

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 31st March, 2010

The House met at 9.00 a.m.

[Mr. Deputy Speaker in the Chair]

PRAYERS

PETITION

CITIZENS' PLEA TO PARLIAMENT TO ADOPT DRAFT CONSTITUTION WITHOUT AMENDMENTS

Ms. Karua: Mr. Deputy Speaker, Sir, this is the Petition of citizens and residents of this country, whose full addresses, identities, details, signatures and thumb impressions are included herein. I present this Petition under our Standing Orders. The citizens who present this Petition comprise of persons with disabilities; both men and women, youth, workers, senior citizens, women, marginalized groups and minority communities coming together under the umbrella of Katiba Sasa Campaign. They observe that for over 20 years, we have exercised our sovereign power and authority and engaged with resilience in the search for a new democratic Constitution, during which period many lives have been lost, property destroyed and colossal sums of taxpayers' money invested in vain. As citizens, we have over the same period lost opportunities for real development and economic growth and are, therefore, desirous of having the Constitution making process successfully concluded. During and after the failed Referendum in 2005, Kenya was polarized along tribal, regional and ethnic lines and during the 2007 Elections and after, we experienced post election violence and over 1,300 innocent Kenyans were killed and 650 displaced, most of whom are now Internally Displaced Persons (IDPs).

We economically lost to the tune of Kshs60 billion. We are, therefore, extremely fearful that if a new democratic Constitution is not promulgated, there is a high likelihood of the post-election crisis repeating itself with far reaching consequences than witnessed in 2007. Our prayer, therefore, is that the Parliament of the Republic of Kenya secures the gains that we as citizens of Kenya have incrementally and cumulatively attained over the years in the content of the various proposed Constitutions including the Constitution of Kenya Review Commission, the Wako Draft and now the Constitution of Kenya Review Act, 2008.

In this regard, we urge Parliament to refrain from opening up and making amendments to the proposed Constitution of Kenya as presented to Parliament by the Parliamentary Select Committee (PSC) and which is now before this honourable House. That, therefore, this honourable House debates and adopts the proposed Constitution of Kenya as it is and complies fully with the provisions of the Constitution of Kenya

Review Act, 2008, especially Sections 4 and 6 therein, and refrains from amending the Constitution of Kenya Review Act, 2008, to either vary its provisions in relation to the automated timeframe for completing the Constitution making process or to dissolve and or remove any of the organs of review stipulated therein.

The Petitioners have signed this petition and I now table it.

(Ms. Karua laid the Petition List on the Table)

Mr. Imanyara: Mr. Deputy Speaker, Sir, I support that Petition and I urge my colleagues that this is the time to be one with the people of Kenya. They are making a plea to us, as their representatives, to this time show unity of purpose and not waste time because all the work has been done by the Committee of Experts (CoE). There is nothing left to do rather than give this country a new Constitution as proposed by the CoE without any form of amendments. I support.

Dr. Khalwale: Mr. Deputy Speaker, Sir, I would like to remind hon. Members that on 10th June, 1990, Rev. Njoya was attacked by thugs and Administration Police officers outside Parliament because that is the first time during the Budget reading when members of the public attempted to ask Parliament to change the laws. A lot has changed. The fact that we have over 152 intended amendments is a clear indication that this House can never agree. We, therefore, must admit that we do not have the two months required to debate the 152 amendments. Therefore, let us be guided by the report of the CoE. I support.

Mr. Musyimi: Mr. Deputy Speaker, Sir, I beg to oppose the Petition. After the last elections in 2008, I recall a section of the political class that felt that it was not necessary to open up the Constitution to make possible the creation of a Coalition Government. There was an argument then that was very powerfully put across by one of the columnists, that law was made for man and not man for the law. The Constitution was made for Kenya and not Kenya for the Constitution. The argument then went that it was necessary to open up the Constitution to make it possible for us to have a Coalition Government.

Mr. Imanyara: On a point of order, Mr. Deputy Speaker, Sir. The Standing Orders are very clear. He cannot stand up to oppose the Petition. He is not in order. So, he can make his comments and clarifications, but he cannot oppose.

Mr. Deputy Speaker: In any case, the Standing Orders are very explicit about petitions. The whole process of the debate and the clarifications should not take more than five minutes. We have already taken five minutes.

Dr. Khalwale: On a point of order, Mr. Deputy Speaker, Sir. The contribution by hon. Musyimi in opposing the Petition is very critical and it is important that the Chair orders that his remarks be expunged from the records of the House.

Mr. Deputy Speaker: Indeed, we are not at the stage of opposing. You are allowed to oppose the Petition but not at this stage. So, you are out of order, hon. Musyimi. I think that is sufficient.

Indeed, I direct that this Petition be committed to the relevant departmental Committee, which is the Parliamentary Select Committee on Constitutional Review.

Mr. Imanyara: On a point of order, Mr. Deputy Speaker, Sir. I rise to seek your clarification. The purpose of this Petition is to influence the debate in this House today

and tomorrow. By sending it to the Committee, we are effectively removing the purpose for it. May I ask that under Standing Order No.1, because this is a situation that was not envisaged, we go straight to the Petition and vote on it, so that we can dispense with the business at hand?

The Assistant Minister, Ministry of State for Defence (Mr. Musila): On a point of order, Mr. Deputy Speaker, Sir. I appreciate the moving of the Petition, but a petition is just a petition, as such. I think we should not go beyond the moving of the Petition because we have a Motion which was very ably brought to the House by the Chair of the Parliamentary Select Committee. Since we have that Motion, those who would like to oppose it will have an opportunity to do so when time comes. But I think the petitioner should not ambush the Chair by wanting the House to make a decision on the Petition. The Petition has been given and it should be laid on the Table. In my view it ends there. We should not debate it further.

Mr. Deputy Speaker: Order! Hon. Musila, indeed, you are very right. That is exactly what the Standing Orders say. Under the circumstances, although the relevant Committee is supposed to report back to the House within 21 days, the urgency of this matter itself dictates otherwise. I will now use my own discretion and direct that the Committee reports to the House tomorrow.

Next Order!

The Assistant Minister for Livestock Development (Mr. Duale): On a point of order, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Is it on the same?

The Assistant Minister for Livestock Development (Mr. Duale): Yes, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: It cannot be on the same because it has been disposed of by the Chair!

Next Order!

ORAL ANSWERS TO QUESTIONS

Mr. Deputy Speaker: Hon. Members, given the urgency for us to go into the substantive business of the House, which is very critical and historical, I will allow a maximum of five minutes for every Question. Under the circumstances, Members of Parliament who are going to ask supplementary questions and the Ministers who are going to answer Questions must be very precise, concise and to the point.

Question No.117

PROCUREMENT OF BOATS BY KENYA REVENUE AUTHORITY IN 2007

Mr. Yinda asked the Deputy Prime Minister and Minister for Finance:-

(a) whether he could provide the details of the procurement of four boats by the Kenya Revenue Authority in 2007, indicating when the contracts were signed and with which companies, when the boats were delivered, giving the reasons for the delay in deliveries and whether due

diligence was carried out on the two companies contracted to supply the boats;

(b) what the physical conditions of the boats are, and whether the boats are still performing satisfactorily; and,

(c) what he is doing to ensure that the boats, which are substandard and have design defects, are corrected at the cost of the vendors to make them sea-worthy?

Mr. Deputy Speaker: Indeed, the hon. Assistant Minister approached the Chair yesterday. But proceed, hon. Assistant Minister!

The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Finance (Dr. Oburu): Mr. Deputy Speaker, Sir, as I discussed with you yesterday, we have carried out investigations into this matter arising from the questions which were raised by hon. Members here. I have already visited the Port of Mombasa. There are questions which have arisen which will require that the Minister of State for Provincial Administration and Internal Security and I go to verify the building yards which have been alleged to be in Poland or Germany. Hon. Members were alleging that some of the companies are briefcase companies.

Mr. Deputy Speaker: Under the circumstances, when do you want the Question to appear on the Order Paper?

The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Finance (Dr. Oburu): Mr. Deputy Speaker, Sir, right now, His Excellency the President has banned Ministers from travelling. I hope that as soon as we pass this Constitution, that ban will be lifted. If we pass it by tomorrow, we shall go there latest by 15th April 2010.

Mr. Deputy Speaker: Order! The Question is deferred to the week after next week!

(Question deferred)

Mr. C. Kilonzo: On a point of order, Mr. Deputy Speaker, Sir. In all fairness to the taxpayers, we have embassies in those places with necessary staff. Does it take a Minister to go and confirm something which the staff in the embassies can do or is it a matter of wasting taxpayers' money?

Mr. Deputy Speaker: Nonetheless, the Chair has deferred this Question to the week after next. Notwithstanding all the urgency that is there, there is much more urgent business that this House needs to transact for the benefit of this country.

Next Question!

Question No.030

AWARD OF CONTRACT ON WEIGHBRIDGES

Mr. Ochieng asked the Minister for Roads:-

(a) whether the Ministry outsourced for the services of weighbridges on roads in the country, and if so, if he could state the

identity of the company that was awarded the contract, how the company was identified and for what period; and,

(b) whether he is aware that the staff of this organization are involved in corruption at the various weighbridges in the major highways of this country and, if so, what measures the Government has taken to arrest the problem.

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

(a) The Ministry of Roads outsourced the management of weighbridges at Athi River and Mariakani stations. The other 11 weighbridges are operated directly by my Ministry. The company that was awarded the management contracts for both stations is M/s Otieno Odongo and Partners Consulting Engineers with a contract period of 12 months. The procurement of the management contractor was done competitively according to the public procurement rules.

(b) Indeed, corruption has been a great concern to my Ministry, which is why the management of both Mariakani and Athi River weighbridges were contracted to a private company. The contractor has computerized their operations and installed public display units that show the weight of a vehicle as it is being weighed, hence minimizing the instances of corruption. My Ministry is monitoring the implementation of the outsourced system and noting any transitional difficulties with a view of taking appropriate action to avert any malpractices. I am also studying the report from an Inter-Ministerial team on better management of weighbridges. Further, I am consulting on the best ways of tackling the problems associated with weighbridges with my colleagues in the East African Community.

Mr. Ochieng: Mr. Deputy Speaker, Sir, I want to ask the Assistant Minister whether he is aware that a month ago, about six trucks were arrested at the weighbridge in Kisumu carrying a cargo of 60 tonnes each, against the required maximum of 30 tonnes. How did these trucks pass Mariakani and Athi River weighbridges without being detected if there were not bribes that were paid?

Dr. Machage: Mr. Deputy Speaker, Sir, I am not aware. Indeed, I will request the hon. Member to give me further information, so that I take the necessary investigations and action.

Mr. Ochieng: Mr. Deputy Speaker, Sir, could the Assistant Minister be kind enough to tell us how he wants to evaluate the performance of the people who were given the contract to man these weigh bridges?

Dr. Machage: Mr. Deputy Speaker, Sir, I already have a technical team that is assessing the performance of these people on a daily basis and taking note of any offences that may have been committed during this period and the relevant signs and submitting the same to the Kenya Revenue Authority. I intend to continue this for the next six months before I make my final decision.

Mr. Ogindo: On a point of order, Mr. Deputy Speaker, Sir. What the Member for Nyakach sought to know is against what benchmark the evaluation is going to be undertaken.

Dr. Machage: Mr. Deputy Speaker, Sir, the articles of the agreement are very explicit and if the hon. Member so wishes, I will lay the same on the Table so that he may study them--.

Mr. Deputy Speaker: Do you wish to table that now?

Dr. Machage: Mr. Deputy Speaker, Sir, I wish to lay the document on the Table.

(Dr. Machage laid the document on the Table)

Mr. Deputy Speaker: Fair enough! Next Question by hon. Chanzu!

Question No. 075

TERMINATION OF MR. KIDUYA'S EMPLOYMENT

Mr. Deputy Speaker: Mr. Chanzu is not here?

Next Question!

Question No.080

DELAY IN PAYMENT OF DUES TO MR. JOSPHAT MUTHOKA

Mr. Kiilu asked the Attorney-General:-

(a) why the Government has not paid Mr. Josphat Muthoka the Kshs.153, 958 awarded to him in 2003 by the Kitui Principal Magistrate's Court vide case no. PMCC 6/2000; and,

(b) what urgent steps he is taking to ensure that Mr. Muthoka is paid his dues without any further delays?

The Attorney-General (Mr. Wako): Mr. Deputy Speaker, Sir, I beg to reply.

Mr. Josephat Muthoka, the plaintiff in Kitui PMC No.6 of 1999 was on 21st December, 2007 paid the sum of Kshs180, 623 vide cheque No.005882 dated 13th December, 2007 drawn in favour of JK and Mwalimu Company Advocates on record for the plaintiff. The plaintiff should be advised to collect his payment cheque from his advocate, M/s JK and Mwalimu Advocates.

Mr. Kiilu: Mr. Deputy Speaker, Sir, I want to thank the Attorney-General for the answer he has given. I was with the client over the weekend and he confirmed that he has not been paid. But given this information now, I know where the culprit is. It might be the advocate. I am satisfied with the answer.

Mr. Deputy Speaker: Next Order!

PROCEDURAL MOTION

EXEMPTION OF BUSINESS FROM PROVISIONS OF STANDING ORDER NO. 38(1)

Mr. Midiwo: Mr. Deputy Speaker, Sir, I beg to move the following procedural Motion:-

THAT, this House orders that the Business appearing in today's Order Paper be exempted from the provisions of Standing Order No. 38(1), being a Wednesday Morning, a day allocated for Private Members' Motions.

Mr. Deputy Speaker, Sir, the reasons are obvious and I ask Mr. Thuo to second

Mr. Thuo: Mr. Deputy Speaker, Sir, I second.

(Question proposed)

(Question put and agreed to)

Mr. Deputy Speaker: Hon. Members, we now move to the Motion.

MOTION

APPROVAL OF DRAFT CONSTITUTION OF KENYA

THAT, Pursuant to the provisions of Section 33(4) of the Constitution of Kenya Review Act, 2008, this House approves the Draft Constitution submitted by the Committee of Experts and laid on the Table of the House on Tuesday 2nd March 2010.

(Mr. Abdikadir on 23.3.2010)

(Resumption of Debate interrupted on 30.3. 2010)

Mr. Deputy Speaker: We shall start with the amendment by Mr. Musyimi. The Speaker will later make a communication. I wish to tell hon. Members that due to the limited sitting space we have in the House, the Chair allows that all Members can stand and sit anywhere in the Chamber except in the Chair of the State. You can stand or sit anywhere else in the Chamber.

The Minister for Nairobi Metropolitan Development (Mr. Githae): On a point of order, Mr. Deputy Speaker, Sir. I have been counting the number of amendments and they are more than 100. If we have to go to the Division which takes a minimum of 45 minutes, then we require three months at a minimum to be in this House. So, I am just wondering how practical it is for us to go through these amendments. There must be another solution.

Mr. Deputy Speaker: The Speaker is going to give a communication shortly.

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

Mr. Deputy Speaker: Order, Mr. Washiali! Mr. Speaker is going to give a communication shortly. Hold your horses because Mr. Speaker is approaching the Chair.

[Mr. Deputy Speaker left the Chair]

[Mr. Speaker took the Chair]

Dr. Khalwale: Mr. Speaker, Sir, we have just commenced a very crucial stage in this process and I would like you to guide the House whether it is constitutionally right for a Member to move a Motion of amendment on such a Motion when we have less than 145 Members in the House.

Mr. Speaker: It is in order for on hon. Member to move an amendment notwithstanding that at the time the hon. Member is moving the amendment, the total number of Members present is below 145. It is however obligatory and mandatory that at the time a decision is being called, there must be a minimum of 145 Members. Otherwise, then that amendment would be negative. That is the position.

Proceed, Mr. Musyimi!

Mr. Olago: On a point of order, Mr. Speaker, Sir. I wish to follow up on a point raised by Mr. Githae shortly before you took the Chair, on the practicality of all these amendments being moved within the time that we have. May I propose in the circumstances, in consonance with the Standing Orders, that hon. Members who are going to move the amendments take a minute to do so then we take the counting. That way we can move very fast.

COMMUNICATION FROM THE CHAIR

PROCEDURE FOR HANDLING AMENDMENTS TO DRAFT CONSTITUTION

Mr. Speaker: Hon. Members, I have considered that aspect of the matter in the light of the number of amendments that we have as it appears on the Order Paper. I have decided to give direction as follows:-

Every Mover of an amendment will endeavor to move it within a period of three minutes. If there is a spill over, then it will not go above five minutes. We will strictly endeavor to observe that timeline. Hon. Members who will be seconding or contributing to the amendments will be restricted to a period of a maximum of three minutes so that as much as possible, from our computation, each amendment should last just about five or at most seven minutes. The Division Bell, as and when a Division is called, will be rung for four minutes instead of the standard eight minutes as provided for under the Standing Orders. You will notice that under the Standing Orders, there is provision that the Speaker will direct the bell to be rung for eight minutes. But for purposes of this constitutional debate, I am directing that the Division Bell will be rung for four minutes so that we are practical, to be able to accommodate all the amendments as they appear on the Order Paper. Please stand guided accordingly.

Mr. Mungatana: On a point of order, Mr. Speaker, Sir. I am guided by your ruling, but I just wish to get a further clarification. Section 47 of the Constitution says that:

“A Bill for an Act of Parliament to alter this Constitution shall not be passed by the National Assembly unless it has been supported on the Second and Third Readings by the votes of not less than 65 per cent of all the hon. Members of the Assembly, excluding the *ex officio* Members.”

Mr. Speaker, Sir, to my understanding, and this is what I am seeking your guidance for, it is saying that on Second and Third Readings, it must have the 65 per cent, the 145 hon. Members, that is required. So, it means that we must be satisfied at the Second Reading that, in fact, we have the 145 hon. Members before we go to even the amendment, that is the Third Reading.

So, Mr. Speaker, Sir, unless you guide us differently, I am of the opinion that before the amendments are moved, we should satisfy ourselves that there are, in fact, 145 hon. Members in the House.

Mr. Speaker, Sir, I seek your guidance.

Thank you, Mr. Speaker, Sir.

The Minister for Lands (Mr. Orengo): Mr. Speaker, Sir, whereas I would agree with hon. Mungatana that, generally and ultimately, you would require the 145 hon. Members, but the fact of the matter is that we have no Bill before the House; what we have is a Motion. The provisions that relate to the debate on what is before the House are contained in a different section. I would invite you to look at Section 47A of the Constitution, and not Section 47.

Mr. Mungatana: Mr. Speaker, Sir, I thank hon. Orengo for pointing out that. But, in fact, if we go to the previous ruling that you, Mr. Speaker, made; he has, in fact, stated that what is before us is a Constitutional Bill---

An hon. Member (inaudible)

Mr. Mungatana: No, I am not saying you agree with me---

Mr. Speaker: Order, Mr. Mungatana! please, address the Chair and speak to the House!

Mr. Mungatana: Okay, let me address the Chair.

(Laughter)

Mr. Speaker, Sir, following the ruling that was made in this House giving guidance to the procedure that needs to be followed, as far as passing these amendments and the rest of the procedure is concerned, the Chair made it very clear that we are going to be guided by the last bit of Section 47 of the Constitution. I remember hon. Ruto had risen on a point of order trying to bring to the attention of the Speaker that this matter was a simple Motion, and that it needed a simple majority for alteration. But Mr. Speaker made it very clear that this was a Constitutional Bill that was before the House and, therefore, it needed 65 per cent majority. Going by that argument, I want to persuade the House to see that if that ruling is to guide us, then it is mandatory that on the Second and Third Readings, we must have that 65 per cent.

Mr. Speaker, Sir, I am asking for your guidance that, if that be the correct ruling, and we believe it is the correct ruling, it means that we must satisfy ourselves that 145 hon. Members are, in fact, in the House before an amendment can be moved.

Mr. Speaker, Sir, I seek your guidance.

Mr. Imanyara: On a point of order, Mr. Speaker, Sir. In the same vein, my concern is that this House does not act in vain. If there is no quorum in the House to pass the amendments as proposed, what will be the purpose of moving and seconding those amendments, because the effect will be that we will be acting in vain? I think the point that was raised by hon. Mungatana is a valid one, so that the House does not act in vain and then we can go straight to---

(Applause)

Mr. Affey: Mr. Speaker, Sir, it is quite clear that when we suggested the amendments to the draft Constitution, we wanted to be given an opportunity to convince the House that these amendments are necessary, and are in the best interests of the country. This is the only forum which hon. Members, who have proposed amendments, have to convince the House; there is no other forum! Therefore, I suggest that we proceed as per your ruling, and those with amendments can, therefore, make an attempt to convince the House and the country of the merits of the amendments.

Mr. C. Kilonzo: Mr. Speaker, Sir, I wish to refer the Chair to Section 47 (3), which seems to provide a loophole. I need clarification whether it will be applicable in this case.

With your permission, Mr. Speaker, Sir, I can read what it says.

Mr. Speaker: You are referring to section what?

Mr. C. Kilonzo: Section 47 (3) of the Constitution. It says as follows:

“If on taking of the vote for the purposes of Subsection (2) above---”

Mr. Speaker, Sir, Subsection (2) is the one saying that the House must have 65 per cent.

“---the Bill is supported by a majority of the Members of the Assembly voting but not by the number of votes required by that subsection and the Bill is not opposed by 35 per cent of all the Members of the Assembly or more, then, subject to such limitations and conditions as may be prescribed by the Standing Orders or the Assembly, a further vote may be taken.”

Mr. Speaker, Sir, I want to know whether we have been exempted from that provision.

The Assistant Minister for Livestock Development (Mr. Duale): Mr. Speaker, Sir, Parliament is an integral part of the review process, and that is why there is a 30-day period which is coming to an end tomorrow, Thursday.

Mr. Speaker, Sir, we sit here as hon. Members representing the people of Kenya who, in their wisdom, helped the Committee of Experts (CoE) collect and collate the views in this very important document. Hon. Members have raised more than 150 amendments. We know, and this is a House of procedure. When it comes to such matters, the 65 per cent or 145 hon. Members will reach a stage where the Bell will be rung. I agree with you that until we reach that stage, it is very fair that we give a chance to hon. Members, who have amendments to argue their case and when we reach the stage where the Division Bell is rung, then hon. Members can talk about the numbers.

The Minister for Lands (Mr. Orenge): Mr. Speaker, Sir, I want to begin from where hon. Duale left. If you look at the constitution as amended, sub section 2(c) reads as follows:

“The National Assembly shall within 30 days of introduction in the Assembly of a draft constitution proposing the replacement of this constitution, debate all the proposed amendments.”

Mr. Speaker, Sir, I am trying to emphasize that we should debate all the proposed amendments. Parliament is required to debate and not just become a voting machine so that as a matter of record, those who are proposing amendments can say whatever they need to say. In my view, Section 47 is not applicable. The applicable section is 47(a). But even if 47 was applicable, normally, where there is a Constitutional Bill, the debate proceeds without any interruption until a Division is called. When a Division is called,

Mr. Speaker will draw the attention of the House to the threshold required before a vote is taken. If at the end of the Division Bell, the threshold is not met, then the exercise is in futility. There are some Members who may not want to listen to the debate that is going on, but they would want to participate in the vote. That is why the Division Bell is rung. So, I think we should hold our horses and listen to the debate on the amendments because that is what the Constitution directs us to do; to debate the amendments and not become a voting machine.

Mr. Mungatana: Mr. Speaker, Sir, the hon. Mr. Orengo, who is a senior lawyer, has admitted that in interpreting the Constitution, you have to refer to the same Constitution again. He has quoted Section 47(a). He has also said that there is a Section 47. It is not the first time we are doing amendments to the Constitution. We have done it before. On the Second Reading, before debate takes place, the Speaker must satisfy that the requisite number is present and before debate begins. I have referred the House to the relevant Section 47. It says on the Second Reading, the requisite number is supposed to be there. On the Third Reading and during voting, the number should also be there. I am just drawing the attention of the Speaker to the fact that--- Do we have the 145 Members in the House before amendments can be moved? I ask for your ruling.

The Assistant Minister for Water and Irrigation (Mr. Kiunjuri): Mr. Speaker, Sir, the exercise we are about to carry out is not new to this House. It was done again in the year 2005. You happen to be a beneficiary of it. So, you already have an idea of the procedure to follow. This House is always guided by procedure and traditions. Therefore, I will call upon you to educate us more on the meaning of the Division Bell when it is a case of a simple majority voting in the House and when it is in the case of a Constitutional Amendment being moved, guided by the amendment we did on Section 47.

The Minister for Nairobi Metropolitan Development (Mr. Githae): Thank you, Mr. Speaker, Sir. I had foreseen this probability of hon. Members not wanting to listen to the amendments. Therefore, I had proposed an amendment to the Motion itself saying that we approve this Motion without any amendments. However, it is not appearing in the notices of Motion. That would have taken care of this. If that Motion would have gone through, there would be no need of going through all the amendments. It would have sorted out our problems.

I am seeking your guidance that we reinstate that Notice of Amendment where I had suggested that we approve the current Motion without any amendment. If that had gone through, we would not be here. We would have sorted it out.

Mr. Speaker, Sir, 100 amendments require 100 divisions, each taking 30 minutes. Therefore, we will be here for three months and that is not practical.

The Minister of State for Immigration and Registration of Persons (Mr. Kajwang): Thank you, Mr. Speaker, Sir. I just wanted to support your earlier ruling that while debating and even moving the amendments, we do not require 65 per cent. You require the normal majority. However, when it comes to voting on the amendments, then we require 65 per cent. So, this is a simple matter. You had made a correct ruling. I think we should proceed. If we take three months that will be fine. However, if we take one day, it will be okay.

Mr. Speaker: Order, hon. Members! I have heard all your concerns and issues raised by the points of order that I have admitted this morning beginning with the one by

the hon. Member for Garsen and finalizing with the one by the hon. Member for Mbita. I have considered them very carefully. I have also weighed them very carefully. There are important things that I must say even as I give these directions. First, last week I issued a Communication at the commencement of this debate. In that Communication, I indicated the procedure that we shall adopt for the purposes of steering this Motion through the House.

Hon. Members, I want to reiterate the contents of that Communication and, indeed, assert that I stand by the directions which I gave, which were within the law, in as much as I took into account the provisions of our constitution as amended.

Hon. Members, it is important for us to note that even as we go through this exercise which is critical, important, and, indeed, historical, that we must do so constitutionally. We must bring about a new constitution if we do, or even play our part in the process constitutionally.

Hon. Members, what is before the House, as we speak this morning, is not a Constitutional (Amendment) Bill. What is before the House is a Motion urging this House to approve the Draft Constitution. That has to be clear. So, obviously, there is a distinction between a Constitutional (Amendment) Bill and a Motion which incorporates a Draft Constitution as is before the House at the moment. Secondly and significantly, the procedure that will govern the debate and conduct of business with respect to this Draft Constitution is provided for, not just by our Standing Orders, but significantly by the Constitution itself as amended. The Constitution carries an amendment under Section 47(a) which tells us what to do with this Draft Constitution. Section 47(b) provides as follows: "Notwithstanding anything to the contrary in this Constitution." Therefore, if you assume for a moment that something, perhaps something in Section 47 which preceded Section 47(a) is in contravention with Section 47(a), then that notwithstanding, this will apply.

That is the correct position that would be given even by those who among us are my learned friends. Notwithstanding anything to the contrary in this Constitution; (b) when a Draft Constitution proposing the replacement of this Constitution has been introduced into the National Assembly, no alteration shall be made in it, unless such alteration is supported by the votes of not less than 65 percent of Members, and note, by the votes and not by the presence. So we will ascertain whether or not we have the right strength as we move to vote. We will then ascertain whether or not we have, in fact, 65 percent of the Membership of the House present to cast votes that will carry an alteration. So I stand by my first direction that we will proceed with debate on the amendments. When the Division Bell is rung, we will ascertain if we have the requisite numbers to meet that constitutional threshold.

Hon. Members, with respect to the attempt by the hon. Githae to talk about a Motion that he wanted to introduce on procedure this morning, I am afraid that does not appear on the Order Paper. It is not part of our business this morning. Apart from the fact that I am not aware of any such Motion, it has not been drawn to my attention.

Hon. Members, please, bear in mind that we have in excess of 120 proposed alterations. So let us begin to utilize our time as best as we can and we need to do so with speed. We must expedite this process. Let us proceed! The hon. Musyimi!

(Resumption of Debate on proposed amendments to the Draft)

Article 4

Mr. Musyimi: Mr. Speaker, Sir, I beg to move:-

THAT pursuant to the provisions of section 33(4) of the Constitution of Kenya Review Act, 2008, this House approves the Draft Constitution submitted by the Committee of Experts and laid on the Table of the House on Tuesday, 2nd March, 2010, subject to the amendment of Article 4 by the insertion of the following new clause immediately after clause (2)-

(3) Kenya is a unitary state with a common citizenship and a universally applicable Bill of Rights.

It is quite obvious that our people have struggled to feel included in the life of their country. It is because of that, that the whole concept of devolution has become extremely popular and is now in our Draft Constitution as something that we need to take seriously. My concern, and that is why I am moving this amendment, is that in the process of making sure that we are inclusive and making sure that we devolve the functions of the powers that we have; political and economic to where our people are, that for the avoidance of doubts, we restate our commitment to unitarism of our Republic.

Mr. Speaker, Sir, it is necessary for us to make sure that as we create these new organs and as we take them to the regions, we have a strong centre and that we know we have a strong centre. That is why we are proposing this amendment. Let me also say that I get a bit concerned that we have made a law that is now holding us to ransom. That is a matter of grave concern to me. Perhaps, time has come to review this law. Maybe this is not the time to expound on that except to say for now, it is my recommendation that we come up as we imagine our future and as we try to shape our future, we declare to ourselves in line with Article 4, that Kenya is not just a sovereign Republic. The Republic of Kenya, as is in the Draft Constitution, is a multi-party democratic state founded on the national values and principles of governance but also that this country is a unitary state in the words proposed in my amendment.

Mr. Speaker, Sir, I beg to move.

The Assistant Minister for Roads (Dr. Machage): Mr. Speaker, Sir, I stand here to second hon. Musyimi's Motion that only adds value. Indeed, if you look at part 2 of Article 4, it talks about Article 10, and if you go to Article 10 (2), it emphasizes on the national values and principles of governance that should include patriotism, togetherness, national unity, devolution of power, democracy, participation of all the people, human dignity, equity, social justice, inclusiveness of all people of every cadre including Muslims, Christians, heathens, Hindus and those other religions we do not know, and protection of the marginalised people of this country.

So this Article that is being inserted to be number 3 of part 4 in this Chapter 2; the Republic, is just to emphasize and add value to what we are thinking this document should be. This document is well designed to protect all people of Kenya; the majorities, the minorities, big tribes and small tribes. We cannot ignore that there are tribes in Kenya. That is burying our heads in the sand. But all ethnic groups in this country must be considered equal and equitably be given their rights in distribution of power, property and resources. I beg to support.

The Assistant Minister for Livestock (Mr. Duale): Mr. Speaker, Sir, I stand to oppose---

Mr. Speaker: Order, hon. Members! Order, Order! Hon. Members,

(Question of the Amendment Proposed)

The Assistant Minister for Livestock (Mr. Duale): Mr. Speaker, Sir, I stand to oppose the amendment. If you look at Article 4, it says Kenya is a sovereign Republic. But what the Member is trying to amend in terms of a unitary state, “unitary” can be confirmed by values. If you go to Article 9, the national symbol of the Republic is the national flag, the national anthem, the Coat of arms and the public zeal. If you go to Article 10, the values and the principles of governance, all these are attributes of a unitary state. So we do not need the amendment. I oppose.

Mr. Ruto: Mr. Speaker, Sir, this proposed amendment actually runs counter the fact that we are trying to bring forth devolution. I think it does not merit our support.

The Assistant Minister for Tourism (Ms. Mbarire): Mr. Speaker, Sir, I rise to oppose this amendment on the basis of what he is calling common citizenship. To me, citizenship whether by birth, by registration, or by marriage is citizenship. There is no need of talking about common citizenship. So I oppose this amendment.

(Loud consultations)

Speaker: Order, hon. Members! We will now, as per the procedure I have laid out, proceed to a Division to take a vote on this matter. Ring the Division Bell.

(The Division Bell was rung)

Mr. Speaker: Order, hon. Members! The time for the Division Bell is up. Please, resume your seats. Draw the Bar. The number of Members present in the House to proceed to the Division is 62 which is far below the threshold as set by the provisions of the Constitution. Therefore, hon. Members, the amendment by the Member for Gachoka is negated. It fails!

(Amendment negated)

(Loud consultations)

Mr. Speaker: Order, hon. Members! We will now move on to the proposed amendment by the hon. Member for Ugenya. The Member for Ugenya, you may relax for a while.

(Loud consultations)

Order! Order, hon. Members! The House is in session, and we want to hear the Member of Parliament for Ugenya. Let us try as much as possible to lower the level of our consultations so that we can hear those hon. Members who are contributing.

Article 6

The Minister for Lands (Mr. Orengo): Mr. Speaker, Sir, I beg to move:-

THAT, pursuant to the provisions of section 33 (4) of the Constitution of Kenya Review Act, 2008, this House approves the Draft Constitution submitted by the Committee of Experts and laid on the table of the House on Tuesday 2nd March, 2010 subject to amendment of Article 6 by—

(a) inserting the words “provinces and” immediately before the word “counties” in clause (1);

(b) inserting the following new clause immediately after clause (1)—

“(1A) The sovereign power of the people is exercised at—

(a) the national level of government;

(b) the provincial level of government; and

(c) the county level of government.”

(c) deleting clause (2) and substituting therefor the following new clause—

“(2) The governments at the national, provincial and county levels are distinct and interdependent and shall conduct their mutual relations on the basis of consultations and co-operation.”

Mr. Speaker, Sir, what this amendment is trying to bring about is a three-tier system of Government. If you look at the Constitution of Kenya Review Act, it lays the Objects of the Review Process, and there are three very important principles: One, to have a system of checks and balances; two, to have a system of separation of powers; and three, devolution of power and resources. The fourth principle, of course, are the values, which are set up in the Act itself and the Draft Constitution.

We have done so well in so far as separation of powers is concerned. The three Arms of Government are well established but when it comes to the issue of devolution of power and resources, and the participation of the people, the Draft Constitution does not meet the principles that are set out in the Act and in the Values. The counties, as they exist and as I understand, are to enhance people’s participation. At the local level, the people should be able to participate in the manner in which they will be governed. That is why we need the third-tier.

The second-tier, which has the provinces, is to ensure that power at the centre can be checked and counterbalanced. If we have a second-tier that is not strong enough, then we may have created yet another imperial presidency.

With those few remarks, I beg to move and ask my friend, Mr. Bett, to second.

The Minister for Roads (Mr. Bett): Mr. Speaker, Sir, I wish to second this Motion.

What we are supporting is delegation, in that it is a crucial managerial factor if things are to happen in an orderly manner. It is an issue of organisational management of the affairs of State. There would be a possibility and likelihood, if there are two tiers running from the national to the counties, of manipulation of political and economic

resources of the people, hence the need for this third tier to filter information from the national and county levels.

With those remarks, I beg to second.

The Minister for Nairobi Metropolitan Development (Mr. Githae): Mr. Speaker, Sir, I stand here to strongly oppose these amendments. This is *majimbo* by another name. Whether you call it “*ugatuzi*” or “provincial governments” or whatever other name, it is *majimbo*. This is dangerous for this country.

I, therefore, strongly oppose.

Prof. Kamar: Mr. Speaker, Sir, I stand to support the amendment 100 per cent.

I support these amendments because it is very important that we have a co-ordinating unit. The proposal before us is taking us back to what was released at the Kenyatta International Conference Centre (KICC) – the Harmonised Draft Constitution. Nobody has brought it from nowhere. That is what has been with us from the Bomas process. It came through the KICC in the Harmonised Draft Constitution.

With those remarks, I beg to support.

The Minister of State for Development of Northern Kenya and Other Arid Lands (Mr. I.E. Mohamed): Mr. Speaker, Sir, I stand to support the amendments.

I think people are generating unnecessary fears. We need co-ordination and planning. Small units that cannot be co-ordinated and planed cannot work, in my view.

Thank you.

Mr. Mbadi: Mr. Speaker, Sir, very quickly, I want to support these particular amendments. My reasons are, one, even as we speak, we have provinces. It is only that we are changing the responsibilities and the duties of the provincial governments by making them governance units.

Thank you.

The Minister for Foreign Affairs (Mr. Wetangula): Mr. Speaker, Sir, in the strongest terms possible, I oppose the amendments. Provinces, as we know them, serve a different function. We do not want *majimbo* to come through a disguise of provincial governments. We stand for a two-tier government system.

Thank you.

Mr. Linturi: Mr. Speaker, Sir, I stand here to oppose this system. Service delivery in this country has completely been hampered by the bureaucracy that is in the Civil Service. What we are seeking to set up through these amendments is a political bureaucracy whose financing we will not even be able to raise.

With those remarks, I oppose.

Mr. Jamleck Kamau: Mr. Speaker, Sir, I also stand here to strongly oppose this amendment.

At this particular time when we are just about to get a new constitution, we must be very careful not to introduce anything that might derail this process. Certainly, this is one of them.

Thank you.

The Minister for Industrialization (Mr. Kosgey): Mr. Speaker, Sir, I stand to support these amendments.

What these amendments are seeking to create is not *majimbo*. The connotation that has been given to *majimbo* is that it is an ethnic system. This is devolution of power and resources to regions. That is why we wanted a new constitution in the first place.

Mr. Speaker, Sir, our efforts towards having a new constitution can easily fail if we do not listen to the voices of *wananchi*. We started by saying that we wanted a people-driven constitution. The views of the people are there. They want a three-tier Government. The initial Committee of Experts' draft---

Mr. Speaker: Order, Mr. Kosgey! Your time is up!

The Minister for Industrialization (Mr. Kosgey): Mr. Speaker, Sir, I strongly support the amendments.

The Minister for Labour (Mr. Munyes): Mr. Speaker, Sir, I stand to oppose the *majimbo* debate that is going on in this House. We are anti *majimbo*. Kenyans do not want *majimbo*. Some of us have seen what provinces have done in our regions. We have suffered because of provinces in this country.

Thank you very much

Mr. Thuo: Mr. Speaker, Sir, even opinion polls are telling us that Kenyans want lesser government. I strongly oppose this proposal. We also represent Kenyans, and we should not be threatened that the Constitution will be derailed. Everyone will vote on it.

I oppose.

Mrs. Shebesh: Mr. Speaker, Sir, I strongly support this amendment. I do so because Kenyans are intelligent human beings, who know that devolving power and resources to the people is a positive in the governance of this country, and can never be a negative.

I support.

The Assistant Minister for Justice, National Cohesion and Constitutional Affairs (Mr. Cheptumo): Mr. Speaker, Sir, I would like to call upon my colleagues not to use this Motion to express their deep feelings about *majimbo*. I would like to strongly support the amendment; if we want to serve Kenyans better, we have to fulfill the promise to give Kenyans and give them a Constitution which will serve them better.

Mr. Speaker, Sir, I support the Motion.

Dr. Monda: Mr. Speaker, Sir, I stand to strongly support this Motion. This Parliament has been speaking about devolution. The time has come when we must tell Kenyans we are giving them the regions they wanted. Therefore, I plead with the hon. Members of this House to support this, so that we give Kenyans devolution as we had promised them.

Mr. Speaker: Mr. Kiunjuri.

Hon. Members: Ahh!

The Assistant Minister for Water and Irrigation (Mr. Kiunjuri): Thank you, Mr. Speaker, Sir. First of all, I would like to request hon. Members that when other hon. Members stand to contribute, the rule of the House is that others should be seated.

Mr. Speaker, Sir, I would like us to oppose this amendment with all our hearts, minds and souls. Even as I speak today, Kenyans still remember what we went through after the last elections. The IDPs are still there in the camps. This amendment---

Mr. Ruto: On a point of order, Mr. Speaker, Sir. Is the hon. Member in order to associate the amendments with the unfortunate incidents of the last elections when he knows they were the cause of that problem by stealing an election that had been won?

Mr. Speaker: Order! Mr. Kiunjuri, you need not respond to that.

(Loud consultations)

Order, Hon. Members! Will all of you please relax? What you have is very important business. Much as emotions are permitted, we must stick to the rules of the House. So, we will hear an hon. Member at any given time. Only one Member will be on their feet. You will not talk until you have caught the Speaker's eye.

Ms. Karua: On a point of order, Mr. Speaker, Sir. Is Mr. Ruto in order, after publicly confessing that the ODM knew the elections were not stolen, to claim the reverse in Parliament when ODM knows very well that it bullied its way to power through killings?

The Minister for Industrialization (Mr. Kosgey): On a point or Order, Mr. Speaker, Sir!

Mr. Speaker: Order, Mr. Kosgey!

Mrs. Noor: On a point of order, Mr. Speaker, Sir!

Mr. Speaker: Order, Mrs. Noor!

(Loud consultations)

Mr. Speaker: Order, hon. Members. Order, Mr. Sirma!

Hon. Members, I will direct that two things happen as at where we are. First, Mr. Ruto, the word "steal" in the context in which you used it is unparliamentary, and you must withdraw it and apologise. Secondly, Ms. Karua, the context in which you used the word "kill", when restricted to that context only is unparliamentary. In the context in which you used it, and follow my words, please withdraw it and apologise.

(Ms. Karua stood up in her place)

Mr. Speaker: Order, Ms. Karua! First it is Mr. Ruto.

Mr. Ruto: Mr. Speaker, Sir, I withdraw the word "stealing" and replace it with the words "mishandling an election". I apologise unconditionally.

Mr. Speaker: Order! Resume your seat. Mr. Ruto, you will follow directions strictly as the Chair has given them. Withdraw the word "kill" and apologise. I have not directed you to engage in substitution.

Mr. Ruto: Mr. Speaker, Sir, I withdraw and apologise.

Mr. Speaker: Member for Gichugu.

Ms. Karua: Mr. Speaker, Sir, within the context the Speaker has said, I will withdraw the word "killing" and apologise, but given an opportunity, I can actually substantiate .

Mr. Speaker: I appreciate that.

Mr. Kiunjuri, you have one minute to finish.

The Assistant Minister for Water and Irrigation (Mr. Kiunjuri): Mr. Speaker, Sir, guilty minds need no accuser. Therefore, having seen the deliberations right now, this is the mood out there. This is how divisive this issue is out there. Therefore, all Members of Parliament of good faith, who love this country, must oppose it.

I oppose, Mr. Speaker, Sir.

The Minister for Tourism (Mr. Balala): Mr. Speaker, Sir, I stand to support this amendment. Where on earth do we have a structure of a presidential system with no

checks and balances? I want the hon. Members opposing this to show me where this structure has failed all over the world. Here, people are just motivated by greed and dishonesty. We have to have a three-tier system to address the issue of devolution---

Mr. Speaker: Order, Member for Mvita! It is obviously unparliamentary for you to impute improper motive on the part of your colleagues, especially in those generalized terms. You do not cast generalized aspersions against your colleagues *en masse*. Could you withdraw the word “greed” and apologise?

The Minister for Tourism (Mr. Balala): Mr. Speaker, Sir, in that context the word “greed” is unparliamentary. I apologise and withdraw.

The reality is that I wonder why people are opposing a three-tier presidential system. They are not putting in place institutions in form of provincial and county governments to check the Executive. It is important to have provincial governments, which will not be overrun by a powerful and imperial President. It is very important. In 1963 *majimbo* did not affect anybody, and things were working in this country. Now, nothing is working.

Mr. Speaker: Order, hon. Members! We will now proceed to Division. We have heard adequate contributions on this, and now hon. Members are tending to be repetitive. Ring the Division Bell.

(The Division Bell was rung)

(Loud consultations)

Mr. Speaker: Order. Hon. Member! Please, resume your seats. Draw the Bar!

(The Bar was drawn)

Order, hon. Members! Please, resume your seats. We have the Clerks counting the Members. Please, do not engage yourself in counting.

(Loud consultations)

Order, Member for Mumias! The House is in session. The Clerks are just being careful to ensure the numbers are correct. Note that it is 65 per cent excluding *ex-officio* Members; the Attorney General and the Speaker are excluded.

Order, hon. Members! The number of Members present to go to the Division and vote are 107 which is below the threshold set by the Constitution. Therefore, the proposed amendment to Article 6 is negated. It fails!

(Amendment Negated)

The Minister for Industrialization (Mr. Kosgey): On a point of order, Mr. Speaker, Sir.

Mr. Speaker: What is, it Mr. Henry Kosgey?

The Minister for Industrialization (Mr. Kosgey): Mr. Speaker, Sir, would I be in order to ask that the names of the 107 hon. Members who are present in this House be recorded?

(Applause)

Mr. Speaker: Order, hon. Members! That would be unprecedented in the history of this House. I do not think it is a useful practice to embrace at this point in time.

Hon. Members, those of you who are present are known. We know everyone of you and this will go to the archives of the institution. They will not be formally recorded.

Mr. Kosgey, if you wish to know who was present, we will let you know.

The Minister for Industrialization (Mr. Kosgey): On a point of order, Mr. Speaker, Sir. I will take---

Mr. Speaker: Order! Hon. Members, resume your seats! We will proceed with the business on the Order Paper and take the Member for Gachoka's proposed amendment!

Mr. Musyimi: Mr. Speaker, Sir, I beg to move:-

THAT, pursuant to the provisions of section 33(4) of the Constitution of Kenya Review Act, 2008, this House approves the Draft Constitution submitted by the Committee of Experts and laid on the table of the House on Tuesday, 2nd March, 2010 subject to the insertion of the following new clauses in Article 8-

“(2) State and religion shall be separate.

“(3) The State shall treat all religions equally.”

Mr. Speaker, Sir, this issue is more about values than it is about religions. Why do I say that? This is because Kenya is a multi-religious and multi-ethnic State. I am reminded of three conversations, one is a speech given by the then British Prime Minister in December, 2006. I will cite the authorities of the others. The then Prime Minister, Tony Blair, said that people want to make sense of two emotions:-

“Our recognition of what we legitimately hold in common and what we legitimately hold distinct. Integration in this context is not about culture or lifestyle but about values. It is about integrating at the point of shared common unifying common British values. It is not about what defines us as people but as citizens, the rights and duties that go with being a member of our society. Christians, Jews, Muslims, Hindus, Sikhs and other faiths have a perfect right to their own identity and religion to practice their faith and conform to their culture. This is what multi-cultural, multi-faith Britain is about. That is what is legitimately distinctive but when it comes to our essential values, believe in democracy, the rule of law, tolerance, equal treatment for all, respect for this country and its shared heritage then that is where we come together. It is what we hold in common. It is what gives us the right to call ourselves British. At that point no distinct culture or religions supersede our duty to be part of an integrated United Kingdom.”

Mr. Speaker, Sir, this matter is about values. We are a multi-ethnic, multi-religious plural society.

Mr. Speaker, Sir, I make two further quotations; one is an article written in January this year---

Mr. Speaker: Order, the Member for Gachoka! Your time is up!

Mr. Musyimi: Mr. Speaker, Sir, the Seconder had offered to donate to me two minutes of his time.

Mr. Speaker: Then use the two minutes. That is it!

Mr. Musyimi: Thank you, Mr. Speaker, Sir. In an article written early this year, the columnist said the following words:-

“The Constitution since Independence, after all, outlawed theft, rape, corruption, murder, abuse of office and other crimes the State has committed against us”.

My cruel verdict was we want to have a new Constitution but we forget it is useless if the values of the governed and the governor would not change.

Mr. Speaker, Sir, this is about values. It is not about religion or other things. It is the multi-faith plural Kenya we want. We must agree on the values that unite us and be able to accept the things we hold separately like religion and others.

Mr. Speaker, Sir, I beg to move.

Mr. Jamleck Iringu Kamau: Mr. Speaker, Sir, I rise to second this amendment and I donated two minutes to the Mover, so I have only one minute. I want to state clearly that in the eyes of God, all religions are equal. Therefore, in the Constitution also, we must make sure that we safeguard the interests of all religions. So, Kenya being a multi-religious state, we must make sure that we treat all religions equally.

With those few remarks, I beg to second.

(Question proposed)

The Minister for Lands (Mr. Orengo): Mr. Speaker, Sir, I beg to oppose this amendment.

(Applause)

I only wish that Mr. Musyimi would have been candid with us and told us that he is laying a basis for removing the Kadhi's courts in the Draft. In fact, the logic that he went through is standing on its head---

Mr. Musyimi: On a point of order, Mr. Speaker, Sir. Is the hon. Member in order, not knowing that I will have the time to raise the issue of Kadhi's courts? This is not about the Kadhi's courts! Is he in order?

Mr. Speaker: Mr. Orengo, you need not respond to that; that is a point of argument.

The Minister for Lands (Mr. Orengo): Mr. Speaker, Sir, I also want to remind Mr. Musyimi that this issue about religion, if we are not very careful and you know the rights fundamentalist wing is now bringing its face in Kenya in trying to determine our politics---

(Applause)

That is extremely dangerous! We do not want to go that direction.

Mr. Musyimi: On a point of order, Mr. Speaker, Sir. Is the hon. Member in order to try to read my mind? He is doing a rather poor job of it!

Mr. Speaker: Order, Mr. Orengo! That may be genuine. You cannot think for Mr. Musyimi! You can only think for yourself as far as I know!

(Laughter)

The Minister for Lands (Mr. Orengo): Mr. Speaker, Sir, in my training as a lawyer, it is good to know what is in somebody's mind; that is the very business of making interrogation. But I want to leave it that way.

(Mr. Musyimi stood up in his place)

Mr. Speaker: Order, Mr. Orengo! Please leave it that way!

The Minister for Lands (Mr. Orengo): Mr. Speaker, Sir, I want to leave it! All that I need to say is: Do not make the State of Kenya. We should go back to history and find out why the Kadhi's courts are in the Constitution. If you want to unmake the Kenyan Constitution, do not bring this kind of provision.

With those few remarks, I beg to oppose.

(Mr. Musyimi stood up in his place)

Mr. Speaker: Relax, Mr. Musyimi!

Mr. Farah: Mr. Speaker, Sir, I stand to oppose this amendment.

(Applause)

We have a beautiful country; a country we all love and communities from the four corners of this country who love one another. Ours is actually the most tolerant society, I would say, in the world. Let us not allow any extremism, fundamentalism or fanaticism to be imported from outside and brought into our own system. I stand up, very strongly and vehemently, against any Muslim fundamentalist and fanatic, Christian fundamentalist and fanatic and any fundamentalism of any form. We have a reason for having had the kind of State we have right now.

(Mr. Duale consulted loudly)

Mr. Speaker: Order, Mr. Duale!

Mr. Farah: Mr. Speaker, Sir, that was thought out very well by our founding fathers. Our late President---

Mr. Speaker: Order! Your time is up!

The Minister for Foreign Affairs (Mr. Wetangula): Mr. Speaker, Sir, it is important to look at what is behind the amendment. I used to admire Mr. Musyimi a great deal because every preaching I attended, he preached against intolerance everywhere. What he is doing here; he is laying a ground to expunge the Kadhi's courts from the Constitution. If you look at Article 8---

(Applause)

Mr. Musyimi: On a point of order, Mr. Speaker, Sir. Will you please protect me! Yes, I preached tolerance. Is the hon. Member in order to talk about Kadhi's courts? We will come to that and I will hold my ground openly. It is a free society!

Mr. Speaker: Order, Mr. Wetangula!

The Minister for Foreign Affairs (Mr. Wetangula): Mr. Speaker, Sir, arguments on the amendments must be sequential. They must be related to each other. You cannot isolate one and say that because we are dealing with this, therefore, you cannot go to this. I want to cite Article 8 which clearly states:-
"There shall be no state religion."

That is perfect. We do not need to say anything else! I fully support Mr. Orenge and oppose the amendment. It does not help anything and it is laying ground to fight the Kadhi's court which I will support to be in the Constitution.

The Minister for Medical Services (Prof. Anyang'-Nyong'o): Mr. Speaker, Sir, I rise to oppose this amendment. I am not a very good Christian but when I meet really good Christians, we are friends at once. While I am a friend of my dear friend, Rev. Musyimi, as Mr. Wetangula has said, to say that the State and religion shall be separate is redundant because Article 8 states that there shall be no state religion.

Secondly, to say that the State shall treat all religions equally invites a very dangerous precedent. It is a precedent that shall have forced this Constitution to say the following: "The State shall treat all religions equally; the State shall treat all political parties equally; the State shall treat all clubs equally; the State shall treat all associations equally."

An hon. Member: Including the Finger of God!

The Minister for Medical Services (Prof. Anyang'-Nyong'o): Mr. Speaker, Sir, including the Finger of God. Which means that this Constitution will be so heavy and so redundant. It makes no sense. So I think hon. Members, we cannot really accept this amendment because it makes nonsense of what this Constitution has said.

The Assistant Minister for Lands (Mr. Bifwoli): Mr. Speaker, Sir, I stand to support because I am a Christian but where I come from, there is a religion called *Msambwa* that has been banned in this country. Therefore, if we have to treat all religions equally, then *Msambwa* should be allowed to run in this country.

(Laughter)

Mr. Yakub: Bw. Spika, wananchi ambao wanatusikiza na kutuangualia kwenye runinga, kuna hatari kwamba leo, nchi hii inapelekwa kwenye giza badala ya kuipeleka kwenye mwangaza. Vifungo ambavyo vilivyowekwa, navipinga kwa dhati, moyo na mwili. Vifungu ambavyo vitaweza kuleta maswala ya ngono baina ya mume na mume na kifungu ambacho kitaweka wazi maswala ya ngono baina ya mwanamke na mwanamke. Serikali ni mbali na dini. Kifungu ambacho kitafanya hata sisi ndani ya Bunge tusiweze kuleta maombi. Kila tukija hapa itakuwa hakuna haja ya maombi ikiwa Serikali ni mbali na dini.

Mr. Speaker: Order, Mr. Yakub! Your time is up!

Order! Hon. Members, we will proceed to the Division! Ring the Division Bell!

(The Division Bell was rung)

Order, hon. Members! The number of Members present in the House to proceed to Division is 57, which is below the threshold. Therefore, the amendment to Article 8 is negatived. It fails! Open the Bar!

(Question put and negatived)

The Minister for Nairobi Metropolitan (Mr. Githae): On a point of order, Mr. Speaker, Sir. It is very clear that a new spirit is moving among the Members of Parliament. It is also very clear that not a single amendment will pass. I want to request that all the Members who have proposed amendments withdraw them. I will start by withdrawing mine, so that we can finish this thing now and give Kenyans a new Constitution. Would I be in order to ask the Members who have proposed amendments to read the mood of the House and withdraw them?

Mr. Speaker: Order, hon. Githae! You will be out of order! That is not permissible under our rules. Your withdrawal is also premature. I understand your prophetic soul, but we cannot be so certain that, that is what will happen to all other Articles.

Member for Tinderet!

Hon. Members: He is not here!

Mr. Speaker: Order! Hon. Members, in the absence of the Member for Tinderet, we cannot proceed with that amendment as proposed to Article 16. It is, therefore, dropped!

(Proposed Amendment to Article 16 dropped)

The Minister for Trade (Mr. Kimunya): Mr. Speaker, Sir, I have put forward a list of 30 amendments which I believed were all of a technical nature. In view of the circumstances as I see them in the House and being a pragmatic man, I wish to spare my energy and not having to take this House through the rigmarole of mechanical processes. I leave it to the conscience of this House now and in the future as we go through the implementation of this draft Constitution. There are errors that we have identified that needed to be corrected. Since I do not see myself getting 145 Members to support these amendments, I want to leave it to the conscience of this House and of the drafters---

Mr. Speaker: Order, Member for Kipipiri! Are you withdrawing your amendments?

The Minister for Trade (Mr. Kimunya): Mr. Speaker, Sir, I am getting to that.

Mr. Speaker: Just say so and leave it there!

The Minister for Trade (Mr. Kimunya): Mr. Speaker, Sir, on that basis, I wish to withdraw all the amendments proposed by myself on the Order Paper.

Mr. Speaker: Hon. Members, the amendment by the Member for Kipipiri is thus withdrawn. Therefore, Article 21 will remain unaltered.

(Amendment withdrawn)

Mr. Musyimi: Mr. Speaker, Sir, on 21st March, there was a paid advertisement by the churches, including the Anglican Church, Catholic Church, Methodist Church, Presbyterian Church and Evangelical churches. This is what they said in that advertisement:

“We, the leaders of the Christian churches in Kenya believe that the state, politicians and the organs of review have consistently ignored---

Mr. Speaker: Order, Member for Gachoka! You by now know that if you have to move an amendment, then you do so by reading it and then proceed to contribute by giving it flesh.

Mr. Musyimi: Mr. Speaker, Sir, I stand guided!

Mr. Speaker, Sir, I beg to move:-

THAT, pursuant to the provisions of section 33(4) of the Constitution of Kenya Review Act, 2008, this House approves the Draft Constitution submitted by the Committee of Experts and laid on the table of the House on Tuesday, 2nd March, 2010 subject to the deletion of clause (4) of Article 24.

Mr. Speaker, Sir, as I had said, the Christian church across the board has felt ignored and cold-shouldered by the State, politicians and the organs of review consistently since this process started. In a paid advertisement on 21st March, they said as much. I think that is a very sad thing. I do not know we are going to move forward without the buy-in of very critical stakeholders who have been part of the process.

Mr. Speaker, Sir, coming to the amendment, this particular provision, to my understanding, helps us to need to say that the right to equal treatment must be accorded to all Kenyans and no one should be denied that right on the basis of their faith. Article 24(4) excludes the application of the bill of rights to Muslims in relation to personal law. Consequently, this denies persons of Islamic faith who appeared before the Kadhi's courts equal protection before the law. If the rule of law is a value we all share in common, we must make sure that all our citizens regardless of their private faith, have equal protection before the law. A person aggrieved in any subordinate court, including the Kadhi's courts, should be able to mitigate their situation in the High Court. As it stands, the High Court cannot assist because the Constitution has not oversight over that matter because of this particular clause.

Mr. Speaker, Sir, it is important, as I said earlier, that we commit ourselves to certain values and come under the rule of law. The rule of law should embrace all of us regardless of our faith. I think to exempt people of a certain faith from the supervision of this Constitution on account of this particular clause will be very sad.

Mr. Speaker, Sir, I beg to move.

Mr. Kigen: Mr. Speaker, Sir, I rise to second the amendment. The Christians are wondering why the Kadhi's court is provided for in the Constitution whereas there are courts for all Kenyans. Why can we not be under the laws of this country to be given justice--- We would like the law---

Ms. Odhiambo: On a point of order, Mr. Speaker, Sir. I am just wondering whether the hon. Member is speaking to the amendment, because it is not about the Kadhi's court.

Mr. Speaker: Order! That is not a valid point of order! It is a matter of opinion. Your opinion may be different from what the hon. Member for Rongai sees as the provision.

Mr. Kigen: Thank you, Mr. Speaker, Sir, for protecting me.
I beg to second this amendment.

(Question of the amendment proposed)

Ms. Abdalla: Mr. Speaker, Sir, I beg to oppose that amendment.

Mr. Speaker, Sir, the last time I checked, the hon. Member for Gachoka was not a Muslim and there are 33 Muslims in this House. We wanted to be protected when we go to the Kadhi's courts – we should be the ones to have brought this amendment. But moreso, his amendment contravenes Article 32(4) which states:

“A person shall not be compelled to act, or engage in any act, that is contrary to their belief of religion the person's belief or religion.”

The matters relating to the Kadhi's courts are not a matter of choice for us. They are matters of our beliefs and religion. For you to propose with all your five amendments to directly – cleverly, so I must admit with Article 8 – admit to wanting to delete the Kadhi's courts, is to incite the Muslims in this country that the Constitution is 85 Judeo-Christian, yet we have lived with it for 45 years without uttering a word of complaint.

Mr. Musyimi: On a point of order, Mr. Speaker, Sir. Is the hon. Member in order to accuse me of inciting the Muslims?

Ms. A. Abdalla: Mr. Speaker, Sir, I am speaking on behalf of the Muslims in this House and I am terribly incited!

Mr. Speaker, Sir, the essence of this amendment is, for example---

Mr. Speaker: Order! Your time is up!

The Minister of State for Immigration and Registration of Persons (Mr. Kajwang): Mr. Speaker, Sir, I stand to oppose. The reason why I am opposing is that we should be tolerant. We are a diverse country and we practice different cultures, religions and laws; in fact, including the Luo and Suba customary laws. They are all recognized in our Constitution, as it is now and in this new Draft Constitution. So, we should not use our religions to try to suppress other religions in a manner in which they want to practice their personal law. This is because personal law is very personal. How you want to marry, divorce and settle your matters when you are dead are very personal. Please, give every religion and culture their rights to practice that law. By inserting them here does not infringe on anybody else's right.

Thank you, Mr. Speaker, Sir.

Mr. Murgor: Mr. Speaker, Sir, I oppose. No, I support!

(Laughter)

Mr. Bahari: On a point of order, Mr. Speaker, Sir. What we debate here is a matter that goes on record. We want to be very clear from the hon. Member whether he supports or opposes this amendment because he has confused us. Is he in order to confuse this House?

Mr. Speaker: Order, Mr. Murgor, where are you?

Mr. Murgor: Mr. Speaker, Sir, I support the amendment because I believe that we have more than one religious group in Kenya; so, by singling out one to be recognized by the Constitution and closing out the others is tantamount to segregation. Therefore, it would not be taken lightly by the other groups. What happens to a person who marries from another religious group? Will that person's interests be catered for? Therefore, I support.

Mr. Speaker: Hon. Members, we will proceed to Division. Ring the Division Bell.

(The Division Bell was rung)

Order, hon. Members! Close the doors and draw the Bar!

Hon. Members present to proceed with this Division are 60, which is below the requisite number. So, the amendment to Article 24 is therefore negated and it fails. Please open the Bar!

Hon. Member for Mwingi South!

Article 24

The Assistant Minister, Ministry of State for Defence (Mr. Musila): Mr. Speaker, Sir, I beg to move that Article 24 be amended as indicated on page 97 on Order Paper.

THAT, pursuant to the provisions of section 33 (4) of the Constitution of Kenya Review Act, 2008, this House approves the Draft Constitution submitted by the Committee of Experts and laid on the table of the House on Tuesday 2nd March, 2010 subject to amendment of Article 24 by—deleting clause (5) and substituting therefore the following new clause—

“(5) Despite clause (1) and (2), in relation to a person who is a member of the disciplined forces, nothing contained in or done under the disciplinary law of that force shall be held to be inconsistent with or in contravention of any of the provisions of this Chapter other than Articles 26, 29 and 30.”

Inserting the following new clause immediately after clause (5)—

“(6) For purposes of clause (5)—

“disciplined force” means—

- (a) the Kenya Defence Forces;
- (b) the National Police Service;
- (c) the National Intelligence Service;
- (d) the Kenya Prisons Service;
- (e) the Kenya Forest Service;
- (f) the Kenya Wildlife Service; or
- (g) the National Youth Service;

“disciplinary law” means a law regulating the discipline of a disciplined force;

“member” in relation to a disciplined force includes any person who under the disciplinary law of that force is subject to the discipline of the force;”.

Mr. Speaker, Sir, this proposed amendment is really a national issue. It is a matter that is of benefit to this country and the future generation. It is a matter that is important to good order and discipline of our disciplined forces. I just want to read to underline the importance. I want to propose that we delete Clause 5 and substitute thereof with the following New Clause.

“(5) Despite clause (1) and (2), in relation to a person who is a member of the disciplined forces, nothing contained in or done under the disciplinary law of that force shall be held to be inconsistent with or in contravention of any of the provisions of this Chapter other than Articles 26, 29 and 30.”

Mr. Speaker, Sir, for the guidance of hon. Members, Article 26 is about the right to life, which we do not want to be interfered with; Article 29 is about freedom and security of a person, which we do not want to be interfered with; Article 30 is about the right not to be subjected to slavery, servitude or forced labour. We want that to remain intact. But as hon. Members will recall, we have to learn from the mistakes of others. The Republic of South African Constitution did exempt the armed forces and gave them all the rights, including rights to strike, picket *et cetera*. As a result, as I speak now, they are attempting to reverse the situation.

So, Mr. Speaker, Sir, we must learn from the mistakes of others and we do not want members of our disciplined forces to join trade unions, pickets and strikes. Therefore, the idea here is to exempt not only the armed forces but the disciplined forces, and these include---

Mr. Ruto: On a point of order, Mr. Speaker, Sir. I would like to get clarification on whether the hon. Musila is moving this amendment as the hon. Member for Mwingi South or as an Assistant Minister in the Government? Assuming he is moving it on behalf of the Ministry of State for Defense, then is it true that the Government wants this document to be amended, yet they have been telling us to pass it as it is? This is a document that allows the army to picket and to riot and yet---

Mr. Speaker, Sir, is he moving this amendment as the Assistant Minister, Ministry of state for Defense?

Mr. Speaker: Order! Order! Hon. Musila is moving this amendment as per the Order Paper; the Order Paper is categorical in what capacity he is moving it.

The Assistant Minister, Ministry of State for Defence (Mr. Musila): Thank you, Mr. Speaker, Sir. I need not add anything to what you have said.

Mr. Speaker, Sir, I was just saying that the draft limits this to the police and the armed forces, but we have other members of the disciplined services like the correctional service or the Kenya Prisons Service , the National Youth Service and so on. Each of those services has a parliamentary law which governs how they operate. Therefore, we want to limit it to that.

So, Mr. Speaker, Sir, this is a straightforward matter. I have defined there “disciplined law”, which means a law regulating the discipline of a force and, also, a member of that force.

Mr. Speaker, Sir, I want to appeal to hon. Members to look at this as a matter for prosterity. We want, in future, to have---

Mr. Speaker: Order! Order, hon. Musila! Your time is up!

The Assistant Minister, Ministry of State for Defence (Mr. Musila): Therefore, Mr. Speaker, Sir, I beg to ask my colleague in the Ministry of Defence, Maj-Gen. Nkaisserry, to second the Motion.

(Maj-Gen. Nkaisserry spoke from the Dispatch box on the Opposition Side)

The Assistant Minister, Ministry of State for Defence (Maj-Gen. Nkaisserry): Thank you, Mr. Speaker, Sir---

Mr. Speaker: Order, Maj-Gen. Nkaisserry! The Front Bench is reserved for those who serve in the Cabinet!

(Maj-Gen. Nkaisserry crossed the Floor to the Government side)

Order, Maj-Gen. Nkaisserry!

(Laughter)

The Assistant Minister, Ministry of State for Defence (Maj-Gen. Nkaisserry): Thank you, Mr. Speaker, Sir. As I was coming in this morning, I heard the Deputy Speaker making a ruling that anybody can sit or stand anywhere in this House. That is why I was going to contribute from the other side.

Mr. Speaker, Sir, I stand to second this very important amendment. There is nowhere in the world where the disciplined or armed forces are allowed to be outside certain parameters of law. I had also prepared an amendment which is also almost the same as this one. So, as I support this, I would request that Article 52 (g) be brought on board as in place of Article 50. I am not going to move my amendment, because they are almost the same and they follow each other.

Mr. Speaker, Sir, as I second this amendment, I would like to mention that in bringing that article on fair hearing, it is important that you realize that in the armed forces, there are very minor offenses such as insubordination, absence without leave, negligence where you leave your rifle or you leave your place of work. Commanding officers have the right to deal summarily with this. If you allow this to be appealed against and offenders to be represented by advocates, then we are going to interfere with, or weaken, the leadership and the command of the armed forces.

Therefore, Mr. Speaker, Sir, as I conclude---

Mr. Speaker: Order, Maj-Gen. Nkaisserry! Your time is up! Order!

The Assistant Minister, Ministry of State for Defence (Maj-Gen. Nkaisserry): Mr. Speaker, Sir, I beg to second.

(Question of the amendment proposed)

The Minister for Nairobi Metropolitan Development (Mr. Githae): Mr. Speaker, Sir, I stand to support this amendment.

(Applause)

Mr. Speaker, Sir, when we said that this Draft Constitution requires some amendments, Kenyans said that we wanted to mutilate the Constitution, we wanted to rape the Constitution, we wanted to murder the Constitution. But it is very clear; I do not know how the Committee of Experts (CoE), in its own wisdom, gave the armed forces the right to riot, strike, picket and to be represented by an advocate even during battle time – you know, you are fighting and you say that you want your advocate – I do not understand this!

Therefore, Mr. Speaker, Sir, this amendment tries to correct the errors of the CoE.

Mr. Speaker, Sir, I beg to support.

Mr. Nyambati: Thank you, Mr. Speaker, Sir. I also stand to support strongly this amendment.

(Applause)

Those of us who have been privileged to serve in the armed forces do understand what kind of work the members of the disciplined forces do. It will be very difficult if we are going to allow our soldiers, especially when they go to war, to strike or disobey orders that they are given to carry out. There is nowhere in the world where this kind of thing is happening; it should not happen in our country, and I suggest that this House, as a whole, must support this amendment, otherwise we will have no Government!

Thank you, Mr. Speaker, Sir.

Mr. Maalim: Mr. Speaker, Sir, we are in a state of peace in our country, but it is apparent that the countries that neighbor us have got their own state of what we call insecurity and there is a lot of turmoil. The members of our own disciplined forces must be left to run their systems in the manner they have always run them. You cannot treat them as a civilian force, because we could be in a state of war. I stand up to support this and it is a matter that touches on our own sovereignty and integrity as a nation and a state. There are areas that we should deal with, with a lot of caution. These include our armed forces.

Thank you, Mr. Speaker, Sir.

Mr. Kombo: Mr. Speaker, Sir, this is one amendment which I think the whole House should support. Therefore, I do support it because the security of our country is paramount. Without security, normal life cannot go on; without security, no economic activities can take place. If the prison warders were to go on strike, for example, and all prisoners were to walk out of jail, the country would be in chaos. So, I support!

Mr. Konchella: Thank you, Mr. Speaker, Sir. I stand to support this Motion very much. I urge every hon. Member to do so, because we have had the disciplined forces for very many years. The armed forces cannot be fragmented in the Constitution. They must be under the Commander-in-Chief who commands all these security services. The Kenya Police Reserve has not been included in this Article. I believe that anybody who carries a firearm cannot be allowed to pick it anywhere in the world.

The Minister for Trade (Mr. Kimunya): Mr. Speaker, Sir, I stand to support this amendment. I call upon my colleagues to get united devoid of our political differences and support this proposed amendment.

The Assistant Minister for Transport (Mr. Mwau): Thank you, Mr. Speaker, Sir. I stand to support this amendment because I would want hon. Members to stop, think and come to a recollection on the fact that only very few of our people are licensed to carry firearms. How would we allow somebody who is on riot to carry a firearm? We cannot allow people to riot while carrying firearms.

I support the amendment.

Mr. Speaker: Order! Order, hon. Members! We will now proceed to Division. Please, ring the Division Bell.

(The Division Bell was rung)

Hon. Members, remain in your seats. The numbers here are not so easy to deal with. I understand that you are sitting close to each other. We need to be calm in our seats, so that the statistics can be correct.

Mr. Speaker: Order! Order, hon. Members! Please, resume your seats.

Hon. Members, I have conflicting figures. We will have to have another count but, please, stay on your seats. No movement! We will do another count. I have figures, which are at variance, and which are very close. I have the figures 140, 143 and 146. So, obviously, we have to take another count. This matter is so critical that we must, very accurately, establish the number.

Hon. Members, we will do the count this way. We will allow the Clerk of the National Assembly to read out the names, and we will tick every name on the list. Please, bear with us.

DIVISION

(Question of the amendment put and the House divided)

(Question of the amendment negatived by 122 to 4)

NOES: Messrs. Khang'ati, Magerer, Mwaita and Ojaamong.

Tellers of the NOES: Messrs. B. Washiali and P. Mwathi.

AYES: Ms. A. Abdalla, Ms. S. Abdalla, Messrs. Affey, Abuchiaba, Akula, Ali B.A., Ali H.M, Ali M.M., Anyanga, P.A., Anyang'o, P.O.E, Bifwoli, Dache, Ethuro, Maalim Farah, Gaichuhie, Ganya, Dr. Gesami, Messrs Gitau, Githae, Gumbo, Gumo, Haji M.Y., Jirongo, Kabando wa Kabando, Kaino, Kajembe, Kajwang', Prof. Kamar, Messrs. Kamau Jamleck, Kamau James., Kathuri, Kenyatta, Keya, Keynan, Dr. Khalwale, Messrs Khasilwa, Kiilu, Dr. Mwiria, Messrs C. Kilonzo, M. Kilonzo, Kimunya, Kioni, Kipkorir, Kiptanui, Kiuna, Kiunjuri, Kivuti, Koli, Kombo, Konchela, Mrs. Kones, Mr. Kosgey, Dr. Kutu, Mr. Kutuny, Dr. Laboso, Messrs ole Lankas, Lekuton, Letimalo, Linturi, Ms. Leshomo, Mr. M'Mithiaru, Dr. Machage, Messrs Magwanga, Eng. Maina, Mrs. Mathenge, Messrs Mbai, Mbarire, Mbiuki, ole Metito, Michuki, Mohamed I.E, Mohamed M.M, Mudavadi, Mrs. Mugo, Dr. Munyaka, Messrs

Munyes, Muoki I.M., Muoki D.M., Mureithi, Murgor, Muriithi, Musila, Musyoka, Musyimi, Mwangi B.C, Mwathi, Mwau, Mwaura, Ndambuki, Ngang'a, Ngugi, Maj-Gen. Nkaisserry, Mrs. Noor, Dr. Nuh, Messrs Nyambati, Nyongesa, Obure, Ogari, Ojode, Okemo, Prof. Olweny, Ombui, Omollo, Prof. Ongeru, Onyonka, Onyancha. C., Otieno, Eng. Rege, Ruteere, Sasura, Dr. Shaban, Shitanda, Simiyu, Sugow, Thuo, Waibara, Wamalwa, Wambugu, Warugongo, Washiali, Wetangula,

Tellers of the AYES: Messrs. C. Onyancha and D. Njuguna.

ABSTENTIONS: Messrs. Anyango P.O., Balala, Ms Chepchumba, Messrs Chepkitony, Joho, Kigen, Mrs. Kilimo, Dr. Kones, Messrs Langat B.K., Muthama, Mwahima, Namwamba, Mrs. Ngilu, Ms. Odhiambo, Mrs. Ongoro, Messrs Orengo, Outa, Ruto., Samoei, Mrs. Shabesh, Mr. Yakub.

ADJOURNMENT

Mr. Speaker: Order, hon. Members. It is now time to adjourn the Business of the House. The House now stands adjourned until this afternoon, Wednesday, 31st March, 2010 at 2.30 p.m.

The House rose at 1.20 pm.