

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 11th July, 2001

The House met at 9.00 a.m.

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

PRAYERS

ORAL ANSWERS TO QUESTIONS

Question No.322

GOVERNMENT SHARES IN PARASTATALS

The Temporary Deputy Speaker (Mr. Musila): Mr. Onyango is not in? We shall come back to that Question later on!
Next Question!

Question No.024

DISMISSAL OF MR. SIMON KAMAU

Eng. Muriuki asked the Minister for Vocational Training:-

- (a) whether he is aware that the services of Mr. Simon N. Kamau, Personal No.3003728, an instructor attached to Kinangop Youth Polytechnic, have been terminated; and,
(b) why his services were terminated.

The Temporary Deputy Speaker (Mr. Musila): The Minister for Vocational Training is not in? We shall come back to that Question later on.
Next Question!

Question No.190

DUES FOR JUMA CONSTRUCTION WORKERS

Mr. Sifuna asked the Minister for Labour:-

- (a) whether he is aware that over 20 people among them Messrs Fred Wanyonyi, Wycliffe Juma, Fred Ijaa, Simon Wafula, Godwin Simiyu, Paul Khaemba and others worked for

M/S Juma Construction Company Limited, P.O. Box 73523 Nairobi and Telephone No.714419 Nairobi, during the construction of Musikoma-Buyofu-Mungatsi Road and Mungatsi-Myanga-Kimaeti Road in Bungoma District and have not been paid for the eight months worked; and,
(b) what steps he is taking to ensure that these workers are paid their dues.

The Temporary Deputy Speaker (Mr. Musila): The Minister for Labour is not in? We shall come back to that Question later on.
Next Question!

Question No.159

COMPLETION OF KIBAUNI WATER PROJECT

Mr. Katuku asked the Minister for Water Development:-

- (a) whether he is aware that Kibauni Water Project which was meant to supply water to Ikalaasa, Kibauni and Kalawa locations has stalled;
- (b) whether he is further aware that the water pumping machine for the project was removed; and,
- (c) in view of the above, what he is doing to have the project completed and ensure constant water supply.

The Temporary Deputy Speaker (Mr. Musila): The Minister for Water Development is not in? We shall come to that Question later on!

Next Question!

Question No.185

SUPPLY OF TREATED WATER

The Temporary Deputy Speaker (Mr. Musila): Mr. Gatabaki is not in? We shall come back to that Question later on!

Next Question!

Mr. Obwocha: Mr. Temporary Deputy Speaker, Sir, could I ask Mr. Kamotho Question No.316?

The Temporary Deputy Speaker (Mr. Musila): Order, Mr. Obwocha! You know what you have just said is out of order! Could you ask the Question again?

Question No.316

UPGRADING OF NYAMIRA TOWN

Mr. Obwocha asked the Minister for Local Government, in view of the recent expansion of Nyamira Town and considering the economic activities in and around this area, when the town will be upgraded to municipality status.

The Temporary Deputy Speaker (Mr. Musila): The Minister for Local Government is not in? We shall come back to that Question later on!

Next Question!

Question No.116

OPERATIONS OF ZONE HOLDINGS CREDIT

Eng. Toro asked the Attorney-General:-

- (a) whether he is aware that a company by the name Zone Holdings and Credit Investments Company Limited has been operating in Kandara Constituency and has swindled unsuspecting wananchi of lots of money, promising loans double the amounts deposited; and,
- (c) what action he is taking to ensure that the victims are refunded their deposits.

The Temporary Deputy Speaker (Mr. Musila): The Attorney-General is not in? We shall come back to that Question later on!

Mr. Obwocha: On a point of order, Mr. Temporary Deputy Speaker, Sir. As you can notice, except for two Members of Parliament not being present to ask their Questions, the other hon. Members are

present to ask their Questions and yet there is no single Minister present to answer these Questions. Due to collective responsibility, could I request that those of us who have already received the written replies be allowed to read them?

The Temporary Deputy Speaker (Mr. Musila): Mr. Obwocha, let the Chair proceed with the whole process! Perhaps, that matter you are raising could be addressed later on. In any case, you cannot exonerate the hon. Members since only two are absent. It has already been noted that some hon. Members are absent this

morning. So, do not say that it is only Ministers who are guilty in this respect. In any case, this is, perhaps, premature. Let us proceed and see how it works towards the end.

Mr. Sifuna: On a point of order, Mr. Temporary Deputy Speaker, Sir. I would not like to challenge the Chair but, on many occasions, the Chair has warned Members on the Front Bench that they have to come to the Chamber and answer Questions. How many times will the Chair keep warning them so that the Ministers can come into the Chamber and answer Questions raised by hon. Members? Is it history repeating itself?

The Temporary Deputy Speaker (Mr. Musila): Mr. Sifuna, you are jumping the gun!

Mr. Sungu: On a point of order, Mr. Temporary Deputy Speaker, Sir. I think there is no quorum in the House and there are many qualified hon. Members who can be Ministers here.

The Temporary Deputy Speaker (Mr. Musila): Well, I do not think the Chair has any alternative. It is a disgrace to the House. But since the attention of the House has been drawn to it, is there quorum?

Hon. Members: We have not started the business of the House!

The Temporary Deputy Speaker (Mr. Musila): Order, hon. Members! It is a tradition that we have to do a second round. We have not even come to the second round, and I do not know why you are jittery. Can you settle down?

I would like to inform Mr. Sungu, and the rest of the hon. Members, that the issue of lack of quorum does not arise during Question Time.

For the second time, Mr. Onyango's Question!

Dr. Ochuodho: Mr. Temporary Deputy Speaker, Sir, I apologise for being late. Mr. Onyango had requested me to ask the Question on his behalf. But still there is no single Minister here!

The Temporary Deputy Speaker (Mr. Musila): Order, Dr. Ochuodho! Ask the Question and sit down, then see what happens!

Question No.322

GOVERNMENT SHARES IN PARASTATALS

Dr. Ochuodho, on behalf of **Mr. Onyango**, asked the Minister for Finance:-

- (a) whether he could table a list of parastatals and companies, where Government has got shares, which have gone under receivership from 1980 to date;
- (b) whether he could also table a list of parastatals and companies which have been revived; and,
- (c) whether he could table a list indicating how much was realised by the receivers in all the cases.

The Assistant Minister for Finance and Planning (Mr. Arap-Kirui): Mr. Temporary Deputy Speaker, Sir, maybe before I can respond, I would like to express my suspicions. Mr. Onyango and Dr. Ochuodho are very far apart on opposite sides of the House.

The Temporary Deputy Speaker (Mr. Musila): Mr. Arap-Kirui, that is not for you to decide! Could you answer the Question?

The Assistant Minister for Finance and Planning (Mr. Arap-Kirui): Mr. Temporary Deputy Speaker, Sir, I beg to reply.

(a) I hereby table a list of parastatals and companies where the Government has got shares which have gone under receivership from 1980 to date. This is a list of 45 companies.

(b) The Government has not revived any company or parastatal that went under receivership.

(c) I also hereby table a list indicating the proceeds that were realised from parastatals and companies that went under receivership.

(Mr. Arap-Kirui laid the documents on the Table)

Mr. Obwocha: On a point of order, Mr. Temporary Deputy, Speaker, Sir. The Assistant Minister has just tabled that massive document which contains a lot of information. Hon. Members did not get that information in advance in order to be able to request supplementary questions. I would like to request the Chair, in view of the importance of this Question, that we be given time to look at the information he has tabled.

The Temporary Deputy Speaker (Mr. Musila): No. We will continue with the Question. Dr. Ochuodho, you asked the Question on behalf of Tom Onyango. Proceed to ask your supplementary question! If any hon.

Member wishes to peruse through the documents, he can do so.

Dr. Ochuodho: Mr. Temporary Deputy Speaker, Sir, I have only received the documents. But what hon. Obwocha is saying is very valid because other hon. Members---

The Temporary Deputy Speaker (Mr. Musila): Order, Dr. Ochuodho! The Chair will not concede to that. We cannot keep on deferring Questions every time. You have the information on your hands. So, ask your supplementary question!

Dr. Ochuodho: Mr. Temporary Deputy Speaker, Sir, out of the 45 companies, listed here, the only company where the Government has raised a reasonable amount of money is the East African Fine Spinners in which they have raised Kshs282 million. The total they have recovered so far, from the 45 companies is Kshs1 billion only. When Muhoroni and Miwani sugar companies were being placed under receivership, the Assistant Minister stated very clearly that it was for protective purposes and that they were going to salvage them. Could he tell this House today - going by the Press reports attributed to him recently that he does not believe that the two companies can be salvaged - whether the two sugar companies can be salvaged or they are going to go under?

The Temporary Deputy Speaker (Mr. Musila): Order, Dr. Ochuodho! This is Question Time! It is not time for making speeches!

Mr. Arap-Kirui: Mr. Temporary Deputy Speaker, Sir, I think, hon. Members need to appreciate that a company goes under receivership because it has problems in its operations. Since these companies had problems, it is unusual to expect that the Government would realise any substantial sums of money from them. But the hon. Member did point out, that out of the 45 companies, listed here, the Government realised over Kshs1 billion. For companies that are in problems to realise that kind of money, I think, they should be commended. Muhoroni and Miwani sugar companies are still under receivership. Until the last moment, I do not think we can determine whether or not they can be revived. But as in every situation of this kind, one is very pessimistic that it might still be possible to revive them.

Mr. Angwenyi: Mr. Temporary Deputy Speaker, Sir, the Government has got a unit that deals with parastatals. What is the work of that unit if all these companies are going under? Could the Assistant Minister tell us today, whether the National Bank of Kenya is also going under?

Mr. Arap-Kirui: Mr. Temporary Deputy Speaker, Sir, I did not quite get the last part of the question about the National Bank of Kenya.

The Temporary Deputy Speaker (Mr. Musila): Mr. Angwenyi, the Assistant Minister has requested you to repeat your question.

Mr. Angwenyi: Mr. Temporary Deputy Speaker, Sir, we have got a unit that deals with parastatals in this country. It is supposed to advise parastatals so that they are not placed under receivership. What is the work of that unit? Could he tell us also whether the National Bank of Kenya is going under?

Mr. Arap-Kirui: Mr. Temporary Deputy Speaker, Sir, the unit he refers to, certainly, does give advice and that is why we have parastatals that are still operating. As for the National Bank of Kenya, we always tell hon. Members to avoid alarmist statements. The National Bank of Kenya is an operating bank and I think it would be prudent for hon. Members to treat this bank, and other companies in sensitive situations, responsibly.

Dr. Kituyi: Mr. Temporary Deputy Speaker, Sir, when there is a sad litany of abuse privilege; abuse of high office, the least we expect from an Assistant Minister of the Government is a statement rather than lecturing us, like he is addressing the Press Gallery. He should tell us how 18 companies under receivership could not have realised anything from the Official Receiver. Be that as it may, out of 45 companies, 28 did not realise anything. Only 18 companies realised a little amount of money. But in societies where crime is punished, people given political appointments do not indulge in crime. But when you see---

The Temporary Deputy Speaker (Mr. Musila): Order, Dr. Kituyi! This is Question Time! Ask your question!

Dr. Kituyi: Listen to this question, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Musila): I am listening!

Dr. Kituyi: When Henry Kosgey did what he did to Kenya National Assurance Company, he was appointed a Minister; When Kipng'eno arap Ng'eny did what he did to the Kenya Posts and Telecommunications Corporation, he was appointed a Minister. What can this Government send out as a message; that even political appointees who steal from public corporations will not be rewarded?

Mr. Arap-Kirui: Mr. Speaker, Sir, I do not see what that has got to do with the Question I am answering. The Question I am answering has to do with receivership. There is no suggestion here that there are any illegal activities in this company, unless the hon. Member wishes to point out particular ones!

The Temporary Deputy Speaker (Mr. Musila): Mr. Arap-Kirui, I do not think that is irrelevant. I think

he asked a legitimate question, particularly as it relates to parastatals. The problem with parastatals, obviously, goes with those who run them. So, I think that is a legitimate question. Could you answer it now?

Mr. Arap-Kirui: Mr. Temporary Deputy Speaker, Sir, as I had indicated before the hon. Member cut me short, the question that he has asked does not directly relate to any of these companies. Maybe, if he would like to point out to me what wrongs were committed in these companies that is okay. In any case, the question he has put to me does not fall within my province!

Mr. Obwocha: Mr. Temporary Deputy Speaker, Sir, from the 45 companies listed here, only 19 of them have realised some little proceeds while 26 of them have not realised a single cent. Could the Assistant Minister tell this House what is happening to Kenya National Assurance Company and why they have not sold KENATCO Taxis and KENATCO Transport which were wound up over ten years ago?

Mr. Arap-Kirui: Mr. Temporary Deputy Speaker, Sir, as my hon. colleague, who is an accountant knows, the process of receivership is a protracted one. The companies he has mentioned are still under receivership. The receivership process does first seek to satisfy the requirements of the debenture holders before it goes on.

Mr. Muihia: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the Assistant Minister in order to refuse to answer a specific question put to him? The hon. Member had informed him that, ten years ago, the KENATCO Taxis and the KENATCO Transport Company were wound up. How much money has he received from these two companies for the last ten years?

The Temporary Deputy Speaker (Mr. Musila): Order! Mr. Muihia, the Assistant Minister was still answering the question. So, could you let him finish doing so?

Mr. Arap-Kirui: Thank you, Mr. Temporary Deputy Speaker, Sir. As I pointed out, the process of receivership takes a bit of time. Mr. Obwocha, being an accountant, will appreciate that fact; I am not sure whether Mr. Muihia will also do that. But the process of receivership goes through various stages. You seek to, first, satisfy those who have charges over the assets of the company, namely, debenture holders and mortgagees. Then you satisfy unsecured creditors. The Government, as a shareholder, is the last one to be satisfied. So, as far as these three companies are concerned, we are still going through those processes. Once the processes are completed, we will determine whether there will be any proceeds for the Government or not.

The Temporary Deputy Speaker (Mr. Musila): Could you ask the last question, Dr. Ochuodho?

Dr. Ochuodho: Mr. Temporary Deputy Speaker, Sir, I am delighted that in answering part (b) of the Question, the Assistant Minister accepted that the Government has never revived any company that has been put under receivership. When Muhoroni Sugar Factory was being put under receivership, the Minister said that the Government has no history of reviving companies once they go under receivership. But my concern is that, out of these 45 companies, each should have been worth about Kshs1 billion. We are talking of M/s Dawa Pharmaceuticals, M/s East African Fine Spinners, Kenya National Transport Corporation (KENATCO), Kenya Meat Commission (KMC), Kenya National Assurance Company (KNAC), and the Government should feel a bit proud that there was Kshs1 billion which each of these companies should have realised. But my question is about M/s Dawa Pharmaceuticals, which is, perhaps, the latest to go under. Just two weeks ago, about---

The Temporary Deputy Speaker (Mr. Musila): Dr. Ochuodho, you have now taken three minutes talking. What is your question?

Dr. Ochuodho: Mr. Temporary Deputy Speaker, Sir, what is the Government doing to assist the former employees of M/s Dawa Pharmaceuticals, who have been laid off without being paid any benefits?

Mr. Arap-Kirui: Mr. Temporary Deputy Speaker, Sir, first of all, let me point out that the companies mentioned by the hon. Member, about which he says the Government has not received any money from, are still under receivership; the process is not complete yet. We might revive some of these companies. The Government has been making serious efforts to revive the KMC. So, it is very erroneous to say that there is history of the Government not reviving companies which went under. Maybe, we have not done so before, but we intend to revive some of these companies.

On the issue of the laid-off employees of M/s Dawa Pharmaceuticals, I would like to explain that when a company is put under receivership, there are certain legal procedures to be followed. So, those procedures will be followed to the letter.

Question No.024

DISMISSAL OF MR. SIMON KAMAU

Eng. Muriuki asked the Minister for Vocational Training:-

- (a) whether he is aware that the services of Mr. Simon N. Kamau, Personal No.300728, an instructor attached to Kinangop Youth Polytechnic, have been terminated; and,
 (b) why his services were terminated.

The Assistant Minister for Labour and Human Resource Development (Mr. Chanzu): Mr. Temporary Deputy Speaker, Sir, I beg to reply.

Hon. Members: He must apologise for coming late!

The Temporary Deputy Speaker (Mr. Musila): Order! Order! Mr. Assistant Minister, you know, we are going through the Questions for the second time. You were not here when I called out this Question for the first time. So, as a matter of courtesy, you should have apologised to the House for coming late, before answering the Question!

The Assistant Minister for Labour and Human Resource Development (Mr. Chanzu): Mr. Temporary Deputy Speaker, Sir, I am sorry about that mix-up. When I came here, you were calling out the first Question on the Order Paper.

The Temporary Deputy Speaker (Mr. Musila): Order, Mr. Assistant Minister! Are you justifying anything?

Hon. Members: He should apologise!

The Assistant Minister for Labour and Human Resource Development (Mr. Chanzu): Mr. Temporary Deputy Speaker, Sir, I have apologised. I was just trying to explain---

Hon. Members: Apologise!

The Assistant Minister for Labour and Human Resource Development (Mr. Chanzu): Mr. Temporary Deputy Speaker, Sir, I apologise for coming late. Can I answer the Question now?

The Temporary Deputy Speaker (Mr. Musila): You may continue!

The Assistant Minister for Labour and Human Resource Development (Mr. Chanzu): Mr. Temporary Deputy Speaker, Sir, I beg to reply.

(a) I am aware.

(b) Mr. Kamau's services were terminated due to the said youth polytechnic management committee's inability to continue paying his remuneration after the Government had withdrawn grants to certain categories of the trade.

Eng. Muriuki: Mr. Temporary Deputy Speaker, Sir, Mr. Simon Kamau, who is a constituent of Ol Kalou, was trained and posted to Kinangop Youth Polytechnic by the Government. He has worked for the Government for more than ten years. Last time, I promised to bring a letter which clearly indicates that Mr. Kamau was, in fact, employed by the Government. The letter by which Mr. Kamau was retrenched was authored by the polytechnic management. However, the principal states clearly that he was directed to terminate the services of Mr. Kamau. The letter by which the principal was directed to terminate Mr. Kamau's [**Eng. Muriuki**] services was signed by the Director of Industrial and Vocational Training. So, could the Assistant Minister tell us the responsibility he is taking over the retirement of Mr. Kamau, so that he can be paid his dues?

Mr. Chanzu: Mr. Temporary Deputy Speaker, Sir, first of all, I would like to clarify that instructors at youth polytechnics are employees of those institutions; they are under the management committees of those institutions. Secondly, they are given personal numbers only for accounting purposes. Thirdly, the letter arose from the fact that there was supposed to be staff rationalisation. Staff had to be rationalised because the Government was going to cut down on grants with it used to assist youth polytechnics. Mr. Kamau happened to be in the category of those who were to be retrenched. He was an agricultural instructor. That was one of the sectors whose personnel were earmarked for retrenchment. Finally, I would like to state that it was not only Mr. Kamau who was affected by that exercise. About 1,456 polytechnic instructors were affected. If the Government were to provide some safety net benefits to these instructors, it would have to pay over Kshs100 million.

Mr. Omingo: Mr. Temporary Deputy Speaker, Sir, the truth is that the dismissal of employees of youth polytechnics was illegally done. The Government dismissed them without warning them. It is unfortunate that the Assistant Minister says that those employees were under the management committees of the polytechnics. The letter by which the Principal of Kinangop Youth Polytechnic was directed to retrench Mr. Kamau was signed by the Director of Industrial and Vocational Training. Did the Government sack people it did not employ? Could we know why this has been the case?

The Temporary Deputy Speaker (Mr. Musila): Order! Could you ask your question now?

Mr. Omingo: Mr. Temporary Deputy Speaker, Sir, could the Assistant Minister now confirm or deny that the polytechnic staff were sacked by the Government because they were its employees and that the

Government is only running away from the responsibility of paying them their benefits?

Mr. Chanzu: Mr. Temporary Deputy Speaker, Sir, polytechnic instructors are not employed by the Government. They are employment by the management committees of youth polytechnics.

The Temporary Deputy Speaker (Mr. Musila): Mr. Assistant Minister, the question is: If those instructors were not employed by the Government, why did the Director of Industrial and Vocational Training write letters, directing the youth polytechnics principals to sack them?

Mr. Chanzu: Mr. Temporary Deputy Speaker, Sir, I admit that, that was a mistake.

Hon. Members: On a point of order! On a point of order!

The Temporary Deputy Speaker (Mr. Musila): Order! Order! Mr. Assistant Minister, what did you say?

Mr. Chanzu: Mr. Temporary Deputy Speaker, Sir, I said that it was a mistake for the Director of Industrial and Vocational Training to issue that letter.

Eng. Kiptoon: Mr. Temporary Deputy Speaker, Sir, I think the Assistant Minister is not being honest.

Hon. Members: Yes!

Eng. Kiptoon: Actually, he talked about management committees of youth polytechnics being in charge of their own staff. He should be honest enough and admit that the Government has no policy on the management of youth polytechnics. Could he confirm or deny that?

Mr. Chanzu: Mr. Temporary Deputy Speaker, Sir, Eng. Kiptoon is not saying anything contrary to what I said. I said that youth polytechnics belong to the local communities; they are run by management committees on behalf of the communities. It is good that Eng. Kiptoon, who once served in the Ministry under which youth polytechnics fall, has clarified the position.

Mr. Angwenyi: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the Assistant Minister in order to tell this House that these people fall under the management committees of the youth polytechnics? He has told us that there is a category of agricultural instructors identified for retrenchment. Who identified this category of officers to be retrenched?

Mr. Chanzu: Mr. Temporary Deputy Speaker, Sir, this was part of a larger rationalisation programme. Therefore, these officers were retrenched in order to reduce their number in the Ministry.

Eng. Muriuki: Mr. Temporary Deputy Speaker, Sir, the Assistant Minister has just told us that the reason why they are not able to pay these officers is because they do not have Kshs100 million. Even primary and secondary school teachers are not directly employed by the Government. They are employed through the Teachers Service Commission (TSC). Therefore, the Assistant Minister cannot come here and tell us that the Ministry has no money to pay them because they do not fall under the same organisation. Could the Assistant Minister take the due responsibility of this Government and pay Mr. Simon Kamau and other retrenchees from youth polytechnics their dues?

Mr. Chanzu: Mr. Temporary Deputy Speaker, Sir, this exercise was to cost the Government Kshs100 million. However, the Government was not duty-bound to pay Kshs100 million to those retrenchees.

Mr. Katuku: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the Assistant Minister in order to tell us that the letter from the Director was a mistake and yet, the officer retrenched was an employee of a polytechnic? In view of that, then the polytechnic had no intention of retrenching this officer. Surely, if he is directed by his boss to retrench such an officer, is it not right for the polytechnic to retain the officer or the Government to pay him his dues? We need a guidance on this issue.

The Temporary Deputy Speaker (Mr. Musila): Mr. Katuku, really there is nothing the Chair can do because I have given all the due time for this Question and you had the reply given.

For the second time, Mr. Sifuna's Question.

Question No. 190

DUES FOR JUMA CONSTRUCTION COMPANY WORKERS

Mr. Sifuna asked the Minister for Labour and Human Resource Development:-

(a) whether he is aware that over 20 people among them Messrs Fred Wanyonyi, Wycliffe Juma, Fred Ijaa, Simon Wafula, Godwin Simiyu, Paul Khaemba and others worked for M/S Juma Construction Company Limited, P.O. Box 73523 Nairobi and Telephone No.714419 Nairobi, during the construction of Musikoma-Buyofu-Mungatsi Road and Mungatsi-Mayanga-Kimaeti

Road in Bungoma District and have not been paid for the eight months worked; and,

(b) what steps he is taking to ensure that these workers are paid their dues.

The Assistant Minister for Labour and Human Resource Development (Mr. Maizs): Mr. Temporary Deputy Speaker, Sir, I beg to reply.

Mr. Sifuna: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the Assistant Minister in order to answer the Question before he apologises to the House for coming late?

The Temporary Deputy Speaker (Mr. Musila): Order! Mr. Assistant Minister, you have to apologise to the House before you proceed to answer the Question.

The Assistant Minister for Labour and Human Resource Development (Mr. Maizs): Mr. Temporary Deputy Speaker, Sir, I was not late. I am very much on time.

The Temporary Deputy Speaker (Mr. Musila): Order! Mr. Maizs, the Chair was here and knows you were late. I went through this Question and you were not here to answer it. This is the second time I am calling this Question. You cannot say you were not late. Could you apologise to the House for coming late?

The Assistant Minister for Labour and Human Resource Development (Mr. Maizs): Mr. Temporary Deputy Speaker, Sir, I sincerely apologise to the House for coming late. However, I beg to reply.

(a) Yes, I am aware that over 20 workers worked for M/s Juma Construction Company limited and have not been paid their outstanding wages for nine months.

(b) The company has already been charged in the Resident Magistrate's Court, Bungoma, for non-payment of wages.

Mr. Sifuna: Mr. Temporary Deputy Speaker, Sir, arising from that reply by the Assistant Minister, could he tell us when M/s Juma Construction Company was taken to court? When will the case be heard? What is the case number?

Mr. Maizs: Mr. Temporary Deputy Speaker, on 8th September, 2000, the workers lodged their claim of outstanding wages with the District Labour Officer (DLO), Bungoma. Accordingly, the DLO put several demands to the employer to effect payments. Those demands were ignored by the company. Consequently, the DLO took the employer to court on 2nd July, 2001. The Criminal Case is No.1280 of 2001.

Mr. Sungu: Mr. Temporary Deputy Speaker, Sir, the Ministry of Labour and Human Resource Development has labour officers detailed to look into problems and complaints of workers. These officers take the opportunity to talk to the employers so that they actually do get something out of it and no solution is found. Could the Assistant Minister assure the House that their officers will defend the rights of workers in this county? What active and permanent steps will the Assistant Minister take against corrupt officers in the Ministry?

Mr. Maizs: Mr. Temporary Deputy Speaker, Sir, this morning we were dealing with cases of a similar nature. Last week we dealt with Mr. Kamolleh's case. So, I would like to assure the hon. Member that, if he has a specific case, and he brings it to our attention, we will deal with it accordingly.

Mr. Wamunyinyi: Mr. Temporary Deputy Speaker, Sir, cases of non-payment of employees by contractors are common. Companies like Kirinyaga Construction which constructed roads under the *El Nino* Emergency Programme in Bungoma have disappeared without paying their employees. Could the Assistant Minister tell the House what steps the Government will take to ensure that contractors, some of whom were awarded contracts irregularly, do not disappear with employees' money?

Mr. Maizs: Mr. Temporary Deputy Speaker, Sir, let those employees report to us. We will take action immediately.

The Temporary Deputy Speaker (Mr. Musila): Order! Mr. Maizs, we are talking of problems faced by workers around the country. Will they come to Nairobi to report to you?

Mr. Maizs: Mr. Temporary Deputy Speaker, Sir, in every district, there are labour officers. There are mechanisms on how these problems can be addressed at the district level.

Mr. Sifuna: Mr. Temporary Deputy Speaker, Sir, M/s Juma Construction Company Limited, not only failed to pay the workers, but they did not even construct the roads they were supposed to. Could the Assistant Minister assure us that this company will not be paid or given any other contracts before they pay their employees and complete the job they were given? This is one way of misappropriating public funds.

Mr. Maizs: Mr. Temporary Deputy Speaker, Sir, the company had 51 employees by March and the wages had accumulated to Kshs1,048,886. So, we have seriously taken note of the issue and we will not allow any contract to be entered into with this company.

The Temporary Deputy Speaker (Mr. Musila): Next Question by Mr. Katuku!

An hon. Member: No, we have not asked all the supplementary questions.

The Temporary Deputy Speaker (Mr. Musila): I had already indicated that, that would have been the

last supplementary question. Okay, the last one, Mr. Muihia!

Mr. Muihia: Mr. Temporary Deputy Speaker, Sir, we know it was a contract between the Government and the contractors. There is a proviso that the Government would pay any person contracted by the contractor and deduct the same money due to the contractor. Could the Assistant Minister take measures to ensure that these workers are paid by the Government and that the amount is deducted from the responsible contractor, Juma Contractors?

Mr. Maizs: Mr. Temporary Deputy Speaker, Sir, the law of contracts says that: "Before the construction of any road or any other project, a proviso for the payment of a retention fee of 10 per cent must be included". We cannot pay now unless the court concludes this case because it is before the court.

The Temporary Deputy Speaker (Mr. Katuku): Hon. Members, I just gave leeway to Mr. Muihia and I have to move to the next Question.

Mr. Katuku's Question for the second time.

Question No. 159

COMPLETION OF KIBAUNI WATER PROJECT

Mr. Katuku asked the Minister for Water Development:-

(a) whether he is aware that Kibauni Water Project which was meant to supply water to Ikalaasa, Kibauni and Kalawa locations has stalled;

(b) whether he is further aware that the water pumping machine for the project was removed; and,

(c) in view of the above, what he is doing to have the project completed and ensure constant water supply.

The Assistant Minister for Environment and Natural Resources (Mr. Kofa): Mr. Temporary Deputy Speaker, Sir, I wish to apologise for coming late.

However, I beg to reply.

(a) Yes, I am aware.

(b) Yes, I am aware that one of the two water pumping engines was removed after it broke down. Arrangements are being done to have the faulty engine repaired and restored.

(c) My Ministry provided Kshs792,000 during the 2000/2001 Financial Year for rehabilitation of Kibauni Water Supply. A contractor has been appointed and is on site. The rehabilitation works are progressing well and are expected to be completed before the end of September, 2001.

Thank you.

Mr. Katuku: Mr. Temporary Deputy Speaker, Sir, I would want to thank the Minister for the answer. However, I would want to draw his attention to the fact that, this is a project which has collapsed and has not been operating for the last eight years.

(A mobile phone rang)

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

An hon. Member: Did you hear that?

The Temporary Deputy Speaker (Mr. Musila): I heard that. There is an hon. Member---

An hon. Member: From where?

The Temporary Deputy Speaker (Mr. Musila): Order! Order! I heard where it came from. Hon. Members, you must be serious on this! Once again, a mobile phone has rung. The Chair is again requesting hon. Members to ensure that their cell phones are put off before they come into this Chamber.

Continue, Mr. Katuku!

Mr. Katuku: I was saying that this project has not been operating for the last eight years. In part "c" of the answer, the Assistant Minister has said that he provided Kshs792,000 during the last financial year for the rehabilitation of this project. I would want the Assistant Minister to tell us who is this contractor who has been given the work of rehabilitating the project and whether he is satisfied that Kshs792,000 is adequate to rehabilitate the project.

Mr. Kofa: Mr. Temporary Deputy Speaker, Sir, I do not have the name of the contractor. The sum of

Kshs792,000 was an estimation. So, it was presumed that this amount would be sufficient.

Mr. Munyao: Mr. Temporary Deputy Speaker, Sir, I come from Kalawa Location. This project was started by Machakos Integrated Development Programme (MIDP) in 1986, when I was the then Member for Parliament for the Greater Mbooni Constituency. Is the Assistant Minister aware that when the project stalled, all the pipes which had been laid up to Kalawa Location, including the water tank, had cracks? The pipes have been removed and Kshs792,000 which the Assistant Minister is talking about is just peanuts! At that time, over Kshs20 million had been allocated. Now, everything has been vandalised. What plans does the Assistant Minister have to revive the project?

Mr. Kofa: Mr. Temporary Deputy Speaker, Sir, yes, I am aware that the water tank has cracks and the pipes have been vandalised. We have sent people to the ground to investigate the matter and we shall take action immediately.

Mr. Katuku: Mr. Temporary Deputy Speaker, Sir, you will agree with me that this Assistant Minister is not prepared to answer this Question. It seems that he was not properly briefed. He does not know who the contractor is and how much money is needed to complete the project. Could he undertake to prepare and come back to House to answer the Question because this is a serious issue? Millions of shillings have been pumped into this project, but it has collapsed. People want water, but they cannot get it. Could the Assistant Minister be serious on this issue and tell this House how much money is need to rehabilitate this project? Could he consider allocating this project more money during this financial year in order to put the project back into operation?

Mr. Kofa: Mr. Temporary Deputy Speaker, Sir, I said that I cannot tell the contractor to resume the work but, as I had said, Kshs792,000 was earmarked for this project.

To clear any doubts, I should say that there are problems with regard to this project and the Ministry is aware of them. One of the problems is that rain washed away some of the pipes, but rehabilitation work is now going on. If the water pipes can be electrified from Kiandui Divisional Headquarters, then the problem would ease. The estimated cost for that project is about Kshs16 million and the Ministry will undertake to look for money when the economy improves to finance the electrification programme.

Mr. Munyao: On a point order, Mr. Temporary Deputy Speaker, Sir. We all know that water is life. On that basis, if the project had cost Kshs20 million, is the Assistant Minister satisfied that Kshs792,000 is enough to rehabilitate a project that has been vandalised? If it had initially cost Kshs20 million, can the project be rehabilitated with Kshs792,000? Is he in order to avoid replying to a question asked by the hon. Member as to what he is doing to double the amount of money to be injected into the project?

The Temporary Deputy Speaker (Mr. Musila): Order, Mr. Munyao! I may not be satisfied, but there is nothing I can do! I will move on to the next Question by Mr. Gatabaki, for the second time.

Mr. Gatabaki: Mr. Temporary Deputy Speaker, Sir, let me first apologise for having not asked my Question during the first round. I came early and found that the same written answer has been supplied and I went back to telephone the Minister.

Question No.185

SUPPLY OF TREATED WATER

Mr. Gatabaki asked the Minister for Local Government what measures the Government has taken to ensure that water supplied to consumers of the City of Nairobi and other towns is sufficiently treated to conform with international standards.

The Assistant Minister for Local Government (Mr. Sirma): Mr. Temporary Deputy Speaker, Sir, this Question came up last week and the hon. Member is asking why we are having the same answer. This is because the only requirement which was needed was to table the results of laboratory tests from the Medical Research Laboratories because I had been requested to liaise with the Ministry of Roads and Public Works. I have done that and I have the results from the Public Health Department covering 110 sample collection points. I hereby table them.

(Mr. Sirma laid the results on the Table)

Mr. Gatabaki: Mr. Temporary Deputy Speaker, Sir, this is a very serious issue. It is no longer my Question. It is the Speaker's ruling. The Speaker ruled that the Minister should go back and bring a comprehensive answer to the Question on the safety of water from the taps in Nairobi and everywhere in the

country. I asked the Assistant Minister whether, indeed, he could go to his house, turn on the tap and take the water and give to his one-year-old child, his wife and mother, and he said "yes." The Speaker did give a ruling that he was misleading the House. In that circumstance, the same answer was tabled thrice, and it was given to the Assistant Minister in April.

Mr. Temporary Deputy Speaker, Sir, under those circumstances, could you go ahead and give the ruling? Your order is being defied by this Assistant Minister.

The Temporary Deputy Speaker (Mr. Musila): Order, Mr. Gatabaki! To the best of my knowledge, the Assistant Minister was required to submit samples and tests to be done. I have not seen the document, but he has laid some documents on the Table of this House. How can you prove that the Chair has been defied? Can I have a supplementary question?

Mr. Keriri: Mr. Temporary Deputy Speaker, Sir, my point of order is in regard to the documents laid on the Table by the Assistant Minister. This Question is so important that the Assistant Minister should have had the courtesy to say what the Ministry of Health has found out in those tests, because the information that has gone out is that the water is clean. He was asked to go to the Ministry of Health and consult them. He should have told us about the findings of the Ministry of Health.

The Temporary Deputy Speaker (Mr. Musila): Mr. Keriri, the point has been taken, and I think you are right. The Assistant Minister should have told the House in a nutshell, what is contained in those reports.

Mr. Sirma: Mr. Temporary Deputy Speaker, Sir, the results from the Medical Research Laboratories indicate that the water was tested in 110 points, and the results are here. It indicates that the water is satisfactorily good for human consumption. Therefore; there is no cause for alarm; to suspect that there is a problem with the water consumed in Nairobi.

Mr. Muite: Mr. Temporary Deputy Speaker, Sir, how does the Assistant Minister reconcile the reports which he has tabled here with the continued cases of typhoid? If these reports are credible, how does he explain the continued cases of typhoid by drinking tap water in Nairobi and other places? Is it not being irresponsible in encouraging people to drink unboiled water when he knows that, that water is dangerous for human consumption?

Mr. Sirma: Mr. Temporary Deputy Speaker, Sir, the reason why sampling was done was due to complaints from the public.

The Temporary Deputy Speaker (Mr. Musila): Order, Mr. Sirma! Could you address the question that was asked by Mr. Muite? How do you reconcile the cases of typhoid and that "satisfactory" report? That is the question!

Mr. Sirma: Mr. Temporary Deputy Speaker, Sir, the cases of typhoid in Nairobi could be as a result of drinking water, not from the taps.

Mr. N. Nyagah: Mr. Temporary Deputy Speaker, Sir, we have said it here over and over again, that 55 per cent of the water that comes to Nairobi is taken by consumers who should not be getting it. Therefore, there is gross interference with the connections in Nairobi and, as a result, we get a lot of germs coming in. If, indeed, the Kenya Government is not in a position to test water for the people of Nairobi, is the Government prepared to send water samples outside Kenya for tests?

Mr. Sirma: Mr. Temporary Deputy Speaker, Sir, I think the Medical Research Laboratories in this country are sufficiently doing their good work.

Mr. Angwenyi: Mr. Temporary Deputy Speaker, Sir, this is a serious matter. I remember that, ten years ago, the highest levels of this Government said that they had discovered the cure for HIV/AIDS and encouraged people to indulge in activities that spread HIV/AIDS. Today, again, the Government is saying that the water in Nairobi is safe for drinking, when we all know that if you drink the water in Nairobi from the taps, you will get typhoid and other diseases. Could the Government take its responsibility and advise the people of Nairobi categorically, that they should boil water? If they drink the water, as you have said today and, they contracted typhoid, then, you should be responsible for it. Can you drink the water from that tap?

Mr. Sirma: Mr. Temporary Deputy Speaker, Sir, whoever wants to boil water can do so, but we have satisfactorily tested the water.

The Temporary Deputy Speaker (Mr. Musila): Mr. Sirma, we are dealing with an important matter. You can feel the mood of the House. Can you categorically tell Kenyans that they are safe when drinking water? But you cannot say that it is their responsibility to boil water. Could you be categorical and say that Kenyans living in Nairobi should feel safe to drink water from the taps without boiling it? That is the issue!

Mr. Sirma: Mr. Temporary Deputy Speaker, Sir, as per the results, it shows that the water is good, but I would not advise anybody not to boil the water.

Mr. Gatabaki: Mr. Temporary Deputy Speaker, Sir, I long for the day when the proceedings of this

House will be televised to Kenyans so that Nairobians can see and hear for themselves the answers given by Ministers and Assistant Ministers about important issues like this one. This Assistant Minister---

The Temporary Deputy Speaker (Mr. Musila): Order, Mr. Gatabaki! Ask your question!

Mr. Gatabaki: Mr. Temporary Deputy Speaker, Sir, the whole purpose of asking this Question is to put to the Government certain issues which are not proper, so that the Government can be accountable. Can the Assistant Minister assure this House today that the water from the taps is, indeed, safe and we can take it and drink it without boiling it?

Mr. Sirma: Mr. Temporary Deputy Speaker, Sir, as I had said, the water is satisfactory, but I am not advising anybody not to boil the water.

The Temporary Deputy Speaker (Mr. Musila): Order, hon. Members! You have heard what the Assistant Minister has said. I do not think the Chair can do anything, but you make your conclusions.

Mr. Obwocha's Question for the second time!

Question No.316

UPGRADING OF NYAMIRA TOWN

Mr. Obwocha asked the Minister for Local Government, in view of the recent expansion of Nyamira Town and considering the economic activities in and around this area, when the town will be upgraded to municipality status.

The Assistant Minister for Local Government (Mr. Sirma): Mr. Temporary Deputy Speaker, Sir, I beg to apologise for not being here on time, and I beg to reply.

Nyamira Town Council will be upgraded to municipal council status after inquiry of its viability is finalised. A boundary commission chaired by me will visit Nyamira Town, once funds are available.

Mr. Obwocha: Mr. Temporary Deputy Speaker, Sir, although I do not have the benefit of a written answer, did you hear this Assistant Minister say that he has arrogated himself the powers to be chairman of a commission? I do not know where that emanates from. Currently, Nyamira Town Council has more than seven wards and the circumference is 20 kilometres.

Hon. Member: Radius!

Mr. Obwocha: Whatever it is!

The Temporary Deputy Speaker (Mr. Musila): Order, Mr. Obwocha! Can you be serious and ask your question?

Mr. Obwocha: I got a five in maths, but I do not know what these fellows got. We have five tea factories and we are constructing another one now. Tea and coffee are our major cash crops and those are enough to warrant Nyamira to be upgraded to the status of a municipality. Could the Assistant Minister now tell us the basis of this commission he is talking about and when they will go to Nyamira?

Mr. Sirma: Mr. Temporary Deputy Speaker, Sir, we cannot go by the information given by Mr. Obwocha as of now because we have to visit the town to get the views of the residents of Nyamira Town. We have written a letter to the council so that we can get funds to travel to Nyamira Town and find out whether the residents want a municipal council or they would like to remain as a town council.

Mr. Parpai: On a point of order, Mr. Temporary Deputy Speaker, Sir. Did I hear the Assistant Minister say that the Nyamira Town Council will finance the commission? If that is the case, what is the responsibility of the Ministry of Local Government?

Mr. Sirma: Mr. Temporary Deputy Speaker, Sir, we allocate funds to the various local authorities under the Local Authorities Transfer Fund (LATF). If the priority of Nyamira Town is to be upgraded, they will have to use their money to do so.

Mr. Obwocha: Mr. Temporary Deputy Speaker, Sir, are all these commissions which are set up being financed by the various councils? They are not! Could he be honest and tell us when this commission will go to Nyamira?

Mr. Sirma: I think the hon. Member is not aware of what goes on in Nyamira. He should consult his councillors because the local authorities finance the upgrading.

The Temporary Deputy Speaker (Mr. Musila): Eng. Toro's Question, for the second time!

Question No.116

OPERATIONS OF ZONE HOLDINGS CREDIT

Eng. Toro asked the Attorney-General:-

- (a) whether he is aware that a company by the name of Zone Holdings and Credit Investments Company Limited has been operating in Kandara Constituency and has swindled unsuspecting wananchi of lots of money, promising loans double the amounts deposited; and,
(b) what action he will take to ensure that the victims are refunded their deposits.

The Attorney-General (Mr. Wako): Mr. Temporary Deputy Speaker, Sir, I apologise for not having been present in the House when the Question was asked the first time.

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

(a) I am aware.

(b) Following concerns raised in this National Assembly by members of the public, I directed the Director of Criminal Investigations Department to carry out investigations into the activities of the company. Over 90 statements have so far been recorded from different complainants from all provinces except North Eastern Province and there are criminal cases in court in various parts of the country. Investigations are now being carried out from the CID headquarters rather than from the local stations.

The directors of the company; Kelly Ochieng Ibiang'a and Hezron Makio Kimori have already been found guilty of obtaining money by false pretences by magistrates in Bungoma and Kericho respectively and are serving prison sentences. Both of them are also facing another case before the Senior Resident Magistrate, Nairobi. In the Nairobi case, seven witnesses have already given evidence and the case will continue to be heard from 18th July, 2001, in court No.10. The third director, Mr. Joseph Mang'ang'a Kijita has died.

As I stated in reply to a similar Question around this time last year, the Attorney-General only has powers over criminal matters and he has exercised them in this particular matter. The Attorney-General has no powers in civil matters between private parties. The depositors are advised to initiate civil action to recover their deposits if possible.

Mr. Maore: Mr. Temporary Deputy Speaker, Sir, it should be remembered that Messrs. Ndicho, Anyona and I have previously put similar Questions to the Attorney-General about the same matter. Currently, M/S Zonel Holdings and Credit Investments Company, who have their offices in Chuka, are traversing Nkubu, Ntonyiri and other areas, collecting money on condition that they will give the depositors credit later. The Government is aware of this. What immediate action will the Attorney-General take to seize the assets of this company, freeze their accounts, close all their outlets and make sure they make arrangements to refund the collected money from these people?

Mr. Wako: Temporary Deputy Mr. Speaker, Sir, if the company still has offices all over the country and if their officials are still collecting money, then that is clearly a criminal offence. There should be no office belonging to that company operating anywhere in Kenya. If they are, indeed, operating then they must be arrested immediately and the company offices closed because the company was deregistered. As I informed the House, one of the directors is dead and two others are already serving prison sentences.

Eng. Toro: When I asked this Question last year, the Speaker deferred it because he wanted the Attorney-General to get more time to investigate. At that particular time, he had done no investigations. The Attorney-General should be in the forefront to help Kenyans recover money when they have been swindled. He should not hide behind the civil case issue. This company is still collecting money in all its branches. The Attorney-General should not tell us to go and close the offices of this company. He should have ensured that all their offices are closed and that those complainants who were swindled are refunded their money according to the rulings of the court. Could he undertake today to have all the people who have been swindled, refunded their money by this company?

Mr. Wako: Of course, I cannot undertake, on behalf of the company, to refund the amount. What I can do within my constitutional powers is to direct the Commissioner of Police to close any office of the company which is operating anywhere in the Republic of Kenya. He should also ensure that whoever is in those offices, purportedly as a servant or official of the company, is arrested and arraigned before the court.

Mr. Muchiri: Mr. Temporary Deputy Speaker, Sir, the business of this company of collecting money from the public under similar circumstances was there, if I can remember, way back as from 1970 and today, we are in the year 2001, which is 30 years ago. Could the Attorney-General promise this House that he will bring a Bill to this House to curb these types of criminal activities that are impoverishing Kenyans?

Mr. Wako: Mr. Temporary Deputy Speaker, Sir, I agree with the sentiments of the House. Indeed, the hon. Questioner raised this Question last year. Mr. Anyona and another hon. Member have raised it in the past.

But you may recall that as of last year, my answer to the Question was that the file relating to this company could not be traced at the Companies' Registry. At that time, we were not able to know even who the directors of this company were. Progress has been made since last year in that the file has been traced, the directors [**Mr. Wako**] have been identified, prosecutions have ensued and those directors are serving prison sentences, except for one director who has been called by his maker. Today, if this company is operating anywhere at all, I have directed the Commissioner of Police to close down its offices and charge in court the persons involved.

Ms. Karua: Thank you, Mr. Temporary Deputy Speaker, Sir. It appears that the Attorney-General has taken too long to give the directive for the company's offices to be closed down. I am aware that in Chuka and Nkubu townships, there are offices operating in this company's name, and only yesterday a constituent of mine recorded a statement with the police. Could the Attorney-General confirm to this House that he will give a directive that those offices be closed down and also that the company's bank account be frozen? The company is taking money from people and it must be banking it somewhere. Could he table the notice he issued deregistering this company?

The Temporary Deputy Speaker (Mr. Musila): By the way, I think the Attorney-General is also aware that I, in another capacity, have corresponded with him on this issue. To date, even in Mwingi Town, M/s Zone Holdings and Credit Investments Company Limited is still operating as we speak. So, could you, Mr. Attorney-General, solve this matter once and for all?

Mr. Wako: Mr. Temporary Deputy Speaker, Sir, I confirm that you communicated to me on this issue. I also confirm that I replied to you. As you have noticed this morning, action has been taken on the directors of this company and they are behind bars. As of now, another case is still going on. The hon. Member has stated that only yesterday, one of her constituents recorded a statement with the police. This shows that, indeed, the Commissioner of Police is acting very vigorously. As I stated, investigations are going on at the Police Headquarters. The police officers are investigating the matter very vigorously and over 90 persons have recorded statements with the police. I can confirm that, considering Ms. Karua's constituent who recorded a statement with the police yesterday, 91 people have recorded statements with the police. This activity is going on throughout the country.

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

The Temporary Deputy Speaker (Mr. Musila): Order, Mr. Kihoro! Let the Attorney-General finish!

Mr. Wako: Mr. Temporary Deputy Speaker, Sir, I have now become aware that, in fact, this company is still operating. My directive today is that its offices be closed down, the concerned officers be arraigned before the court and the company's bank account be frozen.

Eng. Toro: Mr. Temporary Deputy Speaker, Sir, that is a very good undertaking by the Attorney-General. However, did he have to wait until hon. Members of Parliament raised the issue of closing down the company's branches and freezing its bank account before he went ahead and issued the directive? He has all the constitutional powers and he should have done that a long time ago.

The Temporary Deputy Speaker (Mr. Musila): Ask your question, Eng. Toro!

Eng. Toro: Mr. Temporary Deputy Speaker, Sir, since the Attorney-General has investigated this case, I will give an example of five people.

The Temporary Deputy Speaker (Mr. Musila): Order, Eng. Toro! You should ask your question and if you do not have a question, sit down!

Eng. Toro: Mr. Temporary Deputy Speaker, Sir, I have five people who are owed about Kshs1 million in one sub-location. In the Attorney-General's investigations, has he been given the amount of money swindled by this company? This will enable him to know the magnitude of what we are talking about. Could he tell us how much money this company has swindled Kenyans all over the country?

Mr. Wako: Mr. Temporary Deputy Speaker, Sir, as of now, I do not know that. Whatever information I have is inadequate because it is based on those persons who have already recorded statements with the police and I would be the first one to admit that not everybody has recorded a statement with the police.

(Several hon. Members stood up in their places)

The Temporary Deputy Speaker (Mr. Musila): Next Question! Hon. Members, we have limited time for Questions. We have already covered one-and-a-half hours and I think the Question has been adequately answered by the Attorney-General.

QUESTIONS BY PRIVATE NOTICE

CIVIL SERVANTS PARTICIPATION IN POLITICS

Ms. Karua: Mr. Temporary Deputy 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 on 16th June, 2001, at Kerugoya Stadium, during a District Bursary Harambee presided over by His Excellency, the President, the Permanent Secretary in charge of the Provincial Administration and the Provincial Commissioner, Central Province, played partisan politics by conspiring with the Kirinyaga District KANU Chairman to turn the occasion into a KANU rally?

(b) In view of the provisions of Section 5 of the Public Order Act, which prohibit civil servants from engaging in partisan politics and provide penalties for breach of these provisions, what action is the Minister going to take against the PS and the PC?

(c) What instructions, if any, has the Minister issued to the Provincial Administration asking them to desist from partisan politics?

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

(a) I am not aware that the Permanent Secretary in charge of Internal Security and the Provincial Commissioner, Central Province, did play any form of politics on 16th June, 2001, at the Kerugoya Stadium, during a Bursary Harambee presided over by His Excellency the President.

(b) Arising from my reply to part "a" of the Question, I have not taken any action. However, I issued clear instructions to members of the Provincial Administration to observe the provisions of Section 5 of the Public Order Act, that prohibit them from engaging in any form of politics, partisan or otherwise.

Ms. Karua: Mr. Temporary Deputy Speaker, Sir, it is sad that the Assistant Minister is not taking Parliament seriously, which is demonstrated by his answer to this Question. The matter acquired public notoriety. The rally was widely televised by the Kenya Broadcasting Corporation (KBC) and it was clear that it was not just a Harambee, but a full fledged KANU rally, with calls that the President do rule for life. Could the Assistant Minister, to begin with, show us the circular he has issued to civil servants and also tell us whether following this Question, any investigation has been launched into the conduct of the PS in charge of the Provincial Administration, Mr. Zakayo Cheruiyot, and the Central Province Provincial Commissioner, Mr. Ogongo, who presided over the said KANU rally contrary to the law?

Mr. Samoei: Mr. Temporary Deputy Speaker, Sir, the notices of the intention to hold this Harambee were given by Mr. Njiru. The master of ceremony, because of the presence of His Excellency the President, was the PC, Central Province. Sentiments which could have been of a political nature were expressed. In fact, Ms. Karua was at liberty to walk away from that meeting. She walked away from the meeting and nobody questioned that. It was a complete expression of her political leaning. So, everybody in that meeting, who wanted to express their opinions or their displeasure at opinions expressed by others, had the liberty to do so.

Mr. N. Nyagah: Mr. Temporary Deputy Speaker, Sir, this is fairly common in this country and Kenyans know it. The Assistant Minister is aware that whenever the President attends functions of this nature, they are made partisan and KANU functions. What role did the former Minister, Mr. Njiru, whom I saw on television in Zambia with the President, have to play as opposed to hon. Members of Parliament, who had participated in the earlier mini-harambees which raised, in fact, the bulk of the money for this function? Why were they, at least, not given a role to play as politicians and leaders?

Mr. Samoei: Mr. Temporary Deputy Speaker, Sir, Mr. Njiru was the original convenor of that function. I remember that very well because I contributed to that in an earlier Harambee. Mr. Njiru spoke in that capacity. Mr. Matere Keriri spoke on behalf of hon. Members and to the best of my knowledge, the meeting was properly conducted.

Mr. Katuku: Mr. Temporary Deputy Speaker, Sir, we have the privilege of having two retired Provincial Commissioners (PCs) in this House, with one being in the Chair!

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

Mr. Katuku: Mr. Temporary Deputy Speaker, Sir, you can be a witness! You can bear me out in this case that the Provincial Administration has been used by the system! It is no longer Provincial Administration. The Provincial Administration officers are the provincial, district and location KANU Chairmen! Could the Assistant Minister undertake to de-link the Provincial Administration from the ruling party KANU?

Mr. Samoei: Mr. Temporary Deputy Speaker, Sir, as I said earlier, I have issued very clear instructions. Indeed, I have tabled my circular to the civil servants in this House before, especially to the members of

Provincial Administration, and I can do the same now. The ruling party KANU does not need the support of the Provincial Administration. We have enough following to support the party. We do not need their support and we have given them clear instructions to play no politics at all. I will take action on those who engage in politics!

Mr. Angwenyi: Mr. Temporary Deputy Speaker, Sir, long gone are those days when we had PCs, DCs and chiefs--- At the time when you and Mr. Haji were serving---

The Temporary Deputy Speaker (Mr. Musila): Order, Mr. Angwenyi! Just ask your question!

Mr. Angwenyi: Mr. Temporary Deputy Speaker, Sir, the Assistant Minister has just said that he issued a circular instructing the civil servants to avoid political activities. But on Friday last week, a DO at Marani went to an Harambee organised by a conman Chairman of KANU called Mr. Asanyo, and tried to tell the people what to do. He made the Harambee to abort. Could the Assistant Minister tell us whether that DO was contravening his circular?

Mr. Samoei: Mr. Temporary Deputy Speaker, Sir, Mr. Angwenyi, indeed, brought to my attention, that particular incident. I promised him that I will investigate the matter and take appropriate action.

Ms. Karua: Mr. Temporary Deputy Speaker, Sir, it is unfortunate that the Assistant Minister is trivialising the Question. The Question does not relate to the conduct of politicians. I am not interested in the conduct of a KANU Chairman in a district where there is no KANU! I am interested in the conduct of the Provincial Administration, who are forbidden by law from partisan politics. It appears that the Assistant Minister is avoiding to tell us what investigations or possible disciplinary action he has taken against Mr. Zakayo Cheruiyot and Mr. Zachary Ogongo! That means that the Assistant Minister is countenancing their action of playing partisan politics. I wish, for his benefit, to lay on the Table, correspondence on the points where the DC, Kirinyaga, and other Provincial Administration officers have been acting as KANU youthwingers. Could the Assistant Minister promise this House that he will investigate the matter, take appropriate action and report back to this House the outcome of those investigations, as had been promised by his senior, the actual Minister?

Mr. Samoei: Mr. Temporary Deputy Speaker, Sir, unfortunately, I have no intention whatsoever, of trivialising the issues of this House! If, indeed, there is anything trivial, then it must have been the Question in the first place! That is because I have clearly answered the issues that have been raised in the Question point by point. I have stated that the Permanent Secretary in charge of Provincial Administration and the PC, Central Province, were in no breach of the circular. They did not play politics, partisan or otherwise, and I am not going to take any action!

Ms. Karua: On a point of order, Mr. Temporary Deputy Speaker, Sir. In the first place, the Assistant Minister said that he was not aware. If he was not aware, when did he come to the conclusion that they did not play partisan politics?

Mr. Temporary Deputy Speaker, Sir, I am asking you to invoke the Standing Orders to name this Assistant Minister for not taking the House seriously! If you could let me conclude my point of order, when an Assistant Minister says that he is not aware, and then purports to be aware, he is taking this House for granted and he is treating the House with disrespect. When the Assistant Minister calls a Question that has been approved by the Speaker of this House and it is the property of this House trivial, he is disrespecting this House!

Mr. Temporary Deputy Speaker, Sir, I am asking you to utilise your powers under the Standing Orders, and name this delinquent Assistant Minister!

The Temporary Deputy Speaker (Mr. Musila): Order, Ms. Karua! You know the rules of the House. You have just used unparliamentary language against an Assistant Minister! You have called him "delinquent Assistant Minister!" Could you withdraw that and apologise?

Ms. Karua: Mr. Temporary Deputy Speaker, Sir, I will substitute the word "delinquent" to---

The Temporary Deputy Speaker (Mr. Musila): Order! Could you withdraw the word? I did not ask you to substitute the word! I asked you to withdraw and apologise!

Ms. Karua: Mr. Temporary Deputy Speaker, Sir, could you allow me to bring the dictionary meaning of the word "delinquent", for you to make a ruling whether, indeed, it is unparliamentary? That is because I do believe that this Assistant Minister is delinquent!

The Temporary Deputy Speaker (Mr. Musila): Order, hon. Members! Ms. Karua, I think you have made a statement here, and the Chair has ruled that you should withdraw that word and apologise to the Assistant Minister and the House. Could you proceed and do that?

Mr. Kihoro: Which word?

The Temporary Deputy Speaker (Mr. Musila): Order, Mr. Kihoro! Ms. Karua knows the word she used against the Assistant Minister. Definitely, it is not parliamentary.

Ms. Karua: Mr. Temporary Deputy Speaker, Sir, if the Assistant Minister is calling a Question

approved by the Chair "trivial", I thought you would be more concerned that the Speaker is being accused of approving "trivial" Questions! The dignity of this House is on the line.

The Temporary Deputy Speaker (Mr. Musila): Order! Ms. Karua, you have the last chance to withdraw and apologise!

Ms. Karua: Mr. Temporary Deputy Speaker, Sir, because I do want my point of order to be responded to, I will take your advice, reserve my very strong feelings on the conduct of the Assistant Minister, and withdraw the word "delinquent". I may use it at a different forum. I also apologise!

The Temporary Deputy Speaker (Mr. Musila): Your point of order is there. I think the Minister made it very clear that he did not treat this Question in a trivial manner. The HANSARD will---

Ms. Karua: He said the Question was trivial!

The Temporary Deputy Speaker (Mr. Musila): No! Order! I am presiding over this. I listened very carefully. The HANSARD can prove me right or wrong but I know the allegations being made now against the Minister are unacceptable to the Chair.

Next Question, Dr. Ochuodho!

CANCELLATION OF YOUTH MOVEMENT RALLY

Dr. Ochuodho: Mr. Temporary Deputy 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 as per the IPPG amendments, Harambees and meet-the-people tours do not require any permits from the police?

(b) Who decides that security is threatened before a licensed rally is cancelled?

(c) Why did the police cancel a rally called recently by the National Youth Movement at Kamukunji grounds in Nairobi?

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

(a) I am aware that impromptu meet-the-people tours by Members of Parliament, councillors and other leaders do not require notification of the police before they are held. I am also aware that, that public collections or Harambees, for that matter, do not require a police permit. However, the law requires and this is after the IPPG negotiations, that no person shall promote any collection without giving notice of such intention to the regulating officer three days before such function begins. The regulating officer, or officers, are the provincial administration officers as spelt out in Section 2, Cap 106.

(b) The regulating officer, or any police officer of or above the rank of inspector, may stop or prevent the holding of any public gathering on security grounds as provided for under Cap. 56, Section 5(8) of the Laws of Kenya.

(c) The rally in question by the National Youth Movement at Kamukunji grounds in Nairobi was cancelled on security grounds.

Dr. Kituyi: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the Assistant Minister in order to mislead the House that there is any provision in any written law that the Provincial Administration are regulating officers? Secondly, could he quote to the House which law he is referring to, where there is a statement about Provincial Administration regulating anything?

Mr. Samoei: Mr. Temporary Deputy Speaker, Sir, I will go ahead and quote the relevant section. It states:-

"According to the Public Collections Act, Cap. 106, Section 41, a person intending to promote a collection shall give notice of such intent to the regulating officer, at least, three days before commencing such promotions. A notice under this Section shall be in writing."

Mr. Temporary Deputy Speaker, Sir, under the Act, the regulating officer means and I quote:-

"(a) The chief in charge of the location in which the collection is intended to be promoted or in the case of a collection to be promoted in two or more locations of the same division, the District Officer of the division.

(b) In two or more divisions of the same district, the District Commissioner of the district. In two or more districts of the same province, the Provincial Commissioner of the province. In two or more provinces or throughout the country, the Permanent Secretary in charge of Provincial Administration."

That is the law!

(Applause)

Dr. Ochuodho: Mr. Temporary Deputy Speaker, Sir, in my second supplementary question, I will cite the law that contradicts what the Minister is saying. However, for my first supplementary question, the main reason why the rally called by National Youth Movement (NYM) was cancelled was because they were assuming *Mageuzi* leaders would be there at Kamukunji. However, part "b" of my question is: "Who decides that security is threatened?" The Assistant Minister is instead answering as to "who breaks up the rally?". Could he answer part "b" of my Question? Who decides that security is threatened or is it just a question of the police deciding that if it is KANU/NDP, they are allowed to go ahead; and, if it is Opposition, you decide that security is threatened?

Mr. Samoei: Mr. Temporary Deputy Speaker, Sir, before a meeting is categorised as illegal or as a threat to security, somebody has to make that judgment. I have stated here that a "regulating officer" and when I say so, I mean persons of Provincial Administration or any police officer of or above the rank of Inspector, may stop or prevent holding of a public gathering on security grounds.

Dr. Kituyi: Mr. Temporary Deputy Speaker, Sir, this Assistant Minister seems to be confusing two things. Provincial Administration are regulating officers in scrutinising the genuineness of persons wanting to carry out collections. If you want to go around with a proforma invoicing you to collect money that is not Harambee; it is collecting money purporting to be for offsetting funeral bills and so on. On matters dealing with public gatherings, Harambees, public rallies and meet-the-people tours, there is absolutely no provision in our law which gives any *locus standi* to anybody in the Provincial Administration. The Assistant Minister should take advice from his Attorney-General that when he is just rushing to use the cover of public collections to justify criminal conduct of the Provincial Administration in matters of gatherings, he is very far away from what is provided in the law. Could he tell us what role the Provincial Administration has in the conduct of Harambees? Which is a public gathering? We do not want to hear about proforma invoices and collection of money!

Mr. Samoei: Mr. Temporary Deputy Speaker, Sir, these are two different issues as the hon. Member has said, and I have given specific grounds on the performance of regulating officers or the police. As far as Harambees are concerned, I did state clearly that Members of the Provincial Administration, and any other group, have no business getting involved in meet-the-people tours. However, when Harambees take place, they are public gatherings. Also when a rally takes place, it requires the notification of the police officer in charge of that area. When these officers deem that the situations threaten peace, the law gives them authority to be able to cancel such meetings on security grounds.

Dr. Ochuodho: Mr. Temporary Deputy Speaker, Sir, I want to draw the attention of the Assistant Minister to the Constitution of Kenya (Amendment) Act, 1997 that is the so-called IPPG. It talks about Harambees. Subsection 12 states:-

"The organiser of any excluded meeting which includes Harambee may request the regulating officer that the police be present at such meetings to ensure the maintenance of peace and order."

Mr. Temporary Deputy Speaker, Sir, note that they may request but if they do not have to request and feel that they need the police to come to give them security, they may request. Considering the law that the Assistant Minister cites, which I agree with hon. Dr. Kituyi talked about anybody who wants to go round with some proforma invoice collecting money from people against a public Harambee---

The Temporary Deputy Speaker (Mr. Musila): Dr. Ochuodho, ask your question!

Dr. Ochuodho: Is the Assistant Minister contradicting this law that, if I am having a Harambee, I may choose to invite the police to come and give security or not, because the law does not require us to notify them?

Mr. Samoei: Mr. Temporary Deputy Speaker, Sir, as I said earlier on, the meet-the-people tours and Harambees do not require permits from anybody and that is the position.

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

The Temporary Deputy Speaker (Mr. Musila): Order! Hon. Members, I would like to seek the indulgence of Mr. Wamunyinyi and Mr. Sungu that we defer their two Questions. The two Questions will be asked tomorrow afternoon, in view of the fact that Question Time is over, and we have to move on to the next Order. Is that okay, Mr. Wamunyinyi?

Mr. Wamunyinyi: Yes, Mr. Temporary Deputy Speaker, Sir.

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

- (a) Is the Minister aware that a tender for the painting of the runway at the Jomo Kenyatta International Airport has been irregularly awarded by the Kenya Airports Authority?
- (b) Is he further aware that the Corporation has purchased a tractor for cleaning the runway at Kshs35 million?
- (c) What urgent steps is he taking to ensure that public funds are prudently used in these transactions?

(Question deferred)

The Temporary Deputy Speaker (Mr. Musila): Is that okay, Mr. Sungu?

Mr. Sungu: Yes, Mr. Temporary Deputy Speaker, Sir.

KENYA SUGAR AUTHORITY TENDER AWARD

(**Mr. Sungu**) to ask the Minister for Agriculture:-

(a) Is the Minister aware that the Kenya Sugar Authority is about to award tenders for the construction of an access road to its headquarters in Upper Kabete, Nairobi?

(b) What is the estimated cost of this project and where will the Authority obtain funds from for this project at a time when the sugar industry is facing an acute financial crisis?

The Temporary Deputy Speaker (Mr. Musila): Thank you very much. Your Question is deferred.

(Question deferred)

POINTS OF ORDER

POLICE HARASSMENT

Dr. Kituyi: Mr. Temporary Deputy Speaker, Sir, I rise to seek a Ministerial Statement from the Minister of State, Office of the President regarding the pogroms that we all witnessed in the City of Nairobi last Saturday. As the Chair knows, last Friday, the Minister assured Kenyans that the Government would not interfere with the citizens' right to meet at Kamukunji Grounds on Saturday, last week, to commemorate *Saba Saba*. I would like the Minister to answer four clear questions as follows: Why was the Minister's promise so flagrantly abused and ignored by the police? Two, why did the police come in civilian clothes to disguise their identity as police officers, and visit criminal violence on people already in their custody? Three, why were policemen seen on television throwing stones and hitting cars? Four, why was hon. Pheroze Nowrojee, a respected elder in this country and a man with a heart condition visiting a police station to inquire about a politician, arrested and beaten by police officers within the precincts of a police station? I hope that this matter will be treated with the seriousness it deserves.

HAPPENINGS AT THE ELECTRICITY REGULATORY BOARD

Ms. Karua: Mr. Temporary Deputy Speaker, Sir, I rise to seek a Ministerial Statement from the Minister for Energy over the very disturbing happenings at the Electricity Regulatory Board. In a very short time, it appears that the entire Board was illegally removed from office. Within a month or so of a new Board being in office, it appears as if the new Chairman of the Board has been removed from office illegally. We are getting concerned because this is a sector with a lot of money, and we wonder whether there is a struggle for the spoils. We also wonder what this means to the Kenyan population on their interest in the power sector. Could the Minister, as a matter of urgency, issue a Ministerial Statement to clear the air? Could he also tell us under what circumstances the two Boards have been replaced, and what role, if any, the office of the Attorney-General and the Ministry of Agriculture and Rural Development have had to play in the two recent happenings?

The Temporary Deputy Speaker (Mr. Musila): Very well! The Minister for Energy has heard that.

ROLE OF FOREIGN OFFICE ON NATIONAL DAYS

Mr. Munyao: Thank you, Mr. Temporary Deputy Speaker, Sir. I rise to request the Chair to compel the Minister for Foreign Affairs and International Co-operation to issue a Ministerial Statement that I sought last week. I intended to use Section 17 of our Constitution, and even our Standing Orders, to compel him to issue the Ministerial Statement, but since I have seen him here, I would like to ask the Chair to compel him to do the same.

The Minister for Foreign Affairs and International Co-operation (Mr. Obure): Mr. Temporary Deputy Speaker, Sir, the demand for a Ministerial Statement has just been drawn to my attention because I arrived in the country last night. I will issue a Ministerial Statement tomorrow afternoon.

The Temporary Deputy Speaker (Mr. Musila): Very well, Mr. Minister! But in order to assist the Chair, I think it is very important that when hon. Members request for a Ministerial Statement, even if the Minister is not here, collective responsibility should prevail. We have Assistant Ministers and the Leader of Government Business, and we expect that this information would be transmitted to the relevant Minister. So, let the Chair be assisted in this manner.

Let us move on to the next Order!

MOTION

LEAVE TO INTRODUCE CONSTITUTION OF KENYA (AMENDMENT) BILL

Mr. Ndicho: Mr. Temporary Deputy Speaker, Sir, I beg to move the following Motion:-
THAT, this House do grant leave to introduce a Bill for an Act of Parliament entitled the Constitution of Kenya (Amendment) Bill to delete Section 5 Sub-section 3(c) and to amend Section 5 Sub-section 5(a) to provide that any person seeking to vie for the Presidency shall not seek to be elected as a Member of the National Assembly representing a constituency.

This is a straightforward Motion, and I hope that hon. Members will understand what I mean. The objective of this Motion is that in our country and in modern Kenya, we should provide for a situation where the President is not overloaded with both jobs of representing a constituency as well as representing the whole country. The President should be the Member for the whole constituency of Kenya, or the country should be regarded as the "constituency" of the President. We should also create the theory of "one man, one job". We have so many learned people from our universities who should serve this country in various capacities. We should not have our people remaining jobless when a job can be created by the President vacating that position.

I have discussed this issue with various hon. Members of Parliament, and they will move various amendments to the Motion. The objective is that if one is vying for the Presidency, he should be clear whether he wants to be the President, or he wants to remain as an hon. Member of Parliament. This will bar joyriders from vying for the Presidency. Once the elections are declared, every Tom, Dick and Harry wants to be the President of Kenya, even where some of them know very well that they cannot make it. So, this Motion calls upon serious people who think that they can make it for the Presidency to stand during the elections.

In the past, with the introduction of multipartyism we have seen what is called the "three-piece" scenario. Various amendments should be moved to this Motion, including what the Constitution Review Commission might come up with. We should have different elections, like what happens in other countries, especially those in the Continent of Africa.

What I am seeking to introduce in our Constitution is not new in Africa because many countries in this continent are already practising it. I will give an example of Uganda, where President Museveni is not a Member of Parliament representing any constituency. He only concentrates on the affairs of the nation, leaving the constituency where he comes from to be represented in Parliament by another person.

If I may give examples, in our country, at Independence, the late President Mzee Jomo Kenyatta still remained the Member of Parliament representing Gatundu Constituency. Because the new nation needed a lot of attention and the late President viewed the whole country as one constituency that belonged to him, other hon. Members of Parliament from other constituencies concentrated in developing the areas they represented in Parliament. I wish the hon. Member of Parliament for Gatundu Constituency was here to bear me witness that this constituency is one of the most backward constituencies. I am not trying to cast aspersions on the late President Mzee Jomo Kenyatta. We understand that he was so busy receiving foreign dignitaries and attending to national issues and affairs to the extent that Gatundu Constituency was almost forgotten. It is the only constituency in Central Province that has got only one tarmac road. We would like to eradicate this scenario and have a President who serves the nation well and not his constituency. In contrast, we have the current President who

overdeveloped his constituency of Baringo Central with tarmacked roads. I do not wish to cast aspersion on the President of this country.

Mr. Temporary Deputy Speaker, Sir, I would like to remind joyriders who vie for the Presidency that they risk not being Members of Parliament. There are several of them who stood for the Presidency and because they were popular within their constituencies, they were just elected. We want a situation where the person is sure that he will win the Presidency, before he stands. If we pass this Motion today, we will minimise the number of presidential hopefuls. We will be left with a small number like in the USA, UK and even in Uganda, where we had a controlled number of presidential candidates. In Kenya, we had more than ten. When we have more than ten people looking for the Presidency, Kenyans wonder whether those people are serious.

Mr. Temporary Deputy Speaker, Sir, it is my earnest desire that hon. Members will look at this and realise that we need to give as many people as possible jobs, and also save the President the difficult job of being a Member of a constituency. May I also say that even in the USA, where democracy is practised at advanced levels, the President is not a governor of a state. He once was a governor of a state and later on, he became the President. If the President of the USA is given a state to govern as well as the whole country, you can see how hard that would be for him. We should borrow a cue that for the President to be efficient, he should have one job.

Mr. Temporary Deputy Speaker, Sir, if you take a country like Zimbabwe where the President is elected in a different manner from the parliamentarians, people can scrutinise the person to see whether he is fit for the Presidency. But when we have so many presidential aspirants, and I believe this is the situation in Kenya, we become confused. We do not know who to elect. This creates a fertile ground for rigging. But when you have two or three people running for the Presidency, it becomes difficult for anybody to rig an election.

Mr. Temporary Deputy Speaker, Sir, I know that there are some Members of Parliament who feel that if one is elected as a Member of Parliament, and then he goes ahead to be elected the President, he should forfeit the parliamentary seat. But then this kind of arrangement would subject the people in that constituency to a by-election. Instead of having that, why do we not have a situation where we have people going for elections just once and for all?

Mr. Temporary Deputy Speaker, Sir, I do not need to emphasize that in a country like France, the President there has got no constituency. Where we have this situation, we see efficiency both in government and the Civil Service. But in Kenya, we have a President who is a Member of a constituency, the Chairman of the ruling party, KANU, and one who chairs all the KANU parliamentary group sessions. You can see how overloaded such a President is, like our President Daniel arap Moi. What is the result of this kind of thing? The reason for the inefficiency of the President is because he has many jobs. The President should be given one job. He should not even be the Chairman of KANU.

The Minister for Heritage and Sports (Mr. Nyenze): On a point of order, Mr. Temporary Deputy Speaker, Sir. Is Mr. Ndicho, who is my friend, in order to say that His Excellency the President has not been very efficient because of being given so many responsibilities, when we know he has led this country to great heights of development?

Mr. Ndicho: Mr. Temporary Deputy Speaker, Sir, I wish the Minister could repeat that statement in Baringo Central Constituency. Those people can tell him whether they have really had very good representation in this House. He could also ask the people of Gatundu whether they had efficient representation when Mr. Jomo Kenyatta was the President. Or even ask Kenyans whether the Presidency of President Moi is really effective.

Mr. Temporary Deputy Speaker, Sir, why do we have an economic slump, hospitals without drugs, and a shortage of teachers in our schools? It is because the President who is supposed to be the driver of the bus is the one who is ushering people into the bus; he is also the conductor collecting fares, and is still driving. The driver should be left to concentrate on driving the bus. I am not only talking about President Moi as the Member of Parliament for Baringo Central, but even when I will want to be the President of this country, the law should have been changed so that I do not vie for the Juja Constituency Parliamentary seat. There should be somebody vying for the Juja Parliamentary seat. I should also be very sure that I will win, because if I do not win, I would lose both the Presidency and the Parliamentary seat in Juja Constituency. So, I am addressing all those who are aspiring for the Presidency in Kenya. I am sure Mr. Nyenze does not want to be the President of Kenya. I know he wants to remain a Member of Parliament for his constituency. But if he wants to be the President, then he should forget the constituency and let another person run for the seat.

Mr. Temporary Deputy Speaker, Sir, the only way we are going to improve efficiency in running the Government is if we give an individual time to concentrate on his job. A good example is the Attorney-General who has been given one job. Many Ministers are also chairmen of KANU at the constituency and district levels, whereas the Attorney-General, who is doing a good job, only holds one portfolio. I hope he is going to steer the constitutional review process in a good way. We could get a tip from the office of the Attorney-General, who only

has one job. Another example is the position of Mr. Speaker, who only holds one job. He represents no constituency and is not the chairman of any political party. You can see how hon. Francis ole Kaparo has steered this House to great heights. If he was the Member for Laikipia East, he would be at times in his constituency for Harambee; run errands as the KANU chairman, and rush to the Chair as the Speaker. The House would be disorganised. But at the moment, he is concentrating on one job. The President should only have the job of a President. The Vice-President and Minister for Home Affairs, or hon. ole Sunkuli could even become the Chairman of KANU and be very efficient as the Chairman of KANU. When an individual is overloaded with jobs, we end up having haphazard governance and inefficiency.

I am calling upon the House to amend and delete certain sections of the Constitution so that we have one man, one job. The President should represent the whole country and have a Member of Parliament in his constituency.

I beg to move, and call upon Mr. Munyao to second the Motion.

Mr. Munyao: Thank you, Mr. Temporary Deputy Speaker, Sir. I sincerely thank Mr. Ndicho for having brought this good Motion timely. This is because the Constitutional Review Commission is preparing to go around the country to collect people's views.

Mr. Temporary Deputy Speaker, Sir, since I feel attached to this Motion so much, I will avoid touching on personalities because I want both sides of the House to focus on the Motion and not individuals. I know if I mention some individuals, our minds will not be together. I would like to urge the House to look at the issue of having separate powers and authority.

Mr. Temporary Deputy Speaker, Sir, the people of this country and hon. Members of this House would like Kenyans to develop a nation. Even today, the President is out trying to develop the nation. A nation can be developed better if we considered a President without a parliamentary seat. The reason being that a President without a parliamentary seat would consider Kenya as his own constituency. A President without a parliamentary seat would not first give his loyalty to his own community or bank on the strength of his own constituency. He would not even regionalize his thinking because Kenya would be his constituency and he would be sure that whether he is from Kajiado North, Narok North, Mbooni, Mombasa or Mandera, Kenya is his constituency. There would be no shifting of loyalties. This is a feeling which should be spread across the whole country.

Mr. Temporary Deputy Speaker, Sir, we are trying to abolish tribal chiefs, and the Attorney-General has taken the lead in abolishing tribal chiefs, and this is one sure way of avoiding tribal chiefs. The situation would not be that an individual from Ukambani first seeks support from Ukambani. He should be able to seek support from the western, northern, central regions and all the other parts of the country. This way, things will be better for Kenya. In Kenya, if you elected a President from a particular place, people from that area expect that President to give them jobs in parastatals, appoint them in government offices and help them acquire loans and write them off, by, for example, the AFC. This situation must cease. We should realise that Kenya is for all communities.

Mr. Temporary Deputy Speaker, Sir, the reason for congratulating Mr. Ndicho for bringing this Motion, is also the reason why I praise the Democratic Party of Kenya. The Democratic Party is the first party to have come up with a proposal to the Constitutional Review Commission. I would like to draw the attention of the Attorney-General to a document which is already in his office, entitled "Shaping the Future of Kenya". Those are proposals by the Democratic Party of Kenya on the constitutional reforms in Kenya, dated, Thursday, 2nd November, 2000. This document is available in all dockets; institutions, in this Parliament and in the Attorney-General's office. This is because, the Democratic Party was the first party, and up to now remains the first party, to present its own opinions to the Constitutional Review Commission. At that time it was the Ufungamano Constitutional Review Commission, but now it is a joint effort. We intend to repeat the same remarks in the same document to the new Constitutional Review Commission. As the Secretary-General of the Democratic Party, I have already sent a copy of this document to the current Commission, because we feel this document, if properly adopted by Kenyans, will get us somewhere. This is not for the benefit of the DP, but for the benefit of all Kenyans. Under Section 31(5) it reads as follows:-

"The President should not be a Member of Parliament."

The DP saw this thing coming and it is going to be a solution to this problem. There is also another clause in this document which reads as follows:-

"The President should be directly elected by all Kenyans by direct universal suffrage. The President should be elected by an absolute majority of all the votes cast. If such absolute majority is not obtained on the first ballot, a second ballot should take place between the two top candidates within 14 days."

Mr. Temporary Deputy Speaker, Sir, this document has got a lot of clauses which are of benefit to this country. I appeal to the Ministers who are seated directly opposite me to, at least, get a copy. We are selling this

document at Kshs200, but I am willing to send free copies to each and every Minister. This is because I would like to see a unified country with one solid mind. I am also appealing to Kenyans at this time of Constitutional Review--- I would like to laud the efforts being made by Prof. Ghai. The Constitutional Review Commission is going to take us up to the constituency, divisional and locational levels. The civic education seminars will empower our people on constitutional - making process. We want Kenyans to participate fully and freely by giving their views to this honourable Commission.

Mr. Temporary Deputy Speaker, Sir, the issue of mushrooming parties should be encouraged. Let so many parties be formed because, that is the right of the people. Today, we have got more than 40 political parties and there is nothing wrong with that. We know of countries overseas where some particular areas have more than 1,000 political parties. That is okay because, to them, those are tribes. In any case, they have got tribes and clans just as we do. But we need to strengthen a maximum of three political parties in Parliament. That is difficult here in Kenya because one cannot have a cake and eat it. We are promoting democracy, hence we cannot say we should support DP or KANU only.

This is the message we are sending to Kenyans wherever they are. It is up to them to choose which parties they can support. By so doing, they will elect sober leaders. If this method is followed, it will enable us to choose leaders who have a national outlook. If I come from Igembe and I want to be a presidential candidate, I will have to visualise where my support will come from, other than my home province. So, I will be able to concentrate in those areas where I have support. This is one of the surest ways of bringing back the nationalism which we need. This will wipe out the tribal feelings which are so high now.

Mr. Temporary Deputy Speaker, Sir, I sincerely request the Attorney-General and all hon. Members in this House to fairly think about it. In fact, we had even suggested that mayors and county council chairmen in this country should be elected directly in the areas concerned. This is meant to bring in popular leaders who do not owe their loyalty to a small location within the district.

With those remarks, I beg to second.

(Question proposed)

The Attorney-General (Mr. Wako): Mr. Temporary Deputy Speaker, Sir, I rise to speak on this Motion and also to propose an amendment. I have done so at this time so that both sides of the House know in which direction I would like this Motion to go, if possible. To rise and move that amendment at the end will be too late.

Mr. Temporary Deputy Speaker, Sir, the essence of this Motion is that the person seeking to vie for the Presidency shall not seek to be elected as a Member of the National Assembly representing a constituency. This is the essence of the Motion and I think it has been brought in good spirit. One can marshal a number of arguments in support of this principle.

(Applause)

Mr. Temporary Deputy Speaker, Sir, the issue is not so much the essence but how to go about it. The current Constitution provides that the President must also be a Member of Parliament. It may be recalled that at Independence, we had a parliamentary system of Constitution with Her Majesty the Queen as the Head of State, represented in Kenya by the Governor-General, Mr. Malcom McDonald. But within one year, because of our sovereign status, we refused to have a Head of State who was outside the country. We demanded that we must have our own Head of State. In the process, we opted for an Executive President who was a "hybrid" between the parliamentary system of Constitution and the Executive Presidency system of Constitution. Therefore, a number of things were done. One of these was to make the President to be a Member of Parliament. If you read the constitutional debate at the time, there appears to have been sound reasoning as to why this was so. One of the reasons was that, one should not be a leader of the entire country when he has been rejected in his own home area; that a leader of the country should also have been recognised as a leader in his or her own home. That was the main reason.

The other reason was that although we had an Executive President, we still had elements of a parliamentary system of Government. It was felt that the President must also be a Member of Parliament.

Mr. Temporary Deputy Speaker, Sir, of course, as at that time, the President never used to be elected through the national vote. At that time, we did not have a general election during which the President sought votes directly throughout the Republic. However, in 1991, we amended the Constitution and made it a must for the President to seek the mandate of the people directly in a presidential election. The President is now elected directly by the people, and not indirectly by Members of Parliament, or the political parties that control the

National Assembly at any given time.

In the process of doing that, we maintained that the President must remain an elected Member of Parliament. That produced a sort of anomalous situation that we have had to date. Even in countries where the President must, first, be elected as a Member of Parliament; when he becomes the Head of State, somebody is elected to hold the parliamentary seat for the President, so that the President can focus himself on the affairs of the state rather than on the affairs of his constituency. Of course, in other countries, there is a complete separation of the powers.

However, as you know, all these issues touch on the issue of amending the Constitution. This House has put in place the Constitution of Kenya Review Act, which is supposed to address these issues. I am quite sure that one of the issues the Constitution of Kenya Review Commission will address itself to is this anomalous situation regarding the Presidency. This situation could create quite an issue.

For instance, it will be recalled that in the latest United States of America (USA) presidential election, Mr. Al Gore was the candidate who got the highest number of direct votes. However, under the USA system, the direct vote does not matter much. Mr. Al Gore, who won the national vote, lost the USA Presidency because he did not win the vote of the state in which he was born. Although he was accepted nationally, he was not accepted at home. He was also defeated in Mr. Clinton's state.

So, this phenomenon can create an anomalous situation, and I am sure that the Constitution of Kenya Review Commission (CKRC) will look into this issue. Section 3(c) of the Constitution of Kenya Review Act clearly as follows:-

"One of the objects and purposes of the constitutional review process is to recognise and demarcate divisions of responsibilities among state organs, the Executive, the Legislature and the Judiciary, so as to create checks and balances between them and to ensure accountability of the State and its officers to the people of Kenya."

On the functions of CKRC, Section 17(e) provides that the Commission will examine and recommend improvements in the electoral system in Kenya. I am sure that this is one of the areas the Commission will consider for improvement. So, the purpose of my amendment, therefore, is to send this issue back to the CKRC for consideration. The idea is good, but I would like it brought here through the CKRC.

Mr. Temporary Deputy Speaker, Sir, I, therefore, propose that the Motion be amended by deleting the words "grant leave to introduce a Bill for an Act of Parliament entitled the Constitution of Kenya (Amendment) Bill to delete Section 5, Sub-Section 3(c) and to amend Section 5, Sub-Section 5(a)", and substituting thereof the words "request the Constitution of Kenya Review Commission to consider making recommendations to amend or make a provision in the Constitution". The Motion, as amended, now reads as follows:-

THAT, this House do request the Constitution of Kenya Review Commission to consider making recommendations to amend or make a provision in the Constitution to provide that any person seeking to vie for the Presidency shall not seek to be elected as a Member of the National Assembly representing a constituency.

Mr. Temporary Deputy Speaker, Sir, if this Motion is passed, this issue will be properly considered by the Constitution of Kenya Review Commission, which this House gave the mandate to look into these issues. I am impressed by the comments that were made by the Mover and the Seconder of the original Motion, particularly when the Mover said that the Democratic Party of Kenya (DP) document that he was waving has been sent to the appropriate place, namely, the Constitution of Kenya Review Commission, for consideration, and to key offices in this country such as the Office of the Attorney-General. I think that is the way we ought to do things; this issue should be referred to the Constitution of Kenya Review Commission.

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

The Minister of State, Office of the President (Mr. Sunkuli): Mr. Temporary Deputy Speaker, Sir, the import of this Motion is really important. I think Mr. Ndicho has brought a very good Motion because the Presidency is going to be a very important issue during the constitutional review process. That is why I rise to second the proposal by the Attorney-General that this matter be taken to where it belongs.

I do not think that there will be another issue which will be as important to the Constitution of Kenya Review Commission as the Presidency. The essence of every constitution is to state how the citizens of a country are going to be governed. A lot of people in this country have stated in the past that they wanted the powers of the Presidency affected by the constitutional review process. So, I think it will be jumping the gun to ask Parliament to do it when there is, in fact, a process that is going to seek the views of Kenyans on the issue.

I want to emphasise that the opinion of the people of Kenya is what we want to know, so that a few of us here do not determine for the people what they are, in fact, dying to determine. If we determine today that which should be in the next Constitution, the constitutional review process will be in total futility. However, the idea that

this country's future President should not be a Member of Parliament is very good. Mr. Ndicho said rightly that such a President will concentrate on the national constituency and be devoid of parochialism. If you are also subjected to the nitty-gritty of your own constituency, you get distracted a bit from your work as the President.

Mr. Temporary Deputy Speaker, Sir, the generation that brought Independence to this country was, indeed, great. The way the founding father of this nation, the late Mzee Jomo Kenyatta, managed the affairs of this country was very distinct. He was able to balance between the affairs of his constituency and those of the country, as well as unify the whole nation. That is something we should congratulate him for. The late Mzee Jomo Kenyatta laid the foundation that we see in this country today. President Moi took over the mantle of this country's leadership and enhanced the unity of Kenyans. He has led Kenya with a lot of vigour, and dedicated his time to moving across the country to unify the people as well as have time for his Baringo Central Constituency. That was, indeed, a great generation.

However, there will come a time when this country will not have energetic Presidents. Instead, we will have Presidents who will be overwhelmed by parochialism. I think the amendment being proposed by my colleague will ensure that, in future, when we have a President who is physically or intellectually lazy, he will be given enough time to govern the country and not, at the same time, worry about his constituency.

Mr. Temporary Deputy Speaker, Sir, I still think that when we look at the powers of the President and the nature of the Presidency in the new Constitution, we will not, of course, create a President who will be Executive. I hope that will be the end result. We will substitute most of the duties performed by the President with duties of a Prime Minister. Consequently, we will have the Prime Minister right here, who will answer all our questions and govern the country in accordance with the wishes of hon. Members.

Mr. Temporary Deputy Speaker, Sir, before we reach that stage, it is important that the institution of the Presidency be looked after carefully, and that we should separate it from the powers of a Member of Parliament. We hope, of course, that the Constitutional Review Process will be finished in good time for the next election. If not, we must insist that, if we ever change our President from the present President - and I will not be tired of saying this - let there be a proper change. This should not just be a change of personality, but a change of the whole nature of the Presidency.

We are grateful to the generation that brought Independence to this country. We are full of praise for them because of what they have done so far. However, I do not think that this generation should succeed itself. Members of the Opposition who will also nominate candidates to contest in the next general elections should really think of putting up candidates of this new generation. I do not believe that the people who have been in active politics since the 1970s will succeed themselves. I think the next President of Kenya should be a person, either in his 40s or early 50s, so that we have a real change. This practice of some people running after others to look for positions is not fair to this country. I think all those who were either Ministers of Economics or senior civil servants during the colonial days and up to the time of Independence, must really also do an honourable thing by retiring together with our President. They should not think that there is a second chance for any generation to succeed itself. I think when we change the nature of the Presidency, the new outfit should be good enough for the young generation and not for the old generation, so that we continue to govern Kenya in a changing manner.

Every new generation brings to the country something new. For example, George Washington brought to America what Thomas Jefferson could not bring. But Thomas Jefferson brought to America what George Washington could not bring. The Americans have been able to strengthen their leadership because of the change of generation. When J.F. Kennedy was elected as the President of America, it was not because Eisenhower was a bad man. But it was because the generation of Eisenhower had served its time. Therefore, the new generation of J.F. Kennedy came and then it continued until the days of Bill Clinton. I think Kenya will not be an exception. Let us leave this matter of the Presidency to be looked after by the Constitutional Review Process so that we do not do an untidy job. We want to know who will have the Executive Power of this country. I do not think that the new Constitution will give a chance for a President to be elected by everybody. I think this is one thing that has created a lot of tribalism in this country. That is why we keep on saying in KANU that the Opposition have to wait for 100 years to rule. This is because if they can only come up with political parties of their own tribes, then they have not discovered the formula for governing Kenya. Let us have a President who is elected by the people's representatives, so that we can unify our country. Let us not utter sentiments that will divide our people right from the rural areas. I think it is important that regardless of the changes that will be made to the institution of the Presidency, let us be patient. I would like to urge hon. Ndicho to see the sense of this proposal, in comparison to what he has said today. Let us both appear before Prof. Ghai's Commission and I will support him. For the time being, I support the Attorney-General.

(Question of the first part of the

amendment, that the words to be left out be left out, proposed)

Mr. Kihoro: Mr. Temporary Deputy Speaker, Sir, I think time has come really for this country to move from a monarchical Presidency to a President who is down to earth; a President who will serve the people of this country and use the Office of the President to advance the interests of all Kenyans, and not to use it to advance constituency or partisan interests. It is important to come to that realisation. This fact should not be disputed and it should be advanced in the next Constitution. So, I do agree that a piecemeal amendment of the present Constitution by this Parliament might not be necessary at the moment. I think this Parliament also has to retain the ability to make very strong recommendations to the Constitutional Review Commission to insert certain provisions in the present Constitution in light of the experience that we have gone through in this House. That will be very beneficial to the Commission. Therefore, I do agree that this is a very important provision. I can see, indeed, even the next Order on our Order Paper is also about amending the Constitution in respect of Permanent Secretaries. So, it is important that we resolve this question about what the feelings of this House are, in respect of certain matters, and present our views to the Constitutional Review Commission. However, these amendments may not be incorporated because, by the time the Commission finishes its work, this House may have been dissolved. There might be some pending business in this House that might not be incorporated in the new Constitution. So, it is important that we resolve that issue in a way that will ensure the experience of this House is used in the making of the new Constitution.

Mr. Temporary Deputy Speaker, Sir, the Presidency in this country is as constituted during the last 38 years of Independence. Especially in respect of the President serving a constituency is totally inadequate and it has never helped either the constituency, or the people of this country. I have been in this House for about four years now. His Excellency the President has only come here eight times to listen to the Budget Speech, or preside over the State Opening of Parliament. One wonders who serves his Baringo Central Constituency. I have been down there and I know those people really need services. Whatever the Front Bench might think about it, the truth is: People in Baringo Central Constituency need a servant. The President, in the present situation, cannot be their servant.

Mr. Temporary Deputy Speaker, Sir, even in this country we should have a measure of the ability of the President to serve the people. If you find a country where the literacy rate, life expectancy, income per capita and calorie intake are all declining, you start wondering whether the President should be in office or should be booted out and put in a closet. That is what is happening in this country. You also find that some of the work that is done by the President really does not focus on his presidential duties in respect of Kenyans. A lot of time might be spent travelling. When a President spends eight hours travelling out of the country and another eight hours returning home, he is not serving the country. It is not important for the President to waste a lot of time attending functions that really can be done by the Ministers. It is important to reduce occasions when the President's time is being employed on jobs that can be done by "legmen". That is what should happen. There are very momentous issues in this country which have not been dealt with because too much time is being spent on partisan issues that do not help 30 million Kenyans. So, it is important for us as we start filtering through the Presidency to agree on the work that is really presidential and that which has to be done by the President and what he should not do. As the Mover of the Motion said, dealing with party matters needs a full-time worker and he might not even do the job properly.

Mr. Temporary Deputy Speaker, Sir, I am seeing Mr. Nyenze standing up and sitting down. I do not know whether he wants to catch your eye when he is standing up and sitting down like a wind vane.

Mr. Angwenyi: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is Mr. Kihoro in order to call Mr. Nyenze a wind vane, simply because he is standing up and sitting down?

The Temporary Deputy Speaker (Mr. Musila): Mr. Kihoro, you are out of order, if you used such a term.

Mr. Kihoro: Mr. Temporary Deputy Speaker, Sir, I said that he is standing up and sitting down like a wind vane. I did not say that he is a wind vane.

The Temporary Deputy Speaker (Mr. Musila): You can proceed!

Mr. Kihoro: Mr. Temporary Deputy Speaker, Sir, we want to cultivate a Presidency in this country that is going to serve our people and do the job that it is supposed to do. What I am saying is that, nearly 90 per cent of the presidential assignments should not belong to the President. He should only do 10 per cent of the work that he is doing today. Why can he not make one of the Ministers here the Commander of the Army? One of these Ministers can be able to command the Army, if ever we are going to fight. I do not think we are going to fight. For

38 years after Independence, we have not fought a battle. One of the Ministers here can become a Commander-in-Chief of the Armed Forces, and the other one can become the Minister for Defence.

Mr. Temporary Deputy Speaker, Sir, I am saying that only 10 per cent out of what the President does today should be left to the President and 90 per cent---

The Minister of State, Office of the President (Mr. Sunkuli): On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the hon. Member in order to mislead the House that the President is the Commander of the Army as well as the Commander-in-Chief of the Armed Forces? I want to tell him that the President is only Commander-in-Chief of the Armed Forces and the Commander of the Army is called Lt. Gen. Lazarus Sumbeiywo.

Mr. Kihoro: Mr. Temporary Deputy Speaker, Sir, I stand corrected if I said the Commander of the Army. Yes, he is the Commander-in-Chief of the Armed Forces, but I am saying the job of commanding the Army needs a full-time person to do it. I am talking about a General.

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

Mr. Kihoro: The President has never been in the Army.

The Temporary Deputy Speaker (Mr. Musila): Order, Mr. Kihoro! You have just been told that the Commander of the Army is not the President. He is the Commander-in-Chief of the Armed Forces, not the Commander of the Army!

Kihoro: Yes, exactly.

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

Mr. Kihoro: Mr. Temporary Deputy Speaker, Sir, the appointment of a five-star General would be good enough because that would make sure that we are properly protected.

We are moving to a situation where the President has got to be seen to be doing everything and power has to be vested in the Office of the President. Just look at how much the Office of the President does today. The Office of the President is overloaded. We should be able to define the presidential powers on the lines of what is happening in the world. Kenya is moving backwards because of what Mr. Angwenyi has told us; the ruling party.

Mr. Temporary Deputy Speaker, Sir, we want to have a criteria to cover presidential performances to make sure that the affairs of 30 million Kenyans are dealt with the way they should be. If life expectancy in this country is declining, and illiteracy is on the rise; calory intake is declining, per capita income is declining, and HIV/AIDS is on the upsurge, 10 per cent of Kenyans are HIV/AIDS-positive, a killer disease that continues unchecked to ravage our people for nearly 15 years, then the job that needs to be done is not being done.

Mr. Temporary Deputy Speaker, Sir, there are countries that have Presidents who are not elected by their Parliaments. We must clip the powers of the Presidency to the barest minimum. The country can have an executive Prime Minister--- I do agree with the Minister in charge of defence that we need to have somebody who will deal with the affairs of this country the way they should be dealt with, and we have got an example from India. You will never hear about presidential elections in India. We have another example from Israel. Parliament sits and decides as to who should be the President provided he is a person of integrity. Such a person should be in charge of state affairs. I believe the Commission will look at this matter in a way that is going to have proper and de-focus our people from tribalism and the idea that when you become the President, you go there to eat. That is not what it should be about. After 38 years of Independence, we must clip the powers of the President.

Thank you.

The Minister for Trade and Industry (Mr. Biwott): Thank you, Mr. Temporary Deputy Speaker, Sir. I rise to support the amendment by the Attorney-General. I think it is an appropriate thing to do at this particular time.

The speaker who has just left the Floor has spoken as if he does not know the history of this country. This country started with a monarchy because there was a Governor-General, as the hon. Member knows very well. It is the very same Kenyans who decided that they must have a President. At that time, the kind of Presidency which existed - which still exists today - seemed desirable and that is why they went of for it. There is nothing wrong with it. It was an evolution. At that time we had a Prime Minister, and if it is desired that in the future the post of a Prime Minister is desired, so be it. But I think it is dangerous to personalise issues when we are debating in this country. I think we are a mature Parliament, composed of intellectual people; there are a lot of experienced people and lawyers, such as the speaker who has just left the Floor and many others, including Mr. Sunkuli, who are brilliant because they are known for what they are able to contribute.

As I said earlier on, we should not look at the situation the way it is and read names into positions because that is dangerous. We should first look at the structure in its abstract form to see whether it is a kind of structure that suits our own society and whether it caters effectively for the efficiency and management of this

country.

Mr. Temporary Deputy Speaker, Sir, it is true that the holding of several positions tends to undermine the efficiency of any individual or to provide the service because the Prime Minister is like a Member of Parliament, even today, because you find Ministers are also Members of Parliament representing constituencies. If, for example, you are a Minister for Foreign Affairs, you spend too much time outside the country that you do not do a fair service to your own constituents. So, it is the same for the Presidency.

This Motion should have actually come many years back. But now that we have a Constitutional Review Commission which is doing that exercise, I think this would be a perfect suggestion to be recommended to the Constitution of Kenya Review Commission to look at. No doubt, the Constitution of Kenya Review Commission will be looking at other constitutional structures and, perhaps, at the end, they will come out with a perfect Constitution which suits the needs of this country. I think the hon. Member thinks that they can structure their own Constitution in future.

Mr. Muite: On a point of order, Mr. Temporary Deputy Speaker, Sir. The Standing Orders require an hon. Member contributing to declare his interest. Is it in order for Mr Biwott to fail to declare his interest in the new constitutional order; that, he is eying the position of the Prime Minister? Should he not declare that?

The Minister for Trade and Industry (Mr. Biwott): Mr. Temporary Deputy Speaker, Sir, I think the hon. Member has just woken up from a deep slumber in which he has been dreaming Mr. Biwott becoming a Prime Minister, the way he wants. But let it be known that I am not ambitious, and I am not vying for any position. I am content with being an hon. Member for Kerio South, where I provide a very effective service; so they say, by their own judgement. Nevertheless, I am very grateful that there is an admirer here of Mr. Biwott, who would like to see him rise to any position.

(Laughter)

Mr. Temporary Deputy Speaker, Sir, I was saying earlier on that it is very strenuous to have many jobs, and I am quite sure that, in future, it might be possible that these jobs are distributed so that as many Kenyans as possible run them, and they will be complementary. In fact, I do also support the idea and principle that, perhaps, it might be ideal for the President and the Prime Minister to be answerable to the House, so that their responsibilities are made accountable and they serve the people effectively.

In addition to that, I do support such separation of powers, if it is recommended in the end, because some of the hon. Members who are aspiring to be President are only doing so because they want to use it as a leverage in getting the constituency seat. These hon. Members would not, otherwise, be able to win parliamentary seats. So, rather than hiding everything and pretending to be a Presidential candidate when you cannot even make it in your own constituency, I think we should eliminate such possibilities, so that candidates are just placed there, and they are judged according to their own abilities and we avoid distortions.

As for the question on the Commander-in-Chief of the Armed Forces, I do not think I am competent to comment on it, but if one looks at the history of armies, they were set up to defend a realm. In a country such as ours, we have the realm, which would have been either a Duke or King, to whom those soldiers are loyal. In our own system, every soldier swears unwavering loyalty to one person, and that person is the Head of State. It is, therefore, natural that he should become the Commander-in-Chief because he is the symbol of the nation and flag. That is how it should be. What can a mere Minister do, even if he is the Minister for Defence? He will be a Minister for Defence today, and another one replaces him tomorrow. But I cannot vouch for the Muungano wa Mageuzi group, or is it Muungano wa Mapinduzi? This is because those ones could be overthrowing everything upside down, in which case, we do not know what the Commander-in-Chief will be doing. Maybe, they will be commanding with their legs up and heads down. We do not know what will be brought by the Muungano wa Mageuzi group.

I think the question of employment is a big problem which we should not take lightly. It is arising because of lack of job opportunities. Job opportunities are created by enterprises, which are not limited to the Government. It is something which is generated by everybody, the Opposition included, even the Church and outsiders. They all must create jobs. Joblessness should not be viewed in terms of the Government alone. If anything, the Government should be exonerated from the responsibility of creating jobs because it is being asked to divest, to privatise everything, and to only provide facilitation in law and order. That is obvious. Maybe, constructing a highway - even that is supposed to be privatised - or providing security, in which case, the forces which we are funding make the Government tax people. The Government also provides the administration of law and order.

Those are the good services which the Government can provide. How many jobs will those facilitating

organisations provide? Very limited. Therefore, it is important for every Kenyan to support stability and good leadership of His Excellency the President, and to be as enterprising as possible, and also to win the support of all those who would like to patronise Kenya, be they the International Monetary Fund or the World Bank or bilateral countries whom we are friendly to, and who are willing to put their money here. Also, the same should apply to the international corporations and private individuals who want to bring their money here. I think we should support them. We should speak with one mind as Kenyans because, at the end of the day, it is Kenyans as a whole, not as a partisan and divided people, who will carry the day.

I represent this country in the East African Community. Fortunately, as a Kenyan, representing Kenya in the East African Community, I talk on behalf of everybody because there are no political parties there. So, let us work hard and ensure that we produce the hon. Members we need now, so that we do not seem to lag behind.

With those few remarks, I beg to support the amendment proposed by the Attorney-General.

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

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

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

(Question of the Motion as amended proposed)

Mr. Muite: Mr. Temporary Deputy Speaker, Sir, there is hardly any more fundamental or serious issue as the question of the constitutional reform which is now before the Commission. The Motion as amended, that this House makes its recommendation to the Review Commission, does not really amount to much in the sense that all of us as Members of Parliament are, of course, free at any time to make whatever recommendations we wish to make to the Commission. The spirit of the Motion is good and cannot be disputed whatsoever. It is a contradiction, in fact, that the President should also be required to be a Member of the National Assembly. It leads to rather absurd results because, for example, when you look at Section 39 of the current Constitution---

The Minister of State, Office of the President (Mr. Sunkuli): On a point of order, Mr. Temporary Deputy Speaker, Sir. I know you were not listening, but Mr. Muite is contributing towards the Presidency. Is it not in order for him to declare his interest in view of what he has just asked? I think he has now reduced his ambitions to "Deputy Prime Minister" of Mr. Kibaki.

Mr. Muite: Mr. Temporary Deputy Speaker, Sir, when the time comes I shall certainly declare my interest. I have not declared any interest. If you go through history, you will note that I have never said that I want to be the President of this country. When the time comes and I declare that, it will be because I shall go for it and get it. So, I do not need to declare my interest today, and certainly not in the coming election.

I was saying that I agree entirely that the President ought not to be a Member of the National Assembly because it does lead to a lot of absurdities. If you look at Section 39, the amendment that was brought back in 1992 was because of the problem of lack of quorum which requires a Member of Parliament to vacate his seat in Parliament if, without having obtained the permission of the Speaker, he fails to attend the National Assembly on eight consecutive days on which the Assembly was sitting in any Session. That does not exempt any Member of Parliament. Section 5 requires a President to also be a Member of the National Assembly. The question arises as to why the President, in his capacity as a Member of Parliament for Baringo Central, is not required to vacate Parliament because of failing to attend eight consecutive sittings. There are these contradictions that ought to be cleared and done away with. We ought not to require the President to also be a Member of Parliament.

We need to contextualise this particular issue before we can recommend an amendment to the constitutional order providing that the President shall also not be a Member of Parliament. We need to contextualise that in the wider sense. We need to debate, argue and finally develop a consensus on the sort of constitutional order which we want for the country. It is then that we will be able to slot in this requirement that the President will not be a Member of the National Assembly. In other words, let us not put the cart before the horse. We need to be clear on the sort of constitutional order that we want. Once we make up our minds as

Kenyans on the sort of constitutional order that we want, then we will be able to address the issue that is being raised by this Motion. There are several constitutional orders. For example, there is the one being advanced that henceforth, we should have a ceremonial President and the executive authority should be vested in a Prime Minister.

That is one model of a constitutional order. We need to give it careful thought as Kenyans before we can agree that it is the model which we want. There is, of course, the presidential system where the executive authority is vested in the President. There is, the French model where the executive authority is shared between a President and a Prime Minister. We need to educate ourselves and our people on these different models before we can address the issue that this Motion is raising. What I am saying is that the cut-off point is to appreciate the importance of the constitutional reform and its critical nature. The starting point, for example, is to accept that the current economic disorder or stagnation is a direct consequence of the sort of constitutional order that we want to do away with. If this country will be revived economically, the key is through a new constitutional order. These are vital issues which are being raised. They are complex issues and the worst mistake we can make is to rush the constitutional reform process.

Mr. Temporary Deputy Speaker, Sir, we have heard Kenyans being promised that there will a new Constitution in place before the next general election. I wonder how civic education alone can be provided within a short period of time. Before we educate our people in every village about the importance of the Constitution and its nexus with the economic situation, you cannot carry out thorough intensive civic education in less than eight months. So, there are question marks. If some lawyers want to sit down and draw up a Constitution which they think is the best for this country, and then do a whirlwind tour around the country to pretend that they have sought the views of the Kenyans, that is something different. If you will participatorily and effectively involve Kenyans in the constitutional reform process, you cannot take less than three years. We have got complex issues such as the majimbo proposal.

We do not want to shut anybody out of the constitutional reform process. We want even to allocate time for people to quarrel before we can begin to discuss and debate with each other. Again, we should come up with a durable constitutional order that will serve this country for all times. These are the issues that need to be addressed. But the more urgent one is the issue of providing a conducive environment under which that constitutional reform process can take place. As long as we have the current constitutional order, where the Provincial Administration (PA), from the sub-chief through to the chief, the District Officer, the District Commissioner, the Provincial Commissioner and the Permanent Secretary in charge of the Provincial Administration are appointed, promoted and sacked by one individual, the President--- This happens also to the Police Force and affects officers from the police constable to the Commissioner of the Police. Those people will always serve the political interests of the appointor and not the law. So, it does not matter what law pass here; it will be violated by the police and the Provincial Administration because they are looking at what side of their toast is buttered. We need to begin to look at how we can create a conducive environment.

The same thing applies for top civil servants. They are appointed by one individual and they hold offices at the pleasure of one individual. The Ministers and their Assistant Ministers are also appointed by one individual. This does not provide an environment in which effective non-partisan constitutional reform process can take place. Time has come for us to debate an interim Constitution in order to reign in those excessive powers, and create a period of a transitional Government of national unity, that will be charged with the mandate of overseeing the constitutional reform process in a non-partisan manner. This Government of national unity should be charged with the responsibility of overseeing the implementation of the economic reforms and addressing urgent issues such as the state of insecurity in this country. That is the way forward. Through this, we will be able to create an environment in which not only the economy will recover, but also in which a genuine constitutional reform process can be undertaken. In its absence, we will have lop-sided or non-genuine reforms that will serve the interests of certain constituencies and not the whole of Kenya.

Mr. Temporary Deputy Speaker, Sir, these are matters that require a lot of reflection, sobriety and that we be given enough time to vent even our anger. We have the issue of polarisation of Kenyans along ethnic lines. These are not issues that can be wished away. They are issues that we need to factor into the new constitutional order. We have economic issues such as having accessible health services for everybody, and the right to employment for everybody. These are matters that need to be factored into the new constitutional order.

With those few remarks, I beg to support.

Mr. Kajwang: Thank you, Mr. Temporary Deputy Speaker, Sir. This Motion as amended, has lost its original substance. So, I do not like the amendment, but I am not going to oppose it because if I do that, we will go back to the original Motion, which I also oppose! So, let me just give you my views on why I think the Motion, as it now reads, is not tenable.

First, we have to be clear whether we want a presidential system or a parliamentary system. When we got our Independence, we were very clear on what we wanted. We had the late Mr. Jomo Kenyatta as the Prime Minister, the Queen as the Head of State and we were very clear that we had a parliamentary system. But later on, because the late Mr. Kenyatta and Mr. Tom Mboya wanted to dictate over this country, they brought an amalgam or some hybrid of presidential and parliamentary systems mixed together, until we did not know whether we were a presidential system or a parliamentary system. So, what Mr. Ndicho is trying to do today is to create a pure presidential system. I think that is what he intended to do. He says that if you want to be a President, you should not be a Member of Parliament. You should do your job as the President. He says: "Let us have a Parliament that functions as a Parliament." He wants to have a clear presidential system, but we may be of different views.

But that is not how to get it because if you really want a presidential system, there must be several structures which must change in the Government. It is not merely saying that one should not be a Member of Parliament. You will have to change many structures. Those are the kind of things that I would like to suggest.

First, in Uganda, when there was a general election in 1982, the President stood as a President and not as a Member of Parliament. Mr. Museveni, who is now the President of Uganda, was the leader of the UPM. He lost in the presidential election but won only one seat as a party. So, it was an absurd situation and one of the Members of Parliament of the UPM was in Parliament, but the leader of the party was outside! That is what happened in Zimbabwe recently, when a person ran for President as a leader of a party, and lost his seat. He is now outside Parliament, but his members are inside Parliament. So, it can be very terrible that a leader of a party can be outside Parliament, when one of his members is inside. But that is not the issue that I would like to address.

The issue that I would like to address is that Mr. Ndicho went to Ufungamano and told the whole nation very clearly that this Parliament cannot change the Constitution; that this Parliament should not amend the Constitution; that we do not want piecemeal amendments to the Constitution, and that we want a comprehensive, in-depth review of the Constitution. Then, he sneaks back to this House and now tells us that we amend one section of the Constitution, so that the President need not be a Member of Parliament! So, you must decide where you are! If you are in Ufungamano, and you have the spirit of Ufungamano---

Mr. Muite: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for Mr. Kajwang to mislead the House that Mr. Ndicho and those who went to Ufungamano said that this House cannot amend the Constitution, when Mr. Kajwang knows that there is a difference between amending the Constitution and rewriting the Constitution? We were saying that this Parliament cannot, in constitutional law, rewrite an entire Constitution! Parliament can, of course, always amend the Constitution! Is it in order for him to mislead the House?

Mr. Kajwang: Well, I know what I am talking about. The hon. Member is a lawyer like myself and he knows that we understand each other very well. Hon. Ndicho and his group, who are in Ufungamano, told this House that we leave the constitutional review exercise to our people. One of the things which our people are going to consider is whether we are going to have a presidential system or a parliamentary system. It is one of the foundations on which we are going to build our Constitution. This is because we are going to have a structure of Government. We are going to ask our people: "Are you going to elect the President, who will be the chief executive, or do you think you like a President who will be non-executive and a Prime Minister who will be the leader of the party with a majority in the House?" That is a fundamental question.

Mr. Temporary Deputy Speaker, Sir, so, we cannot sneak into this House now and persuade 30 Members, or a little more, to decide on whether we are going to have a presidential system or a parliamentary system. In any event, why is Parliament taking the role of the people? The people are going to be asked these questions. Why should Parliament coerce Prof. Ghai's Commission with some requests or resolutions of the House, that this is what we want as a Parliament? Let Prof. Ghai go across to Mbita, where I come from, Moyale and Coast Province and ask the people what kind of Constitution they want.

Mr. Katuku: On a point of order, Mr. Temporary Deputy Speaker, Sir. In view of the contributions that have been made on this Motion, would I be in order to call upon the Mover to respond on this issue?

The Temporary Deputy Speaker (Mr. Musila): I think let Mr. Kajwang finish.

Mr. Kajwang: Thank you, Mr. Temporary Deputy Speaker, Sir. My friend wants to stop me from talking because I do not agree with him on this.

First of all, I want to introduce myself to my friend. I am the Secretary of Legal and Constitutional Affairs of NDP, and it is my job to give you the mind of NDP when it comes to this matter. NDP is going to propose serious constitutional reviews. We are going to propose that there will be a parliamentary system, regional

governments with regional assemblies and governors; the Office of the President will not be executive and that there is too much presidency in this country, and there will be no PCs, DCs and chiefs. We are going to make serious reviews!

Mr. Temporary Deputy Speaker, Sir, we are going to say that there will be semi-autonomous regional governments and that the Prime Minister will be responsible to this House and can be removed any time when we think we have no confidence in him, and we will change the Government in this House the way we change clothes. We are going to make serious amendments! So, hon. Ndicho should not joke since this is a serious matter!

(Laughter)

Mr. Ndicho: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the hon. Member of Parliament for Mbita in order to cast aspersions on me, that I am joking, when he was not here when I introduced the Motion and when the Attorney-General made his amendments? He is the one who is joking because he thinks that we are going to assimilate and take what NDP wants. Never!

The Temporary Deputy Speaker (Mr. Musila): Order, Mr. Kajwang! Mr. Ndicho has a point, and you should not imply that he is joking!

Mr. Kajwang: Well, I said that he is "not very serious". Maybe, if not very serious is equivalent to joking, then I withdraw the word "joking". However, hon. Ndicho is not serious!

Mr. Ndicho: On a point of order, Mr. Temporary Deputy Speaker, Sir. I seek your protection. If he is saying that I am not serious and he was not here when all this happened, then he is also saying that the Attorney-General is not serious. Is he in order to imply that? Could he withdraw that word and apologise to me?

The Temporary Deputy Speaker (Mr. Musila): Order! Mr. Kajwang, just withdraw that word "joking", and go on.

Mr. Kajwang: Mr. Temporary Deputy Speaker, Sir, I have already withdrawn the word "joking", but I am saying that this Motion as amended is not serious. Let us go and ask the people what they want. This House cannot make recommendations to our people. It is our people who will make recommendations to this House. That is what I am saying. That is when we are serious. This House cannot pass a law---

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

Mr. Kajwang: Mr. Ndicho do not argue with me! Sit down and listen to Kajwang talking law!

(Laughter)

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

The Temporary Deputy Speaker (Mr. Musila): Order, Mr. Ndicho! Continue, Mr. Kajwang! Mr. Ndicho, you will have a chance to reply.

Mr. Ndicho: On a point of order, Mr. Temporary Deputy Speaker, Sir. The hon. Member is confused. The Attorney-General's amendment---

The Temporary Deputy Speaker (Mr. Musila): Order, Mr. Ndicho! Apologise and withdraw that remark.

Mr. Ndicho: Mr. Temporary Deputy Speaker, Sir, I apologise and withdraw the remark.

Mr. Kajwang: He is a heckler---

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

Mr. Ndicho: On a point of order, Mr. Temporary Deputy Speaker, Sir. I am saying that the Attorney-General, in his wisdom, brought an amendment---

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

Mr. Ndicho: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is Mr. Kajwang in order to remain ignorant when the Attorney-General brought an amendment---

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

Proceed, Mr. Kajwang!

Mr. Ndicho: Mr. Temporary Deputy Speaker, Sir, I have not finished my---

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

(Mr. Ndicho stood up in his place)

Mr. Kajwang: Mr. Ndicho, can you sit down? You are a heckler!

Mr. Muite: On a point of order, Mr. Temporary Deputy Speaker, Sir. Did you hear the Member of Parliament for Mbita call the Member of Parliament for Juja a heckler? Is the Chair satisfied that, that is in order?

Mr. Kajwang: Mr. Temporary Deputy Speaker, Sir, he has taken my time by heckling, and he heckled me sometime back.

The Temporary Deputy Speaker (Mr. Musila): Order, Mr. Kajwang! Hon. Members, this is an honourable House. Now, it is fair that you cool down your tempers and let us proceed with the business of this House.

The Attorney-General (Mr. Wako): On a point of information, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Musila): No, Mr. Attorney-General. Hon. Members, Mr. Katuku had proposed that the Mover be called upon to reply. In accordance with the Standing Orders, a Motion has to be debated for a maximum of two hours. This Motion has not been debated for two hours, but by resolution of this House, the Mover can be called upon to reply now.

(Question, that the Mover be now called upon to reply, put and agreed to)

Mr. Kibicho: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for the record to remain with the words that Mr. Ndicho is a heckler because the Chair has not asked Mr. Kajwang to withdraw it?

Mr. Ndicho: Let us just forget that!

The Temporary Deputy Speaker (Mr. Musila): Order, Mr. Kibicho! I have already finished that matter, and I have asked Mr. Ndicho to proceed.

Mr. Ndicho: Mr. Temporary Deputy Speaker, Sir, I also wish to forget what happened. Mr. Kajwang seems to have problems of personal nature, and I do not want to be part of them.

The Temporary Deputy Speaker (Mr. Musila): Mr. Ndicho, reply!

Mr. Ndicho: Mr. Temporary Deputy Speaker, Sir, I would like to thank the hon. Members who have contributed to this Motion, starting with Mr. Munyai who seconded the Motion. I would also like to thank the Attorney-General, Mr. ole Sunkuli, Mr. Kihoro, Mr. Biwott, Mr. Muite and even Mr. Kajwang, who started very well. I do not know which problems he encountered along the way.

I would like Mr. Kajwang to know that [**Mr. Ndicho**] what the Attorney-General proposed in his amendment was that the Constitutional Review Commission would consider this Motion as passed by this House, and eventually, it is the people who will give these views. Mr. ole Sunkuli proposed that we can meet the Constitutional Review Commission, and he will support these sentiments. The only problem that we have with some hon. Members of Parliament is that they come to the House in the middle of debate; they do not know how it started, and either get themselves confused or confuse the House. So, I would like to forgive Mr. Kajwang. He seems to have a problem, or NDP seems to have a problem which this House should not be drawn into.

Mr. Temporary Deputy Speaker, Sir, I thank the Attorney-General. Although he brought that amendment, it did not change my Motion. When he consulted me, I accepted it because, even what the Electoral Commission of Kenya (ECK) will come up with will not be the Constitution of Kenya. That will be deemed to be a draft from the Commission. It is this Parliament that makes laws and unmakes them. If the ECK brings that draft into this House and we find some areas that are not consistent with the aspirations of Kenya, still, this House shall have the mandate to amend the recommendations of the Commission. So, nobody should fear that we are into the constitutional review process in piecemeal because at the end of the day, that document will come here and we will subject it to further scrutiny.

I thank the Members who contributed to this Motion and especially the one who brought in the issue of separation of powers between the Head of State and the Head of Government. Like in England, where the Queen is the Head of State, she does not involve herself in the day-to-day running of the Government. I have no problem with having such a situation in Kenya, where we have the President as the Head of State concentrating on executive matters of the State and then leaving the running of the Government to a Prime Minister.

Mr. Temporary Deputy Speaker, Sir, I support Mr. ole Sunkuli on the issue of the new generation taking over from the old generation. I agree with him that newness brings inspiration. When President Kenyatta died in 1978 and President Moi took over as the new President, Kenyans were excited. They were happy to have a new President and he travelled all over the country and people came out in large numbers to see their new President. There was a lot of inspiration. So, we would like to have a new generation. That is why we are saying that President Moi should not be tempted to go for a third term. There are some people who are inciting him to go for a

third term. We want a new President and new leadership so that Kenyans can be inspired the way they were inspired in 1978. So, let us have the next President. Mr. Kajwang has stated very well that we must choose whether we want a presidential or a parliamentary system. Today, we have the presidential system in place. If we want a parliamentary system, then let us amend the Constitution. Let him bring a Motion, like I have done, and we will recommend it to the Commission to have a parliamentary system in place. But I have been taken aback by his outbursts.

I am happy because we have developed because when President Kenyatta was in power, he could not be opposed. But, currently, the President can be opposed by other candidates, and things continue. We hope that the wheel of development will continue and we are going to see even other things in the future. The Constitution that we are anticipating from the Constitution of Kenya Review Commission (CKRC) will not be the end of it. The next generation of Kenyans and Members of Parliament will still like to review that Constitution to be consistent with the aspirations of their times. But for us, we would like to have ours, and then enjoy life. I look forward to a time when we will have a bicameral kind of system where we will have two Houses, and, possibly, even have a National Assembly of Elders, like in England where we have the House of Commons and the House of Lords. But the Head of State remains the same, overlooking the executive---

An hon. Member: Wacha kuharibu, wewe!

Mr. Ndicho: Mr. Temporary Deputy Speaker, Sir, I would not like to say more because much has been said. I thank the Members who spoke on this Motion.

With these few remarks, I beg to move.

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

Resolved accordingly:

THAT, this House do request the Constitution of Kenya Review Commission to consider making recommendations to amend or make a provision in the Constitution to provide that any person seeking to vie for the Presidency shall not seek to be elected as a Member of the National Assembly representing a constituency.

ADJOURNMENT

The Temporary Deputy Speaker (Mr. Musila): Hon. Members, it is now time to adjourn the proceedings of this morning. Therefore, the House remains adjourned until this afternoon at 2.30 p.m.

The House rose at 12.30 p.m.