

NATIONAL ASSEMBLY

OFFICIAL REPORT

Thursday, 13th December, 2001

The House met at 2.30 p.m.

[*Mr. Speaker in the Chair*]

PRAYERS

ORAL ANSWERS TO QUESTIONS

Mr. Speaker: Ms. Karua's Question!

Question No.635

CIVIL SERVANTS IN PRESIDENTIAL ENTOURAGE

Is Ms. Karua not here? We will come back to her Question.

Dr. Murungaru's Question!

Question No.752

PAYMENT OF DAMAGES TO MR. MWENJE

Dr. Murungaru is also not here? We will come back to the Question.

Question No.307

PAYMENT OF COURT AWARD TO MR. OBONDO

Dr. Oburu asked the Attorney-General:-

(a) whether he is aware that although Mr. Charles Ouma Obondo was awarded payment of his dues by the High Court of Kenya, Kisumu, vide Civil Case No.360 of 1995 against the Government of Kenya, no payment has been effected to date; and,

(b) what steps he is taking to ensure speedy payment of Mr. Obondo's dues.

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

(a) I am aware that Mr. Charles Ouma Obondo was awarded Kshs700,520 on 10th February, 1999 not against the Government of Kenya but against KICOMI Sacco Society, which is under liquidation and cannot pay.

(b) The plaintiff is at liberty to go to court and seek appropriate orders.

Dr. Oburu: Mr. Speaker, Sir, the Attorney-General is in charge of companies which are under liquidation or in receivership. Why is he running away from the responsibility? Why is he not telling us the fate of this receivership or liquidation? Why has it taken so long before this matter arose? It does not mean that people who are owed money by an organisation which is under liquidation cannot be paid.

Mr. Wako: Mr. Speaker, Sir, unfortunately, liquidation may very well mean that people who are owed money will not be paid, depending on what is available. This matter was canvassed in court only on 15th November, 2001. Mr. Charles Ouma Obondo, who is the plaintiff, appeared in person. His advocates are M/S Aduda & Company Advocates. Previously, Mr. James Orenge represented him in court. It was stated in court that KICOMI SACCO Society is under liquidation. Let me also add that not all companies which are under liquidation are being liquidated by the Attorney-General. This is a private liquidation.

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

Dr. Oburu: Mr. Speaker, Sir, maybe, I did not get the Attorney-General correctly. What was canvassed in court, and what was the conclusion? Has the case now been concluded, or what is the fate of people who are owed

money by the accused company?

Mr. Wako: Mr. Speaker, Sir, this Question came up on Tuesday but because the case number was not particularised, I could not answer it. The case number was particularised on Tuesday afternoon. So, these are just the facts I have reviewed. I have not had time to go through the entire file. The information I have here is that the advocate of the defendant informed the court that the company was under liquidation and could not pay the plaintiff. The case was then stood over generally. No further action is to be taken, but if the advocate [**Mr. Wako**] for the decree-holder has any information on the issue, he is still at liberty to file yet another application in court and seek appropriate orders if he thinks the information that was given to the court at that time was faulty, or was not accurate.

Mr. Speaker: Very well; let us proceed to Mr. Imanyara's Question.

Question No.748

MONEY PAID FOR SUITS AGAINST GOVERNMENT

Mr. Imanyara asked the Attorney-General:-

- (a) how much money the Government has paid out as compensation arising from suits filed against it in the years 1998, 1999, 2000 and 2001; and,
- (b) what action the Government has taken against the officers responsible for action leading to the filing of the suits.

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

(a) The Government has paid out compensation as follows: In the year 1998/99, Kshs61,312,493.65; in 1999/2000, Kshs80,287,657.70; in 2000/2001, Kshs144,444,306.85, and in 2001/2002, Kshs91,501,363.95, making a total of Kshs377,546,095.05. I hasten to add that these are the amounts that were paid to decree-holders through my office. At times, Ministries pay directly to the decree-holders or their advocates.

(b) The officers responsible are subject to a disciplinary mechanism as provided for under the Civil Service Code of Regulations and the Public Service Commission Act.

Mr. Imanyara: Mr. Speaker, Sir, I have with me, the answer that the Attorney-General has just read out, which gives a total of Kshs377 million, and another written reply which gives a total of Kshs361 million. Be that as it may, the answer is very brief. As a lawyer, the Attorney-General knows that the answer he has given does not comply with my request. He has not given me the particulars, or specifics. Also, in all admission, this sum does not include sums which have been paid out directly by Ministries, and yet in part (a) of the Question, I seek to know the sum paid out by the Government, and not the sum paid out through the Office of the Attorney-General. So, could he give me a more specific answer to the Question, including the particulars of the disciplinary action taken against the responsible officers, and the names of those officers.

Mr. Wako: Mr. Speaker, Sir, the fact of the matter is that I am responsible for the monies that were paid out through my office, which constitute the figures that I have just given. The Ministries, each of which has an Accounting Officer, are actually responsible for any other amounts that have not been paid through my office. At times, Ministries pay through my office and at other times, they pay directly. The exercise of getting to know from the various Accounting Officers how much money they have paid directly takes time. That is a fact.

The other issue is that it is the accounting officers involved, who also are responsible for actions of a disciplinary nature which may arise out of this, and not the Attorney-General's office. Again, to get that information from the various Ministries is a matter that can take time. Maybe, only the Department of Personnel Management (DPM) can supply that information.

Mr. Speaker, Sir, thirdly, a part of the difficulty of this issue is how much money the Government has paid out, which I have given through my office. I have been kind enough to explain in advance the difficulties that I have over this Question. Also, arising out of suits filed against the Government in the following years, the amount of money I have given is what was paid through my office in those years and not necessarily for the suits that were filed in the particular years.

Mr. Imanyara: On a point of order, Mr. Speaker, Sir. I do not want to interrupt the Attorney-General, but the Question requires the Government - the Attorney-General is the legal advisor to the Government - to ask all the involved departments to supply the required information. Could the Attorney-General now give us an answer to the Question I asked? Is Mr. Speaker satisfied that he is answering the Question I asked?

Mr. Wako: Mr. Speaker, Sir, I am glad that the hon. Member has said that I am the legal advisor to the Government. I have advised the Government that first of all, it must effect payments pursuant to the court orders. I

have also advised it that appropriate disciplinary action must be taken against the concerned officers. According to our laws, the disciplinary actions to be taken are the responsibility of the Accounting Officers, a certain level of the DPM and the Public Service Commission. This is not within my mandate. So, I have carried out my duty of advising the Government.

Mr. Anyona: Mr. Speaker, Sir, this is a lot of Government money which has been paid out for careless mistakes of Government officers, particularly when it comes to police harassment, illegal arrests, illegal and malicious prosecutions and illegal detentions. Could the Attorney-General, out of those figures, tell us how much money has been paid out due to the illegalities I have mentioned? What will he do to ensure that in future, Government officers behave in a responsible and manner in accordance with the law, to avoid Government losing so much money?

Mr. Wako: Mr. Speaker, Sir, I agree with the hon. Member that the saying "prevention is better than cure" can save the Government a lot of money. Whereas I cannot give the detailed breakdown of the money paid out, I can safely say that most of these cases relate to accidents, running down cases, actions that may have been taken by the Provincial Administration and also by the Commissioner of Police, in which there could have been an excessive use of force, thereby, attracting Government liability. The Government has taken a number of steps to stop the situation. The Office of the President, under the hand of the Permanent Secretary, Internal Security and Provincial Administration, has issued a circular to all his officers that in future, they will be liable and will be surcharged if the Government is found to be liable to pay an amount of money as a result of their actions. I am also aware that the Commissioner of Police has similarly done that. I am also aware that under the Anti-Corruption and Economic Crimes Bill that will be brought to the House soon, the authority to institute---

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

Mr. Speaker: Let him finish what he has to say.

Mr. Wako: Mr. Speaker, Sir, under the Anti-Corruption and Economic Crimes Bill, we will go one step further and give the Commission that will be established under that Bill the power to institute civil action to recover such amounts of money. Also, we are ensuring, if the Bill is enacted, that there will be no time limitation as far as recovery issues will be concerned.

Mr. Imanyara: Mr. Speaker, Sir, you have noticed that despite my pleas, I have not been supplied with particulars of the answer. We all know that part of the process through which the Government loses money is filing of fake suits after Government officers collude with other people purportedly to settle matters out of court. I am positive that had the Attorney-General provided the list of the cases in this House, we would have picked out very fictitious claims that have been paid.

May I seek the Chair's guidance as to when the Attorney-General will lay on the Table, the list of all the cases that have been settled so that I may ask supplementary questions that I need to ask? I am not satisfied that the Question has been satisfactory answered.

Mr. Speaker: Mr. Wako, do you have the list of the cases with you?

Mr. Wako: Mr. Speaker, Sir, I do not have the list but, maybe, I can say that what the hon. Member has said is also true. I know that what the hon. Member has said is true in some cases. It is not just confined to claims against the Government, but also to running down cases. That is why the insurance industry in this country is crying that a number of fake claims are being filed and people are being paid. I can assure the hon. member that where we come across such situations, we take appropriate action. I know, as a fact, that some people are currently facing trials before courts because of making fake claims.

Mr. Speaker: Ms. Karua's Question for the second time!

Question No.635

CIVIL SERVANTS IN PRESIDENTIAL ENTOURAGE

Ms. Karua: Is she still not here? The Question is dropped!

(Question dropped)

Dr. Murungaru: Mr. Speaker, Sir, I beg to apologise for coming late.

Question No.752

PAYMENT OF DAMAGES TO MR. MWENJE

Dr. Murungaru asked the Attorney-General when the Government will pay Mr. Benjamin Mwenje special and general damages in respect of High Court Civil Case No.1547 of 1991, pursuant to consent judgement dated 25th September, 1996.

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

The Government has paid the special and general damages. In fact, they were paid on 18th June, 1997 to the plaintiff's advocates, pursuant to the order of the court.

Dr. Murungaru: Mr. Speaker, Sir, may I know from the Attorney-General how much money was paid? May I also know the particulars of that payment such as the cheque number?

Mr. Speaker: Is that in public interest, or even of your client?

Dr. Murungaru: Yes, Mr. Speaker, Sir, because my constituent has not received any payment.

Mr. Speaker: You can dispute the fact that [Mr. Speaker] he has been paid, but I do not think that the amount should be disclosed.

Dr. Murungaru: Mr. Speaker, Sir, may I know, at least, how much money was paid because my constituent says he has not received a penny? So, could I have the particulars of the payment?

Mr. Wako: Mr. Speaker, Sir, I agree with you that it is not good to disclose the amounts of money that have been paid to individuals. We have done so in the past and those individuals have come to my office and said that we should not have done so.

Mr. Speaker: But you could kindly---

Mr. Wako: But what I can tell him is that he should go to the claimant's advocates, namely, Messrs. G.N. Wakahiu and Company, Lords House, Fourth Floor, Tom Mboya Street, P.O. Box 73011, Tel 313974. As late as 27th November, 2001, I wrote to the advocate because I was interested to know why the money, which was paid to him in August, 1997, has apparently not reached the claimant, hence prompting the Question by the hon. Member. He has replied saying that he received the money, but has now applied to the court for it to approve the distribution of the funds between the various minors.

As you know, the court has to approve how the amount of money is to be distributed amongst the minors. The advocate has confirmed that he has applied for that approval. Maybe, if the hon. Member can have a copy of this letter, he can use it to pursue the matter.

Mr. Speaker: You may lay that letter on the Table, Mr. Attorney-General!

Mr. Wako: Mr. Speaker, Sir, I hereby lay it on the Table.

(Mr. Wako laid the letter on the Table)

Mr. Speaker: Very well! Dr. Murungaru, you may approach the Table.

Dr. Murungaru: Mr. Speaker, Sir, I will approach the Table, but even as I do that, my constituent has had to write to the Complaints Commission, which is under the Attorney-General's office, or the Law Society of Kenya, and has not received any response. Indeed, the Complaints Commission has written to this lawyer four times on this matter because the money was paid as the Attorney-General has said, in 1997, but it has not reached my constituent. Is the Attorney-General satisfied that it should take that long for this money to reach the claimant? The claimant was injured in 1990 and the money was paid by the Attorney-General to the advocate in 1997, yet it has not reached the claimant. Is the Attorney-General satisfied that the advocate is not being mischievous?

Mr. Wako: Mr. Speaker, Sir, I am not satisfied that the advocate is being mischievous. The advocate ought to have applied for approval from the court in 1997 or early 1998, at the latest. But now, in this letter, he says that he has applied for approval and he is waiting for the court to give him the approval. I would ask the hon. Member to pursue the issue now, via the letter signed by the advocate, dated 27th November, 2001.

Mr. Wamae: Mr. Speaker, Sir, this issue is not that simple. The lawyers are not keen to give their clients the money which has been paid to them as compensation. In view of this problem, and the fact that this lawyer has not been co-operative, either with the hon. Member or with the claimants, would the Attorney-General agree to disclose the amount due to the claimants, so that the hon. Member can make a follow up?

Mr. Speaker: It is indicated in the letter, is it not?

Mr. Wako: Mr. Speaker, Sir, I can give the figure of that amount to the hon. Member, since it is not in the letter. But I would prefer to do it quietly, not openly here in the House. With regard to the general question that he has raised---

Mr. Speaker: Order! Order! As it is fresh in my mind, I thought this lawyer was ready to pay.

Apparently, he is not co-operating with the client.

Hon. Members: No! He is not!

Mr. Wako: Mr. Speaker, Sir, let me read part of the letter.

Mr. Speaker: How much is it? Is it a lot of money? I sympathise with the clients, if they have not been paid.

Mr. Wako: Mr. Speaker, Sir, the amount is slightly over Kshs400,000. It is actually Kshs363,786 plus Kshs50,000 being the cost of the case which was paid.

With regard to the general question---

(Mr. Kimeto stood up in his place)

Mr. Speaker: Order! Mr. Kimeto, you must sit down!

Mr. Wako: Mr. Speaker, Sir, with regard to the general question that was raised by Mr. Wamae, it is true that the advocates are not accounting money to their clients. It has become a big problem and the Chair may recall that two weeks ago, I did answer a similar Question here. That is why the Statute Law (Miscellaneous Amendments) Bill, which is before this House should be passed. There is a clause for the setting up of a Probationary Indemnity Insurance cover, which will be compulsory to all advocates. There is also a proposal to set up a compensation fund in this type of case.

Mr. Kimeto: On a point of order, Mr. Speaker, Sir. Is it in order for the advocates to keep [Mr. Kimeto] clients' money for more than three years without even stating dates when the clients should be given money due to them? What is the Attorney-General doing---

Mr. Speaker: Order! Order, Mr. Kimeto! Advocates are not Members of this House, therefore, they are not subject to the Standing Orders, but they are subject to the Penal Code. I know for sure, they can go to prison, if they do so. Maybe, you should encourage the Attorney-General to activate the provisions of the Criminal Procedure Code against such acts.

Next Order! Questions by Private Notice.

QUESTIONS BY PRIVATE NOTICE

NAMES OF CONSTITUENCY AIDS CONTROL COMMITTEES

(Mr. Musila) to ask the Minister of State, Office of the President the following Question by Private Notice.

(a) Could the Minister table the names of Constituency Aids Control Committees which have been formed throughout the country?

(b) How much money was allocated to each of the Committees since they were formed and how much of the allocated money has so far been paid to the Committees?

(c) Could the Minister give the number of bicycles or any other means of transport that have been issued to each Committee?

Mr. Speaker: Mr. Musila not here? Question dropped!

Mr. Achola: No! No! On a point of order, Mr. Speaker, Sir.

Mr. Speaker: What is it, Mr. Achola?

Mr. Achola: Mr. Speaker, Sir, that Question by hon. Musila has been on the Order Paper for nearly six times. Each time, the Minister has been declining to answer it.

Mr. Speaker: Order! Order! First of all, Mr. Achola, you have no right to protest and say "no, no," to the decision of the Chair. You know the rules of the House. The owner of Question by Private Notice must be here himself or herself to ask it. Mr. Musila is not here! So, the Question falls on its face to the ground!

Next Question!

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

Mr. Speaker: What is it?

Mr. Ndicho: Mr. Speaker, Sir, this Question has come to the Floor of this House for more that six times. We want some guidance from the Chair. Once the Question has come before the Floor of the House, is it a property of the House. All that was required from the Minister is clarification on how many bicycles were given to his constituency, because the Question is already the property of the House.

Mr. Speaker: Order! Order, hon. Members! Several times, we have said that the Question actually

becomes the property of House after it has been asked. Now, if it was not answered last time and it was deferred, it is the business of the hon. Member to come to the House and ask it. That is what the rule says! It may be a popular Question, but there is nothing I can do about it. I did not stop the hon. Member from coming to the House to ask it!

(Question dropped)

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

Mr. Speaker: Overruled!

Next Question, Eng. Toro!

ATTACK ON MR. MURIOGA

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

(a) Is the Minister aware that Mr. Paul Maina Murioga of Kariua Sub-location in Ruchu Location Kandara Division was attacked and seriously injured on 7th of February, 1999, by Mr. Peter Muigai Kairu and the matter was reported at Gacharage Police Base?

(b) Is he further aware that as a result of the attack, Mr. Paul Maina is now disabled because he lost one leg?

(c) Is the Minister further aware that the victim, Mr. Peter Maina was chased away from his *shamba* by the assailant Mr. Muigai and now lives at Kamahuha Sub-location in Maragwa Division as a squatter?

(d) What action is the Minister taking to resolve the dispute between the complainants and also have Mr. Kairu charged with assault?

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

(a) I am aware that Mr. Paul Maina Murioga was attacked and injured by his son, Peter Muigai Kairu, after a land dispute.

(b) Yes, I am aware that Mr. Paul Maina is now disabled as a result of losing one of his legs.

(c) I am also aware that Mr. Peter Maina Murioga now resides in Kamahuha Sub-location in Maragwa Division, but I do not know the reason why he moved there.

(d) An assault case has been filed in court against Mr. Paul Muigai Kairu. However, the assailant escaped after the incident and is still at large. The land dispute is a civil matter which the concerned parties should take to court for determination.

Eng. Toro: Mr. Speaker, Sir, this is about the sixth time that the Question is being asked in this House. The reason why it has been deferred all those times is because of the last answer the Assistant Minister has given to part "d" of the Question.

Once a question is deferred, is it not up to the Assistant Minister to go and find fresh information as to why the case has not been filed and bring the proper answer to the House. The answer is not adequate because---

Mr. Speaker: Order! Order, Eng. Toro! Eng. Toro, the Chair has told you several times to make your questions precise. You take all the time in the world explaining other things. Just put the question to the Assistant Minister and he will answer it.

Eng. Toro: Mr. Speaker, Sir, I will put the question, but it was better for the Chair to know that it is being asked for the sixth time. Could the Assistant Minister tell us the assault case number because he said the case is before the court? What is the case number and when was the matter taken to court?

Mr. Samoei: Mr. Speaker, Sir, since I undertook to answer this Question before this House, I have instructed the OCPD Murang'a to, intensify the search of this suspect. The OCPD has confirmed to me that the suspect does not live in the *shamba* where he allegedly chased his father. An assault case has already been filed against him and it is pending before the District Magistrate's Court, at Kigumo. The Court issued a warrant of arrest in respect of the suspect who is at large. Police investigations file No.CR273/2A/99 and court file No.1306/2001, are the documentary evidence to show that this case is already being handled as the hon. Member did request.

Mr. Anyona: Mr. Speaker, Sir, if the suspect was charged in court, either he was released on bail or he was sent to prison custody. Could the Assistant Minister explain to us the circumstances in which the suspect disappeared? Did he fail to honour the summons, or what happened?

Mr. Samoei: Mr. Speaker, Sir, I did not say the suspect was charged in court. I did say the suspect

escaped after he assaulted his father. An assault case has been filed in court. The court has duly issued a warrant of arrest for the assailant and we are in hot pursuit after the fellow.

Eng. Toro: Mr. Speaker, Sir, since I filed this Question, the suspect has been staying on the disputed land. It was easy for the police to apprehend him because his father ran away and he could not go back to that piece of land. The suspect is still staying on that piece of land. I do not see why the Assistant Minister finds it hard to arrest the suspect. Could he tell the House why the suspect has not been arrested up to now despite the fact that the police know where he is staying?

Mr. Samoei: Mr. Speaker, Sir, I have said that ever since I undertook before this House that I would look at the merits of this case, I, indeed, instructed the OCPD, Murang'a. He has confirmed to me that the suspect does not live on the farm as alleged by the hon. Member.

Mr. O.K. Mwangi: On a point of order, Mr. Speaker, Sir. You heard the Assistant Minister say that he instructed the OCPD, Murang'a, when, indeed, the crime was committed in Maragwa District. The culprit and the victim are residents of Maragwa District. Is it in order for the Assistant Minister to have instructed the OCPD, Murang'a, to handle a case in Maragwa District?

Mr. Speaker: Order! Just to enlighten hon. Members, if a policeman from Mandera District finds you committing a crime in Vanga, he can arrest you.

Anyway, proceed, Mr. Samoei.

Mr. Samoei: Mr. Speaker, Sir, you have just said what I wanted to say. It is up to me to choose which officer I give instructions. It is not for this House to direct. It is incumbent upon me to deliver the results.

Mr. Anyona: On a point of order, Mr. Speaker, Sir. The Assistant Minister in his written reply to part "d" of the Question said that an assault case has already been filed in court against Mr. Paul Muigai Kairu. That means there is a case in court. However, when I raised the issue, he did not say there was a case in court. Is there a case in court? If so, give us particulars.

Mr. Samoei: Mr. Speaker, Sir, I have confirmed that there is a case in court, if Mr. Anyona cared to listen to me. I have given the details.

Mr. Speaker: Very well. Next Question, Dr. Ochuodho.

SOLUTION TO TANA RIVER CLASHES

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

(a) Is the Minister aware that several Kenyans have been displaced, maimed and even killed in ethnic clashes in Tana River District?

(b) Could the Minister provide statistics on the number of persons killed, maimed and displaced, respectively, so far?

(c) What action is the Government taking to contain the flare up and find a lasting solution to the conflict between the Ormas and the Pokomos?

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

(a) I am aware that several Kenyans have been displaced, maimed and even killed in ethnic clashes in Tana River District.

(b) The statistics of persons killed in Tana River District since March this year are as follows:

About 108 persons have been killed, 78 persons have been injured and 2,305 have been displaced in one way or the other.

(c) The Government has deployed additional security personnel from the regular police, Administration Police and the GSU in the affected areas. Moreover, security barazas are being held, while committees of elders from all the affected communities are being facilitated to hold peace and reconciliation talks.

Dr. Ochuodho: Mr. Speaker, Sir, it is very unfortunate that even as we sit in this House we are told that from March, 2001, 108 innocent Kenyans have been butchered in Tana District. I believe most of them are from a particular indigenous African ethnic community. The Government claims that it has been protecting the Pokomos, Ormas and all those communities that are affected. However, it has taken more than seven months and the fighting still continues. Why could the Government not consider providing firearms to both Pokomos as well as the Orma police reservists? Why is the Government discriminative in terms of providing firearms?

Mr. Samoei: Mr. Speaker, Sir, since March this year, we have not issued any firearm to any community. What we have done is to provide additional security personnel as I have stated earlier. It is, indeed, unfortunate that so many Kenyans are losing their lives in this very senseless war. We are taking the necessary steps to make

sure that we stop these killings.

Mr. Twaha: Mr. Speaker, Sir, the clashes in Tana River District are about land and water. There is a 1,500 acre ranch in Tana River District which belongs to the Agricultural Finance Corporation, and they only graze 5,000 cows. Could the Government consider apportioning half of that ranch and giving it to the pastoralist community in Tana River District, so that they can graze and water their animals? Could the Assistant Minister also consider compiling a list of all the aspiring civic and parliamentary candidates for the 2002 General Election? He should put all of them in jail and there will be peace in Tana River District.

(Laughter)

Mr. Samoei: Mr. Speaker, Sir, we are considering all options. I will take the advice of the hon. Member. However, the Government is seriously undertaking an adjudication exercise to make sure that instruments of land ownership are issued so that we can put this problem behind us once and for all. In fact, the people who do not want this exercise to continue are some of the people fuelling these clashes. As a Government, we are determined to make sure that we issue instruments of land ownership to people in Tana River District so that we adequately protect them.

Mr. Maitha: Mr. Speaker, Sir, is the Assistant Minister aware that it was officers from the Office of the President who started the war in Tana River District when they held two workshops in the area to educate the Wardeis, the Ormas and the Pokomos on the issue of land adjudication? The Wardeis clearly told the Government that they did not understand the contents of those two workshops, but the Government went ahead to allocate land to the Pokomos. Could officers from the Office of the President go back to Tana River District and assure the residents that the land will not be sub-divided until all the communities agree? The Office of the President should resolve this problem in Tana River District.

Mr. Samoei: Mr. Speaker, Sir, it is the duty of the Government to make sure that Kenyans occupy whatever pieces of land they occupy legally and within the framework of the law. I do not think it is true and nothing can be further from the truth, that the Office of the President did instigate the war in Tana River District. As I stated, we are doing everything possible to make sure that we adjudicate land in consultation with the leadership of local communities, and to their satisfaction, so that we can put behind us this problem, once and for all.

Mr. Shidiye: Mr. Speaker, Sir, as we sit here, our conscience cannot allow the killing and violence to go on in Tana River. Tana River is neighbouring Garissa District. We are feeling the effects of those clashes. Over 180 people have been killed and yet we have not seen either the Assistant Minister or the Minister going to the ground. The clashes in Tana River District are as a result of the land issue. That is a trust land, and it is unfair to start adjudicating it, and stop people from using the river which is there to serve all Kenyans all the way from Mt. Kenya up to the Coast. Could the Minister go on the ground and preach peace? Indeed, this is a serious matter. When seven people are killed in Kibera, the whole country travels to the place and yet when 180 people are killed nothing happens. We cannot continue to sit in this House and ignore the deaths in Tana River. This Minister should be serious.

Mr. Samoei: Mr. Speaker, Sir, I have since sent the PC, Coast Province to the ground, and I am considering going there any time. But anyhow, I have the facts of the issues taking place there, and I will do everything possible to make sure that we stop the clashes.

Mr. Kamolleh: Mr. Speaker, Sir, I would like to remind the Assistant Minister, that although he says they have not been issuing firearms, we know firearms have been given to homeguards in other parts of Tana River while the Pokomo have not been given anything. To date, whenever the Wardei and other people raid the Pokomo, they use guns whereas the Pokomos have got only sticks. Although the Government has promised to sub-divide the land amongst the Pokomos, there are corridors that will be left for the Wardei and the other people to use while taking their cattle to the water points. Could the Assistant Minister make sure that the Government uses all strategies to sub-divide that land, and leave a corridor for the Wardei and other nomadic tribes for passage to the water points? That can be done as soon as possible. They have every machinery, but first of all, they should mop up all the arms that they have given to the Wardei.

Mr. Samoei: Mr. Speaker, Sir, I agree with the second point the hon. Member has mentioned, and indeed, we are doing exactly that. However, with regard to the firearms, they are illegally owned, and we will round them up and place them where they are supposed to be.

Dr. Ochuodho: Mr. Speaker, Sir, it is unfortunate that Government officers seem to be blaming some imaginary candidates who are aspiring for the Tana River parliamentary seats in 2002, but they are not blaming

themselves. There are sitting Members of Parliament who, in the first place made inflammatory remarks before the flare up of the war. Could the Assistant Minister tell the House what long term measures the Government has taken to bring to a permanent stop these clashes? In the interim, as they try to find a long term solution, could the Government consider sending the Kenya Army to Tana River to bring an immediate stop to the clashes, the way they do in other overseas countries?

Mr. Samoei: Mr. Speaker, Sir, as I said, in the short term, I have sent additional security personnel to the area, and to the best of my knowledge and information, the situation is under control.

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

Mr. Samoei: Mr. Speaker, Sir, could the hon. Member allow me to answer him?

Mr. Speaker: I have told him many times to obey the laws of justice!

Mr. Samoei: Mr. Speaker, Sir, on the long term, we are taking very seriously the issue of ownership of illegal firearms. Shortly, we will be carrying out an operation to make sure that all illegally owned firearms are surrendered to the Government. If they are not surrendered to the Government, we shall get them by all means. We have the means to do so. We are also looking at the long term solution of providing, as I said earlier, land ownership documents so that this problem about land ownership gets behind us.

Mr. M. Galgalo: Mr. Speaker, Sir, arising from the reply by the Assistant Minister, is he aware that - I even heard him last night on KTN Television talking about land adjudication - the so called land adjudication was the cause of this problem and, politicians took advantage to incite the people, yet his office refused to act against the perpetrators of this war? He is still talking about land adjudication. Could he consider putting the land adjudication on hold until permanent peace is established in the area, because this is part of the problem?

Mr. Samoei: Mr. Speaker, Sir, this issue of land adjudication and issuance of land ownership documents has been with us for a very long time in Tana River. It has been postponed so many times and so many people have lost their lives as a result. The Government is not going to retreat on this exercise until we have issued land ownership documents to the deserving people in the best manner possible, in consultation with the leadership of all the communities there. If any politicians think that they are going to intimidate or blackmail the Government in backtracking, they are in for a surprise.

Mr. Speaker: Next Question!

ATTACK ON ICRC CONVOY

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

(a) Who were the perpetrators of the attack on an International Committee of the Red Cross (ICRC) convoy at Ramaguda in Lagdera on 7th January, 2000, where one ICRC worker was seriously injured and three others fatally wounded?

(b) Why was the local Lagdera community adversely implicated by a report prepared by ICRC on the incident?

(c) What remedial measures is the Minister taking to vindicate the image of the local community?

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

(a) I am not aware of any incident which took place at Ramaguda in Lagdera Constituency on 7th January, 2001, in which ICRC staff were involved.

(b) The Government does not have a copy of the said ICRC report, and is therefore, not in a position to comment on the issue.

Arising from my reply to parts "a" and "b", parts "c" and "d" do not arise.

Mr. Shidiye: Mr. Speaker, Sir, my constituency borders the Somali Republic. When this incident happened, the matter was reported to the police, and it is very unfortunate that the Assistant Minister does not have that information. Nonetheless, last week, we lost ten people to militias from the Republic of Somalia. Could the Assistant Minister ensure that we have tight security at the border, particularly when we have more than 200,000 refugees in my constituency?

Mr. Samoei: Mr. Speaker, Sir, I appreciate what the hon. Member is saying; the presence of refugees on our side of the border has given us problems. I concur with Mr. Shidiye, and we will take necessary steps.

Mr. Imanyara: Mr. Speaker, Sir, this Question is particularly very relevant, now that the Government is considering giving facilities for launching attacks on the Somali Republic from this country. We know that in

situations of war, like it is in Afghanistan, it is the aid agencies that bear the brunt of protecting the refugees. Could the Government consider denying the use of Kenyan facilities by forces out of this country, so that refugees in this country do not suffer as a result of factors that are not of Kenya's making?

Mr. Samoei: Mr. Speaker, Sir, we will do everything that is in the interest of our country first, and every other consideration placed second. The security of refugees in this country is important. But the security of Kenyans is much more important. That is going to be our primary responsibility.

Mr. Shidiye: Mr. Speaker, Sir, the International Committee of the Red Cross (ICRC) implicated the Lagdera society. When that incident was committed by militias from outside, they said that the Lagdera community was responsible for the attack. I want the Assistant Minister to clear the name of my community because it was not involved in that incident. I have the report with me. If he does not have it, I can provide him with a copy.

Mr. Samoei: Mr. Speaker, Sir, indeed, it is on record that, to a greater extent, most of the incidences that take place in North Eastern Province could be attributed to the refugees there. We, as the Government, are re-looking into the whole issue of refugees, their presence in this country and the threat that they pose to us. I agree with Mr. Shidiye that it would be unfair for anybody to blame the community in Lagdera Constituency for any attacks that may have occurred on the ICRC personnel.

DISCRIMINATION IN TAVETA NYS RECRUITMENT

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

(a) Is the Minister aware that only members of the Taita ethnic community were interviewed and recruited during the recent National Youth Service (NYS) recruitment in the cosmopolitan Taveta Sub-District?

(b) Why did the officers discriminate against other Kenyan residents in Taveta?

(c) What urgent measures is the Minister taking to ensure that the discriminated communities are also interviewed for the said NYS recruitment?

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

(a) I am not aware.

(b) The recruiting officers did not discriminate, as other non-Taveta residents were considered.

(c) Arising from my answer in parts (a) and (b) above, part (c) does not arise.

Mr. Mwalulu: Mr. Speaker, Sir, that is the most misleading answer I have ever heard in this House because, apart from complaints by other constituencies which were discriminated against, I have it on the authority of the Office of the President, including the DC himself, that it is true the recruitment followed those tribal lines. The justification is that the recruiting officers had instructions from the Headquarters to take the indigenous people only. Could the Minister tell this House what policy the recruiting officers apply under the laws of Kenya?

Mr. Nassir: Mr. Speaker, Sir, as the Minister of State in charge of that department, I know there are no officers who would try to discriminate against anybody! Kenyans are Kenyans and there are no tribal considerations when we employ anybody! There is no officer who would say that he does not want a particular tribe.

Mr. Angwenyi: Mr. Speaker, Sir, could the Minister lay on the Table a list of the people who were recruited from that sub-district, to show whether or not, the recruitment was discriminatory?

Mr. Nassir: Mr. Speaker, Sir, whatever my colleague wants to indicate, he could say so. But when those people went for recruitment, they were looking for men from Taveta District. They were [Mr. Nassir] not looking for tribes.

Mr. Mwalulu: Mr. Speaker, Sir, I would like the Minister to lay on the Table, the list of those who were recruited, plus their ethnic backgrounds, to prove to this House that the recruitment did not take place along tribal lines?

Mr. Nassir: Mr. Speaker, Sir, I would be very pleased if my new colleague could repeat what he has said!

Mr. Kihoro: On a point of order, Mr. Speaker, Sir. Mr. Mwalulu and Mr. Angwenyi asked very clearly, whether the Minister could lay on the Table, the list to disapprove the allegation of discrimination. He needs to lay the list on the Table to show that different groups that live in that area were recruited and joined the NYS.

Mr. Nassir: Mr. Speaker, Sir, I am very pleased to hear such language because the recruiting people

went to Mombasa and other areas. It is not true that---

Dr. Kituyi: Jambo la nidhamu, Bw. Spika. Angalau swali limeulizwa kwa Kiingereza na mheshimiwa rafiki yangu, Bw. Nassir, anasifu yale matumizi ya lugha pengine ungemuliza alete orodha ya majina ya wale waliopewa nafasi!

Mr. Speaker: Tutajua Katiba kwa orodha?

Mr. Nassir: Mr. Speaker, Sir, I will be very pleased! Although I do not speak English and he speaks it better, he does not do whatever he knows about things!

(Laughter)

I would be very pleased if my colleague wants another list. I will bring many lists!

Hon. Members: Which other one?

Mr. Nassir: The one in which you will see segregation!

EMPOWERMENT OF AIDS
CONTROL COMMITTEES

(Mr. Kombo) to ask the Minister of State, Office of the President:-

(a) What urgent measures is the Minister taking to empower Constituency Aids Control Committees (CACCs) to effectively mobilise communities to participate in prevention and control of HIV infection in Western Kenya?

(b) In which constituencies in the Province has the National Aids Control Council (NACC) conducted training for CACCs?

(c) Why has this training failed to take place in the five constituencies in Bungoma District?

Mr. Speaker: Is Mr. Kombo not here? Let us move to the next Question.

(Question dropped)

CONTAMINATION OF WATER
IN DAGORETTI

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

(a) Is the Minister aware that waste product from the Dagoretti slaughterhouse is directed to the neighbouring Nyongara river due to lack of proper waste disposal arrangements?

(b) Is the Minister also aware that the waste poses serious health and environmental risk to Dagoretti residents and has also affected farmers downstream who depend on Nyongara river for subsistence farming?

(c) What action is the Minister taking to address this problem to avert serious health risk which has caused untold suffering to the residents?

The Minister for Mineral Exploration (Mr. Kalweo): Mr. Speaker, Sir, on behalf of Mr. Kamotho, I beg to reply.

(a) Yes, I am aware that liquid and solid waste products from Dagoretti slaughterhouses are discharged into those streams.

(b) Yes, I am aware that, that poses serious health and environmental risk to Dagoretti residents.

(c) Officers from the Ministry have been instructed:

(i) To ensure that the slaughterhouse owners pre-treat their effluent before discharging it into Kabuthi Stream, a tributary of Nyongara River, failure to which they should face, both administrative and legal action.

(ii) To create awareness to the slaughterhouse owners on their obligations under the Environmental Management and Coordination Act (EMCA), to carry out annual environmental audits.

(iii) Proprietors of those slaughterhouses have been given two months' notice to initiate exactly that.

Mrs. Mugo: Mr. Speaker, Sir, I am very surprised by that answer! To begin with, I do not know how the Minister could mean that you can clean blood, for it to be discharged into the river. There is a lot of blood all the time! There is no way the slaughterhouse owners could clean blood and let it flow into the river. They have children at stake who are also dying.

So, Mr. Speaker, Sir, could you urge the Minister to address the Question seriously? Secondly, when Mr. Nyenze was the Minister for Environment, we visited the place and agreed that the Kiambu County Council was collecting cess to create a system of cleaning the

mess. It is not the responsibility of the slaughterhouse owners to provide that service. Could the Minister tell us exactly how the Government is going to sort out that problem? It is not the responsibility of the slaughterhouse owners! They pay money to the Government to give them services!

Mr. Kalweo: Mr. Speaker, Sir, hon. Nyenze visited that area in May, 1998. It is from that visit that what I have just outlined was concluded. Thereafter, officers from the Ministry were instructed to carry out surveillance in that area. We have now given them two months so that---

Mr. Speaker: Order, Mr. Minister! What I gather from hon. Members is that, what is going on in that part of the country is a threat to human life. So, why should the Ministry not close those slaughterhouses until they comply with the law? What happened to the Public Health Act, Mr. Minister?

Mr. Kalweo: Mr. Speaker, Sir, I have just said that they were given two months' notice so that they could at least, clean the area. I would like the House to understand that the slaughterhouses were there from the 1930s to date. So, when the former Minister for Environment visited that area, it was understood that the Kikuyu Town Council had been instructed to do certain work with regard to this matter. They had even indicated that they had earmarked a piece of land somewhere, where a new slaughterhouse could be constructed. But that was found to be inappropriate. Therefore, the County Council of Kiambu was approached to carry out a feasibility study and forward its findings to the Government. This facility falls under the Kiambu County Council. But that was not possible! These people have been given time to put their act together, because they are suppliers of 70 per cent of the meat that we eat in Nairobi! All the *Nyama Choma* they talk about in Nairobi comes from that place! If they close those slaughterhouses tomorrow, there will be a lot of hue and cry!

Mr. Speaker: Order, Mr. Minister! I do not think you are serious! Are you serious that because we will miss *Nyama Choma*, human life must continue to be put under threat! Are you, really saying that?

Mr. Kalweo: Mr. Speaker, Sir, but when these hon. Members do not allow me to complete what I want to say, that is what happens!

Mr. Speaker: Okay, just complete what you wanted to say!

Mr. Kalweo: Mr. Speaker, Sir, I still maintain that these slaughterhouses remain the source of the meat we eat in Nairobi. For that purpose, the officers from our Ministry have been visiting that area frequently. The owners of those slaughterhouses have been informed that if they do not comply with the law, certain slaughterhouses will be closed.

Mr. Muite: Mr. Speaker, Sir, I would like to support what the Minister has said. It is a fact that over 70 per cent of the meat supplied to the City of Nairobi - after the closure of Kenya Meat Commission - comes from those slaughterhouses. That is not to say that this matter can be left to the Town Council of Kikuyu. Could the Minister assure this House that the Ministry of Environment will undertake to source funds from donors or from the Budget, in order to work in conjunction with the Kikuyu Town Council and see how the blood can be diverted from flowing into the river; so that we can have both the meat and secure the health of our people?

Mr. Kalweo: Mr. Speaker, Sir, that is a very positive suggestion. In fact, that is what the Ministry is doing.

Dr. Kituyi: On a point of order, Mr. Speaker, Sir. The Minister has just embraced the question by hon. Muite which contradicts his written reply. The last part of his written reply says:

"Proprietors of these slaughterhouses have been given two months' notice to initiate remedial measures, to comply with health and environmental requirements or their premises will be closed, and the owners prosecuted."

But now, he is saying that it is the responsibility of Kikuyu Town Council. Is he going to prosecute slaughterhouse owners when the responsibility belongs to the Kikuyu Town Council? If a crime has been committed, why is he giving them two months?

Mr. Speaker: Order, Dr. Kituyi! You should know better than that! That is not a point of order, but a supplementary question!

Mr. Muchiri: Mr. Speaker, Sir, this issue indicates that there is a threat to human life in that area. Where there is threat to human life, the Government must take immediate precautionary measures to prevent loss of life. Could the Minister order that, the slaughterhouses be closed?

Mr. Kalweo: Mr. Speaker, Sir, the Ministry is taking the appropriate action in this matter. We know that this may cause other problems. But there is nobody who has died as a result of this matter. The short term and long term solution to this problems is to overhaul these slaughterhouses, but this requires money. I undertake that the Ministry, the Town Council of Kikuyu and the County Council of Kiambu will look into ways and means of getting funds to upgrade those slaughterhouses to the required standards.

MISAPPROPRIATION OF KATHIANI ROADS MONEY

Mr. Kaindi: Mr. Speaker, Sir, I beg to ask the Minister for Roads and Public Works the following Question by Private Notice.

(a) Is the Minister aware that part of the money allocated to Kathiani Constituency under the Constituency Road Programme cannot be accounted for?

(b) Could the Minister explain how the Kshs1.5 million was used?

(c) What action will the Minister take against the officers concerned?

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

(a) I am not aware that part of the money allocated to Kathiani Constituency under the Constituency Road Programme cannot be accounted for.

(b) The Kshs1.5 million issued to Kathiani Constituency for 2000/2001 financial year was utilised as follows:-

(i) Heavy grading on Road D519, Kshs225,000

(ii) Grading by contract of Road D528, Kshs621,000, committed but not started.

(iii) Gravel spot-patching on Road D519, Kshs240,000.

(iv) Ditch cleaning on Road D519, Kshs20,000.

(v) Drainage and protection works on Road R1803, Kshs213,000.

(vi) Heavy grading and drainage works on Road E474, Kshs180,000.

(c) Based on the above, I will not be able to take action against the concerned officers.

Mr. Kaindi: Mr. Speaker, Sir, Road D528, Ngoleni-Kaani-Kathiani was contracted sometime on 31st May, 2001, and the terms of the contract were very specific that the commencement date for the work would be immediately. The Assistant Minister says to date that the money was committed and the work has not started. Could he tell us what happened and what is holding that work from starting?

Eng. Rotich: Mr. Speaker, Sir, I am not in a position to say why it has not started. But the information we have is that it has not started and the money is still available for that contract. I think we got this Question two weeks ago and we have set up a tender unit under the Road Works Inspectorate, in conjunction with the EMU from the Office of the President to find out exactly what is happening with funds which were given to the constituency. There seems to be a problem.

Mr. Ndicho: Mr. Speaker, Sir, I am a Member of the Energy, Communications and Public Works Committee and we have recommended that from now henceforth the Member of Parliament for each constituency will have to sit down with the District Roads Engineer to approve the roads and the works that will be done before the District Roads Engineer receives money. They must do this together so that, that money is accounted for. Could the Assistant Minister assure this House that they are going to follow that recommendation so that these kind of questions will no longer be there?

Mr. Speaker: Mr. Ndicho, you are suggesting that you will be on the road. Who will be here with me? If you are going to be making roads, who will be here?

Mr. Ndicho: Mr. Speaker, Sir, I did not talk about making roads, but approving the works. But we can do it on Monday and Friday, and then we can be here on Tuesday.

Eng. Rotich: Mr. Speaker, Sir, we have no problem with that procedure. We shall accept it.

Mr. Kaindi: Mr. Speaker, Sir, the Assistant Minister does not know what he is talking about. This is a copy of the Local Service Order awarding the contract to Mua Hills Construction Limited. The commencement date was to be immediate and that was in May. The Engineer frustrated the contractor to the extent that the contractor could not move on site; to the extent that the contractor sub-contracted the work. I have a copy of the letter where the contractor attempted to do so. About two weeks ago, in a DDC meeting in Machakos, we were told that the money for this particular road could not be traced. The money must have been sent back to Nairobi. Could the Assistant Minister explain to us what he wants the people of Kathiani to do? The money is not in Machakos and, therefore, whoever brought this answer has no facts. There is no money. Where is the money for this road?

Eng. Rotich: Mr. Speaker, Sir, the information we have is that the money is in Machakos. It is not at the headquarters; it is still in Machakos. But I am prepared to get into this matter and find out exactly where the money is and what the problem is in Kathiani.

Mr. Speaker: Very well! Questions Nos.9 and 10 have been dealt with. Therefore, they are improperly before the House.

SAFE HANDLING OF BODIES OF AIDS VICTIMS

(Mr. Angwenyi) to ask the Minister for Public Health the following Question by Private Notice.

(a) Is the Minister aware

[Mr. Angwenyi]

that a very large proportion of deaths in the country today are attributed to HIV/AIDS?

(b) Is he further aware that the Ministry has not developed safe procedures for handling bodies of those who have died as a result of HIV/AIDS related cases, thereby exposing members of the public to the spread of HIV/AIDS?

(c) What urgent measures is the Minister taking to institute safe procedures in handling these bodies?

(Question withdrawn)

WITHHOLDING OF FUNDS BY NAIROBI CITY COUNCIL

(Mr. Muchiri) to ask the Minister for Local Government the following Question by Private Notice.

(a) Why did the Nairobi City Council on 13th October, 2001, fail to remit Kshs2.5 million to a Harambee in which the parents of primary schools in Kasarani donated Kshs6,385,000, as previously done to other schools during the Harambees?

(b) When will the Council release Kshs2.5 million to the 25 primary schools of Kasarani (Kshs100,000 each) and an additional Kshs1,300,000 which the Minister promised in this House was to be paid to Korogocho Primary School in the year 2000?

(Questions withdrawn)

Mr. Speaker: Next Question, Mr. Maitha!

DISPLACEMENT OF SQUATTERS IN KISAUNI

Mr. Maitha: 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 Land Parcel GL. Plot No.15A Kidutani/Mtwapa in Kilifi District which is in the process of adjudication is being sold privately by local Administration personnel?

(b) Is he further aware that the squatters living on the same land at Kidutani, Chengoni, Mtomkuu, Kidzimbwe and Lutsanga are being threatened by the local administration with eviction letters?

(c) What action is the Minister taking to have the land allocated to the squatters?

(Mr. Angwenyi stood up in his place)

Mr. Speaker: Order! Order, Mr. Angwenyi! Question No.9 was dealt with last week and so was Question No.10. They are improperly before the House.

Mr. Angwenyi: Mr. Speaker, Sir, I thought you deferred Question No.9 because I was away!

Mr. Speaker: Order! Order! Mr. Angwenyi, you know very well that you were expelled when this Question came up. So, you would not have known what happened. Look at the HANSARD; it was dealt with. Next Question, Mr. Maitha!

Mr. Maitha: I have already asked the Question!

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

(a) I am not aware.

(b) I am also not aware.

(c) My Ministry is in the process of regularizing the squatters on GL. Plot No.15A at Kidutani Village as the landowners.

Mr. Maitha: Mr. Speaker, Sir, I have a letter here, which I beg to lay on the Table, from the Kilifi DC confirming that Plot No.15A is Government land. But the moment the Government announced that it was going to

demarcate it, the area chiefs and the DOs decided to sell some portions of that land to private developers, particularly Asians. They have sent notices to the residents of that area, evicting them from that land and I have the letters here as evidence. If the Assistant Minister is not aware, then I am now making him aware. What action is he going to take to prevent the chiefs and DOs from evicting the squatters and to make sure that those portions of land sold to Asians are returned to the rightful owners?

I wish to lay these documents on the Table.

(Mr. Maitha laid the documents on the Table)

Mr. Sudi: Mr. Speaker, Sir, I have to go through those documents that have been laid on the Table by the hon. Member and see what action my Ministry is going to take. However, already, demarcation has been done for the land at Kidutani Village which will house 177 households. Once the demarcation is complete, then they will be issued with title deeds for them to occupy the land.

Mr. Maitha: Mr. Speaker, Sir, the problem here is not demarcation of land. The Government has already done its job; it is only that it was late in issuing letters of allotment to these people. While **[Mr. Maitha]** the residents are waiting for these letters of offer, the local administration personnel; the chiefs and the DOs are allocating the same land to private developers so that the surveyors can be asked to demarcate land for them. Could he take action and stop this illegal allocation? The DC has confirmed that this is going on.

Mr. Sudi: Mr. Speaker, Sir, arising from the Member's grievances, my Ministry will investigate the matter and take whatever action it deems necessary to reverse what has been done so that the residents of that area are satisfied.

Mr. Omingo: Thank you, Mr. Speaker, Sir. This is the second time we are hearing about Government officers issuing public land to private developers in this House. In a Government where the Members of the Cabinet and officials in the Government suffer from a disease called "land grabbiosis", could the Assistant Minister confirm to the House that if he discovers this anomaly, he will ensure that the land reverts to the rightful owners?

Mr. Sudi: Mr. Speaker, Sir, I think the hon. Member should raise a question when he has facts and not just ask any supplementary question.

Mr. Speaker: Next Order, Mr. Vice-President!

POINTS OF ORDER

COURT ORDER ON ROYAL MEDIA SERVICES

Mr. Muihia: On a point of order, Mr. Speaker, Sir. Last week, I sought a Ministerial Statement from the Attorney-General regarding the M/S Royal Media Services. May I seek your indulgence for the Ministerial Statement to be given by the Attorney-General.

The Attorney-General (Mr. Wako): Mr. Speaker, Sir, it is, indeed, true that he asked for a Ministerial Statement, but I have written to the Clerk of the National Assembly with a copy to the Member of Parliament. But the Ministerial Statement should come from the Ministry of Transport and Communications and not the Attorney-General.

Mr. Speaker: Very well! Next Order, Mr. Vice-President!

Mr. Muihia: On a point of order, Mr. Speaker, Sir---

Mr. Speaker: Order! Order! If it was directed to the wrong Ministry, I think the Attorney-General has said it has gone to the relevant Ministry.

Mr. Muihia: Mr. Speaker, Sir, my question was---

Mr. Speaker: Order! Order! If he does not have it, what do you do?

Mr. Muihia: I am seeking clarification, Mr. Speaker, Sir. I asked about a court order that was given directing M/S Royal Media Services to go back to Limuru and start broadcasting.

Mr. Speaker: Why did you not put a Question?

Mr. Muihia: Mr. Speaker, Sir, it is a Ministerial Statement!

PROVISION OF WRITTEN ANSWERS TO UNANSWERED QUESTIONS

Mr. Anyona: On a point of order, Mr. Speaker, Sir. It used to be a practice of this House in the past - and in order to save the time of the House - that when the House is likely to go on recess, the answers to all Questions which would not have been answered within the session were provided so that there would be no need to raise those Questions when the House resumes.

*(Messrs. Kamolleh and Nassir
consulted loudly)*

Mr. Speaker: Order, Messrs. Kamolleh and Nassir! I am being addressed by an hon. Member who wants my advice. How can I advise him when you cannot allow me to hear him?

Mr. Maitha: Chase them out!

Mr. Speaker: I am inclined to listen to Mr. Maitha, but not just yet.

Mr. Anyona: Mr. Speaker, Sir, therefore, I would like to request you to instruct the Clerk's office as usual that these answers are supplied to hon. Members so that there will be no need for hon. Members to raise those Questions which have been answered satisfactorily when the House resumes.

Mr. Speaker: I honestly do not know anything about that practice. I will find out about it. If that be the case, I will study the logistics of it. I can assure you I have not heard about it in the last eight years I have been Speaker.

Next Order!

(Mr. Muithia stood up in his place)

Mr. Speaker: Order! Will you, please, sit down now? I have already passed that stage.

Mr. Muithia: I am seeking your guidance.

Mr. Speaker: I have directed you to sit down.

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

Mr. Speaker: What is it?

ENTRENCHMENT INTO CONSTITUTION OF CONSTITUTIONAL REVIEW PROCESS

Mr. Imanyara: Mr. Speaker, Sir, there was an undertaking from the Chair that either the Leader of Government business or the Attorney-General gives an urgent Ministerial Statement regarding the entrenchment of the Constitutional Review Process and that was to be given today. That was directed by the Speaker.

Mr. Speaker: Order! As you can see, what is on the Order Paper today is a Motion for Adjournment. Everything else will hinge upon that and the decision will depend on the House. So, let us listen to the Vice-President.

MOTION FOR THE ADJOURNMENT

ADJOURNMENT OF THE HOUSE *SINE DIE*

The Vice-President and Minister for Home Affairs (Prof. Saitoti): Mr. Speaker, Sir, I beg to move:
THAT, this House do adjourn *sine die*.

In doing that I am very much keeping in mind what in actual fact, this House did agree on some time back. Hon. Members will recall that some time back a time table of the sittings of this House was actually brought here in the form of a Paper which was laid here. According to that time table, it had been recommended that the House would sit up to the 6th of December. However, it was not possible to adjourn the House on the 6th of December because hon. Members felt that there was some very important business that needed to be disposed of before we did adjourn. Consequently, the House Business Committee did decide to recommend to this House that we would sit for one extra week. It was also decided that the sitting hours of this House would therefore, also be extended up to 8.30 p.m. That was done in consideration of the following business which we considered very important, namely; the Coffee Bill, the Sugar Bill and the Statute Law (Miscellaneous Amendments) Bill.

Hon. Members will remember that this House debated exhaustively the Coffee Bill and the Sugar Bill which were duly passed. In the case of the Statute (Miscellaneous Amendments) Bill, the respective departmental Committee felt that since the report was not ready, then the Bill could not be brought here. We also sat last week as the House Business Committee, reviewed the situation and decided to recommend to this House that today be the day of the Motion of Adjournment because the scheduled business would have been disposed of.

There is no doubt at all that since we did come back from recess in October, a substantial amount of business has been transacted in this House. I will begin from the latest. I am sure those who supported the passing of the Coffee Bill will agree with me that, that was a very fundamental Bill. A great deal of interest was shown in that Bill in the sense that it allowed the farmer to play an important role in the whole industry. I would say the same as far as the Sugar Bill is concerned. That too has been passed. We also dealt with something much more important than that. We were able to go through the Copyright Bill which will help a lot of our musicians and other artists who preferred to be protected under this Bill.

We also went through the Finance Bill which is very important. We also went through the Appropriations Bill after we had already discussed the Ministerial Budget. So, quite a lot of work has been done. Clearly, we could very well have gone further. I know that many hon. Members have raised the very issue of the entrenchment of the Constitutional Review Commission Act in the Constitution. It is important that you listen to what I will say. This issue was raised only last week on Thursday. Taking into account the amount of work so far done and the fact that we have actually sat for one extra week, it is not possible to enact this Bill. Taking into account the way we have been going through a great deal of absenteeism, I think we can wait until early next year to re-visit the issue. After all, the Constitutional Review Commission is already undertaking its own work. There is no crisis whatsoever. When the House Business Committee did meet, it was clear that quite a number of hon. Members were of the view that we should adjourn today.

Mr. Speaker, Sir, I do beg to move this Motion.

The Minister for Lands and Settlement (Mr. Ngala): Mr. Speaker, Sir, I stand to second this Motion of Adjournment because of the very good reasons that have been advanced by the Leader of Government Business namely, the Vice-President and Minister for Home Affairs.

Mr. Speaker, Sir, we have a programme which guides this House. Whatever we have been doing in this House has been guided by a programme to which we made contributions through the House Business Committee. Therefore, it is up to us to honour whatever we have planned. It is up to us to honour our own integrity as Members of Parliament and know that at any given time, whenever we plan for a situation, it will come to a conclusion.

Mr. Speaker, Sir, therefore, we have had beautiful deliberations and discussions in this House. We have discussed and passed many Bills in this House because we are mindful of our people. Therefore, I think it is appropriate that because of the programme that has been planned and we are at the end of the extended time, we need to come to an end.

I believe hon. Members do see the logic in this. Therefore, I hope that Members of Parliament will be guided by the same principles that have guided us to make that programme and see it fit that we should adjourn and give our people also time to be with us. This is so that we can discuss more pressing issues with our people when we go on recess.

Mr. Speaker, Sir, I feel that it is proper that we, as Members of Parliament, should agree that it is time for us to go on recess and rest so that we can come back fresh and ready to tackle some of the other issues that are before us.

With those words, I second this Motion.

(Question proposed)

Mr. N. Nyagah: Thank you, Mr. Speaker, Sir, for the opportunity you have given me. Let me begin off by opposing this Motion for various reasons that I have presented to the House Business Committee, of which I am a member.

(Applause)

Mr. Speaker, Sir, I am surprised that this good Government does not want to work. All it wants to do is to be paid for free and go home on recess. We are not tired; we have plenty of time. We can work for one more week. All of us can do it! Here is an action that we, as Parliament, want to undertake. It is one that was agreed upon and brought before this House by this same Government and now we are forcing them to accept to bring it back to us so that we can entrench it and yet it does not want. This is a very interesting scenario. What do we learn from this? That, indeed, the Government is not ready and prepared to undertake to have this Constitution Review take place. That is quite evident; that it does not want to do that. This is because if it did, we would be able to go ahead and do it.

Mr. Speaker, Sir, what excuse did I hear this morning after KANU's Parliamentary Group meeting? It is that we do not have enough Members of Parliament since more than 40 of them are out of the country, which I do not believe. When we looked at the register today, we had about 20 or so Members of Parliament who are not in

the country. Therefore, we are capable of having in excess of 190 Members of Parliament coming in on Tuesday to be able to pass this Motion. So, let that not be used by any Member in Government that is why we want to postpone this Motion.

Mr. Speaker, Sir, it is important to go into history. Why is that we do not trust this Government? It is because we have heard certain sentiments and statements from very senior Members of Government, some of them sitting here and some not sitting here. Therefore, we are not sure that the Ghai Commission will be let to do its work independently. It may not be able to collect and collate views without being disbanded. As we sit here, why is it in the interest of anybody on that side, to have a new Constitution? It would be better for us to go into the next election with the old Constitution. That is why we cannot trust those words coming from the Vice-President and his team that they are ready to come and do this next year. It will be too old and late. After all, we only need 15 to 30 minutes and we shall be able to entrench this law into the Constitution of Kenya (Amendment) Bill. What is so difficult? We have the manpower. On Thursday, we sat here until 9.00 p.m. This House had a lot of Members; Members have seen the need to come and support the Bills that are coming forward.

(Applause)

Mr. Speaker, Sir, lastly, let us not be told that we agreed as a House Business Committee, to go on recess on a particular day. In the beginning we had a set date on which to go on recess. We, as Members of the Committee, went and changed that date. We are not static; things can change. It is these Members and this country that requires that this process be undertaken. Let me appeal to that side because, without their support, we cannot have this entrenchment done. Let me appeal to them because I think today we are going to win, that we can go on recess on Tuesday after we come, deliberate, entrench it into the Constitution and then we can go for our Christmas holidays. There is plenty of time. How many hon. Members do you need? I am happy that we have hon. Prof. Saitoti who is a good mathematician. He knows that we have two-thirds majority that we require now present in the country today without even having to count on those people who are outside.

With those few words, I beg to oppose.

Mr. Ndwigwa: On a point of order, Mr. Speaker, Sir. We have clearly heard the two sides, that is the Government and the Opposition. Could we now ask the Mover to reply so that we do not waste time debating this issue?

(Applause)

Mr. Speaker: Order! Why do you want to gag hon. Members?

Hon. Members: No! No!

Mr. Speaker: Order! I think you are frivolous!

The Assistant Minister for Education, Science and Technology (Mr. Awori): Thank you, Mr. Speaker, Sir. I will be very brief indeed. I heard a Member who happens to be a friend of mine, on the other side, saying Members here are not tired. Surely, just look at the register last week and see the number of times there was no quorum in this House. It has nothing to do with the fact that there may be **[The Assistant Minister for Education, Science and Technology]**

Members outside the country. Whether we have got 220 Members in the country, that is not the case. It is just that Members are tired. Because they are tired, they do not come in here. Because they do not come in here, we want them to go and answer to their electorate.

There is no question at all that we must adjourn today because we have a duty to the electorate. We are having difficulties. There is the issue of poverty that is doing a lot of harm right now. We want to go and talk to our electorate and show them now they can eradicate or reduce poverty.

(Loud heckling)

Mr. Speaker: Order! I must warn Members who are heckling. They should not be heckling. You must listen! You may have a fixed position but the other side has a right to be heard. You too have a right to be heard. So, there will be no heckling here.

Proceed, Mr. Awori!

The Assistant Minister for Education, Science and Technology (Mr. Awori): Mr. Speaker, Sir, I asked myself: "Why is there now such a rush about entrenchment of the Constitution of Kenya Review Commission in

our Constitution? Why did it not happen in early July or October this year when we started this Session and why is it that it is only last week that this has surfaced?" I asked myself these questions. Is it that perhaps there is a group not just here, but outside there, that feels that we should go into the next general election with the old Constitution? Is it that there is a section that wants to scuttle or, in fact, discredit the Ghai Commission? There is no good reason whatsoever why there is a rush in entrenching the Constitution of Kenya Review Commission into the Constitution of Kenya (Amendment) Bill.

Mr. Speaker, Sir, Prof. Ghai and his group are already doing a good job. They have already put a programme in place there. Who says that they are unable to do their work? We must give confidence to Prof. Ghai and his group, so that we have the Constitution that we require.

With those few remarks, I support the Motion.

Mr. Ndicho: Mr. Speaker, Sir, thank you for giving me this opportunity to join my colleagues on this side of this House to object to the adjournment of the House when we have not done that very important job of entrenching the Ghai Commission in the Constitution. The utterances that---

Mr. Speaker: Order! Correction for the record. There is no Commission in law known as "Ghai Commission." The proper name is the Constitution of Kenya Review Commission (CKRC).

Mr. Ndicho: Mr. Speaker, Sir, exactly, that is the name. Our fears follow utterances made recently by senior Governmental officials; that, the CKRC has been infiltrated by people who are out to destroy it. The fear of hon. Members is that the Government could use the period of recess to disband this Commission. We are suspicious that the Government of Kenya today is not geared and ready to have the Constitution of Kenya re-written. They want to delay and dilly-dally so that we are caught up by time. Then, there can be an excuse to prolong even the life of this House. We know all the tricks, rules and excuses that the Government is trying to use.

We all agree and admit on both sides of the House that the Constitution that we have today is too old and it needs to be reviewed. This is the document that governs this country. This is the most sacrosanct document. After going through it, and having seen all the areas that need to be reformed, we have a CKRC that needs to be safeguarded. We need to have that saved from the sharp teeth of some people in the Government who would like to tear it off. Unless it is guarded in the sacrosanct document called the Constitution, we are not sure that by the time we come back here in March, or whatever time it will be, that Commission will be in place. We have seen so many commissions in this country which have been created at the behest of some people in the Government. Because they are the people who have got the power to make and unmake those commissions, all of a sudden, they are disbanded before they make their conclusions. It all amounts to waste of public money and precious time. These are the fears that these hon. Members and myself are trying to express; that, unless this kind of Commission is entrenched in the Constitution, to guard and save it, then, the KANU Government might disband it because ever since it started, they have been very much uneasy about it.

We have heard of the comments that have been made previously through many speakers from the Government side, expressing their disgust, and even going as far as insulting and abusing some officers of the Commission. But while we want to give the Commission some new lease of life, which will be so distinct from the previous commissions that have been created in this country; commissions that never ended up doing anything other than expending public money and precious time and nothing comes up out of it---

With these few words, I beg to oppose the Motion.

Mr. Kanyauchi: Thank you, Mr. Speaker, Sir. I rise to support the Motion of Adjournment.

Hon. Members: Shame! Shame!

Mr. Speaker: Order, hon. Members! Could I put the record straight? There will not be any dictatorship here. Hon. Members will speak as they feel within the law.

Mr. Kanyauchi: Thank you, Mr. Speaker, Sir, for protecting me. I will be fairly brief. To begin with, it is a well-known fact that a rest is a good thing. All work without play, they say, makes Jack an extremely dull boy. We have been here since September; that is three good months. All these hon. Members here are human beings; they are not machines. They do need a rest. This is what we are saying. Let us have a break; let us have a rest. We will come back in March, or February. What is the big deal?

My second point is that the reason why we now need the break is because we all know that the elections are around the corner next year. All these hon. Members need time to be with their constituents. They need time to do a bit of politics because in as much as this Parliament is equally important, the people who bring us here are down in the constituencies. We need time to go and interact with them and campaign so that we can come back here. If we get stuck here for a long time, three-quarters of hon. Members will not see the door of this House.

I have two legal points on the issue of entrenchment in the Constitution. There is no law which says that all statutes or laws that we pass in this House must be entrenched. This is because if we did that, our Constitution

will be very big because we will seek to entrench everything. We do not have to entrench everything in the Constitution. It makes no legal sense or otherwise. The American Constitution is just a small document. We even need a smaller document; smaller than the present Constitution, but if we come up with this craze of entrenching everything in the Constitution, we will end up with a Constitution which is bigger than the Holy Bible. It makes no sense.

The second point is that the so-called CKRC is a constitutional creation. In as much as it is a constitutional creation, and in as much as it is moving, there is no need to say that we must entrench it. This is because the Commissioners are going about their business. Why do we want to anticipate that some busy bodies will go to court to scuttle the process? What is all this anticipation? What are we trying to do? To become Prophets? We are just politicians. We are not Prophets. If, indeed, that were to happen, the best way to deal with issues is tackle them when they arise. If we speculate that, elections will not be held in 2002, or His Excellency the President will continue with his reign, it will be an endless game. This is because the human mind is very fertile, and if you let it speculate, it will go on speculating endlessly.

With those extremely few remarks, I wish to say that I support the Motion of Adjournment.

Dr. Ochuodho: On a point of order, Mr. Speaker, Sir. I have realised that I have continued to suffer not only today, but many times before. The Chair had ruled that National Development Party (NDPK) hon. Members can sit on either side of the House, but is the Chair aware that we have "NDPK KANU" and "NDPK" original in this House?

Mr. Speaker: Order! Order! Dr. Ochuodho, you have the very mistaken belief, by practice, that unless you have spoken, nobody else should speak. I must, now and here, disabuse you of that notion. This House is complete with or without your contribution. So, could you, please, and kindly, allow the debate to continue?

Proceed, Mr. Imanyara!

Mr. Imanyara: Mr. Speaker, Sir, I rise to oppose this Motion for some good reasons.

Members of Parliament are referred to as "honourable Members"; we are men and women of honour. You will recall that the Constitution of Kenya Review Commission Act was a result of an agreement. This House passed the Act in order to facilitate a common review process, comprising of the so-called "Ufungamano initiative" and the parliamentary-led process. You will recall that, at that stage, part of the agreement was that we would enact a legislation to bring the two commissions together, and entrench that legislation into the Constitution. In fact, Kenyans' expectation was that immediately after we passed the Constitution of Kenya Review Commission Act, we would entrench it into the Constitution, as per the agreement signed by all the parties involved.

The Constitution of Kenya Review Commission (CKRC) is today going about its business. This morning, I happened to be at a meeting at Safari Park Hotel, where the CKRC was meeting on devolution of powers. Every commissioner who spoke to me said that in every part of the country they visited, the first question they were asked was: "Are you not wasting public funds? Are your efforts not going to be in vain since this Commission can be disbanded at any time?" Kenyans say this because of the suspicion arising from this Government's past record.

Mr. Speaker, Sir, you will recall that when a Minister for Foreign Affairs was grisly murdered some time back, we were promised that no stone would be left unturned. A commission of inquiry into the mysterious death of the Minister's was set up. However, when Kenyans were expecting to hear the real evidence, the commission was disbanded. So, Kenyans are entitled to express their suspicion that the CKRC may not be allowed to complete its task on account of this Government's past record. Also, Kenyans have been made to believe that Members of Parliament will honour their part of the agreement by passing this legislation; that is why it was published. Why has the Government published the Bill and allowed it time to mature for debate, but not tabled it before this House?

You will recall that, during the opening ceremony of this Session, the President, in his written Address, said that the review process would be entrenched into the Constitution. Going by the President's spirit in his comments, we expected that we would entrench the Act into the Constitution during this Session. However, that has not happened, and we now want to betray Kenyans by proceeding to recess before entrenching the review process into the Constitution.

By this morning, the Order Paper had indicated that the Motion for the adjournment of the House would begin not later than 5.30 p.m. Had we been serious about entrenching the review process into the Constitution, we would not need to sit next week; we would have debated and passed the Bill before 5.30 p.m. today. But for some strange reasons, which have not been explained, a Supplementary Order Paper was subsequently prepared, bringing forward the adjournment debate, in order to avoid the possibility of our debating the Bill to entrench the review Act into the Constitution.

Mr. Speaker, Sir, that is not the only reason. Just the other day, we passed the Children Bill, which has

grave financial implications for this country. While debating the Bill, we pointed out that we do not want to have a crisis in January, 2002, and requested the Government to prepare supplementary financial Estimates, so that the House could provide the money required to meet the expenses of giving free education to this country's children, as provided for in the Act. That is why the President has not signed the Children's Bill. Kenyans have anticipated that the Minister for Education would bring revised Estimates for his Ministry to this House for approval. We had even suggested to the Minister where the extra funds could come from.

Recently, the Central Bank of Kenya (CBK) Governor in a public document said that, up to September, 2000, as a result of applying the "Donde Bill", the CBK had saved Kshs23.1 billion, and that it expected to save another Kshs25 billion. Now, if we can revise the Ministry's Estimates before we proceed on recess, we can go to our constituencies knowing that next year, our children will not be sent away from school for non-payment of fees; we will avoid a crisis. So, what we are suggesting to do now is really postponing the inevitable, which is going to hurt our children in January, 2002.

My final plea to the Government is that, since this Bill is only one-page-long, we should debate it now, so that by 6.00 p.m., we will have entrenched the review process into the Constitution. That is what we promised the people of Kenya. Doing otherwise is treating our people with contempt, which is not what we intend to do in this House.

With those remarks, I beg to oppose the Motion.

The Assistant Minister for Education, Science and Technology (Mr. Karauri): Thank you very much, Mr. Speaker, Sir, for giving me the opportunity to support this Motion.

Hon. Members: Ooh!

Mr. Speaker: Order! Order!

The Assistant Minister for Education, Science and Technology (Mr. Karauri): Mr. Speaker, Sir, I support this Motion because hon. Members have waited until when we are supposed to proceed on recess to raise the issue of entrenching the review process into the Constitution. The Bill to entrench the review process into the Constitution was published long ago. I am surprised that some hon. Members insist that we should debate and pass the Bill today, when we are supposed to proceed on recess.

Mr. Speaker, Sir, the Bill has never appeared on the Order Paper. I am sure that hon. Members would have raised the matter a long time ago if they were really serious about entrenching the review process into the Constitution. Really, it is difficult for us to pass the Bill today. The Bill requires a two-thirds majority to sail through. Even if we were to stop the adjournment debate and embark on the Bill now, can we raise the required two-thirds majority?

Hon. Members: Yes! We can!

The Assistant Minister for Education, Science and Technology (Mr. Karauri): Mr. Speaker, Sir, I think we should adjourn today and consider the Bill when we come back from recess. I do not think there is anything that will happen between now and March, 2002, which may scuttle the review process.

Mr. Speaker, Sir, I now want to address something which is very dear to my heart. I have pointed out here many times before that since the collapse of the Kenya National Assurance Company (KNAC), the Minister for Finance has kept quiet about the plight of the many former employees of that institution. As I speak, some of them have died; many of them have stopped taking their children to school. Sometimes, when an employer's company goes under, but he has another company which is liquid, he should be required to raise money from the liquid company to pay employees of the company that has gone under.

I would like the Minister for Finance and the Attorney-General to hear what I am going to say, because they are the ones who provide the liquidators. The Government is not so broke as not to afford the Kshs400 million that is required by the former employees of the KNAC. Let us be humane and consider the plight of those people. Let us pay them, so that they can also take their children to school and lead a decent life. Some former employees of KNAC who had taken mortgages, hoping that the company would last forever, have had their houses sold.

Mr. Speaker, Sir, I would now like to make an appeal to the Press. If the Press cannot report accurately, it can ignite "fire" in this country; it can cause a lot of damage. I have in mind a circular issued to schools by the Ministry of Education, Science and Technology. The circular was properly headed: "User charges". Through this circular, the Ministry of Education, Science and Technology tried to lower school fees. Hon. Members may not know that the Ministry wanted to lower school fees so that children can join Standard One without paying Kshs10,000 or Kshs12,000. If you are a new parent, you may even be required to pay Kshs15,000 in public schools. The circular that went out allowed schools to charge only Kshs1,800 in Nairobi where some schools charge Kshs17,600. But the Press took up the issue and put it on the front and the back pages as "School fees

being charged by the Ministry".

Mr. Speaker, Sir, as we are talking today, the Government has not been given time to find an alternative source of funding. You can imagine what will happen in January when we will tell parents to raise funds to purchase chalk and other essentials in schools. Schools will say that the only way they can finance these essentials is by charging Kshs10,000 as school fees. The Press must report accurately and properly so that it does not ignite unnecessary fire.

With regard to roads Committees, I am pleading with the Minister for Roads and Public Works to allow hon. Members of Parliament to sit in those Committees. This is because when money is disbursed to construct roads and hon. Members do not know where that money is going, it can be misused and constituencies will not benefit from it.

With those few remarks, I beg to support.

Mr. Muite: Mr. Speaker, Sir, I rise to oppose the Motion of Adjournment so that we can have enough time to entrench the reform process into the Constitution.

But having said that, I would like to sound a word of caution. There is an illusion that once we entrench the review process into the Constitution, that will stem completely the efforts of this Government, so that if it wishes to derail the process, it cannot do so. Entrenchment may make it a little bit more difficult, but if the Government is determined to derail the process, it will still do so. So, I certainly support the entrenchment.

Mr. Speaker, Sir, some of us were at pains to point out the flaws when we were working out the merger package. Some of the weaknesses we were pointing out are now beginning to become apparent. What we truly need, if this process will succeed, is an interim Constitution that will come up with a power arrangement which will reign in the excessive powers of the Presidency. That will create an environment in which this reform process can succeed.

[Mr. Speaker left the Chair]

[Mr. Deputy Speaker took the Chair]

The other point which I would like to make is that even as we entrench this Constitution of Kenya Review Commission (CKRC) into the Constitution, the Commission has got a duty to stop pretending to Kenyans that it can give us a new Constitution before the next general election. A genuine people-driven constitutional review process is simply not possible within such a short period.

I also attended this debate today - it will still be going on tomorrow - about majimbo and land issues. We need to develop a consensus as Kenyans. These are issues that we need to debate rationally, even have acrimony over them until such time when we will develop a consensus. You cannot rush the constitutional reform process, and we call upon the CKRC to carry out the functions it has been given. It should not rush the process because of tying it to the next general election. However, it can recommend a minimum reform package targeted at the elections. The Commission should not wait until June next year, which will be the eve of the elections, in order to start recommending the minimum reform package. So, I am saying that the CKRC should stop working at an over-speed in order to give us a flawed system in order to beat a deadline.

There are many issues that are fundamental in the constitutional reform, which do not relate to an election. By June next year, the mood in this country will be focused on the elections, particularly because these are elections which some people mistakenly think will see the current President out. Some people think that if we carry out elections on the basis of the current Constitution, then, perhaps, we may see the incumbent going out. But I ask, even if I was the President today, why would I allow that to happen, particularly when I control a majority of the Commissioners in the CKRC? I would recommend minimum reforms that will be suitable to me.

Mr. Deputy Speaker, Sir, all I am saying is that, indeed, before the merger, the Parliamentary Select Committee and the Ufungamano Initiative should have discussed, as a condition precedent to the merger, a minimum reform package. This is a very political issue, and is an issue that should have been debated between the political parties as the major stakeholders; nevertheless, that did not happen. That is water under the bridge. What I am saying is that the CKRC should find out the opinion of the political parties and recommend what it thinks is the minimum reform package that can be enacted to facilitate the next general election while the proper constitutional reform process, including the very contentious issue of land, goes on. This is an issue that we need to debate thoroughly, listen to each other's views and come up with constitutional policies and provisions governing land ownership and use. These are long-term issues.

So, as long as this Commission continues on a daily basis to mislead Kenyans that it will give us a new Constitution before the next general election, then that raises question marks as to its seriousness.

With those few remarks, I beg to oppose the Motion so that we can have time to entrench the reform process into the Constitution and hope that the Commission will improve its performance.

The Minister of State, Office of the President (Mr. Nassir): Bw. Naibu Spika, ninafikiri kuwa Wabunge wengi hapa wanajua kwamba kesho kutwa ni siku ya Ramadhan. Wale ambao si Waislamu wana imani na Waislamu. Kwa upande wa Wakristo, Krismasi iko karibu. Wabunge wenye imani wanajua kwamba Krismasi na Idd Mubarak ni siku zenye maana sana. Ni lazima tujue kwamba tunapata mshahara na malipo ya kusafiria na hata tukiongeza muda wa wiki nyingine, haitafaa kitu maana tumepata donge kubwa mwaka mzima. Hii wiki moja haitamsaidia mtu yeyote.

Mr. Maitha: On a point of order, Mr. Deputy Speaker, Sir. You have heard the Minister telling the House that hon. Members would want to sit for another one week in order to enjoy mileage claims. Is it proper for him to assume that we are here only for money?

The Minister of State, Office of the President (Mr. Nassir): Bw. Naibu Spika, hii ni fikira yangu. Kama mwenzangu ni tajiri na ana pesa nyingi, mimi ni maskini na nilikuja katika Bunge hili ili nipate mshahara.

Lakini ni lazima tuyafanye mambo yote katika wakati ufaao. Huu ni mwaka wa Wakenya kutazama maisha yao. Tuna mipango ya kubadilisha Katiba.

Bw. Naibu Spika, Chama cha KANU kina nia ya kuwasaidia maskini. Hapa Nairobi, milioni watu ambao walilia ili wapunguziwe kodi ya nyumba. Wabunge hawajui kwamba wengi wa wale ambao wanawapigia kura hawana nyumba, kazi wala mishahara. Lakini kwa sababu watu fulani wachache wana mashamba makubwa ya kukodisha ili wapate pesa nyingi, hawafikiri Wakenya wenzao. Kazi kubwa ya Chama cha KANU ni kuwasaidia watu walio maskini, na hiyo ndio nia yetu. Wale matajiri ambao wamekusanya pesa miaka yote karibu wafike kikomo.

Mr. Ndwiga: On a point of order, Mr. Deputy Speaker, Sir, could the hon. Member enlighten this House and the nation by telling us the names of those people who made Kenyans poor?

Mr. Deputy Speaker: Mr. Ndwiga, that is not a point of order. If you want to argue, catch my eye, I will give you an opportunity to argue.

The Minister of State, Office of the President (Mr. Nassir): Bw. Naibu Spika, tulichelewa kupatanisha Wakenya kuhusu mambo ya kodi na kadhalika. Wengine walikuwa ni wachochezi. Ukweli lazima usemwe! Nilikwenda Kibera kujaribu kuleta suluhisho.

Kuhusu Katiba, yafaa Wakenya wote wawe na uhuru wa kutoa maoni. Sio kwa watu wa KANU pekee, lakini watu kutoka upande wa Upinzani pia. Wabunge kutoka upande wa Upinzani walipiga kelele sana kwamba Katiba ni mbovu na ni lazima irekebishwe. Lakini nataka kuwaambia walio katika Bunge hili na wale ambao wako nje kwamba Katiba itarekebishwa. Sio vile mnavyopenda nyinyi, bali vile tunavyopenda sisi maskini. Yafaa maskini naye aishi vizuri, na apate kazi na shamba. Hatutaki Katiba ambayo inasaidia upande mmoja tu.

Mr. Maitha: Itakuja lini?

The Minister of State, Office of the President (Mr. Nassir): Itakuja tu. Ndugu yangu, Bw. Maitha, anajua hali hii. Asiwadanganye nyinyi kwa sababu kesho-kutwa ataketi mezani mwetu.

Bw. Naibu Spika, yafaa mambo kuhusu Katiba yatazamwe na kuangaliwa kwa makini sana ili kuondoa yale mambo mengine machafu machafu. Kwa mfano, tungetaka watu ambao wanagopa kwamba Rais Moi atapigania kiti chake tena wajue kwamba, jambo hili litatupiliwa mbali. Ikiwa ni kuendeleza Bunge hili kwa miaka miwili zaidi, tutaliendeleza Bunge hadi tuwe na Katiba nzuri. Wahenga walisema, "mwenye nguvu atwae, maskini aonewe." Mtindo huo hautakuweto tena. Kila aliyepata, Mungu amemjalia akapata, lakini mwaka ujao tukiwa na Serikali mpya, itakuwa Serikali ya kusaidia maskini katika mambo mengi. Ninafuraha ninapona watu wengine wakilia, na yule ambaye jamaa yake anapata kazi anafurahi. Lakini sisi watu wa Mombasa tunasubiri, wakati watu wataletwa---

Bw. Naibu Spika, naunga mkono Hoja hii.

Mr. Kathangu: Bw. Naibu Spika, nafikiria kutoa mfano kuhusu wanyama wawili. Siku moja sungura aliamua kuwafitini wanyama wawili. Kwa hivyo, alianza kumwambia ndovu vile amesumbuliwa ulimwenguni na mnyama ambaye hana maana. Alikwenda kwa nyangumi akamwambia vile vile. Mwishowe, wanyama hao wawili walikubali kuvuta kamba ili wajue ni nani mwenye nguvu kushinda mwingine. Wakati walipokuwa wanavuta ile kamba, sungura alisimama kando akiangua kicheko.

Bw. Naibu Spika, wakati huu tutakumbuka kwamba wale watu ambao wameng'ang'ana sana wakisema kwamba Wabunge wa upande wa Upinzani hawataki Katiba irekebishwe na iandikwe upya katika Kenya hii, ni watu ambao wako katika vyeo vikuu Serikalini. Watu hao waliunda Mjadala kupitia kwa Mkuu wa Sheria. Mjadala ule umekuwa tayari kuwasilishwa Bungeni kwa muda wa majuma mengi. Kwa wakati huu tunaposema kwamba tuende likizo ili mwaka ujao, kulingana na Makamu wa Rais, turudi kujadiliana kuhusu mada ile ile

ambayo tungejadiliana, majuma matatu au manne ambayo yamepita.

Bw. Naibu Spika, Katiba ni muundo wa kisiasa na wananchi. Kwa hivyo, ni lazima sisi tujadiliane kuhusu Katiba na mambo yake kwa kisiasa. Kwa hivyo, ni juu yetu kufikiria ni siasa gani upande wa KANU unaunda ile wakatae tusijadili mambo hayo hapa, wakati huu. Nikiliangalia jambo hili, ninajiuliza ni Katiba gani ambayo itawapatia manufaa wale ambao wako katika Upande wa KANU, ni ile ambayo inaundwa na Tume ya Kurekebisha Katiba, ama ni ile ambayo iko sasa? Nikiangalia hivi, ninaona kama wanatuambia kwamba ile Katiba ambayo iko sasa, ndio tu wanaweza kufanyia kazi, ikiwa wataendelea kutawala kwa miaka 100 mingine, kama vile Mtukufu Rais wa nchi hii, ambaye ni Mwenyekiti wa KANU, anavyowaambia wananchi.

Kwa hivyo, ni lazima kila mwananchi na kila Mbunge ajue kwamba upande wa Serikali ungetaka kudumisha Katiba ilioko sasa. Yafaa wananchi wajue kwamba ikiwa watarekebisha Katiba, ni lazima wawasukume Wabunge ili wakatae kwenda likizo hadi kuwe na usalama wa kutosha kwa Tume ya Urekebishaji wa Katiba.

Bw. Naibu Spika, jambo lingine ni kwamba Katiba ya nchi imebadirishwa mara nyingi sana. Wakati mwingine kwa dakika 20, 40 au saa moja. Ni kweli Bunge hili haliwezi kupata saa moja ama dakika 40 leo, ya kusema kwamba ni lazima Kamati yetu na mzunguko utakaopatikana wa Katiba, upewe usalama wa kutosha. Kuanzia saa kumi hadi saa mbili na nusu usiku, ni masaa mingi mno ambayo tunaweza kutumia kufanya mambo mengi pamoja na kupitisha Mjadala ambao uko mbele yetu na kwa Mkuu wa Sheria.

Mwisho kabisa, ni lazima sisi tuweke watu tayari kuhusu Katiba ambayo wamekuwa wakingojea miaka hii yote. Ni kwa nini sisi tunaogopa kama Bunge? Ikiwa mbuzi wako yuko katika kichaka, na unajua kwamba kile kichaka hakina mnyama hatari, utakaa kitako uungojee mbuzi wako arudi nyumbani. Lakini ikiwa yule mbuzi hana mlinzi, na ikiwa hujui kama yule mbuzi atakutana na madhambi kichakani, ni lazima umfuate wewe mwenyewe. Kwa hivyo, ikiwa Serikali hii inajali maslahi ya Tume ya Kurekebisha Katiba, ni lazima tujue kwamba vichaka havina mnyama hatari ambaye anaweze kuleta matatizo. Kwa hivyo, yafaa tuchunge Tume ya Kurekebisha Katiba kwa njia ilio safi ili tuweze kuwa na Katiba ya manufaa katika nchi hii.

Ninashukuru na kusema kwamba, Bunge liendelee.

The Assistant Minister for Finance and Planning (Mr. Lomada): Thank you very much, Mr. Deputy Speaker, Sir, for giving me this opportunity to contribute to this Motion of Adjournment.

Mr. Deputy Speaker, Sir, we need this Adjournment seriously and I do not see the reason why my colleagues on the other side are afraid about this Adjournment. My colleagues on the other side of the House should give us proper reasons why they feel this Adjournment should not be realised today.

Maybe, the hon. Members on the other side of the House are afraid of meeting their constituents because they think that when they meet them, they will spend a lot of money on them. I think that is one of the reasons why they do not want to go home.

Mr. Deputy Speaker, Sir, we have been away from our constituencies for quite some time and we need to meet our constituents. We need to sit with them, discuss their problems, go around with them and try to talk to them.

Mr. Deputy Speaker, Sir, I do not see the reason why some hon. Members are afraid of going home to be with their people. During Christmas time we all need to be with our children and wives. I am sure that some of our wives may not understand why those hon. Members are opposing this Motion. When we go home we hold barazas and go home late in the evening. Therefore, this is the time to be with our wives and children and run our private affairs properly. We really need this time---

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

Mr. Deputy Speaker: Which Standing Order?

Mr. Mwenje: Mr. Deputy Speaker, Sir, I do not carry a copy of our Standing Orders in the House.

Mr. Deputy Speaker: Order! Mr. Mwenje, the Chair has taken the trouble to explain how a point of order ought to be used. Clearly, you have made up your mind that you will enforce your own rules. But the Chair will not allow you to do that.

Proceed, Mr. Lomada.

The Assistant Minister for Finance and Planning (Mr. Lomada): Thank you, Mr. Deputy Speaker, Sir, for protecting me from my friend, Mr. Mwenje.

Mr. Deputy Speaker, Sir, we need to be with our constituents. It is high time we found out what our constituents expect of us. For example, in my own constituency, there are quite a number of issues to be addressed. Roads in my constituency are in a pathetic state. I need to sit down with my DDC members and prioritise projects in our district. Most roads in my constituency lead to agricultural areas. We grow a lot of pyrethrum. We also keep

merino sheep for the purpose of wool. Therefore, I need to go and sit with my people and identify their problems. This is the right time for me to sit and discuss with them.

Mr. Deputy Speaker, Sir, I am very happy that the Government is looking into our problems. Some roads in my constituency are being rehabilitated. However, part of the Great North Road from Eldoret to Lokichogio is in a pathetic state. There are myriads of potholes. One cannot drive to Kapenguria to Lodwar in three hours as it used to be. That is not the case today because of potholes. A driver has to drive carefully in order to arrive in Lodwar Town safely. I would like to call upon the Government and, especially the Ministry of Roads and Public Works to rehabilitate that section of the road.

Mr. Deputy Speaker, Sir, I would like also to thank the Government for the relief food programme. It has saved the lives of my people. I would urge the Government and the World Food Programme (WFP) to continue providing relief food to our people. The WFP should look into activities which will enable our people to be self-sufficient as far as food is concerned. We do not want to continue relying on relief food, year in, year out. There are many rivers in my constituency. We could use water from these rivers to carry out irrigation activities in West Pokot District and produce enough food for our people.

Mr. Deputy Speaker, Sir, with these few remarks, I support the Motion.

Mr. Anyona: Mr. Deputy Speaker, Sir, this Parliament is suffering from a serious problem that I would describe as weather-storm political syndrome. I am saying this because our leaders, particularly the senior leaders on both sides of the House, do what they call in English "hunting with the hounds and running with the hare."

There should have been no argument this afternoon as to whether or not this House should go on recess. However, there is an argument. It appears as if there is only one issue that is being debated this afternoon. The truth of the matter is that we insisted on Parliament having a calendar. The calendar was drawn up and brought here and we said: "Let that calendar be adopted by the House formally so that it becomes a resolution of the House which you cannot change at will." That was not done. Leaders on the both sides of the House, particularly the Leader of the Official Opposition and all the leaders of the Opposition parties, who sit in that Committee did not see the significance and the democratic importance of having Parliament adopt its own programme. That is why we are in trouble today.

(Mr. Biwott stood up in his place)

Mr. Deputy Speaker: Mr. Biwott, you either sit down or go out!

Mr. Anyona: You can see their attitude!

Secondly, when we were debating the rules of electing our Members to the East African Legislative Assembly, we again said, let this Parliament carry out that exercise in a democratic manner. Let us have rules that are democratic and which will ensure that the letter and the spirit of the Constitution are adhered to. We were lonely; only a few of us held this opinion, namely; Messrs. Muite, Kihoro, Mrs. Sinyo and Mrs. Mugo. The rest, including the leaders on this side, voted with KANU over the rules. When they did not deliver, they came back blaming KANU and trying to take credit for being the champions of women's rights. That is what I call "weather-storm political syndrome." It depends on how the weather is. Leaders cannot behave like that.

Mr. Deputy Speaker, Sir, I was in the Parliamentary Select Committee on Constitution Review. We accepted that the Bill be introduced even though it was not necessary. It was superfluous but people insisted that there may be some mischief and we said "yes". It was drafted, the Attorney-General brought it here, it went through the First Reading. It has been "sleeping" there and yet these leaders are in the House Business Committee. Why did they not bring us the Bill? Why did they not sit last week? We have a select committee on the Constitution. They all sit there. They displaced us. After the pudding was ready, they came in to eat. Some of us were removed from the Committee unceremoniously. We did not mind because we had done our job. Today, it is an issue. They are now asking why we have not entrenched the Kenya Constitution Review Commission into our Constitution. It is an excuse. It is weather-storm political syndrome. They will never be able to lead this country this way. You have to take a stand, popular or unpopular. Most difficult decisions are always unpopular. But when you have senior leaders and elder statesmen of this nation playing to the gallery, and to the children in the street, talking because the elections are just around the corner then there is something wrong. We cannot ever solve the problems of this nation that way. We cannot ever lead this nation. Now we are in the East African Legislative Assembly as a lame duck when we have done a tremendous job in putting it together again, having learnt from the experience of the past. Then we go there limping. Our gracious ladies go to Arusha to hold demonstrations. These are issues that we should have resolved in this House. Why should we attempt to resolve them in Arusha? The Tanzanians and our other neighbours are laughing at us. I want to appeal to these hon. Members, I think they are tired. Let them go on recess, but come back next year and lead this country to a bright future.

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

The Attorney-General (Mr. Wako): Thank you, Mr. Deputy Speaker, Sir. The Leader of Government Business stated as to why the agreed date of 6th December, was extended to today. He said it was because some Bills were to be passed. Among those Bills which were to be passed, was the Statute Law (Miscellaneous Amendments) Bill. He also explained that the Departmental Committee which was handling the Bill was not able to produce a report on time. They said this was because the Bill deals with 51 different statutes. I must emphasise that because there are very many important aspects of the law which are going to be amended by this particular Bill. The Committee had to go into those issues very carefully.

Mr. Deputy Speaker, Sir, I am emphasising this because the Press has misled the public to believe that the Statute Law (Miscellaneous Amendments) Bill, is the media Bill. They have completely failed in their duties and in their responsibilities to educate the public that there are 50 other important legislations which are being touched on by the Statutes Law (Miscellaneous Amendments) Bill. I, therefore, hope that if this Motion goes through, the Press will take the opportunity to correct themselves and educate the public on the contents of this 50 other pieces of legislation which are also equally important. I appeal to the Press, because when this House passed a Bill increasing hon. Members' emoluments, the Press attacked all the hon. Members on both sides of the House that we were concerned with matters which touch on our welfare. When this Statute Law (Miscellaneous Amendments) Bill touches on their welfare, they forget all other important Bills and stick on one Bill. Please, use the recess to educate the public on the 50 other pieces of legislation.

Mr. Deputy Speaker, Sir, if we had gone on with the debate, I would have withdrawn the amendments relating to the Parliamentary Pensions Act, because they require more time for consideration. Therefore, I hope that if this Motion goes through, the time will be used to look at those amendments again. I would also have withdrawn the amendments relating to the Film and Stage plays Act, because, looking at it more closely, those are not the type of amendments that should come under that Act which deals with films and stage plays.

Mr. Deputy Speaker, Sir, there have been very many articles reminding us what we already know. Let me assure the public that the Government is interested in having an independent and vibrant print and electronic media. The Government is interested in having highly professional journalism in this country. The Government is interested in having the Press have its own self internal regulations. The Government is aware that the Press is important to our democracy and the people of this country. We do not have to be reminded about that in many articles that are appearing every day. What the Press should now focus on, in my view, - and they can use this recess period - is to critically examine themselves and find out why all these things are happening.

I am glad that there appears to be some developments in the Press. For example, the Kenya Union of Journalists has already written the code of ethics for journalists. I know, recently there was a seminar in Mombasa to try to correct themselves. Let me remind the Press, that this same efforts were made in 1992, and in fact, on 12th November, 1992, I went to address a meeting at the Safari Park Hotel, which was supposed to adopt a code of professional ethics. That whole effort failed. Therefore, I hope this time, the efforts of the Press are not going to fail. I hope that even if they spent half as much energy as they have spend in orchestrating various articles, they will have succeeded. They should use this period usefully to put their house in order. I am appealing to them because I know they are in the Press Gallery.

With those few remarks, I beg to support.

Mr. Karume: Asante sana, Bw. Naibu Spika, kwa kunipa nafasi hii kupinga hii Hoja.

Ninashaanga ni kwa nini tunabishana. Ninajiuliza hivyo kwa sababu, tulichaguliwa na wananchi ili tuje hapa Bungeni kuwafanyia kazi. Ingefaa tuongeze siku moja hadi Jumanne ili tujadili Mswada kuhusu Tume ya Marekebisho ya Katiba. Sioni taabu yoyote tukirudi Jumanne ili tumalize hiyo kazi. Ningependa kusema kwamba, wananchi wa Kenya hawana uwezo wa kufanya mambo mengi, kwa sababu hawana kazi na pesa. Kuna taabu nyingi sana. Hata watoto wengi hawasomi kwa sababu hawana pesa ya kulipa karo. Matumaini yao ni kwa Katiba mpya. Ndio sababu kila wakati wanatuuliza mahali marekebisho ya Katiba yamefika. Wananchi wakisikia kwamba tunataka kuenda likizoni bila kurekebisha masuala yanayohusu Katiba, watatupiga vita. Kwa hivyo, ningependa kuwauliza Wabunge wote wakubali kurudi hapa Jumanne ili tupitisho huo Mswada halafu tuende nyumbani.

Bw. Naibu Spika, Wabunge wengi wamesema kwamba wanataka kuenda nyumbani ili wakae na kuzungumza na wananchi. Tutakuwa likizoni kwa miezi minne, kwa hivyo, tofauti ya wiki moja au siku mbili siyo tofauti kubwa. Kwa hivyo, hiyo siyo sababu muafaka ya kuenda likizoni mapema. Hata mkulima shupavu hulima shamba lote wakati mvua inakaribia kunyesha. Ni nini tunachoenda kufanya wakati wa likizo? Inafaa tumalize kazi ya Bunge ndio tuende likizoni.

Bw. Naibu Spika, ningependa kuomba Serikali ya Kenya izingatie mambo ya utalii wa nchi hii. Utalii umeharibika sana. Hoteli nyingi zimefungwa kule Mombasa na kwengineko. Watu wengi wameachishwa kazi

kwa sababu hoteli zimefungwa. Inafaa Serikali ifufue utalii, ili watalii waendeleo kuja Kenya kama zamani, kwa sababu walikuwa wanaleta pesa za kigeni.

Bw. Naibu Spika, ningependa kumuomba Waziri wa Elimu afikirie suala la kupandisha waalimu vyeo. Walimu hawana motisha, kwa sababu hawapandishwi vyeo. Tukienda likizoni inafaa Waziri azingatie suala hilo. Siku hizi waalimu wapya wanapandishwa vyeo kushinda wale wa zamani.

Bw. Naibu Spika, ningenda kumueleza Waziri wa Maji, kwamba, kule Kiambaa kuna mashamba yaliyotengwa na Serikali ili kujenga kisima cha maji cha Kiambaa. Hadi wakati huu hakuna chochote kimefanyika, ilhali Kiambaa kuna tabu ya maji. Inafaa Serikali ya Kenya iyazingatie matakwa ya wakulima, kwa sababu hao ndio watu wa maana zaidi katika nchi hii. Wakati huu bei ya mahindi iko chini sana. Wakulima hawawezi hata kurudisha zile pesa walitumia wakati wa kupanda. Inafaa Serikali iyazingatie masuala ya ukulima, kwa sababu tusipokuwa na chakula ya kutosha hapa nchini, tutakuwa na taabu. Wakati tunapoenda likizoni inafaa Serikali izingatie usalama wa nchi yetu.

Kwa hayo machache, ninapinga Hoja hii.

Mr. Werah: Thank you very much, Mr. Deputy Speaker, Sir, for giving me this opportunity to support this Motion. First of all, I would like to talk about our Constitution. The Constitution of Kenya Review Commission (CKRC) is doing its job very well. It has done a lot and we should not interfere with the constitutional review process which is going on very well. Still on the constitutional review process, we want a Constitution which we can all understand. A Constitution that a mother in Mandera, Ijara, Maasai and Turkana will understand. We want the Constitution to be translated into our local languages. We also want it to be translated into the Somali language.

Mr. Deputy Speaker, Sir, on the HIV/AIDS, there has been a Question which has been appearing on the Order Paper for the last two weeks, and it has not been answered! That shows that we are not serious about HIV/AIDS. We have to be serious about HIV/AIDS because it is finishing our people. There was money which was given out to the constituencies. For instance, there are some constituencies which have not launched their committees. We do not know what formula they used to fund those constituencies. We want to know why the constituencies are funded without even launching their committees.

Mr. Deputy Speaker, Sir, in the last three days, there has been a serious issue in our daily newspapers. The issue was about terrorists having bases in Kenya. That is a very serious matter! It was uttered by a Member of Parliament in Kenya. The Member of Parliament said that we have got terrorist bases in Kenya. That is something very serious and the Government should not be quiet about it. It should state its stand because I understand the base is in Ijara District. The utterances were made by the Fafi Member of Parliament. The Government has not refuted the utterances up to this time, as to whether we have got terrorist bases or not. The Member who said that there is a base in that area did so for political motives. He just wanted to nullify the on-going process of issuing the national identification cards in Ijara District. He felt that his seat is being threatened and decided to give out the information. The Government should not be quiet about such things. In fact, we have a law which says that if anybody gives out false information, he should be taken to court. Such a person should be taken to court because what he said was completely false. I can assure you that we have no terrorist base in Ijara. In fact, in the whole province, an arrest was made in Mandera last week. We are expecting another arrest in Ijara next week by the Federal Bureau of Investigations (FBI) and the Criminal Investigations Department (CID). I can assure you that we do not have terrorists in Kenya, and the Government should give out a statement on that issue.

With those few remarks, I support the Motion.

Mr. Murathe: Thank you, Mr. Deputy Speaker, Sir, for giving me this opportunity to contribute to this Motion of Adjournment. It does not really matter either way; whether we adjourn or not! That is because the Chairman of the CKRC has expressed the desire to have the team and the review process entrenched in the Constitution. If there was a sign of good faith on the part of this Government, **[Mr. Murathe]** we would have adjourned, printed an extra Order Paper and entrenched the process in the Constitution. That would give everybody some comfort that, somewhere along the way, that Commission will not be disbanded like several other commissions which were disbanded for political expediency. But having said that, what is really bothering me is that, for the second year running, this House has not debated The Statute Law (Miscellaneous Amendments) Bill. We did not discuss it last year and we are now not going to discuss it this year. Fortunately, there was some mischievous Media Bill which will "die" with this Session, although I am convinced that we would still have defeated the Media Bill portion of The Statute Law (Miscellaneous Amendments) Bill.

Mr. Deputy Speaker: Mr. Murathe, there is no such thing as the Media Bill!

Mr. Murathe: It was part of The Statute Law (Miscellaneous Amendments) Bill. It was on the Order

Paper and due for the Second Reading!

Mr. Deputy Speaker: That is correct!

Mr. Murathe: Mr. Deputy Speaker, Sir, we are saying that it is fortunate that it is going to "die" if this Motion is defeated today. If we are going to win, let them be assured that it shall still "die". We know the real reason why we are being asked to go on recess is because this Government is fond of carrying out mischief during the three months of the long recess. Considering that we are headed to the elections year, this will be sufficient to catch everybody unawares come next year. That is because there will effectively be only four months.

Mr. Deputy Speaker, Sir, having said that, for some of us really, whether the Constitution works or not, we would prefer that we move to the elections with the current Constitution. We set term limits for the President and we will make sure that, come the year 2002, this Government will not be in place! Some people are not interested in reviewing this Constitution for one reason or another, unless it is reviewed to achieve certain objectives. It is really not about the Constitution because we know about countries which do not have a written Constitution. We know people who work via conventional methods; that is the right way of doing things. We have in place a good Constitution which has never been implemented. There is no guarantee that even if we come up with a beautiful document, it will assure Kenyans of a free and fair level playing field. We have learnt a lot, including the fact that rigging has now become part of electioneering! Let it be known that whatever happens in the year 2002, Kenyans have seen with their own eyes what bad governance can do for the last 23 years. It is time that we all agreed that the time to change the governance of this country has come, whether some people want to sabotage the constitutional review process or not!

Mr. Deputy Speaker, Sir, when we talk about quorum--- That is because a friend of mine, an older Member said that we are lacking quorum. I think we need to clear that. It is there all over the world in Commonwealth countries. It is only when you have the Parliamentary Question Time in Britain that you get full House, particularly when you have departmental committees working! Those systems of committee work presuppose that the House Committees do a thorough job on an issue and, therefore, they work on behalf of the rest. That, probably to me, explains why many Members do not take a lot of interest in the final stages of deliberations.

Mr. Deputy Speaker, Sir, as we go on recess, I want to ask---

(Applause)

It does not matter! Next week---

The Assistant Minister for Agriculture and Rural Development (Mr. Sumbeiywo): Thank you very much, Mr. Deputy Speaker, Sir, for allowing me to contribute to this Motion. This is a straightforward Motion and I support it.

Mr. Deputy Speaker, Sir, I would like to join my colleagues who have already spoken, especially hon. Anyona, who said that we are tampering with the timetable of this House. There is a House Business Committee which decides on the timetable of the business of the House. It was agreed that we were going to go on recess on 6th of this month. That never materialised because we had the Sugar Bill and the Coffee Bill which we had to pass. We have to behave as leaders and the representatives of our people. We represent 28 million Kenyans! All of them cannot come to this House to present their views and state their problems. We have been elected, and we must behave like elders! When we say that the timetable of the business of the House ends on a certain date, we have to abide by that resolution. It was a resolution of the House that we should go on recess today. Unless the opposers of this Motion have an ulterior motive on their part, I do not see the reason why we should not go on recess today. These hon. Members know that we need to do certain things before the next General Elections. If they had something in mind, they should have said it before. There is nothing to stop the Constitution of Kenya Review Commission from carrying out its business as it is legally constituted at the moment. The public has the right to air their views. By saying that we should spend another week to entrench the Commission into the Constitution means that the Commission at the moment has no **[The Assistant Minister for Agriculture and Rural Development]**

powers! We cannot be dictated to, by anybody from that Commission, like what is happening at the moment. Some members of that Commission are dictating to the public and sometimes even to the hon. Members of this House! That is not in order and we are not going to accept it.

Mr. Kihoro: On a point of order, Mr. Deputy Speaker, Sir. I seek your guidance here. The hon. Member has talked about certain members of the Constitution of Kenya Review Commission interfering with the process, and dictating to the public and the hon. Members of this House. Could you ask him to substantiate that allegation?

He has made a serious allegation that the Constitutional Review Process is being interfered with already!

The Assistant Minister for Agriculture and Rural Development (Mr. Sumbeiywo): Mr. Deputy Speaker, Sir, I said it is being dictated to, but not being interfered with. Those are two different words! We are being told that so and so has said that if the Commission is not entrenched in the Constitution at this time, somebody could go to court and challenge it. I believe that some of our colleagues on the other side of the House are in the process of perhaps, persuading the Commissioners to ask one of the lawyers to go to court and challenge the legality of the Constitution of Kenya Review Commission.

Mr. Deputy Speaker, Sir, I think we should go on recess, instead of allowing certain persons to ambush the House with untenable demands. We are being ambushed on the last day when we are supposed to be going on recess. Where were we all this time? We should have brought this Bill before the House! What prevented us from debating what the hon. Members on the other side of the House are demanding now? We want to go home and talk to our constituents. We have numerous problems. Right now, maize is rotting in our stores because we cannot find markets. We have no time to go and look for markets to sell our grains. So, we have to go home in order to find ways of solving those problems in our constituencies.

With those remarks, I beg to support.

Dr. Kituyi: Mr. Deputy Speaker, Sir, it is very hard to respond to some of these tired arguments about wanting to go home. KANU is full of hon. Members who are paid mileage allowances every week to go home. I do not know why they have not been going, and they have to wait to go home this time.

Mr. Deputy Speaker, Sir, if the Government has decided to be dishonest and go back on its word on entrenching the Constitutional Review Process in the Constitution, it should find a more eloquent person to present it, but not these banal speculations about some people on this side of the House--- You know what they say? "Entrenching the Constitution in the Commission." You cannot even understand what they are trying to talk about! These are tired arguments that do not make any sense. Why did the Government promise in the merger agreement that the Commission would be entrenched in the Constitution, and today, it is rolling out persons who are crippling themselves over words by trying to suspect that there is something fishy and that there are some Commissioners who are getting powerful?

The Minister for Vocational Training (Mr. Ruto): On a point of order, Mr. Deputy Speaker, Sir. Is it in order for the hon. Member to anticipate debate on the entrenchment of the Constitutional Review Process in the Constitution when in fact, that is not the business before the House?

Mr. Deputy Speaker: It is a fact that we are debating the Motion for the Adjournment of the House *sine die*. So, he cannot be anticipating debate because everything that has appeared in this Session "dies" when we go on recess! I hope you know that there is nothing to anticipate.

Dr. Kituyi: Mr. Deputy Speaker, Sir, I volunteer some free advice to my good friend, Mr. Isaac Ruto; that when they call him an elder, he should act like one. I hope that advice will help him. So, I am not going to say anything more about the Constitutional Review Process.

Mr. Deputy Speaker, Sir, yesterday, in the mainstream media, the Government of Kenya was reported to be on the brink of entering into an arrangement, under which American and allied forces might use military facilities in Kenya to wage war against groups identified and perceived by America to be terrorist organisations in a neighbouring country. I have a procedural and a substantive problem with that story if it is true. In fact, that report has not been refuted by the Government.

Before President Bush went to war in Afghanistan, he called the American Congress into an emergency session to seek the concurrence of the political leaders of that country, to commit his forces to war in a foreign territory. When the Prime Minister of Britain, Mr. Tony Blair enjoined himself to the war against terrorism in Afghanistan, he called a night session of the House of Commons to get British political leaders to concur with his position before committing British forces to the war in Afghanistan. If for some reason, the President of Kenya wants to enjoin Kenya to a war in Somalia, the most decent democratic thing to do, is what those who are asking him to give these facilities did in their countries. I would have expected Members of Parliament from the Government side to support the idea that even on Christmas day, the President of Kenya would call a session of this House to tell us exactly what he is thinking about availing military facilities to British and American soldiers if they want to wage war against some groups in Somalia. That is a major procedural problem.

Mr. Deputy Speaker, Sir, my substantive problems are three. First, the most eminent thing in our national interest in the on-going events around Somalia and southern Sudan is that we are emerging as a leading voice of peace engineering in this region. That we are hosting the dialogue process for peaceful resolution of conflicts in those regions. If we enjoin ourselves to a struggle which already is getting most important support from the factional groups that are based in Addis Ababa, which have been refusing to come to the Nairobi round of peace

negotiations, we are strengthening the hand of Hussein Aided and undermining the hand of Hassan Salat, the interim President, whom we have given recognition as the Head of State of Somalia. Why should Kenya surrender eminent position as peacemaker? Why should Kenya abandon a peace process which has brought factional leaders to Nairobi today? They are in Nairobi. They were to have a meeting today, but it has been postponed to tomorrow. The ones who have been coming are committed to peaceful resolution of problems in Somalia. The ones who want to support America and British incursions in southern Somalia are the ones who have been refusing the Nairobi peace talks, the belligerent who have been operating out of Addis Ababa. Why does Kenya voluntarily want to surrender significance in Somalia's matters to Addis Ababa?

Thirdly, Mr. Deputy Speaker, Sir, this country has proven that it is vulnerable to terrorist activities. We have been victims of the bombing of the Norfolk Hotel. We have been victims to the debacle surrounding the hijack of Ocalan. Worst of all, we have been victims to the destruction of August 1998 at the American Embassy in Nairobi. We have demonstrated our vulnerability to this group---

Mr. Deputy Speaker: Do you oppose or support?

The Assistant Minister for Labour and Human Resource Management (Mr. Chanzu): Thank you, Mr. Deputy Speaker, Sir, for giving me the opportunity to support the Motion of Adjournment. As Members of Parliament, we passed various Motions and Bills in this House. We have passed a legislation which empowers the Government to allocate and disburse money to various constituencies for various projects, like the Kenya Roads Board money. We have heard that every constituency has received up to Kshs2 million and it will be important that Members go for recess so that they can oversee what is going on in their constituencies with regard to these finances. It is very important that after a given time, we have a break so that we can go out into the field and be able to give a feedback to this House. That is why I support the Motion of Adjournment.

Mr. Deputy Speaker, Sir, the Government is committed to its programmes and, therefore, I do not see the reason why Members should doubt this. Some of the Bills which have already been passed in this House, and which we count on as having achieved quite a lot in this Session include the Sugar Bill, the Coffee Bill and several others. We should be proud of this. There have also been several Private Members' Motions which have also gone through this Session.

Mr. Deputy Speaker, Sir, with regard to the Constitution of Kenya Review Commission (CKRC), this is also operating under an Act of Parliament. I do not see the reason why Members should be worried that something negative is going to happen as far as the Commission is concerned. Of late, the Commission has issued a programme that they are going to be visiting our constituencies and they would like Members of Parliament to be present so that they can support and assist them. It is proper and timely that we go for recess so that we can be able to assist the commissioners in their duties in the various constituencies. Again, this being Christmas time, it is important that Members take a break so that they can be with their constituents.

Mr. Deputy Speaker, Sir, recently we resolved to extend sitting time of the House so that we can finish the business of the House before we go on recess. We extended the time from 6.30 p.m. to 8.30 p.m. But within this short time, we have noticed that any time after Six O'clock, the House has suffered lack of quorum. This proves that even if we were given more time, the situation would even be worse.

With those few remarks, I beg to support.

Mr. Kihoro: Thank you, Mr. Deputy Speaker, Sir. I stand to oppose the Motion of Adjournment. I believe that we should be able to do more this Session. We should be able to entrench the process of constitutional reform in the Constitution. The way it is now, we have got the Constitution of Kenya Review Act; just an Act of Parliament which was passed by a majority of the Members. The process that is on-going is based on a simple Act of Parliament. The process is not constitutional because at the end of the day, the Commission will be required to produce a draft Constitution for this country replacing the present Constitution which has been enacted by two-thirds majority in this House. The Act that has been enacted by this House without the support of the constitutional amendment is subversive to the Constitution. That is what needs to be rectified. Without that, debate cannot even start. Equally, the process of amending the Constitution should be entrenched in the Constitution because it is going to replace the present Constitution which is enacted by two-thirds of the majority in this House. That is why it is important. Three months is a long period and we have seen the process which we have gone through in this country, whereby just a few people on Harambee Avenue or in State House can intrigue and organise a movement that can derail such an important process. So, that is why it is important that the CKRC should be backed up by a constitutional amendment. We have time to make that amendment. Next week, we only need one day to do that. Within four hours, we can enact what we are proposing. There is no reason why Members from the party opposite cannot agree that, that is what we need to do. If we are talking of a good Christmas holiday and a new year, we should leave each other in a bit of agreement. Let us not tear each other apart the last day when this Parliament has done very good work this year. Next week is not too far. We need to agree that when

it comes to voting on this Motion, we get two-thirds of the Members here on Tuesday to complete the process and we can go for recess on Wednesday. That is very important.

Hon. Members have gone a long journey, but we continue to democratise this country. The war will continue until we get a democratic Constitution that will empower people and one that will entrench democracy, and not dictatorship in the name of a Constitution. That is what we want to amend. We want to have a democratic country and Constitution. We want to make sure that we repudiate the process we have gone through whereby we have entrenched dictatorship in the present Constitution. That is very important.

I hope the Attorney-General has agreed to withdraw the Statute Law (Miscellaneous Amendments) Bill because last Tuesday, this was the next agenda on the Order Paper. Now I can see that it is not there and to me that means that the Attorney-General has agreed against it just like he did last Session. During the last week of the last Session of Parliament, we had this Statute Law (Miscellaneous Amendments) Bill and the Attorney-General did actually move that Bill. When the Session came to an end, the Bill also died with it. This particular time, I can see he has done the same. There is no need to continue holding the media and the country at ransom with the sword of damocles hanging over their head and not coming to any conclusion.

Mr. Deputy Speaker, Sir, I beg to oppose the Motion.

The Assistant Minister for Transport and Communications (Mr. Keah): Thank you, Mr. Deputy Speaker, Sir, for giving me this opportunity to speak on this Motion. I support this Motion for the following reasons. We have the House Business Committee which determines what business will be brought before the House. This Committee made a decision last week that for the rest of this Session we will have three or four Bills to be debated and finalised namely; the Coffee Bill, the Sugar Bill and the Copyrights Bill. I understand also that the Statute Law (Miscellaneous Amendments) Bill was to be brought before the House, but this has not been done. This is because the House Business Committee which is in charge of that, has not yet finalised its work.

I support this Motion for us to adjourn the House simply because this is in accordance with what the House Business Committee has decided we should do. If the House Business Committee decided - and we gave them that mandate - that we should work through Christmas and the New Year, I do not think we would really be opposed to it. Hon. Members were at liberty to push for the entrenchment of the Constitution of Kenya Review Commission Bill that ought to be brought here, through the House Business Committee as early as possible and for it to be given the priority that it deserves. This did not happen. To ambush us here when we are all geared to go on recess, is really politicking. In any case, every December--

Mr. Deputy Speaker: Order! Hon. Members have the liberty to vote on this Motion of Adjournment. If they want to oppose it, it is only fair that they should be allowed to advance their argument. So, they are not doing anything out of the ordinary. They are acting as Members of Parliament.

The Assistant Minister for Transport and Communications (Mr. Keah): Thank you, Mr. Deputy Speaker, Sir, for your guidance. I am only advancing my argument to try and persuade them to vote for the Motion.

Let me further proceed and say that we want to go and spend Christmas with our families. The Muslims would also like to spend Idd Mubarak with their families. I think that is tolerable. We would all like to relax during the New Year and come back here refreshed and ready to face any challenges and debate any Bills. Before I sit down I would like to urge my colleagues not to politicise matters for the sake of politicking. Let us work together as a team. This is my appeal. As we go for recess, and I hope you will support this Motion, I want to once again appeal to the Ministry of Agriculture and Rural Development to hasten the regulations regarding the coconut industry. I cannot avoid mentioning this issue.

I would like to appeal, not only to the Ministry of Agriculture and Rural Development, but also the law authorities to ensure that Kaloleni people are at least given the opportunity to enjoy their Christmas and New Year holidays. There should be no harassment in so far as drinking of *mnazi* is concerned. We will advise our people to do it with moderation. I would like to ask the law enforcement agencies to ensure that there is no harassment as far as the utilisation of every product of the coconut tree is concerned during these festivities. Some of you know what I am talking about. I would like to urge the Ministry of Agriculture and Rural Development to ensure that the Coconut Industry Board legislation is brought to this House so that the coconut can also be given priority like tea and coffee.

I beg to support.

Dr. Ochuodho: Mr. Deputy Speaker, Sir, I stand to oppose the Motion of Adjournment. Listening to a number of colleagues, especially on the other side, I have noted that they are praising Members of the House for passing a number of Bills. What they seem to have forgotten is that a number of these Bills that we passed have not been assented to. With the experience of the Head of State rejecting the "Donde" Bill, they should not be surprised by the fact that some of them have not been signed. It is not a simple matter. We should not take it for

granted that they will all be signed. I will be a bit slow at giving credit to hon. Members for Bills that we have already passed.

Be that as it may, listening to contributions from the other side, hon. Members seem to assume that we will obviously be back to the House in March. They are forgetting that the Head of State has a secret weapon. He can prorogue or dissolve Parliament any time. Indeed, there have been signals from none other than the Head of State regarding the smooth running of the Constitution of Kenya Review Commission. The Head of State asked recently: "How can a blind man lead?" with regard to the Commission that we are talking about. It seems like these remarks are made like very calculated doses. Only recently he said the Commission has been infiltrated. We do not know what he will say next month. This seems to be a very well calculated move to scuttle the constitutional review process.

It is in this regard that I would be very reluctant to give the Head of State, when he has a secret weapon, a blank cheque because KANU has proved that we cannot work with them on trust. It is in this regard, that hon. Members, especially on this side of the House are saying we should entrench the Act in the Constitution. I know that once Mr. Oloo-Aringo was pushing for the amendment of Sections 58 and 59 that would give the House the powers to regulate our time table. I also take cognisance of the efforts that have been made by the other side to resist the bringing of those Bills into the House. I then asked myself what motive would they have, if the Government and the Head of State in particular, were well meaning. If the Head of State did not intend to run again for presidency, why would the Government side try to resist or delay the passing of Mr. Oloo-Aringo's Bill which would have allowed us to regulate our own calendar? I smell a rat. It is in this regard that I think that before we go for recess, we should entrench the Constitution of Kenya Review (Amendment) Act in the Constitution.

Mr. Deputy Speaker, Sir, I was listening to some Members contribute and some of them questioned: "Why is it only now, at this late hour, that the Opposition is trying to cry wolf?" It must be remembered that the Bill we are talking about is not an Opposition Private Member's Bill; it is a Bill of the Government. It is also wrong, as some hon. Members have been saying, that the House Business Committee has resolved it. They are not telling us that it was not unanimous. Hon. Members of the Opposition did not support the proposal that is being advanced by the Vice-President and Minister for Home Affairs. So, it should go on record that hon. Members of the Opposition, within the House Business Committee, did not support the adjournment of the House without entrenching the Constitution of Kenya Review (Amendment) Act in the Constitution.

Mr. Deputy Speaker, Sir, I must also take issue with the Constitution of Kenya Review Commission. I understand that they are ready to move to the constituencies to start collecting views. However, I ask myself: "What kind of views are being collected?" I thought views should be collected only once civic education has been imparted. I know they argue that they are taking views from professionals who are already enlightened. However, I can bet that even a number of us hon. Members here, including myself, in the House, there are still things that we need to be educated on with regard to the constitutional reform. So, if even lawmakers still require some civic education, then who are we to assume that professionals out there, regardless of whether they are lawyers, journalists or computer people, are enlightened about the process?

Mr. Deputy Speaker, Sir, I want to confess that before I entered into politics, I never even used to have time to read a newspaper. When I was purely a computer expert, for about a month, I would never even touch a newspaper. I would want to believe that many professionals are like that because they focus on their areas of specialisation. When you are highly specialised you focus on that area. So, I would want to challenge anyone who wants to claim that professionals are already enlightened because I think they also need civic education. It is in that regard that I wonder whether we are being genuine to ourselves when the Ghai Commission says they are set to go and collect views from professionals in their constituencies.

Mr. Deputy Speaker, Sir, as I oppose the Motion, I am only hoping that if we continue---
I oppose the Motion.

Dr. Anangwe: Thank you, Mr. Deputy Speaker, Sir, for giving me the opportunity to contribute to this Motion and let me say from the outset that I support this Motion of Adjournment.

I support this Motion of Adjournment because of the reasons that my colleagues on this side have already mentioned but more importantly, we need to go home and "recharge". We have spent months here debating and passing Bills and we need to go home and reflect on them. Many times when you read letters to the editor, hon. Members of Parliament are being accused of having deserted their constituencies. At least, this is the golden opportunity to go home and link up with our constituents so that they no longer continue to accuse us. Those who are saying they do not want to adjourn, probably have better explanations but they risk being accused of this kind of misdeed.

Mr. Deputy Speaker, Sir, we have passed here very important Bills of which, many of them, our wananchi do not really know what it is that we have passed here. For instance, in my case, where I come from,

Butere Constituency or Butere/Mumias District, on Tuesday we passed the Sugar Bill and some of the changes we have made in the sugar industry are far-reaching. We need time to go and explain to our constituents the implications of the changes that have been made and we need to spend time doing that. If we are going to continue with the Sessions of this House, wananchi will not be able to know what this particular House has passed and the changes that have been made that will be of benefit to them.

Mr. Deputy Speaker, Sir, I know the scapegoat that has been used in respect of continuing this Session is that we need to pass this Motion on the entrenchment of the Ghai Commission into the Constitution. However, the Leader of Government Business has already assured us that notwithstanding the lack of entrenchment, the Ghai Commission is still continuing and in any case, we still have time when we come back in March to be able to do the entrenchment.

However, let me disabuse this House of one fact. Entrenchment of the Constitution of Kenya Review Commission into the Constitution is not a guarantee that it will come up with the best product and be assured of continued performance. There are many constitutions that have been made in this world where there was no entrenchment of the review commission into the Constitution. A case in point is, of course, the group that went to Lancaster. Elected representatives went to Lancaster House, discussed with the British Government and came up with a document which has sustained us for over 38 years. Nobody ever questioned or asked for its entrenchment. I am not saying we should not but it should not be the case. In the case of America, a constitution was made by about 55 delegates who sat and went ahead and contrived a very good constitution that has lasted over 200 years.

Mr. Deputy Speaker, Sir, all I am trying to say is that let us not have so much faith in the entrenchment of the constitution review into the Constitution as if it is a panacea of the kind of hurdles that may come along the way. You can still entrench the constitution review Act into the Constitution and if there is no political will, that Constitution will still face the same fate. What is important is to sustain the current political will in the country towards constitutional review. Kenyans are committed to having a new Constitution and I believe, even KANU, is committed to having a new Constitution. Let us sustain that goodwill. However, what I may also ask the Constitution of Kenya Review Commission to do is to help us sustain that political will. Sometimes certain utterances come from the Commission itself and one wonders whether it really knows what it is supposed to be doing.

Mr. Deputy Speaker, Sir, I know one issue that is nagging this country is tribalism, but my best bet is that the best way to solve tribalism is to take it as a reality and device a constitutional order that will provide for it to be canalised into productive use. I do not think that the Constitution itself can solve this particular problem of ethnicity. We only have to create structures that can accommodate and canalise this particular attribute of the Kenyan society so that we have a more stable and sustainable society. The best cure for tribalism in this country is to ensure that there is entrenchment in the Constitution for equitable distribution of resources. Many of the animosities we have in this country---

I beg to support the Motion.

Mr. O.K. Mwangi: Thank you very much, Mr. Deputy Speaker, Sir, for giving me this opportunity to oppose the Motion of Adjournment. It is not bad for Members to feel that they would want to go home. However, I wonder what we are going to do at home.

(Mr. Ndwiga stood up in his place)

Mr. Deputy Speaker: Order! Hon. Ndwiga, you have seen enough to know that what you are doing is totally out of order, particularly on a day when we are debating a Motion for the Adjournment of the House.

Proceed, Mr. O.K. Mwangi!

Mr. O.K. Mwangi: Mr. Deputy Speaker, Sir, I was saying that although Members would want to go home, we are wondering why we should go home, particularly when it is on record that the President of this Republic has slammed a ban on Harambees everywhere without even giving reasons. Even when the President knows that there are problems in education in secondary schools where school fees is going up at a very exorbitant rate and there are Harambees all over the place for medical bills, he just comes and bans Harambees and then Members want us to go home when we really do not know what we are going to do there. What are we going to do at home when there are no Harambees and when there is a lot of business pending in this House, particularly the question of the entrenchment of the CKRC into the Constitution which is very paramount and vital? The reason for this is that we are now in a process of revising and rebuilding the Constitution of Kenya and it should stand on its feet to defend anybody who may want to misdirect the process for reviewing it. The Constitution itself should provide guidelines as to how it should be done.

Mr. Deputy Speaker, Sir, that is why it is very important to entrench the CKRC Act in the Constitution so

that anybody who wishes to tamper with the process is barred; so that the constitutional review process is free and independent and can come out with the type of Constitution that Kenyans want.

The Government is on record as having said that there are some institutions they would not want them to conduct civic education. I tend to think that, that is why the Government is opposed to having the review process entrenched in the Constitution, so that they can disband the process while we are on recess. You note that the Motion of Adjournment is *sine die*, meaning that we do not know the definite date when Parliament may re-open. Therefore, its re-opening can be delayed. It does not even say who will recall Parliament. If anything happens to the constitutional review process, we shall not be around to defend it.

At the same time, you know that this House - and I would like to thank hon. Members - passed the Children's Bill which has provided that education shall be free and compulsory. We are now going to January when schools should re-open and the Minister promised in this House that he is going to look for funds for the running of education in the country. The Minister has not come back to give us a guarantee or to tell us whether he had found that money or not. We would require extra sitting days so that the Minister could come back and confirm to the House that he had found that money. He should bring to the House the Revised Estimates so that this House allows him to draw money from the Consolidated Fund in order to finance education services in January. Otherwise, the House will not be sitting in January - if we pass this Motion - when the country will be experiencing crises; where children who have gone to school are sent away because they have not paid fees. The President has also said that education will be free of charge. That is why I would like to persuade my colleagues to not agree to this Motion. They should, at any cost, refuse to pass this Motion so that the House continues with its sitting. This is in order for the House to debate the matter of school fees if schools re-open and there are crises.

The Minister for Vocational Training (Mr. Ruto): Thank you, Mr. Deputy Speaker, Sir. I stand to support the Motion; that, we need time to go to recess. On their own admission, my colleagues on the other side, apparently, have absolutely no idea what to go and do at home. I suppose that, indeed, they even do not know what to do even when they are here. In that case, we suggest that they go home and do nothing there. You will notice that they will only troop into the House to block a Motion, but during the normal times, they are not even available for debates. The hon. Members do understand that---

Mr. Kathangu: On a point of order, Mr. Deputy Speaker, Sir. I wonder whether it is in order for the Minister to insult those from the Opposition side who have spoken today and say that they know nothing about what they are going to do and also they do not know anything about what they are doing here. I want to know whether it is in order for a Government Minister to allude that hon. Members from the Opposition side know nothing about what they are doing here or what they can do in their constituencies?

Mr. Deputy Speaker: Order! I think there is a whole world of difference between saying "you have nothing to do here" and to say that "you are doing nothing here."

Proceed, Mr. Ruto.

The Minister for Vocational Training (Mr. Ruto): Mr. Deputy Speaker, Sir, I have it on authority of the last speaker that they know nothing about what to go and do at home. I am not cooking that. I think, at the moment, it is time that we go home. This is a festive season, and this is the time to be with our constituents, even in social functions. If we do not have Harambees, at least, we need time to gather their views on the constitutional review process. We also need to update our mandate continuously from our constituents.

[Mr. Deputy Speaker left the Chair]

[Mr. Speaker took the Chair]

I want to suggest that we should break so that we can also appraise the needs of our constituencies. We also need to prepare our constituencies for the constitutional review process. In January, or thereabouts, the CKRC will be going round the country collecting views and I think it is appropriate that, at this particular time, we are with our constituents and ensure that our ideas are properly synchronized so that we do not have any misrepresentation when that particular time comes.

Mr. Speaker, Sir, early in the year, we also understand that there will be civic education going on in various parts of the country and civic education is important so that the majority of Kenyans can participate effectively on the review process. Arguments have been brought forward about the need for entrenchment of the CKRC Act in the Constitution. Considering the lack of quorum we have faced these past few days, it may not even be possible for us to raise the actual physical numbers of 145 hon. Members to be able to entrench the CKRC Act into the Constitution. Therefore, that issue is better left until a later date. In any case, we need enough time to

debate on such an issue. We need not go back and start debating a lot of issues regarding the need for the review of the Constitution. There is unanimity, and Kenyans and all of us are in agreement. Indeed, it is this Parliament that has passed several Bills concerning this particular process. It is unimaginable for anybody to say that, that particular process is in any danger. Indeed, the Commissioners themselves are on the job; they are doing well. They are moving round the country and they are on course. We are certain that this process should be through in the stipulated time. There is no need for us to keep coming up with excuses to stay on when we need to do other things. I think it will not be essential to take long on these particular issues. I only suggest that these hon. Members should go and have a nice time, be with their constituents, and come back here more energised in order to do better business for the nation.

Mr. Kibaki: Mr. Speaker, Sir, thank you for giving me the opportunity to speak on this matter. The issue of whether to adjourn or not to adjourn is what is facing this particular House.

The reasons that have been given for wanting to take an extra two days or even one day, is perfectly reasonable. I do not need to speak further on it; namely, that, we will be able to entrench the Constitution, even if we met only one extra day. Even today, we could have done it. But if we give the House notice, I am sure 145 hon. Members would turn up. There is no question of our failing to get the two-thirds majority. I am sure we will get the two-thirds majority.

The point that I want to make is that during this recess, the Government should now come out precisely clearly on the matter of education. It is too serious a matter to have a Minister speak one word; a President speak another language. We, the parents, want free compulsory primary education. We know Kenya can afford it. Even as we are here today, it is the parents who pay for primary education. They build schools; the Government has not built a single classroom over the last 15 years. It is the parents who pay teachers and, therefore, it is time we removed the criminal actions where pupils and students in Isiolo and other dry regions are being sent home to lose their security in life totally, only because they cannot afford a Kshs100 or whatever the money is wanted. This is because that is not going to change it. It is not going to change even when we come back here. That is not going to change the matter. Even if we come back, it will not change. I do not know what those in the Government think about this matter. There is no reason to go quarrelling about how much you should demand. Sixty per cent of this country's population lives below the poverty line, and then you keep hoping that school fees will come from those same people, or from those who live on famine relief distributed by our good friend here. Does the Minister expect people who live on famine relief to raise school fees for their children? I hope that hon. Members in the Government are going to see that reason; they need not be persuaded. I believe that they have a humane spirit, and that in the Christmas spirit, they will declare free primary education to children all over the country starting January, 2002. That will be a wonderful way to start the new year.

Secondly, the Minister in charge of environment should ensure that felling of trees is stopped. The rivers which originate from the Aberdares Mountains and Mount Kenya are going to dry. How is anybody going to benefit from the starvation that will follow the drying up of our rivers? In any case, the current Government will go into record as the one that destroyed this country's forests, which have been with us since God Kenya. That will be a terrible record to go into the books of this country's history. Those in the Government are the ones who issue licenses to some people to fell trees in our forests. So, they should stop moaning that our forests are being destroyed. This country's forests are not being destroyed by devils from hell but rather by Kenyans who have been issued with licences to undertake logging by the Government of the Republic of Kenya.

Finally, as we proceed on recess, the Government should stop its behaviour of disrupting Harambees and other public meetings convened by hon. Members. What law empowers the President and the Government to control us over matters of Harambees? Surely, there is no such a law in the statute books. How come that those in the Government have not matured enough to know that such a law does not exist? How can we be ruled by decree? We are not a military state. We should have the freedom to choose what to do and what not to do. If we feel that we should settle the hospital bill for a friend, why should we not raise the required amount through Harambee? Such cases are not considered when one announces something without thinking. Unfortunately, such pronouncements become law, and the police are forced to enforce them. That is too mistaken. I know that there are Ministers who keep in touch with the rest of Kenyans; they should advise the President on such matters.

Mr. Speaker, Sir, I beg to oppose.

The Minister of State, Office of the President (Mr. Sunkuli): Mr. Speaker, Sir, in support of this Motion, I wish to say that our duties, of course, do not end in this House; they also extend to our constituencies. They do not extend to our constituencies because we are going to conduct Harambees but rather because we have a representative mandate, and we have to continue keeping in touch with them during Christmas, Easter and during any other times when they are happy or sad. It is very important that we proceed on recess because we have had a good Session during which we have worked very hard. I am very glad to realise that, in fact, the majority of hon.

Members do recognise the importance of keeping in touch with their constituents.

Mr. Speaker, Sir, on Monday, the Secretary of State for Defence of the United Kingdom (UK) came to Kenya to see His Excellency the President. I notice that the Press has reported that we discussed matters touching on Somalia, and that Kenya would provide military bases to the United States of America soldiers for use in their anti-terrorism campaign. I would like to clarify that the discussion between the President and the Defence Secretary of the UK did not touch on that issue. When time comes for Kenya to make such a decision we shall, of course, make our contribution against terrorism like any other nation of the world. We shall carefully look into our national interests, but we cannot behave any differently from other countries in this regard. However, we have not got there yet. So, there has been absolutely no reason for the Press to speculate on the matter.

When we come back from recess, we will tell the House the efforts the Government intends to put in place to enhance security of the City of Nairobi. We are going to explain and act more to ensure that the slums in the City and all other areas within Nairobi are carefully looked after. In fact, the President stated during the Jamhuri Day celebrations that the Government, indeed, has further plans on how to enhance the security of the City of Nairobi. So, we should go home.

I do not believe that some hon. Members are quite correct in saying that we want to entrench the constitutional review process into the Constitution. We have spent many months discussing the review process for so long. Why is somebody opening the question of the review process again? Why can the Ghai Commission not get into the substance of the matter and stop delaying on these matters? This is really dishonest of Kenyans to begin to tell them how the Constitution can be amended when we have made very many concessions on the issue. When we are expecting the Constitution of Kenya Review Commission (CKRC) to visit us in our constituencies, some hon. Members are telling us to continue sitting here to discuss a non-existent issue called "entrenchment into the Constitution the review process". This will be a total waste of time. So, let us tell Prof. Yash Pal Ghai to get going with the job we have given him to do.

I heard the Leader of the Official Opposition say that we are going to raise the two-thirds majority that is required to pass the Bill by which to entrench the review process into the Constitution. He is, himself, not in control of the required two-thirds majority of this House. So, how can he be sure of that? If we try to do that, we will only end up wasting the time of this House. When the President says that he has suspended holding of Harambees, who does not know that, as per the current Constitution, the President is in charge of the executive powers of this country? The Constitution states clearly that the executive power of Kenya is vested in the President. The Leader of the Official Opposition wants to be this country's President. I am sure that he will want to use wisdom to see when Kenyans need to be bothered with Harambees and when they do not need to be bothered with Harambees. If he will not have that kind of wisdom, that is one of the reasons as to why I continue saying that hon. Members on the Opposition do not deserve to lead this country's Government. The President acted wisely in issuing the directive. Let us go for Christmas; let us not go and bother our people and bog them down with Harambee collections when they are supposed to be enjoying their Christmas holiday.

With those remarks, I beg to support.

Mr. Speaker: Mr. Munyao! In fact, I had my mind on picking a lady. You are very lucky!

Mr. Munyao: Thank you very much, Mr. Speaker, Sir. I am glad to be that lucky and I wish I continue being lucky even into the new year.

I will be very brief. As I oppose the Motion, I want to take this opportunity to wish Muslims, who will actually celebrate *Idd Mubarak* before we come back on Tuesday - I know we are going to succeed in opposing this Motion and we will come back on Tuesday - a happy *Idd Mubarak*. They should enjoy their *Idd Mubarak* on Monday and then those who will be with us here on Tuesday, like Mr. Nassir, will have fresh minds for working with us.

I oppose this Motion of Adjournment. I agree that we as leaders, are tired and need to go on recess, not because we need to go to our constituencies, because I believe almost every hon. Member here has been out to his or her constituency. I am opposing this Motion because the Head of State and the Government at one time promised this country that the Constitution of Kenya Review Commission (CKRC) would be entrenched into the Constitution. We want to know from every speaker today, from the Government's side, what has changed that view, so that now the Government has thought about something else.

Mr. Speaker, Sir, last week, I was with the Leader of Government Business, who felt that we may not get a two-thirds majority to oppose this Motion. I took time to plead with him to try to convince KANU hon. Members or give us the mandate to lobby for the two-thirds majority to vote for the entrenchment. Every leader here would like the CKRC to be entrenched into the Constitution. It raises a lot of doubt whether the Government is committed to the constitutional reform process.

It was just the other day when the CKRC had called a very important meeting with all the political parties

in Parliament at Utalii Hotel. I expected to see most of the senior KANU hon. Members in that meeting because this was to be a serious discussion, only to be surprised because none of them turned up. If we take into account all what has been happening since the CKRC was formed, we are left in a lot of speculation and doubts as to whether KANU is willing and prepared to support the constitutional review process.

We should go on recess after Tuesday next week. I would wish all of us to vote out this Motion, so that we will come back here on Tuesday next week, and then after entrenching the CKRC into the Constitution, we will go for recess. We should just sit for one hour on Tuesday and break for the recess.

As we go on recess next week, I will want to ask the Minister in charge of internal security and the entire Government to look into one very disturbing aspect. Parking boys in this City have become a total menace. As you drive out of Parliament Buildings towards Uhuru Highway, you cannot drive with your windows open whether, it is during the day or even at night. These boys are really a menace. They are disturbing everybody. Driving along Tom Mboya Street is even safer at night than during the day. These young people are really embarrassing everybody. Men, women and the business community are being embarrassed. Why can the Government not take upon itself the duty to control this kind of menace?

Mr. Speaker, Sir, we know that those children are ours. They are Kenyans and need security. I will give the Minister in charge of internal security a suggestion. He needs to talk to the Minister for Lands and Settlement, secure about 10,000 acres of land somewhere and construct schools, hospitals and all the other necessary facilities and then take all these children there. They will be educated, get medical facilities and they will be useful future leaders in this country. We need them.

With those few remarks, I beg to oppose the Motion.

The Minister for Agriculture (Dr. Godana): Thank you very much, Mr. Speaker, Sir, for giving me the opportunity to contribute to the debate. I stand to support the Motion that the House do adjourn, *sine die*.

It is normal and, indeed, has become our tradition as it is the tradition of every Parliament worth the name in the world, to adjourn for a break over this festive season of Christmas and New Year, which this year is a triple festive season of *Idd Mubarak*, Christmas and New Year. It is a time when, as hon. Members of Parliament, we will also get the opportunity to get back to our families, constituents, be merry and happy and plan for the New Year coming. It is also clear that over the last two weeks, even as we extended the sitting hours from 6.30 p.m. to 8.30 p.m. - and I must say that I have had the privilege for most of that time to sit here from 2.30 p.m., when the House starts sitting, to the end of that sitting at 8.30 p.m. or 9.00 p.m. on account of discussion on the two crucial Bills, namely, the Coffee and the Sugar Bills - it became clear that hon. Members are really tired. This is because we just managed to sail through those Bills with minimal House attendance. So, it is just right and fitting that we should go on a break.

The argument which has been advanced against this recess, namely, that we need to entrench the CKRC into the Constitution before we break, is not a sound one. To argue that we need to entrench the CKRC into the Constitution evidences a lack of confidence in ourselves as a Parliament and as leaders. If, indeed, we are serious with the constitutional review process - and I would like to presume we all are - we should then trust ourselves to keep faithfully to the mandate and the timetable that has been set. I have a fear that behind this pretext for delaying the House, is a desire by many hon. Members of this House and, indeed, many members of the Commission, to seek a way of extending the term of Parliament, which I think will be most unconstitutional and a horrible disservice to the trust and confidence the people of this country had in us when they elected us.

Mr. Speaker, Sir, as hon. Members go on recess, I would want to appeal to all that we should also use this time as a way of reaching out to our people, in particular, the farming community, on the right approaches to farming. Much as we have come through a crisis, we are in the midst of far-reaching reforms on a sector-by-sector basis. I want to take this opportunity again to thank all those hon. Members who helped us get through with those reforms, in particular with regard to the Coffee and the Sugar Bills. I want to tell the House, and the country through this House, that we are already at an advanced stage in the sectoral consultations on livestock and pyrethrum, and we are about to start consultations on cotton seed.

Let me say a word about cotton. We have restarted cotton growing after a break, and as in the first time, many of our farmers in the cotton growing areas were suspicious as to whether they would find a ready market for their crop. We are happy that the results of the last rain season have been good in terms of demand and ginneries have gone out to, indeed, even import cotton from outside. I would want to appeal to hon. Members to pass on the message to their constituents, especially those who come from parts of Meru, Coast region, Ukambani, Nyanza and Western Provinces. These are the semi-arid areas where cotton does well. They should tell their people that cotton is set to be one of the crops of the future for this country. Cotton is in short supply in the world and farmers cannot go wrong.

Similarly, I am happy to say that this also should be an opportunity for those hon. Members who come

from areas which experience good rainfall, such as the Mount Kenya region, the Aberdares Highlands and most of the Rift Valley Province, where pyrethrum can be grown, to encourage their constituents to grow the crop. This is another crop which is proving to be the crop of the future. We should all pass the message to farmers. Already the pyrethrum price is at its best for a long time and we expect it to stay that way; thanks to the recent move away in the world on grounds of health from preference for chemical pesticides in favour of natural pesticides. In the horticulture industry, for instance, we have now confirmed scientifically that when you apply pyrethene products as preservatives or pesticides on horticulture, the residues disappear completely within four to six hours. That means that you have zero residue limits on your flowers and vegetables.

Mrs. Mugo: Thank you, Mr. Speaker, Sir, for giving me this opportunity to contribute to this Motion.

Mr. Speaker, Sir, I wish to oppose this Motion on two grounds. One, it is extremely important that we amend the Constitution of Kenya Review Act, by entrenching it in the Constitution. The reasons for not supporting the Motion of Adjournment have been given by my colleagues and I wish to echo them. This is mainly because we want to make sure that nobody will take advantage of Parliament being on recess to interfere with the constitution making process.

Secondly, I would like to say that because of the many problems being experienced in the country, especially here in Nairobi where we have had clashes in Kibera which have not even settled down--- The Pokomo people are still fighting the Orma people and we have read in the newspapers about people being killed every day. I am surprised that this House wants to go on recess instead of sitting in the House to try and solve those problems. What comes first, is it this House to go on recess or hon. Members to stay around when we have such a crisis? There is the issue of rent problem in Kibera, which most of us believe has not really been caused by increase on rents but, political instigation. I am worried that the Government wants us to go on recess so that they can continue to destabilise Nairobi as we have seen it happen in Kibera. They are giving political reasons that the land has been grabbed because they want everybody to run out of that place.

Mr. Speaker, Sir, apart from the constitutional review process, there are those other questions that we have asked and which are very important. We need to continue enjoying peace in this country. Only last week some senior Cabinet Ministers and one Assistant Minister pretended to hold a peace meeting in Kibera. They held the meeting in my constituency, Dagoretti. They went there and tried to incite the people of Dagoretti, where we do not have problems on payment of rents. If it was meant to be a peaceful meeting, it should have been taken to where the problems are! What came out of that meeting was that, even the Government has information that people are planning to cause more problems in Dagoretti. If the Government has that information, those people should be arrested and charged. The Government cannot wait until we adjourn this Parliament so that they start interfering with peace in Kangemi, Mathare, Dagoretti and everywhere. We want to be assured before we go for recess that there will be no more clashes in Nairobi.

Mr. Speaker, Sir, I have no problem with Ministers coming to my constituency to discuss development. However, I have a big problem when they come to abuse the sitting Member of Parliament of that constituency, especially when they know that the hon. Member is a woman. It is a big shame! These are backward Ministers who are in this House. They cannot even respect women! I wonder if they were born by women!

An hon. Member: There is no doubt; you are a woman!

Mrs. Mugo: Yes, I am a woman. But I was elected by the people of Dagoretti with a bigger margin than some hon. Members here can ever dream of achieving! Some of them were rigged to Parliament when Beth Mugo had won in her constituency.

Mr. Speaker: Order! Order! You are now treading on dangerous grounds. We do not want abuse! You are now trying to bring abuses in the House. You are out of order!

Mrs. Mugo: Mr. Speaker, Sir, I was just saying that there are people who do not respect me as the people of Dagoretti do. When I was elected, the people of Dagoretti knew that I was a woman. So, I am asking this House and the Ministers to respect the wish and choice of the people Dagoretti. Next time they want mockery, they will take it elsewhere not to Dagoretti.

Mr. Speaker, Sir, there were some reports at 1.00 p.m. today that somewhere in Kiambu, a landlord and a tenant fought last night and one person was killed. This shows how quick the issue of rent has spread. I hope when this Parliament adjourns, a clarification should be made that we do not intend to ignite war---

Mr. Speaker: Your time is up! Mr. Nyenze, the Floor is yours.

The Minister for Heritage and Sports (Mr. Nyenze): Thank you very much, Mr. Speaker, Sir, for giving me this opportunity to contribute.

I stand to support the Motion of Adjournment because the House Business Committee allocated time for this Session and that time has come to an end. We had extended it because we had very important Bills to discuss

and pass. We have also exhausted the Budget allocation that was allocated for this Session. We have even exhausted ideas and, therefore, we cannot sit for a long time continuously. At least, we need a break.

Mr. Speaker, Sir, even if we extended this Session by another week, it is very unlikely that we will get the tools that can enable us effect the desired change. Unless hon. Members fear to go and face their electorate in constituencies, I do not see the reason why we cannot take a break. After all, this is a Christmas holiday and our constituents are waiting for some Christmas gifts. We also need to go and explain to them about the very important Bills that we have passed and consult them about what they want us to do for them. So, that is why I am supporting this Motion, and everybody should see sense in this because we are living on borrowed time now.

Mr. Speaker, Sir, the other thing that I want to add is that, the Constitution of Kenya Review Commission, led by Prof. Yash Pal Ghai, should collect views from the people, but it should not try to dictate to people the matters that should be discussed. They can express opinions, but they should not try to dictate to people. Unless the Ufungamano ghost is still haunting us, we should not bring anything like that into this august House.

Mr. Speaker, Sir, for the time that I have been in this Parliament, I have found that politics change very much. This is because some time ago, could be, I was wrong, one hon. Member made a remark when I was still in secondary school that "nobody can beat KANU because trying to beat KANU was like cutting a Mugumo Tree using a razor blade." I do not know who that hon. Member was, but he is still one of the hon. Members of this House. You can see, all of a sudden, some hon. Members are saying that KANU has become bad and it should be removed from office. I thought politics was a straightforward thing. But I have found that it is not. When you are here, you talk about a different thing, and when you go outside there you talk about another thing. We should be straightforward and consistent in whatever we do.

Mr. Speaker, Sir, in this country there are some things that are evident. For example, who else can lead this country better than President Moi? Whatever we do, some hon. Members from the Opposition side criticise us. Who else amongst all those hon. Members from the Opposition side can lead this country. We have initiated very many things, bought books, built many schools and brought prosperity *et cetera*. If you can compare our country with other African countries surrounding us like Somalia, Sudan, Eritrea and others, you will find that we are in a class of our own.

An hon. Member: Remember poverty in Kenya is higher than in those countries that you are naming!

The Minister for Heritage and Sports (Mr. Nyenze): If there is poverty, it has been brought about by some hon. Members who are sitting on the other side of the House.

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

Mr. Speaker: Order! Order! This is time for debating!

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

Mr. Speaker: What is it?

Mr. Mwenje: On a point of order, Mr. Speaker, Sir. Is the former Chairman of FORD(A) in order to impute improper motive on the Leader of the Official Opposition instead of debating the [Mr. Mwenje] Motion for Adjournment? Is he really in order?

Mr. Speaker: I do not even know what you are talking about!

The Minister for Heritage and Sports (Mr. Nyenze): Mr. Speaker, Sir, please, protect me from my friend, hon. Mwenje. I will not respond to that point of order because I have never been a chairman of FORD(A).

Mr. Speaker, Sir, most of the so-called KANU rebels or Opposition diehard leaders have served in this Government. Some were Vice-Presidents and others were Ministers for Finance. They were responsible for the mess in the Government before they jumped to the Opposition side.

Mr. Speaker, Sir, with those few words, I beg to support the Motion.

Dr. Wekesa: Mr. Speaker, Sir, I rise to oppose the Motion because there is need to entrench---

Mr. Speaker: Order! For the general guidance of the House, time to debate this Motion elapses at 6.55 p.m. and I will put the Question at 6.55 because we began at 3.55 p.m.

Proceed, Dr. Wekesa.

Dr. Wekesa: Mr. Speaker, Sir, I want also to register my message of condolence to the family of the late Councillor Masaba who died while being interrogated by the CID officers in Kitale. I have yet to get all the details, but Cllr. Masaba was a deputy Mayor in Kitale Municipal Council. On behalf of Kwanza Constituency and FORD(K) fraternity in the country, I extend my condolences to the family of the late councillor.

Mr. Speaker, Sir, I would like to commend the President for banning Harambees during this Christmas season. I know all of us have been involved in fund-raising efforts and we need a break. For example, in Kwanza Constituency, my people will devote this time to celebrating. It is time for families to be together and celebrate. I will spend this time with my constituents and family. At the same time, I would like to wish all hon. Members on

both sides of the House, a happy Christmas and a prosperous new year. I think the new year will bring a lot of problems for the KANU side.

Mr. Speaker, Sir, I have been reading about clashes in Tana River District and Kibera Slum. I request the Minister in charge of internal security to really make sure that people in Tana River District and Kibera Slum celebrate Christmas holiday without the mayhem and deaths that they have experienced in the last one month. This is because in my constituency we have had enough of these tribal clashes. Any time I read about tribal clashes, I pray to God that they may not come back to Trans Nzoia. The maize saga has been a worry to most farmers. I have said in this House that the Government should take care of maize farmers. There are many farmers who depend on maize. Currently, it is a pity that a 90 kilogram bag of maize in Kitale costs as little as Kshs500. We have said in this House and outside, that the Government should avail money to the NCPB so that it can buy maize from farmers in Kitale and other parts of the country. Otherwise, maize farmers will not celebrate Christmas. We have had a lot of rains in Trans Nzoia. In my constituency, many roads have been rendered impassable. As I speak now, the Namanjalala-Kolongolo-Kapko Road all the way to the border of Uganda is impassable. Also, the road from hon. Gumo's home to Kimondo is impassable. I will soon call upon Mr. Gumo, who is an Assistant Minister in this Government, to accompany me and see the Minister for Roads and Public Works so that he can rehabilitate roads in my constituency. As I speak now, our farmers are harvesting maize.

Mr. Speaker, Sir, I would also like to congratulate the Government for bringing the Sugar and Coffee Bills. I was impressed to see leaders on both sides of the House addressing problems of our farmers. I have said in this House that agriculture is the backbone of the economy. I am waiting for that day when the Opposition will form the Government and I be appointed the Minister for Agriculture and sort out the mess in the agricultural sector.

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

The Minister for Trade and Industry (Mr. Biwott): Mr. Speaker, Sir, I rise to support the Motion for Adjournment. In supporting the Motion, I think this House should be proud because we managed to pass two very important Bills that pertain to the ordinary man's life in the country today. We have passed the Coffee and Sugar Bills. We did not pass any Bill for the people of Rift Valley Province on maize, the KMC and the KCC, which was ruined by some people.

Mr. Speaker, Sir, I think hon. Members from Central and Eastern provinces and other parts where coffee is grown, should be proud that this House has done a good job. They should be eager to get home as quickly as possible in order to explain to their constituents the importance of the Coffee Bill. I think also the hon. Members from Western and Nyanza provinces are equally proud that this House passed the Sugar Bill that will benefit their people. I think there is plenty that we need to go home and talk about.

Mr. Speaker, Sir, I agree with Dr. Wekesa that there is need at the moment to help the maize farmer to get a better price for his produce. I believe that the Government is doing everything possible to ensure that maize surpluses are bought at a reasonable price. It will help a lot if, again, we go home at this time to assist the ordinary farmer to understand the problems facing the country. We should urge them not to sell their produce at a throwaway price.

We are also going home at a time when we have successfully inaugurated the East African Community. We now have three Arms of the Government; that is, the Executive, the Legislature and the Judiciary. We used to have only the Executive by way of the secretariat. We now have a legislature. We will bring forth a community which we will be proud of. I think those of us who were there, including the gracious lady must have witnessed a successful launch and realised that some of the complaints they were raising here, did not matter there. Nobody really looked at them or noticed them, because it was not an issue.

Mr. Speaker, Sir, I think the Opposition hon. Members should learn to be trustworthy and have faith in this good Government which has guided and looked after the interest and welfare of this country for the last 38 years.

Mr. Muite: On a point of order, Mr. Speaker, Sir. Did you hear Mr. Biwott saying that we should learn to be trustworthy? Is it possible that it was a slip of the tongue, that he meant trusting? That is very serious!

Mr. Speaker: I do not know what you are talking about. I think we are debating and not learning English.

Proceed, Mr. Biwott!

The Minister for Trade and Industry (Mr. Biwott): Mr. Speaker, Sir, we need to have faith with each other and work on a bi-partisan basis so that we can build the established unity. At this moment, why are we questioning the good faith of this House with regard to the constitutional review exercise? Indeed, the decision to adjourn this House was made by the House Business Committee and agreed upon. There was only one hon. Member who felt very strongly against it, but because of democracy, it was agreed that we adjourn today, and

come back later to transact other business. I believe that every hon. Member of this House does not wish to be marginalised. Every hon. Member should participate in the final debate, because it is a constitutional matter, and it is necessary that we have all hon. Members on board. Let us not imagine that there are two cadres of Kenyans represented by the hon. Members from the Opposition and those represented by hon. Members on the Government side. We are talking about one community, and there is nobody who can speak on behalf of Kenyans, as if they own Kenyans.

With those few remarks, I beg to support.

Dr. Omamo: Thank you, Mr. Speaker, Sir, for giving me this last minute. I have a lot of respect for the English sayings that: "A bird in hand is worth two in the bush", and that, "we should hit the iron when it is still hot". When you do that, the iron still retains its malleability; you can bend it.

Mr. Speaker, Sir, the question of entrenching the Constitution Review Act into the Constitution of Kenya has been going on and on. I think, we should do something about it, and strike when the iron is still hot. Last week, we should have gone on recess, but we did not, because there was something important for us to transact for the nation. There was the Sugar Bill, the Coffee Bill and the Copyrights Bill. They were important for the nation. They were for the Welfare of Society and the Just Government of Men. This time, as leaders of this nation, we are faced with lack of time, when it is equally important that we should set aside one or two days to dispose of this important issue, so that we entrench the Constitution of Kenya Review Commission in the Constitution. All that, is for the Welfare of Society and the Just Government of men.

(Question put and agreed to)

Hon. Members: Division! Division!

Mr. Speaker: Order, hon. Members! I now order that the Bar be drawn and the doors closed! I wish to announce the names of the Tellers. If only Mr. Kiunjuri could listen to this! They are as follows: For the AYES, they are Messrs. Kiunjuri and Kiminza. For the NOES, they are Mr. Wanjala and Dr. Anangwe. I will explain the process.

I will very soon put the Question again. Once I do that, you will hence, proceed to vote. Those for the AYES will proceed to the voting lobby to my right. Those for the NOES will proceed to the lobby to my left. Then, 15 minutes later, I will order that entries to those lobbies be closed.

You are not obligated to vote either way. If you do not feel like voting AYE or NOE, you are at liberty to record your name with the Clerks-at-the-Table.

Proceed to vote!

DIVISION

(Question put and the House divided)

Mr. Speaker: Order! Order! 15 minutes are now over and those who wish to vote must be in the lobbies. If you are not within the lobbies, you will not be allowed to vote any more.

(Loud consultations)

Order! Order, Members! The Division is now over and it is time for us to receive the results.

(Question carried by 72 to 56 votes)

AYES: Mr. Achola, Dr. Anangwe, Mr. Arap-Kirui, Dr. Awiti, Messrs. Awori, Biwott, Chanzu, Choge, Ekirapa, Dr. Galgalo, Dr. Godana, Messrs. Gumo, Jirongo, Kajwang, Kalulu, Kalweo, Karauri, Keah, Kenyatta, Khaniri, Kiangoi, Kiminza, Col. Kiluta, Mr. Kimkung, Mrs. Kittony, Messrs. Kitur, Kochalle, Kosgey, Leshore, Leting, Lomada, Lotodo J.D., Eng. Manga, Messrs. Marrirmoi, Maundu, Mkalla, Mohammed H.M., Mohammed M.A., Morogo W.C., Moroto, Muchilwa, Mudavadi, Mugalla, Musyoka, Mutiso, Ms. Mwachai, Messrs. Mwakalu, Nassir, Ndambuki, Ngala, Ng'eny, Ngutu, Nooru, Nyagah J., Nyang'wara, Nyenze, Obure, Ojode, Okemo, Prof. Ogeri, Mr. Poghisio, Eng. Rotich, Mr. Ruto, Prof. Saitoti, Messrs. Sambu, Samoei, Shidiye, Sirma, Sudi, Sumbeiywo, Sunkuli and Tarar.

Tellers of the Ayes: Messrs. Kiunjuri and Kiminza.

NOES: Messrs. Angwenyi, Ayoki, Donde, Gatabaki, Gitonga, Imanyara, Kaindi, Kamanda, Kathangu, Khamasi, Kibaki, Kihara, Kihoro, Kiunjuri, Dr. Kulundu, Messrs. Kuria, Maore, Mbitiru, Mboko, Muchiri, Mugeke, Mrs. Mugo, Messrs. Muihia, Muite, Munyao, Munyes, Murathe, Dr. Murungaru, Eng. Muriuki, Messrs. Mutahi, Muya, Mwalulu, Mwangi P.K., Mwenje, Ndwiga, Ngure, Njakwe, Njuki, Nyagah N., Obwocha, Dr. Ochuodho, Mr. Omamba, Dr. Omamo, Messrs. Omingo, Onyango, Opore, Dr. Otula, Mrs. Seii, Messrs. Shitanda, Thirikwa, Eng. Toro, Messrs. Waithaka, Wamae, Wanjala and Dr. Wekesa.

Tellers of the Noes: Dr. Anangwe and Mr. Wanjala.

ADJOURNMENT

Mr. Speaker: Hon. Members, I would like to take this opportunity to wish each one of you and your families and constituents a Merry Christmas and prosperous New Year. We will meet next year.

The House is now adjourned *sine die*.

The House rose at 7.30 p.m.