

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Wednesday, 29th October, 1997

The House met at 2.30 p.m.

*[Mr. Speaker in the Chair]*

### PRAYERS

### ORAL ANSWERS TO QUESTIONS

*Question No.542*

#### ATTACK ON MR. ONDIEKI BY CHIEF

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

(a) if he is aware that the Chief of Gachuba Location in Kitutu Masaba, assaulted Mr. Daniel Ondieki Oweno on 10th March, 1997, without lawful cause, thereby occasioning him actual bodily harm;

(b) if he is further aware that the complainant obtained a P3 Form from Keroka Police Station and was treated for injuries arising from the assault at Kisii District Hospital on 11th March, 1997 (OP 15671/97; and,

(c) in view of the seriousness of this case and the chief's refusal to obey lawful summons from the OCS of Keroka Police Station dated 21st April, 1997, to report to the police station on 23rd April, 1997, what criminal and disciplinary measures he will take against the chief for the assault and disobedience of lawful summons.

**Mr. Speaker:** Is there nobody from the Office of the President? We will leave the Question until the end.

*Question No.378*

#### CIVIL SERVANTS' CONTRIBUTIONS TO YOUTH DEVELOPMENT FUND

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

(a) how many civil servants had their salaries deducted for contributions to the National Youth Development Fund; and,

(b) how much money was collected through such deductions.

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

(a) I am not aware of any civil servants whose salaries were deducted for contribution to the National Youth Development Fund. Civil servants may have contributed to the National Youth Development Fund voluntarily like any other Kenyans.

(b) It is, therefore, not easy to establish how much money was raised by civil servants as they may have made their contributions at various levels that is from the village level to the national level.

**Dr. Otieno-Kopiyo:** Mr. Speaker, Sir, what the Assistant Minister has said is not true because there was even a circular from his office directing civil servants to contribute and actually the money was taken almost forcibly from them through their payrolls. You have the list and, therefore, you should give the House that list. Furthermore, you should now give the House an audit report on the National Youth Development Fund showing how much money was collected and where it was sent and through what method.

**Mr. Sunkuli:** Mr. Speaker, Sir, I am not aware of the circular that the hon. Member is referring to.

**Mr. Anyona:** Mr. Speaker, Sir, it is a matter of common knowledge. At least in the past, the civil servants have had their salaries deducted by the Government through circulars and sometimes through verbal instructions. This is a matter of fact. I am not saying in this particular case, but it is a known matter of fact that, that is what happened.

So, we want the Assistant Minister to give us two assurances: one, that it did not happen this time round at all, both as a matter of fact and on account of his word of honour. Secondly, given the spirit of reforms, since we are trying to stop civil servants from acting unlawfully, could he give a categorical undertaking that this will never happen again?

**Mr. Sunkuli:** Mr. Speaker, Sir, yes, indeed, in this era of transparency it is not desirable for civil servants to have their monies deducted without their consent and the Government will ensure that in any fund-raising that will take place in future, there will be no deductions that will be made involuntarily. In the case of the National Youth Development Fund and the Women's Fund, there were no monies that were deducted from the civil servants without their consent. This is an undertaking that I wish to give to this House, that if it had happened in the past, it did not happen in this particular instance and the Government does not want that to happen at all.

**Mr. Leshore:** Thank you, Mr. Speaker, Sir. I would like the Assistant Minister to confirm or deny that some of the money collected for the National Youth Development Fund from some districts has been returned to the Treasury.

**Mr. Sunkuli:** Mr. Speaker, Sir, that is not known to me.

**Mr. Leshore:** Last week, I demanded a Ministerial Statement regarding the collection of money for the National Youth Development Fund in Samburu District and up to this moment I have not got that statement from the Assistant Minister. Could the Assistant Minister now undertake to give to this House a Ministerial Statement regarding that money from Samburu District?

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

**Mr. Speaker:** He is on a point of order, Mr. Michuki! Order, Mr. Michuki. It is me who is supposed to hear, and you hear through me.

*(Laughter)*

**Mr. Sunkuli:** Mr. Speaker, Sir, I will make sure that the statement is given tomorrow.

**Mr. Speaker:** What is your point of order, Mr. Michuki?

**Mr. Michuki:** Is it in order for the Assistant Minister to respond to a question which has no relevance to his portfolio in the sense that the National Youth Development Fund has nothing to do with the Government as part of revenue? How can it be returned to the Treasury? Is it in order for him to respond? That is what I wanted to say.

**Mr. Sunkuli:** Mr. Speaker, Sir, that is not known to me.

**Mr. Mulusya:** Mr. Speaker, Sir, is the Assistant Minister aware that after this money was collected, what went to the rightful beneficiaries is very little because much of the money has been stolen by DOs and DCs? In Kangundo, in particular, Kshs310,000 was stolen by the Kangundo DO.

**Mr. Speaker:** Order, hon. Mulusya! Two things are right there. The hon. Member for Kangundo thinks that money has been stolen. Stealing is a very unparliamentary term. Secondly, for you to specifically convict a person who cannot defend himself here is wrong. You can make an allegation, but to state it as a matter of fact, I do not think it is right. Could you reframe your question?

**Mr. Mulusya:** Mr. Speaker, Sir, I have in my possession cheques which I can produce tomorrow afternoon. Those cheques were altered by the DO and another councillor. People were supposed to be paid Kshs7,519 but the DO, without the authority of the local committee which was allocating this money, altered all the cheques to read Kshs5,000. So, there is Kshs2,519 which the DO and a local councillor called Mr. Mwatha are unable to account for. I have personally written a letter to them to produce that money. So, this is not an allegation. A delegation from Kangundo came to see me here yesterday and I think the Chair saw me with them. Those are the people who were complaining.

**Mr. Speaker:** Mr. Mulusya, I think the Assistant Minister will reply to your question, but do not drag the Chair into your problems.

**Mr. Sunkuli:** Mr. Speaker, Sir, the particular reference to cheques altered amounts to a fraud under criminal laws. I am sure that the hon. Member would like to assist us and the police in investigating that particular matter. But on a general note, the monies that were collected from different groups have been returned to them. The money that was collected here in Nairobi, and the interest that accrued, has all been disbursed accordingly. I think it is not correct for the hon. Member to make such an unfounded remark that, indeed, money was misappropriated.

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

**Mr. Speaker:** Order, hon. Members! We have spent 10 minutes on this Question. I do not think this Question will have priority over all others. I am inclined to give Dr. Otieno-Kopiyo the last chance to ask a supplementary question.

**Dr. Otieno-Kopiyo:** In view of the impropriety in the management of the Fund, it would only be useful if

the Assistant Minister would order for an audit and if one has been done, then he can produce it to the House so that he can dispel those rumours and wild allegations.

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

**Mr. Speaker:** Order, Mr. Michuki! As an old Member of this House, and a man of your age, you should know when to interrupt a Member who is on the Floor of this House. That is more particularly so, when the hon. Member is putting his case across. You cannot just stand up there and walk to the Dispatch Box to talk! You must give due respect to the hon. Member.

Proceed, Dr. Otieno-Kopiyo.

**Dr. Otieno-Kopiyo:** I am through with my case and I am saying that we should get an audit from the Office of the President, for the Fund, to satisfy wananchi that the money really went to the right people. If the audit is not there, I will produce in this House 10,000 signatures of civil servants from many parts of the country whose monies were deducted forcibly.

**Mr. Sunkuli:** Mr. Speaker, Sir, I do not think that the people of this country are dissatisfied with the way in which the monies were disbursed. Those were public funds and there exist procedures for auditing those funds at the district levels and I do believe that if hon. Members or other persons in this country can raise specific complaints, then those can be looked into. But I do not think this blanket condemnation about the disbursement of the funds is called for.

*Question No.686*

DISMISSAL OF KVDA TRANSPORT OFFICER

**Mr. Cheserek** asked the Minister for Energy:-

- (a) whether he is aware that the senior transport officer with the Kerio Valley Development Authority (KVDA) was irregularly dismissed from employment on 18th December, 1996;
- (b) since the officer's case is still pending in court, what compelled the KVDA management to fill his position before determination of the court case; and,
- (c) what action he has taken against the Managing Director for misappropriating the assets of the Authority, particularly vehicles.

**The Minister for Energy (M'Mukindia):** Mr. Speaker, Sir, I beg to reply.

(a) I am not aware that a senior transport officer was irregularly dismissed from employment. However, I am aware that a Mr. John Kiptoo Marirmoi was summarily dismissed on 18th December, 1996.

(b) The KVDA management was compelled to fill the key post of senior transport officer after it fell vacant as a result of the summary dismissal of Mr. John Kiptoo Marirmoi, Personal No.700 on 18th December, 1996. He was dismissed from service due to negligence of duty leading to the loss of assorted solar energy equipment worth Kshs14,499,000. The dismissal was later ratified by the KVDA Board of Directors. The officer is now facing a criminal charge of stealing by servant which was instituted by the police.

(c) I have not taken any action against the Managing Director because of lack of evidence on the allegations of misuse of KVDA assets.

**Mr. Cheserek:** Mr. Speaker, Sir, it is so sad that in his response to the first part of this Question, the Minister says that he is not aware. Mr. John Kiptoo Marirmoi was arrested and taken to court before being suspended by the KVDA management. Mr. Kiptoo's place was filled by a captain who was retired on medical grounds, a protege and a relative of the Managing Director. Why is the Minister saying he is not aware? Why was it possible for KVDA to dismiss Mr. Kiptoo when he was supposed to be interdicted pending determination of the case in court?

**Mr. M'Mukindia:** Mr. Speaker, Sir, I get a bit confused about this issue. I stated very clearly that I was not aware that Mr. Kiptoo was irregularly dismissed. He was dismissed as a result of that major loss to the Corporation. That is within the powers of the board under the Act governing State corporations.

**Mr. Sifuna:** Mr. Speaker, Sir, the Minister has informed this House that he could not take action against the Managing Director for misusing the corporation's vehicles. Is he aware that the son of the Managing Director drove the vehicle, Peugeot KAG 319Y, and had an accident with it, yet he is not an employee of that corporation? Why was he not taken to court? A Land Rover 110, KYT 436, and a 505 Station Wagon, KYE 482, were given to Mr. Edward Biwott. Two Land Rovers 100 KYC 209 and 205(?) KYH 551, were given to Melly(?) Kiplagat Biwott. Those two are brother and sister to hon. Biwott. Why were they not taken to court?

**Mr. M'Mukindia:** Mr. Speaker, Sir, I appreciate the detailed summary by the hon. Member. I wish he could avail that information to us so that we can try to carry out investigations, although there is a bit of a problem here, because he says "the vehicles were given." I would like to know exactly what he means by that. Were they

given free of charge? Under what circumstances were they given out? Nevertheless, if the son of the Managing Director caused an accident, our job as a Ministry, is to investigate and find out whether it is true or not. As for taking him to court, that is really a matter for the police.

**Mr. Cheresek:** Mr. Speaker, Sir, the Minister is misleading this House. On 15th October, 1997, we had a private Members' Motion in this House in respect of the KVDA. The Minister directed the closure of the KVDA office in Nairobi because, as he said, the KVDA has no business being in Nairobi. but that directive from the Minister was overruled by hon. Biwott. That office is still functioning up to now. Why is he telling us that he is not aware, when he knows very well that even an International Tractor, which is the personal property of hon. Biwott, was repaired at Lima at a cost of Kshs700,000, which was paid by the KVDA? The same tractor was purchased by the Managing Director at a cost of Kshs105,000. Why is he misleading this House?

*(Applause)*

**Mr. M'Mukindia:** Mr. Speaker, Sir, it appears the hon. Member has a lot of sympathy from the other side of the House, but these facts are not available to us. If the hon. Member could lay those documents on the Table, I will undertake to carry out proper investigations. As far as the movement of the KVDA office from Nairobi to Eldoret is concerned, I am not aware again that hon. Biwott has overruled me as the Minister for Energy. The Managing Director of the KVDA will, within a month, move from Nairobi to Eldoret because we have to give sufficient notice to the landlord of the offices we are occupying in order for us to move out. We just cannot move out the following day.

**Mr. Rotino:** On a point of order, Mr. Speaker, Sir. Is it in order for the Minister to mislead the House on the issue of the office being shifted from Nairobi to Eldoret? The Authority can shift the office and pay three months' rent in lieu of notice to the landlord of the offices which they are occupying now.

**Mr. M'Mukindia:** Mr. Speaker, Sir, only last week, hon. Rotino was complaining about the insufficient amount of money for development in his area. Today, he is asking us to "throw" money away instead of using it. I am absolutely surprised by the attitude of the hon. Member.

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

**Mr. Speaker:** Order! Mr. Rotino, this is not a personal issue

**Mr. Mulusya:** On a point of order, Mr. Speaker, Sir. I think the Minister does not understand what he is telling this House. The undertaking he gave to this House was that the Managing Director would move to Eldoret where the KVDA has an office. It is expensive for him to remain here in Nairobi while the Corporation has another office running in Eldoret. What is making it impossible for him to leave the office in Nairobi and operate from Eldoret? That is the question. If it is not true that the Minister has been overruled by his predecessor in that Ministry, hon. Biwott, why has the KVDA Nairobi office not been closed by now?

**Mr. M'Mukindia:** Mr. Speaker, Sir, I am aware hon. Mulusya has a private office. When we say that hon. Mulusya has an office, it does not mean just hon. Mulusya. An office consists not only of the Managing Director but also the secretary, messengers, the house that has been rented and so on. The definition that hon. Mulusya is trying to give us here is that of an individual's office. This is not an individual's office. It is a public office.

**Mr. Cheresek:** Mr. Speaker, Sir, in view of the fact that this case of John Kiptoo Marirmoi is in court, under normal circumstance, that gentleman should have been interdicted. Could the Minister undertake to review the dismissal letters and, instead, issue an interdiction? Is the Minister aware that on 16th October, 1997, the Managing Director, Mr. Chemweno, attempted to cash two cheques for the KVDA worth Kshs9.277 million for fictitious payments?

**Mr. M'Mukindia:** Mr. Speaker, Sir, regarding the first part of the question by the hon. Member, as far as reviewing the dismissal of Mr. John Kiptoo Marirmoi is concerned, the answer is "no." Somebody who has caused the loss of Kshs14.5 million worth of equipment does not deserve to be reconsidered for employment. As far as part two of this question is concerned, there were some cheques which we thought were irregularly written and we stopped payment, pending proper procedure being followed by the KVDA Board.

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

**Mr. Speaker:** Order! Hon. Sambu, I can hear you. You do not have to shout for me to hear. Since it looks like you are on fire, what is burning you?

**Mr. Sambu:** Mr. Speaker, Sir, my heart is on fire because public money is going down the drain in the corporation called the KVDA. I live in Eldoret Town and my office is next to the KDVA office. The Minister says that there are no documents to prove that the two cheques were written. In law, there is something called "attempting to steal by false pretences." The cheques are there. They were written and signed by Mr. Chemweno. Why has he not been taken to court?

**Mr. M'Mukindia:** Mr. Speaker, Sir, hon. Sambu surely must be on fire because he did not hear what I said. I said that we have already stopped those cheques and the Board is investigating how they were issued.

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

**Mr. Mulusya:** Mr. Speaker, Sir, although the Minister has deliberately decided not to give me a written reply, I beg to ask Question No.675.

*Question No.675*

AWARDING OF POWER SUPPLY CONTRACTS

**Mr. Mulusya** asked the Minister for Energy:-

(a) whether he could table the contract documents between Westmont Power (Kenya) Limited, Ibera Africa Limited and the Government of Kenya for the supply of power to Kenya Power and Lighting Company (KPLC);

(b) whether he is satisfied that these contracts are for the benefit of the country and if so, why the tariff rates as quoted in the above two contracts were preferred to the tenders received from all other bidders;

(c) whether he could table all the other tender documents, and provide the House with the evaluation criteria for award of this contract; and,

(d) how much the KPLC and the Ministry have paid for power supplied by the two contractors.

**The Minister for Energy (Mr. M'Mukindia):** Mr. Speaker, Sir, the hon. Member is pre-empting what I am going to say. But through you, Mr. Speaker, Sir, I beg your indulgence and that of the hon. Member because the answer to this very important question is not ready. I will be ready to answer it tomorrow in the afternoon.

**Mr. Mulusya:** On a point of order, Mr. Speaker, Sir. The Minister is not sincere to me and the House. Yesterday, his Assistant Minister told me that the answer is ready. He said that he had discussed the answer with the Minister and decided that because of the weight of the Question, the Minister would answer it.

**Mr. Speaker:** That is irrelevant! What I would like to ask you is: Would you like to be answered tomorrow?

**Mr. Mulusya:** Mr. Speaker, Sir, I have no option! This is a very important Question which affects everybody in this country, including the Minister.

**Mr. Speaker:** Order! Hon. Mulusya, I have told you several times to keep the Chair out of your problems. The Chair must completely remain insulated from your problems. So, can we defer the Question to tomorrow afternoon?

*(Question deferred)*

**Mr. Obwocha:** On a point of order, Mr. Speaker, Sir. Since this Question was filed, I have got a threatening letter from the Permanent Secretary in the Ministry of Energy, Mr. Mutitu, that I should submit all the information that I have concerning the contract of Westmont Power (Kenya) Limited and Ibera Africa Limited. Why Obwocha? Is it because I alleged here that there is a lot of fiddling in this contract?

**Mr. Speaker:** Hon. Obwocha, I said that this Question was deferred to tomorrow, and you may participate. But like the House is asking, why you?

**Mr. Mulusya:** Mr. Speaker, Sir, I do not know whether I will live up to tomorrow because I have also been threatened!

**Mr. Speaker:** Order! Let us go on to the next Question.

*Question No.514*

RE-SETTLEMENT OF SQUATTERS IN EMBAKASI

**Mr. Ruhiu** asked the Minister for Lands and Settlement whether he could consider utilising land LR No.9042/179 in Embakasi for re-settlement of over 15,000 squatters who are currently living on private land at Maili Saba, Mukuru wa Njenga and Mukuru wa Reuben within the boundary of the City Council of Nairobi.

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

The land in question, L.R. No.9041/179 in Embakasi on which over 15,000 people are squatting in Maili Saba, Mukuru wa Njenga and Mukuru wa Reuben within the boundaries of the City Council of Nairobi is private land. It is owned by the National Social Security Fund (NSSF) for a term of 99 years. Therefore, it is not possible to settle any squatters on it, since it is a private land.

**Mr. Ruhiu:** Mr. Speaker, Sir, The Assistant Minister is answering a different question altogether. The land in question, LR No.9042/179 is in Embakasi village. We do not have any squatters on this land at all. The squatters he is referring to, that live in Maili Saba, Mukuru wa Njenga and Mukuru wa Reuben are 50 miles apart. I do not know the land he is referring to. Is it possible to request the Assistant Minister to go back and do a bit of homework? This is because the land in question is about 200 acres and belongs to an Asian and a Ugandan. The land was allocated to them by the Government in 1989, in complete disregard of the landless people in Embakasi. The land belongs to a company called Beta Enterprises, which belongs to an Indian and a Ugandan, who is a director of Mugoya Construction Company.

**Mr. Sumbeiywo:** Mr. Speaker, Sir, there is no need to go back and do more research. This is because this particular land, LR 9042/179, which measures 8.95 hectares used, to belong to Beta Investments Limited. They sold this land to NSSF, who registered it in their favour, for a term of 99 years, with effect from 1st May, 1988. The land was specifically allocated for residential development. The NSSF has submitted a sub-division scheme for proposals, which have already been approved for development of 2,036 residential houses, that is maisonettes and apartments. The proposed development will not only be a major development and contribution to our economy, but it will go a long way in alleviating the acute housing shortage in Embakasi and the City at large.

**Mr. Michuki:** Mr. Speaker, Sir, is the Assistant Minister aware that the people at Maili Saba are the poorest of the poor; and in between them and the NSSF, if anyone is to be assisted to settle in Njenga's Valley and Reuben's Valley - because that is what Mukuru means - it is them? They should be given priority in terms of pure shelter consideration.

**Mr. Sumbeiywo:** Mr. Speaker, Sir, while I appreciate the concern of the hon. Member, the land in question is not Government land. If it was Government land, the Ministry would consider settling the squatters who are currently landless. If and when land will be available, these landless people will be considered along with the other landless people.

**Mr. Ndicho:** This is a case where we have 15,000 Kenyans with the colonial name of "squatters". The Assistant Minister is not telling us, when these housing units will be put up, what he will do with them. I want to refer the Assistant Minister to a very recent Government directive. During the Kenyatta Day celebrations, the President, in his speech at Uhuru Park, directed that nobody in the slums will be removed and taken elsewhere. In view of that, could the Assistant Minister tell this House, since the NSSF bought the land when these people were squatting there, what the Government will do? Will the 15,000 people be taken to the moon, Mars or which planet?

**Mr. Sumbeiywo:** Mr. Speaker, Sir, I think hon. Ndicho was trying to say that the Head of State gave directives and not the "Government". When he says the "Government" made a statement, it is different from what the Head of State said.

Mr. Speaker, Sir, once the National Social Security Fund (NSSF) starts to develop this property which belongs to them, the Government is likely to settle them in an alternative land.

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

**Mr. Speaker:** Sorry, hon. Ndicho!

**Mr. Ruhiu:** Mr. Speaker, Sir, Beta Enterprises acquired that land in 1989. I have a copy of their title deed here. Initially, they borrowed workers' money to the tune of Kshs1.0 billion from the NSSF. Later, they borrowed Kshs65 million from Kenya Commercial Bank and another Kshs31 million. May I know when the NSSF acquired this land and for how much? May I further know---

**Mr. Speaker:** Too many questions!

**Mr. Ruhiu:** Mr. Speaker, Sir, may I also know if it is possible for the Government to settle these 15,000 squatters on land parcels LR No. 9042/179 and LR No.9042/218 belonging to Mugoya Construction Company, because the firm literally owns the whole of Embakasi Village?

**Mr. Sumbeiywo:** Mr. Speaker, Sir, those are too many questions at a time. I would say I have already answered the first one by stating that the Government will try and settle these squatters on this land. Consideration will also be given to settling these people in the plots that have been mentioned by hon. Ruhiu. But since those two plots are private land, it is not possible to settle the squatters there, unless the Government acquires them by way of buying them.

According to the records available in our office, the NSSF bought those properties from Beta Investments

with effect from 1st of May, 1988.

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

**Mr. Speaker:** Order, Ndicho! We have other Questions! Hon. Onyango's Question!

*Question No.690*

NON-PAYMENT OF TERMINAL  
BENEFITS TO DANIDA STAFF

**Mr. Onyango** asked the Minister for Labour and Manpower Development:-

(a) whether he is aware that the local Kenya staff employed by DANIDA, under the South Nyanza Afforestation Programme, whose services were terminated in 1995, have not been paid their benefits; and,

(b) if the answer to "a" is in the affirmative, when they will be paid their dues.

**The Assistant Minister for Labour and Manpower Development** (Mr. Komen): Mr. Speaker, Sir, I beg to reply.

(a) I am not aware.

(b) All the 82 Kenyan staff who were employed by DANIDA were paid their terminal benefits at the end of their contracts in March, 1996. The payments totalling to Kshs940,759.65 were paid to extension workers and Kshs877,000 to the casuals.

**Mr. Onyango:** Mr. Speaker, Sir, first, can the Assistant Minister tell the House why those people were paid only after taking the South Nyanza Afforestation Programme to court? Secondly, can he give us the names of the people who were paid? As far as I am concerned, they have not been paid.

**Mr. Komen:** Mr. Speaker, Sir, I cannot give the names but I have given the number of Kenyans who were paid their benefits. I have said 43 extension officers were paid the Kshs940,759.65. In total, there were 43 extension officers and the casuals were 39.

**Prof. Ouma:** On a point of order, Mr. Speaker, Sir. The Assistant Minister says that the people have been paid, but hon. Onyango says they were not paid. I think it is only reasonable to ask the Assistant Minister to go back and bring to this House, a list of those who were paid so that hon. Onyango may be satisfied whether they were all paid or if some were left out. I am asking the Assistant Minister if he could go and bring the list of those who were paid so that hon. Onyango can verify whether they are the real people or there are others still not paid. Otherwise, how do we believe him?

**Mr. Komen:** Mr. Speaker, Sir, hon. Onyango has not denied that there were 82 workers in all. I have said 43 of them were extension officers and 39 were casuals.

**Mr. Onyango:** Mr. Speaker, Sir, I think the Assistant Minister is trying to avoid answering my questions. The first question I asked him was why were those people paid only after taking DANIDA to court? Secondly, as far as I am concerned, some of the people have not been paid. Why have they not been paid? A good example is one of the workers who recently complained to me that he has not been paid up to now. So, because of that recent complaint, I am demanding that he brings the list here to confirm whether he was paid or not.

**Mr. Komen:** Mr. Speaker, Sir, only one employee, Mr. John Owino Omolo, went to court and the matter was settled outside the court. Some of the ex-employees were unhappy with their final dues, because all the outstanding imprests were recovered from their terminal benefits.

*Question No.700*

PAYMENT OF CO-OPERATIVE SAVINGS TO MR. MOSETI

**Mr. Obwocha** asked the Minister for Co-operative Development when Mr. Peter M. Moseti, Membership No. 00457, who was a member of Nyayo Bus Savings and Credit Co-operative Society, will be paid the balance of his savings.

**The Assistant Minister for Co-operative Development** (Mr. Titi): Mr. Speaker, Sir, I beg to reply.

Mr. Peter Moseti, Membership No.00457, who was a member of Nyayo Bus Savings and Credit Co-operative Society, will be paid the balance of his savings after the liquidator, appointed by the Commissioner for Co-operatives, will finalise the report.

**Mr. Obwocha:** Mr. Speaker, Sir, the answer the Assistant Minister has given me is that Mr. Moseti will be

paid the balance of his savings "if any". I want to tell him that there is money due to this man. His savings, and I have his contribution card, here, amounted to Kshs20,500. But he was only paid Kshs9,225 through cheque No.291488 dated 22nd October, 1996.

**An hon. Member:** Table the documents!

**Mr. Obwocha:** Mr. Speaker, Sir, therefore, there is a balance of Kshs11,275 outstanding, which is due to that man. Could the Assistant Minister tell this House how long it is going to take for the liquidator to complete the job of liquidating this society and when they are finally going to wind up the Nyayo Bus Corporation, so that other workers can be paid?

*(Mr. Obwocha laid the documents on the Table)*

**Mr. Titi:** Mr. Speaker, Sir, I agree with the hon. Member that Mr. Peter Moseti has been paid a sum of Kshs9,225 but at the moment, I do not think the society has money because they have a problem. When the Nyayo Bus Corporation was placed under receivership in 1995, all the employees were also declared redundant. So they are not working and they still have a problem. Even the officials cannot be traced at the moment. The members are there but the officials have disappeared. What the Minister has done is to appoint a liquidator and I think as soon as he finishes the report-- I would not promise how soon, but I know he is going to start his work soon.

**Mr. Obwocha:** Mr. Speaker, Sir, we passed the Co-operative Societies Act Cap 490, here recently. There should be no reason why any member of a SACCO Society should fail to be paid his dues because the guarantors are there and the shares are there. Therefore, these people should be paid. There should be no question of any money not being paid. In fact, in the new Act, you can sue those people who have taken loans from the society but have not repaid them back, so that other members could be paid. Now, could the Assistant Minister assure this House that this man will be paid the balance of his dues, including interest?

**Mr. Titi:** Mr. Speaker, Sir, I appreciate what the hon. Member is saying, but we shall do the best we can to see that this man is paid. The first thing is that we are going to ensure that all the assets of the society are disposed off by way of sale, so that we can get some money to pay this man back his dues.

*Question No.542*

ATTACK ON MR. ONDIEKI BY CHIEF

**Mr. Anyona** asked the Minister of State, Office of the President;

(a) whether he is aware that the Chief of Gachuba Location in Kitutu Masaba, assaulted Mr. Daniel Ondieki Oweno on 10th March, 1997 without lawful cause, thereby occasioning him actual bodily harm;

(b) whether he is further aware that the complainant obtained a P3 Form from Keroka Police Station and was treated for injuries arising from the assault at Kisii District Hospital on 11th March, 1997 (OP 15671/97); and,

(c) in view of the seriousness of this case and the chief's refusal to obey lawful summons from the OCS of Keroka Police Station dated 21st April 1997, to report at the police station on 23rd April, 1997, what criminal and disciplinary measures the Minister will take against the chief for the assault and disobedience of lawful summons.

**The Assistant Minister, Office of the President** (Mr. Sunkuli): Mr. Speaker, Sir, I beg to apologise for not having answered this Question when it was called for the first time. Having said that, I wish to reply.

(a) I am aware that a report was made to Keroka Police Station by Mr. Daniel Ondieki Oweno against Chief Hudson Bosire of Gachuba Location, that the chief had assaulted him on the 10th of March, 1997 at Rigena Sub-Location.

(b) I am aware.

(c) The chief went to Keroka Police Station and made a statement as instructed on 8th May, 1997. He has, therefore, co-operated with the police.

**Mr. Anyona:** Mr. Speaker, Sir, I do not know why this Assistant Minister chose not to give me a copy of the written answer, and I do not know what that answer means. Here is a man who has committed an offence. A Chief assaults a citizen unlawfully, and when he is told to go and report he refuses and has to be compelled to do so. This is the same chief who was involved in the murder of the late Prisca Mang'era, according to the Question I asked here the other day. In fact, as we are sitting here, this chief does not live in his home. He is an outcast! The society does not want him! Could the Assistant Minister tell us what he is going to do about this chief given his notoriety?



**An hon. Member:** Sack him!

**Mr. Sunkuli:** Mr. Speaker, Sir, after receiving this answer and looking at it really deeply, the fact that this offence was committed in March and the chief only went to record a statement in May and the fact that the file has just been forwarded to the office of the Attorney-General, does not satisfy me about the particular action I should have taken. I wish to beg the hon. Member that this Question be brought next week, so that I may be able to investigate and determine what action to take.

*(Question deferred)*

### QUESTIONS BY PRIVATE NOTICE

#### NON-PAYMENT OF SALARIES BY KAKAMEGA MUNICIPAL COUNCIL

**Mr. Magwaga:** Mr. Speaker, Sir, I beg to ask the Minister for Local Government the following Question by Private Notice.

(a) Is the Minister aware that employees of Kakamega Municipal Council have gone for ten months without pay?

(b) Is he also aware that councillors in this municipality have declared themselves revenue collectors and have subsequently been paying themselves?

(c) If the answers to "a" and "b" are in the affirmative, what action is the Minister taking to alleviate this problem?

**The Assistant Minister for Local Government (Dr. Wameyo):** Mr. Speaker, Sir, I beg to reply.

(a) I am aware that the Kakamega Municipal Council has unpaid part monthly salary arrears for eight months only. Out of these, four months fall in 1996, while the other four fall in 1997.

(b) I am not aware.

(c) The council has appointed a task force whose aim is to strengthen the revenue collection system and also identify revenue defaulters and other revenue sources. That task force has completed its work and the council is currently implementing the findings with a view to improving its revenue base which will further boost its activities including payment of salaries and salary arrears.

**Mr. Magwaga:** Mr. Speaker, Sir, this is a very unfortunate answer because the workers in Kakamega municipality are in a desperate situation and they do not have someone who can tell the Ministry of Local Government that they are suffering.

**An hon. Member:** What about you?

**Mr. Magwaga:** The fellows who are supposed to be the trade unionists have deserted these workers in the Municipality. It is not an indication of good faith for the Assistant Minister who also hails from Kakamega, to read the answer he has been given and mislead the House that the workers have not been paid for ten months.

**An hon. Member:** Eight months!

**Mr. Magwaga:** Mr. Speaker, Sir, eight months are almost the same as ten, so I am right to say that these people have not been paid for ten months. When are these people going to be paid their eight months salary?

**Dr. Wameyo:** Mr. Speaker, Sir, that is very simple. When funds become available!

*(Laughter)*

**Mr. Akumu:** Mr. Speaker, Sir, is the Assistant Minister aware that it is not just Kakamega, but 48 county councils and municipalities, Mombasa and Nairobi included, that have not paid their workers for nine months or even one year? What is he doing to work on a comprehensive payment for these people before elections?

**Dr. Wameyo:** Mr. Speaker, Sir, in this Question, I am made aware about Kakamega Municipality. I am not aware of Mombasa and others.

*(Laughter)*

**Dr. Lwali-Oyondi:** Mr. Speaker, Sir, the Assistant Minister is aware that there is a lot of corruption going on in the municipalities, thereby not leaving enough money to do the rightful duty. What is he doing to make sure that corruption and embezzlement of public funds is not done by the executives, particularly the Town Clerks?

**Dr. Wameyo:** Mr. Speaker, Sir, I will act when I become aware.

*(Laughter)*

**Mr. Nyagah:** The issue of the payment to councillors is one that the Assistant Minister is aware of. He may deny it here but he is aware of it. Could he tell us what the revenue state is like for Kakamega Municipal Council? Could he also tell us something about the expenditure and the number of employees and whether the Municipality is capable of paying them? Could he also tell us what makes it so difficult for that particular Municipality to pay its workers?

**Dr. Wameyo:** Mr. Speaker, Sir, the council collects approximately Kshs1.5 million per month, while personal emoluments budget is Kshs2 million per month, thus leaving it with a deficit of Kshs0.5 million. Out of that, Kshs1.4 million is collected from Service Charge. The council has 347 employees.

**Mr. Magwaga:** Mr. Speaker, Sir, could the Assistant Minister tell this House when the Ministry is, going to post a clerk to the Kakamega Municipality? The problem is mainly administrative. You will find that the Treasurer is doubling as the Clerk to the municipality. I do not see why he is denying that councillors are collecting revenue. The councillors are collecting revenue and they have paid themselves up to date.

**Dr. Wameyo:** Mr. Speaker, Sir, the councillors are not employees of the municipal council and, therefore, they cannot be employed to collect revenue and at the same time pay themselves.

Mr. Speaker, Sir, I was not aware that Kakamega Municipal Council does not have a clerk. Now that the hon. Member has made me aware, I will find out from the office when a clerk will be posted there.

**Mr. Speaker:** Very well, next Question, Mr. Alphonse Musyoki.

COLLAPSE OF MACHAKOS DISTRICT  
CO-OPERATIVE UNION

**Mr. Musyoki:** Mr. Speaker, Sir, although this is the third time I am asking this Question, the Minister has not given me a written reply.

However, I beg to ask the Minister for Co-operative Development the following Question by Private Notice.

(a) Is the Minister aware that the Machakos District Co-operative Union is insolvent and that members who belong to its ancillary banking sector are owed thousands of shillings by the said bank?

(b) If the answer to "a" is in the affirmative, what action is the Ministry taking to ensure that all members who have not yet been paid their dues are paid promptly?

**The Assistant Minister for Co-operative Development (Mr. Titi):** Mr. Speaker, Sir, I beg to reply.

(a) I am aware.

(b) The Ministry appointed an arbitrator in 1995 to arbitrate on the dispute between the union and the indebted affiliated societies in an endeavour to recover the money owed to the members. The ruling was in favour of the union and the indebted societies were given up to 19th May, 1997 to pay the debts.

**Mr. Musyoki:** Mr. Speaker, Sir, the Assistant Minister has not given a specific answer on how much money the members are owed by the union. So, could he tell us how much money is owed by the union in respect of the ruling which was made in its favour? As of now, it is indicated in the depositors' cards of the members of the society that they are owed by the union a lot of money, to the tune of Kshs.20,000.00 or Kshs30,000.00 per member, yet their children are at home due to lack of school fees. They have not been paid their money since 1995. Could he tell us how much money they are supposed to be paid by the union?

**Mr. Titi:** Mr. Speaker, Sir, the union banking sector was closed down in January, 1993 and at the time, it was owed by the societies Kshs72,105,339.30 which was members' deposit. The money was given out by the union to the affiliated societies in form of agricultural inputs such as fertilisers, school fees, loans and foodstuffs. The problem is in the collection of the money from the members who were the beneficiaries. Some societies, particularly in the coffee zones, have repaid about Kshs8 million, but we still have a problem with those in the cotton zones which have not paid any money. The Ministry is trying to educate them so that they can repay the loan, so that other members can benefit.

**Mr. Musyoki:** Mr. Speaker, Sir, you can see how the Assistant Minister is lying to this House. He has now accepted that the members of the society---

**Mr. Speaker:** Mr. Musyoki!

**Mr. Musyoki:** I apologise, Mr. Speaker, Sir. You can now hear the Assistant Minister---

**Mr. Speaker:** Order, Mr. Musyoki! You do not only have to apologise, but you must first of all withdraw

and then apologise.

**Mr. Musyoki:** Mr. Speaker, Sir, I withdraw and apologise.

The Assistant Minister has misled this House. In the first place, he said that there is no money that the members of that society are supposed to be paid by the union banking sector. Secondly, he has said that members are supposed to have been paid Kshs72 million. Could he tell us what his Ministry is doing to have this money paid back to the depositors because some of the members benefited from the money while the others did not? What action is the Ministry taking to ensure that this money is paid in the shortest time possible?

**Mr. Titi:** Mr. Speaker, Sir, I have given the hon. Member the information, I have in the file, but if he has more information he can give it to the Ministry. I have given the true position of the matter and as you can see, we are not directly responsible for this mess. It is the societies which are messing up their affairs through mismanagement. I have said that there was a dispute between the union and the societies which the Commissioner of Co-operatives arbitrated and the ruling was made in favour of the union. So, the matter is squarely on the societies themselves because they have not paid the money which they were loaned. So, it is up to hon. Musyoki to assist the Ministry in educating the members who have not repaid their loans on the importance of doing so, so that we will be in a position to pay others.

**Mr. Speaker:** Time up!

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

**Mr. Speaker:** Order, Mr. Musyoki! I have been very generous to you, Mr. Musyoki, to the extent of going into business time by about six minutes. I think you must respect when the Chair says that your time is up. The phrase "Time up" means that Question Time is over.

#### POINTS OF ORDER

##### DISTRIBUTION OF LEAFLETS IN RIFT VALLEY PROVINCE

**Mr. J.N. Mungai:** Mr. Speaker, Sir, I rise on a point of order to seek a Ministerial Statement from the Minister of State, Office of the President, in charge of Internal Security, with regard to the leaflets now being distributed in Molo Constituency and Rift Valley Province in general, warning all the non-Kalenjins residing in the Province to vacate that place by 26th October, 1997. That was last Sunday. These leaflets have left the people very scared and they feel that a repeat of the 1992 tribal clashes is in the offing.

The people are so worried and we would like the Minister to assure the residents of Rift Valley Province that they are safe, including the Kalenjins themselves. We do not know whether this is the work of inciters who are against the new spirit of peace amongst the people who co-exist in the Province or what is happening. It is so sad that all that time, nobody has been talking about peace in Rift Valley Province and nobody has even brought those people as close as the leaders of that province have done, particularly leaders from Molo Constituency. These leaders have worked out ways of bringing peace in that place. In view of all that, we are now seeing new inciters distributing leaflets as if they do not know the repercussions of inciting the general public in that area.

Mr. Speaker, Sir, I am, therefore, calling upon the Minister to make sure that everything goes on uninterrupted. He must make sure that whoever is involved in the writing and distribution of those leaflets is brought to book. He must also not allow anybody, regardless of his status, whether untouchable or touchable in this country--- We must not let them get away with it. The Minister must make sure that those people are brought to book.

##### CIVIL WAR THREAT

**Dr. Kituyi:** On a point of order, Mr. Speaker, Sir. My attention has been drawn to the reports by a section of the daily Press today, where a section of Kenyans have been saying that, if the Government does not extend the life of the current Parliament, there is a major threat of a civil war taking place. I wanted to get a Ministerial Statement from the relevant Minister, to tell this House: Since some of us went into the IPPG precisely to ease tension and to exclude the possibility of civil strife in Kenya, what is he going to do to assure us that we are not headed for civil war? Is he extending the life of Parliament, or is he importing more anti-riot gear? What security do we have?

##### FLOOD SITUATION AT THE COAST

**Prof. Mzee:** On a point of order, Mr. Speaker, Sir. I would like to request, once again, the Minister of State, Office of the President, to give a Ministerial Statement on the flood situation at the Coast, and in particular, now that His Excellency President Moi has declared that place a disaster area. In his statement, I would like the Minister to state what this declaration of disaster means; what facilities will be available to help these people, because the Kshs2 million paid is just dismal, compared to the amount of money amounting to Kshs1 billion required to return the

situation back to normal.

#### INSECURITY IN WEBUYE CONSTITUENCY

**Mr. Busolo:** On a point of order, Mr. Speaker, Sir. I rise on a point of order to demand a Ministerial Statement from the Minister in charge of Internal Security regarding the very bad security situation prevailing in Webuye Constituency. In the recent past, both Webuye Town and its peri-urban areas have been centres of violent robberies. In a few areas, most of those robberies have involved people who wear police overcoats. In a recent incident at Kimoi Market, a shopkeeper who was attacked discovered that the attacker was an off-duty police officer from Webuye Police Station. Because of that, the people of Webuye are very much worried about the police officers at Webuye Police Station. Actually, Webuye Police Station is more of a den of thieves than a station of officers who are charged with the duty of maintaining law and order.

#### RENT PAYMENT IN SHAURI MOYO ESTATE

**Mr. Nthenge:** On a point of order, Mr. Speaker, Sir. I rise for the third time to demand a Ministerial Statement from the Minister for Local Government, who promised this House that he was going to make a Statement on the issue of Shauri Moyo tenants who used to pay their rent to the Nairobi City Council and somehow cunningly, they were told to pay it through agents who charged whatever they felt like. When the matter came into this House, the Ministry ordered that everything should revert to the old system where they paid directly to the Nairobi City Council. It went on for a few years and it changed again. Now they are told to pay at the rate determined by the agents. The agents are even threatening to evict them from the houses. The buildings in Shauri Moyo, which belong to the Nairobi City Council, are older than I am. When will the Minister make a Ministerial Statement?

**The Assistant Minister for Local Government (Dr. Wameyo):** Mr. Speaker, Sir, it is true that the Ministry promised to give a statement and the head tenants went to court and the court ordered a change in the decision that had been taken so that the sub-tenants would not pay directly to the Nairobi City Council but should retain the *status quo*. Now the matter is *sub judice* because Nairobi City Council has taken the matter to court and we are also dealing with it. We met with the hon. Member for Kamukunji in my office and we arranged for another meeting on 21st October, to sort out the matter but certain officers were not present. When I rung my office this afternoon, I was told that the lawyers with whom we are supposed to discuss this matter, were out in another function, but they will be available next week. I would like to advise my hon. colleague that we will discuss the matter again. I did not want it to spill out because it is before the court. We want to come to some understanding. So, the Ministry's lawyer and the Nairobi City Council's lawyer are still not available, but by next week they will be available. I have been assured of this by the Permanent Secretary. So, I would plead with the hon. Member to wait for a while. We are going to sort out the matter.

#### CONFLICT BETWEEN THE KURIA AND THE LUO

**Mr. Achola:** On a point of order, Mr. Speaker, Sir. On 14th October, 1997, I requested for a Ministerial Statement regarding the conflict that is currently existing between the Kuria and the Luo people. Hon. Awori promised that he would make a Ministerial Statement on Thursday last week, but he never turned up and up to this moment, we do not know what is the situation. I would like this statement to be made by tomorrow because houses continue to be torched and life continues to be lost.

Thank you, Mr. Speaker, Sir.

**Mr. Speaker:** Mr. Sunkuli, do you want to respond to all of them?

**The Assistant Minister, Office of the President (Mr. Sunkuli):** Mr. Speaker, Sir, I just want to make a commitment that, with respect to the statements requested for by Messrs. Njenga Mungai, Prof. Mzee, Busolo, Achola, together with another one by the hon. Member for Rongo, we shall issue a statement on these matters as soon as possible. I will also issue a statement dealing with the question of the NCEC comments. I would like to say straightaway, of course, that the Government does not intend to ask for the extension of the life of Parliament. If the hon. Member is requesting whether the Government has taken cognizance of the fact that NCEC intends to cause civil war and the measures the Government is going to take, that will also be addressed in a statement.

#### BILL

#### THE CONSTITUTION OF KENYA (AMENDMENT) BILL

*Second Reading**(The Attorney-General on 15.10.97)**(Resumption of Debate interrupted on 28.10.97)*

**Mr. Speaker:** Mr. Mwiraria was on the Floor! finish and I will not take long.

**Mr. Mwiraria:** Mr. Speaker, Sir, I was just about to

Mr. Speaker, Sir, yesterday, before the House adjourned, I had spoken about the implementation of the IPPG recommendations and specifically, raised the issue of insecurity in this country. I had expressed concern over one issue, that is, the use of ex-servicemen in the on-going mayhem down at the Coast. We were informed officially that 30 of the people who were initially arrested were all ex-servicemen. I had gone on to ask the Government to assure the country, that there is not going to be recurrence of what is happening down at the Coast. Specifically, I had stated that, of late, there has been training of ex-servicemen, some of whom had been sacked from the service for misdemeanour or misconduct. In North Imenti, people have been going around in four-wheel drive vehicles asking ex-servicemen to be recruited into a force, but they are not told what it is. Those who have refused to be recruited have been threatened, but some have accepted and gone for training at Magadi GSU Training Centre.

Mr. Speaker, Sir, the question that I would like to pose to the Government is: What could these ex-servicemen, who had been dismissed under dubious circumstances; and who had been sacked for misconduct, be trained for? We know that *Jeshi la Mzee* has had a very good record, because they were picked from the service and trained properly. But what are these people - I do not want to call them criminals - being trained for? Could the Government assure us that they will not be used to cause mayhem like what is happening down at the Coast?

Mr. Speaker, Sir, I had just started mentioning the second point, that is the use of old identity cards. This is in relation to the expanded Electoral Commission. I am sure one of the reasons why the IPPG wanted the Electoral Commission expanded, to include ten members chosen by the Opposition, was to ensure that the Electoral Commission operates properly. I would like to inquire about the Government's intention in recovering the old identity cards and taking them back, because, we are hearing stories which are rather disturbing. Before, when the Government changed the old identity cards or passports, they always defaced the old ones and handed them back to the owners. They did not collect the old ones before defacing them. But the story making the rounds is that, these old identity cards are being used to prepare lists which are being---

**Mr. Speaker:** Mr. Mwiraria, those are rumours which are not acceptable in debate. We debate facts only!

**Mr. Mwiraria:** Mr. Speaker, Sir, let me then give facts. Identity cards which have been collected from people have been picked up at the Jomo Kenyatta International Airport. Some of them were picked up by people who thought, maybe, somebody had lost their cards and, therefore, they have eventually found their way back to the owners. I have exhibits which I can produce and lay on the Table.

Mr. Speaker, Sir, the question is: What were those cards doing at Jomo Kenyatta International Airport, when they had already been collected at Giaki Location in Meru District, North Imenti Division? The reason why I am posing this question is because we understand that the computer being used to prepare the voters' register, is defective and they cannot retrieve the information from it. But even more worrying, it is being used to amend the voters register by bringing names and putting them in registers. You could even find a David Mwiraria in a district where people by the name Mwiraria do not exist. So the question is: Could those identity cards be used to blow up the voters list and increase the number of voters in preferred or favoured districts?

Mr. Speaker, Sir, the other point is: I personally feel that the computer team needs to be strengthened.

**Mr. Speaker:** Could you do us a favour, Mr. Mwiraria? Having expressed your fears about the election, could you come back to the Bill?

**Mr. Mwiraria:** Mr. Speaker, Sir, I am talking about the Electoral Commission's work. I am suggesting that the first question the expanded Electoral Commission should address is one of ensuring that the list is not expanded and misused. They should also ensure that the old identity cards are not misused to interfere with the voters' roll. I am sorry if I did not make it clear.

**Mr. Speaker:** Very well! Proceed!

**Mr. Mwiraria:** Mr. Speaker, Sir, the computer seems to have problems. Maybe, it is a systems problem and I was suggesting that the Electoral Commission also addresses the question of getting better operators for the computers. One of the problems, I was made to understand, is that, most of the operators are village-mates of Prof. Maritim, who is the boss of the computer team. We, perhaps, need a little bit of Kenyan face to the computer team at the Electoral Commission.

Mr. Speaker, Sir, the last point that I would like to make, because I was really concerned with the

implementation of the IPPG reforms, is that since the agreement was reached, there have been numerous instances of Members of Parliament from both the Opposition and the ruling party, being subjected to harassment by the Provincial Administration. I think the Government, at the very minimum, as a gesture of goodwill, should direct civil servants that changes have come and they should keep out of politics altogether. I hope that this will happen.

Mr. Speaker, Sir, another point of concern, and this is, perhaps, one of the many reasons why I would like the life of Parliament to be stretched to the limit, but not extended, is that, last weekend, we had a gazette - which I have not seen but I understand is there - of new locations. In North Imenti, there are 15 additional locations. For us to really do a good job, we need a bit of time to scout around for people who will stand for the elections. I am sure this applies to all parties with the exception of, maybe, KANU, because it seems they knew what they were going to do. They had told us earlier that there were going to be no changes. When people registered as voters, they did not expect the new locations for voting to be available. At the moment, we have people who had sought nomination for locations which have since been abandoned. These people will have to adjust themselves. In fact, some of them cannot even vote for themselves. Having listened to the questions the Minister for Local Government was asked earlier, one wonders where the Government intends to get the money to pay the over 1,000 additional councillors for the additional wards it has created, when the local authority systems are in shambles. The Ministry of Local Government is in a complete mess. Many employees of some municipal, town and urban councils have not been paid their salaries for some months, and yet, some local authorities will now have more than double the current number of councillors.

Mr. Speaker, Sir, I wish to say that I am ready to support this Bill only if, first, the ten Electoral Commission Members whose names are to be presented to His Excellency the President by the Opposition parties for appointment, are appointed before the Bill is brought in this House for voting.

Secondly, Mr. Speaker, Sir, I will support this Constitution of Kenya (Amendment) Bill only if the Statute Law (Repeals and Miscellaneous Amendments) Bill will be assented to before we vote on this Bill.

**Mr. Speaker:** I think you said all that yesterday. You are repeating yourself!

**Mr. Mwiraria:** No! Mr. Speaker, I did not give this emphasis. I have only one point remaining before I take my seat. Maybe, you can bear with my voice for one more minute.

**Mr. Speaker:** Just a moment, Mr. Mwiraria! Order! Mr. Mwiraria, I bear with the voices of all hon. Members I have been with for the last five years. The only thing I do not bear with is repetition.

Proceed!

**Mr. Mwiraria:** Mr. Speaker, Sir, I did not intend to show any disrespect to the Chair. My last point, which I am absolutely sure I never raised yesterday is that once again, I am willing to go along and vote for the Bill only if the election timetable is released. According to the records of the IPPG, the election timetable was to be agreed upon by the Electoral Commission, the ruling party, KANU, and the Opposition parties. The kind of statement which was made by the hon. Kamotho over the weekend is very scaring. In fact, it makes us wonder whether the Government is genuine about the IPPG proposals.

With those few remarks, I would like to stop there.

**The Assistant Minister for Information and Broadcasting (Mr. Nassir):** Bw. Spika, mimi pia ninawapongeza wale Wabunge wenzangu ambao wanataka amani katika nchi hii yetu ya Kenya. Wale waliohusika katika majadiliano ya IPPG walifanya hivyo, ili sisi pamoja na watoto wetu tukae kwa amani na tujivunie nchi hii yetu ya Kenya kama watu waliopigania Uhuru kutoka kwa mkoloni.

Ninawashukuru hao Wabunge sana kwa hatua walioichukua, kwa sababu kidesturi, watu wangepikizia kuwa kazi yetu sisi Wakenya ni kuteta tu. Leo, hatungesikilizana wala kuambiana mambo ya manufaa kama hao Wabunge hawangechukua hatua hiyo. Kwa hivyo, ninawashukuru tena Wabunge wote waliohudhuria mkutano kati ya chama cha KANU na vyama vya Upinzani. Wote wametoa maoni mazuri sana. Wamezungumza kuhusu machifu na polisi. Ningependa kuwaambia Wakenya wanapotembea barabarani wajione kwamba wako huru kwa sababu misako mingine inayofanywa na polisi si ya heshima kwa Wakenya. Wakenya wanastahili kujihisi huru katika nchi yao; wamezaliwa hapa, iwe ni Kisumu, Nyeri au Mombasa. Si ajabu kusikia eti kwa sababu kuna shaka fulani, kuna msako na watu wengi wanakamatwa na kukaa katika kituo cha polisi mpaka asubuhi. Kama yule polisi, ni mwanaye, nduguye ama babaye aliyefanyiwa hivyo, angefurahi? Ni heri kuwe na sheria za kumshika mtu.

Polisi siku hizi wanaweza kuingia nyumbani mwa mtu wakaichungua nyumba hiyo bila ya cheti cha kufanya hivyo. Huwa hawana hata barua inayowaamuru kufanya hivyo mathlan, mnashaka fulani. Wanaingia ndani ya nyumba, wanamkamata mtu na kumusingizia mambo mengine ambayo si ya haki.

Bw. Spika, kawaida, mlevi hashikwi kwa sababu amelewa. Hushikwa tu akivunja sheria kama vile akipiga mtu, akitukana mtu au akikosa adabu. Lakini ajabu ni kwamba mtu hushikwa na polisi, hupelekwa kortini, halafu hakimu humuuliza mshatikiwa: "Je, wewe umelewa?" Kwa sababu mshatikiwa anaogopa kupelekwa rumande hadi siku ya pili, anajibu: "Ndio, mheshimiwa". Hapo mshatikiwa anatozwa faini ya Kshs200.

Kawaida, maofisa wa polisi wanatakiwa wawapeleke washukiwa kortini wakiwa na barua ya daktari

inayothibitisha kwamba washukiwa hawa walifanyiwa ukaguzi uliothibitisha kwamba waliposhikwa walikuwa wamelewa na hawakuwa na adabu. Watu wengine hushikwa wakitoka misikitini saa 11.00 alfajiri. Haya ni baadhi ya mambo yanayofaa kuangaliwa zaidi, si mambo ya siasa peke yake; mambo yatakayomfanya Mkenya aone raha.

Bw. Spika, nimeshuhudia mambo mengi yakifanyika na ningependa Wakenya wafahamu kwamba hakuna tena mtu mwoga humu nchini. Hata Baniani wa Kenya si mwoga tena. Mhindi wa Kenya pia si mwoga. Kwa hivyo, tabia ya watu waache kutisha wenzao ni lazima ikome. Hakuna mtu anayetaka kutishwa kila mara. Kila ukisoma gazeti asubuhi habari ni: "Ikiwa Serikali haitafanya hivi, tutafanya hivi". Hawa ambao wako sasa waliiona Serikali ya Mwingereza. Kwa hivyo, taratibu za mtu aliye katika usukani huwa nini? Huweza kumtisha. Chambilecho buku moja la mkuruma lasema: "Mtu akiwa ndani ya kiti cha ufalme si rahisi kumtoa kwa kumtisha; labda kwa bunduki."

Kwa hivyo, hawa watu wanaotisha wenzao waende kule wanakofikiria kuna waoga. Lakini Wakenya tumeshatambulika. Katika kila wilaya na mkoa hakuna waoga. Tuko katika hali ya kuweka amani. Utapata kwamba mtu amesoma hata akawa profesa au askofu, anafahamu sheria vizuri lakini anazungumza lugha kama mtu ambaye yuko barabarani tu, lugha ya kutisha wenziwe. Watu kama hawa waje washiriki katika uchaguzi mkuu ujao ili watengeneze Katiba yetu mpya ambayo itawasaidia Wakenya wote. Hatuna wivu tena. Watu wengi hawataki tufanye uchaguzi kwa sababu wanaogopa. Ni kama mtu kuogopa kufa. Mtu ataogopa kufa na hali ni lazima atakufa; anaogopa kufa kwa nini? Twende, kufa utakufa tu siku moja!

Bw. Spika, ningependa kusisitiza kwamba mwendo wa kutishana na kutupiana maneno machafu si mwendo mzuri. Wale ambao ni marafiki na wale wanaotukana wenzao sana na kujionyesha kwamba wao ni mashujaa wawaambie kuwa huo si mwendo mzuri. Mnawafanya Wakenya wazuri wawe na tabia mbaya kama hiyo na ikishakuwa hivyo, Wakenya watakuwa kama simba ambao wako tayari kuuana. Ikiwa hivyo, sijui wanadamu wataishi namna gani.

Kwa hayo machache, naunga mkono Mswada huu.

**Mr. Murungi:** Thank you, Mr. Speaker, Sir. Let me say at the very outset that I would like to support this Bill, subject to only one qualification; that, the ten commissioners who were to be appointed by the Parliamentary Opposition Parties should be appointed by the President before we vote on this Bill. If the ten commissioners are appointed, then we shall mobilise our people, as much as possible, to make sure that this Bill sails through the House comfortably.

*(Applause)*

Mr. Speaker, Sir, the Constitutional Amendment Bill has generated a lot of debate both inside and outside this House. Much of the debate has been characterised as a debate between NCEC and IPPG. I would like to correct the impressions that are being created in that debate. The debate about the constitutional reforms is not between IPPG and NCEC. This is a debate between Opposition Presidential candidates in NCEC, some of whom have not declared their interest, and Opposition Presidential candidates within IPPG. It is those two groups that have generated all this heat and the debate that we hear around.

There are some things that we have heard; for example, that hon. Kijana Wamalwa did not go to Oxford University which have nothing to do with these reforms. What we heard, that hon. Kibaki is a tribalist, has nothing to do with these reforms. Today, you saw in the Press that all the Opposition Presidential candidates Charity Ngilu, Mwai Kibaki, Wamalwa Kijana and Martin Shikuku - have been accused as being obstacles to democracy by NCEC. The question is: If, according to the NCEC, we have no suitable Opposition Presidential candidate, who is the Opposition Presidential candidate or who is the NCEC Presidential candidate who they are supporting during the elections whenever they are called?

Mr. Speaker, Sir, the role of the NCEC, as civil society, seems to be getting confused by the day. What distinguishes civil society from political parties, is that, a civil society does not seek to capture political power. The role of the civil society is to exert pressure or to try to influence the existing Government and the leaders of the day so that they can change their minds and act in certain ways. That is the proper role of the civil society.

It is the role of political parties to seek to replace a Government and to capture political power. As it is now, the NCEC's agenda is not quite clear. We do not know whether they are trying to influence us to change or whether indeed, as they are threatening to do, or they intend to capture political power. If they intend to capture political power, then they cease to operate in the realm of a civil society and become a political organisation. They will need to seek registration as a political party to carry on a political programme.

Mr. Speaker, Sir, I believe that the package we negotiated, as IPPG, is an excellent package. In fact, we are only being accused of not removing Mr. Justice Chesoni and not introducing the 50 per cent requirement as recommended by the NCEC. The question I have always been asking my colleagues in NCEC is: Supposing it is the NCEC which went to the negotiating table, bearing in mind that every negotiation is based on the principle of give and

take; what would they have given? For us, we are accused of having given in on these two items. About over 80 per cent of what was being requested by NCEC was granted. So, I still want to put the question to them. I want them to tell Kenyans, if they were on the negotiating table, what would they have given, if those negotiations took off between the NCEC and KANU?

Mr. Speaker, Sir, there has been a lot of propaganda about this reform issue. I think a lot of our good points have been lost in this propaganda war. For instance, there are certain generalisations, one being that the Constitution of Kenya (Amendment) Bill, which we negotiated as the IPPG, has increased the Presidential powers beyond the powers that the President has under the Constitution. I would like to challenge all the lawyers in the NCEC to read the Constitution of Kenya (Amendment) Bill and tell us which clause indicates that the Presidential powers have been increased beyond those contained in the current Constitution. If they do not find that clause, then they should stop misleading Kenyans about the contents of this Bill.

We, indeed, addressed ourselves to the two issues that are being criticised. That is the 50 per cent rule and the Electoral Commission. With regard to the 50 per cent of votes rule, the request was that, in addition to the current rule of 25 per cent of votes in five provinces out of eight provinces, we put an additional requirement. The presidential candidate should be required to get 50 per cent of the total number of votes cast in the general election. That is what we took to the negotiating table as Opposition Members of IPPG.

What Kenyans have not been told is what the KANU position was at the negotiating table regarding the 50 per cent of votes rule. That issue has not come out and I would like to raise it now.

Mr. Speaker, Sir, the KANU position was expressed during the negotiations. In fact, KANU did not insist on us retaining the 25 per cent of votes rule in five provinces. The KANU position was that, since we have parliamentary democracy, we should use the rule which is applicable in constituencies. This was to ensure that the candidate with the highest number of votes becomes the President without the requirement that he should have 25 per cent of the votes in five provinces. We debated these two positions and came to the conclusion that, given the complex nature of our country, for the time being, it is better for us to let the 25 per cent of votes rule remain as it is. This is because neither KANU nor the Opposition Parties have a monopoly of benefiting from the 25 per cent rule.

If President Moi can get 25 per cent of the votes in five provinces, why can the Opposition presidential candidates also not do the same? We were acting in the interests of Kenyans. In the interests of making it necessary for all the presidential candidates to campaign in every province in this country, we found it necessary to retain this rule. This will also make the candidates be exposed to all the problems of the Kenyans as they campaign around the country.

Mr. Speaker, Sir, we are also informed that immediately we pass the Constitution of Kenya Review Commission Bill, there is going to be a Commission which will go around the country and talk to as many Kenyans as possible regarding the type of Presidential election we want in future, and enquire as to whether we should have the 50 per cent rule or not. So, the Commission is going to consider that, and if Kenyans feel that the 50 per cent rule is necessary, then it is going to be introduced within the next two years. So, for the time being, we thought we had negotiated the best deal possible under the circumstances.

Mr. Speaker, Sir, with regard to the Electoral Commission, there has been a lot of excitement whenever the name of Justice Chesoni is mentioned, because the argument has been reduced in very simplistic terms, that so long as Justice Chesoni is the Chairman of the Electoral Commission, there would be no free and fair election in Kenya. That is too simplistic.

*(Loud consultations)*

**Mr. Speaker:** Order, Dr. Momanyi! This may be very boring to you, but I think it is very interesting to the House.

**Mr. Murungi:** Mr. Speaker, Sir, when we went to the negotiations, we decided to look at the work, the functions of the Electoral Commission and, specifically, the role which Justice Chesoni plays within that Commission. A number of weaknesses were revealed at the negotiations, one of them is that although there are general provisions in the Constitution relating to the creation and functions of the Commission, we do not have a specific law or statute which governs the operation of the Commission. This is why Justice Chesoni sometimes behaves the way he does, because there are no rules governing his operations. Some of the Members felt that Justice Chesoni only receives President Moi and then they decide when the elections are going to be, held and either the President or Justice Chesoni goes out and announces those elections.

Mr. Speaker, Sir, what we did was to try to strengthen the Commission and try to insulate Kenyans against possible rigging from the Commission. The way we did it was, first, we decided to boost the Commission by increasing it by 10 members, clearly appointed by the Opposition Parliamentary Parties, so that they can go into the



Commission, be insiders, and try to check within the operations of the Commission what is happening there. We also decided to create certain rules for governing the operations of the Commission and one of them was that the decisions of the Commission should not be made by any one individual. They should be made by 50 per cent of all the Commissioners. We also created a code of conduct for the Commissioners and one of the cardinal rules in the code of conduct is that they should not only be impartial, but they should be seen to be impartial. In our Code of Conduct, we also abolished corruption and other under-hand deals by the Commissioners.

Mr. Speaker, Sir, more importantly, we protected the electoral process from the police. Any police who assists during elections must be under the command of the Electoral Commission, so that there is no other external force giving dubious instructions to the police. We also excluded the entire Provincial Administration from the electoral process, so that there is no chief, DO or DC who can interfere with election, and it is a criminal offence for any member of the Provincial Administration to campaign for or against any political party or candidate. We also made it a criminal offence for the police to show any partisan conduct in supporting or rejecting any party or candidate.

With all these measures, we intended to strengthen the Electoral Commission, and even if Justice Zacheus Chesoni wanted to rig the elections, he will find it very difficult to do so because we have tied his hands and legs. So, those who are dismissing the IPPG package as useless because we did not remove Justice Chesoni as the Chairman of the Electoral Commission are simplistic and do not understand all these measures of controls we have introduced within the Electoral Commission.

Mr. Speaker, Sir, I do not want to deal with other issues because they are not controversial. The only problem we have had in the last few weeks about the IPPG programme is scepticism. There has been a lot of scepticism built around this programme. First, because of the propaganda war launched by the NCEC which we have not been able to effectively respond to. There has also been a feeling, even by my own colleagues here in Parliament, that, there are some people in KANU who are not interested in reforms in the first place and that they are slowing down the pace of reforms. Mr. Speaker, Sir, it has also been felt that KANU is trying to deliberately accelerate the electoral process before these reforms take root, get understood and implemented. I think we need to go back to the basis of these reforms. We met as IPPG because this country was tottering on the brink of civil war. We came to restore confidence, law and order in this country. We came to choose the path of peace by adopting the IPPG reforms package.

*[Mr. Speaker left the Chair]*

*[The Temporary Deputy Speaker  
(Mr. Wetangula) took the Chair]*

Mr. Temporary Deputy Speaker, Sir, it would be a criminal offence and a crime against humanity for any person within this House to try to sabotage the IPPG reforms package. We have assurances from the highest levels of Government that the IPPG package is going to be implemented to the letter. What we would like to see is a fulfilment of that promise. We would also like to see the implementation of the IPPG package to the letter. One of the areas that we do not feel happy about is the implementation aspect. I am happy to note that at long last, the Government has come up with the draft Sessional Paper on administrative reforms which we are debating now. We hope that Paper will not be vague and open-ended, and that it will have specifics and clear-time action plan for the implementation of the various measures recommended by the IPPG.

Mr. Temporary Deputy Speaker, Sir, what we have been asking for is just to create a little time for the adoption of the reforms package. We know there are some Members of this House and other people in the NCEC who have called for the extension of the life of Parliament. The basis for that demand is to create time for the chiefs, DOs, and police to understand their new role after the IPPG package comes into force. We also note that President Moi has already completed his campaign tours around the provinces and he has been to all corners of the country, while our own presidential candidates have not been able to do so. This is because wherever they went, they were either pelted with stones, tear-gassed by the police or the Provincial Administration made it impossible for them to move freely within the country.

Mr. Temporary Deputy Speaker, Sir, since we are breathing a new wave of freedom, we would like our Presidential candidates to visit places like Wajir, Mandera and other places where they have not been able to go. We do not think that it is necessary in the light of this to extend the life of Parliament. We think that we still have some time within which this can be done and what we have been proposing is that we operate within the context of Section 9 of the Constitution. Section 9 of the Constitution states as follows:-

"The President will remain in office for five years from the date on which he was sworn as President."

We know, as a fact, that President Moi was sworn in on 4th January, and that his five-year term ends on the 3rd of January.

Mr. Temporary Deputy Speaker, Sir, Section 9 (3) provides that:-

"The President shall remain in office for five years and shall continue in office until a President is elected in a subsequent election."

So, even after the five years, the President remains in office so that there is no constitutional vacuum until a new President is elected. It goes on to say that:-

"This provision will not apply if the office of the President becomes vacant by reason of death, resignation, removal from office through election petition or on grounds of incapacity."

We note that none of these four exceptions exist because President Moi has not died; he has not resigned; he has not been removed from office either through an election petition or incapacity and, therefore, after he completes the five years under Section 9 (1), he remains in office until another President is elected into office.

Mr. Temporary Deputy Speaker, Sir, our proposal to create this time frame is so that we can allow Parliament even to go on recess if the Members of Parliament are tired as hon. Kamotho is saying. They can go and rest. But let there be a small committee of the IPPG to meet occasionally to find out whether we are doing fine or not. Then let Parliament go on until the end of December so that within the month of November and December, Opposition, Presidential candidates can go around the country. We should also have time to explain to our people what the IPPG package is all about and then dissolve Parliament at the end of December.

Mr. Temporary Deputy Speaker, Sir, now the Constitution says that:-

"There must be another Parliament within 90 days from the date of dissolution."

So, we can dissolve Parliament by the end of December so that by the end of March, we shall have a new Parliament in place. Now, we have been calculating the amount of time required to order an election and I discovered that, at the minimum, we require 42 days from the date of issuing writs until the final polling. You can do all the processes within 42 days. Now, if you want to operate by maximum time, because they say sometimes not less than 21 days, you have to do that which means that you can do it in ten or 15 days. If you take the maximum time which is 68 days. So, if we compute time from 1st January, within 42 days this will take us to March, I think. This is because January has 31 days. At the end of February, we are going to have about 50 days. If you take the upper limit of 68 days, this will take you to March. So, we can have our elections between February and March in 1998, and if we do this, then nobody will complain that KANU has accelerated the reform process or that we were not given adequate time.

After talking to my friends in KANU, there is a strong feeling, which is mistaken, that there is going to be a constitutional crisis, if we do not have elections in the month of December because President Moi might be caught up on the 4th of January. But if you give a plain reading, which is the general law, as derived from the interpretation of the Constitution, *Alman against the Republic*, you will get the correct position. You will realise that those who are saying that elections will be held in December, are mistaken. I think, they are doing so for selfish reasons because there is no constitutional crisis because the President continues in office until a new President is elected.

Mr. Temporary Deputy Speaker, Sir, also Section 16(3) of the Constitution provides that the Cabinet also continues in office until Parliament convenes. So, for us to give credibility to the IPPG package and for us to be seen not to be too much in a hurry, or be seen not to be rushing the people, because the suspicion is that KANU wants to pass the law and then it accelerates the process so much that there will be no effect on the ground and for us to be able to be seen to be serious in this business, let us not carry out these elections in December. Let us do them between February and March and, I think, all that clamour for the extension of the Parliament by amending the Constitution and all will have no legal or factual basis because, I believe, two months are enough for us to sell the package and for whoever wants to do any campaign to go ahead and do it.

Mr. Temporary Deputy Speaker, Sir, I am going to attend a meeting of the IPPG which is going to discuss the Sessional Paper on the implementation of the IPPG package which I think is very important.

So, with those few remarks, I would like to support this Bill. Thank you very much.

**Mr. Gumo:** Thank you very much, Mr. Temporary Deputy Speaker, Sir, for giving me an opportunity to air my views on this particular Bill which is very important.

Mr. Temporary Deputy Speaker, Sir, I am sure that the whole country appreciated the work that the IPPG did and, as a result, the temperatures have come down and everybody now is in the mood of going for elections. One thing that the IPPG did amend which was very important, was to amend the Chiefs Authority Act. Most Members of the Opposition have thought that the Chiefs Authority Act was only suppressing them. It was suppressing everybody. You must have seen in the past that even on the KANU side we had many Members of Parliament who suffered under this particular Act. The only thing that they forgot is that it is also the same Act that has made the Opposition very popular in this country.

**Mr. Mulusya:** Is it true?

**Mr. Gumo:** Of course. This is because, in most cases, the majority of the Opposition Members tend to hold meetings without licences and in the process whenever chiefs, DOs or DCs stopped them, they became more popular. This is because the moment they were stopped from going round---

**Mr. Munyasia:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Is hon. Gumo in order to revive debate on the Statute Law (Repeals and Miscellaneous Amendments) Bill which went through its Third Reading last week? He is discussing the Chiefs Authority Act which is under the Statute Law (Repeals and Miscellaneous (Amendments) Bill. Could he restrict himself to the Constitution of Kenya (Amendment) Bill?

**The Temporary Deputy Speaker (Mr. Wetangula):** Mr. Gumo, hon. Munyasia is right. We are amending Sections 7, 16, 33 and bring in part 1 (a) and so on to the Constitution.

**Mr. Gumo:** Mr. Temporary Deputy Speaker, Sir, that was just as a by-the-way. For a long time, the Government has left people to say whatever they want and particularly things that can incite people. We call upon the Government, and more particularly the police to act whenever any Member of Parliament says things like those ones. I am saying this because they talk to people who are jobless and young. When they hear a Member of Parliament saying that they can take over the Government any time through unlawful means, they get excited. These are the things that have caused problems in many African countries. So, we as Members of Parliament should always try to choose our words rather than jumping into things that we do not know.

Although we are told that the KBC covers only KANU Members, I think we have some employees of the KBC who are either on somebody's payroll outside their employment or they are there to assist certain people. I have seen cases where some people have even rung them without holding any meeting and they give them statements of what to put on the radio. Such items appear as news bulletin without any meeting having taken place. This is a very common thing which has been happening in many places. Although we have always been accused of being favoured by the KBC, some of us have never been covered by the KBC for a very long time. If such an issue could be taken very seriously, particularly by the management, they could be able to find out why some of their officers are doing this. By so doing, this could be rectified.

Mr. Temporary Deputy Speaker, Sir, the other issue which is very important is that of land. This is something that has gone on for many years. We have people in this country who never do any business at all, apart from going around the city to identify any empty plots so that they can acquire them and sell them. That is the only business they do. Some of them have become millionaires because of this. Today in Nairobi, there are seven parks like Woodley, Kang'ethe and many others. Right now, there are buildings coming up on those parks. These are parks set up for that area. If we are going to put up buildings in these areas, where are our children going to play? In South B, today---

**Mr. Mulusya:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Does the hon. Member have any moral authority to question how those houses and buildings are coming up in the Kang'ethe and Woodley Parks when he was the one who was the Chairman of the City Commission when those allocations were being done?

**Mr. Gumo:** For the information of the House, during my time as the Chairman of Nairobi City Commission, not even one acre or half acre plot was given out to anybody. You can go and check in the records at City Hall.

**Mr. Mulusya:** On a point of order, Mr. Temporary Deputy Speaker, Sir. I am ready to bring documents to this House---

**The Temporary Deputy Speaker (Mr. Wetangula):** Mr. Mulusya, Standing Order No.73 stipulates that if you want to debate the conduct of Mr. Gumo during his tenure of office at the City Commission, you should bring a substantive Motion. You are out of order. That he is contributing to the debate does not make it lawful. You are out of order! Will you sit down?

**Mr. Mulusya:** It is only that he did not know that I would have asked him where he was getting all that money he was carrying in brief cases. But I will not do that.

**Mr. Gumo:** Mr. Temporary Deputy Speaker, Sir, if there is anybody who took care of City Council land, it was myself. There was nobody at that particular time who was allocated a piece of land. The records at City Hall can bear me out. Hon. Mulusya can bring those documents here. I am sure some hon. Members do not know that I am one of the most efficient persons in this country. I am very strict. Today, garbage is more than when I was there. So, there is nothing to talk about.

Mr. Temporary Deputy Speaker, Sir, the land issue is becoming very disturbing and can cause problems. Today, in Westlands, there is not even a single playing ground. People have gone to the extent of allocating themselves water reserve areas in Karura Forest and even City Park has been allocated to people. These were allocated after I left City Hall because I am not an easy man to deal with.

**The Temporary Deputy Speaker (Mr. Wetangula):** Mr. Gumo, in what clause is Gumo's tenure at the City Commission?

**Mr. Gumo:** When the Commission was there for two years!

Mr. Temporary Deputy Speaker, Sir, another thing which I feel we should talk about is the security of this country. Today, guns in this country are just like walking sticks. Even young people carry guns in these towns. We must do something about that. Last week, when there was a FORD(A) meeting in my constituency, one young man of about 20 years old, drew a gun after the meeting and wanted to shoot one of the KANU youths. Although that young man was arrested, this was just but a sign to show that we are living in a very dangerous country at the moment. If nothing is done, we are soon going to be like our neighbouring countries. If nothing is done in time, then we will experience the same problems like our neighbours. When a group of people say that they will wage a civil war in this country, we should not take them for granted. It means that they are already armed and they know what they are talking about. It is just fortunate that there are no bushes in Kenya, so they may not have anywhere to wage their civil war. We must have a way of controlling these guns.

Mr. Temporary Deputy Speaker, Sir, there are no police vehicles in this country. If you report any matter to a police station, you will be required to have a vehicle to transport the police. The Government should shelve other things which are not important and buy vehicles for the police. The police need to be mobile in order to perform their duties properly. If they are not mobile, then there cannot be security in this country. They need durable vehicles not the Mahindras which are now grounded. We should provide our police with vehicles like Land Rovers or Land Cruisers. This idea of buying vehicles that we do not have experience about will put us into unnecessary problems. Today, police are more concerned about matatus, private vehicles and so on. They terrorise our neighbours when they visit us. Whenever the police see a vehicle with Tanzanian or Ugandan registration, they stop it immediately for inspection. It is kept by the roadside for more than one or two hours, just because it is from a neighbouring country. That is why we are accused of corruption. When a visitor from a neighbouring country is subjected to unnecessary inspections and yet he knows that he has all the immigration papers, then when he goes back to his country he will talk ill of Kenya. Our police officers should welcome visitors and treat them well. For example, if you visit one of our neighbouring countries like Uganda, the moment you cross the border, even if you are in a Kenyan vehicle, nobody will stop you for inspection. This is because they expect you to have gone through the necessary inspection at the border and your documents must be in order for you to have been allowed to pass through. The Kenyan traffic police should be more friendly to our neighbours because we cannot live without them. This has been a shame for a long time and I think the Minister in charge should direct police officers not to subject our neighbours to unnecessary inspections.

On the importation of produce---

**The Temporary Deputy Speaker (Mr. Wetangula):** Mr. Gumo, I am at a loss as to what you are talking about. What has the importation of produce got to do with the Constitution?

**Mr. Gumo:** Mr. Temporary Speaker, Sir, I am sorry about that. There are things that are more important like agriculture, which our people talk about. Since we come from agricultural areas, it is very important that we mention them.

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

**Mr. Mulusya:** Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me the opportunity to contribute to this Bill.

I am very saddened by the utterances made by the NCEC and some hon. Members of this House to the effect that they will call for a civil war in this country if elections are held before June, 1998. I believe that those people, although I have a lot of respect for some of them, do not have the interests of this country at heart. They believe that if they are not the ones governing this country, then this country should not be governed at all. May I take this opportunity to say that what the IPPG and this Parliament have done is a historic accomplishment and members of the NCEC cannot erase it from the records of this country.

There is no country in the world whose government does not have the interests of its citizens at heart. Such a government would not survive. I would like to tell the Government of President Moi that it is up to them to show by deeds that what the IPPG has come up with is something useful for this country. Its usefulness can only be felt through full implementation and being given enough time to mature. The two months suggested for hon. Members to preach the gospel of the IPPG reform programme are necessary. I, personally, will not approve of some hon. Members threatening others. We cannot live by ultimatums and intimidation from a few members in this country and so on. There is no government anywhere in the world which can just passively watch mayhem being unleashed upon its people by a few greedy people without taking any action. I do not expect this Government to take those threats by the NCEC lightly. On matters of security, the Attorney-General should take action immediately. We are living in a country which is governed by a Constitution. We are trying to amend the Constitution for the benefit of this country,

now and in future. When we give a few people the impression that we fear them when they talk, then it is bad. This country belongs to all of us. It does not belong only to members of the NCEC who think that they are better than us.

There are some hon. Members in this House who have private militia. In the past, some hon. Members of this House have been known to silence their opponents by unleashing terror on them. The same hon. Members are involved in this type of threats and ultimatums. It is not the hon. Members of the Opposition who have private militia.

I can point out one on the Government side who has a private army. The Government should investigate this. If we are going to be put into problems just because of a few individuals, then we need to sit down and pray.

**Mr. Kariuki:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Are you satisfied that what the hon. Member is talking about is not casting aspersion on the credibility of hon. Members on this side?

**The Temporary Deputy Speaker** (Mr. Wetangula): What did he say?

**Mr. Kariuki:** He said that there is an hon. Member of Parliament who has employed a private militia for some purposes which he has not disclosed. Can he tell this House who that hon. Member is?

**The Temporary Deputy Speaker** (Mr. Wetangula): Hon. Mulusya, what you have said is bad enough. Any attempt to expound on it flouts Standing Order No.73. I will let you get away with wild and unsubstantiated allegations.

**Mr. Mulusya:** Thank you. I would like to inform the people who will look into the current and future Constitution that this country has suffered a lot because of lack of continuity in the Cabinet. The powers of the Cabinet should be strengthened to enable it to decide and do something. This is the only way we will know that the elected leaders are performing their duties. The Cabinet Members are not respected by the civil servants. It is only one or two Cabinet Members who issue directives and they are followed. Yesterday, for example, the President said that the police should not harass the Opposition politicians, and they should be given leeway to conduct their political affairs peacefully, so long as they do not contravene the laws of this country. The police have taken that very seriously. But why does the police not listen to the Minister in charge of internal security? Why is it that only one Cabinet Minister, other than the Head of State, can be listened to? This is what we are asking.

At the same time, we want the Constitution to allow the position of a deputy minister. A deputy minister has powers to take charge when the Minister dies or he is out of the country. There is direct delegation of power. Today, everything in a Ministry is done by the Minister. The Assistant Ministers are only left to answer Questions here. The only thing they come to say here is: "I am not aware", and "when the funds will be available". Otherwise, the Assistant Ministers do nothing. I have never seen anything useful in being appointed an Assistant Minister in this country. I would like to warn anybody who would like to appoint me as an Assistant Minister in future that I will not take the job. This is because it makes one useless since he has nothing to do. It will not do good to yourself, the Ministry or the country. It is only a deputy Minister who can perform. We want the new Constitution to spell this on clearly. It should also spell out the circumstances under which the delegation of duties can be done.

In this country, we have about 42 different communities. We need creation of more posts right from the post of the President. We must have a Deputy President, 1st Vice-President or a Prime Minister, so that the distribution of these jobs amongst all the communities can be done. Because of the Constitution's deficiency, the position of the Vice-President has become a dangling carrot: "Hon. Nyachae, you can become the Vice-President in 1997. Hon. Mudavadi, you can wait because we will give Nyachae the chance this time". This is what is happening, and we do not want to hear that. We want hon. Mudavadi to get either the 1st or 2nd Vice-Presidency, and hon. Nyachae to get the Prime Minister, for the Kisiis to be happy because they are very unhappy. Also, hon. Mulusya should get something!

**Mr. Angwenyi:** On a point of order, Mr. Temporary Deputy Speaker, Sir. I do not want the position of the Vice-President. I think we will take the position of the President in the year 2002!

**The Temporary Deputy Speaker** (Mr. Wetangula): Hon. Angwenyi, we try to discourage letting debates take tribal angles and connotations in this House. Nyachae is not Kisii and Kisii is not Nyachae!

**Mr. Mulusya:** Mr. Temporary Deputy Speaker, Sir, I have a lot of respect for hon. Nyachae. He is one of the highly experienced people we have in this country. He is a highly respected person. He was a District Officer in Kangundo and there is no record in the history of Kangundo, where hon. Nyachae "ate" the people's chicken. There is no reason why we cannot give him a bigger post in this country.

**An hon. Member:** How old were you then?

**Mr. Mulusya:** Do not worry about my age! We are saying that when we are amending the Constitution, we should create more positions, so that the animosity and whims of people who want to create communal kingdoms can be checked. The people will feel that the posts are well distributed.

The Constitution should clearly spell out the remedies that will be given to the public. The Constitution does not spell out what remedial measures are at your disposal, if, for example, your taps are dry and you are billed every

end of the month. If you pay for services which are not rendered, what should happen? The Attorney-General should come up with laws which specifically spell out what remedial measures can be pursued if the City Council of Nairobi does not collect garbage, and yet it levies service charges from the public. That is where we have problems. There are so many taxes being collected, but there is no avenue for members of the public who are paying the taxes to complain when they do not get the services. It is very important for a Constitution to specify what would be done if such and such a service is not provided.

The Constitution should clearly spell out that when the Minister for Finance is planning for development, the distribution of taxes through the Exchequer will be done in a certain manner. The disparity, where some areas are neglected and do not get the flow-back of their taxes, which are concentrated in particular areas should stop. It is not for hon. Members to cry continuously that they are not getting sufficient budgetary allocations in their areas. This should be spelt out specifically, so that the manner of prioritisation of projects can be known.

The issue of creating some institutions which are not governed by law should be stopped. The issue of the District Development Committees (DDCs) is illegal. It was created by my friend hon Nyachae, when he was the Chief Secretary. He never followed it up to make sure that there is an Act of Parliament to govern the existence of the DDCs.

**The Minister for Land Reclamation, Regional and Water Development (Mr. Nyachae):** On a point of order, Mr. Temporary Deputy Speaker, Sir. Is my friend, hon. Mulusya, right to say that a person by the name of Simeon Nyachae created the District Focus for Rural Development, since this was a creation of the Government? Hon. Nyachae was part of the machinery, but the hon. Member has specified that it was hon. Nyachae who created the DDCs. Is he right to assign a policy decision of the whole nation to an individual?

**Mr. Mulusya:** Mr. Temporary Deputy Speaker, Sir, I do not know why my friend, hon. Nyachae, is not accepting credit for the good work he did. He is the one who was running across the whole country informing Kenyans about the District Focus for Rural Development. There was a special television programme for him every Friday. Who else can we associate it with? In any case, that should be a credit to him. Except for the misuse of the programme by the district commissioners (DCs), some of whom were his own employees, it has done a good job.

**An hon. Member:** And some of them were rewarded?

**Mr. Mulusya:** Yes, except a few who came after he left. Most of the DCs were employed during his tenure and he was instrumental in their promotions, but there is nothing wrong with that. What we are saying is that the Attorney-General should now be able to look at the institutions existing in this country, and single out those which are not governed by any law. A good example is the Parastatals Reform Committee (PRC). It was formed, but there is no law in this country which established its existence. Its main objective is privatising parastatals in conjunction with the Ministry of Finance, but it does not exist under any law. If we happen to get some autocratic leaders in this country, they would say: "Oh, those parastatals which were sold during this period were sold illegally and, therefore, they are null and void." They would say this just because they hate those people who are in this regime. I assure you those people hate you so much that if they get the opportunity, they would just slice some of you up like carrots. In today's *Daily Nation* and *East African Standard*, some of those people have said they want to wage a civil war, not because of us in the Opposition, but because of you in the Government. We should be able to take care of these things and ensure that there is a law governing everything we do.

Mr. Temporary Deputy Speaker, Sir, my other point concerns Kenyan workers who must at all times be represented by legally established institutions. Today, retired and serving officers in the Armed Forces are complaining about the non-implementation of their pension increments. The Government gazetted a Legal Notice No.258 of 1996 for the Armed Forces Officers and Servicemen Pensions Review. That Gazette Notice granted them an increment in their pensions. I am sorry to say that to date, nothing has been done to effect those increments. These are people who have served the country dedicatedly. Two of them are my colleagues, hon. Col. Kiluta and Gen. Mulinge. They are part and parcel of those who are complaining that although their pensions were increased by an Act of Parliament, it has not been implemented. That is why hon. Col. Kiluta has not been able to buy a new suit of late. But he has nobody else to speak on his behalf other than me at this time. Now I am talking on his behalf and on behalf of those who retired together with him.

Mr. Temporary Deputy Speaker, Sir, civil servants are faced with a similar problem. They too, have not been paid their increments which were passed by this Parliament in 1996. Retirees of Kenya Posts and Telecommunications Corporation and the Kenya Railways Corporation have also not got their increments. At least, the teachers in service are now lucky because they know when they are going to get their next salary increments. But these people who have retired, after serving the Government and those parastatals for a long time and very dedicatedly, have not got their pension increments. They are suffering, and there should be a way of addressing their problems.

Now, I understand that all the members of the Armed Forces, except hon. Col. Kiluta and Gen. Mulinge, because one is an Assistant Minister and the other one a full Minister, as well as retirees of the KPTC, are planning to

visit the Army headquarters and also the KPTC headquarters on Friday, the day after tomorrow. It is only my two colleagues here who are not involved because of their positions in the Government and because they are already on a salary. The rest are going to walk there, and it is going to be an embarrassment to the Government for retired servicemen and officers to walk, protesting against not being granted their pension increments passed by this Parliament. It is very unfortunate. All we are saying is that, the Government should establish some bodies to take care of grievances and look into the welfare of every sector in this country. Let us not allow ourselves to be ambushed by the problems as they come. Let us not accept to act on crises or appear like we are not able to act, unless we are pushed. It is very important for the present Government and for any future Government to come up with a programme that will address problems of people from different sectors in this country. These problems fall under very many classifications.

Mr. Temporary Deputy Speaker, Sir, recently, hon. Nassir created an impression to the effect that only rich people will be able to govern this country and get into the position of the President. I would like to tell this House, and hon. Nassir that the culture of stealing from the Government so that you can get into power is now a matter being addressed by the poor voters. They are now addressing themselves to that problem. I promise here that the coming general elections will be a big blow to those who think they can only be voted into this Parliament if they have money. They will not come here and they will be voted out. You will see a tall grown up man crying because he has been defeated by a woman.

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

**The Minister for Land Reclamation, Regional and Water Development** (Mr. Nyachae): Thank you Mr. Temporary Deputy Speaker, Sir. I am not going to talk about the District Focus for Rural Development Strategy and I am not going to take very long. This particular Bill has been exhaustively discussed but I would like to make some observations on it.

First, I would like to thank the Attorney-General for his co-operation with the IPPG Committees and for the way they moved very fast to get this Bill drafted and brought to this House. This, in itself, is an indication that the Members of the IPPG and the Government, through the Attorney-General, are very serious and fully committed to get all those resolutions passed by the IPPG to be implemented as soon as possible.

Mr. Temporary Deputy Speaker, Sir, I think when one listens to what many people say; and even a few Members in this House and what one reads in the Press, there is a clear indication that there is a misconception in the minds of some people who call themselves leaders about what the IPPG has done. In the last 34 years, this is the greatest achievement and I would like to indicate what has been achieved. It is not so much the question of the resolutions that have been passed. What has been achieved, and it is the greatest aspect of all, is the acceptance that we elected leaders from various parties have agreed to examine ways and means of improving the performance of this nation through management by leaders. We, as leaders, have accepted to discuss, examine and discover our weaknesses in managing this nation. That is a great achievement; to accept that we do have weaknesses; that we need to revise or review and implement corrective measures that can bring about whatever we want, for the benefit of stability in this nation. It is stability that will bring about all other expectations of our people.

Mr. Temporary Deputy Speaker, Sir, what has been decided in the form of resolutions, and, part of it has been brought into this House in the form of Bills; and today we are discussing the Constitution of Kenya (Amendment) Bill, is the beginning of the implementation of what we feel needs to be done to improve the lives of Kenyans, the management of this nation and sharing of ideas. This is not an area where you can say this is the contribution of the Government. It is a contribution of all leaders who were elected to serve the people and deliver what they expected at the time we were elected.

Mr. Temporary Deputy Speaker, Sir, for the last four years and eight months, it was a kind of a taboo in this House for a Member from this side to walk and sit in among the Members on that side of the House, and vice-versa. Except on matters of a strictly personal nature, no Member could walk across and sit on the opposite side. We have achieved something which we had failed to achieve for the last four years and eight months. This is something which the IPPG has achieved. Those people who are talking outside there do not know that before, we could not treat one another in a friendly manner. We treated one another as suspicious characters; people who could not trust one another. Whatever I said in this House, my hon. friends across would suspect and ask themselves: "Is he serious?" "Does he really mean what he says?" "Is he sincere?" We also had a feeling that when an Opposition Member stood up to contribute, he was merely standing to criticise us or condemn us. That was the behaviour, in this House, that is being removed through this resolution or programme. If we were talking in terms of the private sector, we would call it a joint venture of management, which we have now achieved through the IPPG.

Mr. Temporary Deputy Speaker, Sir, everywhere in the world, this thing called "democracy" has been an elusive aspect of management, even in the greatest democracy like the United States. They say they are the greatest democracy, but they still do have extremists; people who still have racial feelings and yet they are claiming they are

fully democratic. So, we should not be surprised here in Kenya when we have extremists among us because they will always be there. Even if we reviewed the whole Constitution today and said now we think we have discussed and agreed upon everything you would still find somebody out there, or even in this House, standing up and saying he does not agree with that. So, extremists will always be there. That is why, even in the Bible, we have had--- One time I went to Rome and I decided on a weekend to go and see the Museum at the Vatican. I saw several tombs and the crowns of the previous Popes. These people have been preaching peace all along but still we have no peace in the world. They are preaching the Bible every day and we still have extremists who do not accept that God exists and even others who do not accept that Jesus was the Son of God! Now, here in Kenya, we shall continue to have extremists. What our friends in the NCEC are saying out there should not worry us too much and we should not condemn them because we could be having one or two extremists among them and they will continue; it does not matter whether you amend everything that they have said. The next day, they will discover something else which they are not satisfied with.

Why do I say this? Extremism is something too complicated to understand. When we went to County Hall under the umbrella of the IPPG, hon. Shikuku said he was a member of the NCEC. Hon. Martha Karua and others said the same thing and added that the NCEC was an umbrella and, therefore, they were folding the umbrella in order to discuss the issues that the NCEC had raised. They presented the document to us and we did not reject it. We discussed the document and said we would incorporate what they had recommended into what we would come up with as the final resolution. So, the discussions and recommendations of the IPPG were much wider than the recommendations of the NCEC.

Today, we are hearing the same people coming up with new proposals which were not in their earlier recommendations. Therefore, we must say at this stage that we have discussed what every Kenyan thought should be discussed and we have made recommendations. We have brought the Bills into Parliament and we should let them go through. Today or tomorrow is not the end of Kenya. Kenya will come to an end when God comes with his big torch to make his own judgement on us. We do not know when that day will be, but as long as God has not come with his big torch, we must accept that we cannot do everything in one day. We are making amendments now, and we are not saying that these are the last amendments. We are saying that for now, these are the areas that have been sensitive to us. Let us review them and then move forward.

After we have gone through that, then we can come back and say: "Yes, we have weeded that garden, but still it has some weeds, let us re-weed it." We will continue weeding the garden and most of the weeding will come about when we review the whole Constitution. In fact, I am very surprised when I hear some hon. Members here talking about sharing positions. Hon. Mulusya is talking about issues relating to the President, the Vice-President, the Deputy President, a Prime Minister, Assistant Ministers and Deputy Ministers, but these are things which Kenyans will talk about during the constitutional review. It is not part of the amendments we are making here. So, Kenyans and leaders must not try to assume that we have an answer for everything today when we are making these amendments. Let us make these amendments first.

Mr. Temporary Deputy Speaker, Sir, leaders must accept that when we sit in this House, we are expected to manage the affairs of the people and to understand them. It will be expecting too much if we think that the changes we are making today will automatically go into the heads of those people who are going to be affected and change their hearts. It does not work that way. Even a priest will read to you a verse from the Bible and it will take time to sink into your mind. The greatest thing we are achieving is that we have made a start and I want to tell this House that what we are amending today, with all seriousness and sincerity, we must accept that it will take time to reach every person's mind. It will take time to change everybody's attitude. What we are concerned about is to ensure that everybody accepts the changes. If we are talking about the Provincial Administration and the police they should accept that there are changes. Acceptance and practising are two different things.

What we are going to start with is the acceptance and this is already permeating into the minds of those people who are expected to be affected in their roles by the changes of the laws. Whether we are talking about the police, the Provincial Administration, Ministers or Members in the Opposition, one thing is clear; if you do not like KANU or DP, FORD(A), FORD(K) and so forth, the mere fact that we are changing the laws here and that we are in the IPPG team does not mean that I have accepted your policies or that you have accepted my policies. So, let us not cheat ourselves that we have more time. Three months will not change human beings. Three months will not change the behaviour of human beings. There are some people who can change within a day while others can change within a year. There are some people who are going to die before they change what we are amending today.

I am saying this because when you read some of the statements made by former President Carter when he was campaigning for the presidency of the United States of America - 200 years after Abraham Lincoln - he was still complaining about racial discrimination and yet anti-racial discrimination laws had been passed. People are still practising it. The other day, with all the laws in the USA, we lost a Kenyan in California on the basis of racial



discrimination and yet the laws are there. Why have they not changed those people? Why do we think that by asking for two to three months, we will change people? This depends on the individuals.

Let us also not mislead Kenyans that the President has been campaigning on the pretext of making tours to various parts of the country. I think we are being dishonest to ourselves. We happen to have a President who likes travelling and from the time he was appointed, he has always been travelling to various parts of the country---

**The Temporary Deputy Speaker (Mr. Wetangula):** Was he appointed or elected?

**The Minister for Land Reclamation, Regional and Water Development (Mr. Nyachae):** He was elected.

I am sorry, Mr. Temporary Deputy Speaker, Sir. From the time he was elected---

**Mr. Munyasia:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Hon. Nyachae is a respected Minister and he has been following the President on his tours. Is he in order to mislead the House that the President has not been campaigning when every night the KBC Television Station screens the President asking everyone: "Onyesha kidole cha KANU; KANU is a development conscious party"? Is the Minister in order to mislead this House and the entire nation that President Moi is not campaigning when we know he is?

**The Minister for Land Reclamation, Regional and Water Development (Mr. Nyachae):** Mr. Temporary Deputy Speaker, Sir, President Moi has been the President of this country for more than 19 years now and all this time, he has been travelling around the country and he has always asked people to show the one finger salute. Are we, therefore, saying that for the last 19 years, the President, by asking the people to show their fingers even when we were a one party state, was campaigning?

**Mr. Akumu:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Is hon. Nyachae in order to say that the President is not campaigning? I ask this question because when he was passing through Nyakach, accompanied by hon. Nyachae, he told Nyakach people that if they vote for him, they will get a district. In any case, he had given them a location. Was that not a campaign, or not, hon. Nyachae?

**The Minister for Land Reclamation, Regional and Water Development (Mr. Nyachae):** Mr. Temporary Deputy Speaker, Sir, it is the responsibility of the President, as the Executive Head of this nation, to ensure that there is close administration by giving an additional location. My brother should be thankful to the President for bringing administration closer to the people of Nyakach. Let us not pretend and mislead Kenyans that it is only the President, the leader of the ruling party, who has been going round to campaign and indicate where his party belongs. The other parties have also been going round campaigning, and hon. Munyasia who is complaining, was in my constituency very recently together with his party leader campaigning. Therefore, it is not right to say that the other parties have not had a chance of talking to the people. In fact, there is one thing which I have always said, that we in the Government have actually been helping the Opposition to campaign and get more credentials and more sympathy. If I was in the Opposition, I would love to be confronted by the police so that the Press can cover that story and I will be known all over the country and get sympathy. So, you have been campaigning through confrontations with the police so that you may get sympathy from the wananchi.

Mr. Temporary Deputy Speaker, Sir, let us be faithful to the people who elected us. The only way we can be faithful to Kenyans is to tell them: "You elected us and you gave us five years, we will come back to you to review our contract." Therefore, we must not attempt to use our position and this microphone here to extend our period beyond what wananchi gave us. In fact, to show our people that we have been good servants, let us go back to them and say: "We have done the best we could, you can see we are changing the laws; give us more time to make more amendments and bring about stability and confidence to everybody including the investors."

Mr. Temporary Deputy Speaker, Sir, with those few remarks, I wish to support that, we go ahead with these amendments and let us go home and look for votes.

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

*[The Temporary Deputy Speaker  
(Mr. Kariuki) took the Chair]*

**Mr. Ndicho:** Thank you very much, Mr. Temporary Deputy Speaker, Sir. I would like to take very little time to contribute to this Bill. We are discussing the most important Bill of all the Bills. This is the Bill concerning the Constitution of Kenya. The Constitution of Kenya is a document so important to all of us, from the President to the smallest Member, and we all stood up here in 1993 and swore to defend and protect the Constitution. Mr. Temporary Deputy Speaker, Sir, there was a time when the clamour for constitutional change was so intense that the President remarked that he had sworn to protect and defend the Constitution and he was not ready to have the Constitution changed. What we have been calling for is not the change of the Constitution as the President of this

country was trying to interpret. We were calling for all Kenyans to sit down and review the Constitution so that it is reformed and changed to conform with the modern age.

Mr. Temporary Deputy Speaker, Sir, you will agree with me that the current Constitution was debated and agreed upon many years ago at Lancaster House in London. All the people who were in that conference discussing about the Constitution of Kenya that was coming to govern the new nation are dead except two. I am told that even those who are alive today were only there as observers and they know themselves. So, we are talking of a document and---

**Prof. Mzee:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Is hon. Ndicho in order to say that Martin Shikuku, who thrives on history, was at Lancaster House as an observer and not an active participant?

**The Temporary Deputy Speaker** (Mr. Kariuki): That is not a point of order!

**Mr. Ndicho:** In fact, it is a point of argument.

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

**The Temporary Deputy Speaker** (Mr. Kariuki): On what? I am talking! Sit down! Mr. Ndicho, would you please discuss the Constitution and not people? We are not here to discuss people.

**Mr. Munyasia:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Is hon. Prof. Mzee in order to make unsavoury remarks against hon. Martin Shikuku, that he thrives on history?

**The Temporary Deputy Speaker** (Mr. Kariuki): Order! I have ruled him out of order.

**Mr. Ndicho:** Mr. Temporary Deputy Speaker, Sir, I am not belittling the role that hon. Martin Shikuku and President Moi played when they went to Lancaster House. All I am saying is that, that document which they came back with from London has been with us for the last 34 years. But Kenyans feel that the people who designed that Constitution belonged to that age.

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

**The Temporary Deputy Speaker** (Mr. Kariuki): Are you sure that it is a point of order?

**Mr. Kapten:** Yes, Mr. Temporary Deputy Speaker, Sir. I am disturbed by the remark that all the people who were at Lancaster House are dead except two. I know of several other people who were at Lancaster House and who are still alive. Is the hon. Member in order to claim that only two members are still alive when there are many others who are still alive?

**The Temporary Deputy Speaker** (Mr. Kariuki): Order, hon. Kapten! That is not a point of order, it is a point of information. You should have risen on a point of information.

**Mr. Ndicho:** Mr. Temporary Deputy Speaker, Sir, if I made a mistake, I stand to be corrected. But what I meant is that, those who were at Lancaster House, and who are still in this Parliament, are only two. I do not know anybody else who went there except hon. Shikuku and His Excellency, President Daniel arap Moi.

**The Temporary Deputy Speaker** (Mr. Kariuki): Hon. Ndicho, it will be wise for you to concentrate on the Bill which is before the House.

**Mr. Ndicho:** Mr. Temporary Deputy Speaker, Sir, I am trying to build up my contribution, starting with the old document and coming to the one that is now being reformed and reviewed, so that I can make my conclusion. What I was saying is that, it is very important to note that Kenyans, in 1995 and 1996, started the clamour for constitutional change and, as I was saying, our President said that he was not ready to have the Constitution changed.

Mr. Temporary Deputy Speaker, Sir, what I was saying is that our President said he does not stand for change. That is what we have learnt over the years.

**Prof. Mzee:** On a point of information, Mr. Temporary Deputy Speaker, Sir. I would like to inform hon. Ndicho that the Constitution, which was drafted at Lancaster House is very different from what we have here. The Constitution which was drafted at Lancaster House was based on regionalism; *majimboism* and two Houses. The Constitution we have, has undergone about 30 amendments. Those amendments are the ones which totally spoil the present Constitution. Even though it was dynamic, it underwent changes which brought autocracy in this country. This is what we want to change.

**Mr. Ndicho:** Thank you for that information, Prof. Mzee.

Mr. Temporary Deputy Speaker, Sir, what we have learnt over the years is that, the KANU Government only reacts under pressure. If I may quote the *Weekly Review* magazine of June this year, about three months ago, when the clamour for constitutional change was so hot, the President said:-

"As I have stated recently, the current atmosphere in the country is not conducive to holding serious and meaningful discussions, on a subject of national importance as the Constitution."

When the President made that statement which was also carried by the whole media in this country, Kenyans discovered that President Moi was not ready to have the Constitution changed, so as to commensurate with the current times. That resulted into the creation of this pressure group called the NCEC.

Mr. Temporary Deputy Speaker, Sir, it is from the NCEC that there was a change of heart by both the President and the KANU Members. I am very grateful to the NCEC for bringing about that pressure. Had it not been for that pressure, up to now, we could still be holding onto this statement, made sometimes in June, by His Excellency the President, that there would be no meaningful discussions on the subject of national importance such as the Constitution, because the atmosphere was not conducive. So, I get so worried when some Members deride the NCEC.

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

*[The Temporary Deputy Speaker  
(Mr. Ndotto) took the Chair]*

Mr. Temporary Deputy Speaker, Sir, those people who met under the auspices of the NCEC did not mean bad at all for this country. In fact, what they are talking today might be as a result of desperation.

**Mr. Magwaga:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Is hon. Ndicho in order to mislead this House by talking about NCEC? What is NCEC?

**Mr. Ndicho:** Mr. Temporary Deputy Speaker, Sir, I believe that Question Time ended at 3.30 p.m, but, I beg to ignore that statement from hon. Magwaga. All he wants to do is to derail me.

Mr. Temporary Deputy Speaker, Sir, what the NCEC did was very commendable. If it was not there, even the IPPG would not have come into being. It started from some place and went on until the IPPG was born. So, I do not see the reason why the Members of KANU, and even from the Opposition, who were allied to the IPPG, should be so harsh to the NCEC. In any case, it is a body of Kenyans who, like other Kenyans, are equally concerned about the governance of this country.

Mr. Temporary Deputy Speaker, Sir, what was brought here by the IPPG, especially the Statute Law (Repeals and Miscellaneous Amendments) Bill, is commendable. That is why I supported them here. I was so surprised when I listened to the Kenya Broadcasting Corporation (KBC) Kiswahili Service programme, "Leo Katika Bunge" when they reported that:-

"Kulikuwa na mshangao, mshangilio na vigelegele katika Bunge, wakati Mbunge wa Juja alipogeuza roho yake, na kuunga mkono mambo ya IPPG".

What I said is that, if there is any Member of Parliament, who has benefitted from the package of the Statutes Law (Repeals and Miscellaneous Amendments) Bill, it is me because, as I said, I was arrested ten times and once jailed at Kamiti Maximum Prison under the instigation of some people, who did not like my brand of politics. I am very happy because the Attorney-General did not oppose my appeal against that sentence. I am very grateful to the Attorney-General.

Mr. Temporary Deputy Speaker, Sir, what the Statutes Law (Repeals and Miscellaneous Amendments) Bill provided is very important. This is because Kenyans are no-longer harassed by the police. The chiefs will no-longer be going to people's houses without search warrants to look for beer. I would like to ask the Attorney-General to tell the chiefs - let them know in no uncertain terms - that their role now is not to stop people drinking traditional liquor. In fact, traditional liquors should be re-introduced. Dangerous liquors, such as Palm, Cantata, Medusa, Utah Special, Sorghum and the rest, came about because of chiefs. Whenever one was found drinking *Muratina*, which was a very important traditional beer for all Kenyans, they would be in for it. That is why people went into these other funny liquors.

Mr. Temporary Deputy Speaker, Sir, Kenyans are very happy that the Government, at last, has agreed to remove these draconian laws, that were brought about here and implemented by the colonialists. The political problem that was there, had nothing to do with the statute laws. The problems even today, lies with the amendment of the Kenya Constitution. The view of many Kenyans all over the Republic over the Attorney-General's constitutional amendments is that, they are not satisfactory.

Mr. Temporary Deputy Speaker, Sir, I agree that the amendment of the Constitution is a continuous process. It is not an event that happens on a Wednesday, and then on Thursday, it is over. But, I would have liked to see the Constitution of Kenya amended to provide that for one to be President of the Republic of Kenya, one must be elected by the majority of voters. The majority of voters is over 50 per cent. If anybody is elected with over 50 per cent, it shows that he or she is a popular person. In this case, the Electoral Commission statistics show that there are about 10 million Kenyans who registered as voters. Therefore, out of those 10 million voters, we expect that the most popular President in Kenya must be elected by over 5 million people. That was a very fundamental issue in amending our Constitution. I was surprised by hon. Wamae's contribution, which was aimed at defending IPPG. He said that the spirit and mood at the County Hall was that of "give and take." The Constitution of Kenya is not a matter of give and

take; it is about the good governance of this country. In fact, Kenyans are more interested in the amendments to our Constitution and the betterment of it, than in the person, who will govern.

Mr. Temporary Deputy Speaker, Sir, to Kenyans, the governor is secondary. What is important is to amend the country's Constitution. But when somebody says that he does not need the 50 per cent rule, this only means that what has been designed is to provide an easy way of winning an election. I am sure that the 25 per cent rule in five Provinces is an easy provision, where anybody can win.

**Hon. Members:** Then win it!

**Mr. Ndicho:** Mr. Temporary Deputy Speaker, Sir, I have declared that I will vie for the presidency in the year 2002.

**Hon. Members:** That is too far! Do it right now!

**Mr. Ndicho:** Mr. Temporary Deputy Speaker, Sir, right now, you can imagine the heavyweights who are eyeing that seat. I have not yet reached that age. Let the heavyweights battle it out first and then we shall come in when the field is level and better. We would like to see Kenya being like any other country in the world. We would also like to see Kenya being ruled by law and order, like it is the case in the United States of America. When I say this, I do not mean that we should be like them; but what I am saying is--- What is wrong with that?

**Mr. Gatabaki:** On a point of information, Mr. Temporary Deputy Speaker, Sir. The hon. Member for Juja, having attained the age of 39 years, is qualified to stand for the Presidency even now. He does not have to wait for the year 2002. Since the hon. Member hails from Githunguri, the people of Githunguri will be proud to hear that one of their sons intends to be a candidate for the presidency of the Republic of Kenya.

*(Laughter)*

**Mr. Ndicho:** Thank you very much. Mr. Temporary Deputy Speaker, Sir, what I am saying is that we should have a country---

**Mr. Munyasia:** On a point of information, Mr. Temporary Deputy Speaker, Sir. I beg to inform hon. Ndicho that the hon. Member for Githunguri who will be supporting his presidential bid got less than half of the total votes of the registered voters in Githunguri in the by-election which brought him to this House.

*(Applause)*

**Mr. Ndicho:** Mr. Temporary Deputy Speaker, Sir, I do not want to be derailed from my contribution. However, let me say that I was immensely involved in the by-election of hon. Gatabaki. Out of all the Members who have come to this House through a by-election, he is the only one who came with the largest number of votes which totalled to 26,000. I was the person who was involved in looking for 26,000 votes he got. In a by election is not a simple job to get such votes. Usually, the others come here with 1,000 or 2,000 votes.

*(Mr. Matiba walked into the Chamber)*

**An hon. Member:** And his "President" has come in.

**Mr. Ndicho:** Mr. Temporary Deputy Speaker, Sir, I recognise His Excellency the President of FORD-(A), Mr. Matiba, who has just arrived.

**Hon. Members:** FORD-People!

*(Laughter)*

**Mr. Ndicho:** Mr. Temporary Deputy Speaker, Sir, we are eagerly waiting---

**Dr. Kituyi:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Notwithstanding the exuberance of hon. Ndicho, upon the arrival of hon. Matiba, whom he calls the "President" of FORD(A), since most of the Members of that party are begging him to be the "President" of FORD(P), could he use the occasion to tell us whether he is the Chairman of FORF(P) or FORD-(A)?

*(Laughter)*

**Mr. Ndicho:** Mr. Temporary Deputy Speaker, Sir, you will agree with me that, that is not a point of order. We are earnestly waiting for our Chairman, Mr. Matiba, to break the ice. He is the one to tell us whether we are in

FORD-(A) or FORD-(P). It is very fortunate that he is now back in the country. Some people have been claiming that he had sent them faxes and telephoned them from abroad. Now that he is in the country, he will shed more light on that issue. I respect him very much because he is my Chairman.

**Hon. Members:** In which party?

*(Laughter)*

**Mr. Ndicho:** The party that he will choose. Mr. Temporary Deputy Speaker, Sir, protect me from honourable--

**Hon. Members:** Matiba!

*(Laughter)*

**Mr. Ndicho:** Mr. Temporary Deputy Speaker, Sir, the party that hon. Matiba will tell me to join is the party I will join, because he is my Chairman.

*(Laughter)*

Mr. Temporary Deputy Speaker, Sir, before that distraction came about, I was in the process of saying that we ought to have a situation in Kenya which is similar to other progressive democracies in the world. There is no country in Africa, other than Kenya, where a person is elected on percentage basis. We would like the President of Kenya, his deputy and Members of Parliament to be elected by the majority. There is nothing better than to represent the majority of Kenyans. Mr. Temporary Deputy Speaker, Sir, you will agree with me that we had about 5 million registered voters in 1992. Out of those, our President garnered 1.9 million votes. If the President had garnered 2.5 million votes and above, he could be enjoying his presidency. There is nothing more enjoyable than to represent the majority. So, it was fundamental for the IPPG to press on so that the KANU side accepts the 50 per cent rule. Hon. Wamae said that it was a matter of give and take. I do not know what they were given and I do not know what they took either. When Kenyans heard that their President was not going to be elected by the majority, they were worried. So, I maintain that for me to support such a deal, it should have come up with something that is more pleasant than what is currently in the Bill.

**Prof. Mzee:** On a point of information, Mr. Temporary Deputy Speaker, Sir. I would like to inform hon. Ndicho that it is on record that President Chiluba was elected by only 15 per cent of the electorate and he is now in problems. If we go ahead and have a President who is not elected by more than 50 per cent of the people, we will experience the same problems President Chiluba of Zambia is experiencing right now. So, I support hon. Ndicho very much.

*(Laughter)*

**The Attorney-General (Wako):** On a point of information, Mr. Temporary Deputy Speaker, Sir. It is good that the hon. Member who is a professor, has admitted that President Chiluba got 15 per cent of the total votes out of over 80 per cent of those who voted. I think he is also aware that President Clinton of the United States of America got about 40 per cent of the total votes. I think he is also aware that if we counted the number of people who voted for the Labour Party to be those who would have voted for Tony Blair, he would only have got 40 per cent of the total votes.

**Mr. Ndicho:** Thank you very much, for that information. What the Attorney-General is saying is that President Clinton and Prime Minister Tony Blair got 40 per cent of the total votes cast. Those are good percentages. By any standards, they were quite considerable, but 25 per cent is such a low mark to be used in deciding on who should become the President. That is all I am saying.

So, Mr. Temporary Deputy Speaker, Sir, all I was saying is that if we have a well designed Constitution, it will not matter from which tribe the President will come from. If he will be handed over a document that will be properly amended and agreed upon by all Kenyans, it will not matter whether he will be a Turkana or an Elmolo, the smallest tribe in Kenya, a Kalenjin or a Kikuyu. It will not matter at all. All we want is that document, so that whoever comes to govern Kenya will not oppress people.

Mr. Temporary Deputy Speaker, Sir, I am vehemently opposed to what hon. Kamotho, who was in the company of hon. Mwaura, said over the weekend at Thika. They dared to go to my constituency without my knowledge or permission. Hon. Kamotho said that Kikuyus should determine who will be the next President. It is

surprisingly to hear that because hon. Kamotho and hon. Mwaura were both party to the IPPG talks. In fact, I was wondering whether that was part of the IPPG recommendations.

**An hon. Member:** Sabotage!

**The Minister for Education** (Mr. Kamotho): On a point of order. Mr. Temporary Deputy Speaker, Sir. Is it in order for hon. Ndicho to mislead this House and this nation that I said what he is referring to knowing very well I denied it through the same newspaper? They wrote that correction yesterday that I never said what hon. Ndicho is purporting me to have said.

**Dr. Kituyi:** On a point of information. Mr. Temporary Deputy Speaker, Sir. I wish to inform the hon. Ndicho that there is a certain culture in the residual traditional KANU political thinking that you can say something now and the next day you deny it. The predecessor of hon. Kamotho as Secretary-General of KANU even denied what was shown on television as having taken place inside a KANU meeting. He denied that the next day. Even hon. Kamotho is denying that merely because he had wanted his lieutenants to say it on his behalf that he was misquoted.

Can hon. Kamotho deny that in his thinking that because Kikuyus fought for Uhuru, they must remain in the corridors of power, and that the limited agenda which has been making him advise some people to say that he is loyal to the ruling party, has basically been a narrow ethnic agenda?

**The Temporary Deputy Speaker** (Mr. Ndotto): Order! Hon. Ndicho, we are not here to discuss anybody. Hon. Kamotho denied what was in the newspaper and I think you should proceed on to a different direction.

**Mr. Ndicho:** Thank you, Mr. Temporary Deputy Speaker, Sir. I think the *Daily Nation* produces about three issues. The first edition has three stars, the second edition has two stars while the third edition has one star. The one I read did not have that story. If I had seen it, I could not have raised that issue. In any case, what I was saying is that, even if it is a Kikuyu, who will succeed President Moi, either this year or in the year 2002, he must be given a document called Constitution to govern the people of Kenya with which is not as oppressive as the current one. Otherwise, I would like to assure hon. Kamotho, that there is nothing wrong with a Kikuyu becoming the President. In fact, I am sure you must have read that I declared my candidature for the year 2002, and I will make sure that he is nominated at that time.

All I am saying is that the Constitution of Kenya must be amended. In one of the areas in this amendment---

**Prof. Mzee.** On a point of order. Mr. Temporary Deputy Speaker, Sir. Is hon. Ndicho in order to say that when he becomes the President, he will nominate hon. Kamotho again? Does that not mean that he has taken for granted that hon. Kamotho will never win an election on his own, and he will need to be nominated all the time?

**The Temporary Deputy Speaker** (Mr. Ndotto): That is not a point of order which should come from a professor.

**Mr. Ndicho:** Mr. Temporary Deputy Speaker, Sir. There is nobody who can put a wedge between me and hon. Kamotho. We are great friends.

I want to move to another area where the Constitution is talking about the President appointing Ministers from Members of Parliament to form a Government of national unity or a coalition Government. I remember what happened in 1964 in accordance with Clause 3. Under the Memorandum of Objects and Reasons, if this amendment is enacted, the President will be able to form a Government of National Unity or a coalition Government.

Mr. Temporary Deputy Speaker, Sir, we are suspicious that this so-called Government of National Unity or Coalition Government might not be what it implies in the actual sense of the words. I remember what happened in 1964, when the late Jomo Kenyatta was the President of Kenya and Charles Njonjo was the Attorney-General. People like the late Mbiu Koinange, the late Tom Mboya and the late Oginga Odinga were in the Government. It was agreed that the late President Kenyatta would appoint to the KANU Government people from KADU. President Moi was called upon to join a coalition government and was made a Minister for---

**Mr. Munyasia:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Is hon. Ndicho in order to mislead this House that when hon. Daniel arap Moi was appointed a Minister in the late Kenyatta's Government he was still a member of Kenya African Democratic Union (KADU) when we know he first defected to KANU before he was appointed a Minister?

**The Temporary Deputy Speaker** (Mr. Ndotto): Definitely, he is not in order.

**Mr. Ndicho:** Mr. Temporary Deputy Speaker, Sir, hon. Munyasia could have waited for me to explain what happened. Hon. Daniel arap Moi was called by the late Jomo Kenyatta and they had some talk. I do not know whether he was given *ugali* or *githeri* at that time. They talked and agreed that it was important to mould the young nation into a strong one. Whether President Moi was made a Minister after his defection, or he was promised the position of a Minister during the negotiations before he defected is immaterial at the moment. All that I am trying to say is that the provision we have here will, if not checked, kill the Opposition Parties in this country, just as KANU killed KADU at that time.

**Mr. Kariuki:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for hon. Ndicho to say that hon. Daniel arap Moi defected from KADU, when that party had already dissolved itself.

**Dr. Kituyi:** On a point of information, Mr. Temporary Deputy Speaker, Sir. I wish to inform hon. Ndicho that his fears should be allayed if he looks at the amendment to Section 15 of the Constitution, which says that appointment of Ministers will be subject to the provisions of any written law. This amendment, together with the amendment to the Presidential and National Assembly Elections Act, Cap 7, provides that appointment of Ministers from parties other than that of the President will be done with the concurrence of the candidates parties. That means that you cannot poach individuals from parties. The President will be given the individuals by the party leaders.

**Mr. Ndicho:** Mr. Temporary Deputy Speaker, Sir, I never attended the IPPG meetings and so I stand to be corrected. I said so from the word go. My fears are that we should not create a situation similar to the one of early 1964/65. At that time the Government gave ministerial positions to Members of the Opposition Party, KADU, and this made that Opposition Party dissolve itself. That is my only concern. For example, if I, being a Member of the Opposition, were to be appointed a Minister in the Government of the day, I would be more committed to my duties as a Minister than to my party, yet it is my party which sponsored me to Parliament.

These provisions will also create some political problems. This is because you will be a Member of an Opposition party, and also part of a Government that will be opposed by your party.

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

**Mr. Ndicho:** Mr. Temporary Deputy Speaker, Sir, please protect me from these numerous points of orders!

**The Temporary Deputy Speaker** (Mr. Ndotto): Order! Let him finish and then you can raise your point of order.

**Mr. Ndicho:** Mr. Temporary Deputy Speaker, Sir, we are trying to avoid a situation where I am sponsored to Parliament by an Opposition party, as opposed to the one that has formed the Government, and then I am a Member of a Cabinet of a Government of the party that I am now opposed to. It is something that has been confusing my mind, because I can see a situation where we might end up having some crisis in the middle of the sea. So, I would have liked to see the Constitution amended, where the coalition Government is one, where no party emerges as the overall winner and then one party calls one or two other parties to form a majority and form Government. That is the way it happened in Italy, Israel and those countries where we have got coalition government, but the way it has been tailored in Kenya, it will bring some problems and crisis immediately. If we talk about a Government of national unity--

**The Assistant Minister, Office of the Vice-President and Ministry of Planning and National Development** (Dr. Misoi): On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for hon. Ndicho to mislead this House about the nature of a coalition Government, without substantiating as to the fact where in the Constitution is coalition stated, and which Constitution in the world provides for a coalition Government in specific terms?

**Mr. Ndicho:** Temporary Deputy Speaker, Sir, what is his point of order? Protect me from hon. Dr. Misoi because he never raised any point of order. This is a point of argument, which he can state when his time comes. What I am saying is that the term "national unity" or "government of national unity" was coined at the formation of South African Government. When the South African Government was being formed, it was very necessary to form a Government of national unity because of the Inkatha Freedom Party. If the Inkatha Freedom Party was not included in the formation of that first Government, the Government of ANC could have landed in a lot of problems with the Inkatha Freedom Party, whose members are warlike. They are fierce and they could not have settled for anything else, hence they could have continued to say "not yet uhuru". So, this was a provision of the national unity to stamp out some problems. So, I think the issue of a Government of national unity, I would like to inform the Attorney-General, is a situation that may not apply in Kenya at all.

**Dr. Lwali-Oyondi:** On a point of order, Temporary Deputy Speaker, Sir. Hon. Ndicho claims that he is a supporter of the NCEC. Is he in order to continue misleading the House because one of the cardinal points the NCEC put forward was to have a Government of national unity in order to objectively do the overhaul of the Constitution because if we have a Government of--

**The Temporary Deputy Speaker** (Mr. Ndotto): Dr. Lwali-Oyondi, what is your point of order?

**Dr. Lwali-Oyondi:** Mr. Temporary Deputy Speaker, Sir, is he in order to contradict any of the NCEC principles of forming a Government of national unity in order to objectively overhaul the Constitution?

**Mr. Ndicho:** Mr. Temporary Deputy Speaker, Sir, you will agree with me that that was not a point of order, but a point of argument. It is a point of argument, and in any case, I have the right to point out what is wrong. All I am saying is that a Government of National Unity is not necessary for Kenya, because I believe we are old enough for that kind of Government.

Mr. Temporary Deputy Speaker, Sir, in Kenya, the existing political parties are being led by mature people,

and so, when they are defeated in the elections they will accept it and hope to try to win next time. In South Africa, the Inkatha Freedom Party had to be integrated in the Government to avert potential chaos, though they did lose in the elections. This is because they were part of the political struggle that stopped the Apartheid rule. The resultant upheaval could have been more disastrous than the apartheid system that was in South Africa. That is why President Nelson Mandela and the ANC top leaders decided to accommodate all persons in the struggle.

Mr. Temporary Deputy Speaker, Sir, in Kenya, we are not at war with ourselves. We are not at war with any party that wins. All we want is that after the forthcoming general elections, if there is no victorious party which will be able to win the presidential seat and get the majority seats in Parliament, which I am sure is unlikely to happen, that is the time we will sit down and agree on the idea of forming a Coalition Government. But to provide for a Coalition Government as the only way to form a Government when another political party could emerge the winner in the elections, is not fair. I also agree with hon. Dr. Misoi that there is no Constitution in the world that provides for a coalition government.

If no party wins the presidency and majority seats, that is the time we can compromise and form the Government on the strength of all parties represented in Parliament, and shut doors for the others.

**Dr. Lwali-Oyondi:** You are just agreeing with us.

**Mr. Nyagah:** On a point of information, Mr. Temporary Deputy Speaker, Sir. I am very grateful to hon. Ndicho for giving me this opportunity. I have no intention of refuting what he has said, I would like to inform him that when South Africa went through its elections, it was obvious that ANC could have formed a Government on its own. That could have been the case, had it not been for two white people, Messrs. Slovo and Vessos, who went jogging and swimming together and agreed under a sunset clause that, to give the Government a national outlook, they should incorporate everyone by introducing a government of national unity.

**Mr. Ndicho:** Mr. Temporary Deputy Speaker, Sir, I thank hon. Nyagah for that good information. But that is what I was saying. If it took two white men in South Africa to avert a looming crisis, what crisis was IPPG trying to avert in Kenya to bring in a provision in the Constitution for a Government of national unity? I am sure when KANU will be out of power next year, we shall sit down again and review the Constitution.

Mr. Temporary Deputy Speaker, Sir, in fact, if I happen to be the President of this country, one thing I will do is to amend Section 1(a) which was altered to read: "The Republic of Kenya shall be a multiparty democratic State". Instead, I will change it to: "The Republic of Kenya shall be a partyless democratic State". I would abolish all political parties in this country.

*(Loud Consultations)*

**An hon. Member:** That is not practicable!

**Mr. Ndicho:** Mr. Temporary Deputy Speaker, Sir, these are my submissions. I propose that we have a situation like the one they have in Uganda with no political parties. What multi-party democracy has done is to split this nation into tribal political groupings in the form of parties. I do not want to give credence to what President Moi has always been saying.

*(Loud Consultations)*

Wait a minute, let me explain. This has confirmed what President Moi has been saying that multi-party democracy would bring tribalism. But, at the same time, people in KANU are the ones who have sponsored that. Now, we are in a crisis in Kenya. If you are a Mkamba, I do not need to be told which is your party; I know it is Social Democratic Party of Kenya (SDP). If you are a Luo, it is NDP. This also applies to the Luhya and Kikuyu.

*(Loud Consultations)*

## ADJOURNMENT

**Mr. Temporary Deputy Speaker** (Mr. Ndotto): Order, Order. Hon. Members, it is now time for the interruption of business. The House is, therefore, adjourned until Thursday, 30th October, at 2.30p.m.

The House rose at 6.30 p.m.