaker, Sir. In the Report of the Committee, the date they have recommended is 4th February, 2003. That is committing this Committee to operate beyond the authority of this Parliament. I do not know what he is talking about. The recommendation in the Report is that we allow them an extension up to 4th of February, 2003. So, there will be no Parliament then.

Mr. Kibaki: Mr. Temporary Deputy Speaker, Sir, you and I know the facts about when Parliament was sworn in and that the life of this Parliament lasts until that day. So, there is nothing complicated about this issue. I do

not know where some hon. Members are getting these other ideas. Anyway, the point I am making is that if we are to give the Commission much more time, I hope that they will complete the draft by the 15th of next month. They should work full speed so that we can have a Constitution ready some time in November this year. This will ensure that there is time for people to digest and popularise the Constitution during the campaign period. If we want to use the Constitution, we have got to have it understood by people all over the country.

I do hope, from what I have heard, that the Commission, in proposing the new draft Constitution, will include in their Report, the proposals about the laws which must be amended so as to make the Constitution they are proposing operational. I am sure this will be included in the Report. That will be very helpful so that we get a full product when they complete their Report. It will include proposed amendments to existing laws, particularly those which have to do with elections like the Presidential and National Assembly Elections Act, the Local Government Act, so as to make the Constitution they are proposing operational. If that is included in their final Report, we shall be able to pass those other amendments about the same time, as we are passing the new Constitution. We shall then have a complete product ready for application.

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

The Minister for Vocational Training (Mr. Ruto): Thank you, Mr. Temporary Deputy Speaker, Sir. I think the proposals that are before the House appear to have been overtaken by events. Most of what we see here, which we agreed on as a Committee, was based on proposals by the Commission which, in our consideration, represented the true position. Over time we have received so many confusing reports and statements from the Chairman of the Commission that I no longer know whether they actually require what we are proposing to give them. As a Committee, of which I am a Member, we listened to the proposals that had been given. We had due consideration of the fact that this country requires a new Constitution as expressed variously by the citizens. Personally, at the moment, I have no faith that even if we gave Prof. Ghai another six months he will necessarily do an excellent job.

I will express my personal opinion that the Commission should complete their job according to the current Act and that on 4th of October they ought to report back to the Committee so that Parliament can consider the Bill in the normal way. A variety of ceremonies have been indicated here which include referendums, the National Constitutional Conference, publication and provincial hearings. I do not think that this country has got time for all these things at the moment. The electioneering mood is prevalent all over and I think Kenyans are focusing their attention on other issues. We would be misdirecting ourselves if we assumed that these same Members of Parliament will continue to assemble in November or October on a constitutional conference. Most of them will be busy campaigning in their constituencies and, therefore, there will not be any quorum in those constitutional conferences. We are deluding ourselves by imagining that we shall all be assembled at some point for 60 days, discussing this Bill.

Mr. Temporary Deputy Speaker, Sir, I want to propose that we do not require to have more amendments and, come 4th October, 2002, Prof. Ghai should hand over his Report. This is in consideration of the fact that as late as Sunday, I was reading a statement which he made - and which he has not availed to this Parliament - that he will be through by September. He has continued to confuse Kenyans, and we cannot be sure that he will continue to produce even more conflicting statements.

With those remarks, I beg to oppose the Motion.

Ms Karua: Thank you, Mr. Temporary Deputy Speaker, Sir. I wish to support this Report subject to certain reservations. But I would like to begin by saying that we should avoid personalising the debate. The work of the CKRC is not individual's or that of the Chairman.

It is not the work of one Commissioner; it is the work of the entire team. It is true that the Chairman of the CKRC has given indications that they may have a draft Constitution ready by some time in September. A draft Bill does not mean completing the work. Let us not confuse the two. They still need time to present that draft Constitution to Parliament and the people of Kenya so that it can be discussed in the constitutional conference.

I want to begin by accepting the position in the Report, which I was party to; that, the Commission does need to be given more time. The question is: How much time? Do they still require the four months that this Report is recommending? I think that is where we need to look into. Even during the deliberations of the Select Committee, there was heated argument on how much time the Commission needs. Whereas we were all agreed that we need to give the Commission time, we took time to come near to agreement on how much time they should be given, and the result was not unanimous. It is the majority that carried the day.

I think the indication coming from the Commission is that they have moved faster than what was anticipated. They are expected to finish collecting views next week; maybe, by Wednesday next week, which is still earlier than they had projected when they asked for more time. It is a clear indication that we need not give them the four months envisaged by this Report. I, therefore, welcome the proposal by the Mover that the amendments have been considered so that the time given to the Commission--- The recommendation should be about two months and not four months so that they should be given time up to the end of December. I believe that if the Commission continued at the pace that

they are moving, they should be able to finish.

On the recommendations of the amendments to the Act, these proposals were by the Commission. It is not the Select Committee that is proposing or imposing on the Commission that we shorten certain period. These were the proposals by the Commission after they considered their position and work schedule. I think the Select Committee, having gone through their request, did agree that certain amendments were necessary to clarify what was ambiguous and also remove unnecessary periods so that we shorten the review process. If the Commission is satisfied that they can arrange a referendum within a month, we are considering that although we should vote for it, like during General Elections; it is on a single issue. If the Commission is satisfied that they can do it in one month, it is not for us to start saying that the Commission cannot do it within a month. If we are not taking the position that we should micro-manage the Commission - they have requested for the period to be shortened to one month - let us agree with them, they are the experts, and give them the month that they are looking for.

I agree with those who have taken the view, including the Mover of the Motion, that we should not give the Commission time beyond the life of this Parliament. Our mandate, as a Parliament, comes to an end after a certain time. The question is whether we can start exercising discretion over periods when we shall no longer have the mandate of Kenyans. We must leave it to the next Parliament to finish whatever business will be unfinished when our term comes to an end.

I do agree that the Committee unanimously did say that it was desirable for this country to go to elections with a new Constitution, but again, what is desirable may not be practical. We cannot agree to let the country be held to ransom to the issue of the constitutional review process which is not within the exclusive control of Parliament.

What if, for whatever reason, the job is unfinished? Are we going to postpone elections? Those are the issues that brought a lot of controversy with some people feeling that an extension of the life of Parliament would be in order and others feeling that it would be unconstitutional. We have to settle to the position that, although it is desirable to go to the polls with a new Constitution, if the Commission is not ready and the work of the constitutional review process is not complete, we must obey our Constitution and hold elections on time. We must agree that what is desirable may not always be practical or possible.

The Commissioners are also Kenyans, and they are listening to what Kenyans are saying. I suppose that is why they have moved with reasonable dispatch in recent times and they have covered a lot of mileage. We believe that it is possible for them to finish and still give us a new Constitution. But should it not be possible, let us not extend our mandate without the consent of Kenyans. Let us go to the polls and let the work be finished by those elected in the forthcoming General Elections.

I do agree that, perhaps, because we are proposing amendments to the Act very late; recommendation No.12 on the Appendix to the Report about expanding the powers of the Chairman of the Commission to exercise disciplinary powers over the Commissioners may not be desirable. Now that they have been able to move this far, we should let them complete the job under the current arrangement. Had we done it earlier, I was one of those who felt that it was necessary to rein in those who do not want to work and those who are not giving us value for money. But I think that in recent times, we have seen the Commission moving with reasonable dispatch. I think that, that proposal is no longer necessary to enable them to carry out their work, and we will earn their goodwill, as Kenyans and hon. Members, by not letting threats hang over their heads so that they may get on with their work. I am looking forward to seeing amendments that have been proposed to this Report moved, so that we all can, with one mind, pass this Report or accept its recommendations, and leave the Attorney-General to put into effect the recommended amendments. I would also like to say that it has taken us too long to discuss this Report until Kenyans have started wondering whether we really want to give the Commission more time, or whether we want their term to come to an end without the business being finished. To allay these fears, it is necessary that, after this Parliament passes the Report, the Attorney-General moves with exceptional speed to have the Bill published and to enable it to be discussed by the House. It would actually be desirable to have the proposed amendments discussed and possibly passed before we go on recess, so that we allay the fears of the Commission, and so that we legitimise whatever time we actually extend. However, if we do not extend, then the Bill will automatically not be there. But if Parliament is not willing to extend, and I am persuading my colleagues that it is necessary that we give the Commission time, let us also make it legal by passing the necessary amendments.

With those few remarks, I beg to support.

The Attorney-General (Mr. Wako): Mr. Temporary Deputy Speaker, Sir, I beg to support this Motion in my capacity as the Attorney-General, and also in my capacity as an *ex-officio* Member of the Constitution Review Commission.

This is a Report of the Parliamentary Select Committee which has gone into this issue with a lot of sensitivity and in detail. I just want to mention that looking at the objective facts, it was clear that the Commission required extension. It may be recalled that after the Safari Park Consultative Forum, we estimated that the constitutional review

process will take 39 months. If it began by that time, it could have been finalised at least one year before the general election, in order to allow for other matters to happen. That was not to be, we had to have another Parliamentary Committee; the Raila Committee, which again, sat and amended the Act. By the time we amended the Act, some period had expired, and that is why that period, again was reduced to two years. Had the Commission began doing the core business of the Commission on time, on 4th October, 2000, it is likely that they would have completed the exercise in time, again, for the general elections which were coming. But as we know, because of the Ufungamano Initiative, there was another process going on, and it became clear in the national interests that efforts had to be made to ensure that the Ufungamano Initiative joins the Commission under the Act. That process took nine months out of the two years. Looking at that alone and what is required to be done under the Act, that fact alone would have justified extending the time for Parliament.

I know many reasons have been given as to why they are not working fast enough and so on. To me, the main reason is that they did not discuss their core function, when they were supposed to start their core function, because they were focused on discussing the merging of the two processes.

Mr. Temporary Deputy Speaker, Sir, I can assure you that the Commission is now very well focused, and they are working extremely hard. They have now visited all the constituencies in all the provinces except Western Province. As we speak now, they are now in Western Province, which is the last province for them to carry out constituency hearings. Constituency hearings are due to be completed next Thursday, 8th August. So, they have been working very hard and they are focused. I would like to assure this House that they are really committed to ensuring that they give this country one of the best constitutions any country can have, which reflects the wishes of the people of Kenya. This Report is about the extension of time for the Constitution of Kenya Review Commission, but it is also about expediting the process. We know that, under the Act, this is a people-driven process.

I want to assure the House that by the mere fact that we are reducing some period for doing certain things, it does not cease to be a people-driven process. The period for going round all constituencies in Kenya was there. As I have said, they have now gone round, and by 8th August, they would have gone around all constituencies and they would have obtained the views of the people of Kenya. Furthermore, they are also getting written memoranda from various groups and individuals. Currently there are over 25,000 written memoranda, which have been received by the Commission so far from the public. So, it is a people-driven process. The type of periods which we are scheduling are periods which are to analyse the views of the people, which is technical, calling the National Consultative Forum to ensure that the Constitution reflects what members of the Commission received when they were going round and also to put on the final touches. So, we are reducing by 30 days, the period for discussing the raw draft of the Constitution which the Commission has assured us will be available on or about 15th September, 2002. That is a raw draft. Under the current legislation, we require another two months, of discussing that raw draft. It is stressed that one month is more than enough to discuss that raw draft, particularly if you take into account that those people who will be participating even in the discussion of it, will be coming to the National Consultative Forum to properly discuss a raw draft. With this reduction of period, it will save the Commission slightly over two months from the time which is provided for under the current Act.

Mr. Temporary Deputy Speaker, Sir, I do not want to speak for long. All I want is to assure the people and this august Assembly that the concept of the constitutional review process is still the same, and that with the acceptance of this Report, it will be possible to have the next General Elections under the new Constitution. I think that is what the people of Kenya want.

Thank you.

Mr. Muithia: Thank you, Mr. Temporary Deputy Speaker, Sir, I think the debate is starting on the wrong premise, because it was in the wisdom of this House, that it was found necessary to form a Commission to look into the total review of the Constitution, but it did not give powers to the Chairman alone. From certain quarters we are referring to this debate as if Prof. Ghai is the person handling the constitutional review process alone. I think we should accept that there are also other Commissioners from whom we have been hearing differing views at different times and we should, therefore, deal with the Commission *per se* and not as a Ghai Commission. We know Prof. Ghai has written many constitutions, including the Mauritius one, and there was turmoil thereafter. We are also aware that he also wrote the Hong Kong Constitution. I think we should give the Commission the opportunity to tell us the time they require, so that we can give them that time in total.

Mr. Temporary Deputy Speaker, Sir, I can remember, from the beginning, when we started discussing the constitutional review exercise at Bomas of Kenya, those who were truly interested in the reforms suspected and read some complications which were being brought into the process by the KANU Government. The ruling party KANU was not supporting the creation of the Constitution of Kenya Review Commission. We are talking of a new Constitution where Kenyans are going to obey those laws because they are part of their reconstitution. But what happened at that time? We warned Kenyans that we shall not have a new Constitution in place as far as the KANU

Government is concerned.

Mr. Temporary Deputy Speaker, Sir, from what I have heard from the debate so far, some particular persons, and various groups, are trying to divide this country into tribal blocks for self-survival. I do not see what the constitutional review process and the new governance have in common. The constitutional review process can continue in the next Parliament. Those who will be elected at that time can look at what has been discussed and come up with a final Constitution. I feel that is why some of the aspiring candidates are being pushed to the wall. They are being made very desperate, so that when there is an amendment here, we can create posts like that of Prime Minister and Deputy Prime Minister. All of them will troop back to KANU with their tribes, so that KANU can continue. There is no honesty and that is why various candidates for presidency are being made very desperate, so that they can help KANU to win and perpetuate tribal balancing in the country.

That means that the people who cannot produce the President will never be given the opportunity. That is because there will always be ganging up of a few tribes to create the balance for taking over power.

Mr. Temporary Deputy Speaker, Sir, finally, on elections, even Prof. Ghai included, no one is coming out forcefully, truthfully and forthrightly to inform Kenyans that with the new Constitution, it will be required that more than 100 Acts of Parliament are going to be changed. Those Acts of Parliament are not in the preserve of the Commission. Those Acts will be enacted here in Parliament and debated. It will take us over two to three years before we can harmonise the laws with a new Constitution, so that we are able to have an election on a new Constitution. Therefore, I would like to say that the Commission must be given adequate time to do its job. We can do that by entrenching it into the Constitution, so that even when we go to elections in December, the Commission can continue with its work and have the final draft brought to the new House. The new House will start harmonising the laws and have the new Constitution. You know that a major constitutional change is never enacted by one Parliament. It is given to over two to three Parliaments, so that they can go into the details. A Constitution is a document that is going to lead this country for more than 100 years to come. We do not need to keep on changing the laws every moment.

Mr. Temporary Deputy Speaker, Sir, if we discuss having the elections on a new Constitution, we are going to fall into a constitutional crisis. On 2nd January, when President Moi goes home at midnight and never comes back to this House, there will be no President at that time. Therefore, I propose that an amendment should be brought here to give the Commission up to 15th May to complete it work.

With those remarks, I beg to oppose.

The Minister of State, Office of the President (Mr. Sunkuli): Mr. Temporary Deputy Speaker, Sir, this Motion puts me in a very difficult position. But because I am a Member of the Select Committee and out of no fault of the Committee; I was not present when these recommendations were made. I happened to have been out of the country. The only reason I am supporting this Motion is because I am a Member of the Committee. But I really do not agree with most of the things that have been proposed.

But, first of all, I am happy that the recommendations by the Committee, to give the Chairman of the Commission more powers than are necessary, are not going to appear in the Bill. That is because the Commissioners in the Constitution of Kenya Review Commission (CKRC) were appointed on a provincial basis. It would have been absolutely obnoxious to give the powers to one person to remove them, regardless of the feelings of the particular province that, that matter was to come. I am saying that I am happy that, that recommendation will not see the light of the day.

Mr. Temporary Deputy Speaker, Sir, why I am saying this matter is very confusing is because I think that, at some stage, Prof. Ghai must come out absolutely clear. The reason why we are discussing the extension is because Prof. Ghai's Commission of 27 Commissioners said that they were not going to finish the new Constitution on time, according to the present Act. They made a recommendation that we extend their time. When we started debating that, it looked as if it was KANU that wanted Prof. Ghai's Commission to have its time extended. It was not us! It was the Commission that asked for its time to be extended. After that, Prof. Ghai came up with a statement, saying that the process that he was conducting was going to be over by September; that, in fact, he was going to have a report ready. So, one has been left at a loss! Which is which? Does the Commission require time or not? I think the Commissioners actually need to be absolutely clear in their minds, about what they actually want. They are creating confusion. After all, they asked for an extension up to 15th May. We are giving them up to February. What is the rationale? Why not give them what they have asked for? You know, it is a whole confusion. I think the Commission is saying one thing and their Chairman is saying another. We are not going to be blamed if we are all looking confused! That is because I do not know exactly what we are passing! The Commission has asked for extension and the Chairman has said they do not need it! I do not know why Parliament says the Commission needs time, if the Commission itself says it does not need it. So, I am saying that the only reason that I am supporting this Motion is as a matter of principle. It is because I am a Member of the Committee. I support the Motion but I do not know why! All these things are an absolute confusion!

Mr. Temporary Deputy Speaker, Sir, I cannot really say more than that! I wish Prof. Ghai could say something! Does he actually need more time? Why are we forcing Prof. Ghai to have an extension that he does not need? The Constitution that we are going to have is not going to be the Constitution that we envisage. They want to cook it very quickly and serve it on the table very quickly! It was supposed to be a permanent document that will not be changed very soon. But what we are seeing is that the same people who used to say that they want a people-driven Constitution; now that the process is with the people, they want to hurry up the whole process. I do not know why, all of a sudden, something that ought to have been permanent, must be hurried up quickly. Where we made a mistake to believe that we were going to have a new Constitution and use it for elections. That cannot be possible. I like the fact that one hon. Member said; that, sometimes what is desirable is not possible. It is not possible for you to have what you want all the time. The truth is that we want a new Constitution and elections held on time. The two are not possible. If we will not use the new Constitution for election, then why are we in a hurry to do these things? Why do we not as well tell Prof. Ghai and his team to spend the entire Kshs4 billion and take their time to write a comprehensive Constitution because we will not need it any time soon? We will need that Constitution in another five years to come, after next year. So, why are we in a hurry and yet we will not use it for this particular election?

Mr. Temporary Deputy Speaker, Sir, since I am a Member of the Select Committee, I beg to support.

Prof. Anyang'-Nyong'o: Mr. Temporary Deputy Speaker, Sir, I stand to contribute to this Motion seeking to get the leave of the House to extend the life of the Constitution of Kenya Review Commission (CKCR) up to the end of the life of the present Parliament.

I am on record, and I was recently quoted in the newspapers sometime, in September last year, when I cautioned this House that the Ghai Commission should have come to the House in October last year to seek to extend its term. That was the time this House could have debated this issue in a sober manner without necessarily connecting it with elections. I am also on record for having said that the debate on the new Constitution of the Republic of Kenya should not, in any way, be connected or tied to an election programme. Elections, by their very nature, are very emotive issues. Elections are processes of transferring power from one party to another one. Hence, if we are discussing the fundamental laws of the land, and we are also discussing elections, we tend to get the computer chips in our heads mixed up. You can see the example of Mr. Sunkuli, who obviously had his computer chips working at cross purposes and that is why he could not communicate anything sensible to the House. As I predicted last year, this is because we have come to a time when a debate on the Constitution would prove very difficult in this House. I would caution the House that it is in this context of the elections that even hon. Members are not in a position now to focus properly on issues that the CRCK should have been discussing.

Having said that, let me go to one fundamental issue. Do we want to have a new comprehensive Constitution under the life of this present Parliament or not? If the answer is "yes," then it is the responsibility of this present Parliament to ensure that, that product is delivered to the nation before this Parliament is dissolved. This Parliament will stand dissolved, under the present Constitution, by 3rd January, 2003, because the current President was sworn in on 3rd, January, 1998. Once the present President can no longer exercise his powers under the present Constitution to dissolve the National Assembly, then this National Assembly can have no power whatsoever to have any debate on the present Constitution. Therefore, by the very nature of the laws under which we are operating, it is incumbent upon us, if we want a new Constitution under the present Parliament, to have it by the 3rd of January, 2003. Therefore, if the Chairman of the CKRC says that they will hand over a draft to this Parliament by 15th September, 2002, when we shall be on recess, anyway, then we can only hope to begin discussing that the new Constitution when we come back from the recess. But we cannot discuss that Constitution until a national forum discusses it. These are laws that we, ourselves, made when the Bill that set up the CKRC was passed by this House. So, we cannot turn around and say we cannot obey a law that this House itself passed.

Mr. Temporary Deputy Speaker, Sir, logically, therefore, it makes sense to set certain dates that are in line with an Act of Parliament passed by this House. I, therefore, see it logical that the CKRC be given that time that it has asked for, not until May next year, because we have no power to do so, but, indeed, until 3rd January, 2003, as has been proposed by Mr. Kajwang.

Secondly, Mr. Temporary Deputy Speaker, Sir, do we think that if we do not have a comprehensive review of the Constitution under this Parliament, and we hand over that responsibility to a future Parliament, then that future Parliament will do the kind of job we wanted done? We have no evidence to prove that the future Parliament will do the job we, ourselves set to do. It is our responsibility to the people of Kenya to discharge that responsibility before we cease to hold offices under the present Constitution for which we were elected.

It makes sense, therefore, for this Parliament to be brave enough and face the people of Kenya and say: "We passed a Bill in this House setting up that Commission, these are the people that we ourselves chose to be in that Commission, we must, therefore, bear the responsibility of their actions." We cannot turn around and begin blaming the Commissioners when we haggled for months and months to choose them. We are not being honest to the people of

Kenya. Whether those commissioners are performing a good job or not, what they are doing is a responsibility of this House. We, ourselves on this side, when we were in that process of choosing commissioners did point out various pitfalls that should have been looked into. But the House was so much in a hurry to do that, that we later on had to do that. Having done that democratically, we are bound by majority decision. So, although we ourselves had certain objections to what was being done, once the decision was made, then democracy requires that the minority obey the dictates of the majority and go by it. We have been prepared to support the CKRC in their work although we had certain reservations about the way it was set up. The other side which was very anxious to set up this Commission cannot now turn around and disown their responsibility. I am, therefore, saying that it is important that now we focus on the product of the CKRC; that is, the Constitution.

Mr. Temporary Deputy Speaker, Sir, if you read the history of many countries which have gone through constitutional reforms, successful constitutional reforms have always been carried out when we have statesmen and stateswomen who have the interest of the nation at heart and who are prepared to put certain values into the constitution which will stand the test of time. But I am very disappointed that in the sovereign Republic of Kenya when we talk about the constitution, we only isolate one aspect of the Constitution that we are concerned about; that is elections. The Constitution of the Republic of Kenya is much more than elections. Indeed, the Constitution of the Republic of Kenya embodies within it values and principles of our existence as a nation. For example, the famous phrase that is usually quoted in the American Constitution says:- "We hold these truths to be self-evident, that all men and women are born equal---". In other words, the Constitution of the United States of America begins by establishing certain principles that identify that nation. So, one of the things that are very important and which have to be considered when reviewing our Constitution is to agree now on some of the fundamental principles and values that bind us as a nation. These are certain things that we hold as so dear to us that will distinguish us, as Kenyan citizens. Now that we are discussing the Constitution in this House, I am surprised that all that hon. Members are concerned about is when next elections will be held. What they are concerned about is: If we pass this Constitution, will we hold elections under the current or the new Constitution?. Indeed, the electoral laws that exist in this country were passed by this National Assembly. The National Assembly and Presidential Elections Act has to do with the election of the National Assembly and the President. Then we have the Local Government Act which sets out how local authorities are established. These are Acts of Parliament. What the new Constitution will do is to simply specify powers given by this National Assembly to pass election laws. Those powers and parameters will change. The principles of giving this House the powers to pass election laws will change. Whether it is the Ghai, the Anyang'-Nyong'o or the Biwott Commissions, those things will never change. But the things which are being discussed in the new Constitution are the ones we are now discussing here; the principles and values under which we are establishing this nation. What binds us together as a nation? What brings me together with Mr. Biwott, as a Kenyan? Do we respect the principal citizenship in this nation, or do we behave as this or that ethnic group, and have resources which we do not even think of how to create?

Mr. Temporary Deputy Speaker, Sir, in this country, Kenyans are most concerned with re-distributing what is and what is not rather than creating the wealth which should be distributed. If we were concerned about creating the wealth which Kenyans should then distribute, we would have done a much more useful job to this nation than what we talk about. Indeed, the whole problem of tribalism in this country is about the politics of distribution. In local language, sometimes we call it the "politics of eating". You cannot eat what is not, but you can only eat what is. If what is very little, then you will fight to death trying to get what is. You have seen dogs trying to struggle over a bone. First of all, the bone is small and, secondly, you cannot eat a bone but dogs will tear each other to pieces struggling over a bone. This is what tribalism is in this country. Now, there are all kinds of things going on; Mr. Uhuru or another person struggling over a "bone".

There is one position in this country called the "presidency" and not everybody can occupy it. But we waste so many hours of television and radio time and pages in our newspapers talking about this one position. You cannot imagine the number of manhours and shillings per capita which we waste struggling over one bone, which is called the "presidency". Indeed, once you are through with privatisation and liberalisation, there will be so little left in State House and perhaps, it is not even worthy it.

Secondly, the Constitution which we are talking about will specify the kind of institutions we want in this nation to guide us, as a nation. These are economic, social, cultural, judicial and family institutions. That Constitution, too, will talk about how we will treat our resources, namely, land and environment. This is the case, and yet when we come to this House, I do not hear anybody saying that the Ghai Commission should be given more time to deal with problems of our common good, or to deal with problems on how to share and distribute our land resources. These problems are so complicated that they require more specialised teams to look into them and, therefore, the Ghai Commission needs more time. These are the things which I do not hear in this House, and yet hon. Members can come here and say that we want more time so that we can go to elections with a new Constitution. Let us be much more

broad minded than this, and realise that the constitution-making process is a very complicated one. There are so many issues involved in this process which we should focus on rather than talk in a very simplistic manner about elections.

Mr. Temporary Deputy Speaker, Sir, when that draft Constitution will be available, it will be taken to the National Forum. I have heard very little in this House about the National Forum. Who will be members of the National Forum? How will the National Forum be elected? Where will it meet? Why do we talk about the time, but not other things described in that law? This is because I am quite sure that many Kenyans do not know much about that Forum.

The National Forum is a very important part of the constitution-making process. If anything, it is like a Constituent Assembly. If Members of this Parliament will be members of the National Forum, will we be members of this Forum and at the same time carry out business in the House? So, if the National Forum will meet in October, this year, and we will come back from recess in early October- do not forget that we have so many Bills pending before this House and the Attorney-General will tell you that there is the Presidential Retirement Benefits Bill, the Anti-Corruption Bill and there are those conditionalities which the Government signed with the World Bank and the International Monetary Fund (IMF), thinking that the year has 36 months when it has only 24 months--- This is the case, and yet the Government promised the World Bank that it will deliver. All these should be done in the interest of this nation, and we should also be members of the National Forum. These are the practical things which we should think about. The people who are proposing the extension of Prof. Ghai's Commission should come to the House and say that these are the practicalities and this is the reason why we need more time which will be used in this or that manner. This will enlighten the people of Kenya on the reason why we are asking for the extension of the life of the current Parliament. It is not just a question of coming to the House and saying "let us extend the life of the current Parliament". The people of Kenya would like to know the reasons why this should be done. The reasons should be worth supporting. They cannot just be guessed, but should be related to the laws which we have passed in this House. This is the responsibility of the Government and this House.

Mr. Temporary Deputy Speaker, Sir, I am, in other words, supporting the Motion, but I would like to urge the Government to educate the people of Kenya which is part of civic education. Civic education should not just be done by the Ghai Commission, but it should be done by every Ministry in this Government. Civic education should be carried out by every Minister whenever he speaks to the people of Kenya. I am quite sure that Mr. Biwott, who is the Minister for "Regional Co-operation, Trade and Tourism" knows that in the Constitution---

The Attorney-General (Mr. Wako): On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the hon. Member of Parliament in order to call Mr. Kipyator Kiprono Nicholas Biwott, "the Minister for Regional Co-operation, Trade and Tourism" when we all know that he is the Minister for Trade and Industry?

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Wako, why do you not let Mr. Biwott raise that point of order?

Prof. Anyang'-Nyong'o: Mr. Temporary Deputy Speaker, Sir, I thank the Attorney-General, Mr. Sitswila Amos Wako, Esquire very much for the information he has given me.

(Laughter)

I did not know that Mr. Biwott had lost his other portfolio. These portfolios are shuffled around so frequently, and some of us who are busy doing other things---

Dr. Kituyi: On a point of information, Mr. Temporary Deputy Speaker, Sir. I would like to inform Prof. Anyang'-Nyong'o that Mr. Biwott is the Minister in charge of Regional Co-operation notwithstanding the claims by Mr. Eugene Amos Sitswila Wako!

Prof. Anyang'-Nyong'o: Mr. Temporary Deputy Speaker, Sir, you do understand the critical role Mr. Biwott plays in the Cabinet; that his portfolios are the concern of everybody, and the Attorney-General keeps a good tab on his movement.

That notwithstanding, I would like to urge this House that, when we are extending the time of the Ghai Commission, we realise the reason why we are doing so. The reason has got to do with the importance of the Constitution and the content of that Constitution and that elections are very tiny part of it. In any case, when we will pass The Constitution of Kenya (Amendment) Bill next week, we will fix the time when this Parliament will be elected. According to that Bill, it will be on 2nd February, every year. So, we are already thinking ahead and saying that, as we argue for this extension, we should also give powers to this Parliament to fix the date of elections, so that even the new dates we are fixing, if we go by this Motion, we shall have finished discussing the new Constitution and go into elections on Tuesday, 2nd February, next year with the new Constitution which the people of Kenya want.

Mr. Temporary Deputy Speaker, Sir, with those many remarks, I beg to support the Motion.

The Temporary Deputy Speaker (Mr. Imanyara): Hon. Members, I am proposing to deal with the

amendments which are being proposed and then we go back to the substantive Motion. The amendments are by Dr. Ochuodho and Mr. Anyona. The formal amendment is by Mr. Kajwang. I would like to start with Dr. Ochuodho's amendment.

Dr. Ochuodho: Mr. Temporary Deputy Speaker, Sir, I would like to move the following amendments:-

THAT, the words "four months from 4th October, 2002 to 4th February 2003", in the last page of the Report, be replaced with the words, "two months from 4th October, 2002 to 4th December, 2002"; in the event that the final report shall not be ready, a further one month extension be granted up to 3rd January, 2003; provided that the final agreement reached by the National Constitutional Conference shall become the new Constitution and besides, this extension shall be subject to entrenchment of the review process in the Constitution.

The Temporary Deputy Speaker (Mr. Imanyara): Dr. Ochuodho, I need a copy of those amendments.

Dr. Ochuodho: Mr. Temporary Deputy Speaker, Sir, I have already delivered a copy of the amendments to the Clerk. I am moving those amendments because I would be happy to support adoption of the Report on three conditional grounds. Firstly, a four month extension is too long. Secondly, I think to show---

The Temporary Deputy Speaker (Mr. Imanyara): Order, Dr. Ochuodho! You cannot have three amendments in one. You must decide which one you want. You have got about three proposed amendments in one! You must choose one of them!

Dr. Ochuodho: Mr. Temporary Deputy Speaker, Sir, I will go for the one which extends the life of the Ghai Commission to 3rd January, next year.

The Temporary Deputy Speaker (Mr. Imanyara): Could you now read your proposed amendment?

Dr. Ochuodho: Mr. Temporary Deputy Speaker, Sir, the proposed amendment reads as follows:-

THAT, the words "four months from 4th October, 2002 to 4th February, 2003" be replaced with "three months from 4th October, 2002 to 3rd January, 2003."

Mr. Temporary Deputy Speaker, Sir, in moving that amendment, I would like to say that the current Report must be consistent with the position that the National Alliance for Change (NAC), of which I am a member, has taken so far. The position of NAC is that elections must be held by the end of the year under the new Constitution.

Mr. Temporary Deputy Speaker, Sir, the current Report seems to anticipate the extension of Parliament. I am saying so because, by 4th February, 2003, the date being proposed by the Committee--- Whereas we know that Members of Parliament were sworn in on that date, in 1998, we are also aware that the President was sworn in a month earlier, that is 3rd January, 1998. I am not insensitive to the fact that the Constitution allows the President to continue in office until a new President is elected. So, I know that legally, even up to February next year, President Moi will still be in office. But I am also aware of the fact that he will only be allowed to have executive powers, but will not sign Bills into law. So, it is in that regard that I am proposing that we limit ourselves to January next year.

Mr. Temporary Deputy Speaker, Sir, I must also register my concern about what my colleagues from the other side of the House said. It seems that they are not convinced that it is necessary to complete the constitutional reforms. I shudder at the thought that we approve the extension as it is currently being sought, and then come that time, they will ask for more time given that, the Ghai Commission does not have a free hand as we have seen in the last few months. It is in that regard that whatever extension we are going to have, it must be within the life of the current Parliament. Any attempt to extend the life of the current Parliament will become a taboo which will not be welcomed by the Kenyan people. If I had a choice, I would have recommended that we make sure that we have the final document ready by the end of this year. As legislators, we know that the life of this Parliament can continue up to January or February next year, whichever interpretation one chooses to take. But the ordinary Kenyan in the streets knows that the life of the current Parliament will end on 29th December, which is the day when we were voted in. If I had been allowed to move the amendments I desired, I was going to say that we must limit ourselves to the two months instead of the three months I am now proposing. But given that, even if we extend the term of the Ghai Commission, Parliament might stand dissolved. That is why I wanted to move a further amendment which would read as follows:-

"THAT, in the event that there is no Parliament sitting at the time the Ghai Commission completes its work in January, next year, we allow the National Constitutional Conference to be converted into a National Constitutional Assembly so that whatever they finally agree on, automatically becomes our new Constitution, so that, that can be realised without a Parliament being in existence."

Mr. Temporary Deputy Speaker, Sir, we know that, that has happened in other countries like South Africa and Uganda. Therefore, it is not a must that we must have a Parliament in place to legitimise a Constitution.

Mr. Temporary Deputy Speaker, Sir, we seem to be shelving the idea of entrenching the process in the Constitution. Until the other side of the House accepts that we need to entrench this process in the Constitution, I am still hesitant to believe that they are committed to constitutional reforms. I appeal to them that if they are genuine in their clamour for constitutional reforms, then they should allow the entrenchment of the process in the Constitution. By so doing, we shall know that KANU is committed to the constitutional reform process.

Mr. Temporary Deputy Speaker, Sir, I know that KANU has used every opportunity to blame the Ufungamano Initiative for the delay that has been occasioned to the Ghai Commission. It is a fact that KANU blames the Opposition, even for mistakes which they are responsible for. I find no justification in that blame. I hope, in trying to apportion blame, they should take heed of what Mr. Sunkuli said in his contribution. I was listening very attentively during his contribution and, for once, I found similarities between him and his erstwhile enemy, Prof. Saitoti, who said the Committee is confused when it comes to matters of the Constitution. Mr. Sunkuli did confirm today that KANU seems to be confused as to what is happening within the Ghai Commission. They seem to be unsure of where we are, and why we are asking for extension. But that confusion seems to have been deliberately orchestrated by someone. But I know that, that someone is not the hon. Attorney-General. I believe that he is well-meaning in this process.

With those remarks, I beg to move and call upon Mr. Munyao to second the amendment.

Mr. Munyao: Mr. Temporary Deputy Speaker, Sir, I stand to second the amendment moved by Dr. Ochuodho. Although I am seconding the amendment, I would also like to state that I support the Motion entirely.

Mr. Temporary Deputy Speaker, Sir, the Eighth Parliament is the first Parliament to have done wonderful things. The issues which the Eighth Parliament has solved are enormous. I, therefore, request this Parliament to accept the amendment by Dr. Ochuodho, so that it can go on record as having spearheaded the review of the Constitution. I will even go further to ask that the issue of the Constitution of Kenya Review Commission be entrenched in the Constitution so that whatever effort has been done until now, will be continued further.

The current Constitution has been in use for about 40 years. In the real situation, we actually need another 40 years, after the Constitution of Kenya Review Commission, which we are discussing; in order to create room for civic education. I am saying this because hon. Members like Messrs. Affey and Sunkuli were born just in between the 40 years that we have had this Constitution. In their minds, they have only known KANU and some issues about KANU, and they need 40 years to remove those issues from their minds. Each day they have known KANU and the colonial issues; they need to know something a bit different. The truth is that, we do not have the 40 years because we need those 40 years to clean the minds of young people like Messrs. Affey and Sunkuli. We need to bring them to where we are so that Kenya can become normal.

Because we do not have such time, what do we do? We have to carry on so that we get something decent to take us to the next stage. I would like to urge that, even after entrenching the Constitution of Kenya Review Commission into the Constitution, and even after getting a new Constitution, we will not have enough time. I would like to urge this Parliament or whichever Parliament, to vote enough money for civic education. This is because even after we have had the new Constitution, we will still need a lot of civic education so that 30 million Kenyans, by then they could be 32 million, or 35 million, must know and understand their own Constitution, like it happens in other countries.

Mr. Temporary Deputy Speaker, Sir, I have heard hon. Members of the Select Committee on the Constitution of Kenya Review Commission, under the Chairmanship of hon. Raila--- The Mover of the Motion, Mr. Kajwang, moved it very well and he was supported by the Leader of the Official Opposition; but when Mr. Affey stood up to speak, I wondered whether they have been in the same Committee, because he brought out some other logistics and all that---

(Mr. Affey stood up in his place)

Mr. Affey, just hold on until I make my point! If you start now, you will not know what I am saying!

The Assistant Minister for Foreign Affairs and International Co-operation (Mr. Affey): On a point of order, Mr. Temporary Deputy Speaker, Sir. The hon. Member has, of course, referred to my contribution. When I was contributing, I never contradicted the Report! Indeed, I did support it and that is why I seconded it. I do not know what point the hon. Member is raising with regard to my contribution!

Mr. Munyao: Mr. Temporary Deputy Speaker, Sir, all I am saying is that, let us have one voice from that Committee, because even after supporting the Motion, the hon. Member used the word "but" several times. He should not have used the word "but", if he was in the same Committee! We expect hon. Members of that Committee to come out with one voice. We should be proud because the earlier Commissioners of the Constitution of Kenya Review Commission, who were very few--- They went to Britain for about three to four months and they concluded a document and came back. I hope this document which we are discussing about represents the opinion of 30 million Kenyans. So, I am sure we will get a good document.

Mr. Temporary Deputy Speaker, Sir, I will not end my contribution before thanking, particularly, the Select Committee and its Chairman, Mr. Raila, and all the rest of the Members; including the Attorney-General, who has worked tirelessly to bring up this document, even with all its shortfalls. But, at least, they burnt their last oil to try and give us a good document.

Mr. Temporary Deputy Speaker, Sir, I also want us to appreciate the efforts made by the Ufungamano Initiative. At this stage, I expected the Attorney-General, who spoke very well during the recent funeral of the late Dr. Oki Ooko Ombaka, to propose to the Chair that, at least, we observe one minute silence to remember that great Kenyan, who had worked so hard for the Constitution of Kenya Review Commission. That was an oversight, it is not late, because I expect that when the Attorney-General comes up to respond to further amendments, to, please, request the Chair, so that this House observes one minute silence to remember the late great Kenyan, Dr. Oki Ooko Ombaka. I also thank the Bishop and the rest who contributed to this noble achievement.

Mr. Temporary Deputy Speaker, Sir, as I finalise my contribution in seconding, I want this House to commit itself and ensure that it shall be done. We will have a good Constitution, which we know, and Prof. Yash Pal Ghai and his Commissioners have assured us, that they will give us a good Constitution; and it will be ready this year. I do not know why we should have some doubts, let us wait and go by the calendar which Prof. Yash Pal Ghai has given us, and we will go for the general elections with a new Constitution.

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

The Temporary Deputy Speaker (Mr. Imanyara): Order! Order, hon. Members. We have a lot of work to cover and there is not much time. So, I will go straight and put the Question.

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

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

(Question of the second part of the amendment, that the words to be inserted in place thereof be inserted, proposed)

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

(Question of the Motion as amended proposed)

Mr. Anyona: Mr. Temporary Deputy Speaker, Sir, the amendment was moved and it was seconded. But the question was not proposed! The question must be proposed, then you can put the question.

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Anyona, I have put the question, and I did it because during the discussions, both Mr. Muniyao and the Mover, not only did they propose the amendment, but they contributed to the Motion, and that is why I had to put the question.

(Applause)

So, Mr. Anyona, you may now present your proposal.

Mr. Anyona: Mr. Temporary Deputy Speaker, Sir, I beg to move that the Motion and the Report of the Select Committee, on the Constitution of Kenya review process, on the extension of time of the Constitution of Kenya Review Commission, laid on the Table of the House on Wednesday, 12th June, 2002, be amended as follows:-

By deleting the words "4th February, 2003" appearing in the fourth and fifth lines of paragraph 50 of the Report---

An hon. Member: That one has been amended already!

The Temporary Deputy Speaker (Mr. Imanyara): Order! Order, hon. Members! Mr. Anyona, of course, you may further amend, because you cannot amend what has already been amended.

Mr. Anyona: Yes, I am further amending!

The Temporary Deputy Speaker (Mr. Imanyara): Yes, but you are not saying whether you are further amending the Motion; you are talking about the Motion that has already been amended!

Mr. Anyona: Yes, I propose that the Motion as amended be further amended by deleting the words "4th February, 2003" appearing in the fourth and fifth lines of paragraph 50 of the Report at page 14, and substitute thereof, the words "15th May, 2003."

Hon. Members: No way! No! No!

The Temporary Deputy Speaker (Mr. Imanyara): Order! Order, hon. Members!

Mr. Anyona: Mr. Temporary Deputy Speaker, Sir, before I debate the Motion as further amended, there is one principle that must be clearly understood. I think that is what is causing confusion in this House!

(Mr. Gumo consulted with the Attorney-General)

If only Mr. Gumo and the Attorney-General could listen!

The Temporary Deputy Speaker (Mr. Imanyara): Order! Mr. Gumo, Mr. Anyona wants you to listen to him!

Mr. Anyona: Mr. Temporary Deputy Speaker, Sir, I would particularly like the Attorney-General to listen because what I am raising are matters of law.

Dr. Ochuodho: On a point of order, Mr. Temporary Deputy Speaker, Sir. In all fairness, would it not be proper that hon. Members be allowed to contribute to the Motion as amended before a further amendment to it is proposed?

The Temporary Deputy Speaker (Mr. Imanyara): You will have your chance, Dr. Ochuodho.

Could you proceed, Mr. Anyona?

Mr. Anyona: Mr. Temporary Deputy Speaker, Sir, the Attorney-General may have to help the House. We all agree that the life of the Constitution of Kenya Review Commission (CKRC) should be extended. The question now is up to when the life of the Commission should be extended. The Commission has asked for an extension of its life up to 15th May, 2003. However, the Select Committee seeks to give the Commission up to 4th February, 2003 on the understanding that, that is the date of expiry of the life of Parliament. In the course of this debate, it emerged that the life of Parliament ends on 3rd January, 2003. So, we can only give the Commission up to 3rd January, 2003, to complete its work. The argument is that Parliament cannot extend its mandate beyond its life.

QUORUM

Mr. Kibicho: On a point of order, Mr. Temporary Deputy Speaker, Sir. We cannot discuss a very important amendment like the one being proposed by Mr. Anyona when we do not have a quorum!

The Temporary Deputy Speaker (Mr. Imanyara): Hon. Members, I am afraid that we do not have a quorum. So, could the Division Bell be rung?

(The Division Bell was rung)

The Temporary Deputy Speaker (Mr. Imanyara): Order! Order! Hon. Members, we now have a quorum. So, could we proceed?

Mr. Anyona: Mr. Temporary Deputy Speaker, Sir, the argument is that Parliament cannot commit itself to work beyond its own life. That is why I sought to know from Mr. Kibaki the legal provisions on that position. I think he talked about conventions. That is why I said I would like the Attorney-General to help us. So, he had better stop talking to Mr. Gumo and listen to what I am saying.

The Assistant Minister, Office of the President (Mr. Gumo): I am moving away from him!

Mr. Anyona: You had better move away from him, because we need some help from him.

Mr. Temporary Deputy Speaker, Sir, my understanding is that Parliament has made a law on the review of the Constitution. That law makes provision for Parliament to extend the life of the Commission up to any time it wishes. That is precisely what Parliament seeks to do now. The law will continue to be operational whether this Parliament continues to exist or not, until it is amended by another Parliament. So, it is not correct to argue that if we extend the tenure of the Commission beyond the life of this Parliament we will be extending our mandate irregularly. We would, therefore, like the Attorney-General to tell us whether it is correct to argue that we cannot amend a law to make a provision which will continue to have effect beyond the life of this particular Parliament and until the law itself is repealed by another Parliament.

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Anyona, would you like the Attorney-General to respond?

Mr. Anyona: Mr. Temporary Deputy Speaker, Sir, I think it is important for the Attorney-General to

respond.

The Temporary Deputy Speaker (Mr. Manyara): Mr. Attorney-General, could you respond to Mr. Anyona's sentiments?

The Attorney-General (Mr. Wako): Mr. Temporary Deputy Speaker, Sir, obviously, while we are in this House, Mr. Speaker is the ultimate interpreter of all the issues raised. However, to assist the hon. Member, I would say that, to the extent of his argument, he is right. Laws passed by Parliament continue to be operative beyond the life of that particular Parliament which passed them. That is why, whenever Parliament passes a law, it continues to be in force until it is amended or repealed by Parliament again at a future date. It could be amended after ten years, or 20 years, or after any length of time. My understanding of the amendment before the House is that, in effect, this Parliament is saying that it wants to extend the life of the Commission, so that it can do whatever it has to do within the life of this Parliament. Parliament can, indeed, do that. Parliament can say: "As far as this law is concerned, we want it to be our responsibility; it must be implemented within the life of this Parliament." So, Parliament can actually do what it now seeks to do.

Mr. Anyona: Mr. Temporary Deputy Speaker, Sir, the Attorney-General seems to have said that this Parliament is saying that there must be a new Constitution by 3rd January, 2003. The misconception is that the life of Parliament ends on 3rd January, 2003. That is not correct. The life of this Parliament ends on 4th February, 2003. The current President's term of office legally ends on 3rd January, 2003. Normally, a President stays in office until a new President takes over. However, when Parliament is dissolved, its life is deemed to have ended. Therefore, I am pleading that the argument about overshooting our mandate as Parliament is not valid. We can extend the life of the Commission beyond the life of this Parliament.

What is the reason for seeking the extension of the Commission? First of all, under the law, the Commission can, if necessary, ask for an extension of its time; it can also recommend minimum amendments to the Constitution. As it is now, the Commission has asked for an extension of its time; it does not recommend minimum amendments to the Constitution. So, this House can only consider what the Commission has asked for. The Commission has very crucial functions. Its first function is civic education. In the view of some of us, this function has not been discharged very well; partly because of the confusion that was explained.

The Commission's other function is collection of views from the people. The Commission became vigorous in respect of this function only recently. When the Commission went to Kitutu Masaba, only 300 people turned up to give their views. The people did not know that the Commission would go there on that day. So, can you truly say that the Commission is collecting the views of the people? Then there is the function of collating those views.

More importantly, Kenyans have asked the Commission to rationalise the organs of State and mainly the Executive. Issues like the creation of post of Prime Minister and having our future Vice-President elected by the people rather than being selected by the President have emerged. Other issues that have emerged are whether to embrace a federal system of Government or retain the unitary system, and whether we need a Supreme Court. Some of us feel that the Commission has not even scratched the surface of these issues. Really, we have wasted a lot of time dancing on the periphery and creating a lot of confusion amongst ourselves and the people.

Mr. Temporary Deputy Speaker, Sir, the Commission's other most important question is the review of the Local Government system. One of the problems that this country must resolve is how to manage the Local Government rationally, so that it becomes an effective organ that is in harmony with the Central Government, and so that it can deliver services to the people. I will be very surprised if it emerges that the Commission has done anything at all on the Local Government system. The third and most sensitive issue is land. Has the Constitution of Kenya Review Commission (CKRC) talked about land issues anywhere? For instance, there are serious land problems at the Coast Province. What views does the Commission have from Coast Province, for instance? There are serious land issues being raised in Maasailand. Has the Commission heard people's views on land issues?

Mr. Temporary Deputy Speaker, Sir, these are some of the reasons why the Commission requires more time. In my view, even the time the Commission has asked for is not enough. The time the Commission has asked for is only enough to facilitate the general election. But we will have elections before sorting out the problems that we have in the country.

Secondly, the Chairman of the CKRC says a thing today, a different one tomorrow and a different one the other day. So, now we do not know what he wants. He said that he would produce a draft Report in September, 2002, and a draft Bill in October, 2002. I do not know whether that will be achieved. Then he has asked for an extension of the life of the Commission up to May, 2003. How do you produce a draft Constitution when you have not completed the review process? We must accept that the general election cannot now take place under a new Constitution. We must have elections under the current Constitution. As Mr. Affey and Prof. Anyang'-Nyong'o said, the Commission really needs all the time in the world to complete the review process. In my view, the new Constitution will come into operation at the start of the life of the Tenth Parliament. If we hold elections under the current Constitution, the new

Government will have a mandate. How do you then bring in a Constitution in between, which provides that we should have a Prime Minister and a Vice-President who is elected by the people? Do you stop mid-stream and start doing these things? So, we will have to leave it to the next Parliament to ratify the new Constitution and make the necessary laws that will implement it. You cannot also implement the new Constitution without the enabling laws.

Mr. Temporary Deputy Speaker, Sir, my position is that such an important issue to this country that we must not act in vain. That is why I am saying that, if the Commission wants its life extended up to 15th May, 2003, this should be done. In my view, the Commission will not even have finished the review process. But, at least, that is the period it has asked for. If the Commission had proposed minimum amendments to the current Constitution, then we would have done something to the current Constitution. The Commission has not proposed minimum amendments, and apart from the Bill that was here this afternoon, I do not know whether this Parliament, or the Government, is in a position to propose minimum amendments. It appears as if this is not acceptable.

So, this Parliament must think carefully about this issue. Even if we extend the life of the Commission, the President still has the power to dissolve Parliament any time before the end of January, 2003. How do you control that reality? That is what we should be thinking about. After we extend the life of the Commission up to February, 2003, how do you obligate the new Parliament to take up the review process from there? Those are the kind of things we should be thinking about if we suspect that there is a problem, and amend the current Constitution before we extend the life of the Commission.

I think I have made my point, and I beg to move the amendment.

The Temporary Deputy Speaker (Mr. Imanyara): Who is seconding your amendment?

The Assistant Minister for Foreign Affairs and International Co-operation (Mr. Affey): Mr. Temporary Deputy Speaker, Sir, very briefly, I stand to---

The Temporary Deputy Speaker (Mr. Imanyara): But I thought you seconded the other amendment!

The Assistant Minister for Foreign Affairs and International Co-operation (Mr. Affey): Mr. Temporary Deputy Speaker, Sir, I seconded the amendment which proposed that the Commission's life be extended up to May, 2003.

The Temporary Deputy Speaker (Mr. Imanyara): I thought you were the Secunder of Mr. Kajwang's amendment.

The Assistant Minister for Foreign Affairs and International Co-operation (Mr. Affey): Mr. Temporary Deputy Speaker, Sir, precisely yes, but in my contribution, I said that the life of the Commission should be extended up to 14th May, 2003.

The Temporary Deputy Speaker (Mr. Imanyara): You are out of order!

The Assistant Minister for Foreign Affairs and International Co-operation (Mr. Affey): Mr. Temporary Deputy Speaker, Sir, that does not change the position!

Mr. Maitha: Mr. Temporary Deputy Speaker, Sir, I am not seconding Mr. Anyona's amendment, but I want to contribute to the Motion as it is.

The Temporary Deputy Speaker (Mr. Imanyara): Order! I want a Secunder for Mr. Anyona's amendment.

An hon. Member: There is none!

The Temporary Deputy Speaker (Mr. Imanyara): Who is your Secunder, Mr. Anyona?

Mr. Anyona: Mr. Temporary Deputy Speaker, Sir, Standing Order No. 78 states:-

"Where an amendment has been moved and if necessary seconded, debate must be confined to the amendment: Provided that---"

So, it is not even necessary for this amendment to be seconded.

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Anyona, if you wish to read the Standing Order, read the whole of it. Do you have a Secunder or not?

Mr. Anyona: Mr. Temporary Deputy Speaker, Sir, I am saying that there is nothing in the Standing Orders to disqualify my amendment.

The Temporary Deputy Speaker (Mr. Imanyara): Order! I will allow Mr. Affey to contribute.

Mr. Maitha: But I was at the Table!

The Temporary Deputy Speaker (Mr. Imanyara): What table were you at?

The Assistant Minister for Foreign Affairs and International Co-operation (Mr. Affey): Mr. Temporary Deputy Speaker, Sir, I wanted to say that if we have---

The Temporary Deputy Speaker (Mr. Imanyara): Will you not wait for me to propose the question of the amendment? Anyway, let me do Mr. Anyona a favour by proposing the question. I have that discretion.

(Question of the first part of the amendment,

*that the words to be left out
be left out, put and
negatived)*

We will revert to Dr. Ochuodho's amendment.

(Debate on the Motion as originally amended resumed)

The Assistant Minister for Transport and Communications (Mr. Keah): Mr. Temporary Deputy Speaker, Sir, I will be very brief. I would like to support the Motion as amended; it provides that the life of the Commission be extended up to 3rd January, 2003.

When we set the date of 4th October, 2002, we had a vision and a mission for the CKRC. Because of the delay that arose at the beginning, the Commission could not commence its work and, therefore, the extension of the Commission's tenure from 4th October, 2002, to 3rd January, 2003, is certainly very justified. This is why I support the amendment. Further, I want to take this opportunity to urge the Commission to show that they can finish their work so that this new Constitution comes into being before the next general elections. That is the wish of Kenyans. However, I would also like to add that if for any reason they cannot, then everybody must really swallow their pride particularly those who were saying we must have reforms and changes before the next general elections, in which case then, we will have the elections under the old or the current Constitution and let nobody cry foul if that were the case. So, it is important that the Constitution of Kenya Review Commission (CKRC) works day and night and makes sure that when they say the draft Constitution will be ready in September, it will be the case and make sure that all those stages under which the Constitution must run through are, in fact, followed so that we go to the elections with the new Constitution.

With these remarks, I beg to support.

The Temporary Deputy Speaker (Mr. Imanyara): Mrs. Mugo! You have three minutes to contribute!

Mrs. Mugo: Thank you, Mr. Temporary Deputy Speaker, Sir. I too want to add my voice in supporting this Motion as amended. I also want to stress to the Commissioners that they owe it to Kenyans to finish this constitutional review process. The Chairman and the Secretary of the Commission have both been on record claiming that they can finish their work even before December and that we can go to the elections with the new Constitution.

Mr. Temporary Deputy Speaker, Sir, I want to urge the Select Committee to sit down and work out new benchmarks which will force the Commission to finish on time and inform this House immediately the time the Commissioners fall back on their promise. This is because I only support this Motion on the assumption or condition that they will finish their work as promised; even before December. I am saying this because I commend Prof. Ghai. I think he has worked under very difficult circumstances with some Commissioners scheming up together and going against the Chairman or showing the spirit that they cannot finish their work and they do not even have reasons why they cannot finish their work.

The Minister for Vocational Training (Mr. Ruto): On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for the gracious lady to mislead the House that it is actually the

[**The Minister for Vocational Training**] Commissioners who are sabotaging the Chairman and yet it is the Chairman who is going against the spirit of the whole Commission?

The Temporary Deputy Speaker (Mr. Imanyara): Order! You are out of order!

Proceed!

Mrs. Mugo: Mr. Temporary Deputy Speaker, Sir, it is common sense, and Kenyans know it. Mine is to ask them to have that spirit; that all of us are working for this document and we are all committed to finishing it, otherwise we will hold it against the Commissioners.

Mr. Temporary Deputy Speaker, Sir, since you gave me such a short time to contribute, with those words, I support.

Mr. Kajwang: Thank you, Mr. Temporary Deputy Speaker, Sir. I want to move the Motion as amended that:-

THAT, this House adopts the Report of the Select Committee on the Constitutional Review process on the extension of duration of the Constitution of Kenya Review Commission, laid on the Table of the House on Wednesday, 12th June, 2002 subject to deleting the words "four months" from 4th October, 2002 to 4th January 2003 appearing in the fourth and fifth lines of paragraph 50 of the Report and substituting thereof the words "three months" from 4th October 2002 to 3rd January, 2003.

The Temporary Deputy Speaker, Sir, I want to congratulate the Members for the support the Select Committee has received from all of them and with very helpful proposals that they have made. We hope that, with this

extension which has been given to the Commission, it will move speedily and utilise the time given to it and deliver to us a new Constitution before 3rd January 2003 to enable us to proceed to our next general elections with a new Constitution. I do not want to say more than that.

Thank you.

The Temporary Deputy Speaker (Mr. Imanyara): Hon. Members, before I put the Question, I wish to remind hon. Members that we still have the Zero-Hour after I put the Question because I have received some applications.

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

Resolved accordingly:-

THAT, this House adopts the Report of the Select Committee on the Constitutional Review process on the extension of duration of the Constitution of Kenya Review Commission, laid on the Table of the House on Wednesday, 12th June, 2002 subject to deleting the words "four months" from 4th October, 2002 to 4th January 2003 appearing in the fourth and fifth lines of paragraph 50 of the Report and substituting thereof the words "three months" from 4th October 2002 to 3rd January, 2003.

MEMBERS HALF-HOUR STATEMENTS'

The Temporary Deputy Speaker (Mr. Imanyara): Hon. Members, it is now time for Members-Half-Hour-Statements and I have two requests from Messrs. N. Nyagah and Muihia.

FATE OF 32 DISMISSED KENYA AIRWAYS EMPLOYEES

Mr. N. Nyagah: Mr. Temporary Deputy Speaker, Sir, I demand a Ministerial Statement from the Minister for Transport and Communications; to give reasons as to why 32 employees of Kenya Airways were dismissed on the 18th of April, 2000 without allowing them to put up a defence case. Secondly, he should also give an explanation as to who conducted the investigations and why the Kenya Police Anti-Narcotics Unit was never involved. Thirdly, he should indicate the length of each of those employees dismissal and terms of employment; whether permanent or on contract. Fourthly, I ask the Minister whether he could immediately consider reinstating the dismissed 32 workers and also to explain why Clause 37 (C) of the Collective Bargaining Agreement (CBA), between the Transport Allied and Workers Union and Kenya Airways was invoked whereas it involved narcotics. Lastly, the Minister should also indicate to us whether it is a common norm worldwide and also since the inception of East African Airways and Kenya Airways, that the change of rosters is a common phenomenon.

Thank you.

The Minister for Transport and Communications (Mr. Mudavadi): Mr. Temporary Deputy Speaker, Sir, I would like to respond to this on Thursday next week.

The Temporary Deputy Speaker (Mr. Imanyara): Mr. N. Nyagah, is that okay?

Mr. N. Nyagah: Mr. Temporary Deputy Chairman, Sir, may I plead with the Minister that, because of the gravity of this matter and since Thursday will be a very busy day if he indeed,

[Mr. N. Nyagah]

would accept to issue this Ministerial Statement on Wednesday? If he does that, I will appreciate.

The Temporary Deputy Speaker (Mr. Imanyara): Okay, he will do it on Wednesday morning. Mr. Muihia!

INSECURITY IN GATUNDU SOUTH

Mr. Muihia: Mr. Temporary Deputy Speaker, Sir, armed thugs recently invaded Kigongo Village of Kiamothe Location in my constituency and robbed the residents indiscriminately. On 27th July, gangsters invaded the home of one, Gachoka Ganyonyi, at Kiganjo, beat him up and his wife, broke their hands and stole some money from them. On the same night, they invaded the house of Mrs. Wachuka and took away a video, some money and other property. On 28th July, gangsters raided a petrol station in Gatundu South and robbed the station before descending on patrons at Mutomo Trading Centre where they beat up people and robbed them. On 29th July, carjackers accosted a *matatu* driver, a Mr. Mburu, at 5.00 a.m. in the morning which is the time for the early travellers, robbed and beat up the passengers along Kenyatta Road. On 30th July, carjackers, at about 7.30 p.m. in the evening, accosted a *matatu* driver and his passengers at Kimunyu, along Kenyatta

Road, and shot dead Mr. Rumbi Kimani Kaara and wounded the driver and the passengers.

In view of this sudden upsurge of vicious raids and attacks in Gatundu South Constituency, I seek a Ministerial Statement from the Minister of State, Office of the President in charge of internal security on what action he is going to take to stop this insecurity.

The Minister for Transport and Communications (Mr. Mudavadi): Mr. Temporary Deputy Speaker, Sir, I would like to suggest that the Statement be made on Wednesday morning.

ADJOURNMENT

The Temporary Deputy Speaker (Mr. Imanyara): Hon. Members, on that note, it is time for the interruption of business. The House is, therefore, adjourned until Tuesday, 6th August at 2.30 p.m.

The House rose at 7.30 p.m.