

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Thursday, 25th July, 2002

The House met at 2.30 p.m.

*[Mr. Speaker in the Chair]*

## PRAYERS

## ORAL ANSWERS TO QUESTIONS

*Question No.242*

### MEASURES TO CURB ACCIDENTS ON KISIAN-USENGE ROAD

**Dr. Oburu** asked the Minister of State, Office of the President:-

(a) whether he is aware that commercial vehicles ferrying fish from beaches in Bondo District killed more than ten people along the Kisian - Bondo - Usenge Road last year, on hit-and-run basis and yet no single culprit has been apprehended to date; and,

(b) what urgent steps he is taking to prevent further killing of pedestrians by these drivers.

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

(a) What I am aware of is that four people were involved in fatal traffic accidents along Kisian-Bondo-Usenge road in 2001-2002.

(b) Frequent traffic patrols have since been intensified along this section of the road in order to curb further occurrences of accidents.

**Dr. Oburu:** Mr. Speaker, Sir, I have received a written reply here which is not signed. In any case, it addresses me as Dr. Oburu Odinga, but my names are Dr. Oburu Oginga. The Assistant Minister has not addressed my Question. My Question is not about the general accidents on the Bondo-Kisian Road. My Question is about hit-and-run vehicles carrying fish, which hit people, and the police have never taken any of them to court. None of them has been apprehended. Could the Assistant Minister give me the names of the four he claims were killed and what action has been taken against those drivers who have hit them? Also, could he clarify whether these are hit-and-run vehicles that I am talking about, or these are just the general accidents?

**Mr. Samoei:** Mr. Speaker, Sir, in the classification of accidents that take place at the Police Headquarters, accidents are generally considered accidents, whether they are caused by vehicles carrying fish or any other vehicle, for that matter. I did say that four persons have been killed on that road under various circumstances. On October 13th, 2001, Ms. Beth Ogolla Omollo, aged 16 years, who was cycling was knocked down by a vehicle registration No.KAN 294S of Kendas Limited at Oboda area. A traffic inquiry file No.34 of 2001 was opened and forwarded to the State Counsel, Kisumu, for advice and recommendation.

On May 20th, 2002, at Kayaligas Estate, Mr. Omondi Okongo, a pedestal cyclist, was also involved in a hit-and-run accident and he sustained a slight injury, involving vehicle No.KAB 456X of East African Sea Food. An inquiry file No.25 of 2002 was opened and is still pending under investigations. Mr. Daniel Nyadenge aged 70 years was again involved in a hit-and-run serious accident by unknown vehicle, and an inquiry file No.26 of the year 2002 was opened, but again the case is still pending.

Lastly, Mr. Moses Nyambok, aged 40 years, on 11th March, 2002 was involved in a hit-and-run fatal accident by unknown vehicle near Bondo Teachers College where he died instantly. An inquiry file No.27 of 2002 was opened and the case is still pending. It is also important for the public to be educated on means of crossing these highways. Pedestrians should have some knowledge about how to cross the roads and those with bicycles should also understand that care must be observed on cycling along the busy tarmac roads.

However, we have taken action. As I said earlier on, we have put in place traffic personnel to check on speeding motor vehicles on this road. In the last one month, we have experienced a difference in this trend.

**Mr. Otula:** Mr. Speaker, Sir, you have heard the Assistant Minister telling this House that inquiry files have

been opened and they are still pending within the office of the Attorney-General. How long does it take for the inquiry to go through the office of the Attorney-General and the matter to be taken to court?

**Mr. Samoei:** Mr. Speaker, Sir, these are matters that we cannot specifically state how long they will take. It depends on how fast we assemble information to be able to proceed with that case.

**Dr. Oburu:** Mr. Speaker, Sir, I had, in my Question, stated that ten people have been killed so far, including Master Seth he has mentioned, and several others, but that is not the issue. The question is about the pending inquiry cases which are endless. We would like to know whether anybody has ever been apprehended by the police, because I know there are eye witnesses who have recorded statements, and the police do not intend to take action because they are taking bribes from the owners of these vehicles.

**Mr. Samoei:** Mr. Speaker, Sir, I said that one vehicle Registration No.KAN 294S of Kendas Limited has already been impounded by the police, and progress has been made on that particular case. We have issues pertaining to the Attorney-General's office which I am sure are being addressed so that we can be able to speed up the conclusion of these cases. It is true that there is menace on this road, and as I have said, we are taking it very seriously. I am hopeful that we should be able to conclude these cases as soon as possible.

*Question No.300*

HIPPOTAMI MENACE IN LAKE OL BOLOSSAT

**Eng. Muriuki** asked the Minister of State, Office of the President:-

(a) how many people have been killed by hippos in and around Lake Ol Bolossat in Nyandarua District, in the last ten years;

(b) how many have been injured; and,

(c) what action he has taken to compensate the injured and the families of those killed.

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

(a) Two people, Howard Henry and Kung'u Mwangi, have been killed by hippos around Lake Ol Bolossat.

(b) Two people, Joseph Wambugu and Joseph Ndirangu, have been injured by the hippos.

(c) The above cases will be compensated as soon as compensation procedures are over. As at now, their compensation forms have been forwarded to the District Compensation Committee for recommendation on payments by the Ministerial Wildlife Compensation Committee.

**Eng. Muriuki:** Mr. Speaker, Sir, Lake Ol Bolossat is partly in Ol Kalou and there are a lot of hippos which are of no use at all to the people of that area. Instead, they come out and kill and maim people, besides eating their crops. It is good to notice that the Assistant Minister knows some few names of people who have been killed and maimed. But this was a long time ago. In the last two years, there was also Mr. Chege Kamau, who I am sure the Assistant Minister is aware of, because his compensation forms have been forwarded; we also have a small primary school boy called Master Nderitu whose compensation forms have also been forwarded. Could the Assistant Minister tell us what he is doing to make sure that the hippos either remain in the lake or he takes them somewhere else and includes those two names for compensation?

**Mr. Samoei:** Mr. Speaker, Sir, the hippos are in this lake as of right, because they are creatures of nature, and we will endeavour to make sure that they do not become a menace to the people living around there. However, I wish to acknowledge that if the compensation forms of Chege Kamau and David Nduati have been forwarded, I will consider them along with the others I have mentioned for compensation.

**Mr. Muchiri:** Mr. Speaker, Sir, the Assistant Minister has said that those hippos are in that lake by right. The citizens are also there by right. Why can he not seal the whole lake and all the places where the hippos are, because they are causing a lot of damage to the citizens of this country?

**Mr. Samoei:** Mr. Speaker, Sir, you appreciate that it is difficult to tell who is encroaching on who; whether it is the citizens encroaching on the lake, or the hippos encroaching on the citizens' land. We will endeavour to make sure that hippos do not become a menace, and as and when we have funds, we will do what it takes to keep the hippos in the lake.

**Eng. Muriuki:** Mr. Speaker, Sir, it is all right for the Assistant Minister to say that the hippos have a right in the lake just like the people have a right on the land. But the last time when Chege Kamau was killed, and the people of the area also killed the hippo which killed him, the whole village was rounded up and the villagers were taken to court, where everybody was fined Kshs5,000. Could the Assistant Minister tell the House whether he is going to make arrangements to fence the lake? Otherwise, the people of that area do not want the hippos there. He can take them away.

**Mr. Samoei:** Mr. Speaker, Sir, I will discuss that issue with the Kenya Wildlife Service.

*Question No.405*

PAYMENT OF DUES TO MR. ALI'S DEPENDANTS

**Mr. Ali** asked the Minister for Finance:-

- (a) whether he is aware that the dependants of the late Adan Abdi Day Ali, APN/GC No.45689, have not been paid his dues since 1998, when he died in service; and,  
 (b) when the dues will be paid.

**The Assistant Minister for Finance** (Mr. Marrirmoi): Mr. Speaker, Sir, I beg to reply.

(a) I am aware that there was a delay in payment of benefits due to the family of the late Adan Abdi Day Ali, APN/GC No.45689.

(b) The payment has already been made to the Public Trustee through cheque No.211045, worth Kshs106,190, dated 30th June, 2002.

**Dr. Ali:** Mr. Speaker, Sir, I wish to thank the Assistant Minister for processing the cheque, but why does the Ministry have to wait until a Question is asked in Parliament? This person died in 1998 and his children have been waiting for the last three years for payment. Why did they have to take that long?

**Mr. Marrirmoi:** Mr. Speaker, Sir, it is not true that the Ministry waits until a Question is asked in Parliament to process people's dues. The payment of benefits was under process. I am sure they have been paid.

**Mr. Shill:** Mr. Speaker, Sir, so many Questions have been asked concerning payment of benefits of people who have been in the service and who have died. Many Kenyans are really suffering because of this kind of delay, and it is only when a Question is raised in the House that they are paid. Could the Assistant Minister confirm or deny that there are thousands and thousands of people who have not been paid since 1990?

**Mr. Marrirmoi:** Mr. Speaker, Sir, I am not aware of what the hon. Member is saying, but I would like to assure the House that as I speak now, something has been done with regard to payment of pensions.

**Mr. Ali:** Mr. Speaker, Sir, could the Assistant Minister tell us what measures he has put in place to make sure that these delays do not occur again?

**Mr. Marrirmoi:** Mr. Speaker, Sir, in my answer to the last question, I said that the Government has already taken remedial steps regarding the delay in payment of pensions. For example, officers are supposed to be deployed in various Government Ministries and departments to follow up these cases in advance, so that when somebody is retiring, he or she will be paid promptly.

*Question No.428*

WATER SUPPLY TO RAPOGI  
 DIVISIONAL HEADQUARTERS

**Mr. Omamba** asked the Minister for Water Development:-

- (a) whether he is aware that Rapogi Divisional Headquarters has several public institutions like schools, hospitals, markets and administration offices, yet it does not have a water supply project; and,  
 (b) what plans he has for such institutions to be supplied with clean treated water in the 2002/2003 Financial Year.

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

(a) I am aware that Rapogi Divisional Headquarters, with its several institutions, has an operational water project belonging to Rapogi High School. The school supplies clean and treated water to Rapogi Catholic Mission and Convent, Rapogi Health Centre and St. Teresa's Rapogi Girls Boarding Primary School.

(b) During this Financial Year, 2002/2003, my Ministry has set aside Kshs2.7 million for construction and conservation of water structures in Migori District. The Migori District Development Committee will determine the priorities on which the money will be used.

**Mr. Omamba:** Mr. Speaker, Sir, the answer from the Assistant Minister is misleading because the institutions he is mentioning have individual water tanks. I am asking about the water supply to all institutions, including markets, divisional headquarters and other places.

**Mr. Kofa:** Mr. Speaker, Sir, I did not get his question clearly.

**Mr. Omamba:** Could the Assistant Minister repeat his answer?

*(Laughter)*

*(Mr. Achola stood up in his place)*

**Mr. Kofa:** Mr. Speaker, Sir, I am willing to repeat the answer.

(a) I am aware that Rapogi Divisional Headquarters, with its several institutions, has an operational water project belonging to Rapogi High School. The school supplies clean and treated water to Rapogi Catholic Mission and Convent, Rapogi Health Centre and St. Theresa's Rapogi Girls Boarding Primary School.

(b) My Ministry has, this financial year, 2002/2003, set aside Kshs2.7 million for construction and conservation of water structures in Migori District.

Finally, I said that the Migori District Development Committee (DDC) will prioritise on which project the money will be used.

**Mr. Achola:** Mr. Speaker, Sir, the Assistant Minister is not answering---

**Mr. Ndicho:** On a point of order, Mr. Speaker, Sir. The rules of this House state--- You realise that when---

*(Loud consultations)*

**Mr. Speaker:** Order! Order! Proceed, Mr. Ndicho!

**Mr. Ndicho:** Mr. Speaker, Sir, I am wondering whether the rules of the House have changed because when the Assistant Minister was answering the Question, Mr. Achola was on his feet throughout that time, waiting for you to catch his eye. Have the rules changed?

**Mr. Speaker:** Mr. Achola, were you standing throughout?

**Mr. Achola:** I was not standing throughout, but I was excited because I wanted to ask the Assistant Minister some supplementary questions!

**Mr. Speaker:** Order! Excitement or no excitement, the rules of the House shall prevail. So, will you, please, take a little medication to put down your excitement?

Proceed, Mr. Achola!

**Mr. Achola:** Mr. Speaker, Sir, at least, I am honest! Thank you. The Assistant Minister is not answering the Question. He has been asked when the Ministry will supply Rapogi Divisional Headquarters with water. The water supply he is talking about belongs to Rapogi Secondary School and has got nothing to do with the divisional headquarters. Anyway, that notwithstanding, out of the Kshs2 million that has already been budgeted for Migori District, how much of it will go to Rapogi Divisional Headquarters?

**Mr. Kofa:** Mr. Speaker, Sir, the hon. Member is a member of the DDC. It is him who will plead with the DDC to see how much the project shall be given.

**Mr. Angwenyi:** Mr. Speaker, Sir. I think we must put a stop to substandard answers to Questions raised in the House. When the Assistant Minister allocated Kshs2.7 million to Migori District, did he not have a project or projects to which he allocated the funds? Why did they not allocate money to individual projects like Rapogi Divisional Headquarters and other projects in the district?

**Mr. Kofa:** Mr. Speaker, Sir, I hope the hon. Member is not asking the Ministry to go to Migori District and do the allocation for that money. The DDC will prioritise---

*(Mr. Achola stood up in his place)*

**Mr. Speaker:** Order, Mr. Achola! You must obey the rules of the House! You must sit down!

**Mr. Kofa:** The Migori DDC will prioritise the projects and give money accordingly.

**Mr. Ochilo-Ayacko:** Mr. Speaker, Sir, you heard the Assistant Minister say that Kshs2.7 million has been given to Migori District. Is he trying to say that the Government gave Kshs2.7 million to Migori District without having any projects in mind? Is he not misleading the House and, therefore, out of order?

**Mr. Kofa:** Mr. Speaker, Sir, it is the hon. Member who is supposed to know what projects are there in the district. Could he go to the DDC and plead with them, so that he can be allocated some money for Rapogi Divisional Headquarters?

**Mr. Omamba:** Mr. Speaker, Sir, during the colonial times, there was a European Forest Officer who helped

the community to dig a borehole, and the pipes are still lying on the ground! That was a common water source that could have served everybody. Could the Assistant Minister go to the ground and check out the facts? That is because the project he has talked about consists of water tanks which belong to individual institutions. Could he check those facts and report to the House?

**Mr. Kofa:** Mr. Speaker, Sir, the project Mr. Omamba is talking about was done in 1973 and not during the colonial times. However, we shall go to the drawing board and see what we can do.

*Question No.108*

MEASURES TO RESOLVE TEA CRISIS IN GUSII

**Mr. Anyona** asked the Minister for Agriculture:-

- (a) whether he is aware that the crisis between the tea farmers and the directors of Kebirigo, Nyankoba, Nyansiongo and Tombe tea factories in Nyamira District; Kiamokama Tea Factory in Kisii District; Nyamache and Ogembo tea factories in Gucha District, arising from astronomical operational costs and poor second payment for 2000/2001, has not been resolved;
- (b) whether he is further aware that the directors of all the said factories have not held any annual general meetings and laid before the tea farmers income and expenditure accounts in contravention of the provisions of Section 131(1) and (5) and Section 148(1), (2) and (3) of the Companies Act, Chapter 486 of the Laws of Kenya; and,
- (c) what remedial measures he will take in order to resolve the crisis in the tea sub-sector in Gusii as proposed in the Memorandum, Ref. No.KM/04/02, dated 10th January, 2002.

**The Assistant Minister for Agriculture and Rural Development** (Mr. Sumbeiywo): Mr. Speaker, Sir, as far as I can remember, I answered this Question correctly and I do not know what my Ministry is expected to do!

**Mr. Speaker:** Is that the position, Mr. Anyona? Is the Question on the Order Paper by mistake?

**Mr. Anyona:** Mr. Speaker, Sir, no, it is not on the Order Paper by mistake. What happened is that when we asked him to produce the minutes of the meetings which took place, he went and brought what they called minutes. Then, you gave me an opportunity to go and study the minutes and then come and ask the Question. Then, Parliament went on recess and what happened was that I studied the minutes and found that they were not genuine. I consulted the Minister and he asked me to write him a note of the analysis of the minutes which I did.

The problems with the so-called minutes, and which the Assistant Minister should answer now, are the following:-

- (i) In the seven factories, the agenda, proceedings and resolutions are exactly the same.
- (ii) The meetings of the factories which took place one day after the other, started and ended at the same time!
- (iii) Then, the minutes themselves are exactly identical for all the factories.
- (iv) The minutes are neither signed nor certified.

Mr. Speaker, Sir, it is obvious that after you ordered for the minutes to be produced, they were made up at the Kenya Tea Development Agency (KTDA) in Nairobi to mislead the House and the Assistant Minister. So, I have furnished the Minister and given him this information. This is the document that I given to the Minister and I want to lay it on the Table. What does he have to say?

*(Mr. Anyona laid the document on the Table)*

**Mr. Speaker:** Mr. Sumbeiywo, do you have anything to say?

**The Assistant Minister for Agriculture and Rural Development** (Mr. Sumbeiywo): Mr. Speaker, Sir, as far as I am concerned, I am not even aware that Mr. Anyona consulted with my Minister. Can I seek the indulgence of the House to allow me to study this document and then come back with a comprehensive answer?

**Mr. Speaker:** How long are we going to have these things on and off? In any case, if the point is that, probably, there was no proper meeting held, is this the proper place to adjudicate, really? Is there no better avenue to declare that meeting illegal? I think, in my view, this is not the proper place for that because we cannot go on endlessly on one Question, forever.

**Mr. Angwenyi:** On a point of order, Mr. Speaker, Sir. We have gone through this process in the coffee sector in Gusiiland. It is sad that we have destroyed that sector. False minutes are cooked and produced, while farmers' earnings are misappropriated. Could the Assistant Minister institute an investigation to know whether these minutes

were correctly done or not, so that he takes the appropriate action against those people? We are trying to defend the rights of our farmers.

**Mr. Obwocha:** On a point of order, Mr. Speaker, Sir. This is a very serious matter. The fundamental purpose of asking this Question is that we wanted an Annual General Meeting (AGM) for all the factories to elect proper directors. However, these minutes are just cooked here in Nairobi. We would like some direction so that the Assistant Minister comes here within one or two days to tell us whether he has got the correct minutes. If not, he orders for the AGM to be held.

**Mr. Speaker:** What is your reaction, Mr. Sumbeiywo?

**The Assistant Minister for Agriculture and Rural Development** (Mr. Sumbeiywo): Mr. Speaker, Sir, it is not possible because I have already produced the minutes here. If the timing of the meetings was identical for each factory, then it might have been by coincidence. There is nothing wrong about that. But I am prepared to go back and carry out an investigation.

**Mr. Speaker:** Very well. For the last time, this Question is deferred to Tuesday. That will be the last time this Question will appear on the Order Paper. We will not have it forever on the Order Paper!

*(Question deferred)*

Next Question, Mr. Sifuna.

*Question No.359*

#### NON-IMPLEMENTATION OF SUGAR ACT

**Mr. Sifuna** asked the minister for Agriculture:

(a) whether he is aware that sugar companies have refused to implement the Sugar Act that became effective from 1st April, 2002; and,

(b) why the companies have refused to implement the Act.

**The Assistant Minister for Agriculture and Rural Development** (Mr. Sumbeiywo): Mr. Speaker, Sir, I beg to reply.

(a) I am not aware.

(b) The sugar companies have had difficulties in implementing the Act because of apparent conflicts within the Act which must be addressed as follows:

(i) In the amended Act, Section 6, in the roles of the millers and outgrowers institutions, it is the role of the millers to harvest, weigh at the farmgate, transport and mill the sugar-cane---

**Mr. Sifuna:** On a point of order, Mr. Speaker, Sir. You have heard what the Assistant Minister has just said. Is he in order to refer to a proposed amendment Act when we have not even discussed the Act here? His answer is based on a proposed amendment which has not even been discussed in this House.

**Mr. Speaker:** Order, Mr. Sifuna! This House must hear what the Assistant Minister has to say. As far as I understand him, he says there is some conflict on the face of the Act itself. He was telling the House what he considers to be the conflict and he is within his rights. It is not what you want to say; it is what he wants to tell you. He is the answerer and you are the questioner.

Proceed, Mr. Sumbeiywo!

**Mr. Kombo:** On a point of order, Mr. Speaker, Sir.

**Mr. Sifuna:** We have an answer here which says---

**Mr. Speaker:** Order! Mr. Sifuna, either you want to hear the answer or you do not.

**An hon. Member:** On a point of order, Mr. Speaker.

**Mr. Speaker:** Order, all of you! You cannot ask a Question and insist you do not want to hear the answer. Can we hear the Assistant Minister?

*(Several hon. Members stood up in their places)*

Order! All of you. You will obey the rules of the House. This House will hear the answer of the Assistant Minister then you will ask supplementary questions.

Proceed, Mr. Sumbeiywo!

**The Assistant Minister for Agriculture and Rural Development** (Mr. Sumbeiywo): Mr. Speaker, Sir,

following a stakeholders' meeting held on 10th January, 2002, in Kisumu, it was resolved that on appointment of the Kenya Sugar Board directors as per the Sugar Act, the Board will constitute a technical working group comprising of all the key stakeholders to advise the Board on the operational modalities of the Act. The Board will then make recommendations to the Minister for Agriculture on the need for amendments to the Act.

**Mr. Sifuna:** Mr. Speaker, Sir, this is why I was trying to ask the Chair to give us proper direction. The answer given by the Assistant Minister says "in the amended Act, Section 6". That amended Act has never been discussed in this House. So, that is why I asked whether he was in order to give the answer based on a proposed amendment Act which has not been discussed in this House.

**Mr. Speaker:** Mr. Sifuna, can I ask you a very simple basic question because you have been a Member in this House for a long time? When did an Act ever become an Act before coming to the House?

**An hon. Member:** On a point of order, Mr. Speaker, Sir.

**Mr. Speaker:** Order! What is the matter with these hon. Members? There are rules of debate in this House. I will not allow all of you to flout the rules of the game. If you do not want the answer, please, say so. I asked Mr. Sifuna because he says the Assistant Minister referred to an amended Act. All hon. Members who have been in this House - and I am sure even students everywhere - know that an Act of Parliament is a Bill that has passed the three stages here and has been consented to.

**An hon. Member:** On a point of order, Mr. Speaker, Sir.

**Mr. Speaker:** Order! Order, all of you. Mr. Sumbeiywo, are you referring to an Act or a proposed Bill? To the best of my knowledge, I have not seen any proposed Bill to amend the Sugar Act. What are you referring to?

**Mr. Sumbeiywo:** Mr. Speaker, Sir, it is supposed to be a Bill that will be brought to the House.

**Mr. Kombo:** Mr. Speaker, Sir, I cannot ask a supplementary question on this. I think we need guidance from the Chair because the Assistant Minister has given an answer based on a proposed Bill that will have to be brought to this House. It has not come, and yet they are already taking action on that basis. How can we move on? That is our problem.

**Mr. Speaker:** Mr. Sumbeiywo, do I understand that you are now operating on a proposed Bill rather than the operational Act?

**Mr. Sumbeiywo:** Mr. Speaker, Sir, as I said, there were some technicalities which needed to be corrected. So, the Bill will be brought before the House after the meeting of the stakeholders, whom I mentioned earlier on.

**Mr. Muite:** Mr. Speaker, Sir, if it is true that, indeed, the Government is implementing the provisions of what it has put in a proposed Bill, is that not contempt of the National Assembly?

**Mr. Speaker:** Mr. Assistant Minister, are you implementing what you propose to bring to the House?

**Hon. Members:** Yes, that is what he is doing!

**Mr. Sumbeiywo:** No, Mr. Speaker, Sir. We are not implementing that. I have said that there is a meeting going on between the stakeholders. This meeting is discussing what will be brought before the House. We are not implementing anything.

**Dr. Omamo:** Mr. Speaker, Sir, the Assistant Minister is talking about stakeholders' meeting. He should explain to the House which is this stakeholders' meeting which I, as a representative of sugar-cane growers, have not been invited to attend. Secondly, the Question is very clear; the Government seems to be refusing to implement the Act. The Assistant Minister should listen carefully. There is a provision in the Act for establishment of a tribunal where the complaints of growers and millers could be taken for redress or relief. Could the Assistant Minister tell this House today whether the Government has established that tribunal and appointed its members?

**Mr. Sumbeiywo:** Mr. Speaker, Sir, the Ministry has not appointed the members of that tribunal because we have not reached a conclusion with the stakeholders.

**Dr. Kulundu:** Mr. Speaker, Sir, I would like to ask the Assistant Minister a question. Is he aware that in the present Act the miller is supposed to harvest, weigh at the farm gate, transport and crush sugar-cane at his expense? Has the Assistant Minister got any information that any of the millers is doing that? That is the essence of this Question.

**Mr. Sumbeiywo:** Mr. Speaker, Sir, it is true that, that is what is happening. I wanted to explain that point, but Mr. Sifuna rose and interrupted me. That is what the millers and the producers are currently doing. **Mr.**

**Sifuna:** Mr. Speaker, Sir, the Assistant Minister is trying to run away from answering the Question. The truth of the matter is that the millers have refused to meet harvesting and transport charges as per the old Act which was passed by this House. The Minister came round and brought an amendment. He is basing his answer on a proposed amendment, which has not been tabled in this House. Could the Assistant Minister tell us now why the millers do not meet transport and harvesting charges? This is a very simple question! Why are the millers not meeting the harvesting and transport charges?

**Mr. Speaker:** Some of us are getting confused out of this! Is the Assistant Minister empowered to force millers to do that?

**Hon. Members:** Yes! He has power!

**Mr. Speaker:** Mr. Assistant Minister, are you empowered to force millers to meet harvesting and transport charges?

**Mr. Sumbeiywo:** Mr. Speaker, Sir, it is not true that the Minister has got powers to force the millers and the growers to do what they do not want to do.

**Mr. Ndicho:** On a point of order, Mr. Speaker, Sir. The Question is very simple: Who is supposed to implement what is in the law? So, whoever is there should ensure that the law is implemented. The law says that the miller should meet the expenses.

**Mr. Speaker:** Who ensures that the miller does that?

**Mr. Ndicho:** Mr. Speaker, Sir, it is the law.

**Mr. Speaker:** Who ensures that the law is followed?

**Mr. Ndicho:** Mr. Speaker, Sir, if the law is not followed, then the aggrieved party can go to court and seek redress. So, the Assistant Minister should ensure that, that is done.

**Mr. Ochilo-Ayacko:** Thank you, Mr. Speaker, Sir. This Question is very clear. The millers are supposed to pay the farmers within a month after they have delivered their cane. All over the country, the millers are not paying the farmers within a month for cane harvested after 1st April, this year. This is the case, and yet the Ministry's representatives sit in the Sugar Board. What do these representatives do in that Board if they are not supposed to sit and implement what the law says that they should implement?

**Mr. Sumbeiywo:** Mr. Speaker, Sir, it is true that the Ministry representatives sit in the Board so as to ensure that farmers are paid. But if millers are unable to pay the farmers in time because of shortage of funds, the Minister has no power to force the millers to pay the farmers.

**Mr. Sifuna:** Mr. Speaker, Sir, when we talk about the millers, we are talking about the Government. This is because Nzoia Sugar Company, for example, is 100 per cent Government-owned. If the company does not meet harvesting charges and transport cost, is it not refusing to follow the law, and yet the Ministers and the Permanent Secretaries sit on that Board? Could the Assistant Minister tell this House why these sugar companies have refused to implement a Government directive or the law?

**Mr. Kajwang:** On a point of order, Mr. Speaker, Sir. Unless we are careful, this House will be a laughing stock. It is only yesterday that we found that after we had passed a Bill here on the importation and manufacture of HIV/AIDS drugs, somebody at the Attorney-General's Chambers removed a section which we had passed here. The law now reads something different. We also passed the Sugar Act here and the Assistant Minister is not happy with it. He has already amended it even before he brings a Bill before this House. So, this House passes laws and the executive authority which is vested in the Government refuses to implement what Parliament has passed. We are going to be a laughing stock! So, Mr. Speaker, rise up and give directive to the President and the Government; that they must enforce what Parliament has passed!

*(Applause)*

**Mr. Speaker:** Order! Order! I will rise and say the following: "Do not get me involved in what I do not know."

**Hon. Members:** No! No!

**Mr. Speaker:** Order! Order! You passed the Sugar Bill. I honestly do not know where those factories get---

**Hon. Members:** No! No!

**Mr. Speaker:** Order! Do not get me involved in what I do not know! Ask the Assistant Minister those questions because he is the one who is charged with that responsibility!

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

**Mr. Speaker:** Order! I have told you to question the Assistant Minister! Do not drag the Chair into this matter! I am not going to give directive to the Government as to how it does its business!

**Mr. Michuki:** On a point of order, Mr. Speaker, Sir. I think the point which has been raised by Mr. Kajwang is very important for this *Bunge*. The Chair may recall that we rejected the imposition of tax on rents of commercial buildings. It is on record the Minister pleading with us here - if you read the HANSARD - that he was trying to put that proposal under the exemption section of the law. I wrote to you in December, last year, pointing out these mistakes. I have also written to the Commissioner of Income Tax. This is very clear, and yet the Minister, with his Commissioner of Value Added Tax, continue to harass traders all over the place. My money has been seized on false



pretences. An order has been issued to my bank to seize my money illegally. I am not raising this issue because there is an order which has been issued to my bank to seize my money, but I am saying that there are so many people out there who have been affected. If the law is not followed, it could create a ground for corruption. So, the Chair should guide us on this issue.

**Mr. Speaker:** Order, hon. Members! You must understand the roles of the various arms of the Government. We legislate, the Executive executes and the Judiciary adjudicates disputes where there are any. I do understand what Mr. Kajwang said about the issue which was contained in the Statute Law (Miscellaneous Amendments) Act, but that came after the Intellectual Properties Bill had been passed by this House. An amendment was brought here through the Statute Law (Miscellaneous Amendments) Bill. If the House was not hawk-eyed, do not blame the Speaker for that. You passed that amendment. As to whether you saw it or not, at the end of the day, you said, "AYE!" and the AYES had it! It is the business of the House to scrutinise any legislation that is brought before this House before hon. Members pass it!

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

**Mr. Speaker:** Mr. Ndicho, why do you think Mr. Kombo is not entitled to be heard?

**Mr. Kombo:** Mr. Speaker, Sir, I think the supremacy of Parliament is being brought into question by the Assistant Minister here and you are sitting there as the custodian of that supremacy. We are saying that the Assistant Minister is implementing an Act which has not been brought to the House and ignoring the Act that is in place. Where do we go if the Executive is violating the laws we have passed, hence bringing the supremacy of Parliament into question?

**Mr. Speaker:** Have you ever heard of the law of *mandamus* and prohibition?

**Hon. Members:** No! Tell us about that!

**Mr. Speaker:** Order, hon. Members! If you have not heard about the law of prohibition, *mandamus* and *certiorari*, you should be informed that they exist to force the Executive to do what they are supposed to do or to prohibit them from doing what they are not supposed to do. That is open to all Members of Parliament. But you can only do that in court, but not here!

**Mr. Ndicho:** On a point of order, Mr. Speaker, Sir. This House is the supreme authority in this land. We are here to make laws, that can be implemented. We also passed another amendment here on the Books and Newspapers Act to prohibit the periodicals and the "gutter" Press from tarnishing people's names. But today, things are happening as if there was no law at all! Where are we? Are we passing laws here just as a ritual or what?

**Mr. Speaker:** Order, hon. Members! Could we put this into its proper perspective? It is true that this House is supreme when it comes to making laws but this House does not enforce or adjudicate disputes! Therefore, when it comes to the adjudication of disputes, the High Court and all subordinate courts thereto are supreme to that extent. It is not the duty of the Speaker to go to the streets, collect all the "gutter" Press, lock them up and jail them on your behalf! I do not think that is what you intended to do. I do not think that is the job I applied for, and I do not think any Speaker in the world would like that kind of job. So, I decline that job, and I will do the job for which I was employed.

**Mr. Muite:** On a point of order, Mr. Speaker, Sir. Standing Order No.88(3) states as follows:-

"Any Member may at any time, as a point of order, invite Mr. Speaker to name another Member for gross disorderly conduct, but the decision whether or not to do so shall remain with Mr. Speaker."

I now move that this Assistant Minister be named!

**Mr. Speaker:** Well, I decline that offer!

Next Question, Mr. Wamunyinyi! Sorry, I apologise for that mix-up. It should be Mr. P.K. Mwangi.

**Mr. Sifuna:** Hayo ndiyo makosa yako kila wakati!

**Mr. Speaker:** What are you saying?

## QUESTIONS BY PRIVATE NOTICE

### CANCELLATION OF ATHARA FARMERS' MEETING

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

Why was the meeting for Athara Farmers' Co-operative Society which was to be held at Makuyu Chief's Camp on 12th April, 2002 cancelled?

**The Assistant Minister, Office of the President (Mr. Samoei):** Mr. Speaker, Sir, I wish to apologise to the House because I am not in a position to answer this Question today. I do not have all the information that I need to

answer the Question.

**Mr. P.K. Mwangi:** Mr. Speaker, Sir, this Question was here three weeks ago. The only reason why this Question is before the House today is that we wanted the Assistant Minister to come and give us proof that there was no security for that meeting to be held on that day. Postponing this Question will be detrimental to other Members who have got Questions which need to be answered. We cannot stick to one Question for too long!

**The Assistant Minister, Office of the President** (Mr. Samoei): Mr. Speaker, Sir, I want to seek the indulgence of this House, so that I can bring that information on Tuesday next week.

**Mr. Speaker:** All right! Shall we have it on Tuesday, Mr. P.K. Mwangi?

**Mr. P. K. Mwangi:** That is agreeable.

*(Question deferred)*

#### ACTION AGAINST CHILD DEFILER

**Mr. Wamunyinyi:** 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 one Wanjala Karani who defiled a minor in Bungoma and the case reported at Bungoma Police Station on 13th June, 2001, is still at large?

(b) Why has he not been arrested?

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

(a) I am aware that Getrude Wanjala, aged, 18 years was raped by a known suspect on 13th June, 2001. She did report the offence to Bungoma Police Station on 17th June, 2001. The accused was arrested on the same day.

(b) The suspect was arraigned before Bungoma Principal Magistrate's Court on 18th June, 2001, with the offence of rape vide Bungoma Court File No.1168 and Police Station Criminal Record No.911/361.

**Mr. Speaker:** Order, Mr. Samoei! You do not disclose the name of a minor. In fact, I order that, that name be expunged for the interest of that child. It can be traumatic! So, please, just say the minor but do not mention the name. The HANSARD will accordingly stand corrected and all the Press are ordered by the Chair not publish the name of that minor.

**Mr. Samoei:** Mr. Speaker, Sir, I have not read out the name of the minor! I know the rules of the House and I have not read out the name of any minor in this House.

**Mr. Speaker:** Proceed!

**Mr. Samoei:** Mr. Speaker, Sir, the person whose name I did mention, Gatrude Wanjala, is 18 years old and does not fall under the category of minors. Therefore, I beg to continue.

The accused was released on a court bond on 18th June, 2001. The case came up for hearing on 12th September, 2001, but the accused failed to appear in court. A warrant of arrest was issued immediately, and it is still in force because the efforts are still being made to arrest the suspect.

**Mr. Speaker:** Very well. I am sorry, I think we heard that the name you mentioned was of the minor, who is under 18 years of age.

**Mr. Wamunyinyi:** Mr. Speaker, Sir, I am shocked at the Assistant Minister's answer. This is a suspect of rape, and we all know what rape is. The suspect was taken to court in the morning of 18th June, 2001, and was released in the morning of the same date on a free court bond, having been charged for rape!

Mr. Speaker, Sir, recently, we also read of a case where some other court placed a rapist on probation. Even today, another case was reported in Kisii, where a known suspect of rape has not been taken to court. But more importantly, the punishment given to a person found guilty of rape may be a life imprisonment sentence. How can such a suspect get a free bond from a law court? Could the Assistant Minister tell this House why magistrates in law courts are taking cases of rape lightly?

**Mr. Samoei:** Mr. Speaker, Sir, while I do appreciate the gravity of the issues raised by Mr. Wamunyinyi, I think the police did their part in this case. We did arrest the suspect immediately the report was made to us. As to what happens in court, it is not for me to tell this House. It is for the Judiciary to dispense and to adjudicate, as you have said, and the police cannot help in that endeavour.

**Mr. Sifuna:** Mr. Speaker, Sir, the suspect was arrested and released! This suspect is known and that is why they gave him a free bond! Why has the Government failed to arrest and charge him? They know him, his house and where he stays and drinks; and they know that he sold his *shamba* in order to bribe his way out!

**Mr. Samoei:** Mr. Speaker, Sir, what is important is that the suspect was arrested and we have again issued a warrant of arrest on him. We do know where he stays, but that does not guarantee that we will find him there. He has

gone underground, but we are in hot pursuit for him.

**Mr. Wanjala:** On a point of order, Mr. Speaker, Sir.

**Mr. Speaker:** What is it, Mr. Wanjala?

**Mr. Wanjala:** The Chair should intervene here; the Assistant Minister is confusing us! He clearly said that the culprit was arrested and charged. Again, he is telling us that they have issued a warrant of arrest. It seems they want to charge him again; if so, on what charges?

**Mr. Speaker:** Order! Mr. Wanjala, can I ask you to come close to Mr. Ndicho? He will probably tell you that when somebody is charged and bonded, and if that person fails to turn up in court, you will apply for a warrant of arrest.

**Mr. Wamunyinyi:** Mr. Speaker, Sir, arising from the Assistant Minister's answer and the allegation by hon. Sifuna that this suspect sold some piece of *shamba*, and that some of the money that he got from the sale of the *shamba* was used to bribe those officers; could the Assistant Minister undertake to institute investigations to establish the circumstances under which this suspect was released?

**Mr. Samoei:** Mr. Speaker, Sir, before we even carry out any investigations for any other offences or alleged offences, we do have sufficient reason to arrest this gentleman, and we are looking for him.

**Mr. Speaker:** Very well. Mr. M. Galgalo's Question!

#### RECRUITMENT OF MILITARY OFFICERS FROM BURA

**Mr. M. Galgalo:** 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 military recruitment officers refused to recruit young men from Bura Constituency on 26th June, 2002?

(b) Is he further aware that for the last 10 years, no officers from the area have been recruited to the disciplined forces?

(c) What urgent measures is he taking to rectify this anomaly, including revoking the exercise of 26th June, 2002, and conducting fresh recruitment in Tana River District?

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

(a) I am not aware that army recruiting officers displayed apathy towards Bura Constituency during the recruitment exercise on 26th June, 2002, by refusing to recruit young men from that constituency.

(b) I am not aware further that for the last 10 years no officers have been recruited from the area.

(c) Because of what I have said on parts "a" and "b" above, I have no reason to revoke the recruitment exercise done in Tana River District on 26th June this year.

**Mr. M. Galgalo:** Mr. Speaker, Sir, arising from the reply given by the Assistant Minister, and since I have said that there was apathy against my constituency, could he lay on the Table of this House the number of people who were recruited from Bura Constituency on 26th June, and also the tribal background of people who have been recruited into the disciplined forces for the last 10 years?

**Mr. Samoei:** Mr. Speaker, Sir, I can only inform this House that nine young men and one lady were recruited from Tana River, as per the district quota, on the 26th June, 2002. Unfortunately, I cannot give their names. But I do undertake that if that be the wish of the House, I will do so. For the list of recruitment for the last 10 years, as requested by the hon. Member, I can still do so.

**Mr. Speaker:** What is your reaction, Mr. M. Galgalo? Is it your wish to have him bring the list before this House?

**Mr. M. Galgalo:** Yes, Mr. Speaker, Sir, if you can defer this Question to another day.

**Mr. Speaker:** All right; it will be deferred!

Next Question!

**Mr. Wanjala:** On a point of order, Mr. Speaker, Sir.

**Mr. Speaker:** Order! Order! Mr. Wanjala, you must respect the decision of the Chair! Even if you have anything to say, you do not have to shout the way you are doing! It is not done in Parliament!

**Dr. Kituyi:** On a point of order, Mr. Speaker, Sir. I want to make a request, and I think it is part of what has been raised here in the House. There is a lot of dissatisfaction with the structure of recruitment that has just been completed in the military service.

**Mr. Speaker:** We have deferred the Question!

**Dr. Kituyi:** Mr. Speaker, Sir, what I am requesting is that, while the Assistant Minister brings the list of those recruits from Tana River, could the Chair oblige him to bring the entire list for every district in the whole country?

**Mr. Speaker:** Mr. Assistant Minister, you have heard what the House is interested in; you will be prepared on that one also on Tuesday, next week.

Next Question!

**Mr. Samoei:** Mr. Speaker, Sir, because of the magnitude of the undertaking, I request that you give me seven days so that I can bring all the required information.

**Mr. Speaker:** I will give you until Thursday next week!

**Mr. Samoei:** Mr. Speaker, Sir, allow me to bring the information on Tuesday after next week.

**Hon. Members:** No! He is asking for too much time!

**Mr. Speaker:** Order! Order! I think the Assistant Minister's request is understandable. Can I give him the time he has requested for so long as the information comes to the House?

**Mr. Wamae:** On a point of order, Mr. Speaker, Sir. As you can see, this matter is very serious. The whole country is complaining about the latest recruitment by the armed forces. So, could the Assistant Minister suspend the recruitment exercise until this issue is resolved in this House?

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

**Mr. Speaker:** Order! Order! Hon. Members, we cannot transact the business of Question Time on points of order. The Question is deferred, but you want to proceed with it. It just does not happen! So, the Question will come back to this House on Tuesday after next week, as requested by the Assistant Minister.

*(Question deferred)*

#### IMMATURE DISCOUNTING OF TB BY NSSF

**Mr. Kombo:** Mr. Speaker, Sir, I beg to ask the Minister for Labour the following Question by Private Notice.

(a) Could the Minister explain why the National Social Security Fund (NSSF) has discounted one Treasury Bill worth Kshs256 million before maturity for Kshs251 million thereby incurring a loss of Kshs5 million?

(b) Could he explain who gave the authority for the transaction and what the funds are meant for?

(c) How much has the NSSF invested in Government Securities and in particular Treasury Bills and Bonds?

**The Minister for Labour (Mr. Ngutu):** Mr. Speaker, Sir, I beg to reply.

(a) The NSSF discounted one Treasury Bill worth Kshs256 million on 26th June, 2002, so that the funds could be invested in Treasury Bonds, which had a better return than the Treasury Bills. By so doing, the NSSF realised a loss of Kshs4,491,418.30.

(b) The transaction was done by the NSSF management in line with the delegated authority by the Board of Trustees. The transaction was done as an investment in Government securities in accordance with the NSSF Act.

(c) The NSSF has invested Kshs943 million in Treasury Bills and none in Treasury Bonds.

**Mr. Michuki:** On a point of order, Mr. Speaker, Sir.

**Mr. Speaker:** Hon. Members, could we, please, avoid raising unnecessary points of order? Question Time is almost up.

What is your point of order, Mr. Michuki?

**Mr. Michuki:** Mr. Speaker, Sir, is it in order for the Minister to mislead the House that discounting of Treasury Bills necessarily brings about loss when he has not taken into account the ready use of cash, which---

**Mr. Speaker:** That is not a point of order, Mr. Michuki!

**Mr. Michuki:** It is a point of order, Mr. Speaker, Sir, because there was no loss incurred in this transaction.

**Mr. Speaker:** Order! Order, Mr. Michuki! I am the one who is in the Chair. That is your point of view; it may be the correct view. What the Minister gave is his point of view; it may be the wrong view. Wait for your turn to ask a supplementary question, and you will ask him to explain further.

**Mr. Kombo:** Mr. Speaker, Sir, there used to be a gramophone called "Peace Master's Voice". Listening to the Minister reply to this Question, I do not think he has even thought about it. His replies to parts (a) and (c) of the Question are contradictory of each other. In his reply to part (a), he says that the Treasury Bill was discounted so that the money could be invested in Treasury Bonds. In reply to part (c), he says that there is no money which has ever been invested in Treasury Bonds. Now, what is he really talking about? So, it would appear that he is just behaving like the gramophone. Somebody has written this reply for him, and he has just repeated it before the House.

*(Laughter)*

**Mr. Speaker:** Order! Order! Mr. Kombo, this House must have some civil language. How can you call the

Minister a "gramophone"? Suppose he calls you something else? Should this House be a place for hon. Members to call each other names?

**Mr. Kombo:** Mr. Speaker, Sir, I did not call him names. I just said that he behaved like a gramophone.

**Mr. Speaker:** Could you use a better language?

**Mr. Kombo:** Mr. Speaker, Sir, if the NSSF had invested Kshs930 million in Treasury Bills, and yet it discounted a Treasury Bill worth Kshs256 just for the purpose of getting a better deal, what was the urgency in discounting the Treasury Bill before the right time?

**An hon. Member:** This is a campaign management!

**Mr. Ngutu:** Mr. Speaker, Sir, there was no urgency other than making more money.

**Hon. Members:** Aah!

**Mr. Speaker:** Yes, Dr. Kituyi.

**Mr. Michuki:** On a point of order, Mr. Speaker, Sir.

**Mr. Speaker:** Mr. Michuki, I have given the Floor to Dr. Kituyi.

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

**Mr. Speaker:** Order! Order! Could you proceed, Dr. Kituyi?

**Mr. Michuki:** On a point of order, Mr. Speaker, Sir.

**Mr. Speaker:** Mr. Michuki, you had better raise a point of order. If it happens to be a point of information that you are going to raise, I will order you to leave the Chamber!

**Mr. Michuki:** Mr. Speaker, Sir, is it in order that the records of this House should convey the wrong impression on how to deal with discounting of Treasury Bills, just because the reply to the Question has been given by the Minister for Labour? Is it in order that he should not seek proper advice, so that the records of this House are put straight?

**Mr. Speaker:** I am afraid that, that is a frivolous point of order; it is your sentiments. Mr. Michuki, having been forewarned by the Chair and ignored it, I am afraid that under Standing Order No.88, you will withdraw from the Chamber.

**Mr. Michuki:** Mr. Speaker, Sir, I will withdraw from the Chamber, but that does not exonerate you from having recorded the wrong impression.

**Mr. Speaker:** Order! Order! You must now withdraw from the Chamber!

**Mr. Ndicho:** On a point of order, Mr. Speaker, Sir. The Lord's Prayer says: "Forgive us our trespasses as we forgive those who trespass against us". Because we have the Constitution of Kenya (Amendment)(No.2) Bill (Bill No.9) ready for debate shortly, could you forgive Mr. Michuki on the basis of the Lord's Prayer?

**Mr. Speaker:** Hon. Members, I have not done this before. I do not think that it is something which should happen, particularly when hon. Members stand warned several times not to take the time of the House on frivolous points of order.

Mr. Michuki, I will---

**Hon. Members:** Forgive you!

*(Laughter)*

**Mr. Speaker:** For the first and last time, I forgive you.

*(Applause)*

**Dr. Kituyi:** Mr. Speaker, Sir, arising from the Minister's reply, could he explain how the decision was arrived at in contravention of the regulation on discounting Treasury Bills? Even more importantly, considering that in the month of June, 2002, the Board of the NSSF did not have a single meeting, and that the Chairman of the Investment Committee, who is the Secretary-General of the Central Organisation of Trade Unions (COTU), did not attend any meeting in June, 2002, who gave the officers who initiated the transaction the authority to discount the Treasury Bill?

**Mr. Ngutu:** Mr. Speaker, Sir, there was delegated authority to the management of the NSSF. So, the management acted on the strength of the delegated authority.

**Mr. Kajwang:** Mr. Speaker, Sir, in answer to part "a" of the Question, the Minister has said that the National Social Security Fund (NSSF) lost Kshs4 million because the money should have been moved from Treasury Bills to Treasury Bonds. I expected that the NSSF transferred the money so that it could get more money through investing in Treasury Bonds. In answer to part "c" of the Question, the Minister has said that there is no money currently invested in Treasury Bonds. Where did this money go and why did we lose the Kshs4 million in the first place?

**Mr. Ngutu:** Mr. Speaker, Sir, the investment of Kshs943 million was initially done by other people before the current Managing Trustee came in. So, when he came in, he thought there was need to invest the money as I have already stated.

**Mr. Angwenyi:** Mr. Speaker, Sir, let me take the Minister through this issue slowly. First, the NSSF incurred a loss of Kshs4 million on the pretext that it would make a profit by investing in Treasury Bonds. How much was the NSSF going to make through investing in Treasury Bonds? When was this gain going to be made? How did the NSSF incur a loss of Kshs4 million?

**Mr. Ngutu:** Mr. Speaker, Sir, it is important for the House to get more information on this issue, so that hon. Members do not misunderstand what actually happened.

On 27th May, 2002, the NSSF management invested Kshs250,839,700 in a Treasury Bill, issue No.1471, with a face value of Kshs256 million. The expected interest on the maturity date, namely, 26th August, 2002, was Kshs5,160,300. The income realised up to 26th June, 2002, was Kshs668,881.70, over and above the cost paid on investment, namely, Kshs250,839,700. On 25th June, 2002, the Managing Trustee, NSSF, wrote to the Governor, Central Bank of Kenya (CBK), and gave authority for rediscounting and conversion of the Treasury Bill, issue No.1471, for Kshs250 million, to Treasury Bonds to mature on 28th August this year, with an interest rate of not less than 10 per cent per annum.

The cost to the NSSF of the Treasury Bond No.FXT1/2001/1, was Kshs251,505,500. The expected realisable amount on maturity on 26th August, this year would be Kshs6,494,500. In the same letter, the Managing Trustee, NSSF, requested the CBK to transfer the proceeds of the transaction into the NSSF's account, No.031802338 in the National Bank of Kenya (NBK), Harambee Avenue Branch, Nairobi.

Mr. Speaker, Sir, in the said letter, the Managing Trustee also informed the CBK that the NSSF had instructed Messrs. Shah Munge and Partners Ltd, stockbrokers, to handle the transaction on its behalf. Messrs Shah Munge and Partners Ltd undertook to handle the transaction on behalf of the NSSF for a fee amounting to Kshs103,200, being 0.40 per cent of the investment. I have letters relating to this transaction which I can lay on the Table.

*(Mr. Ngutu laid the letters on the Table)*

**Mr. Michuki:** Mr. Speaker, Sir, in the circumstances explained by the Minister, it is clear that the NSSF got a benefit from use of its cash; it was going to receive a benefit two months after the investment was made. Could the Minister agree that there was no loss at all? If anything, the NSSF gained by putting the money into long-dated stock.

**Mr. Ngutu:** Mr. Speaker, Sir, it is true that there was no risk at all. Eventually, there was a gain at the end of all the transactions.

**Mr. Kombo:** Mr. Speaker, Sir, with the explanation given by the Minister, I would like to look at those letters and I will take up the matter with the Minister.

## POINT OF ORDER

### DEATH OF MR. KANG'ARA IN POLICE CELL

**Mr. Karume:** On a point of order, Mr. Speaker, Sir. I wish to request the Minister of State, Office of the President, in charge of security to issue a Ministerial Statement concerning the death of Mr. David Kang'ara Ngugi. The late Mr. Kang'ara was arrested at Ndenyeru, Kiambaa Constituency, on 1st July, 2002, and was taken to Karuri Police Station. He was not sick at all when he was arrested, but on the morning of 2nd, July, 2002, he died. Could the Minister explain to this House the circumstances which led to the death of Mr. Kang'ara?

*(Mr. Oloo-Aringo stood up in his place)*

**Mr. Speaker:** Order, Mr. Oloo-Aringo! We are not there yet.

## BILL

### *Second Reading*

### THE CONSTITUTION OF KENYA (AMENDMENT) (NO.2) BILL

**Mr. Oloo-Aringo:** Thank you, Mr. Speaker, Sir. I beg to move that the Constitution of Kenya (Amendment) Bill (No.2) of 2002 be read a Second Time. On 11th July, 2000, this House, the National Assembly, adopted the following resolution, and I quote.

THAT this House do grant leave to introduce a Bill for an Act of Parliament entitled the Constitution of Kenya Amendment Bill, 2000 to amend Sections 58 and 59 of the Constitution to provide for the National Assembly to control the calendar of the business of the House.

Mr. Speaker, Sir, the Constitution of Kenya (Amendment) Bill (No.2), therefore, seeks to implement this resolution of the National Assembly. This Bill complies with the Constitution of the Republic of Kenya. It also complies with the Standing Orders. It is also a corollary of the Constitution of Kenya Amendment Act No.3 of 1999 which created the Parliamentary Service Commission and the Parliamentary Service. This constitutional amendment which created a statutory Parliamentary Service Commission removed the President's power to hire the staff of the National Assembly. It also placed in this Parliament the powers to determine its own budget, and it also created an independent administration for Parliament. This was a major achievement of the Eighth Parliament to de-link Parliament from the control of the Executive Government. That is why this particular Bill is just a "footnote" on what we have achieved already. It is nothing new or revolutionary; it is a fitting development in the process of the progress.

*(Applause)*

Mr. Speaker, Sir, before this Bill was enacted to pave way for the creation of the Parliamentary Service Commission and the Parliamentary Service, all the members of staff of Parliament were civil servants. They were under the control of the Head of the Civil Service and they were receiving their direction from the Head of the Civil Service who is in the Office of the President. We know that this was a control over Parliament, and so we liberated Parliament in the first step.

*(Applause)*

Mr. Speaker, Sir, following that constitutional amendment, as you know, you are now the Chairman of the Parliamentary Service Commission, which is the body that runs and provides the administration for this House on behalf of the House. It is the body which employs all members of staff. I remember when I first came to this House, we used to cross the street to be paid by junior civil servants in the Office of the President, and they enjoyed humiliating hon. Members. You would make your claim and they made sure you went there four times in the week so that they could show you the powers they had over you. We created what is now an independent accounting unit at that time. We have made progress and we cannot go back.

Mr. Speaker, Sir, the Parliamentary Service Commission is, therefore, the Government of Parliament. We prepare our own budget and we bring it into this House for approval. As you could see this year, we did make a budget for this Parliament. This money is also drawn directly from the Consolidated Fund. In the past, we were being treated like a department of Government. We were in the same category as the Police Department and the Department of Registration of Persons. In addition to sourcing our funds directly from the Consolidated Fund, we can receive grants and loans from friends of Parliament. You know the Commission has already made contacts with friends of Parliament so that this Parliament can be what it should be - a Parliament of the people, by the people and for the people!

*(Applause)*

Mr. Speaker, Sir, this has been a revolutionary move. These legal changes have produced an effective Parliament, and I will go through this again and again, that a good Government requires an effective Parliament; a Parliament that can control the Government. That is our mandate. Our mandate is to supervise the Government and not the other way round. The Constitution of Kenya (Amendment) Bill No.2 seeks to take to the logical conclusion the changes which were established by creating a statutory Parliamentary Service Commission. Its net effect will abolish the remaining presidential powers which allow the President to summon, prorogue and dissolve Parliament at his own will and discretion. When the Bill becomes law, therefore, the power to regulate the sittings and business of Parliament will be vested in this National Assembly, exercised on its behalf by the Parliamentary Service Commission. That is the act of liberation which I am working for.

*(Applause)*

Mr. Speaker, Sir, the Bill also seeks to change the procedure for political transition in the event of a

successful vote of no confidence. Presently, under the present Constitution, the President is supposed to resign upon the passage of a successful vote of no confidence. Following that resignation, the Vice-President assumes the Office of the President if a vote of no confidence succeeds. It is also for the Members of the Cabinet who would then appoint the President for this country. I am saying no. The Speaker of the National Assembly, in the event of an act of a vote of no confidence succeeding, will become the President.

*(Applause)*

If the Speaker for any reason, is not ready or prepared to become the President, any Member of this House will be elected to become the President of this nation.

*(Applause)*

**Hon. Members:** Kaparo for President!

*(Laughter)*

**Mr. Speaker:** Order all of you! He is just an hon. Member! Order! I have heard hon. Oloo-Aringo say "the Speaker" and not "Kaparo".

Proceed!

*(Laughter)*

**Mr. Oloo-Aringo:** Mr. Speaker, Sir, the reason for this is very simple. If we pass a vote of no confidence in the President, then we have passed a vote of no confidence in the whole Government and, therefore, you cannot expect another member of that Government to assume the position of Acting President. This is why it is only logical that the Speaker becomes the Acting President, but we also make sure that in this Bill, the Speaker does not contest the following general elections.

*(Laughter)*

When the Speaker is exercising the powers of the President, the Deputy Speaker becomes the Acting Speaker and presides over this House. This provision ensures fairness and equality of opportunity in the ensuing presidential election, by declaring any person discharging the functions of the Office of the President during this period ineligible to contest elections. This provision also demystifies the Presidency because the Speaker and any Member of this House can become President of Kenya. We must remove this concept of a demigod. A President is just one of us. Once we accept this, we are on our road to liberating this country and creating equality of opportunity because hon. Wanjala can be my President tomorrow.

**Hon. Members:** He is jut like Uhuru!

*(Laughter)*

*(Mr. Kiunjuri stood up in his place)*

**Eng. Toro:** Sit down! Sit down!

**Mr. Speaker:** Order! Order! Eng. Toro, this is an honourable House. You do not heckle a Member when he wants to raise a point of order.

**Mr. Munyasia:** On a point of order, Mr. Speaker, Sir. Is Mr. Oloo-Aringo in order to mislead the House that any Member of this House can be President, when we know that some of them, like Mr. Kiunjuri and Mr. Wanjala, are below 35 years?

*(Laughter)*

**Mr. Wanjala:** On a point of order, Mr. Speaker, Sir. At the moment, I qualify to be the President of this country because I am 36 years old!



**Mr. Speaker:** Very well! Proceed, Mr. Oloo-Aringo!

**Mr. Oloo-Aringo:** Thank you, Mr. Speaker, Sir.

**Mr. Speaker:** Order! Order! Mr. Wanjala, a person who aspires to be President will not do what you have just done.

Proceed!

**Mr. Oloo-Aringo:** Thank you, Mr. Speaker, Sir. The current provision of the Constitution of Kenya vests the power to dissolve and prorogue Parliament in the President, who is the Head of State, Head of Government, Member of Parliament and a leader of a political party. The President determines each Session of Parliament and the place within Kenya where that Parliament meets. The only limitation, therefore, is the requirement that there must be a Session of Parliament once a year. This Session can only be one day. As you know, the First Session of this Parliament was just one day, and this started in 1974. The majority of us in this House wanted to elect the late Seroney as our Deputy Speaker and we know that the establishment at the time did not want Mr. Seroney as our Deputy Speaker. So, we came and voted for the Speaker, and then we broke for lunch. But while we were out for lunch, the President prorogued Parliament and we were kicked out of here unceremoniously so that we had to clear the grounds of the precincts of Parliament! That is how we were humiliated, and I have never forgotten that experience. So, I came back seriously this time to correct this type of imbalance.

*(Applause)*

A Session of Parliament, for example, which lasts one day is a waste of time. In the arrangement which is in this Bill, it is the Speaker who will summon Parliament because there will be no time when there will be no Speaker. Just as there will be no time when there will be no President and there is no time when there will be no Government, there will be no time when there will be no Speaker. There will also be no time when there will be no Parliamentary Service Commission (PSC). There will be no time when there will be no Parliament. This has been abused in the past. It is during this interlude that the highest theft of public funds has taken place. The Germans learnt the hard way when Hitler came and abolished Parliament and instituted the most despotic regime in the history of mankind, because there was no Parliament. In this country, there is no time when there is no President; there is no time when there is no Government and, therefore, there must be no time when there is no Parliament.

*(Applause)*

Mr. Speaker, Sir, the prorogation and dissolution of Parliament is at the absolute discretion of the President. He can dissolve Parliament at any time before the expiry of five years, and he does not have to give any reason. He does not even consult the Speaker, who is the head of Parliament. Could you imagine another branch of Government expunging another branch of Government without consultation? He cannot expunge the Judiciary, and yet he can expunge the people elected by the people of Kenya. This is what we are putting a stop to under this Bill. That will not happen again. So, within five years, the President can send us packing. Even now, as I speak here, he can declare this House dissolved and we have to pack up and go. He then determines when Parliament will meet so long as it is within three months. He also determines when and where the Session of Parliament will be held. We have returned these powers to the Speaker and that means a healthy development.

Mr. Speaker, Sir, this constitutional amendment addresses the powers of the President *versus* Parliament. The power of the President to determine when and where within Kenya Parliament shall meet will be abolished. These powers will be transferred to Parliament itself, and will be exercised on behalf of Parliament by the Speaker and the Parliamentary Service Commission. The National Assembly will determine where, within Kenya, the Session of Parliament will be held. The timetable of the Session will be pre-determined in the Constitution and the law of Parliament. Once in a Session, the Parliamentary Service Commission, with the approval of Parliament, will set the time and days when Parliament will sit. Parliament is empowered by consensus to adjourn itself. But in the past, when we used to come here for a Motion of Adjournment, the Government would ram it down our throats that we must go home to talk to our electorate, and that we must go to learn how to weed and plant seeds. This language is childish and I really want it to stop because we have grown up in this country. The fact that you have crossed to the Government side does not make you superior to those who are not on the Government Benches. For a young Minister to lecture an old man like me to go home and plant crops is very bad manners!

**An hon. Member:** Which you were planting before he was born!

*(Laughter)*

**Mr. Oloo-Aringo:** This provision, therefore, means that any one-third of Members of this Parliament can stop the Adjournment Motion. This means in another sense, we are introducing dialogue. The Ministers must now learn to dialogue with us. They must learn to talk to us. If they want to adjourn Parliament, they should bring a Motion and convince us as Members of Parliament. They should not ram it down our throats. We have taken that far away if we pass this Bill.

The Bill also provides that the Session of Parliament shall run throughout the year save between 30th November each year to 3rd February of the year immediately following. So, we know our long recess. At the moment, we do not know our long recess. We are worse than our kindergarten children. This takes away the discretion vested in the President to determine even our calendar at his own whims and discretion. The Bill provides, therefore, what we call normal prorogation of Parliament which takes place every year on 30th November, and compels Parliament to meet in February. But there is what we call final prorogation which comes in the fifth year on 30th November, so that the business of the House stops, but Parliament is not dissolved. We have abolished the idea of dissolving Parliament. One Member hands over to the next Member.

**An hon. Member:** Even the offices!

**Mr. Oloo-Aringo:** I am glad this issue has arisen because under this law, Members will stay in their offices until a new Member comes in. It is also possible, under this provision, that the Member who has been sworn in, in this Parliament and re-elected does not need to take the oath. He continues with the old oath because it is only one oath. Only new Members will take the oath. Again, I borrowed this from the German Parliament and they told me that Hitler taught them a bitter lesson. Again, when Parliament is prorogued, we had no power to recall Parliament. We cannot even call ourselves back if there is emergency. There was a bomb blast here and we tried to get Parliament to be recalled, but nobody would listen to us. Under this Bill, 20 per cent of us, by petition to the Speaker, can call Parliament during recess. Parliament can still meet under this particular provision, during the final prorogation between 30th November and February 3rd, because we are still Members of Parliament until a new Parliament is sworn in. I had discussed this issue with the Attorney-General and I hope he will support this. I requested him at that time to take over this Bill. I had suggested to him that this can even, in fact, accommodate any delay in the publication of the Constitution of Kenya Review Commission Report. This means that when Parliament is prorogued on 30th November, it can be recalled to deal with matters such as completing the Constitution. This is something so simple and yet so difficult for this Government.

In the event of an emergency arising from the final prorogation of Parliament, and the First Session of the new Parliament, at least 55 of all the new Members may request the Speaker, in writing, to convene Parliament for any specific purpose. In a session so convened, a decision of Parliament has to be supported by at least 65 per cent of the Members. Let me read from the Bill now.:

"This provision provides a mechanism for convening Parliament in the event of an emergency during the final prorogation and before its dissolution and the first meeting of a new Parliament. Thus, Parliament is competent to function from the date of expiry of its term of dissolution until the election and the first meeting of the next of Assembly".

This is progress. The current hon. Members will remain Members of Parliament until new hon. Members are sworn in office at the beginning of the new Parliament. You will, therefore, still be on the payroll, hon. Members.

*(Laughter)*

This is not a sentimental matter; I think hon. Members should take this seriously because you will still be in the payroll like Ministers and the President.

**An hon. Member:** We are taking that matter very seriously!

*(Laughter)*

**Mr. Oloo-Aringo:** The Bill proposes to abolish, therefore, the President's power to dissolve Parliament. The Bill proposes, therefore, that dissolution of Parliament shall be brought about by the operations of the law, five years after its first sitting after dissolution. Such dissolution will be preceded by final prorogation. The date of the final prorogation and the dissolution of Parliament will be pre-determined in the Constitution and will be a matter of public knowledge.

This is the sword of damocles which the President holds over our heads; that is the threat of the so-called "snap elections". The President uses this as a secret weapon. You cannot have a secret weapon against your own people. How can an election be a secret weapon? We have been encouraging this kind of talk, but it must stop somewhere. There will be no secret weapon because the date of election will be known. After this Bill, there will be

need to amend the National Assembly and Presidential Elections Act to provide a specific date for elections. I could not include it here, but that Bill will come and it will compel that section to be amended.

Mr. Speaker, Sir, the Bill also proposes that once Parliament is finally prorogued on 30th November of the fifth year, the general election shall be held and the Speaker is required to convene the first session of the new Parliament to meet on the first Tuesday of February in the following year. The period between the final prorogation of the outgoing Parliament and the first meeting of the new Parliament is reduced from 90 to 60 days. The power to convene the first session of Parliament is vested in the Speaker. We want the office of our Speaker to be recognised because the Speaker is the head of a branch of Government. He is senior to the Vice-President. When you go to the airport the Speaker looks for a chair while little Ministers and Assistant Ministers are seated comfortably.

*(Laughter)*

Mr. Speaker, Sir, the Bill retains the provision that gives Parliament power to extend its life beyond five years at any time when Kenya is at war. I did not take that away because it is important. It also retains the provision that such extension can only be for 12 months at a time. However, there is a new provision which requires that Parliament must pass a resolution for the extension by not less than 65 per cent of all the Members of the Assembly. This is an important control mechanism because Parliament must be satisfied that a genuine situation of war exists in the country before extending its life for 12 months. A President or government that provokes a civil war, as happened during the ethnic cleansing--- This was provocation. They were being provoked to go to war, but the people of Kenya said "no".

*(Capt. Ntwiga handed a glass of water to Mr. Oloo-Aringo)*

*(Applause)*

Thank you very much. This provision is extremely important. A President or a Government that provokes a civil war, as happened in Kenya during the ethnic holocaust, cannot expect Parliament to rubber-stamp such executive conspiracy against the people. It will be forced by Parliament to face the wrath of the people in a general election. In other words, we do not want any President in Kenya to "cook" war and expect us to endorse that type of behaviour. We are saying this Parliament must be supreme. It is this Parliament which will then pass a resolution to authorise the President to declare war. This is to prevent abuse. The Bill addresses some of the existing anomalies in the exercise and distribution of authority between the President, Parliament and the Judiciary. The anomalies arose out of the mutation of the Independence Constitution. It was a mutation and this is why the reforms I am proposing are different from previous reforms which were meant to strengthen the imperial presidency system of Government. These reforms are meant to re-invent Parliament and put it at the centre of our national lives. They are meant to make people participate in their own lives and in deciding their destinies. That is the difference between amendments which were brought in the past and those ones which we are bringing in now. The previous ones were meant to strengthen the authoritarian system of Government, while the present ones are meant to liberate us from that authoritative system of Government and restore power to Parliament.

Mr. Speaker, Sir, some of us have travelled to other countries and we have witnessed how a parliament runs the country. I was in Canada with my colleagues, the Commissioners of the Parliamentary Service Commission. We sat there and watched while the Prime Minister of Canada was compelled to come to Parliament twice a week to answer questions from Members because he is the Head of Government. In Britain, the Prime Minister is now called to Parliament twice, and not once, a week to answer questions from the representatives of the people in Parliament. Our President should also be called to Parliament as long as he is the Head of Government and we cross-examine him on issues like police brutality against the people so that he can answer us. Once we do that, we shall start a transparent Government. We do not want to be addressed at funerals or the airport. This Parliament wants to be addressed from here. When public policy statements are made in funerals or to kindergarten children, what is the audience supposed to do? You should come and make those statements here, before the representatives of the people of Kenya.

In Westminster Parliament, the Queen is a ceremonial Head of State and exercises power with the advice of the Prime Minister. The American President exercises executive power, but he is controlled by Congress through checks and balances inbuilt in the American Constitution. The President of Kenya is a Member of Parliament and an Executive President. He enjoys the privileges of the English Queen and the rights of the American President, but without accountability to anybody.

Mr. Speaker, Sir, Parliament is merely meant to bring the Government to account; not the President. That is the difference in accountability; that, a Head of the Government must be accountable for us to have a responsible

Government. Parliament even went ahead and prohibited him from being summoned by the Parliamentary Committees for questioning like can be done to other Ministers of whom he is one. He is the Chairman of the Council of Ministers and, therefore, he is the first Minister. As a first Minister, he should be answerable to this Parliament; as Head of the Government. Hon. Members cannot question him or mention his name, except with the authority of the House. His personal conduct cannot be referred to adversely here, except upon a specific substantive Motion moved for that purpose. Despite being a Member of Parliament, and Head of the Government, he is hardly here in the House to explain policies of the Government. This arrogance has extended to Ministers. They do not take us seriously and we are representatives of the people. Our qualifications for being here is the vote. It is the General Elections which create Parliament. Those are the people who mandate us to be the "*nyapara!*"

*(Laughter)*

Mr. Speaker, Sir, it is true that the President is elected by the public. He owes, therefore, his mandate from the public. As Head of the Government, I am saying that he is accountable to Parliament. We must say this plainly; if we love the President, we must tell him the truth. But where are the institutions, for example, which we have created by the current Constitution to empower the public to directly hold the President accountable after they have elected him? The current Constitution always restrains him from, for example, firing a Judge of the High Court, but he does not consult anybody when he appoints the judges. We are going to review this, to make sure that all those appointments are vetted by this Parliament.

If the President of this country can only occupy the high office on condition that he also won his constituency seat, where does he get the legitimacy to continue being in office after the dissolution of Parliament? He is an hon. Member and then he expunges us.

In countries such as Zambia, Tanzania and Uganda, the President is not a Member of Parliament. I hope that in the constitutional review process, we are going to revisit this subject and make sure that the President is not a Member of Parliament. Under the Imperial Presidency, such as the one in Kenya, the key role of Parliament is to legitimise the powers of the President. The President becomes the engine of governance while Parliament becomes a rubberstamp.

**Mr. Speaker:** Order, Mr. Oloo-Aringo! It is debate time! You are not reading a Personal Statement!

**Mr. Oloo-Aringo:** Mr. Speaker, Sir, I am sorry. I was referring to the notes.

**Mr. Speaker:** Order! Yes, I think you can refer, but do not "over refer" by reading it out!

**Mr. Oloo-Aringo:** Mr. Speaker, Sir, I will take note of that. It is just that I want to make sure that my presentation is coherent.

In the Constitution of the United States of America, the President is not a member of Congress, but he is accountable to Congress and all his appointments are vetted by the Congress. In Kenya, therefore, we are insisting that all the appointments of the President should be vetted by this Parliament.

Finally, it is important to address the question of the doctrine of separation of powers. The Constitution recognises that Parliament represents the people. We are suggesting that this branch of the Government - Parliament - must be independent of the President. It is the source of the Government and it is a community forum. I have emphasized and analyzed the theory of the supremacy of Parliament. I want to conclude because I know that hon. Members are interested in discussing this subject. As you can see, it is the most humorous one because hon. Members have been waiting for over one year. But I want to say this: A Member of Parliament is elected by his or her people and is answerable to his or her people. This is one Bill in which he or she should vote with his or her conscious and exercise his or her free vote to restore the dignity of Parliament.

Let me just read out a section of the Bill itself. I know that hon. Members have read this, but I want to draw attention to the Memorandum of Objects and Reasons on page 422. The Bill represents yet another step in the consolidation of the dignity, authority and independence of Parliament. In the last paragraph, it will be necessary to make consequential amendments to the National Assembly and Presidential Elections Act, to have a fixed date for General Elections in this country. I will have time to make further contribution. May I request Mr. Obwocha to second this Bill.

*(Applause)*

**Mr. Obwocha:** Thank you, Mr. Speaker, Sir. I want to say that the Mover of this Bill has done a commendable job. He has eloquently moved this Bill. Looking across the Benches, I do not see the Attorney-General. I do not know whether he is hiding or not, because this is a very important Bill.

I want to start by saying that this Parliament should never follow things blindly. There were two brothers; one

was clever and the other was average. They were going for an interview. They agreed that the clever brother goes to the interview first, comes out and briefs his average brother so that he can pass the interview as well. When the clever brother went in first, he was asked three questions. The first question was: "When was the radio invented?" He said that it was invented in 1912 and modified in 1932. The second question was: "Can you name two football celebrities in Southern America who have retired?" He gave the names of Messrs. Pele and Maradona. He got it. The third question was: "Is there life on Mars?" The young man said: "Yes, I think so, but it has not been tested." He went out and briefed his young brother. The young brother went in. The first question of the interviewer to the young man was: "When were you born?" The young man said: "In 1912, modified in 1932."

*(Laughter)*

The interviewer looked at the young man and thought that there was something wrong with him. He asked him: "Who are your parents?" He gave the names of Messrs. Pele and Maradona. The interviewer was even more perplexed. He looked at the young man and said: "Young man, are you mad?" He said: "Yes, but I have not been tested."

*(Laughter)*

Mr. Speaker, Sir, this Parliament should never follow things blindly. The objective of this Bill is precisely what Mr. Oloo-Aringo has said; to restore the independence, the authority and dignity of Parliament, and to establish a framework calendar within our rules to regulate our own sittings in an orderly manner, so that we can discharge our business effectively.

I should not belabour that the President's absolute powers of prorogation and dissolution of Parliament have undermined the powers of the Legislature, because this House is at the mercy of the Executive. When the President feels that Parliament is placing too much pressure on the Executive, he simply prorogues or dissolves it at will. The President is not required to account or consult anybody, and therefore, these powers can be abused.

Mr. Speaker, Sir, looking at this Bill, it is not - contrary to public opinion - going to affect the position of the Vice-President to ascend to power in the event of a vacancy occurring in the Office of the President. The provisions of Section 6 of our Constitution are still intact. The only time when the Vice-President cannot take over is when there is a vote of no confidence in the Government. Mr. Oloo-Aringo has explained that the reason, basically, is that if this House has passed a vote of no confidence in the Government, then it has also passed a vote of no confidence in the President, the Vice-President and the Ministers, and, therefore, they cannot act within that period. That is why those powers are being transferred to a neutral person, who is the Speaker or the National Assembly.

Mr. Speaker, Sir, under one-party rule, this Parliament did terrible things. That was the period when it was a rubber stamp. That is when legislations were passed in this House to remove the security of tenure of the Judges, the Controller and Auditor-General and the Attorney-General. Then, it was a toothless rubber stamp that was being used to destroy the institution of Parliament. This multiparty Parliament must restore the credibility and the dignity of this House. We must commend it, because it has established the Parliamentary Service Commission, resuscitated the Departmental Committees and hon. Members have been very aggressive in coming up with Bills. We can now see many Private Members Bills being passed in the House. This Parliament has shown the immense powers that the President had.

Mr. Speaker, Sir, at a glance - because I do not want to repeat what Mr. Oloo-Aringo has said - we would like to address the issue of the power of the President to decide on Sessions of Parliament. Mr. Oloo-Aringo has explained eloquently on what can happen when the President summons a Session for one day and then prorogues Parliament. This Bill has addressed the powers of the President on prorogation.

I do not want to belabour the point regarding national disasters. This Parliament should never leave a vacuum. There should be no time when this country does not have a Parliament. This Bill addresses that issue, and it is one of the most important aspects of this Bill.

Mr. Speaker, Sir, this Bill has addressed the issue of the powers of this House to extend its life to a situation where it must garner 65 per cent of the total Membership of this House. There were calls being made to extend the life of this House. This House should not extend its life for more than the five years, because there is no war in Kenya. So, the people of this country should be assured that this Parliament is not going to extend its life for more than the five years.

Finally, since the Mover of this Bill has done the job eloquently, I would like to appeal to my colleagues, that we should make the Eighth Parliament the most assertive Parliament. We should pass this Bill to liberate ourselves

from the control of the Executive. Although this Parliament has been maligned on issues like emoluments, this Parliament has addressed itself to the concerns of the future Parliaments which will not be maligned because of emoluments and so on, because we shall have set a stage for them to do the work for this country. Therefore, I would like to tell my colleagues that this is one of the most important Bills in the history of this country, and if we pass it, we shall have liberated this House to be a supreme authority and one that the people of Kenya will look up to.

I would like to appeal to the media never to destroy an institution like Parliament. They should, instead, destroy individuals. For example, if they think Mr. Obwocha is not doing the right job, then they should destroy me. But destroying this House is one of the greatest crimes they can commit against this nation, because there would be a time when the nation will look forward to assistance from this House to liberate the people of Kenya in the event of a tragedy. I would like to appeal again to my colleagues to support this Bill in order to liberate the institution of Parliament. It is not meant to liberate ourselves, but the institution of Parliament and the future of those who will be here.

With those few remarks, I beg to second.

*(Question proposed)*

**Mr. Kajwang:** Mr. Speaker, Sir, if I thought for a while that Prof. Ghai and his Commissioners will complete the constitutional review exercise before we go to the next general elections, and bring to us a new Constitution here, I would not have bothered to support this Bill. But I am frightened that Prof. Ghai may not complete his work and this Parliament may continue to be subjected to certain influences which, if Prof. Ghai was to complete his work, would be forgotten. Now, by this amendment, we must do something to remove this Parliament from the clutches of the Executive. Clap for me!

*(Applause)*

Mr. Speaker, Sir, I want to give you just a few examples. If primary schools, secondary schools and universities know when to open and close, this Parliament does not know when to start or end! That is ridiculous! We want to know that after you have won your elections, you will be sworn in here and earn your salary on such and such a date. We also want to know when we are likely to go home. As we are sitting here, we are sitting tight! We do not know when the President may get unhappy with us! Maybe, immediately after this Bill, he might just say that he is tired of us! Then, we have to go home. I met one of my former Members of Parliament - and I am happy he is in the gallery! He told me that when he was in his car coming through Oyugis from Mbita-Rusinga, he heard that Parliament had been dissolved. He had only enough money to fuel his vehicle. He did not know whether to drive back to Rusinga or to proceed to Nairobi. It is a dangerous thing to put a human being, especially a man elected by his people, in such a precarious situation!

Mr. Speaker, Sir, look at it this way. How do you dissolve an institution? The word "dissolution" is also another word which I have not understood. When I was at the Kenya School of Law, I used to read the Constitution and wonder; how do you dissolve Parliament? An institution cannot be dissolved. You can only adjourn or go for recess like they do in primary schools, secondary schools and the universities. I have never heard of the Vice-Chancellor dissolving the University of Nairobi! That is because he cannot! If you dissolve this House and every Member becomes a non-Member immediately, how does the President, who is only the President because he is a Member of Parliament of a certain constituency, remain to be President?

*(Applause)*

He would have dissolved himself! He would no longer be a Member of Parliament. So, he cannot then be President!

*[Mr. Speaker left the Chair]*

*[Mr. Deputy Speaker took the Chair]*

Mr. Deputy Speaker, Sir, let us look at another situation. A Member of Parliament must be a Member of Parliament first before he becomes a Minister. But, somehow, when the House is dissolved, a Minister remains a Minister, with a flag and a salary, and a Member of Parliament starts walking on the streets! Sometimes, your car is towed by the Speaker because you have not paid for it! Those are anomalies which, I think, were deliberately created

by the architects of this Constitution, to make sure that Members are constantly frightened of the Executive. When the Executive says: "I can dissolve you", we sit down! We cannot allow a situation like that to continue.

Mr. Deputy Speaker, Sir, look at it this way. When we come to this House for the first time--- I remember when I came in here, the Speaker, whom we later on elected, was outside there, beyond the Bar. I think this House was constituted by the Clerk of the National Assembly. That is what I saw. Then, the first business was conducted by the Clerk of the National Assembly. The Clerk of the National Assembly is not a Member of this House and he is not elected by anybody, but he is the one who says: "Now, the first business of this House is to elect the Speaker!" That is another anomaly. We are saying that Parliament cannot be dissolved, so that the Speaker continues to be the Speaker until the next one is sworn in. A Member of Parliament like myself should continue to be a Member of Parliament for Mbita Constituency until the next one is sworn in; which will be myself again!

Mr. Deputy Speaker, Sir, this House must always be present. I have never heard of a branch of Government which goes home and leaves a vacuum. The Judiciary cannot be dissolved and yet they are a branch of the Government. We need them every minute. The Executive does not go home because we need the President and the Cabinet all the time. How does it happen that it is Parliament which goes home? How do you have a Government with only two branches? The Executive, which is also Parliament - because first of all they must be parliamentarians before they become the Executive--- But, somehow, Parliament does not exist! So, those anomalies must be corrected. Parliament must always be there. The Executive must be there until another Executive is sworn in. That is the law. The Judiciary must always be present. In fact, when the Chief Justice retires, there is another Chief Justice the next day. That is because we need a Chief Justice all the time. So, without making it too long, we want to de-link Parliament from the Executive. We want this Parliament to feel like a branch of the Government. We want to be respected.

Mr. Deputy Speaker, Sir, when we attend national days--- You have never seen it! On national days, Members of Parliament sit on the stones because nobody bothers about them and yet, I thought Parliament is a branch of the Government and we go there to celebrate a national day as the three branches. I see judges sitting properly. I see the Executive and the Ministers in charge of security sitting properly. But Mr. Kajwang can sit anywhere, even on a stone. Nobody bothers about him! Sometimes, I rig and sit on an Assistant Minister's chair; those ones who do not attend. That is dangerous. The Permanent Secretaries sit properly. But not a Member of Parliament! Who are you? Until the other day, Members of Parliament did not even have cars! We thought: "What do we do?" Why do they not give us each, a Government car because we are also doing a public job?

Mr. Deputy Speaker, Sir, members of the Press think we do not do a public job. In fact, they think that even if this Parliament was not there, it would be okay! In fact, those in the Press think that they should replace Parliament. We want to tell them that the institution of Parliament is protecting the Press. Without this Parliament, many members of the Press would all be in detention! There was a time when most of them were in detention! Why are they now writing what they are writing? It is because of this Parliament. They should know that we are public officers. Therefore, we must be paid by the taxpayers. The other day, when we were allocated offices, the media reported: "Now MPs get Luxurious Office". They described it as a luxurious office even though it does not have a place for a secretary or a clerk to sit. It is already luxurious, according to them!

**Hon. Members:** *The Daily Nation!*

**Mr. Kajwang:** As far as they are concerned, we should be transacting business in the streets like we do every day. That is how the media perceives Parliament to be. They say to be a parliamentarian you do not have to go to school. As long as you know some Kiswahili language, it is enough for you to be a parliamentarian. Since a primary school teacher takes a lot of time in a teachers training college, he or she should be paid more than a parliamentarian. Look at them!

They also say that there is no qualification even for being a President. Do they suggest that the President of this country should be paid the salary of a primary school teacher? You are paid according to the responsibility which the nation has given you. It does not matter whether you are professor or you only went up to Standard Four. That is why Parliament is a constitutional office. That is why Mr. Otieno Kajwang is a constitutional office holder!

*(Applause)*

**Hon. Members:** Tell them!

**Mr. Kajwang:** Sooner or later, these ladies and gentlemen of the media will want to destroy the institution of Parliament. They think we should, in fact, work voluntarily for nothing and that the public should not pay a salary to an hon. Member. They have not even travelled to Uganda to know how much hon. Members earn there. They have not gone to Tanzania to know that hon. Members there drive Four-wheel Drive vehicles. They have government vehicles with a driver, a body guard, offices with telephones in the constituency and in Dar-es-Salaam and Dodoma;

paid for by the taxpayers. This is happening in Tanzania here; which we consider to be a poor country! They do not know because they just sit here and think Parliament is a useless institution.

Mr. Deputy Speaker, Sir, we will delink ourselves from the Executive which has made this Parliament a laughing stock. The reason why these other people think this Parliament is useless is because the Executive has made us look so useless, that nobody thinks we have a function. We are the ones who determine how much tax is paid and appropriated and yet we are not supposed to earn a single cent from it, because we do not know what goes on. Look at that!

Mr. Deputy Speaker, Sir, let me stop here by saying that I have never seen a good Bill like this. When we finally debate our new Constitution, we shall preserve some of these features. Maybe we shall have a President with a running mate, who is not an hon. Member of Parliament and a Prime Minister who will be obligated to come here daily so that we cross-examine him.

**An hon. Member:** But not Mr. Amos Wako!

*(The Attorney-General entered the Chamber)*

**Mr. Kajwang:** The Attorney-General has arrived. We must tell him that he is an *ex-officio* Member of this Parliament, although nobody has elected him. For your information, he is a Member for life; he does not have a retirement age. This Attorney-General is a very lucky man. So, he must defend the institution of this Parliament. Therefore, he must support this Bill.

**Mr. Muite:** Mr. Deputy Speaker, Section 59 of the Kenya Constitution has intrigued me for a long time. This section states that the President may dissolve Parliament at any time. Yet each hon. Member, with the exception the *ex-officio* Members, is here, not because he or she has been appointed by the President, but because he or she was elected by the people of his or her constituency. We are here as the representatives of 30 million Kenyans who elected us. Incidentally, the President is also elected. He is the hon. Member for Baringo Central Constituency. How then do we give that one individual power to actually negate the wishes of our electors? This is such a serious anomaly! Our electors have elected us here for a five year-term. How can we allow one individual to ignore the wishes of Kenyans who have elected us to serve for a five-year term and "dissolves" us at his own pleasure? So, I have wondered about the rationale. I do not know whether you have ever wondered about the reason for this provision in Section 59 of the Constitution. What did those who put in that provision have in mind? I came to this conclusion; that this was a way of giving more and more powers to the institution of the Presidency. When we talk about the supremacy of Parliament in this country, that is an anomaly. We should be talking about the supremacy of the institution of the Presidency. It is the institution of the Presidency that is, in fact, supreme in this country under the current constitutional order. This is what we seek to reverse by enacting this Bill because it is Parliament that should be supreme.

This provision was put in the Constitution in the days of the one-party system because if Parliament, as an institution became militant, assertive and unwilling to do the wishes of the President, he wanted power to send that Parliament home. If he was unhappy with that particular Parliament, he would send them home and, perhaps, ensure the election of a more compliant Parliament. This is unacceptable in a democratic setting and must be brought to an end. Truly, I trust that everybody, including our colleagues, on the Government side, will support this Bill so that Parliament can be truly independent, supreme and assertive so as to serve the people of this country. This is not a matter that can wait for the comprehensive constitutional reforms. The comprehensive constitutional reforms will run for a couple of years. When this Bill is enacted, we will go home on 30th November, 2002 and elections will be held before February 2003 and the Ninth Parliament will meet for the first time in February next year.

Mr. Deputy Speaker, Sir, I do very strongly support this Bill and appeal to our colleagues on that side of the House, to show patriotism and to subscribe to the necessity of the supremacy of Parliament. Give us the sovereignty we want by enacting this Bill. I beg to support.

**Mr. Angwenyi:** Mr. Speaker, Sir, today I have realised why the late Jaramogi Oginga Odinga said that you cannot take cows to the river without the bull. At that time the bull was Mr. Oloo-Aringo. This "bull" has brought this Bill in addition to other Bills he has brought to us before to emancipate the institution of Parliament in this country. Most of us were elected to this Parliament even against the wishes of the President. But to give him the mandate to terminate our jobs without consulting us is to trample on our rights, and yet we say Parliament is a supreme institution in this country.

Mr. Deputy Speaker, Sir, recently, we passed a law on violence, including psychological violence. Once you are elected to this House, you are subjected to psychological violence or torture for five years. This is because you do not know when your term will end. You cannot plan something in your constituency and your people who have elected you to this House so that you can serve them for five years are not consulted whenever somebody wants to fire you. This is psychological torture.



We say that there are three equal arms of the Government, but what is the actual position? Can you say that we are equal to the Executive, and yet the Executive can terminate our jobs at its own will? If we are equal, then we should manage our affairs by ourselves, and the Executive should manage its affairs by itself. The same case should apply to the Judiciary.

We must correct the anomalies that are contained in our current Constitution. An anomaly which requires, like my colleagues have said, that you cannot be a President or a Minister unless you are an hon. Member of Parliament. But for three months, a Kenyan remains a President or a Minister without being an hon. Member of Parliament. It is a constitutional contradiction that you should be an hon. Member of Parliament before you can be appointed a Minister or elected a President. This Bill should correct that anomaly.

We are called a "useless Parliament" because we have accepted a situation whereby we work at the whims of the Executive. This House has got power and mandate to liberate itself. Today, we have been provided with an opportunity to liberate ourselves; to have this House manage its affairs.

When we take our oath, we say that we will work without fear or favour, and yet we always fear. Like this time, we fear that the President might dissolve this House today, next month, or he could create a situation whereby we do not even have to go home. So, we are saying that we are not taking power from the President, but we want to make the three arms of the Government equal. I saw in the newspaper today a headline reading: "Oloo-Aringo brings a new Bill to reduce the powers of the President." Mr. Oloo-Aringo is not doing that. We do not want to reduce the powers of the President. We want the President to remain the President and exercise the functions of the Presidency as per the law. We also want the House to have its own powers and mandate, and practise them without fear or favour.

Mr. Deputy Speaker, Sir, I do know that some hon. Members might fear to vote for this Bill now. But I would like to warn them. I have been one of them. When I was fired, I was not told that I was going to be fired. These hon. Members could be fired tomorrow. They might vote against this Bill today and they are fired tonight or tomorrow. First, we are hon. Members of Parliament before we are appointed to any post. So, I would like to plead with this side of the House to vote for this Bill so that this House can restore and acquire back its mandate and responsibility and discharge them without fear or favour.

Mr. Deputy Speaker, Sir, with those few remarks, I beg to support the Bill.

**Mr. Kihoro:** Thank you, Mr. Deputy Speaker, Sir. I also rise to support the Bill, as it has been moved.

This is a new dawn for this country in that we will have Parliament as one of the arms of the Government proposing and accepting its own calendar of work. This will apply in respect of the summoning, prorogation and dissolution of our Parliament. This is a very happy day for this country, because we will have Parliament put on an equal footing with the Executive. There is a lot of work which needs to be done so that we can also have the Judiciary put on the same wavelength with the other arms of the Government. This is a very happy day because Kenya has been left behind for the last 38 years. We have had an Executive Presidency which has been dictatorial. It is very important that this Bill is accepted and passed by this House, so far as possible, unanimously so that Parliament can have control of its own calendar.

It is only about a month ago that this country was very much submerged in the debate of whether the life of the current Parliament should be extended or not. I believe that it is only because of the resistance of our people, who said that the current Parliament cannot extend its own life, that we have not also seen a Bill which will extend its life. It is important that we have a calendar of Parliament established by law; one which will be in the Constitution so that every Kenyan, elector and hon. Member of Parliament, will know when Parliament meets, stands adjourned, is prorogued and elections are held. This country should not be held at ransom by anybody. I know that during the days of the late President Mzee Jomo Kenyatta, and now the days of President Moi, that has happened, and Parliament has got a golden opportunity of setting up its calendar so that it can control the lives of people in this country and do its work.

The tools of trade should be given to this House. If it is a fisherman, mason or carpenter, all of them have got their specific arms and tools which they use to do their work. Parliament should also have its own tools of trade which enable an hon. Member of Parliament in this country to discharge his work to his nation the way it should be done. I am one of those hon. Members who support that an hon. Member of Parliament should earn a good salary, drive a good car and live in a good house. The anti-Parliamentarian campaign which has been waged by the media is out of order.

If members of the media came here, the same laws which are enacted by this House would serve them. What some of these members of the Press should do is to stand for elections which are not very far, be elected to this House and then come and enjoy all these benefits. The time left for this Parliament cannot be more than four to five months. We could be out, they could be in and what is being enjoyed in this House, or the achievements of this House, could go to some of them. So, there is no reason why they should complain.

Mr. Deputy Speaker, Sir, with these words, I do support.

**Capt. Ntwiga:** Thank you very much, Mr. Deputy Speaker, Sir. You saw me give a glass of water to the Mover of this Bill. It was because of the good work that he has done. There are three arms of the Government and they are the Judiciary, Legislature and Executive. There is no time the three arms of the Government should not be in existence. There is no time one arm of the Government should dissolve the other one because there must be continuity in the governance of this country. Therefore, I support this Bill so that this Parliament, and future parliaments, can be authoritative and have some teeth. At the moment, this Parliament has no teeth. It is toothless and it cannot bite! That is why, when the President dissolves Parliament, we become useless in the streets until another Parliament is inaugurated.

*(Loud Consultations)*

**Mr. Deputy Speaker:** Order, hon. Members! Allow the Member on the Floor to be heard!

**Capt. Ntwiga:** It is important for this Parliament and future parliaments to control their calendars. We should know when we are supposed to go on recess and when we are supposed to resume. Just like Mr. Kajwang said, we should know when Parliament will be dissolved and when the next Parliament will be in place. There should be no vacuum in the institutions of this country. We have now been allocated constituency offices at Continental House but after three months, they will be vacant with no occupants because Parliament will have been dissolved. I, therefore, appeal to my colleagues to support this Bill so that this House can be powerful and supreme, just like any other arm of the Government. We should be in office until newly-elected Members of Parliament come to take over from us. There should be handing over and taking over because ours is a constitutional office.

With those remarks, I beg to support.

**Mr. Karume:** Ahsante sana Bw. Naibu Spika kwa kunipa nafasi hii, ili niunge mkono Mswada huu. Nakubaliana na wale wamesema ya kwamba kama kitu ni cha watu wengi, ni lazima wakubaliane kabla ya kufanya mabadiliko yoyote.

Bw. Naibu Spika, kwa sababu sisi tumechaguliwa, tuko na jukumu la kupanga mambo ya Bunge hili. Zaidi ya hayo, ni lazima tuwe na kalenda ya kuonyesha ni wakati gani tutafunga Bunge na ni wakati gani tatalifungua. Hili ni jambo la maana kwetu kwa wakati huu.

Bw. Naibu Spika, watu wakijaribu kufanya mambo mazuri katika nchi hii, wanapigwa kwa njia nyingi. Mnamo 1976, wakati wa "Change the Constitution", sisi tulipigwa sana kwa sababu tulitaka Katiba ibadilishwe. Wakati huo, tulisema ya kwamba Makamu wa Rais asisimamie nchi peke yake kwa siku 90 kama Rais amekufa ama kama hawezi kutekeleza kazi ya ofisi yake. Tulipendekeza kwamba nchi isimamiwe na Spika wa Bunge, Jaji Mkuu na Mkuu wa Sheria kwa wakati kama huo.

Bw. Naibu Spika, kuna wakati moja ambapo, tulikaa kwa miezi 14 bila Makamu wa Rais. Kama jambo lingetokea bila kuwa na Makamu wa Rais, na Katiba inasema ni lazima tuwe na Makamu wa Rais, nchi ingekuwa namna gani? Kwa hivyo, inafaa tufikirie kuweka hawa watu watatu kusimamia nchi kwa siku 90 ikiwa Rais hawezi kutekeleza kazi ya ofisi yake. Tusichezee nchi yetu hata kidogo! Wakati huo, watu wengi walifikiria sisi hatukutaka Moi achukue uongozi wa nchi kutoka kwa Mzee Jomo Kenyatta. Sasa Rais Moi anaenda kustaafu na si vyema kuwa na mtu moja ambaye atasimamia nchi kwa wakati huo wa siku 90. Ni jambo la busara tuwe na watu watatu wa kusimamia nchi kwa siku hizo 90.

Kwa hayo machache naunga mkono.

**Mr. Ngure:** Thank you very much Mr. Deputy Speaker, Sir, for giving me the opportunity to support this Bill.

Mr. Deputy Speaker, Sir, first of all, I support this Bill because I am a Member of the Parliamentary Service Commission (PSC). Being a Member of the PSC, without a Bill like this, I do not think I will be discharging my duties as a PSC Commissioner. I know that as a Member of the PSC, just like a Minister in the Government, I will still be a Member of the PSC until another Member is elected and sworn in. That is what should happen to all other Members of Parliament. How do I remain a Member of the PSC when Parliament has been dissolved and the people who elected me as a Member of the PSC are not in office, and my position as a Member of Parliament has been dissolved? That is an anomaly in this country! We will not allow that to happen again! This Bill is going to give us the authority that we should enjoy as Members of Parliament and the recognition that we should have, as Members of the PSC. I know very well that in the Government mailing list, Members of the PSC and the Speaker are not recognised. I know very well that Parliament, is one arm of the Government, but Members of Parliament are not recognised at ceremonial functions.

Mr. Deputy Speaker, Sir, one day, I decided to attend the State House Garden Party. At one point, a police officer told me to go and sit with parastatal heads and other Government officers, facing the sun. I told him that those were my employees and I was not going to sit with them. I informed him that I should sit with Ministers because I am equivalent to a Minister in the PSC, and that is what should be recognised! Sometimes, Ministers forget that they are

ected Members of Parliament! They only remember that they are Members of Parliament when they are dropped from the Cabinet. With this Bill, I am sure that Parliament will never become a market place in a contentious issue. Members of Parliament are known to behave as if they have a regional bond that can make them decide as one people. That bond is not there; it is because of the power that the Presidency wields over Parliament by dissolution! We must remove that from our minds. There is no time that a country will have no President. I remember it was very strange when J.F. Kennedy was assassinated and Lyndon Johnson was sworn in immediately on the airplane. Some aides of J.F. Kennedy did not believe it. They thought that Lyndon Johnson was too much in a hurry. But it was constitutional that not at any one minute should the Government of United States have no chief executive who is the President.

I remember the captain of the Presidential Jet No.1 flew so high and some people were scared. When he was asked to clarify why he was flying the plane too high, he told them that, never in his life had he ever flown two Presidents, one in a coffin and another one seated in the plane.

So, the Constitution is a very powerful thing. Why do we hon. Members think that we can be relegated to the second fiddle, in a Government where we are the people who pass laws? When we are debating Bills in this Parliament and passing Votes of Government Ministries, we have civil servants seated on the Civil Service Benches. They take notes, they hear what we say and, after we have passed the Bills, we are expected to go and "beg them". We are expected to go to the offices of Permanent Secretaries and "beg them" to do the same roads that were budgeted for! This is because Parliament has never been honoured and it is our own mistake.

We have people who believe that senior people are in the Civil Service. This time round we want to tell the whole world, and this country in particular, that Parliament is supreme and that is why the President must be a Member of Parliament.

We do remember that, during the Republican Constitution, somebody wrote a Constitution that the President shall appoint the Vice-President. That was going to create a lot of problems for Kenya, were it not for C.M.D Argwings Kodhek, who noticed that, if you do not make it specific that the President should be appointed from among Elected Members of Parliament, a Vice-President can even make his wife a Vice-President! These are the checks and balances that must be put in place. There is another one that we are putting in place for the betterment and good governance of this country. I know some people are zeroing in on a particular person. They think we are removing powers of a particular person who is "past tense", in terms of this Parliament and the country at large! Let us not be parochial in making decisions. Let us look at this Parliament which we are creating for posterity! Let us see what is good for this Parliament, let us see what can last in future and what checks and balances can be put in place by Members of Parliament to guard against the excesses of the Executive, because you never know. The excesses of the Executive can be many, but checks and balances must be there.

Mr. Deputy Speaker, Sir, I do not need to persuade most of our hon. Members on this side, it is only that they think that what they are seeing is "too strange" because they have never been used to it. But this is democracy and you have got to bear with us.

With those few remarks, I beg to support.

*(Applause)*

**Ms. Karua:** Mr. Deputy Speaker, Sir, I do not belong to the same party as my colleague on the other side.

I rise to add my voice to those who support this very timely Bill. The Bill is not only timely, but urgent. It is of great national importance and it is time Parliament played its rightful role in the politics and governance of this country. We are headed for a very unique time; a time of elections that are ushering in a new era, a transition where, for the first time, the incumbent President will not be a participant in the forthcoming General Elections.

Mr. Deputy Speaker, Sir, there is a lot of uncertainty in the air. The date of the General Elections is only known, as the Constitution stands, to the President. The date that Parliament will be dissolved is only known to one player, who has already expressed preferences! This adds to the uncertainty. But once this Bill is passed, the date of elections becomes certain, and responsibility is shared between the Executive and Parliament, and Parliament will then be able to arrange the work before it to fit the time that it is expected to sit. As matters stand, we cannot even be able to decide which business to give priority and how much time to give that business.

Mr. Deputy Speaker, Sir, we are now headed for recess and we are not in control. Although there are many Bills pending, we cannot decide that, for the sake of national interests, we need to shorten our recess. We are blamed all the time for sitting for too few months and going on recess for the rest of the year. But these are matters beyond the control of Members of Parliament. When this Parliament is finally able to control its own calendar, then we can take the responsibility for when we can sit and when we can go on recess. We can also rightfully take the responsibility for either doing too much or too little work.

Mr. Deputy Speaker, Sir, this Bill is a necessary step in the democratization process of this country. When

Section 2A was repealed, we never sat down to look at other sections in the Constitution that should have been amended, as a consequence of ushering in the multiparty era, welcoming and nurturing of democratic ideals. This is, therefore, a necessary step and one that should not have to wait for the review process. The review process, as the Mover of the Bill very aptly put it - and also to some extent - will depend on our passing of these amendments. What if the Constitution of Kenya Review Commission finishes its work and Parliament is dissolved before we can pass or enact the new Constitution? What if there is a crisis in the country at a time when Parliament is dissolved and before the General Elections? I think this Bill recognises the importance of the institution of Parliament. We should not encourage dictatorship even when we are undergoing elections! The Executive should always feel that if that occasion arises, he or she may have to answer to the people through Parliament; that, in itself, will act as a check and balance. It is, therefore, important that we support this Bill to encourage a culture of responsibility and accountability by all.

Mr. Deputy Speaker, Sir, a new concept is being introduced by this Bill; that throughout, there is no time that the country will have to be without one of the key institutions, and that is Parliament. Even when elections have been held, pending the swearing in of the new incoming hon. Members, still there will be a functional Parliament, one which, if there was a crisis, will be able to rise up to the occasion. We should take this opportunity to thank the Mover of this Bill and give it the support it deserves for the good of the country. For those who fear change, this Bill is good for everyone. It is also good for the Executive. The Executive will not have to shoulder the burden of governing the country without the advice of Parliament, or without feeling accountable to Parliament, even when we go through the electoral process.

Mr. Speaker, Sir, I agree with those hon. Members who have said that we do not require a vacuum at any time. That is why this Bill is very necessary. It does enhance the role of Parliament through the Speaker, because in case the President resigns, or dies in office, or there is a vote of no confidence against him, we will not have a person who is interested in the succession holding power during the election period. We will instead have a neutral person in that office in acting capacity. By "neutral person", I mean a person who by law is excluded from participating in the presidential elections.

The Bill seeks to introduce the role of the Speaker of the National Assembly in the running of the country. In case the Speaker becomes an acting President, he will automatically become disqualified from participating in the election that will ensue. That in itself enhances democracy, accountability and transparency. An interested party can never supervise a match. If a referee is the captain of one team, there can never be fairness in that game. That is what this country has been subjected to during the one time we had a transition occasioned by death. The referee was a captain of one team. This Bill seeks to abolish that kind of situation and ensure that a transition is managed by neutral players.

Mr. Deputy Speaker, Sir, a lot has been said about what this Bill seeks to achieve. Noting that there are many hon. Members who are interested in contributing to this debate, I do not need to take too much time. However, I would like to urge my colleagues that we look at the two sections that this Bill seeks to amend, namely, Sections 58 and 59 of the Constitution, and see that there will be no serious reasons for opposing this Bill. We should stop holding reactionary views, so that any change that is introduced is seen as being aimed at a person or at personalities.

This Bill will be good for all times. It will serve us today, tomorrow, and it does not matter who the Head of State will be. It is a Bill which will stand the country in good stead. It will be interesting to hear anybody who supports unfairness during election time, or somebody who would support introduction of a crisis during transition, or somebody who would say that the role of Parliament should remain as it is, and that it should not be enhanced. If we intend to perform our duties as Members of Parliament effectively, then we need to support this Bill to ensure that the best happens.

Mr. Deputy Speaker, Sir, we do not know when the Ghai Commission will finish its work, but we know for sure that our term will legally come to an end on the night of 3rd/4th February, 2003. If the Ghai Commission will not be ready by then, then we will have missed the chance of introducing safeguards that would help steer this country through the transition period. I am, therefore, urging that we support this Bill. The amendments can be taken on board when the new constitution comes in, but this is one of the very urgent issues that we need to attend to without waiting any further.

I also want to remind myself and my colleagues that the role of Parliament, as a law-making institution, has not been taken away by the fact of us having the Constitution of Kenya Review Commission. We are still within our mandate to attend to what we consider urgent. It is, therefore, my view that this Bill is extremely urgent.

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

**The Minister of State, Office of the President** (Mr. Sunkuli): Mr. Deputy Speaker, Sir, the principle of supremacy of Parliament is very important. I think that nobody can deny the fact that this House does require to be supreme at all times. When the Constitution of Kenya review process began - debate on the process started just before the 1997 elections - many people, especially from the Government side, made the point that this House is supreme,

especially when it comes to law-making matters. We argued the principle of the supremacy of Parliament so vehemently. At that time, we were arguing against the debate from hon. Members on the Opposition side, who were saying that there were other organisations outside this Parliament which were more important than this House. In fact, there was absolutely no reason to take the Constitution of Kenya review process to the Ghai Commission.

Mr. Deputy Speaker, Sir, this House is supreme. It should, therefore, have handled the process of constitutional changes from the beginning to the end. The introduction of this kind of Bill shows that, in fact, some hon. Members of this House actually preach water and drink wine. What we are now doing is actually to change constitutional provisions without consulting the people, whom we had said needed to drive the constitutional review process. We are behaving like a character in a book called "Safari Course", which I read during my primary school time. In that story, somebody went to a house and asked for soup, and a selfish lady told him that there was none. So, the man decided to make his own stone soup. In the process, he kept asking: "If there is some little salt, can I have it? If there is some small cabbage, can I have it?" Within a short time, he managed to obtain all the ingredients that were required to make the soup.

Mr. Deputy Speaker, Sir, if we proceed this way, actually, we should just tell Prof. Ghai and his team to stop working, because we are doing exactly what that team is doing. Who says that the people of Kenya do not need to say whether the President has to have a say on this matter or not? I believe that there will come a time when some of the powers we are talking about will be given to Parliament. But why can we not wait for the people of Kenya to say so? Right now, Prof. Ghai and his team are all over the country. Suppose by the time the Ghai Commission brings its recommendations to Parliament it emerges that the people of Kenya do not want these powers removed from the President, what will happen? All these things are happening.

**Hon. Members:** Wind up!

**The Minister of State, Office of the President** (Mr. Sunkuli): Mr. Deputy Speaker, Sir, what I am simply saying is that one of these days we may, in fact, need to say that the timetable of Parliament be regulated by Parliament itself. I am waiting for the day when we will say so.

**Hon. Members:** We are saying that right now!

**The Minister of State, Office of the President** (Mr. Sunkuli): Mr. Deputy Speaker, Sir, I am waiting for the day when we will say that Parliament will continue to exist at all times.

**Hon. Members:** Wind up your contribution!

**The Minister of State, Office of the President** (Mr. Sunkuli): Mr. Deputy Speaker, Sir, I do not know why hon. Members do not want to be patient and listen to the other opinion.

**An hon. Member:** What you are saying does not make sense!

**Mr. Deputy Speaker:** Order! Order!

**The Minister of State, Office of the President** (Mr. Sunkuli): Mr. Deputy Speaker, Sir, the hon. Members know that I cannot speak nonsense. They must listen because I listened to them as they contributed to this debate.

*(Mr. Achola murmured something)*

Mr. Deputy Speaker, Sir, could you protect me from Mr. Achola? I know he does not agree with me, but could he also have patience and be civil?

**Mr. Deputy Speaker:** Order, hon. Members! Could you stop heckling?

**The Minister of State, Office of the President** (Mr. Sunkuli): Mr. Deputy Speaker, Sir, I am glad you called them hecklers.

There may, in fact, come a time - and we wait for that time - when sitting hon. Members of Parliament will occupy their positions until new hon. Members come to take over from them. I have no doubt that hon. Members have appeared before Prof. Ghai Commission, and those ideas, which have eloquently been presented in this House, have eloquently been presented to Prof. Ghai Commission. I have no objection to the substance of this discussion, but what I have a quarrel with, especially when I consider Ms. Karua's contribution, is that, in fact, the provisions we are talking about need to survive the test of time. In fact, they are not meant for this particular time only, but for a long time to come. Therefore, because of that alone, there is absolutely no urgency. I do not see how the urgency comes in. The Eighth Parliament should stop legislating for itself alone. Why should this House all the time think that because things are required for the Eighth Parliament, they, therefore, become important for posterity? Let us make a choice. Are we saying that we need these provisions now for the Eighth Parliament, or we require them for always? If these provisions are for the benefit of the Eighth Parliament alone, then we need to ask ourselves, why? The Eighth Parliament should not think that---

**Mr. Mwenje:** On a point of order, Mr. Deputy Speaker, Sir. Is the Minister in order to imply that this House

should now be defunct, should not make laws and should stop functioning until Prof. Ghai Commission finishes the constitutional review process? The Government itself has continued to bring Bills to this House and this shows that the House is still functioning. Is the Minister in order?

**Mr. Deputy Speaker:** Order! I do not think there is a question of importance of numbers in this debate. If you stand on a point of order, you should raise a point of order!

**Mr. Mwenje:** But that is a point of order!

**Mr. Deputy Speaker:** Order, Mr. Mwenje! The decision as to what is a point of order and what is not, resides here and not there.

Proceed, Mr. Sunkuli.

**The Minister of State, Office of the President (Mr. Sunkuli):** Mr. Deputy Speaker, Sir, many hon. Members decided that the responsibility of constitutional review should not lie with this House. They gave the responsibility to a Commission, whose members were properly selected, and after establishing the Commission, hon. Members are again doing the Commission's job. The taxpayers of this country have put a lot of money into the collection of views from the public similar to the ones being aired in this House today, yet we want to introduce a serious amendment to the Constitution of Kenya without regard to the so-called people-driven constitutional review process. What happened to the people-driven constitutional review process?

The people are still giving their views. Wanjiku is still talking and Prof. Ghai is still listening to her through tape recorders and writing down her views. All of a sudden, a shortcut is required and we are told that there is some sort of urgency, an urgency which comes out of nothing. There is no urgency and I want to urge this House to let Prof. Ghai do his job; I reject this Bill.

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

**Mr. Wambua:** Ahsante sana Bw. Naibu Spika kwa kunipatia nafasi hii ili niunge mkono Mswada huu.

Ninataka kusema kwamba Bunge hili limekuwa na matatizo mengi sana. Wananchi ambao walituchagua wamekuwa wakisema kwamba hatufanyi kazi ambayo walitutuma kufanya katika Bunge hili. Serikali imekuwa ikituma Bunge hili kwenda likizo wakati inapotaka hata kama kuna shughuli muhimu za kujadili kuhusu wananchi ambao wametuchagua. Ningetaka kutofautiana na Waziri, mhe. Sunkuli. Bunge lina na jukumu lake, na hata Prof. Ghai akikusanya maoni ya Wanjiku, atayaleta hapa ili Bunge liangalie kama yanafaa kwa niaba ya wananchi.

Kwa hivyo, Bunge linafanya kazi yake katika kubadilisha sehemu fulani ya Katiba. Ningetaka kusema kwamba ni vizuri sana kujadili mambo kama haya wakati tuko karibu kwenda kwa uchaguzi. Tunajua kwamba baada ya miezi mitano tutaenda kwa uchaguzi. Kwa hivyo, Mswada huu haujaletwa katika Bunge hili ili kupunguza mamlaka ya Rais Moi. Mswada huu unaomba kupunguzwa kwa mamlaka ya Rais yeyote ambaye atachukua uongozi. Rais Moi amesema atapumzika baada ya miezi mitano ijayo. Kwa hivyo, tunataka kutayarisha kalenda ya shughuli za Bunge, ili Bunge lingine likichaguliwa, liweze kutekeleza shughuli zake sawasawa. Kalenda hii haitakuwa ya shughuli za Bunge hili peke yake kwa sababu muda wa Bunge hili uko karibu kumalizika.

Ningetaka kuwaomba Mawaziri wa Serikali waunge mkono Mswada huu kwa sababu hawajui mambo yatakuwaje baada ya uchaguzi. Pengine mhe. Sunkuli atakuwa Mbunge wa kawaida katika Upinzani na mimi nitakuwa Waziri katika Serikali. Kwa hivyo, nitakuwa nimemsaidia kwa kutayarisha kalenda ya shughuli za Bunge. Kwa hivyo, nia ya Mswada huu si kupunguza mamlaka ya Serikali iliyoko au Serikali ijayo.

Inajulikana na wananchi kwamba baada ya Bajeti kusomwa, tunatoa pesa kwa Wizara mbali mbali za kuendesha kazi ya Serikali. Lakini baada ya kupitisha pesa hizo, tunaambiwa twende likizo na Wizara ambazo huwa hazijapewa pesa na Bunge huendelea kutumia pesa za wananchi bila idhini ya Bunge. Hiyo ni kuonyesha kwamba Wizara hizi hutumia pesa bila idhini ya wananchi kwa sababu Bunge hili limechaguliwa na wananchi. Kwa hivyo, tunataka kutayarisha kalenda ya Bunge ili wananchi waridhike na kazi yetu katika Bunge. Kila mara kunapoenda likizoni, mambo mengi yanatokea ambayo tunafaa kujadili.

Pia, mikasa mingi inatokea tukiwa likizoni na wananchi wanatulaumu. Kila mara kunapotokea mkasa wowote na Bunge linailaumu Serikali, tunaambiwa twende likizo ili jambo hilo lisahaulike. Kwa hivyo, hii si njia nzuri ya kuendesha shughuli za Bunge. Bunge linafaa liwe na kalenda ya shughuli zake, na kama halitalaliza shughuli zake, wananchi watajua kwamba halikumaliza shughuli zake kwa sababu muda wake ulikwisha. Lakini hii si kusema kwamba tutakuwa tunaambiwa twende nyumbani wakati kunapoonekana kuna kitu fulani ambacho kinahusu Serikali au Bunge hili linazungumzia.

Bw Naibu Spika, Bunge hili liko hapa kutatua shida za wananchi. Ukiangalia Bunge hili utapata liko na Wabunge 200 na zaidi.

*(Loud consultations)*

**Mr. Deputy Speaker:** Order!

**Mr. Wambua:** Bw. Mkuu wa Sheria, ungekaa chini na unisikilize kwa sababu mimi nataka kusema maneno ambayo yanakuhusu sana. Sio wewe kama Mbunge lakini---

**Mr. Deputy Speaker:** Order, hon. Wambua! Address Members through the Chair!

**Mr. Wambua:** Asante sana Bw. Naibu Spika. Ningetaka kusema kwamba Wabunge wote wa Bunge la Nane wangepaa, wakiwa Mawaziri au Mawaziri Wasaidizi kuunga mkono Mswada huu kwa sababu unahusu maisha ya Mabunge mengine ambayo yatakuja. Kusema kweli, chochote ambacho kimetengenezwa kama sheria na Bunge fulani zitaendelea kufanya kazi. Wakati Bunge lile lingine litapokuja, halitakuwa na shida ya kutumiza na pia litaendelea kuunda sheria nyingi ni zakuendesha nchi. Kwa hivyo, hiyo ndiyo sababu yangu ya kusema kwamba Bunge hili la Nane lisonekane kama linatengeneza sheria kwa sababu lake.

Bw. Naibu Spika, wakati wanahabari wanawashambulia Wabunge juu ya mishahara yao, hawajui kwamba mambo mengi yameachwa mikononi ya Wabunge ijapokuwa Wabunge ndio wanajenga mahospitali katika mawakilisho yao ijapokuwa hiyo ni kazi ya Serikali. Wabunge ndio wameachiwa kazi ya kujenga shule kwa njia ya Harambee ijapokuwa na hiyo ni kazi ya Serikali. Wabunge ndio wamewachiwa kulipa karo ya shule za watoto wale ambao hawajiwezi na hiyo ni kazi ya Serikali.

*(Loud consultations)*

**Mr. Deputy Speaker:** Order! Hon. Members, this is a very important Bill. Let us hear hon. Wambua as he contributes. Give him a chance to be heard!

**Mr. Wambua:** Asante sana Bw. Naibu Spika.

Nilikuwa nikisema kwamba wanahabari wanafaa waelewe maanake wanahusika katika taabu ambayo inatokea katika nchi hii. Pesa ambazo Wabunge wanalipwa ni pesa kidogo ukizilinganisha na mambo ambayo yamewekelewa juu ya Wabunge. Watu wengine ambao wanafanya katika Serikali wanapata mishahara midogo kuliko ya Wabunge, lakini hawaendi kujenga mahospitali na mashule au kulipa karo za watoto. Mambo hayo yameachiwa Wabunge. Wabunge hawa ndio wako na taabu kushinda watu wote ambao wako katika Serikali hata ikiwa wanalipwa mishahara mikubwa kwa sababu hizi pesa zinarudi tena kwa wananchi kuwasaidia au kutatua shida ambazo zinawakabili. Kwa hivyo, mimi ningesema kwamba wanahabari waache kuwaonea Wabunge kwa kudai kwamba wakilipwa mishahara hawafanyi kazi. Hili Bunge ndilo sauti ya wananchi na ndilo linatoa maneno yote kutatua shida za wananchi. Ikiwa unataka kuwa na wakili mzuri wa kukutetea ni lazima umlipe sawa sawa ili akili zake zisiende kombo kombo au zifikirie mambo mengine. Kwa hivyo, mimi ningewaomba Mawaziri, na kila Mbunge aunge mkono Mswada huu kwa sababu unahusu kila mtu katika Kenya hii.

Kwa hayo machache, mimi naunga mkono.

**Mr. M.A. Galgalo:** Thank you very much, Mr. Deputy Speaker, Sir, for allowing me to add my voice on this Motion. We have come a long way. Most of us who were here during the single-party days know that we have come a long way. Now all that we want is to assert the dignity of this House so that it has its own calendar.

*(Applause)*

Mr. Deputy Speaker, Sir, there were times when Members of Parliament were being arrested within the precincts of the House. I remember the likes of George Anyona and Martin Shikuku who were arrested here. There were times when Members of Parliament were being stopped from addressing meetings by chiefs. Police are still clobbering Members of Parliament. We have come a long way. There were times when the Executive and the Judiciary were conspiring trumped-up charges against Members of Parliament and then jailing them.

*(Applause)*

We have come a long way. All we want to kill is that indignity. There is nothing wrong in Prof. Yash Pal Ghai reviewing the Constitution. We are entitled to move ahead and make this country even better and make institutions even stronger so that when the Constitution is reviewed, it will be complementary. However, the idea of saying: "Why now? Why should we have done it---?" In fact, we should have done it yesterday, but we are saying we are late by a day and so let us do it today.

Mr. Deputy Speaker, Sir, this Parliament is not fighting the Executive. In fact, we want to work hand in hand and make this country progress. We had a dictatorship, but I have seen that some dictatorships are very good like that one of China. China has moved ahead in the last 20 years. When the dictatorship is disciplined, then it offers good administration, but an indisciplined dictatorship, whereby Ministers do not even care to answer Questions from Parliamentarians, is a bad example.

Mr. Deputy Speaker, Sir, I support this Bill because I think it is good for this nation. I will not agree with some sentiments being expressed here that this Bill is being moved because President Moi is there. No! President Moi is retiring and he has had his time.

*(Applause)*

This Bill has nothing to do with him! It will have nothing to do with any other President. All we are saying is that this institution should be independent and that is all.

Mr. Deputy Speaker, Sir, Members of Parliament have to buy cars with their own money. They have to employ drivers and assist their constituents. They have to take part in Harambees. They have to put up health centres. They have to contribute towards bursary funds and pay rent for their houses. Why do we not do it the Zambian way? Recently, when we asked for money for road projects the Government was furious. However, look at countries like Zambia where, the moment a Member of Parliament is elected, he is given a four-wheel drive car by the Government because he is working for the people. Every Zambian Member of Parliament is given 5 million kwachas to develop his or her constituency.

*(Applause)*

Mr. Deputy Speaker, Sir, at times I wonder. Recently I saw elected young Members of Parliament moving about every weekend contributing Kshs700,000 or Kshs800,000 towards Harambee projects. Where do they get this money from while some of us cannot contribute towards three Harambee projects in a month since it is difficult? There are bigger issues involved. Let this Parliament be independent so that it can scrutinise Government expenditures and agencies.

Recently, the Government presented a Sessional Paper to the House requesting us to write off some loans. A lot of money was looted from that institution and nobody was held accountable. If we say we want a President or a Government that is accountable to Parliament, what is wrong with that? This is not a military government. We go to elections every five years and Members are elected. If they cannot oversee the running of that government, then, what is the purpose of having Parliament?

With those few remarks, I support the Bill.

**Mr. Mwiraria:** Thank you, Mr. Deputy Speaker, Sir, for giving me the opportunity to support this Bill. Let me start off by giving a little bit of the background and the reasons why I support the Bill, which I consider to be yet another important and big step towards giving this institution independence and autonomy, which it deserves. In 1993, when I came here for the first time, Parliament was an appendage of the Office of the President. It was budgeted for under the Office of the President as one little item. Parliament had Members who were completely toothless and who could not hold meetings without getting permits from the DCs. They were also stopped from doing their daily duties for which they were elected by chiefs and assistant chiefs, and even village headmen. At one stage, out of 83 Members of Parliament, 77 of them were in court for holding illegal meetings. At that stage, to say the least, the Kenyan Parliament was a laughing stock of all parliamentary institutions in the Commonwealth.

Mr. Deputy Speaker, Sir, let me add my voice to what Mr. M.A. Galgalo has said; that from those days, we have come a long way. What we are doing today is to add to the independence of this body to make sure that this institution becomes a strong arm of the Government, which is comparable in structure, strength, independence and autonomy to the Executive and the Judiciary. One speaker told us that we have already appointed a constitutional review commission and we should wait for its report. For the last one year, I have been a member of the House Business Committee. We have tried, time and again, to bring this Bill before this House for discussion, but the Government has made excuses at every turn to delay the discussion of the Bill. If I talk about this Session alone, I would not go too far into history; the House Business Committee was once told that the matter was being discussed within KANU. The second time, all of us received letters from Mr. Oloo-Aringo addressed to the Leader of Government Business and when we raised the matter in the House Business Committee, we were asked why Mr. Oloo-Aringo was sending Opposition Members of Parliament to talk on his behalf when his party was represented there.

**Mr. Deputy Speaker:** Order, Mr. Mwiraria! Are you giving the report of the House Business Committee?

**Mr. Mwiraria:** Mr. Deputy Speaker, Sir, I am trying to explain why---

**Mr. Deputy Speaker:** Order! Order! This is the wrong time! You do not need to come and share with us what you discussed in private unless you are submitting a report.

Proceed!

**Mr. Mwiraria:** Thank you, Mr. Deputy Speaker, Sir. This Bill would have been rightly here for discussion much earlier. So, it is not the fault of Mr. Oloo-Aringo that it did not come earlier and we should, therefore, not be



asking why we are discussing this matter this late. It is not late.

Mr. Deputy Speaker, Sir, the statement by Mr. ole Sunkuli was rather strange. He told us that, since we have a Commission reviewing the entire Constitution, we should wait until it completes its work.

*(Loud consultations)*

**Mr. Murathe:** On a point of order, Mr. Deputy Speaker, Sir. We want to listen to this contribution. Could you protect us?

**Mr. Deputy Speaker:** Order! Order, Members! There seems to be some corners here which are famous for consulting loudly, particularly that Kavirondo Corner over there!

*(Laughter)*

**Mr. Mwiraria:** Thank you, Mr. Deputy Speaker, Sir, for protecting me. To be told that we should wait until the Constitution of Kenya Review Commission completes its work, is like telling somebody who is very sick, an HIV/AIDS patient, to wait until we discover the cure for HIV/AIDS. We do need this measure of autonomy and independence now.

Mr. Deputy Speaker, Sir, I want also to support those who have spoken and who have made it clear that this Bill is not directed against the present President, or any particular president. The Bill aims at giving Parliament its autonomy and independence now and in future. In order to complete the autonomy and independence of Parliament, we need to go a step further. I hope, in the next stage, we are going to look at the tools that will make Parliament effective and the MPs work effectively. Here, I have in mind the fact that most of us operate without constituency offices and personal assistants. If you visit some of the other independent nations of this world like America, Congressmen have as many as 15 personal assistants; people who do work for them. We are not asking for that number of people. We just want an office with a telephone and one person who can attend to the people who have appointed us.

Mr. Deputy Speaker, Sir, I do hope that once we pass this Bill and give ourselves this bit of independence; we should also begin looking at how we can strengthen the institution and make it truly viable. Let me conclude by supporting the Bill in the area where we want Parliament to be a continuous institution which only changes when new MPs have been appointed. I do not want to belabour the point which has already been made, that since the Executive and the Judiciary are continuous, why not have a continuous Parliament which only stops functioning when new Members are sworn in.

With those few remarks, I beg to support.

**The Assistant Minister for Labour and Human Resource Development (Mr. Ethuro):** Thank you, Mr. Deputy Speaker, Sir, for giving me an opportunity to contribute to this Motion.

I support this Motion because it will bring some sense into the life of the National Assembly. As one of the three arms of Government, it is extremely important for Parliament to operate on a calendar. It is so basic to have a calendar in any organisation. It has been a big joke for the most supreme organ of all the institutions of the land to operate without a calendar. We have cheated Kenyans for a very long time. I want to start from the outset by thanking Mr. Oloo-Aringo. That hon. Member has remained consistent in supporting Parliamentary reforms. He is still as eloquent as he was during those days when he was the National Chairman of our party KANU.

This is extremely important for democratic governance. Parliament performs three major roles: The legislative function, the oversight function and the representative function. In order to fulfil these roles, we need serious autonomy. Mr. Kajwang put it so well when he said that the fact that Parliament can be dissolved any time has been used as an excuse to keep us on our toes. It has made us not to be able to speak. It has made Members of the Opposition side clap when I am only just standing to support an ordinary Motion. We are coming from a past that has been so restrictive that it is extremely difficult to find a difference in opinion from the Government side.

Mr. Deputy Speaker, Sir, I stand to speak as a Member of this House. I speak with a lot of pain because we come here, first and foremost, as Members of Parliament to represent our people and create an enabling environment for this country in terms of making laws and regulating government policies. Whether you become the Speaker or a Minister, I have always told my people that any other additional post is like *kachumbari* on *nyama choma*. You can eat *nyama choma* as Turkanas do without *kachumbari*. But *kachumbari* should make *nyama choma* even taste better. When the people think you should eat *kachumbari* instead of *nyama choma*, that is not a meal.

The Executive has been muzzling this Parliament for so long. Let me just give you very practical examples. We passed in this House an Act to the effect that each constituency will get Kshs5 million for roads. In the first year the districts got Kshs1 million. In the last financial year they sent between Kshs2 million and Kshs4 million. They sent

Kshs2 million to my constituency. We passed that law in time but they took a long time to implement it. They gave us the excuse that they have not appointed an executive officer; these are very mundane issues. These issues need to be taken seriously. This same Parliament - and I am not talking about the previous 30 years - came up with the Constituency AIDS Control Committees (CACCs). No money has been disbursed to these committees. Members incurred expenditure to launch the CACCs and it took a long time before we were re-imbursed. This was a deliberate move to ensure that we do not even get started. Up to now they have not sent any money to these CACCs.

These are two real examples where the Executive has been muzzling Parliament. Parliament has not only been assaulted by the Executive, we have found a new enemy in the media. They took a photograph of Continental House which has been there for so long and said that we have built new offices. I have not even seen mine because I was in Turkana. They keep talking about Kshs500,000 that the MPs are being paid as salaries. We do not see that amount in our payslips. Even the alleged hike in allowances is not reflected in my payslip. It is still the same as it was previously.

I want to associate myself with what the rest of the hon. Members have said. The media cannot intimidate this House.

*(Applause)*

We want to tell them off now; that we are reforming Parliament as part of the reform process of democratic governance in this country. This is a process that we are all committed to. The difference between Parliament and the Executive is that the Executive has been doing a lot of talking, but Parliament is actually bringing some tangible intervention to democratise our country. The media has to stop condemning this institution. The media has to be correct in its reporting. The other day it was reported in the Press that some hon. Members are the least active because they do not ask Questions or rise on points of order. How do you ask a Question and you are an Assistant Minister? To be fair to Mr. Kochalle, who is my friend, you cannot ask a Question if you are an Assistant Minister. Eng. Rotich has been one of the best Assistant Ministers in giving answers to the Opposition side of the House and the Backbenchers in KANU. However, the Press reported that he has been inactive!

**An hon. Member:** *Hawajui kitu!*

**The Assistant Minister for Labour and Human Resource Development** (Mr. Ethuro): Mr. Deputy Speaker, Sir, Eng. Rotich is the only professional that this Government has seen it fit to deploy in a Ministry where his expertise will be used for the benefit of Kenyans. Some civic economic bodies - and I do not know which kind of economics they studied - came up with some simple statistics. They cannot even distinguish between a Minister and a Backbencher. They have different roles. I think it is completely deliberate and part of the conspiracy by the media to muzzle Parliament, but we refuse to allow this to happen. We, 222 Members of Parliament, minus the Speaker and the Attorney-General, go to great depths to remove some of the small demagogues in our constituencies in order to give our people some freedom.

When we come to this House, we never know when we will go home next. There is no country that will prosper when the investors are not confident of its future. Election time is one of the most important dates in our calendar even for both local and foreign investors. Members of Parliament are some of those local investors. If they do not know at what time they will go home, how will they perform a saving and a consumption function? I need the calendar so that I can be able to plan whether to buy a new car or a *mtumba*---

**An hon. Member:** Or marry a new wife!

*(Laughter)*

**The Assistant Minister for Labour and Human Resource Development** (Mr. Ethuro): Mr. Deputy Speaker, Sir, I do not think that is important, but coming from the Kavirondo Corner, it must be essentially important. My emphasis is on economics. You need to have a bit of a proper planning horizon to be able to make certain decisions.

**Mr. Deputy Speaker:** Hon. Members, we have a Motion for the Adjournment of the House and I, therefore, call upon the Minister to move that the House do now adjourn.

**MOTION FOR THE ADJOURNMENT  
UNDER STANDING ORDER NO.18**

CANCELLATION OF KCSE RESULTS

**The Vice-President and Minister for Home Affairs** (Prof. Saitoti): Mr. Deputy Speaker, Sir, I beg to move that the House do now adjourn.

**Mr. Munyao:** Thank you very much, Mr. Deputy Speaker, Sir. On the 7th of May, this year, a Question came here by Private Notice. For the memory of hon. Members---

*(Loud consultations)*

**Mr. Deputy Speaker:** Order, hon. Members! There is an hon. Member on the Floor contributing. Give him a chance. The reason why the Speaker allowed this Motion was because he considered it important. So, please, let us accord this Motion the importance that it deserves.

**Mr. Munyao:** Thank you, Mr. Deputy Speaker, Sir. I said, on the 7th of May, 2002, a Question came here by Private Notice. For the refreshment of hon. Members' memories, I will read out the Question:-

- "(a) Is the Minister aware that several Form Four students from Kalawa Secondary School did not get their last year's results?  
(b) How many were affected and which were the subjects?  
(c) Could the Minister urgently---"

*(Mr. Gatabaki consulted  
with other hon. Members)*

**Mr. Deputy Speaker:** Order, Mr. Gatabaki! You are supposed to be a leader of a party in the House! Behave like one!

**Mr. Munyao:** Mr. Deputy Speaker, Sir, part (c) of the Question reads out as follows:-

"(c) Could the Minister urgently carry out thorough investigations and inform the House whether all the students could be allowed to repeat and what action will be taken on the culprits."

Mr. Speaker, Sir, the answer was given. It reads as follows:-

- "(a) I am aware that several Form Four students from Kalawa Secondary School did not get their last year's results.  
(b) Those affected were 78 in Maths, 47 in Biology, 20 in Physics and 23 in Chemistry.  
(c) Investigations carried out immediately revealed that these students were involved in collusion and they are allowed to repeat at their own expense."

It was signed by Mr. H.K. Kosgey, E.G.H., M.P. and the Minister for Education.

Soon after that, there was so much intimidation to the teachers. About six teachers in this school have already been interdicted. There has also been commotion even within the area. Kalawa Secondary School has been one of the best schools in the province. The pass mark has been very good. Because of the commotion and other related factors, it could even affect the morale of teachers and the teaching in that area.

Mr. Deputy Speaker, Sir, the teachers who were suspended are parents and also feel pained with what is happening. I would, therefore, like to request the Minister to take into account that these teachers are parents and they are concerned with the development of their area like any other parent.

There is also interference in the running of this school, and that is why I asked the Minister to seriously investigate this issue and tell the House whether it is true or not. The Ministry carried out investigations, but I would like it to investigate further, because the cause of the instability in the school does not emanate from the teachers who are there, and not even the community, but there is information that the previous leaders of this school who were transferred elsewhere are now roving around there and holding meetings in the school compound. They would like the school to fail. The former leaders of the school have already been thrown out. Why can the Minister not let the teachers who were suspended lead Kalawa Secondary School? I am sure the other schools are praying for the worst to happen to those teachers and the students.

Mr. Deputy Speaker, Sir, my only appeal to the Minister, who is also a parent, and perhaps, has sons and daughters who are teachers, and should one time be intimidated, when, perhaps, I will be the Minister, to consider what action I could take, so that he can do the same. It is very clear from the answers given by the Minister that those students were in collusion with the teachers. The truth is, even if the students exchanged the examination papers, this did not involve the teachers. Why then are the teachers being punished? There was also a rumour that those teachers were involved, but there is no truth in that. I would like the Minister to consider lifting the suspension of those teachers and order that by tomorrow, at 8.00 a.m., they are back in class at Kalawa Secondary School. The teachers should be set free like any other persons. They should be as free as Mandela.

I beg to move.

*(Question proposed)*

**Mr. Kihoro:** Mr. Deputy Speaker, Sir, I am very much touched by this issue because of the punishment which has been inflicted on the students and the teachers. It is important that modalities in taking examinations in this country be properly regulated. When I took examinations more than 30 years ago, there were very tight invigilation rules, whereby the possibility of collusion between the students and the teachers could not occur. According to the answer given by the Minister, there was collusion amongst the students, which led to the nullification of their examination results.

Mr. Deputy Speaker, Sir, this is tragic, because the students have only been allowed to take the examinations a year later. A lot of time has been wasted. Maybe the Minister should have considered having special examinations prepared by the same teachers who prepared the previous examinations, so that there would be no time lost by the more than 100 affected students. I do not know why it was not possible for the Ministry to have a special examination set for the students who were ready to take their examination. If the mistake to allow the students to collude was done by somebody else, I do not see why the students should be punished. I do not see why they should wait for a whole year in order to take the examination. I think this is a very important issue for consideration by the Ministry so that, in future, if there is any problem arising from invigilation of an examination, students should not wait for a whole year, and again raise the examination fee. That is double punishment for students who might have been looking forward to joining the university. They have now been forced to stay out of school for a year and take examinations when they are less prepared. It is important for the Ministry to explore the possibility for special examinations, if there is an oversight in this kind of situation.

Mr. Deputy Speaker, Sir, on the question of the suspension of teachers, something must have happened because of an oversight at certain quarters and I do not see why teachers who had been doing their work very well ended up being suspended indefinitely without salaries. Maybe, the Assistant Minister should consider that and see how the teachers could be reinstated as quickly as possible; and maybe, the possibility of those students taking special examinations.

Thank you.

**Mr. Munyasia:** Thank you, Mr. Deputy Speaker, Sir. What the Kenya National Examinations Council (KNEC) did is a very serious matter that needs review. The Assistant Minister said that 78 students were found to have cheated in mathematics, 48 in biology and so on. For the award of certificates, the KNEC has divided the subjects that a candidate must do in groups. The conditions are that for a student to be awarded a certificate, he must satisfy - by having a pass - in each of those groups. I know that mathematics is a group. So, those 78 students who cheated in mathematics would, indeed, have lost the certificate. But if the 48 students who did biology were not guilty of having cheated in mathematics, and they had passed another science subject, and they had satisfied the examiners in other subjects where there was no collusion detected, there is little reason for the KNEC to continue to say that such candidates must still lose the marks that they hoped to gain in that particular subject, and still lose the whole certificate. I think it is too cruel.

Mr. Deputy Speaker, Sir, cheating must be discouraged, but what we are saying is that if the student hoped that he would benefit by cheating and he is detected, he must lose that subject. So, those who lost the groups would have lost. But on the teachers' punishment, I find little defence for it. That is because I know that students as a group and on their own cannot cheat! So, there must have been someone involved. But it is unlikely to be someone teaching in that school, because teachers do not invigilate their own classes. So, I think it is a mistaken view to punish teachers of that school when there were invigilators and supervisors of that particular examination.

Mr. Deputy Speaker, Sir, the worst thing is that the parent is punished because he has got to pay fees afresh for his child a fifth year, so that the child could get a certificate. We are urging the KNEC to look into that matter and see whether it is fair to over-punish the students and parents, and even punish the students further by cancelling all the results, thereby wasting their time to repeat.

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

**Mr. Mwenje:** Thank you, Mr. Deputy Speaker, Sir. I would like to say a few words about the Motion for Adjournment under Standing Order No.18. When something goes wrong, it is a question of looking for a remedy. If the remedy and punishment is too harsh, I think it is a question of reviewing and rectifying it, so that we do not punish the wrong person. I guess that when Mr. Munyao brought the Question, what he would have wanted was to see that, at least, the students would have been taken care of, in terms of sitting for another examination and continuing with their studies. But proceeding to punish the teachers was not fair. It is not the teachers who were to blame because they had no access to the examination either. So, there was no way they would have given it to the students. If the students got it from a different source, it was up to the Ministry to look into that, and ask itself: "Where did the students get the

examination from, so that they could cheat?" I believe those students got those examination papers from the Kenya National Examinations Council (KNEC). So, the Ministry should have carried out an investigation to find out who leaked examinations to those students from the KNEC. Teachers had nothing to do with this. The Ministry should immediately reinstate those teachers with their full salaries and benefits. The Ministry should not punish them for mistakes committed by students.

Mr. Deputy Speaker, Sir, we know a little bit of what is happening in this country. A few people in KANU would want to capitalise on this situation. They are now saying that those teachers were interdicted because Mr. Munyao, who is the Secretary-General of DP, asked the Question in this House. His real interest was the welfare of the children and not the teachers. We know they are now capitalising on it and we should not allow that to happen. That is why the Ministry should reinstate those teachers so that they proceed with life as usual.

Mr. Deputy Speaker, Sir, there are some cases where the Ministry is justified in taking action against teachers. I would like to refer to what happened recently in Dandora, where a teacher was teaching her own cult to children. She was teaching her cult because of her personal interest or she wanted to confuse the children. I am glad that the Ministry has already suspended that particular teacher. That is okay because a teacher should not be allowed to confuse children. I support them for interdicting that teacher because she was out to mislead the children. But where it is not the mistake of a teacher, let us not punish the wrong person for the sake of politicising the issue. Later on, they will say: "You see what DP is doing to teachers? We, in KANU, will reinstate them so that they can vote for us." Let us not politicise education in this country. That is not right.

I hope, when the Minister rises to respond, he will tell us precisely the remedy and the action they will take. The reason why Mr. Speaker allowed this Motion is because we want those teachers reinstated and the students allowed to sit for their examinations.

On the other hand, I support the Ministry for the action it took against the teacher in Dandora. A thorough investigation should be carried out to find out why that teacher was teaching her cult. Transferring a teacher who has messed up the children from one school to another is not good enough because he or she will continue to mess up children in the new school. It is up to the Ministry to decide what to do with that teacher. They can either suspend her or take her to the head office to work there. I do not want to agitate that she should be sacked, but, at least, some action must be taken against her. We should not allow some teachers to mislead our children.

Mr. Deputy Speaker, Sir, with those few remarks, I support this Motion.

**Mr. Katuku:** Mr. Deputy Speaker, Sir, I must first thank Mr. Munyao for bringing this issue to the Floor of the House. This school is not far from my home and I am sure the Minister will take my sentiments seriously. When I finished my "A" Level education, this was the first school where I went to teach. I know the school very well. It is a very good school.

Although the Minister said there was some collusion between the teachers and students, I do not agree with him. The teachers who supervised the examinations had nothing to do with the mistakes which were committed by those students. The procedure is that a supervisor of an examination, at the end of the examination session, signs a form to say what transpired in the examination class. If there were anomalies noticed, then he reports it to the supervisor in charge of examinations. Those teachers who supervised examinations in that school did not notice any anomaly. So, it is their boss who signed forms to say all was well. Therefore, those teachers had nothing to do with the mistakes that were committed. It is the KNEC which noticed the mistakes when they were marking the examination papers. In any case, the action taken against the teachers looks like it was an after-thought. The Question was brought to the House on 7th May, 2002. Immediately the Question was filed, the Ministry went on to interdict those teachers. Why did the Ministry not interdict those teachers at that time? It is after Mr. Munyao asked a Question in this House that the Ministry interdicted those teachers, which means that this was an after-thought.

Mr. Deputy Speaker, Sir, secondly, this is applying double standards. It is not only in Kalawa Secondary School where there was cheating, there was cheating in other schools. Did the Ministry interdict the teachers who supervised examinations in the other schools where there was cheating? Why is the Ministry applying double standards? Is it because Mr. Munyao asked the Question in this House?

*(Applause)*

If it was a supervisor who assisted the students to do their examination and was interdicted, we would understand. But this is a case where the students colluded to cheat in the examination, and we know that this happens. Those teachers were not angels to know that students were colluding to cheat in the examination. So, I would like to appeal to the Ministry to seriously consider reinstating those teachers. I am saying this because I know the whole story. I have so many students from my area who were in that school. These students came and told me exactly what went on. So, I would like to appeal to the Ministry to reinstate those teachers. I am sure that the investigations which

were done were not thorough but biased or based on hearsay; "So-and-so is doing this." If the Ministry is not convinced by what we have said, it would be better to appoint independent investigators to investigate this case.

Thank you, Mr. Deputy Speaker, Sir.

**The Assistant Minister for Education, Science and Technology** (Mr. Karauri): Thank you very much, Mr. Deputy Speaker, Sir. I understand the reason why Mr. Munyao is pursuing this matter. He is an hon. Member of Parliament, and like all of us, if your people are arrested by the police and locked up in cells, even when they have committed a crime, you would try to defend them. I agree with what Mr. Mwenje has said in total, that we should punish the wrong-doers.

First, I would like to remove some erroneous impressions which have been created; that we interdicted these teachers after the Question was brought before this House. The interdiction letters were signed on 8th April, 2002 and the Question, as alleged by Mr. Katuku, was asked on 7th May, 2002. So, those teachers were interdicted immediately these mistakes were discovered.

The other erroneous impression which has been created is that we have interdicted teachers. It is true that invigilators are teachers but the people who were interdicted were invigilators and not teachers in that school. Those who were interdicted were teachers who had been appointed as invigilators to go and invigilate the examination at Kalawa Secondary School.

The credibility of our examination system rests wholly on the fairness of the testing method. We cannot say that we are doing an examination and we are grading students when we are not fair in doing that. It is the certificates which Kenyans get in schools or any level which enable them to be employed and proceed for further education. We must be extremely fair in testing those students so that whoever qualifies, qualifies on merit and whoever fails, fails because he or she did not answer the questions well. If that is the case, an invigilator is charged with the responsibility of ensuring that distribution of examination papers is done properly and there is no collusion on the examination day, but students go and sit for their papers with a pen, pencil and rubber. The invigilator is also charged with the responsibility of ensuring that there is general order at the examination centre. If the invigilator does not observe those rules and the students collude and copy from each other, there is every right to take action against him or her. If he is a teacher, unfortunately, he or she is interdicted. If he or she is not a teacher, other arms of the Government will take action because we would like to ensure that the method of testing our students is completely fair and foolproof. We have not closed the doors on those invigilators. In fact, they got their letters of interdiction, and I would like to read one of those letters, dated 8th April 2002, which state as follows:-

"I am directed by the Teachers Service Commission (TSC) to say that it is alleged, you should have your name removed from the Register of Teachers. The allegations made against you are as follows:-

You breached the TSC Act, Cap.212 Section 7(3) of the Laws of Kenya, and Regulation No.26(1) of the Code of Regulations for Teachers, in that, while you were an invigilator of KCSE, 2001 at Kalawa Secondary School, you neglected your duty in that candidates were involved in massive collusion in Maths Paper 121/1---

Before the Commission proceeds to investigate, consider and determine your case, you are invited to make a statement to the Commission in writing which should be received by the Commission within 21 days of the date of this letter. Before the case is determined, you will be given an opportunity of being heard by the Commission in person."

Mr. Deputy Speaker, Sir, those invigilators were given that chance, they have submitted their defence and they will be heard in person. We punished the students because of them. They should also be ashamed that 92 students did not get their results because of their mistake. But when they will appear before the Commission, their cases will be considered. I will not say what will happen because I will not sit in that Commission. But if they have a case, they will present it. The hon. Member insinuated that the former headmaster did something untoward but he has not given us evidence towards that end. If there is any evidence against that headmaster, he should submit to those invigilators, so that when they appear before the Commission, they will present the evidence.

Mr. Deputy Speaker, Sir, we would like to be sympathetic to those teachers but we must also consider the fact that many students repeated examinations this year at their own expenses after having repeated Form Four for another year. Others may not even get money in order to repeat the examination and they will have lost a lot in their lives. I advise the hon. Member to talk to the teachers he is defending and give them any facts which he may have, so that they could use those facts to their benefit when they appear before the TSC.

#### ADJOURNMENT

**Mr. Deputy Speaker:** Order, hon. Members! It is now time for the interruption of business. The House, therefore, stands adjourned until Tuesday, 30th July, 2002 at 2.30 p.m. The House rose at 7.00 p.m.