

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 2nd December, 1998

The House met at 2.30 p.m.

[Mr. Deputy Speaker in the Chair]

PRAYERS

ORAL ANSWERS TO QUESTIONS

Question No.747

ASSISTANCE TO MOTOR ACCIDENT VICTIM

Mr. Munyasia asked the Minister of State, Office of the President:-

- (a) whether he is aware that on the morning of 24th July, 1998, on Haile Selassie Avenue, a CID Peugeot Station Wagon Car, Reg. No. KAG 130E knocked down Benard Abutu Liyai, ID/No.10917549, of Kawangware, causing him serious leg, head and chest injuries and that this matter was reported to Langata Police Station;
- (b) whether he is further aware that the victim, Benard Liyai, is unable to get effective treatment and has since lost his job at Eliots in Industrial Area; and,
- (c) if the answers to "a" and "b" are in the affirmative, what urgent steps he is taking to assist the victim and to bring the suspected culprits to book.

The Assistant Minister, Office of the President (Mr. Sunkuli): Mr. Deputy Speaker, Sir, I beg to ask the indulgence of the House because I do not have the ready written answer with me. It is an oversight because I placed in my file an answer which I had given this morning thinking that it was the one for hon. Munyasia's Question. So, it was an oversight. I am requesting if it could be placed on the Order Paper tomorrow.

Mr. Munyasia: Mr. Deputy Speaker, Sir, I think it would be alright with me if he can be ready with the answer tomorrow.

Mr. Deputy Speaker: The Question is deferred.

(Question deferred)

Question No.694

DECLINE IN COFFEE PRODUCTION IN MERU CENTRAL

Mr. Murungi asked the Minister for Agriculture:-

- (a) whether he is aware that coffee production in Meru Central District has fallen by over 50 per cent in the last two years;
- (b) if the answer to "a" is in the affirmative, what the causes of that decline are; and,
- (c) what urgent measures the Government is taking to save this vital crop from total collapse.

The Assistant Minister for Agriculture (Dr. Wamukoya): Mr. Deputy Speaker, Sir, I would like to say that the Minister who was prepared to answer the Question will come to answer it.

Hon. Members: Where is he now? Who are you?

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

Mr. Deputy Speaker: Order! So, you did not want to answer the Question?

The Assistant Minister for Agriculture (Dr. Wamukoya): Mr. Deputy Speaker, Sir, we had shared out Questions this afternoon and the Minister is the one who was coming to answer this Question.

Mr. Deputy Speaker: Order! Order! Proceed.

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

(a) I am aware.

(b) The drought of 1996/97 adversely affected development of coffee berries and also escalated the infestation of insect pests especially the stem borer. This was followed by the heavy *El Nino* rains which increased coffee diseases. This led to low quality and poor yields, unaffordable credit facility due to high interest rates, mismanagement of co-operative societies and delays in payment, poor infrastructure especially coffee roads and effects of depressed coffee prices in 1998 as a result of suspension of the economic support mechanism from International Coffee Agreement (ICA).

(c) To enhance production of coffee and boost the industry, the Government embarked on the liberalisation of the coffee industry way back in 1992/93. The Government has now delinked itself from the day-to-day running of the industry leaving the farmers and farmers' organisations and institutions to manage the industry. This has led to exemption of the Coffee Board of Kenya, and its subsidiaries, from the provisions of the State Corporations Act and encouraged planting of high quality disease-resistant coffee varieties such as Ruiru 11, selling and paying coffee in US dollars, introduction of more commercial coffee millers, modernisation of Nairobi Coffee Exchange and the introduction of more coffee auctioneers at Nairobi Coffee Exchange. Macro-economic policies aimed at reducing interest rates within commercial banks will restore farmers confidence in credit system and enable them to borrow for production purposes.

In addition, the Ministry in conjunction with the Coffee Board of Kenya and the Coffee Research Foundation and in consultation with the other stakeholders, is carrying out a study to come up with appropriate recommendations on strategies to enhance coffee production in Kenya. This study is expected to be completed in three months time after which the Ministry shall issue a blueprint on the future development of the coffee industry. At the same time, the Ministry will make specific amendments in the Coffee Act, Cap.333, to improve the development of the coffee industry. Hon. Members are encouraged to make their representations which will be taken into consideration when other amendments are being done.

Thank you.

Mr. Murungi: Mr. Deputy Speaker, Sir, you have heard the kind of answer we have waited for so long as given by the Assistant Minister. In the last ten years, this country has lost Ksh65 billion as a result of the drastic drop in the coffee production in this country. Much of these losses have been suffered by the people of Meru because we are the top producers of coffee in this country. I am happy that the Assistant Minister has mentioned that lack of financial support to the coffee farmers like provision of long-term soft loans and soft credit facilities has actually been the main factor which had caused this drop in coffee production in the country. Given that factor, which is acknowledged by the Government, could the Assistant Minister now inform this House whether the Government is supporting the Coffee Bank which will provide long-term loans and soft credit facilities to coffee farmers in this country to enhance coffee production in Kenya? Is the Ministry supporting or is it against the establishment of a Coffee Bank?

Dr. Wamukoya: Mr. Deputy Speaker, Sir, I do not think that the Ministry will be against the formation of a farmers bank. However, we feel that the normal channels must be followed; that is the channels through the Ministry of Finance and the Central Bank of Kenya. We feel that if we okay the formation of the bank, we wonder how many branches there will be immediately so that the farmers in the whole country can benefit---

Mr. Murungi: Give farmers the bank!

Dr. Wamukoya: Mr. Deputy Speaker, Sir, so what we are saying is that we are not opposed to it, but the normal formalities should be followed through the Central Bank of Kenya.

Mr. N. Nyagah: Mr. Deputy Speaker, Sir, given the fact that tea and coffee growers constitute 80 per cent of the depositors in the commercial banks and 75 per cent in KCB, why would the Ministry of Agriculture not recommend to the Ministry of Finance that time has come for a Coffee Bank to be created, if indeed this country wants to look after the farmers?

Dr. Wamukoya: Mr. Deputy Speaker, Sir, the Ministry will not, out of the blues, recommend to Central Bank of Kenya because we have not had any written application from the farmers to the Ministry requesting that we help them by making recommendation to the Central bank of Kenya.

Mr. Wamae: Mr. Deputy Speaker, Sir, in view of the importance of coffee to the economy of Kenya, what is the Ministry doing, especially on the side of extension services and so forth, to encourage the farmers to continue growing coffee? This is important because once these farmers get out coffee production, it will be very expensive to bring them back again.

Dr. Wamukoya: Mr. Deputy Speaker, Sir, I think in my statement I listed a lot of points which the Ministry is following in supporting the farmers. I know recently we had a programme called Programme which failed because when the money came, it was put in the banks and was given out to the farmers at commercial rates

which was discouraging. But, I have read out a long list of what the Government is doing to try to help the farmers to come back to where they were previously; the 100 per cent production or even more, as the Question has said.

Mr. Deputy Speaker: The last question, Mr. Murungi!

Mr. Murungi: Mr. Deputy Speaker, Sir, another problem the coffee farmers are facing in the country is the excessive taxation by this Government. When other sectors export produce abroad, they are paid export compensation. Could the Government consider supporting the coffee farmers by paying them export compensation like they are paying people in the other sectors? I have in mind the Goldenberg case which came as a result of this scheme. Shall we pay export compensation to coffee farmers or not?

Dr. Wamukoya: Mr. Deputy Speaker, Sir, I think export compensation was abolished.

Mr. Deputy Speaker: Next Question! Mr. Karisa Maitha!

Question No.474

REVIVAL OF MARIAKANI MILK PLANT

Mr. Maitha asked the Minister for Agriculture what plans his Ministry has to revive the Mariakani Milk Plant so that the farmers can benefit from it.

The Assistant Minister for Agriculture (Dr. Wamukoya): Mr. Deputy Speaker, Sir, I beg to reply. The Mariakani Milk Plant was closed in 1980 due to inadequate milk deliveries which had dropped to between 20 and 100 litres per day. Farmers in the area have since been adequately served by Kenya Co-operative Creameries (KCC) plant at Miritini. Following the liberalisation of the dairy industry in 1991, the farmers in the area, in conjunction with KCC, have the onus of reviving the Mariakani Milk Plant when they feel the need to do so.

Mr. Maitha: Mr. Deputy Speaker, Sir, the closure of plants serving farmers at the Coast by the Government is rampant. You will remember that plants like that of Cashew nuts, Ramisi and Mariakani were all grounded by the Government. It is not true that this plant is not a priority. It was a plant which was serving the whole area. However, the Government is the one which failed and eventually the plant was closed down. What plans does the Ministry have to institute a study on this plant? From the answer he has given, it seems the Ministry has not carried out any study to see if the plant can serve the big population of farmers who have no milk plant. What plan does the Ministry have to carry out a study on that milk plant so that it can be reopened?

Dr. Wamukoya: Mr. Deputy Speaker, Sir, I think I am very well familiar with the Mariakani Milk Plant. I would like to say that the dairy industry is now under individual hands; that is private concerns. It is no longer a Government business as it has been liberalised. Secondly, Mr. Chairman, we have other milk operators now in places like Kilifi, Mwatate and even the hawkers. These operators are in addition to Miritini KCC plant which is 16 kilometres from where the Mariakani Plant is.

(Mr. Nyanja entered the Chamber)

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

Mr. Deputy Speaker: Hon. Nyanja, when did you come in?

Mr. Nyanja: Mr. Deputy Speaker, Sir, I---

Mr. Deputy Speaker: Order! When did you come in?

Mr. Nyanja: Mr. Deputy Speaker, Sir, I came in a long time ago.

Mr. Deputy Speaker: No. You have just come in now.

Mr. Nyanja: Did you hear Dr. Wamukoya referring to you as "Chairman"? Are we in the Committee Stage?

Mr. Deputy Speaker: Order! Order, Mr. Nyanja! Mr. Maitha, do you have another question? Go ahead.

Mr. Maitha: Mr. Deputy Speaker, Sir, the Mariakani case is that the Government, in conjunction with the farmers, built this factory. When it was grounded, the farmers' money and the Government's money, some of which was in form of loans was not recovered. The Government did not take care of how it would revive the plant so as to get the loans which were acquired by the farmers. What I am trying to say is this: When will they revive it or if they will not, what will happen with the farmers money which got grounded with that plant?

Dr. Wamukoya: Mr. Deputy Speaker, Sir, maybe a little historical background will help. The Mariakani Milk Plant was started in 1934 as a branch of KCC. It went on until 1963 when it was collapsing and UNICEF came in and revived it by putting in equipment. It went like that until 1978 when it was collapsing again and KCC took it over. The KCC itself wanted to run it. But, by 1980, it collapsed because there were no deliveries. I mean 100 litres of milk is completely uneconomical to run a plant. This is why KCC decided to take it to Miritini

where it is until today. As I have said, we now have other dairy reception plants which make it more economical to encourage putting up something like Mariakani Milk Plant. In any case, I did say that, the Government has liberalised these plants. If the people want to revive it and think that there is an economic result that can come out of it, they can do so, but not with the Government's help.

Mr. Kajembe: Mr. Deputy Speaker, Sir, I heard the Assistant Minister say that the Miritini Depot is doing well, but I want to draw his attention to the fact that Miritini is also dying. Is he aware that vehicles at the Miritini Depot are grounded and the place now is a bush and most of the workers have been laid off? Is he, therefore, aware that even the Miritini Depot is collapsing? Could he tell this House what is happening in Miritini?

Mr. Thirikwa: On a point of order, Mr. Deputy Speaker, Sir. First of all, let me declare my interest. I am a director of KCC. Is it in order for the hon. Member to say that Miritini Milk Plant is dying when we are processing 700,000 litres of milk daily at Mariakani? Is he in order?

Mr. Deputy Speaker: Order, hon. Thirikwa! Are you taking over the responsibility of answering the Question on behalf of the Assistant Minister? Mr. Assistant Minister, proceed!

Dr. Wamukhoya: Mr. Deputy Speaker, Sir, I said that Miritini is operational. I did not say at any one time that Miritini is collapsing. The machinery is operational, it can process milk and I am sure that if there are enough people delivering milk there, they will have benefits from Miritini.

Mr. Gitonga: Arising from the answer given by the Assistant Minister and since he has said that the plant is closing down because of lack of deliveries, what is the Government doing to encourage the farmers to produce more milk?

Dr. Wamukhoya: Mr. Deputy Speaker, Sir, I did not say that Miritini is closing down because of lack of deliveries. But what we are saying is that farmers, through the Department of Veterinary Services and the Department of Livestock Development, are being encouraged to keep dairy animals which can produce milk and if the farms are small, they can keep cows under zero-grazing which can give them enough milk to be delivered to Miritini.

Question No. 734

POSTING OF SPECIALISTS TO
KAKAMEGA GENERAL HOSPITAL

Dr. Kulundu asked the Minister for Health:-

- (a) whether he is aware that Kakamega Provincial General Hospital does not have specialists in the following areas; E.N.T., Ophthalmology, Orthopaedic surgery and radiology;
- (b) whether he is further aware that patients who need these specialised services pay exorbitantly for them in private hospitals; and,
- (c) if the answers to "a" and "b" above are in the affirmative, what urgent corrective steps he is taking.

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

(a) I am aware that Kakamega Provincial General Hospital does not have specialists in the following areas: E.N.T., Ophthalmology, Orthopaedic Surgery and Radiology.

(b) In the light of the above, patients requiring the above services are referred to the nearest Government hospital with these specialists. However, some of these patients choose to go to the private hospitals which charge fully for their service.

(c) My Ministry is doing all it can to ensure that the above mentioned specialists are posted to the Provincial General Hospital Kakamega as soon as they qualify from the universities.

Dr. Kuludu: I am a bit disappointed by that answer. Kakamega Provincial General Hospital is the only referral hospital for Western Province serving a population of nearly six million people. The Assistant Minister is talking about the Kakamega hospital referring patients to the nearest Government hospitals with these specialists. Which hospitals are these that have got these specialists near Kakamega? Eldoret is 100 kilometres from Kakamega and Kisumu Provincial General Hospital does not also have these specialists. Which Government hospitals are these that receive patients from Kakamega Provincial General Hospital?

Dr. Wako: Mr. Deputy Speaker, Sir, it is true that Kakamega Provincial General Hospital is actually supposed to have these specialists, but because of the shortage of the specialists, the hospitals we are talking about are Kisumu and Eldoret. At Eldoret, we have a teaching hospital where we have certain specialists. In Kisumu,

we have certain specialists whom we can make use of.

Mr. Khamasi: For a long time, Kakamega Provincial Hospital has not been having these facilities. The Assistant Minister says he is making arrangements to make sure that we have these specialists. Can he tell this House when this is going to happen?

Dr. Wako: I have said that the specialists will be posted to the Provincial General Hospital in Kakamega as soon as they qualify from the universities. These are postgraduate students who will qualify at certain times and we will be in a position to send them as soon as they qualify.

Mr. Munyasia: Mr. Deputy Speaker, Sir, this is very surprising. This is a Ministry which is ready to import doctors from India when doctors here threaten to go on strike and they can get them here at short notice. Is this Assistant Minister serious in telling us that they are doing all they can to get those specialists to Kakamega when we know that they have made no attempts to get even these foreign doctors? Or have you? If they have, can he tell us whether they have tried to get them from India, Britain or any other country where they usually run to?

Dr. Wako: We have not tried to get them from other countries. It is very difficult to get doctors from other countries, but we are doing all we can to ensure that we are posting doctors. Very soon we are going to post an Ophthalmologist to Kakamega Provincial General Hospital as soon as we finalise employing him.

Dr. Kulundu: Mr. Deputy Speaker, Sir, Kakamega Provincial General Hospital does not even have an ambulance so, the question of patients being referred from Kakamega to any other place does not arise.

Dr. Wako: Mr. Deputy Speaker, Sir, I am not aware that Kakamega Provincial General Hospital does not even have an ambulance but, in any case, patients can be referred to other hospitals without even an ambulance because we can actually improvise and get vehicles from other Ministries and other departments to ensure that those patients are referred whenever the need arises.

Question No.715

STATUS OF TENDER FOR THE
REMOVAL OF WATER HYACINTH

Dr. Ochuodho asked the Minister for Natural Resources:-

- (a) what the status of the tender for the removal of water hyacinth from Lake Victoria is;
- (b) what the role of the Lake Victoria Environmental Management Programme (LVEMP) is in the control of the water hyacinth and how much, to date, has been allocated to it and other key players for the management of environmental concerns around the Lake; and,
- (c) whether he is considering involving the local people and the army in the weed's removal.

The Minister for Natural Resources (Mr. F.P.L. Lotodo): Mr. Speaker, Sir, I beg to reply.

(a) The tender for the removal of water hyacinth was awarded to Aquarius Systems Division of USA. The Attorney-General is in the process of finalising the contract document before it is signed. Once the contract is signed, the contractor is expected to move to the site.

(b) The role of Lake Victoria Environmental Management Programme in the control of the water hyacinth is to ensure that the weed in the lake is reduced to manageable levels through biological, manual and mechanical methods. KARI was given the responsibility of implementing biological and manual methods while the Ministry of Natural Resources is currently handling the mechanical methods. The total projected budget for LVEMP including the activities carried out by other key players for the management of environmental concerns in the Lake Basin is US\$26.919 million over a period of five years. Out of this amount, water hyacinth control projected budget is US\$2.3 million. To-date, a total of Kshs13.5 million has been allocated to water hyacinth control since the implementation of the project started in 1997/98 Financial Year. Other key players involved in the management of other environmental concerns and the lake ecosystems have been allocated funds since the 1997/98 Financial Year as follows:-

Kenya Marine and Fisheries	
Research Institute	Kshs2,950,000
Kenya Agricultural Research	
Institution (KARI)	Kshs14,500,000
Ministry of Water Resources	Kshs4,000,000
Ministry of Agriculture	Kshs4,500,000
Moi University	Kshs2,000,000

Ministry of Natural Resources	Kshs39,600,000
Total	Kshs72,550,000

(c) The KARI is involving the local communities in manual removal of the weed through provision of hand tools and implements such as wheelbarrows, gloves and matchets to assist in the manual removal of the weed from strategic sites. The use of the Army has not been considered.

Dr. Ochuodho: Mr. Deputy Speaker, Sir, the issue of the hyacinth in Lake Victoria is a very serious one. Only last week, I witnessed a poor lady give birth on the lake, stuck for four days, and the baby died on the water. The Minister has said that over Kshs72 million has been spent to remove the water hyacinth. Can he tell us what has been achieved with that money?

Mr. F.P.L. Lotodo: Mr. Deputy Speaker, Sir, I gave a breakdown of what has been given to various Ministries involved in the exercise. My Ministry was given Kshs39,600,000. Some of the money has been used for renting the offices, employing people, buying vehicles, typewriters and computers.

Mr. Raila: Mr. Deputy Speaker, Sir, it is a shame that the Government has spent Kshs72 million on water hyacinth without any results at all. Sometimes back, KARI was supposed to be carrying out research at Kibos, growing beetles to go and drop in the Lake to eat this weed. When the beetles were dropped in to the Lake, they came ashore and fed on potatoes which are much sweeter than the hyacinth, and that project was a flop.

Is the Minister aware that in 1983, there was an international conference held in Hydribath, India, on how to control water hyacinth and that since that time, a lot of research has been done on the control of water hyacinth, that this country does not need to invent a wheel?

Secondly, would the Ministry consider using the people to remove this weed manually, which has been done very successfully in countries like Brazil, Argentina and even India?

Mr. F.P.L. Lotodo: Mr. Deputy Speaker, Sir, we asked the World Bank to allow us to do exactly what the Member for Lang'ata has just said. That was on 22nd May, 1998; that we be given a go-ahead to employ the people around the Lake to use their hands to remove the weed. We were told: "No, you will not be allowed to use that method of employing people". So, we are stuck!

Prof. Anyang'-Nyong'o: Mr. Deputy Speaker, Sir, this hyacinth saga is getting out of proportion, and the Minister is aware that what he has given here as an answer is not an answer. Let the House be told the truth.

Is the Minister aware that if the Government is going to give a contract to a private company to remove the hyacinth or manage it, then it will be superfluous to engage the Government to spend Kshs72 million doing what it is contracting a private company to do? Is the Government not involved in a contradiction of spending Kshs72 million of public money, and at the same time, contracting the same work to a private organisation?

Mr. F.P.L. Lotodo: Mr. Deputy Speaker, Sir, I have given the budget. If we are given the money, we shall use it as I have given the breakdown. I have just told the hon. Member for Langata that we wanted to use the people around the lake to remove the weed. But the World Bank, which is the owner of the money, said no. What does the hon. Member want us to do? The money is not mine! It is not his! It belongs to somebody else!

Prof. Anyang'-Nyong'o: On a point of order, Mr. Deputy Speaker, Sir. Is the Minister in order to reduce a Question of national importance to whether the money is going to be used between me and him? He knows that they always put their hands in the public till and use the money for their own purposes. I do not!

Mr. Deputy Speaker: That is not a point of order!

Mr. Ngunjiri: Mr. Deputy Speaker, Sir, we are the people whose constituencies are directly being affected by the weed. Just this weekend, I saw it with my own eyes. We cannot fish or do anything. I am surprised that the Minister---

Mr. Deputy Speaker: Ask your question!

Mr. Ngunjiri: I am going to give him the background! This is because we are so fed up with this Member of the Cabinet! Half-baked approaches---

Mr. Deputy Speaker: Order! Hon. Ngunjiri, you either put your question, or I go on to the next. If you have a question, put it. If you do not, I will go on to the next.

Mr. Ngunjiri: Mr. Deputy Speaker, Sir, I understand the Attorney-General or whoever is evaluating the contract--- In a good contract, you have the particulars like the preliminaries, preambles, quantities involved and form of contract. These are the things that form a contract that you tender on. Could the Minister tell us on what basis they tendered for the removal of the weed, and what they are evaluating?

Mr. F.P.L. Lotodo: Mr. Deputy Speaker, Sir, the tender was awarded to a foreign company on 22nd July, 1998. Until the document is ready and signed, there is very little we can do. This is a normal procedure and we have not gone out of it.

Mr. Muriuki: Mr. Deputy Speaker, Sir, considering that the Government has a whole Ministry to deal

with environmental matters, why is Lake Victoria Environmental Management Programme under the Ministry of Natural Resources? Could it be that the problem is that the experts are in the wrong Ministries?

Mr. F.P.L. Lotodo: My Deputy Speaker, Sir, I would like my colleague to know that this problem is not only confined to Kenya alone, it is all over in the Lake Victoria region of Tanzania, Kenya and Uganda. The three governments of Uganda, Tanzania and Kenya are working day and night to get the problem solved. This calls for patience from all of us.

Mr. Wamae: Mr. Deputy Speaker, Sir, this is a national issue. It is not a Lake Victoria issue. Could the hon. Minister find a way of getting the money from the Government, as it happened with when the Government bailed out National Bank of Kenya--- Let us get money from the Government budget and allocate it to this project so that we can employ local people around the lake to remove the water hyacinth.

Mr. F.P.L. Lotodo: Mr. Deputy Speaker, Sir, I share the concern of my colleague from Nyeri District, but it is not possible now to withdraw any money from the Consolidated Fund until next year.

Dr. Ochuodho: Mr. Deputy Speaker, Sir, it is unfortunate that attempts to get the Minister to a round table meeting have not succeeded. However, I would like the Minister to tell us, if the tender was granted three months ago, why has it taken the Attorney-General so long to finish the logistics. When can we expect the work to begin? What will he do in the meantime, as an emergency measure, in the face of the problems he currently faces?

Mr. F.P.L. Lotodo: Mr. Deputy Speaker, Sir, I have just been talking to the Attorney-General and he has assured me that in the next 72 hours, he will get the document ready and we will sign the agreement.

(Applause)

Question No.612

REHABILITATION OF ROADS IN MWALA

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

(a) he is aware that the following roads in Mwala Constituency are currently impassable:-

- (i) Masii-Muthetheni-Miu-Kalawa Road;
- (ii) Makutano-Mwala-Mbiuni-Kathame Road;
- (iii) Kithangaini-Vyulya-Katheka Road; and,
- (iv) Wamunyu-Kalawa Road; and;

(b) if the answer to "a" above is in the affirmative, what plans he has to rehabilitate these roads.

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

I am aware that some sections of Muthetheni-Miu-Kilala-Kalawa road become impassable during the wet season. The whole road will be graded this month at a cost of Kshs210,000 which is included in the Kshs2 million released to the district between July and October 1998.

I am also aware that some sections of Makutano-Mwala-Mbiuni-Kathame road become impassable during rainy seasons. The seven-kilometre section between Mwala and Makutano on Road C100, will be repaired under the contracted gravelling and drainage improvement of Makutano-Kithimani Road project. Estimates for the repairs of drainage, drills and culverts along Mwala-Mbiuni Kathame are under preparation for consideration of funding during the next Financial Year, 1999/2000.

I am also aware that some sections of the Kithangaini-Vyulya-Katheka Road become impassable during wet weather. However, this road will be graded this month at a cost of Kshs45,000. This money is part of Kshs2 million issued to the district this financial year for grading of the roads.

I am also aware that some sections of Kalawa Road become impassable during rainy seasons. A contract for this was awarded in November 1997, but it was terminated on 11th November, 1998 due to poor progress. Meanwhile, arrangements to re-tender the project are in progress.

Mr. Katuku: Mr. Deputy Speaker, Sir, I do not know how to go about this Question because I have so many supplementary questions to ask. However, I will start with the last part, which relates to Wamunyu-Kalawa Road. The Assistant Minister says that the tender for this road was awarded to a contractor and the tender was terminated last month. I understand this tender was cancelled because the Government could not pay the contractor. Before it is given to another contractor - I do not know when - what will the Assistant Minister do to make the road passable because, as he said, it is impassable? What are you going to do about it?

Mr. Khaniri: Mr. Deputy Speaker, Sir, first of all, it is not true that we cancelled the tender because we lacked funds. We cancelled the tender because the contractor was doing a shoddy job. Two weeks ago, hon. Munyao came with a Question on this particular road and that is when we terminated the contract. We promised on the Floor of this House that since we are still doing the re-tendering process, we will work on the road in-house, through our district personnel.

Mr. Munyao: Mr. Deputy Speaker, Sir, the Chair needs to help us at times. The answers given by the Assistant Minister are sometimes prepared at the Ministry's headquarters because the officers do not go to the ground and these answers confuse the whole country. The answer given by the Assistant Minister is totally out of place. Yesterday, hon. Katuku and I send some people to inspect these roads and yet the Assistant Minister is telling us these roads are not so bad. Vehicles cannot use the Wamunyu-Kalawa road because there are 100 "KANU holes" on it. Nothing has been done on that road. There are over "150 KANU holes" and vehicles are stuck on that road. Will the Assistant Minister defer this Question and travel with us tomorrow so that he may answer it on Tuesday?

Mr. Khaniri: Mr. Deputy Speaker, Sir, I am not going to defer the Question. I do not know why the hon. Member is agitated because, in my reply, I said that I am aware that the roads are bad and I outlined gave out measures that we are taking to improve it.

Mr. Mboko: Mr. Deputy Speaker, Sir, Makutano-Mwala-Mbiuni-Kathama road connects with Kithimani Road. If nothing is done now, then the entire area will be cut off from the rest of the country. What action is the Assistant Minister taking now to improve this road?

Mr. Khaniri: Mr. Deputy Speaker, Sir, I did not get the question.

Mr. Mboko: Mr. Deputy Speaker, Sir, what action is the Assistant Minister taking to ensure that Makutano-Mwala-Mbiuni-Kathame Road is done immediately because if the rains set in, that area will be cut off from the rest of the country?

Mr. Khaniri: Mr. Deputy Speaker, Sir, the Ministry cannot repair the road immediately because of lack of funds. But, as I said earlier, the Ministry will repair the road in the 1999/2000 Financial Year.

Mr. Anyona: Mr. Deputy Speaker, Sir, the Assistant Minister did say in his reply that the contractor did a shoddy job. That means that the contractor breached the terms of the contract. Could the Assistant Minister explain why this contractor, who was apparently not qualified, was awarded the tender? Secondly, could he tell us why the contractor was not supervised? Thirdly, if he has breached the terms of the contract what has the Ministry done?

Mr. Khaniri: Mr. Deputy Speaker, Sir, the work on the road was tendered, and the contractor in question won the tender. After he had commenced the job we realised that he was not carrying out the work well, and that is why we terminated the contract. The necessary action will be taken against him.

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

Mr. Deputy Speaker: Order! Order, hon. Munyao! What is itching you? We have only ten more minutes left!

Question No. 756

CONSTRUCTION OF BRIDGE ON LOWER CHANIA

Mr. Kihoro asked the Minister for Public Works and Housing when the Government is planning to build a bridge on the lower Chania River in Nyeri Municipality and tarmac the Kiamuiru-Githiru-Ndurutu Road.

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

The construction of a bridge on lower Chania River in Nyeri Municipality and tarmacking of Kiamuiru-Githiru-Ndurutu Road have not been prioritised and ranked by the Nyeri District Development Committee (DDC) for consideration of funding. As such the Government has no plans for the construction of the bridge or tarmacking of the road. However, this project will be considered in future if the normal DDC procedures are adhered to, and the necessary recommendations are submitted through official channels.

Mr. Kihoro: Mr. Deputy Speaker, Sir, the Assistant Minister has told us that there is no priority to build this bridge and also tarmac the Kiamuiru-Githiru-Ndurutu Road. This is very sad because almost half of the municipality is landlocked. We are unable to get our produce, especially tomatoes, to town and as a result it is rotting in the farms. I thought that, that should be a priority for this Government. However the people in my constituency think that because Nyeri Town is a Democratic Party of Kenya "heartland", our roads can as well

"rot". Is that the reason why Government is not building the bridge and tarmacking the road?

Mr. Khaniri: Mr. Deputy Speaker, Sir, I strongly deny that.

Question No.721

MAINTENANCE OF LUKENYA-KENOL ROAD

Mr. Katuku, on behalf of **Mr. Kaindi**, asked the Minister for Public Works and Housing:-

(a) whether he is aware that Lukenya-Kenol Road becomes impassable during rainy seasons; and,

(b) if the answer to "a" above is in the affirmative, what action he is taking to make it an all-weather road.

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

(a) I am aware that Lukenya-Kenol Road becomes impassable during rainy seasons.

(b) The Ministry is looking into major improvements that will require to be carried out with a view to making the road all-weather, so as to facilitate preparation of estimates for the project. The works will be considered for funding along other national priorities during the 1999/2000 Financial year. In the mean time, the normal routine maintenance will be carried out.

Mr. Katuku: Mr. Deputy Speaker, Sir, the Assistant Minister has said that the road will be recarpeted in the 1999/2000 Financial Year. This is a very important road because it is used by ranchers. During the rainy season, the road becomes impassable and people cannot travel to their farms. The Assistant Minister has said that the Ministry will maintain this road. How much has he set aside for maintenance of the road?

Mr. Khaniri: Mr. Speaker, Sir, the Ministry has set aside a total of Kshs170,000 for grading this road. This amount will come from the Kshs2 million that was issued to the district for grading of classified roads.

Mr. Mboko: Mr. Deputy Speaker, Sir, we have a big problem when it comes to the money which is released by the Ministry. When the money is released by the Ministry to the district, it is never received by the District Roads Engineer, who is in charge of the project. What action has the Assistant Minister taken to ensure that the money is received by the Ministry's official at the district level?

Mr. Khaniri: Mr. Deputy Speaker, Sir, I am not aware of that. I know that all the monies we send to the District Treasuries are received. Therefore, what the Member has alleged does not arise.

Mr. Katuku: Mr. Deputy Speaker, Sir, the issue of repairing roads in Machakos District is terrible as far as the Ministry of Public Works and Housing is concerned. This is because Kshs2 million set aside by the Ministry for recarpeting of roads in Machakos District has not reached the district. Whenever money reaches the district it does not "stay" there for a single minute. As I speak here, the tractors the Assistant Minister is talking about are grounded at Matuu. Is the Assistant Minister aware that the District Roads Engineer is being frustrated by the District Commissioner (DC)? This is because he is never given the money for use in the repair of the road I mentioned in my Question and even the one Hon. Kaindi has asked about it.

Mr. Khaniri: Mr. Deputy Speaker, Sir, I am not aware of that because the District Engineer has not reported the matter to us. If he reports the matter to us, we will take the necessary action to assist him.

QUESTIONS BY PRIVATE NOTICE

DEATHS OF CAMELS IN WAJIR NORTH

Dr. Ali: Mr. Deputy Speaker, Sir, I beg to ask the Minister for Agriculture the following Question by Private Notice.

(a) Is the Minister aware that camels in Wajir North Constituency are dying of trypanosomiasis and helminthiasis?

(b) Is he further aware that the drugs used for these killer diseases are unaffordable by the local communities?

(c) If the answers to "a" and "b" above are in the affirmative, what urgent steps will the Minister take to assist the local communities eradicate the diseases?

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

(a) I am aware that increased cases of vector-borne diseases like trypanosomiasis, tick paralysis and

helminthiasis have been encountered in camels due to the conducive environment for disease vector multiplication created by the increased rains of October, 1997, which continued into 1998. However, no deaths have been reported as a result of these diseases.

(b) I am not aware.

(c) To contain the situation, the Ministry's staff has, within the past one week, visited Bute, Buna, Dunto, Salman, Batalu and Eldas areas of Wajir North Constituency. The staff treated camels suffering from trypanosomiasis and helminthiasis. Some samples which were collected from the area have also been sent to Kabete Laboratories for further tests.

Mr. Wehliye: On a point of order, Mr. Deputy Speaker, Sir. Is it in order for the Assistant Minister to mislead this house that Eldas is in Wajir North Constituency while it is in my constituency, which is Wajir West? That means that the answer he is giving is false and misleading.

Mr. Deputy Speaker: Mr. Wehliye, you have asked a question instead of raising a point of order. Proceed, hon. Assistant Minister!

Dr. Wamukoya: In addition, the Ministry has supplied the necessary vaccines for control of diseases such as Rift Valley Fever, Blue Tongue and other diseases such as CPP and pleuropneumonia. Further measures in the form of vaccination against rinderpest and contagious Bovine Pleuropneumonia are in progress in all districts especially those affected by the *El Nino* rains. In addition, the Government through the Ministry and donor agencies, are in the process of supplying the local communities with drugs including trypanasol, antibiotics, acaricides and antilimentics through their Livestock Drug Users Associations at very subsidised prices affordable to the communities.

Dr. Ali: While appreciating the answer given by the Assistant Minister there are still more problems in the area. He has talked of a number of the things. However, my concern is that he is not aware of this situation. Knowing that the drugs are expensive and that the animals cannot be sold anywhere, could the Assistant Minister assist us, as he has said, through the donor community and the Pastoral Association which he has mentioned? But that is not happening in Wajir right now. I am aware that the DVO has said that ethical problems some drugs cannot be given to the pastoralists. Can the Assistant Minister instruct his DUO to assist the Pastoral Association by selling some of the drugs and then sell them to the communities at lower prices as he has stated? Could he confirm that, that one is adhered to?

Dr. Wamukoya: Mr. Deputy Speaker, Sir, I can confirm that the DUO has already been informed. We have already sent there 60,000 vials of tripanasol drug and we have also sent the drugs at subsidised rates, but I can confirm that the DUO will be told all these things.

Mr. Galgalo: Mr. Deputy Speaker, while I concur with the former Director of Veterinary Service that the initiatives for assisting in controlling water borne diseases are good could he tell us what his Ministry is doing to control the diseases. There are different types of trypanosomal drugs. Different drugs have been used in different areas depending on the pasture. Could the Assistant Minister tell us which one they have recommended for those areas in Wajir North and what he intends to do to get these drugs at cheaper prices for the local people there?

Dr. Wamukoya: I am aware that there are different strains of trypanosomiasis but the drugs that are used are the same. The donor agencies have given us money and we are going to supply trypanosomal drugs of various kinds to different places.

IMPLEMENTATION OF MONTHLY AND BONUS PAYMENTS TO TEA FARMERS

Mr. Anyona: Mr. Deputy Speaker, Sir, I beg to ask the Minister for Agriculture the following Question by Private Notice.

(a) Which Kenya Tea Development Authority (KTDA) factories are paying farmers more than Kshs6.00 per kilogramme as agreed at a meeting held at Kilimo House on 6th January, 1998 between the Minister, Members of Parliament from tea growing areas, KTDA factory directors, Board and Management?

(b) Which tea factories have implemented the payment of Bonus or second payment every six months since July, 1997 as resolved in the meeting stated in "a" above?

(c) Why have the directors of Kiamokama, Nyamache Nyansiongo and Ogembo factories failed to comply with the decisions of the Kilimo House meeting and the resolutions of the farmers or respective factories on the monthly and bonus payments?

The Minister for Agriculture (Mr. Mudavadi): Mr. Deputy Speaker, Sir, I would like to seek the indulgence of the House that this Question be deferred to Tuesday because we are still trying to gather sufficient

information to be able to give a more comprehensive response to the House.

Mr. Anyona: Mr. Speaker, Sir, the Minister had indeed consulted with me and expressed that view. The point is that this is a very sensitive matter, particularly in Kisii at the moment, where farmers are up in arms because they have been swindled and exploited. This is the reason why the Minister is not getting a proper answer. Could he assure us that when he comes back he will have an answer? We have had cases where the Minister asks for more time to get a better answer and ends up coming back with the same answer or sometimes worse. Could he assure us that he will also take this opportunity to defuse the crisis in Kisii over this issue?

Mr. Deputy Speaker: The Question is deferred till Tuesday next week.

(Question deferred)

TAKE-OVER OF KENYA NATIONAL THEATRE

Mr. Ochilo asked the Minister for Home Affairs, National Heritage, Culture and Social Services the following Question by Private Notice.

(a) Is the Minister aware that the Ministry is on the verge of entering into an agreement with Norfolk Hotel to take over the Car Park and running of the Kenya National Theatre?

(b) Is he further aware that the Manager of Norfolk Hotel has already been proposed as a member of the council to run Kenya National Theatre?

(c) Is he also aware that such actions are both unlawful and injurious to the interest of culture and art in Kenya?

(d) If the answers to "a", "b" and "c" are in the affirmative, what measures is the Minister taking to safeguard the interests of Kenyans?

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

(a) The Ministry is not contemplating entering into an argument with Norfolk Hotel over their car park and running of the Kenya National Theatre. The only body that is empowered to do this is the governing council under Cap.218 Section 24.

(b) The Minister is authorised by the Kenya Cultural Centre Act Cap.218, Section 3(1) to appoint members of the governing council. When acting within these powers there is nothing that bars him from considering the Manager of the Norfolk Hotel for appointment to the council or anybody else for that matter.

(c) I am not aware of what constitutes unlawfulness as suggested by the Member. However, I wish to assure the House that all those proposed to serve in the council are screened and appointed on the basis of their abilities.

(d) I am aware of the deplorable state of the Kenya Cultural Centre we are in the process of constituting a new governing council with instructions to rehabilitate the physical infrastructure and to enhance the objectives of the Centre as spelled out in the Act.

Mr. Ochilo: Arising from the answer it is apparent that there are some Assistant Ministers who are passengers in their own Ministries. On the 26th of August this year and on the 14th of September this year, high calibre officers from this Ministry met and agreed with the same allegations that we have made in this Question. I have the Minutes here. If the Assistant Minister is denying, I can lay them on the Table. The minutes say that Norfolk Hotel will now be permitted to run the Kenya National Theatre. I am asking the Assistant Minister to reduce it into a Memo or issue a directive to the Permanent Secretary who authorised this meeting. Could the Assistant Minister tell the Permanent Secretary on the basis of the very content of the answer that he has given this House, that Norfolk Hotel will not be allowed to invade our culture?

Mr. Marrimoi: I am not aware.

Mr. Muite: On a point of order, Mr. Deputy Speaker, Sir. We need your guidance here. The hon. Member has said that he has got Minutes which show that the public servants under his Ministry have made a decision opposite to what this House is being told. Is it in order for the Member to make such serious statements without tabling those Minutes? Could he table those Minutes so that the Minister can tell us whether what his civil servants say is the correct position or whether what he is telling this House is correct? This House cannot be misled.

Mr. Deputy Speaker: I had hoped that you would lay the documents on the table, but you did not. Hon. Ochilo, if you do, in fact, have authenticated Minutes of that meeting held by officials of that Ministry, go ahead and table them!

Mr. Ochilo: Mr. Deputy Speaker, Sir, I am more than willing to table them and I am doing that right away.

Mr. Maore: Mr. Deputy Speaker, Sir, is he in order to read them?

Mr. Deputy Speaker: No.

Mr. Ochilo: Mr. Deputy Speaker, Sir, what I am having here are Minutes of a meeting held on Wednesday, 26th August, 1998. Those present were:- George Kamau, Director of Culture and Social Services; Mr. S. Ndirangu, Deputy Director, Ministry of Home Affairs, National Heritage, Culture and Social Services; Mr. M. Musyoki, Manager, Kenya Cultural Centre and a Mr. M.R Kimenyi Director and General Manager, Norfolk Hotel.

The second one is a meeting held on the 14th September, 1998. Those present were G.G Kamau, Director; Mr. Gichoha, Deputy Director in the same Ministry; Mrs. Musyoki, Manager, Kenya National Theatre and Miss Kamau, Accountant, Kenya National Theatre.

These Minutes contain basically what the Question is asking about.

(Mr. Ochilo laid the Minutes on the Table)

Mr. Marrimoi: Mr. Deputy Speaker, Sir, I think I will find time to go through what the Member has tabled and come up at least, with what is relevant to whatever he says. Otherwise---

Mr. Deputy Speaker: Would you like to defer this Question until you have a look at those documents and come up with an answer?

Mr. Marrimoi: However, I do not think we can defer the Question because I have the facts.

Mr. Anyona: On a point of order, Mr. Deputy Speaker, Sir. In view of the seriousness of this matter, in the first place, Parliament is being misled. The Assistant Minister himself is also being misled by his civil servants. Is it not in order that we ask the Chair to defer the Question?

Mr. Marrimoi: Mr. Deputy Speaker, Sir, I am requesting that the Question should not be deferred because maybe, the meetings the Member is referring to are some of the minutes or discussions regarding---

Mr. Deputy Speaker: Order! Order, hon. Assistant Minister. I think it is really even in your own interest and in the interests of the House that you have a look at these documents which have been laid to see if its facts tally or differ in a substantial manner with the answer you have so that the House may be given accurate information!

Mr. Marrimoi: Mr. Deputy Speaker, Sir, I am requesting that I say briefly on some of the measures the Ministry is undertaking to safeguard the interest of Kenyans.

Mr. Anyona: On a point of order, Mr. Deputy Speaker, Sir. There is a dispute between the Assistant Minister and the House. The only person who can resolve the dispute is the Chair. We have asked the Chair to resolve this dispute. What we are requesting is that this Question be deferred. That is simple!

Mr. Deputy Speaker: Okay, the Question is deferred.

(Question deferred)

POINTS OF ORDER

UNSECURED AND UNSERVICEABLE LOANS

Mr. Anyona: Mr. Deputy Speaker, Sir, I rise on a point of order to request for a Ministerial Statement from the Ministry of Finance. The current crisis regarding unsecured funds and unserviceable loans with the National Bank of Kenya has triggered off a crisis of confidence of its own where Kenyans across the country cannot be sure whether their money, wherever it is, in whichever bank, is safe.

Also, not to single out the National Bank of Kenya for sins which may well be common in other banks - and after all, the National Bank of Kenya is also a national bank - I would like to request the Minister for Finance, to give a Ministerial Statement in which he will table all the names of companies and individual borrowers who have unsecured and unserviceable loans with the Kenya Commercial Bank, Barclays Bank, Standard Chartered Bank, Co-operative Bank, Post Bank, Consolidated Bank, Bank of Baroda, Bank of India, Union Bank, Stanbic Bank, Transnational Bank, Bullion Bank, Prudential Bank, Habib Bank, Middle East Bank, Akiba Bank, Trade Bank, Trust Bank, Reliance Bank, Heritage Bank, Prime Bank, Donson Bank, Mashreq Bank and all other banks and banking institutions with deposits from the general public and parastatal organisations.

Two, what measures will the Government take to ensure the repayments of these loans with interests; and

three, what steps will the Government take to protect small depositors and parastatals from similar exploitation in the future? Thank you.

NON-IMPLEMENTATION OF PIC
RECOMMENDATION OF 1993/94

Mr. Maore: Mr. Deputy Speaker, Sir, I rise to seek a Ministerial Statement from the Minister for Finance on behalf of the Treasury, who is responsible for implementing the recommendations of the Public Investments Committee (PIC). In the deliberations and recommendations to the House, PIC Report of 1993/94, the recommendation to this House was in reference to paragraphs 48-54.

Mr. Deputy Speaker, Sir, the House adopted those recommendations and, therefore, turned into a resolution by the House for the Government to implement. Part of it was in reference to the paragraph I have mentioned which refers to Computer Applications Limited. What transpired is that the last portion of the recommendation states that - I will just read it - "The Accounting Officer should not consider Computer Applications Limited for any new contracts in view of its poor performance".

Mr. Deputy Speaker, Sir, in the Ministerial Statement by the Minister for Finance he said they are having Computer Applications Ltd. as one of the tenderers in the Central Bank contract. So, we would like a strong statement from the Treasury to explain to this House whether they have rejected that recommendation, and whether it is not in contempt of this House which adopted that resolution. Thank you.

NEWSPAPER MISREPRESENTATION

Mr. Muiruri: Mr. Deputy Speaker, Sir, I was not in the House yesterday; I was out of Nairobi. Today I read in the *Daily Nation* that my name was mentioned as the current Chairman of Kiambu District Co-operative Union.

I have gone through the HANSARD which is in my possession here and the Minister for Co-operative Development put my name as a past Chairman of Kiambu District Co-operative Union. That is true, but the question is that some of the people mentioned here are even dead. I agree I am a past Chairman, but I am not the current Chairman now.

Before I comment further, I went round in offices looking for the documents tabled by the Minister for Agriculture and hon. Mwhia, but I cannot find them. Whereas I request the *Daily Nation* to correct this impression that I am the Chairman of the Kiambu District Union, the same document tabled by the Minister for Agriculture, and hon. Mwhia, be availed to me so that I can correctly comment on them.

PLOT ALLOCATION MINUTES OF
NAIROBI CITY COUNCIL

Mr. Muchiri: On a point of order, Mr. Deputy Speaker, Sir. The Assistant Minister for Local Authorities promised to lay on the Table of this House the Minutes of Nairobi City Council in which they have been deliberating about the allocation of 11,146 plots and he requested for two weeks to do so. To-date, he has not laid the Minutes on the Table of this House. Could the Chair request him to lay them? Secondly, the same Ministry promised to make a Statement here on 19th, November, 1998, concerning the financial status of Nairobi City Council which is not paying its employees. It is not meeting its financial obligations and it is not actually doing any of the statutory duties. The Assistant Minister promised to make a statement last Thursday but he has not. Could the Chair order the Minister to bring the statement tomorrow?

Mr. Deputy Speaker: Is anybody here from the Ministry of Local Authorities? So, Leader of Government Business, please, make sure that the message reaches them.

Mr. Anyona: On a point of order, Mr. Deputy Speaker, Sir. Normally, when hon. Members demand a Ministerial Statement, if there is a Minister present in the House from that Ministry, he has to respond, at least, to acknowledge that the Ministry will make a Statement and give some indication as to when. Hon. Members have been asking for Statements here. I asked for one and I can see the Assistant Minister for Finance here. There has been no response. It is not supposed to be like that, getting a blank cheque!

The Assistant Minister for Finance (Mr. Arap-Kirui): Thank you, Mr. Deputy Speaker, Sir. We have obviously noted the two statements, one about the banks and the other one about CAL. I believe we will try and give an answer in the course of next week. In the course of making this response, I think it would only be in order

to point out that the House has to be extremely careful about questions regarding the banks. I think we in this House consider ourselves responsible people. Given the way our banks operate, certain information is usually confidential for particular reasons; unless we want to be reckless and drive our banking systems into a crisis, which is needless.

Thank you, Mr. Deputy Speaker, Sir.

Mr. Maore: Mr. Deputy Speaker, Sir, I think we need your guidance here. The Member who sought the clarification did not at all intend to seek a statement concerning the Members who have loans in banks; we wanted to address the issue of loans that will be a burden to the Kenyan taxpayer. The bad loans!

Mr. Anyona: Mr. Deputy Speaker, Sir, I was very clear. We already have a case by the same Minister, where he tabled names of borrowers of loans which were either unsecured or were not being serviced. That has already happened; we are asking for a similar exercise covering other banks so that Kenyans can be assured of the safety of their money. Secondly, it cannot be that Parliament can legislate against itself. Parliament cannot make a law which prevents it from getting information that it requires to be able to legislate. The Act is about the public out there. What Parliament wants is information to be able to correct what is going wrong. You cannot argue that Parliament can be denied that information. That would be absurd!

DISSOLUTION OF NATIONAL CENSUS COMMITTEE

Dr. Ochuodho: On a point of order, Mr. Deputy Speaker, Sir. I rise to seek a Ministerial Statement from the Minister for Planning and National Development. Two weeks ago, the Minister publicly launched a National Poverty Report and at the same time announced the formation of a committee to manage the forthcoming National Census scheduled for August next year. Going by the history of previous doctored and unreliable statistics of vital national data, I seek a Ministerial Statement on why this committee cannot be dissolved and a new independent team constituted for the following reasons:-

(a) After spending colossal public funds on the 1989 sham census, the data was later discredited by all and eventually rejected by the Government. No similar mistakes should be repeated this time round.

(b) Census results are very important in an electoral process. The Minister concerned will no doubt be a major contender in the looming succession race, and lording over the census data, directly or through a proxy, will definitely give him undue advantage over the rest---

Mr. Deputy Speaker: Order, Dr. Ochuodho! Order! When you stand on a point of order, after Question Time, you are not supposed to go into a long tirade about anything and everything. You have made your point. So, I will not allow you to continue. Hon. Mwenje.

Dr. Ochuodho: Mr. Deputy Speaker, Sir, I would like to enumerate.

Mr. Deputy Speaker: Order! No!

WITHDRAWAL OF BUS SERVICES

Mr. Mwenje: Mr. Deputy Speaker, Sir, the Stagecoach Company, formerly known as Kenya Bus Service, has written to us, Nairobi Members of Parliament and, indeed, the Mayor of Nairobi, informing us or even threatening to withdraw their services of 191 buses affecting 229,000 passengers, with effect from 6th, December, 1998. They will not give their services because of the poor conditions of the roads leading to Dandora and Eastleigh. They have said that they can no longer give services on these roads because they are completely impassable. This is true because these are areas whose condition is well known to us. I am standing to request the Minister for Local Authorities, as a matter of urgency, to immediately have these roads improved. Even if they are not tarmacked, at least, repair the potholes to avoid this company withdrawing their service. This is because if this company withdraws the buses, then it means that by next week, Nairobi will come to a stand still. People will not be able to go to work. The other road mentioned in the letter is this---

Mr. Deputy Speaker: Order! We have got your point; that they are threatening to withdraw services from certain routes; the details of which you have. If you want, you can lay the letter on the Table so that the Minister can see the details.

Mr. Mwenje: Let me lay it, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: You can only lay it on the Table and nothing else.

Mr. Mwenje: May I finish my point?

Mr. Deputy Speaker: You have already asked the Minister to make a Statement or to make sure that the roads are repaired.

Mr. Mwenje: Yes, as a matter of urgency!

(Mr. Mwenje laid the letter on the Table)

CLOSURE OF KARIAKOR MARKET

Mr. N. Nyagah: I rise on a point of order to request for a Ministerial Statement from the Minister for Local Authorities to explain the circumstances that led to the closure of the old famous Kariakor Market this afternoon, under the guise that the tenants of this market have not paid for their trading licences. However, the normal practice that has continued is that, once you are a tenant in this market you do not pay for these licences. The Minister should explain why the tenants of this market have been taken to the Nairobi City Council.

Mr. Deputy Speaker: Next Order.

BILL

Second Reading

THE CONSTITUTION OF KENYA REVIEW
COMMISSION (AMENDMENT) BILL

(The Attorney-General on 19.11.98)

(Resumption of debate interrupted on 1.12.98)

Mr. Deputy Speaker: Hon. Angwenyi was on the Floor.

The Assistant Minister, Office of the President (Mr. Angwenyi): Thank you, Mr. Deputy Speaker, Sir, for giving me this opportunity to talk about the Constitution of Kenya Review Commission Bill. As I was saying yesterday, I think the review should cover the important aspects of our lives in this country, including harambee, as a method of development in this country. We all now that everybody has benefited from harambee activities of our people over the years. You can see the schools, hospitals, dispensaries and sometimes even the roads which have been constructed through the harambee spirit. In the recent years, the harambee activities have been abused. They have been extended and are now being used for pre-weddings. They are now being used to seek funds in disguise of corruption. People are asking for Harambee in order to disguise their corrupt activities. I would rather we review as to whether or not we should continue with Harambee and if we are going to do it, see how we can do it without abusing it.

Mr. Deputy Speaker, Sir, the other thing the Commission should examine is the New World Order. As you know, the order of the world has changed. We now have one super power dictating terms to all nations of the world. As a result, our sovereignty is being negatively impacted upon. Nowadays, we are told by international agencies that we must do this or that before this and that is done. We have been actually directed by these agencies to open up our markets for dumping of goods from other countries; goods that have destroyed our industries and the backbone of our country, like agriculture. These goods have enhanced chances of corruption and economic sabotage. I think the Constitutional Review Commission should seriously examine the new world order, to safeguard our sovereign situation.

Mr. Deputy Speaker, Sir, the other aspect which should be included in this review, is the aspect of economic crimes. In the recent times, we have seen people committing economic crimes. For example, somebody is awarded a tender of say Kshs1 billion and he does not perform, but he is paid that money. We should look at this seriously. In fact, the current economic crimes are worse than the violent crimes for which we have imposed death penalty.

Mr. Deputy Speaker, Sir, the other aspect that I wanted us to cover in this review is the aspect of employment. In recent times, we have seen people being declared redundant and being dismissed from their jobs. So, if you get a job today, you make sure you retire in that job lest you be dismissed arbitrarily or legally.

Mr. Deputy Speaker, Sir, our children are coming out of schools, colleges and universities without any hope of getting jobs. Our children are going to reach the retirement age unemployed. They cannot get jobs simply because we have not established proper instruments for the welfare of our people. Even those who are employed, at

the time of retirement, they cannot get their retirement benefits, because we have not established how their welfare will be taken care of. In other countries, people are guaranteed a decent living while they are working and out of job. That cannot be said of our country. Therefore the Constitutional Review Commission must look at the welfare of our people and see how they can live decently while they are working and how they can live decently after they retire or leave their jobs.

Mr. Deputy Speaker, Sir, we also need to review our education system. I know that at the moment there is a Commission going around the country, trying to examine how we can change or improve our system, but I think, we should have some aspect of that in the Constitution Review Commission, so that we can get feed back, information and views of our people as to how our education can be improved far and beyond what the 8-4-4 Education Review Commission is doing.

Mr. Deputy Speaker, Sir, recently we have seen people abusing their positions hoping that those who are innocent will be penalised for their sins. In this respect I am talking about a situation where a senior person in Government and in the private sector acts contrary to the laid down rules and then demands that those who did not commit those crimes be penalised for those mistakes. The Constitution of Kenya Review Commission should seek to establish proper laws that will protect this country whereby services are provided for professionally and ethically.

Mr. Deputy Speaker, Sir, we know that there are people who may have acquired property and resources illegally. These people move around with those illegally acquired resources, and we applaud them. Our culture is being destroyed. We applaud a thief. When somebody whom we know has stolen public funds comes to a Harambee and gives Kshs1 million, we applaud him. We are really polluting and destroying our culture where you had to earn rightfully. You would be very proud of acquiring wealth rightfully and you do not feel proud enjoying what has been ill-gotten. If we look at this aspect of professionalism and ethics, then we would be able to create a society that we are comfortable with; a society that rewards for the rights done and severely penalises for the wrongs done.

Mr. Deputy Speaker, Sir, although in this Bill there is something to do with the management of our financial sources and the expenditure of the taxpayer's money, we need to go deeper. For example, if somebody were to steal public funds, there should be severe penalties against this person. These people should be pursued to pay up. Even if they hide them in the name of their bogus companies, mother, grandmother or dead grand parents, they should be pursued to the deep end, so that public resources are restored for the good of the public.

Mr. Deputy Speaker, Sir, for this Constitutional Review Commission to be worthwhile to the people of Kenya, the end objective must be to have a united nation of people who want to do right and practise justice. It should be a nation of people who do not want to oppress or intimidate others. I have seen instances where somebody is intimidated simply because they come from this and that tribe, race or religious sect. This Constitution must address those issues so that we are free to do the right thing for our people.

Mr. Deputy Speaker, Sir, our country has gone through thick and thin in the 35 years of Independence. We must now move on to industrialisation and assure our people of bread and butter. In doing that, the Constitution we are going to have must strengthen the institutions of Parliament, the Judiciary and the Executive, so that they can do what is expected of them.

Mr. Deputy Speaker: Mr Angwenyi, we are discussing the Constitution of Kenya Review Commission (Amendment) Bill, not the Constitution of Kenya.

The Assistant Minister, Office of the President (Mr. Angwenyi): Thank you, Mr. Deputy Speaker, Sir, for the advice. I am talking about the Bill which is before us. I am saying it should have a clause, as one of the functions of this Commission, to ensure that Parliament, the Judiciary and the Executive are empowered; to ensure that even if there are deficiencies in the Executive, they must be corrected. I am saying that the review must strengthen the institutions of governance of this country. The review must ensure that we do not use, for example, Parliament to injure the character of other citizens. The review must cover an area that takes care of what we utter in this Parliament. That is the way we can enhance the performance of this Parliament.

Mr. Deputy Speaker, Sir, like I have said before, we must look at the political situation. We must look at our political parties. The people of Kenya gave their verdict in December, 1997 and they said: "We want to have so many people in the ruling party and so many in the Opposition parties," and we must express this. So, as I said yesterday, the proportions we are going to give political parties in this Parliament as to the number of Commissioners they are going to nominate, must reflect that verdict of the people of Kenya.

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

Mr. Orenge: Thank you very much, Mr. Deputy Speaker, Sir, for giving me this opportunity to say a few things on this Bill. Before I comment on this Bill, I want to make reference to certain parts of this Bill which I think give an insight on the type of debate which should follow in debating this Bill. I would like to draw the

attention of the House to page 412, Clause 5 which reads as follows:

"The Principal Act is amended by inserting the following new sections immediately after section 2.

2(a) The object and purpose of the review and eventual alteration of the Constitution is to secure provision therein---

Then it gives the objects in A, B, C, D. But to summarise what Clause 2(a) is all about, the marginal notes are important. The marginal notes read "Object and purpose of constitutional review." This Bill sets out why there is going to be a review of the Constitution of Kenya; not the object of the Constitution. That Clause is not talking about the object of the Constitution. It is talking about the object of the review and I think that is very important and I have something else to say about it later.

If we go to page 414, Clause 2(c), it talks about guiding principles. In this case, in exercising its mandate and in the performance of the functions conferred on it by this Bill, there are guiding principles which are to be complied with by the Commission and those involved in the review process.

Then, I think the other important part of this Bill to look at in setting out what we are talking about, is Clause 16 which is found on page 427. It says:

"The Principal Act is amended by repealing Section 10 and replacing it with the following new section,"

Then, it goes to the functions of the Commission and those functions are found from that page onwards to page 432. So, those areas of this Bill do set out what the review process is going to be all about.

Mr. Deputy Speaker, Sir, one of the things that came to my mind immediately, which I wanted to say as a preamble, in fact two matters, page 431, (xiii), which is one of the functions, states:

"To examine and recommend on the treaty making and treaty implementation, powers of the Republic and any other relevant matter to strengthen good governance and the observance of Kenya's obligations under international law."

Mr. Deputy Speaker, Sir, I think that this is an important function insofar as the review Commission is concerned and the review process. The world is now a little village and international humanitarian law is becoming a very important area which every country must put into consideration. If you do not put that into consideration, the State or the country involved will be left behind. I think this particular part should be looked at in terms of what is happening to Mr. Pinochet in the UK. That, despite the laws in Chile which give immunity to the Head of State, and despite the life-long immunity which Pinochet gave himself as a life Senator; he gave himself immunity for life; you cannot file any offence under the sun. The House of Lords last week did say, in giving their opinion on this Pinochet issue, that there is no law that would allow even a Head of State to break the law. You cannot torture your own people and then, seek immunity. You can only have that immunity insofar as you comply with international humanitarian law. For that matter, the House of Lords in England and Wales, has made a decision that is bound to send signals and already, there are signals because when President Kabila was in Brussels, there were five cases which were filed in the courts in Belgium seeking his arrest, but the Government there said he was a visitor of Belgium and, therefore, he enjoyed some immunity. So, all in all, what I am trying to say is that, in undergoing the review process, we should not be an island. We should look at what is happening in the rest of the world, because however well you exercise your sovereignty, if it is not in line with international jurisprudence, then the exercise will be for no good reason. Kenyans will not be very happy to hear that next time our Head of State goes to some country, that there is a warrant for his arrest. I am sure the Attorney-General does not advise the courts here, but very soon, you may have a warrant out there seeking to arrest members of the Kenyan Cabinet because they like travelling in a bunch and you may find a whole airport closed.

Mr. Deputy Speaker, Sir, we must keep the review process in tandem with international law and what is happening everywhere else in the world. We should not seek to review the Constitution as if Kenya was an island. We should review the Constitution on the basis that Kenya is part of what has been described as a global village.

Mr. Deputy Speaker, Sir, with that, I want to come down to more local issues. In many countries, during the review process, there is always some kind of interim arrangements. In South Africa, they had an interim constitution and a transitional executive council. That was to ensure that, the process of change and transition was managed not just by the Government in power, but by all sectors; that is, a multi-sectoral approach where political parties and other persons involved in the process participated actually in running the affairs of the country during that transition.

[The Deputy Speaker left the Chair]

[The Temporary Deputy Speaker,

(Mr. Musila) took the Chair]

Mr. Temporary Deputy Speaker, Sir, even here in Kenya as we approached 1963, there were transitional arrangements in which, by a gradual process, the people in the nationalist movement were able to be part and parcel of Government before we gained Independence or before we became a Republic. There was the Government in which both the late Kenyatta and the late Ngala were Ministers for Constitutional Development. You know, they shared the same titles. This was to ensure that the process was not just in the hands of the Colonial Government. That interim arrangement is important. Anywhere where there is no interim arrangement, there is going to be a lot of trouble and that is why a lot of people keep on referring to Section 59 of the Constitution; that, if during this process, the President decides to dissolve Parliament, then where do we stand and where does the process stand because we are not going through this process with an interim constitution or an interim arrangement? We are just hoping that the Government is going to keep its part of the deal and for that reason, it is important that the Government shows signs and signals now that they are serious about this review process and that brings me back to the clause I read at the beginning; that is, Clause 5 on page 412 more specifically now, and I want to read this again. It states:

"The object and purpose of the review and eventual alteration of the Constitution is to secure provision therein guaranteeing peace, national unity and integrity of the Republic of Kenya and (b) establishing a free and democratic system of Government that enshrines good governance. So, the purpose of the review is to achieve constitutional governance and not by the way of the Constitution but by the way of the review itself".

On that note, this process is not going to succeed until the Attorney-General advises various arms of Government to realise that they must show a signal that they are accommodating this process and they are willing to accept the eventual changes that will come with the new Constitution.

Mr. Temporary Deputy Speaker, Sir, a lot has been said here about the Provincial Administration. We have our fears about what role the Provincial Administration is likely to play in many ways, that may not be very obvious in this Bill as it stands and particularly, when this Bill again on page 428 (i) or if I start from (d) on page 428 which states:

"Without prejudice to paragraphs "b" and "c" to ensure that in reviewing the Constitution, the people of Kenya examine and recommend---".

That means that it is a people-driven process and if it is going to be a people-driven process, they must be given the necessary latitude and the democratic space in which to examine and make suggestions to the forum or eventually to the Commission itself.

Mr. Temporary Deputy Speaker, Sir, if one looks at what the Provincial Administration is doing at the moment, we must send a signal to them that they should not interfere with the process because we are dealing with a situation where political meetings sometimes are disrupted. We are dealing with situations where even Members of Parliament on a meet-the-people tour are disrupted in carrying out those tours and many times, you find a PC or a DC giving a warning and sometimes little do they know that in fact, the institutions of the office of the DC and the PC are not created by any act of Parliament. The PCs do not know that. They do not know it. The DC in this country does not know that, that office is not a creature of any statute at all. Nowhere in our laws is there a provision that there shall be an office of a PC or there shall be the position of the office of the DC. In fact, where you find the PC or the DC mentioned it is in those old colonial statutes; for example, in the Public Order Act in relation to stopping public meetings and declaring curfews. These were colonial legislations and because the colonial Government came here with settlers and christians carrying the Bible, also they felt that the natives should not drink traditional liquor without their permission. So, you find again the name of the DC in the Traditional Liquor Act; that, they are the ones to licence the consumption of traditional liquor. However, other than that, there is no law that creates those offices at all. So, sometimes when you find the PC in Nairobi or the PC in Kisumu making announcements that when next time so and so says this, he shall fact the law. They are the ones who should face the law, to be examined to find out what positions and powers that they have under the laws of this country.

Mr. Temporary Deputy Speaker, Sir, in fact, in Kisumu I was really wondering the other day when I was going round the town; that, the PC was more worried about me going round the town; that I was inciting members of the public. In fact, we were very peaceful but he was sending people to pursue us and yet, opposite his own office, there is an uncompleted building; that is, the Nyanza Provincial headquarters and there is no fence around that building anymore. The corrugated iron sheets that were surrounding that fence have been stolen. That building has been kind of cannibalised and the PC passes every morning to his office through that building. Now, right in front of him, a Government property has been brought into shambles, completely right from Kaguthi's

time and the present PC who says that he is a born again christian; and you know, I am normally very worried about people who say they are born again because in saying so, they turn out to be the worst dictators in life and the people who do such acts, when they go to church on Sunday, they should really repent and begin by not going to church for a long time before they examine themselves.

Mr. Temporary Deputy Speaker, Sir, when the PC is chasing me in Kisumu Town, right across, a Government building has been "cannibalised" and there is nothing that he has done about it. So, the Provincial Administration should be told during this process, that one, they have no powers whatsoever; that is, they have not been mentioned in this particular Bill and secondly, they must allow Kenyans to meet freely so that, they can examine the Constitution or the suggestions that are going to be made and the moment they begin to interfere with Members of Parliament and other elected officials, they are not being realistic and they are not being compliant to the law by making those interferences.

Mr. Kajwang: On a point of order, Mr. Temporary Deputy Speaker, Sir. I just wanted to say that Mr. Orenge should tell the Provincial Commissioner (PC) of Nairobi that he has no power to deport anybody whether one has AIDS or not. Thank you very much.

Mr. Orenge: Mr. Temporary Deputy Speaker, Sir, that is what I am trying to say. When the Nairobi PC wears that colonial hat, he feels as if he is the governor of Nairobi. In fact, the truth should be told. The PC of Nairobi is a busy-body. If anything, the affairs of Nairobi should be looked after by the local authority and the Members of Parliament, who have been elected by the people of this City. Otherwise, deportation---

Mr. Mwenje: Say that again!

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

Mr. Mwenje: He must repeat that!

Mr. Orenge: Mr. Temporary Deputy Speaker, Sir, when the PC says the he is going to deport people, when he knows that he has no powers--- Under the invasion laws, he has no powers to deport anybody at all. Even the Attorney-General does not have those powers. Also, under the Constitution, the Attorney-General has very well-spelt out powers, but they have been taken away by many other legislations. So, he ends up being a very lame duck as he sits here. I sympathise with him, because I went to the same school with him, but he knows that what I am saying is the truth. So, people like the Nairobi PC should be told that when they stand on a public platform, they should always watch out what comes out of their mouths. This is because a lot of it is contaminated and polluted. So, they should not talk the way they want.

Mr. Temporary Deputy Speaker, Sir, the other thing I wanted to bring out about the creation of that enabling environment, which is important for the success of the constitutional review process, is this: In Indonesia, Mr. Suharto won an election which was described as overwhelming, and had given the people of that country a new constitutional dispensation. Within six months, the country turned against him. He was forced out of office, because he was misusing his new position. On the surface, it looked as if Indonesia was undergoing some changes. The superstructure tended to show that the country had really undertaken visible changes, yet underneath the man was still controlling every system of government. He was still controlling the economy in many ways. With the use of what has been called "crony capitalism", where the economy is run by the children of the ruler, and contracts given to favoured people, there was, not only in Indonesia, but also in the whole of the Asian sub-continent, a big crisis. In fact, it was basically a banking crisis like the one we have just experienced. This crisis will affect the entire process of change as it did in Indonesia.

Mr. Temporary Deputy Speaker, Sir, I want to put it to the Attorney-General that he should watch out what he is doing at the moment, because if "crony capitalism---" The system in Kenya at the moment, if looked at very seriously, can be defined as a marriage between crony capitalism and kleptocracy, which means that those in power exist and continue to be in power because they want to make more and more money. In order for them to make more money, they need power. So, they need more and more power to keep themselves in power, so that they can make more and more money.

Mr. Temporary Deputy Speaker, Sir, we want to determine why the mafia also want so much power and why they use violence. A kleptocratic system, or a crony capitalist system, is not very different from a system which is being run by the mafia, and that is why we find that even those who are in Government are forced to look for more money. If one wants power, he must have money, and he has to use the banks and government institutions to make this money. My argument is that if this process continues, then the Attorney-General will not be doing any good to the constitutional review process at all. He is, in fact, creating a crisis. If the Attorney-General and the Government do not act quickly to arrest this crisis that is going in the banking sector, the entire constitutional review process will not lead us anywhere.

Indeed, informed opinion and facts show that the crisis could be bigger than what we think in the Kenya

Commercial Bank (KCB), other Government institutions such as Agricultural Finance Corporation (AFC), and the Agricultural Development Corporation (ADC). This may bring the entire process down. The only way to beat the crisis is by being transparent and accountable. Let those people who have taken money away unlawfully be known; they should carry their own crosses, because that is part of the healing process. In South Africa, the process of change came hand-in-hand with the Truth and Reconciliation Commission. But when hon. Oloo-Aringo brought a Motion to establish a truth and reconciliation commission as a way of healing the past and bringing about reconciliation, because reconciliation without justice cannot work, the Government refused to support that motion. I think this was a mistake on the part of the Government. If the Government would have allowed the truth and reconciliation commission to go hand-in-hand with the constitutional review process, then we would be bringing about reconciliation and a nationally negotiated, settlement where the sins of the past would be forgotten, so that we could look into the future.

Mr. Temporary Deputy Speaker, Sir, we then opted to have a Judicial Commission to inquire into the tribal clashes that have been rocking the country since 1992, which is not really what hon. Oloo-Aringo wanted. But when the Commission was bringing out facts, which would help us in the healing process, one of the officers who had been appointed through the Office of the Attorney-General, a State Counsel, to assist the commission was pushed out of the process. Now the country is asking: Does this Government believe in an open process if a State Counsel who was doing a very good job in ensuring that the truth was established during the Commission's hearing, can be dismissed without even receiving a letter of thanks from the Attorney-General or the President for the good job he had done? All that it means is that some people were worried about the facts which were coming out during the proceedings of that Commission. Now, if this can happen in the Judicial Commission--- If the Ouko Commission could be dissolved when interesting names were being mentioned, then, in my view, even the constitutional review process can be terminated if we will not be very careful about the way it is going to be handled. I hope that what we are hearing from the other side, namely that the Government wants to change the composition of those who are going to be in this Commission---

Mr. Muite: On a point of order, Mr. Temporary Deputy Speaker, Sir. We need your guidance from the Chair. Hon. Orengo has made a very serious allegation. He has said that a State Counsel, Mr. Gacivih, who was doing a good job for the Judicial Commission, was withdrawn. Is it in order for the Attorney-General to continue sitting down, without offering an explanation to this House? Should he not be given an opportunity to explain to the House the circumstances in which the State Counsel was withdrawn and replaced with another one?

The Attorney-General (Mr. Wako): On a point of order, Mr. Temporary Deputy Speaker, Sir. I believe that the hon. Member has been in this House long enough to know that whoever moves a Motion replies to it. I will respond to this Motion and disabuse hon. Orengo of his misconception that the removal of Mr. Gacivih from the Judicial Commission of Inquiry into the Tribal Clashes was ill-motivated.

The Temporary Deputy Speaker (Mr. Musila): Very well. Go on Mr. Orengo!

Mr. Orengo: Mr. Temporary Deputy Speaker, Sir, that was my position, and it is the fact. If the Attorney-General could stick to the truth, he would come out and say that, that is the truth.

Now, If Mr. Gacivih could be thrown out unceremoniously and with the history that we have about the Ouko Commission and the fact that there has been no parallel constitutional settlement in trying to ensure that the powers of the President are curtailed to some extent when this process is going on, these fears are there. A lot of people who have given this Bill the goodwill and support still have this burning issue at the back of their mind, that this process may not go to the end. I want to say that civic education is important and it should be given latitude and space. If we have agreed to the doctrine of civic education and the need to have it, let it go on. If you begin to censure it, then it will not be civic education. Let the people who offer to carry out civic education, carry it out the way they know is best.

Mr. Temporary Deputy Speaker, Sir, finally, because my time has run out on page 428, D(i) and (ii), there is something about making a recommendation and arriving at the position that will be appropriate for Kenya. What type of Government or system do we want? That question cannot be answered until we agree as a nation on what theory of Government we want to put in place because when you begin on the basis that you want a constitutional democracy, you will always get the right answer. But when you are not clear in your mind what type of Government is based on a well known theory of Government, then, we will end up in a situation like we have in Kenya today, where we have a marriage between the parliamentary system with the presidential system. Even the presidential system that we have, is more akin to a federal system rather than a democratic presidential system because if we begin to understand that constitutional democracy requires that all organs of State and all offices of State be subject to the law as a beginning or a starting point, then, we will put this country in a proper footing. But if the higher you go in the Government, people see the law and the process of governance as a convenience for those in Government and not as an obligation, then, you will have a lot of problems. You will have abuse of power

and crimes being committed with impunity. The standing example that we have upto now which is very glaring because this document also talks about how we can arrive at a better system of succession in regard to all offices is this; if the Constitution of Kenya today says that the President shall appoint a Vice-President which is an obligation under the law, he should do so. Under the Constitution, he is obliged to appoint a Vice-President because a Vice-Presidency is not an office of convenience; it is a structure within the succession process that is important to ensure that there is stability in the country. If the President of the country can ignore it, then, he can ignore this entire process.

(Applause)

The fact that we do not have a Vice-President in this country means that this Government, and particularly the President, has no regard for the Constitution. He has no regard for it. The Attorney-General would better advise him that we are not going to talk about a new Constitution or the process of review, if he continues to violate the Constitution as it stands. If he continues to violate the Constitution as it stands, he is not creating an environment in which the review process can be discussed without any fears.

You can see that the object now is to divide the country, every community and every party is talking about their candidate for the Vice-Presidency. That is not really the reason why which the President has not appointed the Vice-President; he wants to create divisions in the country. That is why he has not appointed a Vice-President.

Mr. Kimeto: Thank you very much, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to contribute to this Bill. Clause 12A of this Bill states:

"Notwithstanding the provisions of all the other written laws, the county councils of every district shall facilitate the establishment of the Commission of the district forum in the district."

In view of my constituency which is partly in Bomet and Buret Districts, I would like to know how we can facilitate the District Forums. I would like to know from the Office of the Attorney-General, in the event of these new creations, because most of the councillors in my constituency were registered and gazetted in Bomet District, how best we can facilitate the District Forums. We have got a new district and we know that county councils are autonomous and they should be left so to run their affairs. I would like to state categorically that this civic education should go down to the grassroots so that the people may understand how best we can review the Constitution of Kenya because it is something that will last forever before it is changed.

Mr. Temporary Deputy Speaker, Sir, the county councils should be left to run their affairs without any interferences from other forces so that they can be in a position to employ their chief officers, for instance, the town clerks, to run their own affairs within the local authorities without any problem. They can establish the means of running their councils because they can propose budgetary proposals of those county councils depending on their strength.

Mr. Ngure: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the Member in order to debate the Constitution of Kenya Review Commission Bill, but go on telling us what we will tell the Commissioners?

The Temporary Deputy Speaker (Mr. Musila): Mr. Kimeto, proceed and be relevant to the Bill as we ruled yesterday.

Mr. Kimeto: Mr. Temporary Deputy Speaker, Sir, the autonomy of the local authorities is important because the county councils are part and parcel of those running the communities with regard to civic education.

Mr. Temporary Deputy Speaker, Sir, on page 446, the Bill is talking about the bodies that will be represented in the review process. We have the political parties in part (a), the religious organisations in part (b) and the women organisations in part (c). The political parties are the ones which constitute all these hon. Members in this Parliament. I can see that in the Constitution of Kenya Review Commission (Amendment) Bill, these political parties are to be regarded to be part of those organizations which will contribute to the constitutional review process. When we come to the religious organisations, I have reservations against them being included in the Bill. Members of these organisations are the people who voted for these hon. Members to come to this House. When I see the representatives of these bodies in the Bill, instead of political parties, I feel it is wrong. We should not have these religious organisations, women organisations or the civil society because they are the people who voted in these hon. Members, and they are to be represented by them. The final amendments in this Bill should only have political parties. The political parties should have more representations because the hon. Members who constitute them come from the parties. The hon. Members are the people who are running the affairs of this country and they are the ones who look after the betterment of this Constitution. When you bring in what we call the civil society and women organisations, yet they were the voters, are we not duplicating the work which hon. Members could do? I feel that the amendments should cover KANU which won the last election, followed by the DP, and other parties. We should give them chances depending on their strength in Parliament. I

do not see any reason why we should go down for these people. The amendments should only cover the political parties so that we divide the chances among the parties which are in this House when giving places to sit in the Commission. The amendments should not cover all these women organisations.

(Laughter)

The hon. Members in this House know the number of women in their respective constituencies. If they want a woman from their places, they are the people to choose them. Who chose these hon. Members to come to this Parliament? There are even hon. women Members within this Parliament who can be chosen to participate in the Constitutional review process. We should not necessarily go down to "other people"; that is the religious leaders and even those who started their religions very recently. Maybe some of these women organisations are not registered, yet some people want them to come and represent other people while you are there. We should not abdicate our duties to them by going down to them when I feel that they are our employers. They employed you to work for them.

Mr. Temporary Deputy Speaker, Sir, in the District Forum, after the Commissioners would have been chosen, the youths, women and old men should constitute it. I think those people are enough, instead of bringing all these people from religious organisations. In any case, religious people are always not supposed to involve themselves in politics. How best will they come to reason with the people and yet in their doctrine they say that they do not enter into political affairs? Now you are bringing them into the Constitutional Affairs. These people, when they are preaching in the churches, say that they do not wish to enter into politics. Yet we are bringing politics to them. How can they make laws when we are the ones to make laws for them to follow? How will you give the religious leaders a chance to review the Constitution, when their laws are in the Bible? The Bible is enough for them! Yet, you are engaging them in what we call the political process of reviewing the law.

(Laughter)

The Bible is there for them to follow, in addition to the laws enacted by us for the Republic of Kenya. That is why I am of the view that the amendments should only go down to the political parties and not other "non-entities".

Mr. Haji: On a point of information, Mr. Temporary Deputy Speaker, Sir.

Mr. Kimeto: Mr. Temporary Deputy Speaker, Sir, I beg to support.

The Temporary Deputy Speaker (Mr. Musila): He does not need your information because he has sat down, Mr. Haji.

Mr. Thirikwa: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to contribute to this very important Bill. I say that it is important because in this country, people have lost their lives, others have been maimed, and others have lost a lot of property in the struggle for a new Constitution in this country. So, this Bill is important.

Mr. Temporary Deputy Speaker, Sir, I think before we go ahead and start the review process, we cannot honestly leave anything to chance. I would like to emphasise what hon. Orengo has just said in this House; that everything must be put in place at least to have a Constitutional guarantee that this process will go on for five years. I say this because right now we have a Constitution in this country. But we ought to ask ourselves what it says. Does the Constitution existing today in this country guarantee that this process will go ahead? If this process goes on for five years, it would delay us. I have in mind a case where in the Constitution of Kenya, in a paragraph which I do not know it says that the President shall serve for two terms of five years each. Then, I ask myself: Suppose when we start this Constitutional review process, the President prorogues Parliament before the term ends? What purpose will it serve to re-start this process again? So, I am saying that let us have a Constitutional guarantee because, surely, we know the history of this country. We also know the history of the KANU Government. I am not trying to criticise the KANU Government. In fact, of late, we have really seen quite a big change of heart. We seem to be going together with them. But, the question is: Surely, do we really trust that, just by trust, just by actions, just by that? I honestly think that we need to have a Constitutional guarantee---

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

Hon. Member: Kaa chini, Bw. Shidie!

Mr. Shidie: Mr. Temporary Deputy Speaker, Sir, in view of the fact that we have exhaustively deliberated on this issue---

Hon. Members: No, we have not!

Mr. Shidie: Mr. Temporary Deputy Speaker, Sir, could the Mover be called upon to reply because we have discussed this issue at length?

(Loud consultations)

The Temporary Deputy Speaker (Mr. Musila): Order! Order, hon. Members! Mr. Shidie can do that under the Standing Orders.

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

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

Mr. Thirikwa: Mr. Temporary Deputy Speaker, Sir, I have not finished my time. It is an ambush!

The Temporary Deputy Speaker (Mr. Musila): Order, Mr. Thirikwa! Since, Mr. Shidie has moved that the Mover be called upon to reply, I have no alternative but to put the Question.

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

(Several hon. Members stood up in their places)

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

Mr. Mwenje: On a point of order, Mr. Temporary Deputy Speaker, Sir. This House cannot afford to be ambushed. We are debating a very important Bill. The whole nation is watching what we are doing. If we are---

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

Mr. Mwenje: Mr. Temporary Deputy Speaker, Sir, my point of order is this: If the KANU Government wants to ambush us again by going to that level---

The Temporary Deputy Speaker (Mr. Musila): Order, Mr. Mwenje! You are being disorderly.

Mr. Muihia: On a point of order, Mr. Temporary Deputy Speaker. This is an absolute ambush. We had consulted before and we had been promised that this debate would go on until tomorrow.

Mr. Mwenje: No, we are not going to allow this!

The Temporary Deputy Speaker (Mr. Musila): Mr. Muihia, I put the Question and it was carried. The Attorney-General who is the Mover may now reply.

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

The Temporary Deputy Speaker (Mr. Musila): Order, Mr. Mwenje! You stood on a point of order and I gave you time to say all you wanted to say.

Mr. Mwenje: I have another one!

The Temporary Deputy Speaker (Mr. Musila): Would you sit down? You do not take points of order that way!

Mr. Mwiraria: On a point of order, Mr. Temporary Deputy Speaker, Sir. This is perhaps the most important debate, the Eighth Parliament will have to discuss. We have heard already from hon. Kimetto, that the KANU Government was scheming to disorganise the move. Is it in order for you to stop this debate?

The Temporary Deputy Speaker (Mr. Musila): Order, Mr. Mwiraria. You stood on a point of order but I did not hear the point of order. There is no debate because I have already put the Question and it has been carried. You did not ask for a Division if you wanted to challenge that decision and, therefore, there is no valid point of order. Mr. Attorney-General, you may reply.

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

Mr. Mwenje: On a point of order, Mr. Temporary Deputy Speaker, Sir. I am now asking for a Division!

(Mr. Muihia stood up in his place)

The Temporary Deputy Speaker (Mr. Musila): Order, Mr. Mwenje and Mr. Muihia! You are being disorderly and I now order you to sit down!

Mr. Thirikwa: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order really for a Member from the other side of the House to just direct that you put the Question when I was on the Floor? Is it really in order? Is it the Chair or the Members who are running Parliament?

The Temporary Deputy Speaker (Mr. Musila): Hon. Members, the Chair acted correctly under

Standing Order No.80 which reads as follows:

"After the question on a Motion, the Mover of which has a right of reply has been proposed, a Member rising in his place may claim to move "That, the Mover be now called upon to reply", and unless Mr. Speaker is of the opinion that such Motion is an abuse of the proceedings of the House, or an infringement of the rights of Members, the question "That the Mover be now called upon to reply", shall be put forthwith---

That is what Mr. Shidie did and in the opinion of the Speaker, it was not an infringement of the rights of Members because this Motion had been debated sufficiently in the view of the Chair.

Mr. Mwenje: Mr. Temporary Deputy Speaker, Sir, on the Standing Order, which you have read, if an hon. Member, therefore, calls for Division, then the Chair is supposed to oblige. I do now call for Division. Can we proceed into a Division?

The Temporary Deputy Speaker (Mr. Musila): We cannot do that!

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

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

The Temporary Deputy Speaker (Mr. Musila): Mr. Muihia, I have ruled sufficiently on this one and if you persist, I am going to declare you disorderly---

Mr. Muihia: We cannot allow this to go on! Do you want to ruin this country?

The Temporary Deputy Speaker (Mr. Musila): In that case, Mr. Muihia, I declare you disorderly and I order you to leave this House for the rest of the day.

(Mr. Muihia withdrew from the Chamber)

Mr. P.K. Kihara: On a point of order, Mr. Temporary Deputy Speaker, Sir. While I agree with your ruling that this is provided for in the Standing Orders, I think it is a very serious matter to treat this Bill as an ordinary Bill, the way it has been done. We think it is a very important Bill. It has been very difficult to trust the KANU Government and now, it goes to display that we cannot even trust the KANU Government with the process. We want as many hon. Members as possible to contribute to this Bill. In fact, the Attorney-General and the Leader of Government Business said so; that let as many Members as possible contribute, but before we even contribute, somebody stands up and says that the Mover should be called upon to reply.

The Temporary Deputy Speaker (Mr. Musila): That is not a point of order. That matter has been ruled sufficiently and the right procedure has been followed and now I call upon the Mover to reply.

The Attorney-General (Mr. Wako): Mr. Temporary Deputy Speaker, Sir, I beg to reply. Since the debate begun---

Mr. Mwenje: Mr. Temporary Deputy Speaker, Sir, the Leader of Government Business promised that we were not going to be ambushed! What is happening here?

The Temporary Deputy Speaker (Mr. Musila): Order, Mr. Mwenje! I am ordering you to stop being disorderly and if you persist you will be asked to leave the Chamber.

Mr. Anyona: On a point of order, Mr. Temporary Deputy Speaker, Sir. I will make my point of order when the House is in order and it is the responsibility of the Chair to make sure that there is order.

Mr. Temporary Deputy Speaker, Sir, I rise on a point of order so that we can salvage and rescue what is going on this afternoon. If this Parliament proceeds this way this afternoon, this country is finished. It was already out there, but we are trying to bring it back. We would all be gone now! I would like the Chair to be patient on this. It has taken Kenyans a lot of sacrifice and patience to get this Bill before this Parliament. It would be wrong for this Parliament to again create acrimony about this Bill because the country is expecting that we will transact their wishes so that they can put their own Constitution together. I do not understand why there should be differences in the House. The point I am raising is this: I was in the Drafting Committee that produced this Bill.

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

Mr. Anyona: My point of order, is this: In view of the fact that the House is about to create a national crisis---

Hon. Members: There is no crisis here!

Mr. Anyona: Mr. Temporary Deputy Speaker, Sir, I would like to propose under Standing Order No.21 that the debate is adjourned so that we can go into consultations as the IPPC and as Parliament, so that we can create harmony and be able to pass this Bill in harmony. I think the Attorney-General should be the last person ever, to participate in a process of a divided Parliament over this Bill. Some of us will not be able to support this

Bill if it is pushed down the throats of some Members of the House. It does not matter what views they hold, but they have a right. On behalf of Kenyans, I would like to propose the adjournment.

Mr. Mwenje: I second, Mr. Temporary Deputy Speaker, Sir!

The Temporary Deputy Speaker (Mr. Musila): Order! Mr. Anyona has made a proposal and I can decline under Standing Orders to put the Question. I am not putting the Question. I do not want to entertain more points of order on this matter. The matter was finished and carried and, therefore, the Mover should reply as it was passed.

The Attorney-General (Mr. Wako): Mr. Temporary Deputy Speaker, Sir, I want to say--- You should listen!

(Loud consultations)

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

Mrs. Mugo: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the Chair in order to curtail a very important debate from going on? This is the debate that all Kenyans are waiting for; the Constitutional Bill, which every Member has been elected by their constituents to come and speak on the matter. History will judge you harshly, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Musila): In reply to that point of order, with respect to the hon. Member, the Chair did not curtail debate. A Question was put after a proposal was made correctly under the rules of this House, and it was carried. So, the Chair is only here to guide the debate. The Chair has guided the debate on this matter properly under the Standing Orders.

Mr. Muite: On a point of order, Mr. Temporary Deputy Speaker, Sir. When the Question was first put, and Mr. Temporary Deputy Speaker stood up, he said this and we heard it: "That the Question has been put. The Temporary Deputy Speaker has no discretion but to put---"

The Temporary Deputy Speaker (Mr. Musila): No!

Mr. Muite: Mr. Speaker said this! Yet, the Standing Orders gives the Speaker the discretion that where the matter is important, and the Speaker knows that Members wish to contribute, the Speaker has got power not to put the Question. Yet, he said he has no powers! Now that Mr. Temporary Deputy Speaker has seen the mood of the House, and because he proceeded to put the Question on the basis that he did not have powers not to put the Question, and now you know that you have powers, may we request him, in the interest of this nation, and with respect, appeal to him to accept the Member's wish to debate this matter exhaustively. There are still many Members on this side and on that side, who wish to speak. I ask you not to allow a situation where the success of this process is going to be jeopardised. If we are not able to debate--- I ask you to re-consider and let the House to continue debating, Mr. Temporary Deputy Speaker, Sir.

Mr. Temporary Deputy Speaker (Mr. Musila): I think I got your position. All that I would like to say is that I never used the word discretion. What I said is that the Question has been put, and I have no alternative to put the Question. In any case, in view of what you have said, I would like to ask the Leader of Government Business to say something.

The Minister for Agriculture (Mr. Mudavadi): Thank you, Mr. Temporary Deputy Speaker, Sir. I do not think I promised any ambush, and I do not think there was an ambush here. In view of the feelings and the mood of the House, under Standing Order No.42, I would like to move a Motion that a decision to end this debate be rescinded to enable the Members, who still would like to make some comments to do so. However, in doing so, I would also want to plead with Members who have not yet contributed, that it is important that we move to the question of relevance. I think we are also dwelling on issues that really are part of the actual constitution review process itself. This is now the second week that we are entering into this particular debate. So, I would want to appeal in the process, while moving this particular Motion, to request you to rescind your decision, to request for relevance because it is important that we also get to the Committee Stage of this particular debate, so that any other views which are important and need to be integrated at the Committee Stage can be done so. So, I would hope that the hon. Norman Nyagah can second this particular Motion, and in the process, also plead that let us now be relevant so that we can really be substantive.

With those few remarks, I beg to move.

The Minister of State, Office of the President (Maj. Madoka): Mr. Temporary Deputy Speaker, Sir, I just want to echo the views of the Leader of Government Business. The question of relevance is important in the issues being discussed, going into details which may actually be brought up during the actual discussion on the Constitution itself.

With those few remarks, I beg to second.

(Question proposed)

(Question put and agreed)

(Debate on the Bill resumed)

Mr. Temporary Deputy Speaker (Mr. Musila): Mr. Thirikwa Kamau was on the Floor.

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

[Mr. Deputy Speaker took the Chair]

(Loud consultations)

Mr. Deputy Speaker: Order, hon. Members! After that excitement, I think we can now go back to normality and debate this Bill logically. Proceed, hon. Thirikwa.

Mr. Thirikwa: Thank you, Mr. Deputy Speaker, Sir. Before I was interrupted I was saying that in view of the fact that this Bill is so important, we cannot afford to leave anything to chance. I was just about to say---

(Loud consultations)

Mr. Deputy Speaker, Sir, can you protect me?

Mr. Deputy Speaker: Order, hon. Members! Allow the hon. Member on the Floor to be heard. You would not know whether he is irrelevant or not if you do not hear him. So, please, let us hear him in silence.

Mr. Thirikwa: Mr. Deputy Speaker, Sir, this process probably will take five years or less. We need some guarantees that this process will take five years. I am proposing that, in view of the fact that we have a Constitution in this country, we need to be guaranteed by the same Constitution that this Parliament will not be prorogued before the end of its five year term.

I would also like to urge this House to put into consideration one thing. When we talk about the involvement of the Provincial Administration in this process, then we are setting a very dangerous precedent in this country. These officers now rightly know that the new Constitution will not guarantee their jobs. So, for the next five years, they will make sure that they grab as much land as possible. Therefore, to ensure that the constitutional review process will not be abused, we need to have some safeguards in place. That is, between now and the end of five years, we should stop any more allocation of public land. In view of the fact that the Provincial Administration knows that, finally they might be out of the office, due to the debate that is here and the panic that is being created in the country, then this House should put some measures in place to guard public utility plots and so on.

Mr. Deputy Speaker, Sir, I do not want to take much time, but I would like to put emphasis on one thing. Even if we come up with a very good Constitution and the country will not be there, then that Constitution will not serve any purpose. All that I am emphasising is that the Attorney-General should put some measures in place to make sure that this process is safeguarded. Honestly, some of the issues before this House only come up because most of the time, we are ignored. For example, we went to Safari Park I, II and III to discuss the same matter. It was very hard for some of us to air our views at those consultative forums. Therefore, we were not given any chance to debate some of the matters that are in this Bill. Instead of repeating this mistake again, let this Bill be exhaustively discussed by the hon. Members. For goodness sake, it would be very much in order that, any time, when an hon. Member stands to speak he be recognised. Let us not always assume that other hon. Members have spoken on their behalf.

I would wish to support this Bill. Let us have those measures that I have talked about put in place. Possibly, to avoid controversy, let us also have some amendments in the present Constitution. Those amendments will guarantee that this House will not be dissolved before this process is over.

We want to make sure that this process will not be hijacked by anybody. We know the history of the

KANU Government. Right now, they were about to hijack this Bill. What guarantee do we have that after one year they will not hijack this Bill again? What guarantee do we have that this process will last for five years? I am honestly saying, before I sit down, that we must see some measures put in place that will give us constitutional guarantee that this process will take five years.

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

Mr. Mwiraria: Mr. Deputy Speaker, Sir, thank you for giving me the opportunity to say a few words.

The Assistant Minister for Finance (Mr. Arap-Kirui): On a point of order, Mr. Deputy Speaker, Sir. Is it in order for the Chair to assume, under the present circumstances, that this side of the House does not want to contribute to this Bill? I would not like to go against your ruling, but I heard Mr. Deputy Speaker say that hon. Members on this side do not want to contribute to this Bill. That is not correct. We do---

Mr. Deputy Speaker: Order, Mr. Kirui! If you want to engage in a debate with Mr. Speaker, do it in his office. But here what Mr. Speaker says is law. So, whatever, the Speaker said was with a light touch. Proceed, hon. Mwiraria.

Mr. Mwiraria: Thank you, Mr. Deputy Speaker, Sir, for giving me the opportunity to say a few words. I was very concerned when I heard that the Mover was being called upon to reply. In my view, this Bill is so important that it would be worth everybody's while to hear every opinion. After yesterday's KANU Parliamentary Group Meeting, there are stories circulating in Nairobi to the effect that the meeting was called to try and hijack the constitutional review process. They want to change what was agreed upon by the Safari Park Committee. The reason why I am saying this is that from a fairly reliable source, two issues came up yesterday in the KANU PG meeting.

Mr. Rutto: On a point of order, Mr. Deputy Speaker, Sir. Is it in order for Mr. Mwiraria to insinuate that a certain gathering at Safari Park is more superior to this House? Mr. Mwiraria is telling us that these things were agreed upon and we should not appear to divert from them. Secondly, he seems to be interested in introducing rumours as matter for debate in this House. He seems to be talking about a certain meeting which we are not aware of.

Mr. Deputy Speaker: Order! The hon. Member has every right to express his opinion. You do not have to agree with him. The Safari Park consultative meetings did take place and those who were present did agree that, in their view, these matters had been exhaustively discussed and that they should be supported by all. Secondly, whether there was a KANU or a DP Parliamentary Group Meeting, it is not for this House to discuss.

(Applause)

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

Mr. Deputy Speaker: Order! We are in this situation because you wanted this Bill to be debated. So, why do we not debate the Bill? Proceed, hon. Mwiraria!

Mr. Mwiraria: Mr. Deputy Speaker, Sir, I would like to say a few things about this Bill. First of all, I have been asked by my constituents, who are out there, whether I can really trust the ruling party KANU. Will the party do to the Constitution of Kenya Review Commission (Amendment) Bill what it did to the IPPG? They are now renegeing on it even though I have done my best to defend the process which took place at the Bomas of Kenya and the Safari Park Hotel.

Clause 5(b) of the Bill which is being discussed talks about having a constitution which will establish a free and democratic system of Government that enshrines good governance, constitutionalism, the rule of law, human rights and gender equity. This is a cardinal point and we hope that it will be addressed properly.

I would like to echo the words of hon. Orenge, who said that our present Constitution is very specific on many issues. But this Constitution is being flouted left, right and centre by KANU Government, starting with His Excellency the President. I do not know whether we can, indeed, trust the KANU Government. We would like to have an assurance from the Attorney-General in order for us to trust it. Clause 16A(c) talks about the National Constitutional Consultative Forum which shall comprise three representatives of each district to be nominated by the District Forums, at least one of whom shall be a woman and one a youth."

Mr. Deputy Speaker, Sir, since this Bill was published and brought to this House, His Excellency the President has created two new districts. These districts have been created contrary to the provisions of our Constitution. Hopefully, those new districts will be expected to produce three representatives to the National Consultative Forum. As Kenyans, can we take this kind of action seriously, or is it an indication of worse things to come? I would like the AG to advice His Excellency the President that during this period of constitutional review, he should stop flouting the existing Constitution.

(Applause)

Mr. Deputy Speaker, Sir, if you look at page 416, Clause 6(b), you will find that 13 persons will be nominated by the political parties represented in the Inter-Parties Parliamentary Committee (IPPC) of whom at least two shall be women. The representatives of my political party who participated in the Safari Park meeting have reliably informed us that at a caucus comprising representatives of all political parties, an agreement was reached that KANU will provide five members to the Commission, the Democratic Party of Kenya (DP) - three, the National Development Party (NDP) - two, FORD (K) - one, the Social Democratic Party (SDP) - one and the others one. I understand that the agreement was arrived at on the basis of the total votes polled by the parties during the last general election.

Mr. Deputy Speaker, Sir, hon. Members have talked in this House about increasing the number of seats for KANU on the basis of the number of seats it has in Parliament. If we go back on the agreements already reached, what guarantee do we have that we will have any agreement at all at the end of the day on our new Constitution? Once again, I would like to appeal to our colleagues on the other side of the House not to renege on what has already been agreed upon.

I would like to refer to Clause 6(2)(f) on page 416, which states that the Commissioners will include:
"five persons nominated by women's organisations through the Kenya Women Political Caucus."

I was not at the Safari Park Hotel when this agreement was reached, but I have been made to understand that the Kenya Women's Political Caucus comprises of 43 registered women organisations in the Republic of Kenya. I have no intention of reading the whole of this list, but the first three are: the Association of Muslim Sisterhood of Kenya, the Catholic Sisterhood of Kenya and Maendeleo Ya Wanawake. For anybody to come up and start challenging the inclusion of the Kenya Women's Political Caucus in the Bill is, once again, renegeing on what has already been agreed upon.

The Assistant Minister for Finance (Mr. Arap-Kirui): Mr. Speaker, Sir, is it in order for the hon. Member to threaten us to accept amorphous arguments that we are not aware of? This Bill is before the House and every hon. Member is entitled to his own opinion and to make his own decision. He cannot continue to threaten us.

An hon. Member: YK 1992 politics!

Mr. Deputy Speaker: Order! The hon. Member is referring to a section of the Bill which deals with membership of the Commission. That is perfectly in order.

Mr. Mwiraria: I thought the hon. member would know that I am also a person and, therefore, entitled to my own opinion and I am offering it right now. Once again I want to repeat, for the ear of the Attorney-General and the Leader of Government Business, that I was here when somebody from the KANU side challenged this provision. I am trying to explain it and to justify it because I am concerned that if we are not careful the days of Saba Saba and Nane Nane which we have not forgotten could be with us again. I think we had better be serious about this very, very important Bill. There is absolutely no point in trying to run away from reality. We want what has been carefully and meticulously discussed and drafted into law by the Attorney-General's Chambers to be retained except where we think the language is not proper or needs refining. For us to change substance we would be really going back and delaying the process which I hope none of us wants to delay. I have one other concern which I will mention for the Attorney-General's ear and that is the new mathematics which has been introduced into the Bill.

I would specifically refer to Section 7 which is dealing with the repealing of the new Section 4 which is on page 419. I think one of the strongest points of this Bill is the time table or schedule set for the review of our Constitution. However, I have one concern and that relates to whether or not the time table in certain Sections can really be made to operate. I want to refer to Section 4(1) which states clearly that within 15 days after the Act is given assent by his Excellency then the groups will elect their Commissioners. That is very good. Section 2 deals with what happens if the Attorney-General thinks that some people have not qualified. Then we move to give 15 days for the Attorney-General to pass the list to his Excellency the President. However, if you go back to Section 3,2(b) you will find that it provides that out of the 13 persons nominated by the political parties at least two shall be women. Then we move on to the membership of the Commission under Sub-section 2 shall include at least two representatives from each province. I want to ask the Attorney-General suppose after 15 days he gets a list from all the parties which are going to elect members of the Commission and there are no women from the political parties, and he cannot get two persons from each province then, where is his time for making sure that you get these two conditions fulfilled before he sends the names to His excellency the President for appointment? I think this could present a real problem, but maybe the Attorney-General has worked out a solution to it. We would like

to hear it because we do not want the process to be bogged down.

I know we are speaking about this very important subject, the preparation of a new Constitution for our country. It is one thing having a Constitution and it is completely another having that Constitution implemented. As I have already said earlier, and many other people have made the same comments, our present Constitution is not being honoured and implemented. One hopes, therefore, that our new Constitution will have provisions for the impeachment of whatever Head of State we will have under that Constitution. I realise that many Members want to speak. I just wanted to make those two points. I do not want to repeat what has already been said.

With those remarks, I beg to support.

The Assistant Minister for Information and Broadcasting (Mr. Ekirapa): Thank you, Mr. Deputy Speaker, Sir for giving me the opportunity to contribute to this very important Bill in the history of our country.

This is a Bill to amend an Act of Parliament which will facilitate the comprehensive review of the Constitution of Kenya by the people of Kenya. The emphasis is by the people of Kenya and not necessarily by the Members of Parliament here. Therefore, a number of speakers have complained about whether or not there are any proposals to alter any of the items in this Bill. Since the publication of this Bill the people of Kenya have, through their representatives, expressed certain views about the contents of this Bill. I think that is the beginning of the process by the people of Kenya to participate in the alteration of this Constitution. For example, several issues have been raised about the membership of the Commission and I hope that the Attorney-General will probably have some answers on how to handle these issues. For example, it is already proposed here, this is following the lengthy discussions of the people who participated at the Safari Park Hotel and before that at the Bomas of Kenya, that there will be 13 members nominated by political parties. That goes right through that page.

Mr. Deputy Speaker, Sir, since the timetable has already been given as to when the names must be submitted to Mr. Speaker, it is important to know - and I hope the House will consider this point and make the necessary amendments - what will happen if the political parties do not agree on the distribution of the 13 seats. I think the House must decide on how then, the 13 seats will be distributed. The issue of the women representatives has been debated by very many Members. The majority of the Members of this House will support the women representation, the numbers that were agreed on.

Mr. Deputy Speaker, Sir, the issue that a lot of people are concerned about is how those members will be nominated. There is, of course, the proposal that women political caucus will be the one that will nominate these members. I hope that that organisation will consider that women out there in the country-side in every Province, will want to be represented. I hope that will be taken account of because the problem that you see a number of hon. Members raising the issue, is because back in their constituencies, these questions are being raised. Is it the women of Nairobi alone who are going to represent the women of Kenya? If we are making a Constitution for the people of Kenya, this is a very important point that our women will have to consider. It is important that women from the countryside are involved in this process because they represent the majority.

Mr. Deputy Speaker, Sir, to go back to the purpose for this Bill, the new Constitution is expected to guarantee peace for the people of Kenya. I want to say that in order to ensure that peace is guaranteed, there are certain issues that a number of Kenyans are concerned about. We have heard certain people talk about the need to go regional. The reason they want to go regional is because they feel that the national cake has not been fairly distributed.

When we come to discuss the Constitution itself, it will be important for those concerned, especially at the District Forum and also the National Forum, to understand the reason why a lot of people are concerned about this distribution of the national cake. It will be important to devise a means by which every Kenyan feels that he is part of the nation. That the new Constitution guarantees him the right to get a fair share of the national cake which is the problem that is causing disunity in our country.

Mr. Deputy Speaker, Sir, one example is the question of land. We have had problems about land. We have seen that a few people are grabbing a lot of land all over the place and there are a lot of Kenyans who do not have land. This is one area which the new Constitution must dwell on, in depth, in order to ensure that land is fairly distributed; that people who do not have land have a chance to do so, and that those people who want to get public land, there is a process of distributing that public land, so that it does not get distributed by a few people.

In that context, it may be necessary for the new Constitution to ensure that there is a permanent land commission that deals with the distribution of public land, so that public land is only distributed to public institutions, and maybe, to Kenyans who really need land. The rest of us will just have to buy our own land if we need more.

(Applause)

Mr. Deputy Speaker, on the question of land, when the new Constitution comes in place, I hope those concerned including the House here, will ensure that the ownership of land is restricted to Kenyan nationals and that we do not have people who are not Kenyan nationals who purchase land for the purpose of benefiting themselves and not in the interest of the country. That will be very important because it solves parts of the problems we have concerning the reasons why people feel they want to belong to their own regions so that they can control their own resources. All public land illegally grabbed, therefore, may have to be reviewed by this Commission so that where land has not been fairly given, the Commission can have the liberty to repossess it for public use.

Mr. Deputy Speaker, Sir, on the question of unemployment, employment is another issue which is causing disunity in our country. Today, if there is a job-seeker who is qualified, he cannot get a job because nobody knows him in that organisation. Members of Parliament, therefore, are accosted every single time, "please, give me a letter, there is a job somewhere, but they want a letter from a big person".

Our new Constitution must ensure that a Kenyan who is qualified for a job does get that job on the basis of his qualifications and not on the basis of who he knows wherever the job maybe. This, unfortunately, is also spread into the private sector and, therefore, the job-seekers have got no option. This House must do something to safe job-seekers.

Mr. Deputy Speaker, Sir, on the issue of the distribution of natural resources, I have said that, in order that we do not get people talk about majimbos or having their own kingdoms, the issues of distribution of the natural resources and its management down at the grassroots. Today we had a noble idea of having District Development Committees which were supposed to be assisting or to be responsible for the development of the local areas. These institutions have not worked simply because their structures are wrong. The people who are responsible are not local people, and, therefore, they really have no commitment in developing the areas in which they serve.

I hope that Members of this august House will take this point and when they come to discuss the elements of the new Constitution, it will be important to come up with a structure which ensures that the natural resources which are distributed to districts or regions are managed by the people themselves, so that they are responsible for those resources. If they want to misuse them, let them misuse them because it is their own resources. Let us not have other people coming from other areas and messing up with the resources that come from the Central Government, and therefore, causing disaffections and dissatisfactions.

There is a question of the Provincial Administration which everybody has talked about. I see that Members of this august House are moving towards doing away with the Provincial Administration. I would like to appeal to them that maybe, what we should do is to restructure that organisation so that it becomes responsive to the local people, so that it can be properly managed. The District Commissioner becomes the Chief Executive Officer of the local structure that we want to establish. Today, every Member of Parliament is complaining about the fact that resources that go to the districts through the DDCs, are not reaching the people. I think it is important that when we come to discuss these issues, we consider a new structure that is responsive to those needs.

Mr. Deputy Speaker, Sir, on the issue of the economy which is one of the points that we are talking about, and better management, I think we need to put in place systems which will control the management of our economy so that we do not get into situations where we have been in the past, where natural resources either get transferred from this country to other places or are simply grabbed by a few people.

The Bill has been thoroughly dealt with. We want to commend those people who drafted the Bill and we want to say that, contrary to the fears which my colleagues are having on the other side, it is the intention of every Kenyan to make sure that we come up with a Constitution that guarantees security, peace and national prosperity and that, nobody is working behind others to frustrate the constitutional review process.

Mr. Deputy Speaker, Sir, I hope that after we have discussed the Bill, and once we have put the new Constitution in place, we will then get into the serious business of managing our country starting with the improvement of the economy. We are talking about the question of national integrity. I hope that after all Kenyans have discussed the various points and accepted the new Constitution, we will now behave as one nation working together without running our country down.

With those few remarks, I beg to support.

Mr. Ayako: Thank you very much Mr. Deputy Speaker, Sir, for giving me this opportunity to make a few remarks on this very important Bill. I will be very brief because I know that Members are keen on airing their views and time is running out.

Mr. Deputy Speaker, Sir, before I embark on the remarks that I intended to make on this Bill, I would first like to address the hon. Attorney-General. I was very disappointed when the Government side tried to rush over the Bill. Time will come when they will need our co-operation. If that move had succeeded, I doubt whether

we would ever co-operate with them in future.

An hon. Member: But you are already co-operating with them!

Mr. Deputy Speaker: Order! Order, Mr. Ayako! The Standing Orders allow any hon. Member to stand up and call for closure of a debate. So, nobody acted out of order.

Mr. Ayako: Mr. Deputy Speaker, Sir, it was the alacrity with which the Attorney-General was coming to reply before he heard from this side---

This Bill has been well done except for a few aspects. One of the aspects I have in mind is that, if we are to look at page 412, the part that defines a youth; a youth is defined as a person below the age of 35 years. Nothing is said about the lower age limit of a youth. It means that an infant of the age of two, or less could also be part of the people who constitute both the Commission and the District Forums. So, what I am humbly suggesting is that the people who have defined the youth should go back and put a lower age limit to the definition. The definition of a youth as a person below the age of 35 years is not the best. We have had grandfathers who were 34 years. For example, there was an athlete in England called Lindford Christie who was a world champion at the age 34 years and was a grandfather. For all intents and purposes, he did not qualify to be a youth. So, if we put the age of a youth to be at 35 years, we will end up with people who do not represent the aspirations and problems which beleaguer the youth. This definition should be looked at in that Commission, to ascertain that we do not have only the elite constituting the Commission. We should leave the position of the youth to people who have just stopped tarmacking or are still in college, so that we have the real youth, not some of us who masquerade as youths yet we have graduated from that stage and are competing with older people for property and land grabbing here and there.

Another aspect of this Bill that should be keenly looked into is how the Commission is constituted. The Commission gives only one specific chance to the youth and that chance is not guaranteed because if we look at page 417, Section 6, paragraph (g), the youth is lumped together with the disabled, women and the less fortunate persons. But that particular section does not make it incumbent upon those who constitute the Commission to have a youth in the Commission. In fact, it is possible to have a Commission without any youth. This is because there is no explicit requirement that a youth must be part of the Commission. The Attorney-General and the drafters of this Bill should know that the youth represents a very big number of persons in this country. If we want to have a Commission that will talk about giving power of governance to the Government, then we should have, at least, a person representing the youth in this Commission. So, I am asking the Attorney-General again to consider this part, to make it explicit that, the youth are also included in the Commission in an explicit and irrevocable manner. Not in the brief and non-explicit manner in which it has been done here.

Lastly, we are being told there are people who will be chosen by the county councils to constitute the District Forums. There are areas where we have municipal councils, town councils and county councils. This Bill does not say what order of preference, or how these three independent or quasi independent organisations will come together, or under what banner they will come together to form the District Forums. If that is not said in this Bill, then we will have a situation where a place like Migori District, where we have Rongo Town Council, Awendo Town Council and Migori Town Council in the same district will have a problem choosing these people and constituting our district forum. So, here again, the Attorney-General should look at this point and make sure that the situation is harmonised.

District Forums form the grassroots of the National Forum. I heard the Attorney-General say that the District Forum will not have any funding and members who will be participating in this constitution review process will not be funded in any way. Those of us who are based at the grassroots will find a lot of problems. Members of Parliament and councillors might be compelled to give fare and petty disbursements to members participating in the review process. I am sure that this country, on such an important matter as the Constitution, should be able to allocate some small amount of money that will be used as fare and lunch by these people, so that when they are debating this very important item called the Constitution, they do not have anxiety; they are not worried how they will go back home.

With those points, I beg to support this Bill.

The Assistant Minister for Finance (Mr. Arap-Kirui): Thank you Mr. Deputy Speaker, Sir, for this opportunity that you have given me to contribute to this important Bill. I would like to support the sentiments of some of the hon. Members on the other side, that we actually need adequate time to debate this Bill. I think it would be wrong to assume that everybody on this side of the House wanted debate on this Bill curtailed. Because, as I am one of those who had not had the opportunity to speak, and this extension now enabled me to contribute to this debate.

Mr. Deputy Speaker, Sir, a lot of work went into the preparation of this Bill as many hon. Members have already said. There was quite a lot of give and take and I hope that in the ensuing discussions and progress

towards the review itself, the same will ensue although, reading through the Bill, one gets the impression that there was more give on one side and more take on the other. In fact, while I generally support the aims of this Bill, I think it goes without a saying that there are certain aspects that I think, in order to make the Bill fully representative and to set the tone right for the review of the Constitution, we need to amend. However, I will come to that later on.

Mr. Deputy Speaker, Sir, a number of hon. Members on the Opposite side of the House have, in fact, said that there is nothing seriously wrong with the present Constitution. That it sets out the basic law for this country. That it does in fact, provide, what would seem to be adequate checks and balances in the exercise of power and Executive authority in this country. What seems to be wrong is maybe the application of the law; the application of the provisions of the Constitution. If it has been wrongly applied, it has not been by any one particular person or by any group of persons; it would seem that all Kenyans or most of the people of this country, in their interpretation and application of the law, have not always gone by the letter. In fact, if the truth were said, before the 1990s most of the hon. Members on that side were the champions of the existing Constitution then, and if I may say so, the greatest beneficiary.

Mr. Deputy Speaker, Sir, I think it would be correct to liken ours to having a good road, but full of bad drivers. You could have a super highway with multiple lanes, but if the drivers are bad, the users of the road will be constantly endangered. In fact, we see quite a lot of that, if we were to be literal and talk about our drivers, having known the good highway between Kabete and Rironi, where we have a barrier in the middle of the road. The barrier has been broken in many places because of the bad drivers that we have. I think that has in fact, happened in the case of our Constitution and many laws in this country.

Mr. Deputy Speaker, Sir, unless we do something to correct the thinking, the approach and the psyche of our people so that in fact, they are constantly law abiding, that there is supreme respect for the law, I think any Constitution that we write, however elaborate or fantastic the provisions are, would amount to naught. So, when we talk of civic education, I think the issue is quite valid, and I would like to disabuse the views of one hon. Member, who thought that everybody from the Rift-Valley was against civic education. Many of us support civic education, but balanced civic education.

Many of us do support civic education, but it should be a balanced, civic education not the kind of civic education that some of us saw where we come from and in other places exercised just before the last elections, where we had a number of very partisan NGO's who masqueraded as providing civic education, when all they did was to ask the citizenry to vote for a certain political party or for a certain religion. I think we had a very nice example of the sort of civic education that can happen when one Member told us here about how identity cards were used. He said that Members of the Public were persuaded to vote for change using the new identity card as an example. We know that is not civic education. So, if that is what some Members mean about civic education, I think every right thinking citizen of this country is entitled to say a big "NO" to such education. What we need in terms of civic education is a situation where the citizens of this country are taught about their basic rights. There has been a lot of hue and cry about the importance of this and I would like to support the idea that our people need to be taught about their basic rights under the law; they need to be taught, among other things, the importance of the respect for the law and the importance of patriotism. One of the greatest failures in this country, I am sorry to say, is the seeming lack of patriotism to the extent that we would go out of our way to try and destroy our country in order to achieve private interests. That is the kind of civic education I and hopefully, a number of people would encourage.

Mr. Deputy Speaker, Sir, again, I want to disabuse the same hon. Member of any notions of ignorance. I would like to point out that, in fact, the Rift Valley is one of the most cosmopolitan provinces in this country. My friend here, hon. Paul Kihara comes from the Rift Valley and a few other people. The Rift Valley represents the whole spectrum of society in this country, and I think it would be extremely wrong for any individual to claim that the Rift Valley is closed for one political party or another. We are extremely open. I can mention a number of provinces and districts where in fact, nobody else other than--- I think to use the word "ethnic groups" would be glorifying it. I would rather use the word "tribes". There are provinces and districts where the single tribes that predominate in those places, are the only people in positions of responsibility in holding elective offices, unlike the Rift Valley where we are cosmopolitan. So, I would like to correct that notion and say we in the Rift Valley are representative of this nation in many respects and we do support all that is progressive in our way of life in this country.

Mr. Deputy Speaker, Sir, while pointing out the failures of this Bill, I think it goes without saying, that many of us and I would say all of us in fact in this House, are agreed that our Constitution needs to be reviewed. We do need to review our Constitution. We are agreed on that. There is no argument there and I think anybody else trying to purport that maybe, the Government side is out to sabotage the intended constitutional review, is

extremely wrong.

Mr. Deputy Speaker, Sir, if I might now go and look more closely at the Bill, I think it is important that we be transparent. We should be transparent if we are going to end up at the end of this exercise, with a Constitution that everybody in this country is going to be proud of. By transparency, I mean those who will be charged with the review of our Constitution should be seen to be appointed by bodies that are representative. I would like to join other members in saying that the role of Parliament needs to be recognised and established, so that it is completely clear that all acts at the end of the day, have to come to this House. I think any attempts to go for shortcuts that we have constitutional assemblies or that kind of thing when we already have an established Parliament--- You already have precedents where the Parliament of this country has amended the Constitution. We should go on that basis.

Mr. Deputy Speaker, Sir, when you look at page 414 Clause 2 (b) (1), there is a provision that the organisations that will be involved in the review process are the Commission, the District Forum and the National Forum. It would seem---

Mr. Mwenje: On a point of order, Mr. Deputy Speaker, Sir. Is it really in order for hon. Members who say that this debate should be curtailed to continue speaking for 20 minutes, even after we have agreed that they should make very short contributions?

Mr. Deputy Speaker: Hon. Mwenje, you know that we have not altered the rules of debate. The rules under which we are debating this Bill allow these members 30 minutes. So, if you want to spend all the 30 minutes contributing, it is alright. If you want to spend only 10, it is alright, only that we cannot spend more than 30 minutes. So, proceed.

The Assistant Minister for Finance (Mr. Arap-Kirui): Mr. Deputy Speaker, Sir, I hope you will add me some minutes which have been wasted by my colleague there.

Mr. Deputy Speaker, Sir, as I was saying in this Bill, there does not seem to be a clear indication of the role of Parliament and I would like to welcome a situation where in fact, Parliament is given a leading role in the constitutional review process because Parliament, irrespective of any pronouncements to the contrary, is supreme in law making in this country.

Mr. Deputy Speaker, Sir, looking at pages 416 to 417 of this Bill in Clause 3 (1) which talks about the establishment of the membership of the Commission, I am sorry to say that it looks to me, reading through it, like an Opposition party manifesto. We have here a number of cartels. One is called The Women's Political Caucus and another one is called the National Council on Non-Governmental Organisations. I am sorry to say that, these are cartels set up here to hijack the constitutional review process. We would like an all-inclusive review process. We do not want a process that seeks to exclude a very important---

Mr. Deputy Speaker: Order, hon. Members. You see, we are approaching 6.30 p.m. and I came back into the Chamber and I found members were rather anxious to continue debating this Bill and I am therefore exercising my powers under Standing Order No.17, to extend the sitting for one more hour.

The Assistant Minister for Finance (Mr. Arap-Kirui): Thank you, Mr. Deputy Speaker, Sir. As I was saying, this is contained in pages 416 and 417 of the draft Bill. At the bottom of page 416, there is what is called "Kenya Women Political Caucus". A number of hon. Members have referred to this women's caucus. With great respect to the gracious Ladies of this House, I am sorry to say that to me, this is pure and simple a cartel put in place to try and curtail the open participation by the women of this country in the constitutional review process. I think if we are going to allow the women of this country to have a free choice of their representatives to the Constitutional Review Commission--- I think this is a conspiracy between hon. Nyagah and the particular hon. Member.

Mrs. Mugo: On a point of order, Mr. Deputy Speaker, Sir. Is the Assistant Minister in order to misinform this House of matters he knows nothing about? The Assistant Minister has never been to women's meetings. He does not know what, we, women do. Could men in this House leave women alone to organise themselves?

Mr. Deputy Speaker: Order! Order!

The Assistant Minister for Finance (Mr. Arap-Kirui): Mr. Deputy Speaker, Sir, with due respect, that was not a point of order. It was an opinion.

Mr. Deputy Speaker: Order! Order!

The Assistant Minister for Finance (Mr. Arap-Kirui): Mr. Deputy Speaker, Sir, may I be allowed to continue?

Mr. Deputy Speaker: Well, I suppose that you also have a woman in your house, and you know what she does.

The Assistant Minister for Finance (Mr. Arap-Kirui): Certainly, Mr. Speaker, Sir. I do have a woman in my house, and I know what she does.

Mr. N. Nyagah: On a point of order, Mr. Deputy Speaker, Sir. Is it in order for the Assistant Minister to accuse me falsely of having gone into a cartel with Mrs. Beth Mugo, whereas I did not utter a single word? I am a Christian! I only looked at the lady!

Mr. Deputy Speaker: Order! He is not in order if he accused you falsely. "Thou shall not bear false witness", says the Bible. Mr. Arap-Kirui, you will not bear false witness against thy neighbour!

The Assistant Minister for Finance (Mr. Arap-Kirui): Mr. Deputy Speaker, Sir, I respect your ruling, but I would like to point out that I did see hon. N. Nyagah nod to the gracious Lady. I do not intend to be hijacked from the comments I am making. I see these two organisations as cartels out to curtail the free participation by women in the constitutional review process.

Mr. Deputy Speaker, in fact, some hon. Members contended that Maendeleo Ya Wanawake is a KANU organisation, which I dispute. But even if that were the case, then it is time to reason that all the others must be Opposition women groups. In any case, since KANU has the majority in this House and elsewhere, I think we should have an amendment that will entitle Maendeleo Ya Wanawake to nominate three out of the five women.

(Loud consultations)

Dr. Kituyi: On a point of information, Mr. Deputy Speaker, Sir.

The Assistant Minister for Finance (Mr. Arap-Kirui): I do not need the hon. Member's information, Mr. Deputy Speaker, Sir. I am running out of time. May I also point out that what is being called "civil society"--- I think we are drifting towards some very dangerous ground if we start going into definitions. On page 418, we purported to define the civil society. If we are going to go out of our way to define some of these issues, I think we need to be particularly sure that we know exactly what we are talking about, so that within that same context, we do not limit the---

Mr. Ita: On a point of order, Mr. Deputy Speaker, Sir. I think the hon. Member on the Floor and some previous speakers, who have referred to women issues as being a caucus, are misinforming and misleading this House. At the district fora, there will be women representatives who will be drawn from all the districts. They will also go to the national forum. Why should we be singling out the commission, which will have only 25 members? In fact, we will have a well spread out representation of women.

An hon. Member: That is not a point of order!

Mr. Ita: Mr. Deputy Speaker, Sir, this is a point of order, because someone is really trying to mislead the House.

Mr. Deputy Speaker: Order, hon. Ita.

Mr. Deputy Speaker: Order! Order!

The Assistant Minister for Finance (Mr. Arap-Kirui): Thank you very much, Mr. Deputy Speaker, Sir. I hope you will add me more time because Members are taking my time. As I was saying, I think we need to be extremely careful and ensure that at the end of the day, if we are going to have a definition, we have an objective definition not one that is not objective as seems to be the case here. There is also one provision about the chairmanship on page 421 which causes a lot of concern to me. I do not think the chairman needs to be a judge or an advocate. Even under Section C, there seems to be a further provision on that and I begin to wonder whether this is made with a particular individual in mind to be the chairman of this Commission when we propose that one needs to have 15 years university teaching experience. May I submit that the chairman need not be a lawyer, he is not going to be the one drafting the Constitution, there will be technical experts or resource persons who will be used. I will propose that at the end of the day, that this issue needs to be kept open.

Mr. Deputy Speaker, Sir, as an accountant, I was doing a bit of arithmetic about the time allowed for the appointment of the Commissioners and the review process and while I think 26 months, which I got on Clause 16 and 16A may be adequate, I am concerned on page 419 about the 15 days that will be allowed from the commencement of the Act for the submission of names to the Attorney-General for persons to be appointed Commissioners. I do not think that 15 days will be enough, if we are going to do a proper job. I would like to suggest that a more realistic number of days would be closer to 60 days to allow consultations for the political parties that are involved; the women groups which I hope will exclude the Women's Political Caucus which as I said, is a cartel, the civil group which I hope will exclude the National Council of Non-Governmental Organisation which is another cartel---

Dr. Kituyi: On a point of order, Mr. Deputy Speaker, Sir. Much as one would appreciate to listen

carefully to the hon. Member on the Floor, we are on the brink of a World War III on the basis of hon. Obwocha saying yesterday that hon. Mark Too borrowed Kshs400 million, the hon. Too is having problems with hon. Obwocha---

Mr. Deputy Speaker: Order! Order, Dr. Kituyi! Two hon. Members are not capable of creating a world war, third or fourth or whatever number. So, proceed.

Mr. Maore: Mr. Deputy Speaker, Sir, we declare that he is owing money---

Mr. Deputy Speaker: Order! Order!

The Assistant Minister for Finance (Mr. Arap-Kirui): Thank you, Mr. Deputy Speaker, Sir. It looks as if I might have touched some rather sensitive nerves on some Members on the opposite side. As I was saying, I do not think 15 days will be adequate from the date of the commencement of the Act for submission of names of possible persons to be appointed as Commissioners to the Attorney-General. There needs to be a review and an amendment.

Mr. Deputy Speaker, Sir, with those few remarks, I think I will give my colleagues time to relax. Thank you.

Mr. Nguni: Thank you, Mr. Deputy Speaker, Sir, for giving me time to support this Bill. But before I do so, I have got a few observations to make. I trust I will not go to the full length of the 30 minutes in view of the fact that this time has been extended not to give Members their full rights, but allow as many Members as possible to contribute to this Bill. It is befitting the Eighth Parliament to debate the Constitution of this country so that we will go down in the history as having created a new Constitution and it is pleasing to me that some of members will come from the districts.

Mr. Deputy Speaker, Sir, when you look at the objective and purpose of the Constitution Review Commission, it gives me pleasure to note that the objectives recognise the fact that there will be guaranteed peace, national unity and the integrity of the Republic of Kenya in order to safeguard the wellbeing of the people of Kenya. This means that these fundamental rights of the people had been eroded over the years by the KANU Government, who even during the elections to the Eighth Parliament were not part and parcel of what we are debating today. By the time we go through the constitution review process, the Eighth Parliament again will go down in history as having left a legacy in this country, that this is the Parliament that has put this country to its footing, that has guaranteed this country integrity and the rights of the people. When we look at that, we are saying that this constitutional review process will create a Constitution that will not create leaders who at the end of their terms will grope around in the dark looking for legacies. Legacies are built over the years and it has been lacking in this country.

Mr. Deputy Speaker, Sir, when we look at the objectives, it is clear that we will establish a constitutional system that will be respected, a constitutional system that will respect itself and one that will not work according to the whims of individuals or the whims of a single party. I am making particular reference to the creation of the Vice-Presidency. We are left in a situation where we have been told as a country and as a people that this office must be rotational. Where is it written in the Constitution? You can see the saga that every tribe in this country is now producing their rotational Vice-President. Why has this thing bothered us? We are in a situation where we are not guided by the Constitution, but we are guided by the person in power; so, that when we have a rotational vice-president, eventually, by the year 2001, maybe somebody might chose the Vice-President from his tribe. We must guard against this.

Mr. Deputy Speaker, Sir, I am pleased that this Constitution of Kenya Review Commission will produce a Constitution that Kenyans will feel safe with and that Kenyans will not be led through delegations to the residences of future Heads of State. We, in this Parliament, are tired of delegations and begging for roads, bridges and so forth. When we look at the persons that will form---

Mr. Kamolleh: On a point of order, Mr. Deputy Speaker, Sir. Is it in order for the Member on the Floor to say that he is tired of delegations? Nobody has been forced to lead delegations.

Mr. Deputy Speaker: Order! Order!

Mr. Deputy Speaker: Order! The hon. Member has heard. Even if he has not heard, continue with your contributions.

Mr. Nguni: Mr. Deputy Speaker, Sir, I hope that I did not refer to delegations by witch-doctors.

(Laughter)

We have it on page 414 where we are saying about: "In the exercise of the powers of the performance of the functions conferred by this Act, these organs specified in Section (2) (b) shall ensure that the review process

accommodates the diversity of the Kenyan people including socio-economic status, race, ethnicity, gender, religious faith, age, occupation, learning, and persons with disabilities and the disadvantaged." When we look at the articles defining these type of people we find that we have not specifically defined the disadvantaged people. But, be that as it may, I might consider myself having been disadvantaged for a long time because of the political beliefs from the areas we represent. So, I hope that this Constitution will safeguard the disadvantaged people. I do notice that this Constitutional review process is based on people because it will go to the districts to collect and collate views. When we are through with the process of choosing the Commissioners, I propose that preferences should be given to persons who, in addition to the qualifications specified, hold relevant professional or technical qualifications. While still on that issue of technical qualifications, I would like to remind hon. Members, and the Attorney-General in particular, that in this country we have chosen before persons to head some Commissions because of their education status. I am particularly referring to the Tribunal which reviewed the status of detainees. This is one tribunal which was manned by highly qualified people, but the general public know very well that they never reviewed anything. They only waited until when the politics was ripe for the detainees to be released. So, we have seen such situations. When we sit down to look at who shall be Commissioners, it should not just be by good-will, like saying that this person, because he is a judge or has taught in the University, he should be appointed. We must look at people with integrity; people who have particular interest in the political well-being of this country. Such people should be those who do not entertain a country where people would linger in detention without trial. They should be persons whose opinions have been known to represent good governance.

(Mr. Maitha skimmed through a newspaper)

Mr. Deputy Speaker: Order, hon. Maitha! You should not bring newspapers into the House. If you do it by mistake, you must not read them while in the Chamber.

Mr. Maitha: Mr. Deputy Speaker, Sir, very much obliged.

Mr. Ngunjiri: Mr. Deputy Speaker, Sir, I am not particularly against the issue of gender as it is in this Bill. But, in the Bill, it seems we are trying to recognise the biological topography of human beings rather than their mental capacities.

I would like to ask the women leaders not to rely on that. The great women leaders of this country were never chosen because people were gender-conscious but it is because they excelled. So, I am seeing a situation where we are giving the women caucus their share. Here we are talking about the 13 persons who will be nominated by the political parties and we say that at least two shall be women. When we go down to the women caucus, I think we see a situation where we are saying that four persons should be nominated by the civic society--- And then when we come down to where the women caucus are nominating their members, we should say that one member should be a man. We are saying that five persons should be nominated by women organisations through the women caucus. Why do we not add: "Where at least one should be a man," and let us see them being nominated as well. That will be a recognition of the gender-consciousness. It should not always be that where men are the majority at least one should be a woman, it should also be that where women form the majority, one should at least be a man.

Looking at the District Forums, I know that hon. Members have talked about this, but where we are saying it will be voluntary, to some people, it will cause a lot of problems. I know that there is a lot of disparity on who has looted and who has not looted. We know which part of the divide the looters are. So, when we are talking about people going to the District Forum and it will be voluntary and we are only going to pay the co-ordinators, it might create a lot of problems in areas where people have not looted and where people have got to travel collecting these opinions from members of the public without being given allowances for travelling and at least for refreshments. I would like the Attorney-General to note that so that the Commission should consider giving travelling allowance and maintenance allowance to members of the District Forum. When we leave it to being voluntary, we might not attract the right people. For a long time, we have based politics on Harambee, donations and handouts and we have not necessarily attracted the right people. We will only have attracted the right looters.

When we look at three elected representatives from each location in the district one of whom shall be woman and one youth, we are wondering who elects these people. Whose duty is it to elect? We ask the Attorney-General to elaborate on this so that when I go down to the location, I know exactly which people are going to elect these three representatives. It becomes very ambiguous that you go there and say that three people should be elected from the locations. Will the county councils bring these people or will it be the chiefs or the infamous DOs or DCs? I think that should be clearly defined. There is a question where we are talking about the chairperson. We are saying the chairperson and the vice-chairperson of the Commission shall be of the

opposite sex. Once again I am not worried about this but it gives the impression of merging people. We should have people as the chairman and the vice-chairman and they should be people of integrity and we should not look at it as merging the chairman and the vice-chairman.

With those remarks, I beg to support.

Mr. Kihoro: Thank you, Mr. Deputy Speaker, Sir, for giving me this opportunity. I am schooled in international law and I think I must bring some international aspect into the constitutional making process in this country.

Firstly, I would want to say that with the de-colonisation that happened in the beginning of 1960 and 1961, there are very many countries that were given a Constitution from Nigeria Ghana, down to Zimbabwe, Zambia, Malawi, Tanzania, Uganda and the rest, who were ruled by the British, and some of them by the French. None of these Constitutions are surviving today.

So, the process that we are going through in Kenya, after having made 35 or so amendments to our Constitution, is very important in making sure that the Constitution that is going to govern this country, during the next Century and the next millennium, I hope, is going to be one that is based on the genuine aspirations of our people. It is very important that the strength of our Constitution will arise from the people's belief, and feeling that they are the ones who have made the Constitution.

One of the shortcomings in the present Constitution is actually how it was made. Since that time, the Government has amended it to suit certain people, and has failed certainly to answer, or to respond to the genuine aspirations of our people.

Mr. Deputy Speaker, Sir, the present Constitution was made by 65 gentlemen, 37 of them being Africans, 14 Europeans, 11 Indians and 3 Arabs. There was no single woman when this Constitution was made. It is very clear that the interests that were protected by the present Constitution, as at 1962, were the interests of the colonialists. To be an elector in 1962, so that we would be able to elect an MP, who could go to Lancaster House, you had to have a certain level of education. You had to have £150 in your pocket, or a capital of £500. You had to have meritorious service in the colonial civil service, or you must have been in the employ of the colonial civil service, or in the armed forces of the colonial government, or must have attained the age of 45.

Mr. Deputy Speaker, Sir, I am bringing up these points because I would like to show that the present Constitution in this country, from the word go, up to the present, is one that could never have been put on an even keel, to assist our people in terms of a democratic Government.

One of the most important aspects in 1962 was to make sure that only loyalists, with loyalty certificates, could be able to elect people who went to Lancaster House. That was a requirement that ensured that, eventually, we had to have a Constitution that was not properly balanced. Very many groups were excluded. I have already mentioned women, even though I am very sure that one lady paid her air passage to Lancaster House in 1962. That was Mrs. P.I. Abwao. She paid for her air ticket to Britain, to participate in the constitution making process, but she was shut out.

There were many that were shut out like Teso National Political Union, North Peoples National Union and Mau Mau. Even though they had fought the British to a standstill in this country for over eight years; none of them was represented at the Lancaster House Conference. There are very many nationalists, including Elijah Masinde, who would have liked to attend the Lancaster House Conference, but they did not. Even in the Coast, there were many nationalists who would have liked to attend the constitutional meeting at Lancaster House, but they were never there. There was a lady called Mekatilili in the 1930s. But certainly, in 1962, it was very important if the Constitution was to be durable, to have all these forces represented.

Mr. Deputy Speaker, Sir, the President has told us that one of the major shortcomings in our present Constitution is how it concentrate powers in an individual. He has admitted that during Safari Park III Meeting. Nobody is going back on that statement that came from his Excellency the President himself; that the present Constitution over-concentrates power in one individual. What we want is a Constitution that will balance power in the three branches of Government and nobody will frustrate that process. Our people have woken up. Some of us take pride in having opposed dictatorship in this country for a long time. We will continue doing so, until we have a Constitution that will make sure that some people in this country do not live above the Constitution. We want to have laws in this country that will make us equal when we participate in the process of nation building. Unfortunately, the present Constitution does not so do.

Mr. Deputy Speaker, Sir, I know as we go through this process of Constitution making, we will also look beyond our borders and see what is going on there. There are very many international conventions that have been passed during the last 30 or 40 years. It is a pity that the hon. Attorney-General admitted that Kenya is not a signatory to the convention on the punishment of the crime of genocide. Unfortunately, he has just gone out. That need to be brought in force in this country. But there are very many other international instruments that

need to be brought to bear when we proceed in the process of building the new Constitution. Not so that the Constitution becomes foreign, but this arises from a realisation by the people of this country that now we live in a world that has become so small that if we made a Constitution - however, beautiful it is to our people - but it defies what is happening also in overseas, it will not stand the test of time.

One of the instruments I am thinking about is the international convention on the economic, social and cultural rights that came into force in 1966. Even though Kenya is a signatory to this convention, it has not been incorporated or ratified to the extent that it is part of the law in this country. There is also the international convention on civil and political rights. There is the convention on the elimination of all forms of discrimination against women of 1979. We must endeavour as we proceed into the next century to bring about equality of our people; men and women together. To me, it is a bit of disappointment that we will have only nine women on this Constitutional Review Commission of 25 members. To me, in respect of this very important aspect, we would have brought some very important dimensions in terms of showing that we do not only pay lip-service to this gender equality, but we have, in fact, not been able to do so.

Mr. Deputy Speaker, Sir, another two conventions I must mention before I sit down so that other hon. Members can contribute is the convention on the rights of the child of 1989. There is also the convention against torture and other cruel, inhuman and degrading treatments and punishment of 1984, and the African Charter on the human and peoples rights of 1981. The importance of mentioning those international conventions is that we must incorporate them in the new Constitution. Let us make sure that it will be a justifiable document internationally so that forever we will feel that whatever we have worked for, for the last 25 or 30 years was worthwhile. We have worked very hard to come to this stage where we will have a new Constitution that will make our people equal and feel they are protected equally under the law.

With those few remarks, Mr. Deputy Speaker, Sir, I beg to support this Bill.

Mr. Murathe: Mr. Deputy Speaker, Sir, the Constitution of Kenya Review Commission (Amendment) Bill is based on what the current Constitution is all about. The current Constitution is very good and it needs to be amended. But over the years we have had amendments which have further weakened the position of the citizens but increased the powers of the President. It has always been mischievous and sinister! Most of these amendments were done during the one-party era. In fact, we have never had any serious amendment in the multiparty era, except during the Inter-Parties Parliamentary Group (IPPG) meetings, whose recommendations have not been implemented to-date.

The IPPG recommendations were hurriedly passed in this House. A day after they were passed, the President dissolved the last Parliament. In fact, there was no time to implement the recommendations of the IPPG. We are wondering whether this is just not another sinister game, which is being played by this Government to try and derail this process so that we will never get to a point where we will have a serious constitutional amendment, which will address the rights and freedoms of Kenyans.

A constitution is a social contract between the rulers and the ruled. That is the basis on which we will move ahead as either a united country or a divided entity. We will not concentrate on what needs to come out in this Bill, because it is about the process. But we are very concerned about the management of this process by interested stakeholders. The President seems to control this process, and yet he has a stake in what comes out of this constitutional review process. Some of us are not even convinced that there is any intention on the part of the current President to quit office at the expiry of his second term. Maybe, there is an hidden agenda to try and extend the term of the current office holder.

Mr. Deputy Speaker, Sir, our biggest problem lies with the current Attorney-General (AG), who is supposed to be a very independent person. He is also supposed to be an advisor to the Government of the day, and yet he seems to be an appendage of the ruling party KANU. The AG has been attending KANU meetings even though he is not a KANU delegate.

The Attorney-General (Mr. Wako): On a point of order, Mr. Deputy Speaker, Sir. Is the hon. Member in order to insinuate that I attend KANU meetings when, in fact, I do not attend any organ meeting of KANU? Is he in order to say that?

Mr. Murathe: Mr. Deputy Speaker, Sir, he has been seen in some of the meetings. In fact, yesterday, he was screened on the television hovering around the Kenyatta International Conference Centre (KICC).

The Attorney-General (Mr. Wako): On a point of order, Mr. Deputy Speaker, Sir. I would like the hon. Member to substantiate that allegation, because I did not attend the KANU Parliamentary Group meeting, which was held yesterday. I would like him to substantiate that he saw me.

Mr. Murathe: Mr. Deputy Speaker, Sir, I would like to take on the AG over a KANU Parliamentary Group meeting where he has been present.

Mr. Deputy Speaker: Order, Hon. Murathe! Two hon. Members cannot contribute in this House at the same time as you well know. But to substantiate that the hon. AG attended the KANU Parliamentary Group meeting will be a hard task.

Mr. Murathe: Mr. Deputy Speaker, Sir, I can bring evidence to this House to the effect that the AG attended the meeting.

Mr. Deputy Speaker: Hon. Murathe, I will allow you to continue contributing if you will bring that evidence to this House tomorrow afternoon.

Mr. Murathe: Mr. Deputy Speaker, Sir, I withdraw my statement. From now on the AG must be totally independent from the organs of the ruling party KANU, so that he can be seen to be truly independent when it comes to the constitutional review process. That is the only stage at which we can trust him with such a serious process which affects the Constitution. I would like to say that some of those amendments which have been included in the current Constitution were sneaked in during the era of dictatorship when even some KANU Members were removed from the current team that drafted the present Constitution. Let us talk about the process because this is a very serious matter. We came here to form a reform process. Some of us never even intended to come here. We were for the "No reform, no election stand". We must have guarantee that we are not going to have any elections without reforms in the new Constitution.

The current Bill seems to overlook a lot of areas which need to be addressed. As a party, we have given to the Attorney-General certain amendments which have been forwarded by the Social Democratic Party. They have defined the areas of concern which we have gone through. I am told some of them have been accepted while others they have refused to accept, particularly where it demands that the Commissioners are going to serve as delegates after being delegated by a particular interest group to articulate the interest of that nominating agent like a party so that when they go to that Commission and they are manipulated, that party is in a position to withdraw such a Commissioner from the Commission.

We have been very frustrated even with some of the Commissioners who are in the Electoral Commission. They are people who were nominated by political parties yet when they went into that Commission they started serving the interests of ugali. I hope the Attorney-General has taken note of that.

The other one is about the process of collecting the views of the members of the public. We had a very simple programme which demanded that at the district level the Government would go maybe, to the churches, the mosques and the local barazas and try and collect the views of the people at the grassroots which would be brought to the national forum where you have a team of experts who were going to put those views to you. In this Bill there is no clear definition of the basis of electing or selecting the district forum. Who is going to be there? In Thika District we have about five parties. That mode of nominating who sits on that district forum is not clearly defined in this Bill. We hope that when the Attorney-General stands up to respond, he will clarify that area.

There is another way for the Government to deal with this process by coming here and say: "KANU or the current Government, these are the areas that we are looking at". After looking at whatever their proposals they have we should be able to come out as the Opposition and say: "Okay, we have agreed on this area or that." I am convinced that there are so many areas where we can agree on and the we put that aside. On those areas where we are having basic disagreements we can sit down to negotiate. If we ever get to a point where there are issues on which we are totally in disagreement then those issues should be put forward in a form of referendum to the people. There is nothing in this draft Bill that gives the Kenyan people a chance to either say "yes" or "no" to whatever will be brought to this Parliament in part. We must have a provision for a referendum to ask the people of Kenya. It can be conducted very easily through the church organs. People go to church on Sunday or Friday others go to the Mosque on Friday. For those who do not go to church we can find a forum where we can conduct a referendum for at least the majority of the people of Kenya to agree that they have accepted what has been debated and passed in this Parliament. Finally, I think one of the biggest objects of this Bill is to guarantee the autonomy of the various organs. The most important organ in this process would be Parliament because it is either Parliament which will pass or not pass this Bill.

Mr. Murathe: Mr. Deputy Speaker, Sir, we have seen the total emasculation of the powers of this Parliament. This Parliament has become like just like another extension of the Executive, Nothing happens in this Parliament without direct control of the Executive. We have even witnessed the Chair itself contributing to the emasculation of the powers of this House by sometimes always wanting to go and refer matters of this House---

Mr. Deputy Speaker: Order! Order! Order, hon. Murathe. You will produce that evidence now or withdraw!

Mr. Murathe: Mr. Deputy Speaker, Sir, that evidence is in the HANSARD, where the Chair has ruled that matters in this House be taken out of this House. That is why people have even guts to take the Chair to court

Mr. Deputy Speaker: Which matters have been ruled by the Chair to be taken out of this House?

Mr. Murathe: Mr. Deputy Speaker, Sir, my purported resignation letter was taken by the Chair out of this House as a result of which that matter is now in the High Court. The High Court has ruled---

Mr. Deputy Speaker: Order! Order, Mr. Murathe! You got your facts very wrong! First of all your letter of resignation did not come from this Chamber. It did not come to the Chamber! What happens in this Chamber is what must not continue to be discussed out there. But if you write a letter, it could be falling onto any number of hands. So, you did not serve the Chair with your letter of resignation in this House in the Chamber. So, get your facts right!

(Applause)

Mr. Murathe: Mr. Deputy Speaker, Sir, my facts are right!

Mr. Deputy Speaker: You know you have done very well up to date, but now you are poisoning it. Proceed.

Mr. Murathe: Okay, Mr. Deputy Speaker, Sir, but the rulings in this House must be held in this House and should not be taken out of this House. Because once the Chair makes a ruling and abdicates its responsibility of a ruling, that is when you find thugs taking those rulings to court---

Mr. Kamolleh: On a point of order, Mr. Deputy, Speaker, Sir. I think it is a decorum of this House whenever a Member alleges things which are not true, I think it is only fair and very gentle for him to withdraw before he continues. I beseech you to give us guidance on why the present Member is continuing without having actually withdrawn the allegations?

Mr. Murathe: Mr. Deputy Speaker, Sir, I do not want to respond to that warlord from Likoni; he is a good friend of mine.

(Laughter)

Mr. Deputy Speaker: Order! Order! Do not make a jest over a very serious matter. We are not joking! Hon. Murathe, I rule that, in fact, there is no issue you brought to the Chair in this Chamber which the Chair then proceeded to take out there for discussion in public. Now, that was the allegation you made and you know it to be false. So, will you withdraw it?

Mr. Murathe: Mr. Deputy Speaker, Sir, if that is what was understood, that is not what I intended. The gist of my---

Mr. Deputy Speaker: Order! Order!

Mr. Murathe: I withdraw and apologise, Sir.

Dr. Kituyi: Mr. Deputy Speaker, Sir, now that the hon. Murathe has withdrawn that one, will you also oblige him to withdraw calling an hon. Member, a warlord?

An. Hon. Member: You cannot substantiate the obvious!

Mr. Murathe: The hon. Member is a friend of mine and he knows he is a warlord.

Mr. Deputy Speaker: Order! Order! There are no warlords in this House! Order, hon. Nyanja, that is totally unacceptable! While you are standing at the Bar you must not talk! So, hon. Murathe, there is no warlord in this House; there are only hon. Members. Please, remember that now, tomorrow and forever.

Mr. Murathe: Obligated, Mr. Deputy Speaker, Sir. Obligated, Mr. "warlord". He is a friend of mine and I withdraw with a light touch.

Hon. Members: Withdraw and apologise!

Mr. Musila: On a point of order, Mr. Deputy Speaker, Sir. I think Mr. Murathe is not being serious. He did call hon. Kamolleh a "warlord". You asked him to withdraw, but he did not.

Mr. Deputy Speaker: Order! Order, Mr. Murathe!

Mr. Kamolleh: I asked him to withdraw. Then he still called me a warlord. Can he now withdraw and apologise?

Mr. Murathe: Mr. Deputy Speaker, Sir, I have withdrawn and apologised. The hon. Kamolleh is a good friend of mine.

Mr. Deputy Speaker: And desist from referring to him as a "warlord", and only refer to him as hon. Kamolleh, MP for Matuga.

Mr. Murathe: On a point of information, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Order! I do not want any information!

Mr. Murathe: Mr. Deputy Speaker, Sir, as SDP, we have presented certain amendments for the consideration by the Attorney-General. I am sure he has a copy of the amendments presented by our Parliamentary party leader, Prof. Anyang'-Nyong'o. We have a paper here also presented by the Social Democratic Party which has suggested certain amendments to this Constitution whose objective quite clearly should be to guarantee continuity, order, basic rights, freedoms of Kenyans and to provide an enabling environment where Kenyans will be free people to do business and to co-exist--

Dr. Kituyi: On a point of order, Mr. Deputy Speaker, Sir. Considering that the hon. Murathe is now telling us what has already been submitted to the House, which is already in the custody of hon. Members, and in the interest of those who now want to go to the next stage, would it be in order that, at this stage, I oblige you to call the Mover to reply?

(Applause)

Hon. Members: Yes! No!

Mr. Deputy Speaker: Order! Hon. Members, I gave an extension of time to afford those who had not spoken an opportunity also to contribute to this Motion. I thought and hoped that those of you were recognised by the Chair to speak would be so considerate that you would take maybe five or ten minutes in order to afford other Members an opportunity also to contribute, but this has not happened.

Mr. Mwenje: But we still have time!

Mr. Deputy Speaker: Order! If you look at your Order Paper, hon. Mwenje, you will see that we have got other business to transact. Hon. Members, it is not for the Chair to rule whether you should continue or not, but the Chair did what was in its power to do, which was to give you more time. So, right now, I have to put the Question.

*(Mr. Deputy Speaker consulted
with the clerks-at-Table)*

Sorry, I have been reminded of a fine point of debate. Hon. Dr. Kituyi has, in fact, already contributed to this Motion. So, he cannot move closure.

(Several Members stood up in their places)

Mr. Deputy Speaker: Order! Order! Hon. Nyagah.

Mr. N. Nyagah: On a point of order, Mr. Deputy Speaker, Sir. In view of what you have just said, and that I have not even contributed--- We had hoped that each one of us would be considerate and give the other members a chance to speak for five minutes. A lot has been said. Would I be in order to ask the Mover to respond?

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

Mr. Deputy Speaker: Hon. Nyagah is on a point of order.

Mr. Mwenje: I am also on a point of order.

Mr. Deputy Speaker: For goodness sake, I have to respond to that point of order first.

Mr. Mwenje: But he has also spoken!

An hon. Member: Who?

Mr. Mwenje: He spoke?

Mr. N. Nyagah: When?

Mr. Deputy Speaker: Order, hon. Mwenje! I have got a complete list here of those who have spoken. So, do not take on responsibilities which you cannot handle.

Mr. Mwenje: But he did second!

Mr. Deputy Speaker: He did not second because there was no need to second. So, hon. Members, I will now put the Question.

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

(Several hon. Members stood up in their places)

Mr. Deputy Speaker: Order! Order! You do not call for a division by demanding it. You should have hon. Members standing to support you. Proceed!

(Several hon. Members stood up in their places)

Order! Order! You are only 12 hon. Members. You need 15 hon. Members. Proceed!

The Attorney-General (Mr. Wako): Mr. Deputy Speaker, Sir, I beg to reply. First of all, I want to express my utmost appreciation to all the hon. Members of Parliament who contributed, all of them in a very positive manner, to this important Constitution of Kenya Review Commission (Amendment) Bill. In fact, all in all, apart from myself; the Mover, 43 hon. Members of Parliament have contributed to this Bill.

Mr. Deputy Speaker, Sir, a lot was said about the enabling environment. I would like to remind hon. Members what I said at the beginning; that this very process itself, I am sure when we undertake it, it will help us to cultivate the democratic culture. It will help us to educate ourselves on democratic practice. It will help us to be more democratic in attitude. Therefore, this process itself, as I said, will help us create a united nation.

Mr. Deputy Speaker, Sir, hon. Members of Parliament have talked about the Provincial Administration. As I said, and I repeat here again, the Constitution cannot be a property of Government. The constitutional process cannot be a property of KANU or any political party. The constitutional process cannot be the property of the Provincial Administration. The process of constitutional review is the people of Kenya and it will remain the people of Kenya. The Bill that we have, is carefully drafted to ensure that the Provincial Administration or even the Government does not have a say. In fact, this Bill creates an independent process of constitutional review. The Constitution itself, unlike in the past, will not have civil servants seconded to it, as civil servants. The Commission itself will employ its servants. The Commission itself will put in place a mechanism for electing the members to the District Forum. It is not the Provincial Administration which will be involved in that exercise. I am sure that the Commission we shall appoint, will put in place a mechanism which will ensure that proper people are elected to the District Forum.

Mr. Deputy Speaker, Sir, a number of fears were expressed on the issue of the creation of new districts. It is my intention to move an amendment to reflect the wishes of the Safari Park talks, that the districts which were there at the time of those talks, that is 5th October, or the districts which were in existence at the time of the General Elections are the districts we are referring to when we talk about District Forum. I intend to move that amendment at the Committee Stage.

Mr. Deputy Speaker, Sir, a lot was talked about civic education. I know that civic education is extremely important. The Commission itself must play a part in civic education. The Bill, as we have it now, does not give a specific period for the civic education to be conducted. So, I will be proposing at the Committee Stage, to move an amendment, so that when the Commission is appointed, it will take the first two months, organising the Secretariat, making its own rules of proceedings and giving guidelines on civic education because, civic education must be the same throughout Kenya, so that every Kenyan is given an opportunity and the knowledge that will help that Kenyan to make proper proposals for the constitutional review.

After those two months, there will be four months of doing nothing but civic education where the Commission will undertake that exercise together with the civil society; that is, the NGOs which are in the area of civic education. Further responsibility is on the Commission to give the necessary guidelines on the contents, because we do not want civic education to degenerate into advocacy for the contents of the Constitution.

Mr. Deputy Speaker, Sir, I wish to pay tribute to hon. Sinyo who put her case very ably on the issues of the disabled. I will be taking some of the ideas she put forward, particularly the ideas that there should be in this Bill, the sign language on television to enable those who are disabled to follow the proceedings. So, I will be making an appropriate amendment, so that any television programme which touches on the constitutional process on television, sign language must be there, so that even the people with disabilities can follow it. At the District Forum also, there is no provision for disabled persons, and I will be proposing an amendment that we have at least two people with disabilities represented at the District Forum. Still on that issue, the list that is in the schedule of all those organisations which are entitled to have two representatives to the National Consultative Forum, one particular name was, by oversight, left out although they are entitled to be that list because they participated at all the meetings at the Safari Park, and that is the Kenya National Students Union. So, I will be proposing an amendment to include that on the list of organisations.

Mr. Deputy Speaker, Sir, something was said about the women participation and so on. I stand here to say that I fully support the position on the issue of women participation as enshrined in the Bill that we have here.

As Chairman of the Consultative Forum, I am here to support the provisions which we have here on the issue of women participation.

Mr. Deputy Speaker, Sir, a lot has been said about the trustworthiness of this Government. They have even referred to the Judicial Commission of Inquiry into Ethnic clashes, and the fact that the Assisting Counsel has been replaced. Recognition must be given to the fact that--- The Government must be commended for setting up that Commission which is unearthing a lot of information which in fact, reflects badly on the operations of the Government. Which Government in the world can be democratic enough to allow a Commission of this nature to unearth what is detrimental to it? The fact that the Commission is there, is a matter that the Government must be commended for as a positive thing. The fact that the Government is also allowing it, is also a positive side to show the democratic nature of the Government. The fact that the Director of Public Prosecutions was appointed, is a positive factor because he is senior to Mr. Gacivih and, therefore, it shows the importance that the Government is attaching to the Judicial Commission of Inquiry.

Mr. Deputy Speaker, Sir, section 59 of the Constitution was touched on, about the President dissolving Parliament. We have to rely on the good faith of the President who is committed to this process, and I know he is committed. But even then, even if we have to carry out that constitutional amendment, you may very well come to the other extreme. The Commission may go on sitting for ten years to come. Does it mean that we shall have no elections until it stands? It is, therefore, important that we leave the thing as it is; let the Commission start operating within the time limit. When we come to that bridge, we shall cross it if they go beyond the time that is imposed under the Constitution.

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

(Question put and agreed to)

(The Bill was read a Second Time and committed to a Committee of the whole House tomorrow)

ADJOURNMENT

Mr. Deputy Speaker: Hon. Members, it is now time for the interruption of business. The House is, therefore, adjourned until Thursday, 3rd December at 2.30 p.m.

The House rose at 7.30 p.m.