

NATIONAL ASSEMBLY

OFFICIAL REPORT

Tuesday, 1st December, 1998

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

ORAL ANSWERS TO QUESTIONS

Question No.661

INSECURITY IN KOMBWEA DIVISION

Mr. Speaker: Professor Anyang'-Nyong'o not here? We will leave his Question until the end. Let us move on to the next Question.

Question No.723

DISAPPEARANCE OF MR. MOKUNGU

Mr. Anyona asked the Minister for Health:-

- (a) whether he is aware that an in-patient, Derclan Barare Mokungu, disappeared on 5th November, 1997 after admission to Kisii District Hospital on or about 30th October, 1997;
- (b) whether he is further aware that this case was not reported to Kisii Police Station; and,
- (c) if the answers to "a" and "b" above are in the affirmative, what measures have been taken to establish his whereabouts.

The Assistant Minister for Health (Mr. Criticos): Mr. Speaker, Sir, I beg to reply although I tender my apologies on part "b" of the Question on the Order Paper.

(a) Yes, I am aware that an in-patient, Derclan Barare Mokungu, absconded from the Mental Ward in Kisii Hospital on the 5th November, 1997.

(b) I am not aware that the matter was not reported to the police. I am, however, aware that the matter was reported to Kisii Police Station at about 1.00 p.m. in the afternoon on the same date, 5th November 1997, and the Police Station took action by entering it in

the Occurrence Book (OB). Now, the number in the OB is 45/5/11/1997.

(c) Neither the police nor the relatives have ever gone back to the hospital to give the latest development on this matter.

Mr. Anyona: Mr. Speaker, Sir, it is not true to say that the relatives have not been to the hospital to give them what you might call a progress report because I do have massive correspondence here between the family members and the hospital and so it is not correct for the Assistant Minister to say that. What I would like to find out is that if at all the family says that this patient was admitted and then discharged and there were two relatives who were looking up to this Question but when he was discharged they said that they paid a hospital fee; and then mysteriously, this patient was sent away and this patient was admitted in what now became a mental ward and he was not a mental case and from then on, he disappeared. Could he explain what happened? I beg first to lay on the Table the letters from the family and the reply from his staff in Kisii.

(Mr. Anyona laid the letters on the Table)

Mr. Criticos: Mr. Speaker, Sir, I thank the hon. Member for enlightening me on this one. However, this is what I received as a reply from the MOH at the Kisii Hospital. I can further investigate and that is all that I can promise

this august House in the light of this evidence and so, I need to have a look at the documents.

Mr. Speaker: So, what are you suggesting?

Mr. Criticos: Could I have some more time to investigate and bring it to the august House, most probably next week?

Mr. Speaker: Very well. I will defer the Question.

(Question deferred)

Question No.704

REPAIR OF THUA BRIDGE

Mr. Kitonga asked the Minister for Public Works and Housing:-

(a) whether he is aware that Thua Bridge which broke down in 1994 and was repaired in 1996 has broken down again; and,

(b) if the answer to "a" above is in the affirmative and considering the fact that the bridge is an important link between Kitui and Zombe markets, what action the Ministry is taking to repair the bridge.

The Assistant Minister for Public Works and Housing (Mr. Khaniri): Mr. Speaker, Sir, I beg to reply.

(a) I am aware that Thua Bridge has broken down as a result of use by heavy trucks which were transporting famine relief supplies to Kitui District.

(b) The Ministry is planning to repair the Bridge at a cost of approximately Kshs500,000. The works will be implemented under the on-going Mwitasyano Bridge Project. The works will commence as soon as the contractor completes Mwitasyano Bridge.

Mr. Kitonga: Bw. Spika, jawabu niliopatiwa ni nzuri lakini kwa vile tunajua lile daraja, ndilo linaunganisha upande wa Kitui, Mtito, Endau na Malalani na hata kile chakula kilichokuwa kinaletwa kiliishia hapo--- Je, Waziri Msaidizi, anaweza kuhakikisha ni hatua gani inayoweza kuchukuliwa haraka iwezekanavyo, kwa sababu huu ni wakati wa mvua na tunajua daraja ikishavunjika kabisa mawasiliano yatakuwa magumu? Unanielewa?

Mr. Khaniri: Mr. Speaker, Sir, I have stated the action that we are taking. I have said that the construction of the Nthuja Bridge is included in the on-going construction of Mwitasyano Bridge project and as soon as the contractor completes Mwitasyano Bridge in the very near future, he will embark on this particular Bridge.

Mr. Kitonga: Jambo la nidhamu, Bw. Spika. Nastaajabu kwa sababu anasema "as soon" na sijui anasema nini. Sasa, wewe unazungumza Kiswahili ama Kiingereza?

Dr. Kituyi: Ameuliza swali lingine kwa Kiingereza?

Mr. Kitonga: Nimeliuliza swali kwa Kiingereza.

Mr. Speaker: Sasa jambo lako la nidhamu ni nini?

Mr. Kitonga: Bw. Spika, mimi nashangaa kwa sababu anasema "as soon." Anamaanisha muda gani?

Mr. Khaniri: Mr. Speaker, Sir, the contractor is currently working on Mwitasyano Bridge and we expect that in the next two to three months, he should be through with Mwitasyano Bridge and that is when he embarks on Thua Bridge.

Question No.228

DISBURSEMENT OF ROADS 2000 PROGRAMME FUNDS

Mr. Murungi asked the Minister for Public Works and Housing:-

(a) how much money has been allocated to the following districts under that Roads 2000 Programme:-

- (i) North Meru;
- (ii) Central Meru;
- (iii) South Meru,
- (iv) Tharaka; and,

(b) when the amounts will be released to the respective districts?

The Minister for Public Works and Housing (Mr. Kones): Mr. Speaker, Sir, I beg to reply.

(a) The funds allocated to the four districts for equipment under the Roads 2000 Programme are as follows:-

(i) Meru North	Kshs68,283,259
(ii) Meru Central	Kshs60,664,132
(iii) Meru South	Kshs30,013,860
(iv) Tharaka	Kshs20,013,859
Total	Kshs179,975,440

Mr. Speaker, Sir, the first amounts to be allocated to North Meru, Central Meru, South Meru and Tharaka Districts will be released during the second half of 1998/99 Financial Year. In the meantime, Kshs1 million has been released to each district for survey work. The pre-qualification of contractors has been finalised. The Ministry will tender for one road per district in December, 1998.

Mr. Murungi: Mr. Speaker, Sir, I would like to thank the Minister for this answer. But he came with the Head of the European Union to Meru in February, 1998, and launched this Fund with great fanfare. He said that each of the four Meru districts would get Kshs100 million. Could the Minister tell this House why he has reduced these amounts to the figures has read to this House? Where has the rest of the money gone to?

Mr. Kones: Mr. Speaker, Sir, it is true that I went to Meru in March with the Head of the European Union Delegation, and Kshs700 million was allocated to those districts. Each district was supposed to get approximately Kshs100 million. Now, the other money, which I have not mentioned, will go to other items, equipment, technical assistance, technical audit and contingencies. This money amounts to Kshs105 million. The reason for this is that we feel that certain districts will probably need more attention than others. So, we are keeping that money in a contingency fund. It should also be realised that---

(Loud consultations)

Mr. Speaker: Order! Order!

Mr. Kones: Mr. Speaker, Sir, it should also be realised that this is a three-year project. So, the amounts that have been allocated will be reviewed every year with a view to either increasing or reducing them, depending on the needs at that particular time.

Mr. Maore: Mr. Speaker, Sir, on 3rd March, 1997, we sat in the District Development Committee (DDC) of Meru North District, which was then called Nyambene District, to deliberate on the roads to be considered. The Minister has said that the project will take three years. If we start counting from 1997, we can say that two years are gone. The third year, 1999, is just around the corner. When does the Minister intend to commission some of those roads? According to his agreements with the donors and everybody else, when does he expect to start commissioning roads that will be built?

Mr. Kones: Mr. Speaker, Sir, I have said that we have already finalised the pre-qualification, and we intend to actually award tenders in December, 1998. That is when work on the roads will start. Then, it will take three years for the work to be completed.

Mr. Murungi: Mr. Speaker, Sir, we attended the DDC meeting of Meru Central, and were informed that there is only one road which is being done under the Roads 2000 Programme in Meru Central District. This is Meru Town-Mikindori Road, which is 15 kilometres long. Could the Minister tell this House whether he is satisfied that Kshs60 million should be invested in only one road, which is only 15 kilometres long? Is that proper use of this money?

Mr. Kones: Certainly not, Mr. Speaker, Sir. I have said that we have used Kshs1 million on survey work for one road in every district. That is what we pre-qualified the contractors for, and it is what we are tendering out. Immediately that is done, the process will continue, so that at the end of the programme, we will have done more than one road. For now, we are ready to undertake the construction of one road in each district. The survey work itself took a lot of time. So, we could not have done survey work on all the roads that we intend to do. We have started with one road, and we are progressing.

Mr. Speaker: Very well, next Question!

Question No.596

REFUND OF SHARE CONTRIBUTIONS
TO MR. MASINDE

Mr. Sifuna asked the Minister for Co-operative Development:-

(a) whether he is aware that Mr. Jackson Wafula Masinde, P/No.101676, a former member of Ulinzi

Co-operative Society Limited, has not been refunded his share contributions as per his withdrawal letter dated 6th June, 1996; and,

(b) if the answer to "a" is in the affirmative, when the society will pay Mr. Masinde his dues amounting to over Kshs23,000, plus interest accruing as from 1994 to date.

Mr. Speaker: Is the Minister for Co-operative Development here? Mr. Raphael Wanjala's Question!

Question No.749

REPAIR OF SIGIRI FERRY

Mr. Speaker: Is Mr. Wanjala here? Next Question, Mr. Sammy Leshore!

Question No.521

COMPLETION OF WATER PROJECTS
IN WAMBA DIVISION

Mr. Leshore asked the Minister for Water Resources:-

(a) whether he is aware that the three water projects in Wamba Division, which were earmarked for completion in the last financial year, have not been completed;

(b) if the answer to "a" above is in the affirmative, how much money has been allocated to these projects and put to use; and,

(c) when these projects are due for completion.

The Minister for Water Resources (Mr. Ng'eny): Mr. Speaker, Sir, I beg to reply.

(a) I am aware of two, and not three, water projects in Wamba Division, which we have financed and earmarked for completion in the 1997/98 Financial Year. These are Nairimirimo/Barisalinga and Wamba/Warimba Water Supply Projects. However, the completion of these two water projects was not possible, because the funds allocated were recalled before the completion of the projects.

(b) In the 1997/98 Financial Year, the Government allocated a total of Kshs2.1 million to the two projects. The Nairimirimo/Barisalinga and Wamba/Warimba projects were allocated Kshs550,000 and Kshs1.5 million respectively.

(c) The construction of these two projects is in progress and they are expected to be completed within the current Financial Year.

Mr. Leshore: Mr. Speaker, Sir, I would like to correct the Minister. Nairimirimo is one project, and Barisalinga is another. They are about seven kilometres apart. Secondly, I would like to also thank the Minister because in the last three months he has given me two boreholes for which I am very grateful. I would like him to maintain that spirit. However, I would like to know the criteria used by Treasury to recall the money allocated to those projects in Samburu District.

Mr. Ng'eny: Mr. Speaker, Sir, in fact, Mr. Leshore should be very grateful. The Government has considered the overall situation in that particular area. Right now, Samburu District has been allocated 10 boreholes under a Chinese programme in addition to the ones we are discussing here.

Mr. Leshore: Mr. Speaker, Sir, I would like the Minister to assure this House that the Treasury will not again recall the money allocated to those projects during this Financial Year.

Mr. Ng'eny: Mr. Speaker, Sir, Treasury is not part of the Question. We are concerned about the number of boreholes to be sunk in his constituency.

Mr. Leshore: On a point of order, Mr. Speaker, Sir. I have kindly asked the Minister to reassure this House that the Treasury will not again recall the money allocated to these projects during this Financial Year before the projected are completed.

Mr. Ng'eny: Mr. Speaker, Sir, I would like to assure the hon. Member that the two projects will be completed during the current Financial Year.

Mr. Magara: On a point of order, Mr. Speaker, Sir. Is it in order for the hon. Minister to avoid answering a genuine question? Could he assure the House that he will not use the money again for other matters?

Mr. Speaker: Next Question, Mr. Odoyo.

Question No.712

NUMBER OF CASINOS OPERATING IN KENYA

Mr. Odoyo asked the Minister for Home Affairs, National Heritage, Culture and Social Services:-

- (a) how many casinos are operating in the country and how much revenue they generate for the Government; and,
 (b) what steps the Ministry is taking to ensure that young boys and girls do not engage in gambling.

The Assistant Minister for Home Affairs, National Heritage, Culture and Social Services (Mr. Marrimoi): Mr. Speaker, Sir, I beg to reply.

- (a) There are 25 casinos operating countrywide. These are as follows:-

Kisumu	-	1
Nakuru	-	1
Nairobi	-	12
Mombasa	-	8
Diani	-	2
Malindi	-	1
Total	-	25

(b) The Betting Control, Lotteries and Gaming Act, Cap.131 of the Laws of Kenya prohibits children under the age of 18 years from entering casinos. Casino operators are well aware of this law and any casino operator who does not adhere to the law risks the cancellation of his licence.

Dr. Oburu: On a point of order, Mr. Speaker, Sir. The Assistant Minister has avoided answering the second part of "a" which reads: "and how much revenue do they generate for the Government?" He has not touched on that at all.

Mr. Marrimoi: Mr. Speaker, Sir, the total revenue collected for the last nine years is as follows:-

<u>Financial Year</u>	<u>Kshs</u>
1988/89	45,000,000
1989/90	48,000,000
1990/91	56,000,000
1991/92	72,000,000
1992/93	115,000,000
1993/94	156,000,000
1994/95	180,000,000
1995/96	200,000,000
1996/97	<u>230,000,000</u>

Total **1.2 billion**

Mr. Gatabaki: On a point of order, Mr. Speaker, Sir. When the Assistant Minister added the revenues generated for all the financial years he has mentioned, he came up with Kshs100 million. Is he not deliberately being illiterate or misleading this House?

Mr. Speaker: Order! Order! I suppose the Assistant Minister is assuming that every Member can do Mathematics.

Mr. Odoyo: Thank you, Mr. Speaker, Sir. Gambling, like alcohol and drugs, is very addictive and many families have been ruined by the insistent gambling on the part of heads of households. Is the Assistant Minister aware that in terms of the total population in Kenya, to have 25 casinos is abit too much for an ordinary country like Kenya? Why has the Ministry licensed over 25 casinos when the people who can gamble are so few?

Mr. Marrimoi: Mr. Speaker, Sir, the applicants were only 25, so there is no restriction to getting a licence.

Mr. Obwocha: Mr. Speaker, Sir, I am sure you are as amused as I am because the Assistant Minister either failed to get the question or he is totally--- Now that he has listed the revenue that is generated from all those casinos, what measures has the Government put in place to make sure that those people do not cheat the Government on how much money is due to the Government?

Mr. Marrimoi: Mr. Speaker, Sir, all the revenue collected goes to the Government.

Mr. Obwocha: On a point of order, Mr. Speaker, Sir. Is the Assistant Minister in order to evade a legitimate question? I am asking about the measures that have been put in place to make sure that the Government collects revenue which is due to it and he is talking about where the money is going.

(Laughter)

Mr. Marrimoi: Mr. Speaker, Sir, there are measures and that is why Kshs1.2 billion has been collected. The Government, through the Betting, Lotteries and Gaming Act, is concerned about ensuring that all the collections are taken to the Government. That is what I meant.

Mr. Gatabaki: Mr. Speaker, Sir, is the Assistant Minister aware that casinos are the principal means of money laundering in this country and that a number of Asian crooks are responsible for channelling billions of money through those casinos?

Is he also aware that this is the means through which money which has been stolen from the banks such as the National Bank of Kenya are channelled to casinos?

Mr. Marrimoi: Mr. Speaker, Sir, I am not aware and the Government cannot deal with crooks.

Question No.289

UNBANNING OF KENYA CIVIL SERVANTS UNION

Mr. Speaker: Is Mr. N. Nyagah not here? The Question is dropped.

(Question dropped)

Question No.749

REPAIR OF SIGIRI FERRY

Mr. Speaker: Mr. Wanjala still not here? The Question is dropped.

(Question dropped)

Question No.596

REFUND OF SHARE CONTRIBUTIONS

TO MR. MASINDE

Mr. Sifuna asked the Minister for Co-operative Development:-

(a) whether he is aware that Mr. Jackson Wafula Masinde, P/No.101676, former member of Ulinzi Co-operative Society Limited, has not been refunded his share contributions as per his withdrawal letter dated 6th June, 1996; and,

(b) if the answer to "a" is in the affirmative, when the society will pay Mr. Masinde his dues amounting to over Kshs23,000 plus interest accruing as from 1994 to-date.

Mr. Speaker: Anyone here from the Ministry of Co-operative Development?

Mr. Sifuna: On a point of order, Mr. Speaker, Sir. I do not know why the Minister has deliberately refused to come and answer this Question. Today, in the morning, I talked to them and they said that they do not have the money. Is that the reason why the Minister and the Assistant Minister have refused to come and answer this particular Question?

Mr. Speaker: Which money are you talking about?

Mr. Sifuna: Before I asked this Question today, I talked to the Secretary, the Commissioner

and the Minister and they said that they do not have money to give to Mr. Masinde. Is the Minister and his Assistant Minister trying to avoid answering this Question just because they do not have the relevant answer ready to give to this House? What do we do? Is it possible to defer this Question to Thursday this week so that they can come back and answer it?

Mr. Speaker: Yes, I will defer it because I cannot answer all those questions for you.

(Question deferred)

Question No.661

INSECURITY IN KOMBWEA DIVISION

Mr. Speaker: Prof. Anyang'-Nyong'o still not here. The question is dropped.

(Question dropped)

QUESTIONS BY PRIVATE NOTICE

DISAPPEARANCE OF NDUKU KASAU

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

(a) Could the Minister explain the circumstances surrounding the disappearance of a Standard Six pupil at ABC Wamunyu Primary school by the name of Veronica Nduku Kasau (13 years) of Mutitu village, Kyangulumi Sub-location, Yathui Location, Yathui Division in Mwala constituency on 1st September, 1998 on her way to school?

(b) What investigations have been done on this case which was reported to the chief of Yathui Location on 7th September, 1998 and Machakos police station on 8th September, 1998?

Assistant Minister, Office of the President (Mr. Sunkuli): Mr. Speaker, Sir, I beg to give the following reply.

(a) On 8th September, 1998, one Paul Makau Kasau reported at Machakos Police Station that his daughter by the name Veronica Nduku Kasau, aged 13 years, a pupil at Wamunyu Primary School went missing from 1st September, 1998, while on her way from the said school. He further reported that her school uniform was found within his shamba on the 2nd of September, 1998. The father was not suspecting foul play at that time and, therefore, sought for more time to first check for her at the homes of relatives and friends and report back for any further action if necessary. He did not report back until the 16th September, this year, when the mother, Mrs. Beatrice Kasau reported that the daughter was still missing. That is when investigations commenced.

(b) After it was confirmed to the police by the mother that she was still missing, her descriptions were given to the police who circulated the report of the missing person to all police stations in the country to assist in looking for her. The mother was also requested to avail a photograph of the missing girl, if any, to be circulated to the media. But, so far, none has been brought to the police. However, the Provincial Administration and the police have intensified the search for the girl. So far, she has not been traced.

Mr. Katuku: Mr. Speaker, Sir, the answer given by the Assistant Minister is quite misleading in the sense that the police have not taken the matter seriously since it was reported to them. What has happened is that after the case was reported to the police, nothing was done to follow up the case up to this moment; three months later. Could the Assistant Minister tell us what he is actually doing about this matter? Three months later, after somebody has been reported missing to the police, nothing has been done. The police have not even gone to the home; they have not even visited anybody and even done an inquiry.

Could the Assistant Minister be serious with this matter and tell us actually what has been done?

Mr. Sunkuli: Mr. Speaker, Sir, I have informed the hon. Member what has been done so far. Maybe, it would be of help, if the hon. Member could ask about what further efforts could be made so that we could find the girl.

Mr. Speaker, Sir, I would also direct the police now to put this announcement of the missing person on radio. The police will intensify the search for this girl. It will also help if the hon. Member asked the family, or anybody else, to produce her photograph so that we can place it in the newspapers. In this way, we would have intensified the search for the girl.

Mr. Katuku: Mr. Speaker, Sir, maybe I should inform the Assistant Minister because he does not appear to be well briefed about the case. What actually transpired is that this child was last seen at a neighbours home where she slept. This is where the uniform the Assistant Minister is talking about was found by the Provincial Administration Officers in that area. They are the chief and sub chief. Since then, even the woman has not been questioned. The man of that house was also not questioned. Could this be done, at least, to ascertain the circumstances under which this girl slept in the neighbours home and then she disappeared?

Mr. Sunkuli: Mr. Speaker, Sir, I will make sure that, that is done.

Mr. Speaker: Very well. Next Question!

ILLEGAL ALLOCATION OF PUBLIC UTILITY PLOTS

Mr. Muchiri: Mr. Speaker, Sir, I beg to ask the Minister for Lands and Settlement the following Question by Private Notice.

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

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

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

The Minister for Lands and Settlement (Mr. Ngala): Mr. Speaker, Sir, I beg to reply.

(a) I am not aware that over 100 public utility plots surrendered to the Nairobi city council by land buying companies for nursery, primary and secondary schools, dispensaries, open spaces and hospitals within Kasarani constituency have been unlawfully allocated to individuals and companies by the office of the Commissioner of Lands without approval or resolution of the Nairobi City Council.

(b) I am aware that LR/71/7/8 was allocated to Messrs. Edward Kibe; Duncan Muriuki, James Nganyira and Harrison Mwangi on 20th December, 1994 as members of the Kamuthi Farmers Co-operative Society.

(c) I am also aware that there is a nursery school on the plot. However, I am not aware that the allottees are harassing children at the nursery school. No action can be taken by the Ministry until the Ministry of Co-operative Development with whom the society members have registered the dispute resolve the case. In the meantime, the Ministry of Lands and settlement has put a restriction on the title so as to preempt any possible transactions on the plot.

Mr. Muchiri: Mr. Speaker, Sir, the hon. Minister is misleading this House. We have physically gone to those plots with the DDC and the DO and we did identify them. They have all been allocated. This morning I was in his office as he had promised to see me. I gave the information to his officers who promised me that they will take action.

Mr. Speaker, Sir, the nursery school in question was built with public funds. The main contributor to the funding was a former Minister for Foreign affairs, Dr. Waiyaki. Again, there is no dispute pending there---

Mr. Speaker: Mr. Muchiri, what are you saying now? What is it?

Mr. Muchiri: I am saying---

Mr. Speaker: Order! Mr. Muchiri, what is happening? You are supposed to ask him questions, not to make a speech!

Mr. Muchiri: Mr. Speaker, Sir, because the Minister is misleading the House, I should first explain the position on the matter. Now, that I have given him the information, will he react? He should revoke that allocation.

Mr. Ngala: Mr. Speaker, Sir, it is unfortunate that my colleague is saying that I am misleading the House. I am acting on information that has been verified on the ground. I am not misleading the House. If he has got any extra information, I am prepared to look into it. If he has brought it to the office without my knowledge, then I will get the information when I get back.

Mrs. Mugo: Mr. Speaker, Sir, I think this Ministry is notorious with regard to this matter. Either the officials do not give the Minister information or the Minister does not care to check, because the whole of the City has many plots which were earmarked for schools, nursery schools or clinics. However, all these plots which were given out by people for free have now been repossessed, and the Commissioner of Lands has allocated them to individuals. Could the Minister promise this House that the allocation of all those public utility plots will be revoked and that they will be used for the purpose they were intended? This is because these people are just grabbing them. I have complained a lot about this and brought it to your notice. Either you know about it, Mr. Minister, or you do not know what is happening in your Ministry. I think you owe Kenyans an explanation on this matter.

Mr. Ngala: Mr. Speaker, Sir, the hon. Member is entitled to her opinion. We have given answers here and we stand by those answers because they are correct. So, I think, as far as this particular case is concerned, if we discover that there are such allocations which have been made of plots that were allocated or set aside for public utility, definitely, we will take the necessary steps. That is the only assurance I can give to this House. But we are very serious, as a Ministry, in trying to clear our house on issues of land in this country.

Mr. Anyona: On a point of order, Mr. Speaker, Sir. The Minister is saying: "if we discover". If he was not able to discover, in the first place, how is he going to discover? Is he not taking the House for a ride?

Mr. Ngala: You heard the hon. Member who put this Question say that they have visited the sites, gone around and identified the plots and he sent the information to the office this morning. What I am saying is that if we discover that this information which the hon. Member has brought to the office is true, we will take the necessary action. That is what I mean.

Mr. Kariuki: Mr. Speaker, Sir, this is a very serious matter involving land in Nairobi which is being allocated without proper procedures being followed. The Ministry is issuing title deeds and transferring title deeds from the City Council to individuals. Could the Minister assure this House that no more title deed transfers will be made from the Nairobi City Council to private developers without proper resolutions being made by the Nairobi City Council?

Mr. Ngala: Mr. Speaker, Sir, I would like to say that each case will be looked into on its own merit. It is not fair for me to give a blanket answer. I think each case deserves its own consideration and once those cases have been discovered and found that they warrant transfers, they will be given transfers. So, we will be careful all the same.

Mr. Muchiri: Is the Minister aware that the land we are talking about belongs to the Nairobi City Council and not the Commissioner of Lands because it was surrendered to the Nairobi City Council?

Mr. Ngala: Mr. Speaker, Sir, all I know is that the information which the hon. Member has brought will shed some light on all these issues and we will be able to know what position to take.

ALLOCATION OF PLOTS IN NGOMENI

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

- (a) How far has the allocation of plots to the residents of Ngomeni area, Malindi District gone?
- (a) Could the Minister table the list of all the allottees?

Mr. Speaker: Mr. Kombe is not here? That Question will be dropped.

(Question dropped)

COLLAPSE OF KIAMBU-THIKA RURAL SACCO

Mr. Muithia: Mr. Speaker, Sir, I beg to ask the Minister for Co-operative Development the following Question by Private Notice.

- (a) Is the Minister aware that Kiambu-Thika Rural Sacco, an offshoot of the collapsed Kiambu Coffee Growers Co-operative Union, closed down its operations in August, 1998?
- (b) Is he further aware that coffee farmers lost close to Kshs35 million of their earnings in unsecured loans, unauthorised expenditure, corruption and outright embezzlement by the Sacco officials voted out in October, 1997?
- (c) If the answers to "a" and "b" above are in the affirmative,
 - (i) Could the Minister tell this House who the officials involved were?
 - (ii) What steps has the Minister taken to institute criminal and/or civil proceedings against the officials to recover the farmers proceeds?

The Minister for Co-operative Development (Dr. Anangwe): Mr. Speaker, Sir, I beg to reply.

(a) I am not aware that Kiambu-Thika Rural Sacco, an offshoot of the Kiambu Coffee Growers Co-operative Union closed down its operations in August, 1998. However, I am aware that Kiambu Coffee Growers Co-operative Union which is a separate entity closed down the operations of the banking section in August, 1998 due to liquidity problems.

(b) Further, I am not aware that coffee farmers lost close to Kshs35 million of their earnings in unsecured loans, unauthorised expenditure, corruption and outright embezzlement by the Sacco officials voted out in October, 1997. However, I am aware that the banking section, that is UBS, utilised Kshs35 million as follows:- Loans to members Kshs21,537,512; purchase of two vehicles Kshs2,334,654; purchase of shares at the Co-operative Bank of Kenya Kshs4.5 million; purchase of shares at the CIS Kshs700,000; construction of Gatundu House Kshs1,550,000; renovation at Kahawa House Kshs601,536; purchase of equipment Kshs1,301,400; loss in the trial balance of 1997/98 in the normal course of business transaction Kshs2,788,406.45. The total is Kshs35,113,508.45.

(c) (i) Given "a" and "b" above, C(i) does not arise.

(ii) Given "a" and "b" above the Minister cannot institute criminal or civil proceedings against the former officials because the farmers are the ones with the union loans and the same had made arrangements with the union on the modalities of repayments. These arrangements are still in place and have not yet been defaulted.

Mr. Muihia: Mr. Speaker, Sir, this is laughable. I am sorry to use that strong language. I did not have the written reply before this. Coffee farmers in Kiambu and Thika are leading a dog's life because they do not know what they will eat tomorrow. The Minister says he is not aware and he goes ahead to enumerate loans which have been given out. I have documents which I will table before this House for the Minister to go through and act on them. The Co-operative Union---

Mr. Speaker: Mr. Muihia, it is Question Time!

Mr. Muihia: I want him to refer to these documents because he does not have them. Kiambu-Thika Rural Sacco has lost Kshs21,537,512 which has been given out without any security just like it happened in the National Bank of Kenya.

Mr. Speaker: Are you giving evidence or you are asking a question?

Mr. Muihia: Is he aware that these loans which have been given out were unauthorised and unsecured just like it happened in the National Bank of Kenya?

Dr. Anangwe: I am aware that loans were given in the normal way using the normal procedures and, usually, they would take loans against the profits that they would deliver later on. So, there is nothing unusual about the way they went about these particular loans. I have details and adequate information as to who took the loans. So, you need not even table those documents you are talking about because I already have them with me. We will be able to handle the said loans and the recoveries in accordance with the modalities that have already been established within the union itself.

Mr. Ndicho: Mr. Speaker, Sir, the production of coffee in this country is declining at an alarming rate. This Kiambu Coffee Growers Co-operative Union collapsed because of corruption. Is the Minister satisfied that the loans totalling to Kshs21 million were secured and is he satisfied that the Trial and Balance losses can accumulate to Kshs2.7 million? Is he satisfied that this co-operative union at Kiambu surely performed according to the standards; if they can incur a loss of Kshs2.7 million and Kshs21 million in unsecured loans?

Dr. Anangwe: Mr. Speaker, Sir, I am aware that complaints have been raised. As to whether or not the performance of the officials has been adequate, that will be established later. Indeed, on the 26th of last month, we did institute an inquiry, and we are hoping that the revelations of that particular inquiry will shed some light on what course of action we need to take in future.

Mr. Kihara: Mr. Speaker, Sir, if I heard the Minister well, he said that part (c) (i) does not apply. Is the Minister implying that this SACCO had no officials? If it had no officials, who was managing the SACCO and deliberating on the loans? Could the Minister table a list of those loans? I understand that these loans were given to family members by the officials who are there and, yet, the Minister has said that there were no officials?

Dr. Anangwe: Mr. Speaker, Sir, the non-application of part (c) (i) is in relation to the allegation that the officials had incurred an unauthorised expenditure and had engaged in outright embezzlement. But if you really would like to know who the officials are, the names are with me here. The past officials are: Chairman, Hon. Patrick K. Muiruri; Vice-Chairman, Christopher Njuguna Mungai; hon. Secretary, Patrick Kaguta Githendu; Committee Member, Josephat Njuguna; Committee Member, Bernard C. Kimani; Committee Member, Francis Muihia - I hope not your brother; Committee Member, Joseph Thotho; Committee Member, Harrison Ngaru and Committee Member, Francis Gathungu Muhinja.

On the question as to who got the loans, I have the names here. But I am not able to establish whether or not they are relatives of the said officials, since they are all from Kiambu. I believe everyone is a resident in that part of the district. I would like to lay the list on the Table.

(Dr. Anangwe laid the list on the Table)

Mr. Muihia: Mr. Speaker, Sir, the Minister has tried to attempt to cover the whole saga. My Question was in relation to giving out unauthorised loans. I said they were given to official's friends and relatives. Just to refresh his mind, the Secretary, who is a Co-operative Bank of Kenya Director, went ahead and dished out these items freely to his relatives. They are:

Anthony Kariuki Githendu	Kshs480,000;
Margaret Wanjiru Githendu	Kshs240,000;
Margaret Wanjiru Githendu	Kshs150,000;
James Njenga Githendu	Kshs500,000;
Sospeter Kamau Githendu	Kshs280,000;
Rahab N. Kaguta Githendu	Kshs332,000.

There are businessmen who are not members of the SACCO. We have one Florence Nyaguthii Muchemi. You may

want to know that she is a magistrate and not a coffee farmer. She was given Kshs.2.4 million.

What I am demanding is: Is the Minister going to take action to recover this money, which has been criminally awarded to individuals at the expense of the Kiambu-Thika Coffee Farmers?

Dr. Anangwe: Mr. Speaker, Sir, in principle, there is nothing wrong in an official lending to his relatives, if those relatives are genuine members.

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

Mr. Speaker: What is it, Mr. Murathe? Order, Mr. Murathe! Mr. Murathe, are you really serious when Mr. Muihia has raised a substantial issue with the Minister, and before the Minister

[Mr. Speaker]

opens his mouth, you interrupt? What is it?

Mr. Murathe: Mr. Speaker, Sir, he cannot say that he is conducting an inquiry into some irregularities, and then stand there, and say there is nothing irregular happening in that SACCO. Is he in order, then?

Mr. Speaker: Order! The Minister will not be forced to say what you want to say.

Mr. Murathe: But he has already said it, Mr. Speaker, Sir!

Mr. Speaker: Proceed, Dr. Anangwe.

Dr. Anangwe: So, what I was saying is that if you are lending to a relative, and that particular relative belongs to the society legitimately, there is nothing wrong. As to the recovery of the said loans, I have already said that we have instituted an inquiry. When the inquiry finishes its business, I should be able to say who really ought to take responsibility for the decisions that were made, and what course of action needs to be taken, and even the timing.

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

(Mr. Muihia stood up in his place)

Mr. Speaker: Order, Mr. Muihia! I think, Mr. Murathe, it is about time you conducted yourself like an hon. Member. Now, what was your problem?

Mr. Murathe: Mr. Speaker, Sir, we have a Minister here saying that he is conducting an inquiry. He is then bringing an answer without the benefit of the result of that inquiry, trying to say that there is nothing wrong that has transpired in that SACCO. Is he in order to tell this House that he will then come back after the results of that inquiry, with the answer?

Mr. Speaker: Mr. Murathe, I do not even think I will ask the Minister to reply to that. It is not the Minister who asked the Question. It was Mr. Muihia. It is not the Minister who put it on the Order Paper. It is me.

Mr. Muihia: On a point of order, Mr. Speaker, Sir. I would like, with your permission, to lay these documents on the Table.

Mr. Speaker: What are they?

Mr. Muihia: The list of the irregular loans.

Mr. Speaker: Compiled by who?

Mr. Muihia: Compiled by those SACCO officials. I would like the Minister to study them and tell us where---

Mr. Speaker: Now, what is this?

(Laughter)

Mr. Muihia: Mr. Speaker, Sir, this is documentary evidence. Could the Minister assure us that he is going to peruse follow these documents. There is a total of Kshs52 million, because there was a previous SACCO which failed and it had Kshs15 million. I have all the documents here for your action, Mr. Minister.

(Mr. Muihia laid the documents on the Table)

Mr. Ndicho: On a point of order, Mr. Speaker, Sir. We have two lists. There is one presented by the Minister which I have here. He has also named names. There is another one from hon. Muihia. Could the Chair advise us as to which list we should peruse?

Mr. Speaker: I would advise you, Mr. Ndicho, to take both lists, go to the Library and peruse them. You may find that they are the same people. That ends Question Time.

COMMUNICATION FROM THE CHAIR

REINSTATEMENT OF STANDING ORDER No.81

Mr. Speaker: I wish to make the following communication, hon. Members.

On the 2nd of April, 1998, I made a Communication from the Chair, in connection with the wording of Standing Order No.81, prior to the amendment made and passed on 10th of November, 1997. This matter was referred to the Standing Orders Committee for consideration. The Committee met on the 17th of November, 1998, and deliberated on the issue. The Committee found that this being an omission, it was not necessary to seek a Resolution of the House to reinstate a Standing Order, which was inadvertently omitted in the course of printing. The Committee, therefore, directed as follows:

(i) That Standing Order No.81, which was inadvertently omitted during the preparation and printing of the revised version of the Standing Orders in November, 1997, be reinstated. It will read as follows:-

"The House may, on a Motion made by any member in accordance with the provisions of this Standing Order, impose a limit in respect of the debate on any particular Motion by allotting a limited period of time for such debate or by limiting the time during which members may speak in such debates or by imposing such limitations"

2. Such Motions may be made without notice provided that such Motions shall not be made in the course of a debate which it refers to unless it is made after an adjournment of such debate and before the debate is resumed."

The current Standing Order No.81 would, as a consequence, be renumbered as 81A.

The Clerk of the House has, therefore, been directed to take the necessary action to cause those omissions and corrections to be sorted out.

I wish also, hon. Members, to bring to your attention the Order of our Business today. In the course of our Business, I will direct that, after we have completed Order No.7 on the Constitution of Kenya Review Commission (Amendment) Bill - if we do--- We will skip Order No.8 for the time being and take on Order No.9 - the Community Service Orders Bill. This is because the debate on that particular Bill, has gone on for a long time and it is virtually exhausted. Then after that one is disposed of, if we do, or whenever time we shall do, then we will take on the National Intelligence and Security Bill which has not been started. I think that will be the sequence of the Business for today.

POINTS OF ORDER

EVICTION OF MADARAKA ESTATE RESIDENTS

Mr. Anyona: On a point of order, Mr. Speaker, Sir. I wish to raise a very sad matter. With your permission, I beg to rise to demand a Ministerial Statement from the Minister for Public Works and Housing regarding two related matters. The first matter is on the harassment, intimidation and eviction of innocent residents and tenants of Madaraka Estate, which has been going on for the whole of last week, of which I am also a victim.

The second matter which I would demand a Ministerial Statement on is also related to the first one in the sense that it is connected with the National Housing Corporation (NHC) whereby there is mismanagement and mass sacking of employees by the current Managing Director, Mr. Lawi Kiplagat. To enable the Minister to answer and focus on the issues that I have raised here, I wish to table two documents which will help him to do that. The first document is an open letter written to him, and the Minister for Local Authorities, raising the harassment of the tenants of Madaraka Estate by the City Council. The second one is a memorandum also raised earlier on to the same Ministry and copied to him when he was in the Office of the President; it is on the question of mismanagement and mass sacking of the employees of the NHC. I wish to table those two documents.

Finally, I would like to clarify a matter which has featured in the Press regarding my eviction from Madaraka Estate. I would like to state that I have paid my rent fully, including rent for December 1998. We normally pay in advance and I am not in arrears either with the Nairobi City Council or the NHC with whom I have no tenancy agreement.

Secondly, I would like to say that I did not, as it was alleged in the Press, break into or force my way into the flats. What happened is that after I had consulted the Minister - I wish to thank him very much for availing himself and being co-operative. At 6.30 p.m. when Mr. Lawi Kiplagat apparently defied the orders of the Minister to open the flats, I did get in touch with the Minister and because I wanted to get into the house, the Minister allowed me to use a qualified fundi to get the door open which is what I did. I did not break into the house. Thank you very much.

(Mr. Anyona laid the documents on the Table)

OMISSION OF AMENDMENT

Mr. Obwocha: Mr. Speaker, Sir, I wish to request the Attorney-General to make a clarification to this House. He published in the Kenya Gazette Supplement No.62 on 6th November, 1998, the Legislative Supplement No.49, Legal Notice 156, concerning the amendments to the Finance Bill 1998, approved by the Kenya National Assembly on 22nd October, 1998. In that publication an amendment is omitted which was passed by this House on 22nd October, 1998 to the effect that the sub-paragraph, 4(iv) be amended thereof by deleting the expression "2000 cc" and 3000 cc" and inserting "with no limitations as to the engine capacity." I do not know the status of that amendment because it is omitted in this publication.

(Applause)

The Attorney-General (Mr. Wako): Mr. Speaker, Sir, I wish to make a statement to this effect. The hon. Member was kind enough during lunch time, about 1.30 p.m., to inform me that he was going to raise this particular matter and I thought it was so important that it be responded to immediately. Therefore, I wish to respond to it now.

I can assure this House that no amendment has been omitted. I am pleased to be in that position; to give that assurance to this House. As you know, prior to the proposed amendments in the Finance Bill, hon. Members were entitled to one motor vehicle, duty and VAT-free. That was to be found in Item 26 of the Third Schedule to the Customs and Excise Act and also in Item 20 of the Eighth Schedule to the Value Added Tax. It was more or less the same phraseology.

Mr. Speaker, Sir, then in came the Finance Bill, 1998, which then proposed that instead of allowing hon. Members to import one vehicle with unlimited capacity, that capacity will now be limited to 2000 cc as far as passenger motor vehicles are concerned, and as far as 4-Wheel-Drive passenger motor vehicles are concerned, an engine capacity not exceeding 3000 cc. Those proposals were contained in the Finance Bill which was published on 11th June, 1998. They are reflected on pages 198 and 211, as far as Customs is concerned.

Mr. Speaker, Sir, on 22.10.98, the hon. Member successfully moved an amendment which sought to delete the limitation on engine capacity. Having moved that, I would like to assure this House that, that is reflected in the Legal Notice which we have referred to. I would like the hon. Member to look at page 314 of the order that he referred to. I am saying that the hon. Member has misread the paragraph. He read the paragraph which refers to other matters. He did not read the paragraph which refers to the matters at issue. The "matter at issue" is the fact of Members of Parliament (MPs) being able, by virtue of a successful amendment moved by hon. Obwocha, to import one car of unlimited capacity, thereby reverting to the original position.

If hon. Obwocha looks at page 314, Clause 14, paragraph (a)(2) he will find that it is not sub-paragraph (4), which he referred to. That relevant paragraph serves paragraph (2), which states very clearly: "By deleting sub-paragraph (4)." That sub-paragraph (4), which was in the Finance Bill and proposed to limit the capacity of the cars that can be imported by Members was completely deleted as I had said earlier. I think what was confusing hon. Obwocha was that he was referring to Clause 14 (4), which does not deal with that. In fact, if he reads it very carefully, he will find that it says of "in the new sub-paragraph (4) thereof", because this sub-paragraph has been deleted completely. Therefore, Members are free to import cars if they do not have any loan with any financial institution.

(Applause)

Mr. Musila: On a point of order, Mr. Speaker, Sir. I rise to request for a Ministerial Statement from the Minister of State, Office of the President on a fatal accident on Thika-Mangu Road on 10.10.98. At about 7.00 p.m. on 10.10.98, there was a fatal accident on Thika-Mangu Road, which involved a lorry and a pick-up, registration No.KAC 235R. Four of the passengers in the pick-up, who happened to be my constituents, died instantly, while two other passengers were admitted to a Nairobi hospital in critical condition. The driver of the lorry did not stop after the accident and the matter was immediately reported to Thika Police Station. Our efforts to get the Thika Police to investigate this matter have been fruitless. The more serious thing is that, recently, the pick-up bearing registration No.KAC 235R, which had been towed to Thika Police Station disappeared from the Police Station, and is nowhere to be found. Therefore, we feel that this is a very serious matter that calls for a Ministerial Statement from the Minister of State, Office of the President, who is in charge of the police.

Mr. Speaker: Anyone here from the Office of the President, who would wish to respond to the matter?

(Mr. Munyao stood up in his place)

To the best of my knowledge, Mr. Munyao, you have not sought any indulgence from the Chair. Is there any Minister of State, Office of the President here? Maj. Madoka, do you want to respond to the matter now or later?

The Minister of State, Office of the President (Maj. Madoka): Mr. Speaker, Sir, I will respond to the matter later on.

Mr. Munyao: On a point of order, Mr. Speaker, Sir. On 19.11.98, I rose on a point of order during the Zero Hour. The matter was addressed to the Minister for Education and Human Resource Development who was present. The requirement of the Zero Hour is that a matter must be submitted to the Speaker by 1.00 p.m., and a copy of it given to the Minister concerned by 4.00 p.m. This was done by the Chief Whip. I had requested the Minister for Education and Human Resource Development to fulfil a promise for a Ministerial Statement, which had been made by his Assistant Minister. The Ministerial Statement is required on the illegal collection and mismanagement of examination fees, which is taking place in some areas. One would wonder what the purpose of Zero Hour is if a matter can be submitted to a Minister by the Chief Whip, and Mr. Speaker orders that a Ministerial Statement be made, and then for three weeks nothing happens. What shall we do?

Mr. Speaker: We will ask him to listen to the proceedings in the House.

Mr. Munyao: Mr. Speaker, Sir, he was here and he disappeared!

BILL

Second Reading

THE CONSTITUTION OF KENYA REVIEW COMMISSION (AMENDMENT) BILL

(The Attorney-General on 19.11.98)

(Resumption of debate interrupted on 26.11.98)

Mr. Speaker: Mr. Muite, you were on the Floor.

Mr. Muite: Mr. Speaker, Sir, I was on the Floor. I was saying that the Bill providing, as it does, the constitutional and legal frame work pursuant to which the Kenyan people can pursue their views is satisfactory. This is a Bill that is as a result of very hard bargaining from the Bomas of Kenya to the Safari Park meetings. It is also subject to very minor amendments. It is my hope that all the hon. Members will support this Bill without any attempt to sabotage the result of the consensus. I hope that nobody will attempt to introduce amendments that might sabotage the results of the consensus. One of the two minor amendments that I would like the Attorney-General to take into account is the fact that the period of civic education is very important. We want the constitutional reform process to be undertaken by the Kenyan people and not the elite. First of all, the entire population should be educated on what a constitution is. This is important because it is connected with our economy and the management of our country. So, civic education is very important.

Mr. Speaker, Sir, I would like the Attorney-General to introduce a minor amendment to the Bill to state that the period for civic education will not be less than four months. This will enable us to go to every village and educate every man and woman before we can ask them to contribute their views on the sort of constitution that they would like to have. In the current Bill, this should be spelt out.

Mr. Speaker, Sir, secondly, Parliaments all over the world are created by a constitution, and it is not the other way round. It is not a Parliament that gives birth to a new constitution. Parliaments are actually the creatures of a constitution. The legal question that arises is this: After the Kenyan people have drafted a new constitution, how do they legally bring it into being? Parliament will not bring that new constitution into being. It is not Parliament that is going to bring that Constitution into being. If it were so, then it would mean that the Constitution is subordinate to Parliament and yet it is the other way round. There are only two legal ways in which a new Constitution can come into being. One of them is through a referendum by the entire Kenyan people. In the context of the present Bill, perhaps, a referendum would not be the convenient path to follow because we are going down to the district level. We have got the District Forums and the National Forum. All the Kenyan people will be involved in the drawing up of the new Constitution.

So, my suggestion is that the Attorney-General should introduce an amendment to his Bill requiring that once the Kenyan people have drafted a new Constitution and it has been debated by the District Forums and the National

Forum, this Parliament should observe that its purpose is to ratify it and, therefore, bring it into being legally. My understanding is that this Parliament is not going to have power to amend, delete or to add to the Constitution that the Kenyan people will have drafted. An amendment should be introduced requiring that on that day that this House will be ratifying that Constitution, we shall sit as a Constituent Assembly and not as a Parliament so that thereafter, we revert back to being a Parliament.

What it means in law is that we shall have recognised that we are not superior to the Constitution. We need to sit as a Constituent Assembly and ratify the Constitution. When we revert back the following day to being a Parliament we shall have given effect to the legal requirement that constitutions world over are superior to Parliaments.

Some contributions here have proceeded as if the current Bill is the one which is drafting the Constitution. People have been talking about the powers of the President being reduced and so forth. These are matters, of course, that the Kenyan people are going to go into when their views are being---

Mr. Speaker: Order! Indeed, I am glad that hon. Muite has brought that matter up. We are only dealing with the issue of whether or not the Bill, as drafted now, should be adopted by this House and not what will be in the Constitution that will be sought out by the Kenyan public together with the Constitutional Review Commission. To that extent, any Member who pre-empts what Kenyans or the Commission intends to discuss on the Constitution, to that extent he is irrelevant and will be asked by the Chair to come back to the Bill. So, you are right Mr. Muite; let us look at the capability of the Bill, whether it is the right one to create a forum that Kenyans will embark on a constitutional review. I am glad you raised that matter.

Mr. Muite: Mr. Speaker, Sir, it is in that context, really, that I would appeal to my hon. colleagues to support the Attorney-General when he says that this Bill should be passed as it is because it is the result of a consensus. Let us not introduce any amendment that might seek to sabotage what we have developed as a consensus. I support the Bill fully in the sense that---

Mr. Kimeto: On a point of order, Mr. Speaker, Sir, I thought the constitutional Bill which was discussed in Bomas of Kenya and Safari Park Hotel could be something that could be brought here to Parliament so that we can find ways and means to amend---

Mr. Speaker: What is your point of order?

Mr. Kimeto: My point of order is that we should not pass that Constitutional Bill without amendments because the supremacy of Parliament is there. It should not be discussed here and go through without---

Mr. Speaker: Order! Mr. Kimeto, I am not so sure you understood what I said. You must sit still when Mr. Speaker is addressing the House. I did not say at all that it is beyond Parliament to amend the Bill before the House. Indeed, hon. Muite who is now on the Floor is himself suggesting to the Attorney-General possible amendments. What I did say is whether you are relevant or irrelevant when you talk about what ought to be in the anticipated Constitution. What is relevant is whether this Act is a proper mechanism for bringing forth the debate on what ought to be and what ought not to be in a Constitution for Kenya. So, you are totally out of order. If you have any amendments, when we are at Committee stage look at your Standing Orders and understand how an amendment can be brought forward into a Bill. You can draft one and convince this House to accept it. It is not enough to interrupt Mr. Muite unnecessarily.

Mr. Muite: Thank you, Mr. Speaker, Sir. The Bill which is drafted is satisfactory to enable the Kenyan people to give their views. What we need to do as Kenyans is to create an enabling environment in which this constitutional reform process can take place. It is my submission that currently that enabling environment is lacking. I commend the Government because of publishing the names of the bad debts by various Kenyans. I go further and also ask the Government to also publish a list all the land grabbers because they are known. They are there. We read in the newspapers the other day that the Provincial Commissioner in Mombasa---

Mr. Speaker: Very well. What Clause of the Bill, Mr. Muite, are you referring to?

Mr. Muite: Unless we create an enabling environment this process is not going to succeed. That is what I am saying.

Mr. Speaker: You have got away with it, but no more.

Mr. Muite: Mr. Speaker, Sir, it is very important to create that enabling environment. Is Mr. Speaker saying that I should not suggest that the way to create an enabling environment is to bring to an end immediately the question of land grabbing in this country? That will create an enabling environment. The way to stop that grabbing is for the Commissioner of Lands and the Provincial Administration to lay on the Table a list of all the Kenyans who have been grabbing land. That will go a long way towards restoring the confidence of the Kenyan people. That is all I am saying.

If you come to Nairobi, for example, you cannot get any plot without involving the Director of Planning, Mr. Kuria wa Gathoni or the Town Clerk Mrs. Zipporah Wandera. Kenyans have been crying that these two people should be relieved of their jobs but our cries have been falling on deaf ears. Hon. William ole Ntimama, is now no longer "Saul", he is "Paul". On the road to Damascus, Saul saw it was a dark road. There was no tarmac in those days from

Jerusalem to Damascus. He became blind and the hand of the Lord touched him and then his eyes were opened. William ole Ntimama, because he is now Paul, has met the Lord on the way to Damascus. He can confirm what I am saying; that even when he was the Minister for Local Government he knew that the elected councillors in Nairobi City Council were powerless. All the powers are with the Chief Officers. They are ignored by these chief officers. So they do not know about land grabbing. The land grabbing in Nairobi is facilitated by Mr. Kuria wa Gathoni and Mrs. Zipporah Wandera.

Mr. Speaker, Sir, the people of Nairobi are not going to accept this forever. I am telling the Minister of State, Office of the President and the Attorney-General, that when the people of Nairobi take action to relief Zipporah Wandera and Kuria wa Gathoni of their jobs, because the people of Nairobi are going to do that soon, then they must not interfere.

Mr. Speaker: Order! Order! I am sure, Mr. Muite, you have really talked too much about the enabling environment. Now you are even talking about Mrs. Wandera. So, can you come back to the Bill?

Mr. Muite: Mr. Speaker, Sir, those two are part of the obstacles to the enabling environment, unless they are removed. It is so critical that we create this environment so that this process can succeed. This is the first time Kenyans will be writing a Constitution for themselves.

Back in 1963, our forefathers went to Lancaster House. They came back and brought Uhuru, but we were not subjected to any civic education. We have never known the connection between a constitution and the economy or the mismanagement of the economy.

We want the new Constitution to be in our bone-marrow, all of us, as Kenyans. We want the new Constitution to be in our blood. We want every man and woman in this country to be able to defend that Constitution. We can only do that if we create an enabling environment in which this process is going to take place.

Mr. Speaker, Sir, with respect, I am not being irrelevant, I am saying, for example, that the process of constitutional reform is going to be overtaken by events and become irrelevant, unless the issues of the economy are addressed.

The economy is collapsing. Unemployment, if one watched television last night, he will have seen during the graduation ceremony, all the graduates talking about how they are aware that, although they have graduated, they will not get jobs.

Mr. Speaker, Sir, the issue of the economy is critical. This process of revival of the economy has got to go hand-in-hand with the constitutional reform process. I am saying that truly, unless we now turn our energies, our intellect and efforts to what can be done between now and the next four years, so as to resuscitate this economy, the process of constitutional reform is going to stall. I am saying that the revival of the economy is a necessary ingredient to the creation of this enabling environment that I am talking about. So, unless we address the issue of corruption, for example, how is that enabling environment going to come about?

Mr. Speaker, Sir, there is a nexus between the possibility of the success of the constitutional reform process and the economy. The point I am making is that we now need to go back as Kenyans to Bomas of Kenya and to Safari Park Hotel, but this time to talk about what we can do, between today and the next four years in order to revive the economy. Because the revival of the economy is an essential ingredient to the success of the constitutional reform process.

The Constitution, no matter how good it is, is not an end in itself. It is only important to the extent that it will assist in the proper management of the economy without corruption so that the living standards of the Kenyan people can improve. A constitution is only a way towards creating a better Kenya for all Kenyans; a Kenya where there are jobs, hospitals that are working, roads that are maintained and where the public infrastructure is in good condition.

Mr. Speaker, Sir, what I am saying is that the constitutional reform process is not an abstract academic exercise. It has got a direct bearing on job creation, good life for all Kenyans, and on hospitals and roads. If that process is going to succeed, we now must go back to the Bomas of Kenya, to Safari Park Hotel as multi-sectoral representatives of the Kenyans and debate and negotiate on how we are going to manage the economy between now and the time we shall have in place a new Constitution.

When I say "multi-sectoral", I am talking about KANU, the Opposition parties, the civil society, the economists, the bankers, the insurance people, the coffee and tea growers and everybody. These are the Kenyans who must now go and sit and negotiate on the enabling environment, that is going to discuss how to contain - not to eradicate - I concede we cannot eradicate corruption, but at least the looting. Institutionalised corruption, that we can contain. We need to sit down as Kenyans and discuss how that can be done. We need to sit as Kenyans and decide how the economy is going to be managed so as to resuscitate it between now and the expiry of the next four years.

Mr. Speaker, Sir, my submission is that unless we do that as Kenyans, then this constitutional process is going to stall. It is not going to succeed. I am submitting that Kenya is bigger than any one of us. It is bigger than KANU, it is bigger than anyone in KANU and that is why we have to sit as Kenyans. We need to sit down and negotiate how we

can form a government of national unity, so that we can give jobs on merit, not because people are members of this tribe or that tribe. When I talk about a government of national unity, I am talking about a transitional Government; for four years only, not beyond four years, for the period between now and the end of four years, at the end of which we will have in place a new Constitution; at the end of which the best party, the best woman, the best man can win the election once we have got a new Constitution.

But I am saying that we cannot sit back now and expect solutions to corruption and the economy to drop on Kenya from Heaven like *manna*. We need hard bargaining and to sit down and negotiate the formation of a government of national unity as a transition towards the free and fair elections that are going to be conducted when we have got a new Constitution in place.

Mr. Speaker, Sir, I am saying that there got to be a multi-sectoral approach by all Kenyans. I am saying in a word, it can be only a negotiated settlement, and I emphasise the term "negotiated". I am not thinking about a situation where one individual is going to dictate, "you and you, come and form a government". I am talking about negotiated Government of national unity that is also going to negotiate which public offices are going to be filled, so that even if we go to a private firm like Deloitte Touche and the Price Waterhouse and ask them to recruit people to fill key public sector jobs like the Ports Authority, they will do so.

We should bring down the Ministries to 18 and cut down on excess expenditure in the Budget. We should also rein in corruption. This is a negotiated government of national unity that I am talking about. It is my submission that an enabling environment cannot be created unless there is that supervisory body that is going to oversee the implementation of this constitutional reform process. That overall supervisory body can only be a government of national unity. We cannot expect the Government which is responsible for the mess in which we are in to also supervise this constitutional reform process. That is naive on our part. There have to be a new body, a fresh team to supervise this constitutional reform process to contain the corruption and give jobs on merit.

This enabling environment is something that under-pins the success of the constitutional reform process which we are talking about. So, it is my hope that the Members on the other side will listen, contribute and support this proposal so that for the good of Kenya and for the sake of posterity, we can sit down as Kenyans and discuss this as the only way forward.

Mr. Speaker, Sir, I know there has been some conspiracy by some people here to bring amendments that are likely to jeopardise the entire Bill, and I am appealing to them to abandon those evil thoughts.

Thank you, Mr. Speaker, Sir.

The Minister for East African and Regional Co-operation (Mr. Biwott): Thank you, Mr. Speaker, Sir. First of all, I would like to congratulate all those who participated, including myself, in the discussion, as well as other Kenyans, more so the President, who came and assisted at the last time. But the Attorney-General and his staff deserve special commendation.

Mr. Speaker, Sir, the draft Bill as it is, reflects the wishes of Kenyans as discussed at Safari Park Hotel. I do not, therefore, intend to dwell on the draft Bill, as it is at the moment. There are a few aspects, however, which might require careful scrutiny before we finally pass the Bill. I am very much for civic education, but the Bill, as it is structured at the moment, seems to leave it in a manner that does not allocate the responsibility to a specific person. For example, Clause 15, page 427, Section 10A, on Civic Education, states as follows:-

"To facilitate the conducting of civic education in order to stimulate public discussions and awareness on constitutional issues."

If this Clause is left as it is, then we will pass the Bill without identifying anybody to shoulder the responsibility. I think there is need to identify somebody, especially the Commission itself, to ensure that civic education is conducted. It should ensure that there are other courses to be conducted by others so that there is no limit as to how many people can conduct that education. But at the end of the day, it must be the Commission that should be answerable as to why and whether civic education was conducted. I am only raising about one or two points because I do not want to dwell much on the matter.

On page 431, Section 10 (d) (xii), you will find that it refers to succession to office. It says that one of the functions assigned to the Commission is to:

"Examine and review succession to office and recommend a suitable system for smooth transfer of power after an election or otherwise".

This again does not say which office. I think we ought to be very specific so that there will be no ambiguity. Those things should be---

Mr. Ndicho: There is only one office!

The Minister for East African and Regional Co-operation (Mr. Biwott): There is only one office but why leave it silent? It must be the office of X, so that there is no ambiguity whatsoever.

Otherwise, I think there is need for Kenyans to act the way they have acted in discussing the modalities for

electing or choosing the participants of their Constitutional Review Commission. If Kenyans can look into their own future, regardless of whatever it is, and look for a Kenya that will be peaceful in 100 years to come, I think they should be able to forget about everything else but seek the best for themselves so that in the end, Kenyans will be able to secure for themselves a Constitution that will guarantee their existence, rights and future. This being the final debate now, on a document that will facilitate the appointment of individuals, it is incumbent upon this House to be thorough in its scrutiny so that the final document, when it is finally passed, will reflect a document that will allow Kenyans to put in place a constitution that is applicable. When it comes to the exercise of going round to collect views, the application of the realities must come first. This will ensure that, that document achieves the purpose for which it was intended. We should get the right people who have been appointed to the Commission to do the right job and to get Kenyans participate fully, so that at the end of it all, nobody will complain that he had not been consulted. This is because if that is done, then Kenyans will be assured; they will present their views to the Commission, and those views will be taken, collated and then drafted into a document which will ensure that Kenyans are provided with a document that will last for many more years to come.

With these few remarks, I beg to support.

Mr. Speaker: Mr. Ndicho.

(Mr. Wamae stood up in his place)

I called Mr. Ndicho!

Mr. Ndicho: Yes, Mr. Speaker, Sir, I heard it!

Mr. Speaker: Order, Mr. Matu Wamae!

Mr. Ndicho: Mr. Speaker, Sir I rise to support this Bill because the issue of reforming the Constitution of this country started way back when we were agitating for the introduction of multi-partyism in this country. Many forums and many people in this country have urged those in power today to make sure that the Constitution of this country is amended to reflect the aspirations of the current generation of Kenyans.

Mr. Speaker, Sir, the current Constitution as it is, has no problem. The problem we have with the current Constitution is the misuse of power. When we got the first Constitution which was drafted in Lancaster House by the founding fathers of this nation, there was no Parliament that had Kenyans like we have today, nor were there civil societies in Kenya at that time, to urge for such a review of the Constitution. So, I wish to agree with hon. Muite that it is the Constitution which is more important and supreme than Parliament, the Presidency, and any other institution in this country. This is because it is the institution on which other institutions should be based and where they should be deriving their powers to exist.

Mr. Speaker, Sir, I wish to say that the current draft of this constitutional review should be the way it is, because we have heard there is an intended amendment, which I stand to oppose. This is meant to incorporate the Maendeleo ya Wanawake Organisation. As we know Maendeleo ya Wanawake Organisation---

Mr. Speaker: Are you not irrelevant, Mr. Ndicho? We are not in the Committee Stage yet!

Mr. Ndicho: Mr. Speaker, Sir, I am saying that I am supporting this Bill the way it is and we should not bring anything into it, it should go the way it is, and I am just sounding a warning to whoever wants to bring that kind of an amendment to stop it. This is because we are going to muzzle everybody here who is interested.

That Assistant Minister Transport and Communications (Mr. ole Sankori): On a point of information, Mr. Speaker, Sir.

Mr. Speaker: Do you want to be informed, Mr. Ndicho? Make up your mind.

Mr. Ndicho: Mr. Speaker, Sir, you know I am a Maasai and I would like to be informed by my fellow Maasai.

That Assistant Minister Transport and Communications (Mr. ole Sankori): Mr. Speaker, Sir, I would like to urge Mr. Ndicho to look at the actual Bill, page 447: Maendeleo ya Wanawake is already there, so there is no amendment for it.

Mr. Speaker: Have you read the Bill, Mr. Ndicho?

Mr. Ndicho: Yes, Mr. Speaker, Sir.

An hon. Member: Women's Political Caucus!

Mr. Ndicho: It is that Caucus. It is that Maendeleo ya Wanawake which we are against. This is because it is representing KANU, and already in part (a) which caters for political parties, it is already represented. So, we do not want one party to be there and then to bring in its friends through the back door.

Mr. Speaker: Order, Mr. Ndicho! Either you are opposed to the Bill being amended, or you are proposing that it should be amended to remove Maendeleo ya Wanawake. You have to make up your mind one way or the other.

Mr. Ndicho: Mr. Speaker, Sir, I beg to continue.

Mr. Speaker: Very well!

Mr. Ndicho: Mr. Speaker, Sir, as I had said, today, in East and Central Africa, the best Constitution we have is the Ugandan Constitution. They have that beautiful Constitution because they first went to war. I am not suggesting that we should go to war, but even the best Constitution in the World; the American Constitution, came about after the American civil war. We do not want to go to war in this country. We would like this Commission which will be charged with the responsibility of reviewing the Constitution, to be a permanent Commission. Let us not come up with other commissions when there is the Constitutional Review Commission. We have the Permanent Commission on Soil Conservation which was appointed by the President.

Mr. Speaker, Sir, I would like to urge this House to establish a permanent commission which will be reviewing the Kenya Constitution. Today, Kenyans want the Constitution reviewed because we are not the generation that was there when Mzee Jomo Kenyatta, Martin Shikuku, Masinde Muliro and others were there. We are a new generation. So, there should be a permanent commission which will not have to wait for the civil society and Kenyans to go into mass action and demand constitutional reforms which will be commensurate with their life styles. There should be a permanent commission to amend the Constitution as per the aspirations of the current generation.

Mr. Speaker, Sir, I must thank all Kenyans, and especially those who used to respond when we used to call for mass action. The experience we have is that the current Kenya Government does not yield to changes peacefully. They only respond to changes when there is friction and mass action. Even when you look at how the Kenya Government is responding to this constitutional reform process, it is kind of dragging its feet. It has been indicated that this whole process will come to an end in the year 2001. Why should we take three years going through a simple process? If there is goodwill, a way would be found to hasten this process of amending this Constitution. By the year 2001, when the whole process will have come to an end, we will be approaching the electioneering period and many Kenyans will be preoccupied with the general elections. So, if the Government is really committed to this process of reforming our Constitution, it should be hastened. The amendments being sought are not so many and major. They should take only one year, if not less. So, the period of time that this process is taking is suspect. We do not know why it should take three years, when we know very well that even when our forefathers went to the Lancaster Conference, they took less time to make the current Constitution than we are now taking to reform what we have. That time frame is suspect. We suspect that the Government is hiding something.

Mr. Speaker, Sir, I would also like to congratulate the Attorney-General and his staff, because if you look at the list of people they are proposing to be in the Commission, it is kind of transcending the entire tribal board as well as other special interests.

Mr. Speaker, Sir, I would like to urge the Constitution of Kenya Review Commission, during their deliberations to bear in mind that what we want is good governance. It is not the person who will be the President, Vice-President or who will be in the Cabinet. Currently, every tribe is trying to name their person to be the Vice-President. Over the weekend, I said that being a Vice-President is not a guarantee that one will be the President. We have had hon. Kibaki, Prof. Saitoti and Dr. Karanja as Vice-Presidents, and they never made it to the Presidency. But if they want that, I was also proposing that all the Bantu tribes form one caucus and have their own President. By the way, we Kikuyus do not want one of our own as a Vice-President. That is why Kikuyus have not talked about the Vice-President. We want one of our own to be the President; the big seat, not the small seat. We will bless and support those who want the small seat, provided they support us for the big seat. So, we want a Commission that will not dance to the tune of the current debate in the country where every tribe and everybody is naming somebody for the Vice-Presidency. I would like to tell them that even if they are named Vice-President, there is no guarantee of being successors of the President.

Mr. Speaker: You are repeating yourself!

Mr. Ndicho: Mr. Speaker, Sir, the hon. "Total Man" is there to support me on that one, that even if you become the Vice-President, there is no guarantee that you will be President until, of course, he gives the nod. If he gives the nod, then you get it.

The Minister for East African and Regional Co-operation (Mr. Biwott): On a point of order, Mr. Speaker, Sir. I thought we were debating the Draft Bill. Is hon. Ndicho in order to digress from the Bill and discuss hon. Biwott, who has no idea whatsoever about the kind of things he is talking about?

Mrs. Ngilu: He never mentioned your name!

The Minister for East African and Regional Co-operation (Mr. Biwott): He said, "Total Man", and I am the "Total Man".

(Laughter)

If the hon. Member for Kituyi Central is still not aware, this is the "total man".

Mr. Speaker: What is your point of order?

The Minister for East African and Regional Co-operation (Mr. Biwott): Mr. Speaker, Sir, is the hon. Member in order to talk about hon. Biwott nodding when there is no situation where hon. Biwott will nod at anything, including what he is imagining in his own mind?

Mr. Speaker: By the way Mr. Ndicho, can we come back to the Bill now and avoid all these imaginary things about Vice-President? Can we now talk about how we will create a Constitution? Do not bring those imaginations.

Mr. Ndicho: Mr. Speaker, Sir, I was pleading with the Commission that will be given the mandate by this Parliament not to be influenced by the current talk in the country about the naming of the Vice-President. I am sure my friend did not hear what I was saying because he was consulting with the Attorney-General. But we should give it a free hand.

Mr. Speaker, Sir, in this country, we have seen commissions appointed either by the President, this House or other bodies, and they do not operate freely. This is one of the most important commissions in our country. They will not be talking about mmomonyoko wa udongo, reviewing the 8-4-4 Education System and these other things that many commissions have been mandated to look into.

We are looking into a very important document in the lives of Kenyans, and I am calling upon the powerful men in this country who walk in the corridors of power, not to influence this Commission, so that it recommends the writing of a Constitution to their liking. We want a Commission that will operate independently and freely; a Commission that will come up with a document that will make every Kenyan nod and say: "Yes, this is a good document." Otherwise, I support my friend hon. ole Ntimama when he says that the Constitution of Kenya should be a Constitution where every Kenyan, whether small or big, will feel protected. If there are people today who feel that they are not protected by the powers that be, they are the so-called big tribes. This is because, if you look at the way jobs are distributed in the Civil Service, the recruitment--

Mr. Ita: We support you!

Mr. Ndicho: Mr. Speaker, Sir, can you protect me?

Mr. Speaker: Mr. Ndicho, I think the best protector of yourself is yourself. If Members feel that you are not interesting, there is nothing I can do.

Mr. Ndicho: Mr. Speaker, Sir, whoever feels I am not interesting can go out and come back after I have finished. All I am saying is that the Constitution that will be recommended by the Commission should not be like the current one in which the recruitment into the Civil Service today does not consider some communities. I am. I am sure the people who come from the larger communities today are not enjoying the fruits of independence. The current recruitment into the Civil Service and in the Armed Forces does not favour the big tribes. It is for the small tribes. So, we are calling upon, and I would like to echo what hon. ole Ntimama said, that the Purko clan in Narok-- As the President was saying, it should respect the small ones. It is true, it should respect the small ones. But the small ones should know that the bigger clan is Purko and they are the bosses there in Maasailand.

Mr. Speaker: What is this about Purko?

Mr. Ndicho: Mr. Speaker, Sir, what I am trying to say is that we should have a good document from this Commission where the small clans or the small people are protected as well as the big tribes.

Mr. Speaker: Order! Order, Mr. Ndicho! I think you were here when Mr. Muite raised that important point, and my reaction is that as of now, we are not talking about what Constitution we should have. We should be talking about what mechanism we can put in place to solicit the views of Kenyans to make a good Constitution. So, you should be talking about the Bill before the House; is it right or must we improve on it? Otherwise, I am warning you that you are becoming irrelevant!

Mr. Ndicho: Mr. Speaker, Sir, in fact, I could have recommended that the people who are being proposed in this Bill to be incorporated in this Commission, should have, as by right or by official invitation by the Speaker, be here, either in the Galleries or elsewhere and hear us talk about them. They should hear what we are telling them. This organisation--

Mr. Speaker: Order! Order, Mr. Ndicho! With all honesty, you are becoming very hypothetical. The Commissioners cannot be there until you have passed the Bill. It is that Bill that will give birth to the Commissioners. So, you are asking me to invite imaginary people. Can you give me their addresses?

Mr. Ndicho: Mr. Speaker, Sir, I stand to be corrected. But what I am saying is that we should have people who will not be under the influence of some powers. Finally, as I was saying, let us have a new document, something that Kenyans can read in the next 20 years without going through it. Otherwise, I hate to see a situation where a document will be done to favour certain--

Mr. Speaker, Sir, we have heard KANU say that even if President Moi will not be running for office again, the next person who will be supported by KANU will go through. So, we want the Commissioners to give us the correct document that will not necessitate us to come and review another Constitution in the post-Moi era.

With those few remarks, I beg to support.

Mr. Speaker: Who is that hon. Member next to hon. Lotodo? Is it hon. Murrimoi?

An hon. Member: No, that is hon. Sirma.

The Assistant Minister for Rural Development (Mr. Sirma): Mr. Speaker, Sir, I want to take this opportunity also, as a Member of Parliament and a citizen of this country, to contribute to the Bill which is before us. First of all we, as Members of Parliament, we are entitled to say what the people from the grassroots want of us. The way I see it myself, this Bill, when it was drafted, it was done by a combination of people who do not represent anybody in this country. I would call them political touts who came and made a lot of noise to us at the Bomas of Kenya and at Safari Park Hotel. We should have even rejected this Bill and started a new process where Parliamentarians should have been the people running it. I say that because we have the mandate of the people. We have also players who are going to join us in the professional field of Constitution-making. But as Parliamentarians, we have a role to play which we shall be judged upon in the years to come; that, we left the whole process to touts. That is why at the moment, if we are not going to be careful, we shall be rejected by our constituents. We have to address this issue of the Constitution as Parliamentarians and decide what we want Kenyans to have and what not to have. The supremacy of this Parliament--

Mr. Ita: On a point of order, Mr. Speaker, Sir. Is the hon. Member in order to suggest that the Attorney-General, both at Bomas of Kenya and at Safari Park Hotel, invited touts to come and discuss this constitutional framework Bill?

Mr. Speaker: Order! What is wrong with the Attorney-General inviting touts? Are they not Kenyans?

The Assistant Minister for Rural Development (Mr. Sirma): They are Kenyans.

Mr. Speaker: Proceed!

The Assistant Minister for Rural Development (Mr. Sirma): Mr. Speaker, Sir, what I would say is that we have representation and we know that people have been arranged such that they wanted to make a lot of noise at Safari Park and show the whole process as if KANU was opposed to it.

Mr. Speaker: Very well, Mr. Sirma, go to the Bill now. What is wrong with the Bill?

The Assistant Minister for Rural Development (Mr. Sirma): Mr. Speaker, Sir, we support the Bill as it has come although we know what limitations or how it came about and that is why I am saying, as Parliamentarians, we have failed in one way. We actually need a Constitution which is going to protect the properties of Kenyans who have acquired it because we know through all this time, there are people who have acquired property in all forms and when we have people including law makers going about breaking the law and destroying other people's property, the Constitution should address such issues and look after those people well. This is a very important issue because if we are going to destroy property, Kenya will never be the same again.

An hon. Member: Including you!

The Assistant Minister for Rural Development (Mr. Sirma): Mr. Speaker, Sir, we had the clashes which have bedeviled this country. We have---

Mr. Speaker: Order, Mr. Sirma. All members here are warned by me now that, you will not be allowed by the Chair to be irrelevant. Read the Bill and say what is right and what is wrong in the Bill.

The Assistant Minister for Rural Development (Mr. Sirma): Mr. Speaker, Sir, as I go now to the Bill, I have only some few issues. You will find that there are people who do not represent anybody. The Maendeleo ya Wanawake Organisation represents women generally in this country and we want them to talk on behalf of all the women in this country and we need such people to represent us and---

Mrs. Ngilu: On a point of order, Mr. Speaker, Sir. I just want to make it known to the hon. Member that Maendeleo ya Wanawake Organisation represents hardly 10 per cent of women in this country and we left that organisation a long time ago. So, let him know that Maendeleo ya Wanawake Organisation does not represent us.

The Assistant Minister for Rural Development (Mr. Sirma): Thank you, Mr. Speaker, Sir. I appreciate that she left Maendeleo ya Wanawake Organisation but she was a member. We have not heard of her really, rejecting Maendeleo ya Wanawake Organisation at any one time. So, Maendeleo ya Wanawake Organisation addresses the issues of Kenyans and the women of Kenya including you. So, what I want to say is that we have to remove some of the irrelevant people who may spoil the whole process.

With those few remarks, I beg to support.

Mr. Wehliye: Thank you, Mr. Speaker, Sir for giving me the chance.

Mr. Speaker, Sir, history has proved that the process of constitution-making is the same one.

[Mr. Speaker left the Chair]

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

Mr. Temporary Deputy Speaker, Sir, there is no straight path to constitution-making and in fact, if I go back to the history of this nation, the people of Northern Kenya or the former NFD never participated in the making of the current Constitution. Whether that was by omission or by commission, it is something that I do not know. The Lancaster House conferences of 1960 and 1962 did not really accept the views of the people of Northern Kenya and, therefore, the kind of Constitution that was used over the years was a Constitution that was used to re-colonise the people of Northern Kenya while other Kenyans, it is known, form the bulk of the current nation which is the current Kenya. We have had our nation states. We have had the Kikuyu nation, Kisii nation, Maasai nation and the Somali nation and the colonies are there as a favour. They bring us together under the umbrella of a nation called Kenya. Today, I doubt whether we have the name "nation" because we have regions in the name of tribes to the extent that today, instead of asking for (?), I think we are biologically nationalists and this has reduced us to nothing but tribalists and therefore the current Constitution making must represent the views of all Kenyans.

Mr. Temporary Deputy Speaker, Sir, the Constitution that we have has been prepared in such a hurry that after the colonists left, we have had a few elites who masqueraded under the name of democracy and they felt that their voices should be heard in all corners of Kenya and it is these people who have raped Kenya and, therefore, the kind of Constitution that we are thinking of must be a Constitution that will be free of these few elites. Kenya, today like other countries, suffers from a constitution malady. In Kenya, we are lucky that we did not have militarism. We did not have elites. Of course from the nation states we got, the bulk actually accompanied what we call an elitist culture. We missed that step of militarism here which all other countries went through and, therefore, we embodied a culture of Presidentialism and this has been tribalised. It is time for Kenyans to nationalize this. We have trivialised things and it is time for Kenyans to think as nationalists. This issue of the President, where each community says that "it is our turn", I think this is one of our biggest misgivings. We must be prepared and I once and for all say that, the Presidency is a national institution and I think one thing that has reduced this to a tribal cocoon is because of this culture---

The Temporary Deputy Speaker (Mr. Musila): Mr. Wehliye, spare that contribution and present it to the Commission when it is appointed. We want you to be relevant to the Bill under discussion. Carry on!

Mr. Wehliye: Mr. Temporary Deputy Speaker, Sir, since we did not participate in the making of the current Constitution and from the look of things and from what is contained in this Bill, again it seems the people of Northern Kenya are not going to have a chance to participate in the current constitutional making---

Mr. Temporary Deputy Speaker, Sir, first of all, in the Drafting Committee, we did not have any representative from Northern Kenya and I know the uniqueness of the region. My Chairman cannot talk on behalf of Northern Kenya. The Chairman of KANU cannot talk on behalf of Northern Kenya because they do not know and therefore, we are saying that the 25 people actually--- Of course we have heard of the Kenya Women's Political Caucus and I am proud of that group but we should be careful in the way we get the constitutional lawyers so that, the views of all Kenyans regardless of the regions, should be represented.

Mr. Temporary Deputy Speaker, Sir, I talk with a lot of bitterness because the current Constitution that we have has been a tool of de-education and blackmail as far as the people of Northern Kenya are concerned. You know today, I can stand here and talk but I am not equal. We are different. I carry two cards. I have the Green Card which is equivalent to the Apartheid Pass and, therefore, it is high time those people of Northern Kenya must be at par with other Kenyans and it is this Constitution that has been messed up with.

(Applause)

Mr. Temporary Speaker, Sir, I think we have not yet got our Independence and therefore, I will be one of the people who will be fronting for a clause in the Constitution for our self-determination if a region feels that it is not satisfied with the Central Government; then, that region should be given the right to either secede or remain as part of Kenya because that is the only way that we can remain accountable to our people because in this same Constitution, we have had the Contagious District Act where our children and women were tortured and raped using the name of the Constitution. We have a Green Card. The other day in my constituency over 200 people died and the only consolation we got was 1,000 bags of maize. We have had the Sunbeam disaster, the Mtongwe Ferry disaster, the recent Bomb blast and the whole country and world was there. Therefore the sanctity of life as far as anybody from Northern Kenya is concerned, is equivalent to one bag of maize and this is one thing that you have to shed off. We cannot be proud of a

nation that does not take care of the interests of its people and this is one thing that we have to change.

Mr. Temporary Deputy Speaker, Sir, I think the issue of referendum is going to be a very important thing as far as this Bill is concerned.

Mr. Maore: On a point of order, Mr. Temporary Deputy Speaker, Sir. While it is right that the real reason why a Member should be here is to speak and protect and fight for the rights of his voters and his constituents, I thought that when you first appear in this House on the first day, the first thing you do is to take an oath to defend the Constitution of the Republic of Kenya which means territorial integrity. Is it in order for the hon. Member who has spoken to allude to secession as part of his way of addressing his grievances?

The Temporary Deputy Speaker (Mr. Musila): I have actually cautioned hon. Wehliye that he was being irrelevant to the Bill being debated here. Hon. Members, I would like to appeal to you to stick to the Constitution of Kenya Review Commission (Amendment) Bill, which is the subject we are debating here. There should be a difference between presenting one's views to the Commission, when it is established, and debating this Bill in this House. Maybe, Mr. Wehliye can spare what he is trying to say now and present it to the Commission when it is established. I do not wish to interrupt any hon. Member as he or she contributes to the Bill. So, please, stick to the Bill. Mr. Wehliye, are you through?

Mr. Wehliye: Thank you, Mr. Temporary Deputy Speaker, Sir. While I appreciate the sentiments raised by my colleague, I would like to inform him that I am talking of the new constitution. So, I have not gone out of the subject under discussion. We are talking about the unborn constitution. So, I hope that he will understand what I am talking about. I was talking about the issue of a referendum.

An hon. Member: A referendum?

Mr. Wehliye: Mr. Temporary Deputy Speaker, Sir, now, I am coming back to the Bill. As far as this Bill is concerned, it does not say what will happen in case of a stalemate. If the stakeholders disagree, what will happen? We should have a situation whereby we will throw back the ball to Kenyans, who will then say what they want. I, therefore, concur with the hon. Member who suggested that there should be a clause in this Bill to make a provision for Kenyans to make a decision in case the stakeholders disagree on a particular point. Such decisions should be made at a referendum.

Right now, we are talking of the East African Co-operation. Previously, we had the East African Community. One of the functions of the Commission is to examine and recommend on the treaty-making and treaty implementation powers of the Republic and any other relevant matters to strengthen good governance and observance of Kenya's obligations and international law. I do not think that Kenyans are prepared for the recently conceived East African Cooperation. At one time, Kenya lost through the East African Community. Recently, Kenya hosted tripartite treaty meeting of representatives from Kenya, Uganda and Tanzania. People are thinking of a loose confederation that will bring together Kenya, Tanzania, Rwanda, Burundi, and other countries from this region.

Mr. Temporary Deputy Speaker, Sir, we will be facing three problems. One, there is the issue of age difference as far as the leadership in each of these four countries is concerned. I think Kenya, as a country, will not cope. So, we should wait for the new constitution to be put in place in the next four or five years, so that Kenyans can decide whether to be party to this loose confederation or not. It is wrong and ill-timed for anyone to think of making Kenya part of this federation. This is because it will not last long as the ambitions of Mr. Museveni, Bizimungu, Mkapa and those of President Moi are not the same. I doubt whether, at any one time, these countries will reach an ideological compromise. Therefore, instead of making Kenyans part of a process which will not last, that process should be shelved until we have a proper constitution in place, and that Kenyans can say whether they want a loose confederation of the East African States. Time is not ripe for Kenya as far as the East African Cooperation is concerned.

Mr. Temporary Deputy Speaker, Sir, another important issue is that of the dissolution of Parliament. The current Constitution empowers the President to dissolve Parliament at his pleasure. I think we should also have a clause in this Bill to ensure that the President does not dissolve the existing Parliament until a new constitution is put in place.

Mr. Achola: On a point of order, Mr. Temporary Deputy Speaker, Sir. It appears that my honourable friend is still being irrelevant. He is talking about the actual contents that will be in the future constitution as opposed to the process of reviewing the Constitution. He has been cautioned several times, but he does not seem to have got the message. So, in view of the fact that he has been off the path all the time, could we have someone else to contribute to the Bill?

The Temporary Deputy Speaker (Mr. Musila): Thank you for assisting the Chair. Mr. Wehliye, let this be the final warning to you on irrelevance. Continue.

Mr. Wehliye: Mr. Temporary Deputy Speaker, Sir, my hon. friend has not got the point I am trying to make. I am talking about introducing a clause into the Kenya Review Commission (Amendment) Bill. Therefore, I am relevant as far as what I am saying is concerned. So, really, my friend did not get me right.

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

Mr. Wehliye: Mr. Temporary Deputy Speaker, Sir, what I am saying is that we should have a clause in the Constitution of Kenya Review Commission (Amendment) Bill to bar the President from dissolving this Parliament before a new constitution is put in place.

Dr. Ochuodho: On a point of order, Mr. Temporary Deputy, Speaker, Sir. I think we need guidance and protection from the Chair. When an hon. Member brings up a very important issue that is pertinent to the Bill on the Floor, you seem to concur with another hon. Member who is out of order. I think hon. Wehliye is in order to say that we need to insert a clause into the Bill to prohibit the Head of State from dissolving Parliament before a new constitution is put in place.

The Temporary Deputy Speaker (Mr. Musila): So long as Mr. Wehliye is talking about what should be included or excluded from the Bill, he is in order.

(Mr. Angwenyi stood up in his place)

The Temporary Deputy Speaker (Mr. Musila): What is it, Mr. Angwenyi?

The Assistant Minister, Office of the President (Mr. Angwenyi): On a point of Order, Mr. Temporary Deputy Speaker, Sir. I simply want to refer the hon. Member to---

The Temporary Deputy Speaker (Mr. Musila): Is that a point of order, or a point of information?

The Assistant Minister, Office of the President (Mr. Angwenyi): It is a point of information, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Musila): Mr. Wehliye, are you in need of his point of information?

Mr. Wehliye: No, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Musila): Order, Mr. Angwenyi! Mr. Wehliye does not need your information!

Mr. Wehliye: Mr. Temporary Deputy Speaker, Sir, I was on the issue of reducing the powers of the President to dissolve Parliament at will. I was saying that such a clause should be part of this Bill. I am foreseeing a situation where there will be a stalemate. We do not want anybody to take advantage of the confusion that may arise. What we are saying is that the Commission should have powers to ensure that the process goes on smoothly. This clause should keep the President out of the process, so that if Kenyans fail to complete the constitutional review process in time, this Parliament can have powers to extend its life until we have a new constitution.

Mr. Temporary Deputy Speaker, Sir, the review process is timely. This is the time the Commission should be empowered. What we have in the Bill can be one thing, and its implementation may be another thing altogether. We should also ensure that the work of the Commission will not be hampered by any individual. We should have all the resources ready, so that if the Commission decides give the people of Northern Kenya some civic education, it can do so without seeking clearance from anybody. People from my region are looking forward to the new Constitution because the current Constitution does not take care of their interests. Therefore, this will be our Lancaster Conference III.

With those few remarks, I support the Bill.

(Loud consultations)

The Temporary Deputy Speaker (Mr. Musila): Yes, Mr. Ng'eny.

The Minister for Water Resources (Mr. Ng'eny): Thank you, Mr. Temporary Deputy Speaker, Sir, for allowing me to contribute to this Bill.

Mr. Obwocha: On a point of order, Mr. Temporary Deputy Speaker, Sir. Did you call out Mr. Ng'eny or Mr. Angwenyi?

The Temporary Deputy Speaker (Mr. Musila): I called out Mr. Ng'eny. Mr. Angwenyi will come latter.

The Minister for Water Resources (Mr. Ng'eny): Mr. Temporary Deputy Speaker, Sir, this is the Bill of all Bills. The Commissioners who will form the Commission to review the Constitution of Kenya will be Commissioners of all Commissioners. We have had various commissions in the past, but this one will surpass all of them in importance. We are now discussing the way the Commission will be set up with a view to establishing how Kenya will govern itself in relation to children, mothers, old men, Members of Parliament and the society at large. So, what we are discussing today is very important. In fact, I would say that it came at the most opportune time - when Kenya is only 35 years old. Indeed, the time is very ripe. We have had several experiences since we gained Independence.

Mr. Temporary Deputy Speaker, Sir, we have had several reviews and we are now discussing a very serious issue; the Constitution. But before that, we have to ask ourselves how we are going to review this Constitution and this is what we are discussing here. I have listened to hon. Members contributing to this and I must say that I have

listened with a lot of admiration. I agree with most of the contributions. I am only going to make some few suggestions in one or two areas in regard to the Women Political "Carcass".

Hon. Members: Caucus not "carcass"!

The Minister for Water Resources (Mr. Ng'eny): Some of us are not Englishmen and I am sure neither the hon. Member is an Englishman. Even if you come from the "UK", you cannot be Englishmen. We have had this mentality which has been imported from Europe or the developed countries where we have been hyper-sensitized about gender issues as if we did not know how to take care of our daughters, mothers and grandmothers. Every time we talk, it is gender issues. Surely, we know how to take care of our mothers and our wives. I would like to suggest that Maendeleo ya Wanawake is the organisation which has been taking care of our women and ladies both learned and those in the rural areas.

The other suggestion which I would like to make is that when it comes to the nomination of the commissioners, I would like to remind my colleagues, those young people like myself that 30 years ago when we were young and I am happy hon. Keriri is here; when we used to go out whether in the United States of America (USA) or Russia, Moscow, if we met a Kenyan irrespective of his tribe, he was our brother or sister. We were proud about Kenya.

(Laughter)

But in the past 35 years, some things have changed and that is why we are talking about the constitutional review process. We are now talking about a 35-year old man who was a child 35 years ago; he is now an adult. That is why there is that difference. That, 35 years ago, when we met in Moscow, we were relating to each other as Kenyans, but if you take your child to Japan now, how does he or she relate with other Kenyan students there? They say, "I am the son of so-and-so, and daughter of so-and-so, but what we talk about is parties. We talk about politics or that so-and-so is not good." That means that we will need a new Constitution so that we become "born-again Kenyans" so that we feel that we are all Kenyans.

Mr. N. Nyagah: On a point of order, Mr. Temporary Deputy Speaker, Sir. With due respect, I think, we have derailed from the ruling that you made. There are so many Members who would like to contribute to this Bill and probably, you could get the Minister to speak on the relevant clauses of this Bill.

(Applause)

The Temporary Deputy Speaker (Mr. Musila): Mr. Nyagah, once again, it is not the wish of the Chair to interrupt hon. Members when they are contributing; I would like all of you to stick to the Bill, be relevant. I do not wish to stop anyone now, so, please, correct yourself. Mr. Minister, continue.

The Minister for Water Resources (Mr. Ng'eny): Thank you, Mr. Temporary Deputy Speaker, Sir. I would like to thank my colleague, hon. N. Nyagah. In fact, he makes good contributions and I admire him. The Bill is very good and, as I said, I was only going to contribute to those few aspects which I thought were necessary.

With those few remarks, Mr. Temporary Deputy Speaker, Sir, I support.

An hon. Member: Total woman! Total man!

Mrs. Seii: Thank you, Mr. Temporary Deputy Speaker, Sir, for finally spotting me. I am going to be specific to the Bill. I rise to speak on a few areas which have not been touched, but before I do that, I am also surprised that many men would like to speak for women. I do not know why they do not think that women can speak for themselves, but let them be informed that women are capable of talking for themselves. I am going to touch on the issue of women representation and I do not think it is necessary for all these men to stand up and talk for women.

First of all, Mr. Temporary Deputy Speaker, Sir, the Bill is excellent and I want to congratulate those who worked very hard to bring about this Bill. I want to say that some of us who have seen many changes in the Constitution, like the repeal of Section 2A, always hope against hope that it will be implemented to the point. The repeal of Section 2A introduced multiparty democracy into this country. I am not being relevant, but I am giving you a background. But there are areas that were not open to multiparty democracy and up-to-date, those people are still living in a one-party system. Those are mainly people who come from my home area, the Rift Valley. Then, came the next change through the Inter-Parties Parliamentary Group (IPPG) and again, we hoped against hope that, that would change the laws that oppressed us down there in the Rift Valley, but that was not to be so. Even as I speak today, I want to assure you that none of the IPPG recommendations works in those areas. Here, again, we are talking about reviewing our Constitution.

Assistant Minister for Transport and Communications (Mr. Sankori): On a point of order, Mr. Temporary Deputy Speaker, Sir.

Mrs. Seii: I do not want you to interrupt me!

The Temporary Deputy Speaker (Mr. Musila): Mrs. Seii, there is a point of order!

Assistant Minister for Transport and Communications (Mr. Sankori): Mr. Temporary Deputy Speaker, Sir, is it in order for hon. Seii to say that none of the IPPG recommendations works in Rift Valley while it is through the IPPG reform package that she is here in this House?

Mrs. Seii: Mr. Temporary Deputy Speaker, Sir, I did not need that. I was still going to explain about this issue. So, Mr. Sankori, please, do not take my time. I was going on to say that we are now facing another review. Again, we have hope and we would like to see this work. That is why I would like to look at this Bill and see the areas which will be subverted. I hope the Attorney-General is paying attention. There are areas which need to be tightened so that there are no loop-holes in this Bill to be subverted. One such area is in connection with civic education.

Mr. Temporary Deputy Speaker, Sir, civic education is not anything which is acceptable in most parts of the Rift Valley. Because civic education is regarded as something which has come from the Opposition parties. Many of the Rift Valley leaders today guard their own people because they thrive on the ignorance of the people. When you think, or talk about civic education---

The Assistant Minister for Finance (Mr. Arap-Kirui): On a point of order, Mr. Temporary Deputy Speaker, Sir. I think the hon. Member is misleading this House. In the Rift Valley Province, we value civic education. We would like members of our constituencies to be as informed as other Kenyans elsewhere. I think she had better speak for herself because this does not happen in the Rift Valley.

(Mrs. Seii stood up in her place)

The Temporary Deputy Speaker (Mr. Musila): Order, Mrs. Seii! You cannot stand when another hon. Member is on his feet.

Mrs. Seii: Mr. Temporary Deputy Speaker, Sir, he has finished. There is no freedom in the Rift Valley and the hon. Member knows it very well. I am an authority because I come from Rift Valley and I have lived in that place. I know that there is no freedom whatsoever for anybody to---

Mrs. Kittony: On a point of order, Mr. Temporary Deputy Speaker, Sir. We in the Maendeleo ya Wanawake have civic education programmes in Mount Elgon, Trans Nzoia, and other areas in the Rift Valley. But, we have about 10 districts---

Hon. Members: What is your point of order!

Mrs. Kittony: Mr. Temporary Deputy Speaker, Sir, the hon. Member is misleading the House.

Mrs. Seii: Mr. Temporary Deputy Speaker, Sir, that is "Maendeleo" and you can understand why it is so.

(Loud consultations)

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

Mrs. Seii: Mr. Temporary Deputy Speaker, Sir, I come from an area where, when you want to carry out civic education---

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

Mrs. Seii: Mr. Temporary Deputy Speaker, Sir, they will continue to interrupt me because they do not want me to tell the truth in this House.

The Temporary Deputy Speaker (Mr. Musila): Order, hon. Members! Hon. Seii, I think if you only stick to what we have agreed, that is the Bill,---

Mrs. Seii: I am, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Musila): If you did so, you would not be interrupted as much as you are being interrupted now. So, please be relevant to the Bill.

(Mr. Ruto stood up in his place)

An hon. Member: There is a point of order!

Mrs. Seii: Mr. Temporary Deputy Speaker, Sir, I need your protection. I am talking about civic education.

Mr. Orengo: On a point of order, Mr. Temporary Deputy Speaker, Sir. Were you satisfied that the two hon. gentlemen and the gracious lady stood up on points of order? Because when they rise up and give points of argument, and they go and sit down, it creates a wrong impression that they have made points of order. In fact, it is becoming clear that civic education is needed in the Rift Valley because the two of them need to be told what a point of order is.

(Applause)

The Assistant Minister for Transport and Communications (Mr. Sankori): On a point of order, Mr. Temporary Deputy Speaker, Sir. Hon. Seii should know that we are all from Rift Valley. We do not need the education of "horrible" Orengo when he comes to the Rift Valley.

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

Assistant Minister for Transport and Communications (Mr. Sankori): Is it in order for hon. Seii who knows only about Keiyo District, to talk about the Rift Valley? Let her talk about Keiyo.

An hon. Member: I come from the Rift Valley. Hakuna uhuru!

Mrs. Seii: Mr. Temporary Deputy Speaker, Sir, the hon. Member needs to know that Keiyo is in the Rift Valley. So, he needs a bit of civic education.

Mr. Obwocha: On a point of order, Mr Temporary Deputy Speaker, Sir. I have no intention of interrupting the gracious lady.

An hon. Member: You have!

Mr. Obwocha: Mr. Temporary Deputy Speaker, Sir, did you hear the hon. Member for Kajiado Central call hon. Orengo, a very respected hon. member of this House, "horrible" Orengo? He should be made to withdraw and apologise.

The Temporary Deputy Speaker (Mr. Musila): Mr. Sankori, did you actually call hon. Orengo "horrible"?

Assistant Minister for Transport and Communications (Mr. Sankori): Mr. Temporary Deputy Speaker, Sir, let hon. Obwocha differentiate the words "horrible" and "honourable". I did say "honourable" Orengo; not "horrible."

Mrs. Seii: Mr. Temporary Deputy Speaker, Sir, you will appreciate the fact that on this other side of the House, I am the only one from the Rift Valley. I know what we have gone through from the time when Section 2A of the Constitution was repealed and what those who vied for elections in parties other than KANU suffered. That is written in the history books of this country. We know very well that even when a law has been changed, it does change in all parts of the Rift Valley. I am an authority in this because I have been there. I was raised and I live there. As early as last week, I had a small meeting with women in my district. It was almost impossible for me to talk to these women because they are still carrying out the policy of protecting Rift valley and making it a KANU zone per se. We want to open up Kenya. If this Constitution will reach all Kenyans, it better be a Constitution of all Kenyans and not some Kenyans.

(Applause)

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

Mrs. Seii: Mr. Temporary Deputy Speaker, Sir, I stand here to speak with a lot of bitterness because I know the discrimination, the zoning and the isolation that the people with alternative views in the Rift Valley suffer. As long as you do not sing the song of KANU, you are out to suffer in the Rift Valley. I am saying it today that if this Constitution will not liberate the people in Rift valley to engage themselves in the same debate on the Constitution like the rest of Kenyans, then it would not have served its purpose. I hope the Attorney-General is listening.

(Applause)

We have not even started discussing about multiparty democracy. Every time you come in and talk about it, you are looked at as if you are out to remove the President from power.

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

Mrs. Seii: Mr. Temporary Deputy Speaker, Sir, I am talking about civic education.

The Temporary Deputy Speaker (Mr. Musila): Yes, I know. But, let us hear his point of order.

Mr. Ruto: Thank you, Mr. Temporary Deputy Speaker, Sir. I wonder whether it is in order for the hon. gracious lady to lament over her inability to sell her policies in the Rift Valley and her unpopularity.

The Temporary Deputy Speaker (Mr. Musila): Mr. Ruto, let Mrs. Seii continue with her contribution.

Mrs. Seii: Mr. Temporary Deputy Speaker, Sir, you can see how redundant that point is. I have already quoted the case in 1992, and everybody knows that there was no single individual who vied on another party and went through the nomination. I am not lamenting about my own area. It was the whole Rift Valley area. I can even quote the names of people who suffered just because they hold alternative views and they have stood on the Opposition ticket for

election and they want to oppose that which they know is unjust.

Mr. Temporary Deputy Speaker, Sir, when we talk of civic education, if this Constitution will not open up the Rift Valley, then there is nothing that we have done. If the Constitution, will not allow me to address women without some people fearing that I will change them into Opposition supporters, then we have not done very much. So, while I am on the question of civic education, we know that these areas are closed. Some people lament that they do not have NGOs in these areas.

The Minister for Water Resources (Mr. Ng'eny): On a point of information, Mr. Temporary Deputy Speaker, Sir!

Mrs. Seii: Mr. Temporary Deputy Speaker, Sir, they are interrupting me, because they do not want me to raise this issue. I will say it again and again.

The Temporary Deputy Speaker (Mr. Musila): Hon. Seii, do you want information?

Mrs. Seii: No, I do not need information. I do not want your information, Mr. Minister.

(Laughter)

Mr. Temporary Deputy Speaker, Sir, there is a way things are accepted in this House, but when it gets to the area of implementation, there is no recourse for those who have been wronged. You will be wronged by being prevented from doing what you want to do. I know that many times I have been in my own district, and I have been trailed by Special Branch officers through and through. During this particular time, when I was holding a small civic education, in order to enlighten the women on the Constitution, I saw two men sitting amidst us. I told them to identify themselves only to learn that they were part of the Police Force. They had been sent by the District Commissioner to this meeting.

There were two men sitting there and when I told them to identify themselves, they told me that they were policemen who had been sent by the District Commissioner. The Provincial Administration has made people ignorant. Those people are totally asleep and they do not know what is happening around them. They can do something wrong today thinking that they are doing service to God. I want to say that unless we find a very specific way in which these areas can be opened up, there is no way even NGOs can penetrate those areas. They will not penetrate there--- Hon. Ng'eny, what is wrong with you?

The Minister for Water Resources (Mr. Ng'eny): On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the hon. Member in order to say that the Rift Valley Province is closed when I was opposed by seven Opposition candidates?

Mrs. Seii: Mr. Temporary Deputy Speaker, Sir, what did he do to those seven candidates? The question of civic education in the Rift Valley is paramount and the province has got to be opened up so that NGOs who assist in the Rift Valley can enlighten those people. As long as you give a few people a voice, they will suppress the silent majority in the Rift Valley and you will never know what the silent majority is talking about. You will believe that the few leaders who are parroting what they have been told to say, is what the people are saying. No! The people are saying something absolutely different today and they want to be heard, educated, exposed and involved in this important debate on the constitutional review process.

Mr. Temporary Deputy Speaker, Sir, as it has been said before, the question of civic education has been given very little attention. I want to tell you that people understand that Section 2A was repealed to introduce many parties, but they do not understand what is contained in Sections 2B and 2C. They do not know what the Constitution was all about. In an area where I went to, they said that, that was for the Government and they did not touch that document. I went to the District Commissioner's office and found that he does not have a copy of the Constitution. So, we are going to start from zero; to teach these people so that they can move together with other Kenyans as they discuss about the Constitution. Their contributions must reflect the wishes of the people in those areas. They have to know that there will come a time when they will not be in the ruling party, but in the Opposition and how are they going to fit in the Kenya of today? This is why I am saying that civic education will be very effective in those areas and that these areas will be opened up. If there is any flouting of the Bill, the Attorney-General will have a way of recourse.

Mr. Temporary Deputy Speaker, Sir, in the same areas, during the last general elections, we had civil servants who were supervising elections and we had no recourse because in those areas, there is nobody you will call and be attended to. You lament about your problems, but because you belong to those areas, there is nobody who will take it because everybody is afraid of saying anything that is contrary to the popular view. In one of the papers, which I do not want to discuss, you will see that some people are calling on the Kalenjins to have one voice. The Kalenjins have got brains and they do not want to be led like goats and sheep. Individuals can talk for themselves but they do not have a way of addressing their grievances. We suffer quietly in that place called the Rift Valley and we have nowhere to take our grievances to and for this purpose, civic education must be concentrated in the Rift Valley until people can

speak for themselves.

Mr. Temporary Deputy Speaker, Sir, it has been said that the District Forums and the county councils are the ones that are going to choose the representatives of the District Forums. At the same time, we are saying that these District Forums will be attended by volunteers. I have a lot of reservations about that because there are so many pay-masters in that area. As soon as people have volunteered, they will come along with their millions and pay these people so that they can sing their song and the people will no longer use their own heads to decide and to say what they want to say about the Constitution. In this field, I would also like this voluntary issue--- That is in page 35 where it says: "The members of the District Forum other than the co-ordinators shall serve on a voluntary basis." People will be coming from distant areas to the district headquarters to discuss the Constitution and as long as you do not give them little money for their transport, there are many pay-masters who can make them sing their song.

Mr. Temporary Deputy Speaker, Sir, in areas where they are dominated by a particular party - let me not say KANU - the councillors, including the nominated councillors belong to a particular party. So, how are they going to be fair in choosing the people in the locations? Other voices will be completely submerged and suppressed because these people belong to one party. I find the same attitude in this House. Many times I have been told that I am sitting with enemies and that I am in the party of enemies. I do not imagine that there is any better time that this constitutional review process could have come to this country than today. The same poison has been given to the people out there, so that they look at anybody, who has an alternative thought or view, as an enemy. I sit in the DDC and I know these things so well. Somebody who does not sing the song of the self-appointed chiefs of the tribes faces a lot of persecution and he will never be able to do anything in his own area. Some details must be written on how the choosing of the three people in the locations will be carried out. In one location, you may be having people with different opinions; how are these people going to be chosen? We shall end up having the same old people singing the same tune and they will not allow these other people to come in and air their views. I hope the Commission will be able to be detailed regarding the representation in the District Forums. I read this Bill like I read my Bible because I know that this is our salvation or our destruction. I pray that this thing will work. If it does not work, it is going to suppress so many people who have no voice at this very moment, as we discuss the review of the same Constitution which has suppressed so many people who have no recourse elsewhere because the system is against them.

Mr. Temporary Deputy Speaker, Sir, I would like to say, again and again, that the agitation for constitutional review arose in the 1990s, but I do not remember exactly when. When this started, the people were told, again and again, that those were the people who wanted to overthrow the President. How shall we change that mentality now that we are going to discuss the same Constitution, about which they have told: "Those who are advocating for the change of the Constitution are the same people who wanted to remove the President from his seat?" We must find a way in which there can be enough civic education for them to reverse that thinking, so that they will not start thinking that the same animal has come. So, they are going to resist it. The same leaders will tell you: "If you annoy these people, they are going to fight you". If you annoy them, they will fight you. But they are not talking what they know. They are talking what they have been told.

Mr. Temporary Deputy Speaker, Sir, I was so dismayed yesterday, when Kiplenge said that his life was in danger. Then, what he is told is: "You should keep away until the people are cooled". This is reminiscent of what has happened even in the past. You are told that the people have been annoyed. But the people are not annoyed because of what you are teaching them. The people are annoyed because poison has been injected into their blood. They have been told: "What you are hearing is something that is going to remove the President". We must address that issue because it is going to be impossible for people to get out there, and give the people the truth. The people will never take part in this constitutional review.

In view of all this, we say that we would like to have something which is going to represent the views of the people. I hope those people will be the people of the Rift Valley, particularly the Kalenjin ethnic group where I come from. I want to say that as we talk about this constitutional review, we know very well, and from the past week, we have been wondering how people manage to buy so many people. But now, we know how they manage to buy these people. They make them subservient to them by giving them money until they cannot use their own heads. This is because they are thinking of the paymasters who have looted money from banks, and they come to pay those people, and ruin the thinking of the people. We must, as we think about this Constitution, work out a different way in which those people can be liberated.

If some of these things are not done, what is going to happen to that Commission? We do not have a monitoring unit. Suppose a Commission goes to a place for a day and goes away. Who do you appeal to? We need to have a point where you can appeal to, so that the people can have the benefit. As I said, there will be people who will not be prepared for this process.

Mr. Temporary Deputy Speaker, Sir, I would also like to congratulate Mr. ole Ntimama and Mr. Kones: "I congratulate you". This is because you stood up as men and you said what was the truth. I hope the repercussions

will not be on you, as it is normally for anybody who tells the truth. They are hit back in so many ways. I hope that it will not happen to you. These are the people who come from those areas. What they said was the perfect truth. If I was not in the House, I would have walked across to embrace them for all the goodness in what they have said.

(Applause)

Mr. Temporary Deputy Speaker, Sir, I would like to say that we need more people to come out and tell the truth about these areas. We need more people who will tell the truth so that all areas are opened up and we are able to enjoy what is there for all the Kenyans. Many a time, a person from my area may not even feel like he is a Kenyan. We hope that once this Constitution is done, we shall feel like Kenyans. We shall be treated like Kenyans. We shall feel like we can participate in this country like Kenyans, and not just having a few people who are appointed to speak for us, as if we have no voices. There are many people who have voices out there and they would like to speak for themselves.

Now, I must come to the question of women. The Attorney-General said very clearly that at the end of the exercise, there must be, at least, two people from every province. I hope that for those two people from every province, there will be a woman in every province. I do not advocate for one organisation to choose. Since the time Maendeleo ya Wanawake went to KANU, many other organisations mushroomed. They came and they are established in various parts of the country. These also have got leaders and they lead and educate women. So, at this stage, we also look at the point of affirmative action. It is, in itself, an affirmative action to have a woman in every province so that those women can feel that they are representing their own people. But to say that one organisation should choose, I will not agree to that.

Mr. Temporary Deputy Speaker, Sir, I would rather we left the women to sort out their own business, without having interruptions and interference from men; which to me, looks like it is a meeting which was held this morning, which was advocating for this. Please, hands off! We are able to sort out our own problems. We shall be fair with ourselves. For the men who wish to speak for the women, they should stop speaking for women. I hope, for goodness sake, nobody is lobbying the Attorney-General for a position in the Commission, as it is rumoured. We want the women to give you the person that they have chosen. That is the person that they know will represent them effectively.

Mr. Temporary Deputy Speaker, Sir, as I come to the conclusion of my debate, I would like to address the issue of the documentation centres. The documentation centres need to have some specifications, to say what documents are going to be there. Where are they going to be? If they are going to be at the district headquarters, are we going to have access to these documents? If it is paying a little amount of money so that we can get the documents, it should be made completely free; and that people should be free to go and check it without paying money to get to the documentation centres.

Finally, I would like to say that the Commission that will be formed is going to give us the Constitution that is going to outlast all of us. Let us be honest and keen to make sure that it is done properly and for everybody's benefit.

With those remarks, I beg to support. Thank you.

Mr. Haji: Thank you very much, Mr. Temporary Deputy Speaker, Sir, for allowing me to contribute to this very important occasion, in the history of our country.

When we go back to the history of this country, people would like to talk about the freedom fighters, the people who went to the Lancaster House Conference to bring us this Constitution, which gave us our Independence. I think, today, we are in the making of, yet, another history, while we are reviewing or overhauling the Constitution of this country, so that as the Gracious Lady said, it can last for many generations to come.

The Temporary Deputy Speaker (Mr. Musila): Order, hon. Members. Please consult quietly! We cannot hear what hon. Haji is saying!

Mr. Haji: Temporary Deputy Speaker, Sir, I would like to congratulate all the people who participated in the making of this history, both at the Bomas of Kenya, Safari Park Hotel and today, hon. Members who are here discussing the same issue. I will not forget to also commend the Attorney-General and his staff for bringing up this Bill which reflects the wish and the will of the people of Kenya.

Mr. Temporary Deputy Speaker, Sir, those of us who come from backward areas, never had an opportunity during the Lancaster House Conference. That is why when some of my colleagues talk with emotions, it is simply because they want to express their feeling, so that they can be appreciated and understood by their brothers and sisters, in this country.

I would like to ask hon. Members, and all those who will be involved, not to hurry. We should not hurry because, I believe, everything that we find wrong in the current Constitution, is because of the way it was hurried up. This is because we were eager to become Independent.

Mr. Temporary Deputy Speaker, Sir, the area which I would like to comment on in this Bill is Clause 10A which deals with civic education. It has aroused a lot of feelings. In this House, when we talk of civic education, we must be very careful. Unless, we specify what kind of civic education our people will be taught, this area can be misused. I am talking from experience because during the last general election, of 1997, some people and organisations took advantage under the cover of civic education to mislead Kenyans. I witnessed an occasion whereby somebody was educating Kenyans on how to vote and the meaning of election in Kenya. This particular person had both the new and the old identity cards. The simple question which was put to the people in order to convince them to vote for the person this educator wanted was:- "Look at this ID card, how does it look like? Is it not more beautiful than the old ones which had no beautiful features at all?" Definitely, the answer was the new identity card is more attractive than the old one. The second question was: "Was it not good for you to have changed from this old identity card to the new one?" The answer was in affirmative. So, the participants in that seminar of civic education were told to change all KANU hon. Members and the President so that we can have a new Government.

(Loud consultations)

That is why--- Order! Shut up!

Dr. Kituyi: On a point order, Mr. Temporary Deputy Speaker, Sir. Hon. Haji has been carried away; he should know that there is a difference between being a PC and being an hon. Member. Is it in order for hon. Haji to shout at hon. Members on this side to "shut up"? Does he know that this is not a baraza!

The Temporary Deputy Speaker (Mr. Musila): Order! Hon. Haji, did you utter those words?

Mr. Haji: Mr. Temporary Deputy Speaker, Sir, I am a Muslim and I am not supposed to lie. I said so, but I withdraw and apologise to the House.

There is need for us to specify a kind of syllabus for civic education. We should not just leave it open like that. I know it is the duty of the Commission to undertake civic education in this country. But I think there is need for the Opposition Members and the Government to sit together and agree on a syllabus so that we do not have Kenyans quarrelling over the kind of civic education they will have.

Mr. Temporary Deputy Speaker, Sir, I am disciplined and an old man. Therefore, with those few remarks, I beg to support.

Mr. Obwocha: Thank you, Mr. Temporary Deputy Speaker, Sir. I would like to contribute to this Bill, but I will be very brief so that my colleagues can also have a chance to contribute. First, I would like agree with hon. Members that constitution-making is a very important process and Kenyans need to be very careful about what they are doing. I am also happy that, at least, for the first time, the likes of Mr. Shikuku are not in this House to tell us about Lancaster House, constitution-making and all that kind of rubbish. We all appreciate that Kenya is independent because they played a crucial role in the liberation of Kenya from the colonial yoke. But there is no point telling your son everyday that you are his father. It makes no sense at all.

I would like to agree with other Kenyans that the piecemeal way of changing our Constitution over the years has diluted it. Indeed, we should go for a full review of our Constitution.

While I agree with other hon. Members that the views expressed at Safari Park Hotel and Bomas of Kenya should be respected, I think there are other small issues which we should clean up as a House. For example, in this Bill, there is no provision to cater for Section 59(1) and (2) of the Constitution of Kenya. Section 59(1) states that the President may at any time prorogue Parliament, and Section 59(2) states that the President may at any time dissolve Parliament. Those two provisions are very dangerous because we do not want the President, at any stage, to dissolve this House until the constitutional review process is over. So, I would request, at the Committee Stage, the Attorney-General to look into the possibility of introducing provisions which will make sure that this House is not dissolved until the process is fully accomplished.

The other issue I want to comment about is on District Forums on Section 12A of this Bill. The current problem we have is that when we were at the Safari Park Hotel, we knew the number of districts in this country. Now, the Government is creating other districts. I feel that we need to put a provision in this Bill to limit the representation of districts to the number as at when we agreed on the issue of representation of districts at Safari Park Hotel. That provision is required in this Bill so that we do not get certain provinces over-represented in this constitutional review process.

The other point I would like to talk about is on National Forum under Section 16A. Under Section 16A(1)(c), we need to increase the under representation of populous districts in this country. There is an anomaly even in this House because there are certain constituencies with high populations which are considered to be equal to other constituencies where the population is small. All constituencies are represented in this House by one hon. Member, regardless of their population size. We need to consider this issue of population and see whether we can

increase the under-representation of the populous districts.

Mr. Temporary Deputy Speaker, Sir, the other issue which is not exhaustively covered by this Bill is what will happen to the Commissioners after completing their work. It is not clear in this Bill whether they can contest seats in the next general election or not. I think this House needs to come out clearly and state whether the Commissioners will be allowed to contest for the seats they want, or the period they should take before they can contest in a general election.

I agree with the other hon. Members that we do not wish to change the views of Kenyans. What we have agreed and what was agreed at the Safari Park Hotel was that we should not change the views of Kenyans. For example, word is going round that various political parties will be under-represented and we should change the scenario. I do not think we should do that because we agreed on the criteria to be applied. On that basis, we should move forward. What is more important is that the Commissioners should collect the views of Kenyans, so that we can have a new constitution.

We should never have Commissioners who will do what the Saitoti Commission did in 1990/91. This Commission went round the country collecting views of Kenyans about the introduction of multi-partyism in our country. Kenyans wanted multi-partyism, but the Commission went ahead and said that they did not want it. After six months multi-partyism was introduced in the country. This was a very bad reflection on the people who collected those views from Kenyans. I hope that the environment will be conducive. We will face these issues squarely.

I do not intend to touch on the kind of constitution we would like to have. But economic crimes will be a major issue to be addressed. I am very shocked that very learned people, including professors, are misleading this nation on the crisis facing the National Bank of Kenya (NBK). Prof. Anyang'-Nyong'o rose in this House and said that the top management of the NBK should be sacked. Hon. Raila also went to a public rally and said the same.

I would like to say that the managers who were in charge of the NBK when the mess was being created are not in the current management. Mr. Jackson Oluga, who is now the managing Director of Muhoroni Sugar Company was the General Manager. The other mess was created in the NBK, Nakuru Branch, where Mr. Solomon Obede was the then Manager. Mr. Owino Likowa, who is a political failure, was the manager of the NBK, Kisumu Branch. A Mr. Okung'u was the Manager of the NBK, Eldoret Branch. Were those people Mr. Ahmed Mohammed or Mr. John Simba? I do not think that Professors should stand up in this House and mislead people. Those fellows messed up the bank and they should be dealt with.

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

Dr. Obwocha: Dr. Ochuodho, you will have a chance to contribute and make your point.

An hon. Member: No, he is on a point of order!

Mr. Ochuodho: On a point of order, Mr. Speaker, Sir. The NBK issue is a very serious one. Is the hon. Member in order to conceal information which he seems to be aware of? Is he also in order to insinuate that hon. Members of this House did implicate people who are clean? I think that the hon. Members who spoke before him said---

The Temporary Deputy Speaker (Mr. Musila): Dr. Ochuodho, you are out of order!

Dr. Ochuodho: Mr. Temporary Deputy Speaker, Sir, could he tell us who are responsible for the mess at the NBK? This House is demanding that all those who are responsible for the current crisis facing the NBK should go.

The Temporary Deputy Speaker (Mr. Musila): That is not a point of order. Mr. Obwocha be relevant to the Bill.

Mr. Obwocha: Mr. Temporary Deputy Speaker, Sir, I am talking about the environment and I have already told the House who is responsible for this. There is even an illegal board meeting which is scheduled for tomorrow to sack these fellows.

Mr. Achola: Do you know about it?

Mr. Obwocha: Mr. Temporary Deputy Speaker, Sir, we know about the meeting.

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

Mr. Obwocha: Mr. Temporary Deputy Speaker, Sir, to wind up so that my other colleagues can contribute---

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

The Temporary Deputy Speaker (Mr. Musila): Mr. Mwenje, there is no point of order! Mr. Obwocha, have you finished?

Mr. Obwocha: Mr. Temporary Deputy Speaker, Sir, I have not finished.

The Temporary Deputy Speaker (Mr. Musila): Then you can continue Mr. Obwocha.

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

(Mr. Mwenje stood up in his place)

The Temporary Deputy Speaker (Mr. Musila): There is no point of order, Mr. Mwenje! I have overruled you! Mr. Mwenje, can you sit down?

Mr. Mwenje: Okay, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Musila): Mr. Mwenje, I have not given you permission to raise your point of order.

Mr. Muihia: On a point of information, Mr. Temporary Deputy Speaker, Sir. I would like to inform the hon. Member who is contributing that a meeting was called today by the Head of State, and it asked for the sacking of Mr. Simba for giving this information.

The Temporary Deputy Speaker (Mr. Musila): Mr. Muihia, that is irrelevant. Mr. Obwocha, please stick to the Bill before this House.

Mr. Obwocha: Mr. Temporary Deputy Speaker, Sir, I have already made my point. All that we are saying is that the country cannot move forward unless the environment is conducive. We are going into a process which is so important to this country. We must be honest with ourselves, the economy and in what we do. We do not want to mislead this nation. That information was legitimately requested for by an hon. Member of this House, and it was provided by an Assistant Minister for Finance. There should be no fuss about it! Those fellows who borrowed money from the NBK should pay it.

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

Mr. Obwocha: Mr. Temporary Deputy Speaker, Sir, some of these fellows who are shouting here are working for the interests of some of the hon. Members here.

The Temporary Deputy Speaker (Mr. Musila): Mr. Obwocha, can you sit down?

Mr. Obwocha: He is working for Mr. Mark Too!

Mr. Achola: On a point of order, Mr. Temporary Deputy Speaker, Sir. I think hon. Obwocha is bringing ukabila in this House. First of all, he is trying to defend Mr. Simba, who is the Chief Executive of the NBK.

Mr. Temporary Deputy Speaker (Mr. Musila): Mr. Achola, what is your point of order?

Mr. Achola: Mr. Temporary Deputy Speaker, Sir, Mr. Obwocha is bringing ukabila in this House. Is he in order to rise up and start defending his tribesmen when they have messed up the NBK and other places?

Mr. Obwocha: Mr. Temporary Deputy Speaker, Sir, I do not know whether Mr. Oluga comes from his village. I am allergic to lies!

Mr. Mutahi: On a point of order, Mr. Temporary Deputy Speaker, Sir. I do not know whether you heard hon. Obwocha saying that Mr. Achola is working for hon. Mark Too. Could he tell this House how hon. Achola is working for hon. Mark Too?

The Temporary Deputy Speaker (Mr. Musila): Did you say that, Mr. Obwocha?

Mr. Obwocha: Mr. Temporary Deputy Speaker, Sir, let me substantiate now. If you look at that list you will find that one of the companies imported fertilizer into this country. The importing company was guaranteed by the NBK. When the fertilizer arrived in the country, it was sold and the company refused to pay the NBK. When the Chairman of that company, Mr. Mark Too, was requested to pay up the money he went round saying that Mr. Simba should be sacked. This fellow is defending him!

Mr. Achola: He has not substantiated the rubbish he is talking about.

The Temporary Deputy Speaker (Mr. Musila): Order, Mr. Achola! Mr. Obwocha, Standing Order No.73(4) states that no Member shall impute improper motive against any other Member. All what you have been saying that some hon. Members have said this or that is out of order. I would urge you to stick to the Bill because National Bank is certainly not in that Bill.

Hon. Members: He should withdraw what he has said about hon. Mark Too!

Mr. Temporary Deputy Speaker (Mr. Musila): Did you make a statement on hon. Mark Too? If you implied improper motive, therefore, you must withdraw. If you did mention hon. Too improperly, or implied improper motive against him, you must withdraw unless there is a substantive Motion to discuss him and you know that Mr. Obwocha.

Mr. Obwocha: Mr. Temporary Deputy Speaker, Sir, are you talking about hon. Achola or hon. Mark Too?

The Temporary Deputy Speaker (Mr. Musila): You talked about hon. Too, did you not?

Mr. Obwocha: I talked about the Chairman of a company called KFA. Who is the chairman of that company?

The Temporary Deputy Speaker (Mr. Musila): Will you comply with the order of the Chair that you withdraw that remark because you cannot be allowed to impute improper motives against a Member except upon a

specific substantive Motion.

Mr. Obwocha: Mr. Temporary Deputy Speaker, Sir, the facts are plain. If it is a question about a substantive Motion I have not brought one and so I withdraw what I have said on the issue.

Dr. Omamo: On a point of order, Mr. Temporary Deputy Speaker, Sir. Did you hear hon. Obwocha refer to Mr. Owino Likowa as a political failure? Mr. Owino Likowa is a prominent politician on the KANU side. When he competed against an NDP candidate he lost the election but does that give the impression that he is a political failure? Is that not misleading the House? Is he in order to mislead the House that whoever loses an election is a political failure? Who knows? He may come back again!

Mr. Obwocha: Mr. Temporary Deputy Speaker, Sir, you will agree that that is not a point of order. You know that Dr. Omamo was in the wilderness for some time and he was saved by NDP and, so, you can excuse him. Finally, I would like to finish by saying that Kenyans must remain Kenyans. We want this country to remain together. We want to move forward so, if there is a wrong that has been done, let us correct it so that this country can move forward. Let us face the issue of constitutional reform which this country is urgently waiting for that is the forum on which some of us were elected into the 8th Parliament. Let us face it and pass this amendment Bill.

With those remarks I beg to support the Constitution of Kenya Review Commission (Amendment) Bill, 1998.

The Assistant Minister for Water Resources (Mr. Chanzu): Thank you Mr. Temporary Deputy Speaker, for the opportunity to contribute to this important Bill at this time of making the history of our country. I would like to pay tribute to the endeavours that have been made so far. These are actually due to the peace and the conducive environment that is prevailing in this country. I would also like to pay tribute to the Inter-Parties Parliamentary Committee which initiated this process. I would also like to pay tribute to the Members of Parliament for their understanding and contributions made during the Mbagathi and Safari Park forums. In that connection I would also like to pay tribute to the Head of State for the role he played at Safari Park when the meetings that we were holding were almost deadlocked. For that I pay tribute to the Head of State, His Excellency President Daniel arap Moi. I would also like to pay tribute to the team by the right Rev. Philip Sulumeti for the good job done so far. The review is very timely in view of the changes that have taken place politically, in the local scene and globally in the recent times. It is important that we actually put reviews that have been waived in perspective where we can be able to focus in future. The recommendation that I would like to make is that the views that we are going to collect, and the process, must be specific and final in every respect so that the process is not tampered with.

It should be one that will serve as a unifying factor among our people. We should aim at equity and in that case there should be equitable distribution of resources in the final analysis. It should pave way for continuity so that it is something that can work continuously in our country for many years to come.

The other aspect I want to comment on, in general terms, is that there should be transparency and accountability in the process. It should be basic and one which can produce a constitution that is basic and down-to-earth so that the power to manage this country is with the people at the grassroots. The other aspect that I would like to touch on is that whatever we are working to achieve must be a Constitution that will be able to protect those who are not able to protect themselves such as children, women, the aged, the disabled and etcetera. It should be a system whereby we have internal checks and balances within the process. There is the aspect of representation. The people that are going to serve at the district level must be people of integrity.

Mr. Temporary Deputy Speaker, Sir, the representatives should be people who can be acceptable to the communities they are going to serve. The same should apply to national forums and, of utmost importance, the integrity of the Commissioners themselves.

With those few remarks, I wish to support the Bill.

Mr. Ita: Thank you, Mr. Temporary Deputy Speaker, Sir. I will not be very long. I will be very brief so that other Members can contribute. As I start my contribution, I have two remarks to make relating to what other Members have said. I was not very clear as to the contribution from hon. Muite which was very good, when he said that the Constitution could be approved by the people's referendum or by the constituent assembly. There can be "misinterpretation". In fact, Parliament can dissolve itself without knowing.

After the Constitution has been reviewed and rules on elections have been made, maybe, new rules of elections, if you resort to that kind of a situation without careful consideration, we may end up dissolving ourselves. That is a point that needs to be taken care of very seriously.

Sir, the second point that I want to make before I go to the Bill in relation to what has been said - and this is to the Attorney-General - and, in fact, I am making this as a very strong recommendation - I would prefer the Constitution of Kenya to be written in Kiswahili language and English language as an appendix to this Bill.

I know in this Bill there is the question of the libraries that will be made in various places and districts, but it is important that as we pass this Bill this week, then the Constitution of Kenya, which is a brief document, be made as an appendix. It does not cost Kenya so much money and even if it does, it is very important. That is where we should

start our civic education so that our people can read this Bill together with the Constitution of Kenya written in English and Kiswahili.

Sir, now I will go to the Bill. As I promised, I will be very brief. I will go stage by stage. One of the things that surprises me - Mr. Attorney-General, I think you would better listen to this - I am not proposing amendment, I support the Bill, but as always legal language sometimes becomes very ambiguous and open to a lot of interpretation.

Sir, if you look at page 412, because that is where I will begin. We are talking of a free and democratic system of government that enshrines good governance, constitutionalism, the rule of law, human rights and gender equity. Some of these things do not mean a lot to our people. Those people who are going to be involved in reviewing the Constitution, I do not know what meaning they will attach to these things; even with civic education.

So, Mr. Attorney-General, I think it is important that these things are made simpler in whatever language; either English or Swahili so that people can understand what they mean. To some of us, even those who are learned people here, some of these things are open to a lot of interpretation. So, there is a lot of ambiguity in this. I would like to see some simplification in some of these things.

Sir, I agree that in a Bill like this, where there was a lot of compromise discussions and contributions from various people, this is the best that they could come up with. But when we go down to the people, particularly to the district forum, the national forum and even to some of the Members of Parliament here, some of these things may mean nothing. So, I think there would be a bit of work to be done to make them simpler and understandable.

So, I think there will be bit of work to be done to make sure that these things are understandable; constitutionalism and governance. We have talked about these things. When you say "governance", sometimes people do not even know what that means. That is a loaded word, and there is a lot of ambiguity in it.

The other one which I would like to mention is on page 413, Section 2A(c), where there is a mention of recognising and demarcating divisions of responsibility among the State organs of the Executive, Legislature and Judiciary so as to create checks and balances. This is correct and it should be so. Everybody understands this. But what is important, Mr. Attorney-General, is, there are some legislations which are already in existence in this country and which affect this area. Are they going to be amended at the same time? There are various laws, legislations and orders that affect this area. Can they be looked into so that when you are talking about division of power, you do not talk of division of power and the independence of judiciary and the legislature as per the Constitution when the prevailing laws do not allow it. There are those laws that are existing which militate against this. You know this happened last time during the IPPG, where there was the local government nomination to the county councils and municipal councils. Then there was that bit of misinterpretation. Those laws that relate to the separation of powers need to be looked into again and be repealed, or be brought to the open so that they can be discussed, to marshal or rally them together with the framework of reviewing the Constitution.

Thirdly, on the same page, we talk about the economic reforms. Again, it is very brief, it does not say how. In fact, we are talking about Section 2A(f), on page 413. This part states that:-

"Ensuring the provision of basic needs of all Kenyans through the establishment of an equitable framework for economic growth and equitable access to national resources".

How? I want that expanded, explained and simplified within this framework, so that as we go to use this framework, people can understand what we are talking about. But when we leave them as we have seen them, this is like a phrase taken from a professor's statement or dissertation of one kind or another. But I want that redefined and simplified so that people can understand how we are going to do that, because as it states now, it is not very clear. It is stated, but how are we going to do it? I think, Mr. Attorney-General, you should listen to that. I listened to you very carefully when you were making a presentation; I never left, and I made these remarks, in fact, during your presentation.

Fourthly, as I conclude, there is this business of provision on page 415, Section 2C (b)(ii), which states:-

"Provides the people of Kenya an opportunity to actively, freely and meaningfully participate in generating and debating proposals to alter the Constitution".

Section 2C (b)(iv), on the same page, states that:

"is guided by respect for the universal principles of basic human rights, gender equity and democracy".

These principles are already enshrined in the Constitution: This is why I was suggesting that the Constitution should be appended to this Bill so that everybody gets it when it becomes an Act.

Then we also have a constitution as an appendix to this Bill. The fifth point for your commendation is, the political parties will have to meet together and decide how to nominate their Commissioners. This gives an opportunity for dialogue. To me, I think, this is a very important provision in this Bill, which will clear a lot of mistrust. I would like Secretary-Generals of various political parties to use this provision to create trust between political parties in Kenya and among Kenyans so that we can move forward. I would like to commend the Attorney-General and his

group that was drafting this Bill. In fact, I read the whole Bill, and there is no other avenue where you will have political parties meeting together to clear their misunderstandings and to create the trust in this Bill other than the Commission.

Mr. Temporary Deputy Speaker, Sir, finally there is this bit of who ensures the achievement of this Bill. That:-

"The membership of the Commission under Sub-section (2) shall include at least two representatives from each province in Kenya".

Who is going to ensure that? I heard the Attorney-General say, it is himself, and yet the final authority to appoint the Commission will be the President. Now, there will be overriding powers between the Attorney-General and the President. It is still not very clear. I heard you say that you will call the parties again to come and discuss, so that they can help you to do this. I think this is still ambiguous and it is a point which needs to be revisited.

Finally, there is something which surprised me in this Bill. On page 418, IPPC, is being institutionalised now, once we pass this as an Act of Parliament with that provision. On page 418 paragraph 304, it says:-

"Inter-Parties Parliamentary Committee means---"

This means that this is being institutionalised and legalised. Is that the intention? I thought that once the IPPC finishes this drafting, they were going to wind up. Now, it appears, they are already in this Bill, and if it is going to be passed, it means that they will be institutionalised and they might even create jobs for themselves. I think this is a point which needs to be revisited.

With those few remarks, I beg to support the Bill.

The Assistant Minister, Office of the President (Mr. Angwenyi): Thank you Mr. Temporary Deputy Speaker, Sir, for giving me this chance to contribute to this important Bill.

Since Independence, we have not had a situation like the one being presented now through the Constitutional Review Commission. First, I would like to thank the Drafting Committee and all those who participated in drafting this Bill. I particularly want to thank the Attorney-General for having done a very good job in producing this Bill.

Mr. Temporary Deputy Speaker, Sir, we will be trying to draft a Constitution that will take into consideration the experiences that we have gone through for the last 35 years.

Mr. Temporary Deputy Speaker, Sir, whereas we have embarked on that process, there are two things that I would like to point out in this Bill. First, the Bill has not reflected the political, representation in this House. The Bill, as drafted by the drafting committee did indicate that KANU as the governing party will be having about five people and the Opposition will be having eight people. I think this is very undemocratic. KANU is the majority party in this House and that must be respected in the distribution of the Commissioners to the parties. The second point I would like to point out is with respect to gender and age sensitivity. The Bill is too restrictive as to gender and age. The Bill does specify that in all situations, we must have at least a woman and a young person. I would suggest that the Bill is amended that we leave it free for the people concerned to choose as to whether they want to have a woman, a man or a young person. I know there are some communities in this country, including my own community, whereby we always have the elders as the majority in any decision-making process. Even if you gave ladies a chance to be the majority, they would decline. In that respect, Clause 6(f), page 416 and Clause 12(a), page 433 need to be amended to reflect the culture of certain communities; for instance, the Kisii or the people of North Eastern Province. But for the culture of Nairobi whereby people would like the ladies to be a majority in any of the fora, then, they can take that up if they need to do it. But we do not want to be restricted as to whom we should appoint to any of these fora.

Mr. Temporary Deputy Speaker, Sir, as you know, the review is required for our next general elections. The period we have given this review is far too long. It is going to take about two and a half years, and I think that is a long period. I remember last year during the IPPG, because of the limited time, some of the things that we passed were never even implemented. I think for the Constitution of Kenya Review Commission, we need to have adequate time. After the document has been prepared, we need adequate time to go through it again and see that the Attorney-General implements every single bit of what has been transacted in the Constitution.

Mr. Temporary Deputy Speaker, Sir, we have not included in this Bill, one important aspect of our political life in Kenya. The arrangements have been made by the Government of Kenya to co-operate and in fact, to unite with our neighbours to create, maybe, a bigger State or market. This has not been clearly provided for in this Bill, as to what we want to do with respect to the unity of Eastern and Central Africa.

Mr. Temporary Deputy Speaker, Sir, another item which has not been addressed in this Bill is a very important aspect of our lives in Kenya; the aspect of Harambee. Harambee contributes about 40 to 50 percent of this nation's development but sometimes, it has been abused.

ADJOURNMENT

The Temporary Deputy Speaker (Mr. Musila): Hon. Members, it is now time for the interruption of our business. The House is, therefore, adjourned until Wednesday, 2nd December, 1998 at 9.00 a.m.

The House rose at 6.30 p.m.