

NATIONAL ASSEMBLY

OFFICIAL REPORT

Thursday, 2nd April, 1998

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

COMMUNICATIONS FROM THE CHAIR

DEATH OF HON. D.M. KAIRU

Mr. Speaker: Hon. Members, it is with a heavy heart that I would like to announce the death of our dear colleague, the Member for Kieni, Mr. David Munene Kairu, who passed away yesterday at Nairobi Hospital after a short illness.

The late Member was born in 1949 in Nyeri District and after his secondary education, he joined the Kenya Police. He later became a successful businessman specialising in estate development; hotel industry and farming. Mr. Munene Kairu made debut to Parliament during the general elections of 1992 when he was returned as Member for Kieni. During that period he proved to be social and of pleasant personality. He interacted with others respectfully and obeyed the rules of the House. We shall miss his services and fortitudes at the time when we needed him most. On behalf of all hon. Members and on my own behalf, I send my heartfelt condolences to his beloved family, friends, constituents and members of his party. May Almighty God rest his soul in eternal peace.

Hon. Members, let us now stand and observe one minute's silence in honour of our departed colleague.

(Hon. Members stood for one minute in silence)

Thank you.

CORRECTION TO STANDING ORDER 81

I have a further communication. During yesterday's sitting, the Member for Kitutu-Masaba raised the issue of the text of Standing Order 81 as it appears in the amended version. Hon. Members, I seek your indulgence to explain the situation. The wording of Standing Order 81 as it existed prior to the amendment made in November, 1997 was not to be altered. The only amendment proposed was the insertion of a proviso thereto so that the Standing Order would read as follows:-

Standing Order 81(1):-

"The House may, on a Motion made by any Member in accordance with the provisions of this Standing Order, impose a limit in respect of the debate on any particular Motion by allotting a limited period of time for such debates or by limiting the time during which the Members may speak in such debate or by imposing both such limitations."

(2) "Such Motion may be made without notice:

Provided that such Motion shall not be made in the course of the debate to which it refers unless it is moved after an adjournment of such debate and before the debate is resumed."

"Provided further that the limitation for the speeches by specified categories of Members in debate on the specified subject shall not, unless otherwise ordered, exceed the period specified in the following schedule as set out in the current Standing Order 81."

Unfortunately, in the revised edition of the Standing Orders, the above proviso now appears as substantive Standing Order 81 and the previous provisos are omitted. It is also regretted that the omission was also reflected on the Minutes of Standing Orders Committee laid on the Table. I have other documents in my possession to support that position. It can, therefore, be concluded that that was not the intention of this House.

As it stands now, the new Standing Order 81 makes no provision for the limitation of debate on Procedural Motions such as the Presidential Address, Private Members' Motions, Motions for adjournment of the House and so on. These are matters that are not now expressly provided for and which Mr. Speaker can decide under the provisions of Standing Order 1. I, therefore, direct that Motions and limitations not otherwise provided for will be done in accordance with the provisions of the previous Standing Order 81, until the Standing Order Committee takes remedial action, and I hope this House will appoint the Standing Orders Committee as quickly as possible, so that we can rectify this situation to enable the House to proceed in discharging its business. Thank you very much.

The Member for Kimilili (Dr. Kituyi): On a point of order, Mr. Speaker, Sir. Whereas I recognise and acknowledge the authority of the Chair, I wish to draw the attention of the Chair that the immediate ruling that you just announced is not consistent with the fact of how the whole Standing Order 81 disappeared from the Standing Orders. An inclusion of that Standing Order negates the presence of Standing Order No.1 as it exists today. Since this House, whether by the crime of omission or deliberate exclusion, discussed and adopted Standing Orders excluding that important position which puts us in an ambiguous position today, it is the business of the House again to look at that omitted recommendation which is a fundamental Standing Order. If we discuss and decide so, then this Standing Order will be so amended. I do not think it is fair that a previous Standing Order which has been removed by a Committee of this House, and which removal has been endorsed by the House can now be reintroduced through a ruling from the Chair.

Mr. Speaker: Order! Dr. Kituyi has a valid point in saying that I have no powers to reinstate a deleted Standing Order. Actually, my intention in this ruling is that since we have no provision now in our Standing Orders for limiting Procedural Motions, I invoke Standing Order No. 1. If by referring to the Standing Order 81, as it were, it is wrong, then may it be understood that my ruling is intended that Standing Order No. 1 is invoked to allow for this particular issue to proceed because there is no express provision in our Standing Orders as of today. But, as I said, it is the House that has powers to reinstate Standing Order No.81, if it so deems.

The Member for Kitutu Masaba (Mr. Anyona): Mr. Speaker, Sir, I am grateful that the Chair has assisted the House in discovering that there is a *lacuna* in our Standing Orders caused by the manner in which the review took place.

Mr. Speaker, Sir, at the beginning of this Eighth Parliament, I personally would be averse to passing blame, passing the buck or finding scapegoats in this matter. I would rather be more positive, identify problems and find out how to resolve these problems. So, your recognition that there is a *lacuna* is itself a very positive development.

Mr. Speaker, Sir, the point raised by hon. Kituyi is, as you said, equally valid. The point is that Standing Order No. 1 has the intention of providing for matters that are not ordinarily included in the Standing Orders and not foreseen. That is why the Speaker is given these very special powers to resolve issues which nobody else can resolve. I do not think it is the intention of Standing Order No. 1 for the Speaker to make Standing Orders. You have rightly said it. It would amount to making Standing Orders if you, Mr. Speaker, were to invoke Standing Order No. 1 to reinstate the Standing Order that was left out.

Mr. Speaker, Sir, with due respect, I feel that the right way for the House to move is to admit that we have these problems and, therefore, to move with speed in constituting the Standing Orders Committee. The Committee will then go into this Standing Order 81. In fact, it is not just this one Standing Order, there are others which may require review. This Standing Order No. 81 needs to be reviewed urgently so that by next week we can have the House adopting the resolutions, bringing back the old Standing Order 81 and then the Government can move the necessary Procedural Motion.

Mr. Speaker, Sir, I do not think we want to make short-cuts in this Parliament.

Mr. Speaker: Indeed, what you are saying is exactly what I had said. We have a problem. What you should have told the House is how, in your view, we can surmount that problem because the Standing Orders are not supposed to paralyse the House. They are supposed to facilitate the smooth running of the business of the House. I think any Member who has suggestions to help us out of this is most welcome. I do not think it is a contest between the Chair and Members. We have recognised a problem and we have to get out of it. How do we get out?

The Member for Kitutu-Masaba (Mr. Anyona): Mr. Speaker, Sir, that is right. Now, some of us have been thinking about this problem for a long time. We have thought of various ways of resolving it. It appears plausible that if the Sessional Committee were constituted, through the Leader of Government Business, it would bring a Motion asking the House to reinstate the old Standing Order. The House can transact any business or even resolve a *lacuna* as well. The House would then pass a resolution that would give effect to what we have just

read. Then on that basis, we can proceed to move the necessary Procedural Motion.

The Minister for East African and Regional Co-operation (Mr. Biwott): Mr. Speaker, Sir, I do not see any contradiction in what Mr. Speaker, hon. Anyona and hon. Dr. Kituyi are suggesting. We have a situation where vital procedures were omitted from Standing Orders, but the fact remains that this House never intended it to be so. Fortunately, as you said, we have Standing Order No. 1 which gives Mr. Speaker the power to decide on situations where guidance is required. This Standing Order states as follows:-

"The decisions made in paragraph (1) shall be based on the usages, forms, precedents, customs, procedure and traditions of the National Assembly of Kenya and other jurisdictions to the extent that these are applicable to Kenya."

Mr. Speaker, Sir, we know that we are operating on written Constitution and procedures. But if we look at the origin of our parliamentary system, we find that the British will go by tradition, customs and improvisation. I do agree that in order to reach a consensus, we must appoint a Standing Orders Committee in order to rectify the situation, but before that we will have to first appoint the Sessional Committee which will in turn constitute other Committees of the House. So, in order to save time, I was wondering whether it would be prudent for this House to follow your original guidance so that the Sessional Committee may proceed with speed to nominate Members of the Standing Orders Committee. If we do not do that, what will happen is that on Tuesday when the House meets, there will be no business of the House and we might be forced to proceed with what we are doing today and then later on have an adjournment so that the Sessional Committee can go out and deliberate on the business of the House. After this, we will then come back and debate on the procedure and reinstate Standing Order 81(1). In order to save time, it would be wise for us to follow your original guideline.

The Member for Kimilili (Dr. Kituyi): Mr. Speaker, Sir, between you and hon. Anyona, you did make some progress. The veneer of legitimacy of your earlier position presented by hon. Biwott is negative to that progress. You cannot use that which you have removed as a precedence of what you do. You have amended it and it is not part of your precedence to follow.

Mr. Speaker, Sir, I agree that we have to move forward. We have to find a way of this House amending these Standing Orders to bring back the power for the House Business Committee to propose limitations of debate.

But before that happens the Chair cannot, under the provisions of Standing Order No. 1, allow any organ of this House the freedom to limit them. We have to suffer the consequences of that mistake which means the debate on the Presidential Speech will be unlimited until the Standing Orders have been amended. It is only then that the House Business Committee can limit that debate.

Mr. Speaker: I brought up this issue because I thought the House must know what the problem is and think of how to resolve it because it does not affect our work for this afternoon, anyway. On Tuesday when we meet, we will proceed in a way that we will think will be necessary. In fact, we may begin by having a resolution of this House effecting the recommendation of the Committee before we go to any other business. The aim of any Standing Order is really to make the House function, and I do not think the House ever intends to make itself not function. So, anyway we know about it. Any hon. Member who has suggestions to help the Chair is most welcome to present that suggestion to Mr. Speaker, in his Chambers and preferably in written form. It would help me a lot. So, can we now proceed.

NOTICE OF MOTION

APPOINTMENT OF HOUSE BUSINESS COMMITTEE

The Minister for Lands and Settlement (Mr. Ngala): Mr. Speaker, Sir, I beg to give notice of the following Motion:

THAT, the following Members be appointed as Members of the House Business Committee:

Hon. N.K. Ngala, MP, Chairman

Hon. Prof. George Saitoti, MP

Hon. S. Nyachae, MP

Hon. W.M. Mudavadi, MP

Hon. K.N.K. Biwott, MP

Hon. S.K. Musyoka, MP

Hon. J.J. Kamotho, MP

Hon. Kipkalya Kones, MP

Hon. Maj. Madoka, MP

Hon. A.M. Noor, MP

Hon. S.P. Leshore, MP
 Hon. Mwai Kibaki, MP
 Hon. D. Mwiraria, MP
 Hon. M. Karua, MP
 Hon. N.M.G.K. Nyagah, MP
 Hon. Raila A. Odinga, MP
 Hon. P. Oloo Aringo, MP
 Hon. M.K. Wamalwa, MP
 Hon. L. Sifuna, MP
 Hon. Prof. P. Anyang'-Nyong'o MP

The Member for Juja (Mr. Ndicho): On a point of order, Mr. Speaker, Sir. While we appreciate the appointment of hon. Ngala as the new [**The Member for Juja**] Leader of Government Business, may I suggest that instead of hon. Biwott, hon. Saitoti should sit next to hon. Ngala so that he can couch him on House matters? Hon Saitoti is experienced!

Mr. Speaker: Order! Mr. Ndicho, I do not think that among the duties bestowed on you by the electorate of Juja is to be in charge of sitting arrangements in this House.

The Minister for Lands and Settlement (Mr. Ngala): Mr. Speaker, Sir, as it is, this Committee, whose Members' names I have read out here---

The Member for Kimilili (Dr. Kituyi): On a point of order, Mr. Speaker, Sir. Is it in order for the hon. Leader of Government Business, in moving a Motion, to start by giving reasons instead of reading the Motion?

Mr. Speaker: Mr. Ngala, read the terms of the Motion first.

MOTION

APPOINTMENT OF HOUSE BUSINESS COMMITTEE

The Minister for lands and Settlement (Mr. Ngala): Mr. Speaker Sir, I beg to move:

THAT the following Members be appointed as members of the House Business Committee:

Hon. N.K. Ngala, MP, Chairman,
 Prof. Hon. George Saitoti, MP
 Hon. S. Nyachae, MP
 Hon. W.M. Mudavadi, MP
 Hon. K.N.K. Biwott, MP
 Hon. S.K. Musyoka, MP
 Hon. J.J. Kamotho, MP
 Hon. Kipkalya Kones, MP
 Hon. Maj. (Rtd.) M.H. Madoka, MP
 Hon. A.M. Noor, MP
 Hon. S.P. Leshore, MP
 Hon. Mwai Kibaki, MP
 Hon. D. Mwiraria, MP
 Hon. M. Karua, MP
 Hon. N.M.G.K. Nyagah, MP
 Hon. Raila A. Odinga, MP
 Hon. P. Oloo Aringo, MP
 Hon. M.K. Wamalwa, MP
 Hon. L. Sifuna, MP
 Prof. Hon. P. Anyang'-Nyong'o MP

Mr. Speaker, Sir, for the benefit of hon. Members this Committee is very vital for the deliberations and setting out the business of the House. Therefore, as Standing Order 145 stipulates, it is important that this House should have in existence the Committee which will be able to set out the functions and business of this House. I am given to understand that sufficient consultation has been done among the Chief Whips regarding hon. Members who are going to be on this Committee. Therefore, since it is not a very difficult situation to be understood by hon. Members, I would like to move that this Committee be established.

The Member for Kangema (Mr. Michuki): On a point of order, Mr. Speaker, Sir. The Leader of

Government Business has just read out his own name in the composition of this Committee. To what extent does the provisions of Standing Order 75 apply in this particular case where, obviously, he has an interest?

Mr. Speaker: You should have waited until I propose the question. That is actually an argument.

The Minister for Planning and National Development (Prof. Saitoti): Mr. Speaker, Sir, I rise to second the Motion that has been just moved by the Leader of Government Business recommending to this House the nominees to be appointed to this very important Committee of the House. I only want to add just one point, namely, that it is traditional that at the very beginning of a Session Members of the House Business Committee, that used to be known as the Sessional Committee, are appointed. It is this particular Committee that normally sits and deliberates on the matters that have got to come to the House. Indeed, we cannot transact any business until this Committee has been able to work out the business that is to come here.

I therefore, want to support this Motion and also commend it to the House because we have to move very quickly. It is important that we do actually adopt this Motion.

(Question proposed)

The Assistant Minister for Agriculture (Mr. Karauri): On a point of order, Mr. Speaker, Sir. There appears to be an anomaly here under Standing Order 145, because there should be a Select Committee to be designated the House Business Committee, constituting of not less than five Members and not more than 22 Members because it now looks like these are 22 Members.

(Loud consultations)

Mr. Speaker: Order! Order, Mr. Adams Karauri! According to the old mathematics which I was taught, the Members listed there are 20 unless you are using new mathematics, which have since been disbanded.

The Member for Othaya (Mr. Kibaki): Mr. Speaker, Sir, I rise early because the Leader of Government Business did say that we have had consultations. He should have said there has been genuine attempts to have consultations and to agree on the proportion in which Members should be selected to this vital Committee because it will control the business of the House. Indeed, in the earlier part of the consultation, we felt we could reach at very good agreement but we have not been able to reach to that agreement. The reason is that there seems to be an effort which is not rational, but the effort is there to have a very large majority for the Government side in this vital Committee. Yet, we have to live with the facts as they are; not as we would have wished them to be. The realities of the facts of this particular House is that both sides of the House are fairly close in terms of numbers. That is not our making; it is the making of the Kenya people who elected us. So, let us not try to do anything other than according to the wish of the Kenyan people. Kenyan people want to be represented the way they are now represented in this House. Therefore, all we are saying is that in choosing these 20 Members we should accept the obvious fact that we should have ten Members from this side and ten Members from the other side.

(Applause)

Mr. Speaker, Sir, it is very easy to do the mathematics because like you, I did the old mathematics. The old mathematics are quite correct - and we have for consultancy purpose the professor" of mathematics on that side. He can assist us. Under the old mathematics---

The Minister for Planning and National Development (Prof. Saitoti): Thank you, Mr. Speaker, Sir. As a professor of mathematics I want to assure the hon. Kibaki that fundamentally, there is no difference between old and new mathematics. It is a question of what you bring forth and what comes later.

The Member for Othaya (Mr. Kibaki): Mr. Speaker, Sir, you and I am sure are assured and very happy to be told by someone who genuinely knows that there is no major difference between what we learnt and what our children are learning. What I am saying, according to that Mathematics and following the principle of proportionality, if you divide this 20 in accordance with our numbers, the KANU Party and their side with 113 Members would get 10.1 Members in this Committee. Mr. Speaker, Sir, you would get the Democratic Party (DP) which has 41 Members, getting 3.78 Members, which is nearly 4 Members. In accordance with the old Mathematics and also the new ones as we have been assured, the NDP which has 22 Members, in accordance to that same Mathematics, should get 2.07 Members, which is approximately 2 Members. FORD(K) which has 18 Members would get 1.62 Members which is close to 2 Members. The SDP with their 16 Members would get 1.44 which becomes 1 Member.

Mr. Speaker, Sir, SAFINA which has 6 Members would get 0.54 which translates into one Member. I need not refer to the other parties because they do not add to anything. All we are saying is that we should avoid this irrational thinking. Both sides should have each 10 Members and the Chairman who is the Leader of Government Business knows that with that there is no problem. Even when we had a discussion here before about how Nominated Members were to be elected. We agreed to share them out equally. All these things are there and quite straightforward. No one needs to make them to become major issues because to every reasonable person in a House which has almost equal numbers it is going to look ridiculous to have one side claiming a majority of two which is what is being shown on this Order Paper. KANU side is going to have 11 Members as opposed to nine Members for the Opposition.

(Loud consultation)

Mr. Speaker: Order! Order, hon. Members! I suppose when a Member is on the Floor Members should keep quiet and wait for their chance. Of course, I would have expected in the spirit that prevails everywhere that proper consultations between the Whips should have been done so that this matter could have been sorted out before we come to the Floor. Nevertheless, whether there were or were no consultations, the rules of the House demand that a Member on the Floor shall be heard and that there shall not be so many Members speaking from the Floor or from their seats.

The Member for Kitutu Chache (Mr. Angwenyi): Mr. Speaker, Sir, On a point of order. The rules of the House that relate to the Sessional Committee do not say that we should apportion selection of Members according to the numerical strength of political parties. If you read Standing Order 145(1) it is stated that there will be a select Committee, but it does not say anything about proportions. So, that is why I am saying that the method used is correct.

(Loud consultations)

The Member for Othaya (Mr. Kibaki): Thank you, Mr. Speaker Sir. The hon. Member is clearly not following what we are talking about. We want to establish a reasonable working relationship between Members of this Parliament who belong to Government and the Opposition and create understanding. That is why this principle of proportionality of representation has a meaning. Otherwise, what is to stop hon Member from having a Sessional Committee which has five Opposition Members and 15 Members from the Government side? What is to stop you from doing it? All we are saying is that a rational situation is what we must arrive at. So, we are proposing, Mr. Speaker, Sir, that we have a Committee which has 10 Members from the Government side and their Chairman and 10 Members from this Opposition side distributed in the manner we have just said, where DP would have 4 Members; NDP, 2; FORD(K) 2; SDP 1 and SAFINA 1. That is something that is very rational and sensible and we cannot see possibly anyone seeking to have a majority of two in this Committee and claim to be reasonably seeking understanding. It is not possible.

The Minister for Education and Human Resource Development (Mr. Musyoka): Thank you very much, Mr. Speaker, Sir. I take the Floor to support this Motion. I would right away beg to differ with the Member for Othaya who has just been on the Floor. I do not think the intention is really to complicate matters upfront. As it is, I quite agree with him that the wishes of the Kenyan people have to be respected. Quite frankly, though I may be directly involved with the new Mathematics, I find that we are just talking about 11 Members for the Government side and 9 Members for the Opposition. If we have to look at the various parties represented in the House, I accept that they have to pay some "opportunity cost" for being in the Opposition. Therefore, one member cannot necessarily make this House to drag on with the composition of this vital committee.

Mr. Speaker, Sir, I want to appeal to our colleagues on the other side to accept that we are not talking about a huge majority here but we are just talking about 11 versus nine Members. One of them happens to be the Chairman of the committee, in any event.

The Member for Sirisia (Mr. Munyasia): On point of information, Mr. Speaker, Sir.

The Minister for Education and Human Development (Mr. Musyoka): Mr. Speaker, Sir, I do not think I need it because it is not my intention to take long on a matter which is straight forward. I am just appealing that we agree with this composition.

Thank you.

The Member for Langata (Mr. Raila): Mr. Speaker, Sir, I rise to support what hon. Kibaki has said here. One of the biggest problems we have in this country is the attitude of "winner takes all." This is something

that we need to discard if we are going to cultivate the culture of "give and take." There are going to be other contentious issues over which we need to split hairs but I do not believe that the composition of the Sessional Committee is one of those issues.

Mr. Speaker, Sir, in this House, most of the time we are dealing with the Government Business. The proportion of time in which we deal with Private Members Business is very small. Therefore, the Business in the Sessional Committee is so straight forward that the composition does not really matter as far as the Government is concerned. I will even go further and say that apart from trying to establish parity by introducing proportionality in the composition, that we also try to introduce affirmative action which we have been talking about when it comes to the question of gender.

I would like to suggest to the Democratic Party (DP) that, although the law of proportionality would entitle them to four seats in the Sessional Committee, they should give one of those positions to one of the smaller parties, that is, the single Member parties that we have on this side. Likewise, I would also like to suggest to KANU that in the spirit of affirmative action, they should surrender one of their positions to either SHIRIKISHO, FORD(P) or FORD(A). If we begin that way, we will be going a long way in our efforts to establish a culture of co-operation in the House.

(Applause)

The Assistant Minister, Office of the President (Mr. Sunkuli): Mr. Speaker, Sir, I think the real purpose for forming these Committees is to enable business to be transacted. The hon. Raila had the right argument although he followed it up with a wrong conclusion. The House Business Committee mainly plans how Government Business can be transacted in this House and a little proportion of non-Government business. It would only be better to have a committee that will actually enable the Government to transact its business, because the nature of our politics is "competitive politics". The House Business Committee should be able to have such a majority as to enable the Government to govern, not a committee that will most of the time be tying. This is in accordance with the rules of the Commonwealth countries.

In fact, this is what we have been trying to do. Last year, those of us who were in the Standing Orders Committee travelled around the world just to see how committees function in the Commonwealth countries. We in Kenya are not any different from other parts of the Commonwealth. There does not exist any country in the Commonwealth where there is a committee of the House in which the opposition parties have the majority or are equal with the Government. In this case it is a nominal majority in a committee in which the Government actually ought to have the majority.

I support.

Mr. Speaker: Mr. Anyona!

The Member for Juja (Mr. Ndicho): On a point of order, Mr. Speaker, Sir. Since the last Parliament, you made a ruling from the Chair that a Member of Parliament ought not to travel a "kilometre" to come and speak from the dispatch box. Does that rule still apply? I am just seeking guidance from the Chair.

Mr. Speaker: Order! I did not make a ruling as such. What I did was to ask Members to be mindful of their colleagues by not taking too much time, by walking leisurely all the way, when microphones are available where they are seated. If you really want to speak from the dispatch box, you are entitled to do so, and I hope Mr. Anyona is entitled too. I do not think you are entitled to speak from the dispatch box, since you are not the person specified under the Standing Orders entitled to sit on the front. But next time, if you want to speak, come there.

Proceed.

The Member for Kitutu Masaba (Mr. Anyona): Mr. Speaker, Sir, to start with---

Mr. Obwocha: On a point of order, Mr. Speaker, Sir. If I understand the Standing Orders well, Standing Order No. 172 says: "On your left, there shall sit the Official Opposition and leaders of political parties." Hon. Anyona is one of them.

(Laughter)

Mr. Speaker: Sorry, I apologise.

The Member for Kitutu Masaba (Mr. Anyona): Thank you very much, Mr. Speaker, Sir. With regard to hon. Ndicho's point of order, I did indeed consider whether I should speak from where I was, where I have sat since 1974 when I first came to this Parliament, or whether I should come to the dispatch box. I thought in the interest particularly, of the new Members and also because if I speak from there, Members on this side have got to

look backwards.

The Member for Bondo (Dr. Oburu): On a point of order, Mr. Speaker, Sir. Is Hon. Anyona in decorum in his dressing?

Mr. Speaker: Actually, I am not wearing my glasses today.
Proceed, Mr. Anyona!

The Member for Kitutu Masaba (Anyona): Mr. Speaker, Sir, the point I was making is, I think it is very important that we do consider the convenience of the House and other Members particularly, in view of what I am going to say that I should speak from here. I thank hon. Obwocha for having changed the Standing Orders to make this provision, not because of me but because it is important that parties, whether big or small, are given due recognition.

Mr. Speaker, Sir, having said that, I would like to proceed by pointing out for what it is worth that under Standing Order number 145, whereas this Committee is properly designated as the House Business Committee, in the marginal notes, we have the old name of "Sessional Committee". I was wondering whether we are talking at cross-purposes but I did check the minutes and it was clear from the minutes that the name was changed and so I take this as a misprint. I thought it is important to point that out so that it can be corrected.

Mr. Speaker, Sir, I partly agree with this Motion, and partly do not agree to it. I would like to propose an amendment to this Motion. I move that the Motion be amended as follows:

(a) By deleting the names: The hon. J.J. Kamotho, MP, in the ninth line on page four, and the hon. D. Mwiraria, MP, in the fourth line on page five.

(b) By inserting the names: The hon. Paul K. Muite, MP, and the hon. G.M. Anyona, MP, respectively.

(Laughter)

If other people do not look after your interest, you should look after those interests yourself. I think it is morally sound to do that, although I must confess that when I was drafting that amendment I felt that it might be construed to mean that I was looking for a job. I have enough job on my hands as it is.

Mr. Speaker, Sir, I want to share with this Eighth Parliament, and particularly the new Members, some of the shortcomings of the Seventh Parliament. The Seventh Parliament was elected by the people of Kenya, with the same mandate as we have today. But at the end of the day, it was felt that the Seventh Parliament did not fulfil that mandate. In fact, if you look at it in a negative way, you would say that the Seventh Parliament betrayed that mandate. I do not think that the Eighth Parliament can afford not to fulfil its mandate, and more particularly to betray Kenyans. One of the reasons for the Seventh Parliament's failure to perform to the electorates' expectations was the fact that there was total lack of cooperation, total lack of give and take and total lack of appreciation. This was a multiparty Parliament with Members on both sides of the House---

(Prof. Saitoti and Mr. Biwott consulted)

Mr. Speaker, Sir, I do not know what debate hon. Biwott and hon. Saitoti are conducting. These are very important matters---

The Member for Kitui Central (Mrs. Ngilu): On a point of order, Mr. Speaker, Sir. Hon. Anyona has said that the Seventh Parliament betrayed Kenyans. Could he expound on that because I do not know how we betrayed Kenyans?

Mr. Speaker: Mrs. Ngilu, every time somebody expresses his opinion, must he expound it?

The Member for Kitui Central (Mrs. Ngilu): No, but we did not betray Kenyans. I was in the Seventh Parliament.

The Member for Kitutu Masaba (Mr. Anyona): Mr. Speaker, Sir, I used my words very carefully as I usually do. I did say that to some people, it may appear that the Seventh Parliament did betray the mandate of the people. I think we, as leaders, must accept criticism against us, whether it is true or not and then proceed to prove that we, in fact, did discharge our responsibilities. I was going to give examples of what we might regard as betrayal of the peoples' mandate. I was saying that hon. Saitoti seems to be involved in some acrimonious argument with hon. Biwott. I do not know whether it is about the Vice-Presidency or something else.

(Laughter)

I think it is very important that senior Members of the Government listen when Members contribute to

start off the spirit that goes to create the necessary unity that we want in this House. But if I feel that a senior Member of the Government is not interested in what Members on this side are saying, then that makes a very bad beginning for the Eighth Parliament. I was saying that we, in the Seventh Parliament, failed to foster cooperation, unity and understanding among Members.

Mr. Speaker, you can remember some of the ugly incidents we witnessed in this House. Those are examples of lack of cooperation. One of the other things that happened in this House was the marginalisation, particularly of what was called the small political parties. I do not know what big parties are. I do not know what numbers are supposed to constitute these parties, because in the Standing Orders of the House, there is no such provision. Each party represented in this House is called a parliamentary party. If a party has 30 Members of Parliament, it is called an Opposition party; if it has the largest number of Members, it becomes the Official Opposition party. That is the only terminology recognised in this House, but there is this habit of referring to some parties as small parties and in that sense totally marginalising them. I will now pose a question: Where are the big parties of yester-years? They are not here. Today, maybe, they are the "small" parties, but that is the process of democracy. It would be disastrous for this Parliament to repeat the mistakes of the Seventh Parliament in marginalising either parties or individual Members of this House on any account. Because of that marginalisation, this House was totally polarised, even within KANU itself. That is an example of betrayal because one nation must have one Parliament. We did not operate as one Parliament.

Mr. Speaker, Sir, I think it is important that the Eighth Parliament, from the very beginning, should avoid those pitfalls. What the Eighth Parliament should, therefore, do is that it must embrace fully the spirit of cooperation which was born by the IPPG reform process. That is how we got here today. The Eighth Parliament has to embrace the spirit of consensus. Consensus is actually the philosophy of African governance. This question of majority and minority is foreign to African systems of government. It was believed that the elders should sit down and reach a consensus based on reasonableness and equity of interests. Now, the Eighth Parliament needs to cultivate the spirit---

The Member for Githunguri (Mr. Gatabaki): On a point of order, Mr. Speaker, Sir. Is it in order for hon. Anyona, who was once a single Member of Parliament for his party in the entire Seventh Parliament and who is again a single Member of Parliament for his party to bore the House on marginalisation talk when he has already marginalised himself by being a single-Member party?

(Laughter)

The Member for Kitutu Masaba (Mr. Anyona): Mr. Speaker, Sir, that is one Member who was not sure which party he belonged to. He was wandering in the political wilderness, looking for a party that was limping alone. But, in any case, I do not believe in volume. I do not believe in numbers but in quality. You can be sure that the debate introduced here on behalf of our party will be quality debate.

The Member for Juja (Mr. Ndicho): On a point of order, Mr. Speaker, Sir. The hon. Gatabaki happens to be my Member of Parliament. I beg to object in the strongest language to the assertion that he was wandering from one party to another. We belonged to FORD(A) and when it was no more, we ran to the SDP and won the elections. So, he never wandered from one party to another. He was comfortable in SDP.

(Loud consultations)

The Member for Runyenjes (Mr. Kathangu): On a point of order, Mr. Speaker, Sir. I do not think it is in order for any hon. Member to claim that FORD(A) is no more when the party is represented in this House by hon. Kathangu.

(Applause)

Mr. Speaker: I think Mr. Ndicho has heard!

The Member for Kitutu Masaba (Mr. Anyona): Mr. Speaker, Sir, yes, indeed, there is a Member of Parliament representing FORD(A), who is one of the architects of the struggle for the freedom we are enjoying today; a member of the "Mutugi Trial", and I am very proud of him.

Mr. Speaker, Sir, this Eighth Parliament must cultivate the spirit of reciprocity. That is what we call, give and take. It is my view that if we fail in those endeavours, this Eighth Parliament will go the way of the Seventh Parliament. But whereas Kenyans may be prepared to forgive the Seventh Parliament simply because it was a

transitional Parliament, and simply because it was redeemed at the end of the day by the IPPG, if this Eighth Parliament were to fail, it might go down with the rest of the country.

Mr. Speaker, Sir, the Committees of this Parliament must, therefore, reflect the spirit of co-operation that we think is the cardinal principle for the success of this Parliament. It must reflect the spirit of consensus and reciprocity. The committees of this Parliament are slightly different from the Committees we have had in the past. This is because they have enhanced responsibilities. Under the new standing orders, the Committees of Parliament are going to be entirely responsible for the bulk of the work of this House. The Bills that this House normally transacts will pass through the departmental committees. The rest of the Committees of the House will be facilitators, so that work can be accomplished.

Therefore, Mr. Speaker, Sir, these Committees of Parliament must also be endowed with ability and experience. We must have old and new experience; we must have old Members who have the experience to guide new Members so that they can acquire experience for tomorrow. This country will be there forever, while we may not be here next time. So, I would like to advocate a system where the Committees will have a mingling of experienced old hands and heads, and some new Members who will learn.

Mr. Speaker, Sir, the Committees of the House must also foster, develop and reflect the unity and supremacy of this Parliament. Sometimes I hear people making remarks out there about this Parliament. Whereas it is democratic to do so, you know that Parliament is actually protected by the Constitution so that, if you indulge in an act that would lead to the destruction of Parliament, you are, in fact, committing a treasonable offence. It is not just the President and the Government; it is Parliament itself. So, sometimes when I hear comments out there about Parliament which border on treason--- I suppose some people do not know that you can act treasonably against Parliament.

Mr. Speaker, Sir, I have laid the general basis for the composition of the other committees. But that, must, therefore, start with this first committee. This Committee manages the business of Parliament which is in two parts. The bulk of the business of Parliament is Government business. Out of four sitting days, we transact the business of the Government for three days. We are both masters and servants of the Government. I do not want to just say, "masters", because some might be offended. But when we transact the business of the Government on behalf of the people, we are servants of the people and masters of the Government to make sure that the people are served.

Mr. Speaker, Sir, we also have one day of Members' motions. Now, there is no dispute about those businesses. There is even no dispute about the order in which they appear in the Standing Orders, because all that is provided for. So, the first question to ask is this: Why would the Government want to insist on a majority in a committee of the House and not the committee of the Government? This is not a committee of the Government. This is a committee of the House which manages the business of the House.

Mr. Speaker, Sir, in fact, all committees of Parliament are Committees of the House. But there is a slight difference. Although the Public Accounts Committee is a committee of the House, it does get into how the Government spends money. So, it tries to catch thieves. So, if there are thieves on the opposite side of the House, they become afraid. That is the only reason why the Government would feel afraid of a committee of Parliament. But even with that, we do not want witch-hunting; we want to be transparent.

Mr. Speaker, Sir, I heard hon. Musyoka, who I have a lot of respect for, arguing about the Government wanting to have a majority when he said "opportunity cost". Well, that is a good reminder, but next time we must be on that side and you can be on this side of the House. But, we need co-operation more than the opportunity cost to be able to transact the business of this country as a Parliament.

Mr. Speaker, Sir, I do not really think that there is any good argument for the Government to want to have a majority. If the intention and the hope is---

The Assistant Minister for Planning and National Development (Mr. Sumbeiywo): On a point of order, Mr. Speaker, Sir. Have you noticed that there are too many Members of Parliament standing between you and the speaker on the Floor?

Mr. Speaker: Thou shall not hide any Member speaking from me!

Proceed!

The Member for Kitutu Masaba (Mr. Anyona): Thank you, hon. Sumbeiywo.

Mr. Speaker, Sir, let us not seek to dominate or fix things. This is because fixing will not do now and you know it very well. What we will do is to co-operate in the spirit of give and take as we have already started since we opened this Parliament, and that is the spirit we want to continue with.

Mr. Speaker, Sir, secondly, this being a very important Committee of the House, this is the Committee that will ensure the unity of this House. You noticed that the source of some of the headaches you had in the Seventh Parliament was the Sessional Committee. The Members of the Sessional Committee would go there and

agree, then come to the Floor of the House and disagree. Sometimes they would not attend the Committee sessions but would come to the Floor and differ. We were lost as to what the decision of the committee was. Therefore, for these committees to foster that kind of harmony and unity, I think the question of majority is not the answer.

Mr. Speaker, Sir, before I finish, I would like to say that the principle here; the answer here---

(Loud consultations)

The Member for Kitutu Masaba (Mr. Anyona): Mr. Speaker, Sir, if you can help us find out, I hope hon. Prof. Saitoti is offering advice on mathematics as to how we can constitute the new committee.

Mr. Speaker: Mr. Anyona, would you address me?

The Member for Kitutu Masaba (Mr. Anyona): Sorry, Sir!

Mr. Speaker: Take no notice of them at all!

The Member for Kitutu Masaba (Mr. Anyona): Thank you, Mr. Speaker, Sir. I would like to conclude by saying: That the answer is not the majority, the answer is parity. We need consensus which is best arrived at when you have parity. Not just parity of numbers, but when in spirit we recognise you, you recognise us and we decide that we are going to move forward together.

Mr. Speaker, Sir, I really do not want to bore the House. I would like to plead with Members on our side and hon. Kibaki as the Leader of the Official Opposition, that as far as we are concerned, the leader of this side of the House should bring about that unity by making sure that the so-called "small parties" are not marginalised.

Mr. Speaker, Sir, the five parties can have one Member to represent their interests on this committee. They should not be shut out and yet they have been brought here by Kenyans; they have the mandate of those Kenyans who have the right to be represented in an important committee of the House like this. So, like the hon. Raila said, I would like to plead with the Chairman of the Official Opposition to cede one seat so that the five parties which are now unrepresented on this committee can be represented. I would like to equally appeal and plead with the Leader of Government Business; hon. Ngala, who I have known since we were together in school as a very democratic, patient and understanding person - I think this is a job that is within his grasp - that in the spirit of the old Alliance High School, the Inter-Parliamentary Parties Group (IPPG) and the Eighth Parliament, to cede one seat so that both sides of the House can be happy.

Mr. Speaker, Sir, I beg to move.

The Member for Runyenjes (Mr. Kathangu): Mr. Speaker, Sir, I would like to second the amendment. While I do that, I would like to say that I respect all of you, Members of this House, and more so Mr. Speaker who has given me this opportunity to second Mr. Anyona's amendment, who is the Chairman of the Kenya Social Congress and Member for Kitutu Masaba.

I wish to say that I agree with the sentiments expressed; and what the DP Chairman and Official Opposition Leader said; that we should have ten Members from the Opposition side and ten from the Government. At the same time, the feeling that we have small parties and big parties in this House should not be expressed here because after all we have been elected to this House to serve the nation. For that reason, I would like to remind the Hon. Members about what our President said on the State Opening day, and I wish to quote as follows:-

"In order to address the economic, social and security challenges now facing our country, I consider it necessary that we, the Members of Parliament, must talk with one another across the political divide in order to find solutions for the common good of our people."

This being our very first business, I would like the two sides to consider that each one of us in this Parliament is as important as the other; parties or individuals notwithstanding. Thank you.

(Question of the first part of the amendment, that the names to be left out be left out, proposed)

The Minister for East African and Regional Co-operation (Mr. Biwott): Mr. Speaker, Sir, I have been listening to the proposals made by hon. Members. I think there is a general consensus that we want to be as accommodating as possible and we want the true spirit of co-operation to permeate among ourselves so that we can transact the business of this House in a more responsible manner. But there are some anomalies. The hon. Mwai Kibaki, who is the DP leader, introduced a point that we need to approximate---

An hon. Member: He is the Official Leader of the Opposition!

The Minister for East African and Regional Co-operation (Mr. Biwott): I hear some remarks that I should address him as the Official leader of the Opposition. I have no difficulty in inserting the title and

recognising the Official Leader of the Opposition.

Mr. Speaker, Sir, I think there is no half a person, a quarter of a person, a third of a person, a 50 per cent of a person; it has to be a whole person, a total person. So, I think there could be need for us to accommodate and we should do this by taking whole numbers, perhaps considering merit as a factor in selecting the people who should be in that House Business Committee. I can recognise, for example, the hon. Anyona. He is a very good debater, he has been helpful in the business of this House, including the IPPG. Therefore, I think we should think about whole numbers, in which case, KANU, for example, could think of ten and the rest then will have to come down. But I do not want to---

The Member for Kimilili (Mr. Kituyi): On a point of order, Mr. Speaker, Sir. Is the hon. Biwott in order to purport to be moving an amendment to another amendment without following the proper mechanism? He is suggesting amendments which are different from the original amendment as moved by the hon. Anyona.

The Minister for East African and Regional Co-operation (Mr. Biwott): Mr. Speaker, Sir, I think the hon. Member is too apprehensive to follow meticulously what I am saying. I have not moved an amendment, although, in fact, I would be more than willing to do so. I think the sensible thing is to follow the whole numbers and perhaps there could be need to examine how we might get over the problem where KANU, which is undoubtedly the majority party in this House, and the Government, will have one majority---

The Member for Juja (Mr. Ndicho): On a point of order, Mr. Speaker, Sir. We have two amendments here. If you listen to hon. Biwott, he is talking of the sentiments that were expressed by the Chairman of DP, and Leader of the Official Opposition. But we are discussing about the amendments moved by hon. Anyona, which he is not even touching. We are talking about replacing hon. Kamotho and hon. Mwiraria.

Mr. Speaker: Order! Order! A Member contributing to an amendment to a Motion may speak on that amendment and also on the original Motion because there may be a possibility that he will not have a chance to speak again, and the possibility is real. In a House of 224 Members, I do not see a Member having spoken on an amendment getting a chance to speak on the Motion again.

The Minister for East African and Regional Co-operation (Mr. Biwott): Mr. Speaker, Sir, I will not be long because I do not want to take too much time. But as I was speaking across, I was now coming to the amendment to the Motion as proposed by hon. Anyona. I think that amendment should fail so that we can then proceed to seek for better ways of solving the problem, which will ensure that KANU, as the Government, has a majority of one.

With these few remarks, I beg to oppose the amendment.

Nominated Member (Mr. Munyao): Mr. Speaker, Sir, I am not supporting this amendment. But with the figures as per the Standing Orders where it requires that a committee may have not more than 20 and not less than five, I also do not have any quarrels with the names given as they are. But I have a quarrel with the numbers as pertaining to the KANU side and the Opposition. It might be important for Members of the House to know that the actual essence of this Committee is not a tug-of-war. They will not fight when they go up there, but they will go to deliberate on Government Business. I have been in this committee quite a number of times. It never even votes, if it had not more than once in the history of this House--- I can see some of the junior Ministers looking at me. I am older here and I know the system quite well. Oh yes, I am a senior Member of Parliament.

I have had the opportunity to serve in House Business Committee before and I know that there is no tug-of-war in there. In fact, we encourage consensus as hon. Anyona has said. In the spirit of what the Head of State said during the State Opening of Parliament, I would like to urge KANU Members of Parliament to support the spirit of togetherness.

Mr. Speaker, Sir, I would like to see the spirit of the Inter-Parties-Parliamentary Group (IPPG) to prevail in this Parliament. Things should be done on the basis of fifty-fifty for both KANU and the Opposition. By so doing, it will be upto the Opposition parties to decide who among themselves will fit where. I believe that the party Whips burnt [**Nominated Member** (Mr. Munyao)] their last oils to produce what we have. There was also some consultation on this matter. I do not know what has actually gone wrong after one day. I support the original proposal by the Leader of the Official Opposition that the number should be on equal basis because there is no voting there.

The Member for Juja (Mr. Ndicho): Mr. Speaker, Sir, I oppose very vehemently what hon. Biwott has just suggested. He has suggested that the Opposition drops one name so that KANU has 10 Members in the Committee while the combined Opposition will have nine.

The Minister for East African and Regional Co-operation (Mr. Biwott): On a point of Order, Mr. Speaker, Sir. That was only an opinion and not a substantive point. I think the hon. Member should not panic.

The Member for Juja (Mr. Ndicho): Mr. Speaker, Sir, whether it was his opinion or whatever it was, I

am opposed to it. We should encourage as many people as possible to be in this all-important Committee of the House. We should not be suggesting the dropping of one person so that we can have some consensus.

Mr. Speaker, Sir, from this Motion, we can see that KANU is very selfish. KANU has brought back to this Committee five Members who served in the previous Committee. Instead of giving others an opportunity to serve in this Committee, they have only brought in one person, hon. Maj. Madoka. KANU should set an example by having many people participate in this important Committee and not the same people who have served that Committee before.

The Member for Bumula (Mr. Sifuna): On a point of order, Mr. Speaker, Sir. We have heard a lot of arguments in this House. Can the Mover be called upon to reply so that we can close this business once and for all?

Mr. Speaker: I am afraid that on the amendment, there is no right to reply. The correct position would have been for a Member to ask me to put the Question. But since you have not done so, hon. Ndicho will proceed.

The Member for Juja (Mr. Ndicho): Mr. Speaker, Sir, I do not know what is wrong with hon. Sifuna. He does not want to see me on the Floor of this House.

Mr. Speaker, Sir, when we look at what the Opposition parties have also done, they have followed what KANU has done. They have refused to put any new Member of Parliament into these Committees. They should be given a chance to learn how the business of Parliament is conducted. It is my point of contention that instead of suggesting the dropping of names---

The Member for Kamukunji (Mr. N. Nyagah): On a point of order, Mr. Speaker, Sir. I do not think we need to be lectured here as to who or which Member will be nominated into which Committee. There are several Committees of this House which will be constituted at a later stage. My party will appoint Members to those various Committees. But if we so decide that our party will appoint certain Members into the House Business Committee, I do not really think it should be questioned by anybody. Is he in order to suggest that we are ignoring the new Members?

The Member for Juja (Mr. Ndicho): Mr. Speaker, Sir, I support the amendment by hon. Anyona. I support that hon. Muite, who is a very important Member of this House, just like any other Member of Parliament of course,---

The Member for Bumula (Mr. Sifuna): On a point of order, Mr. Speaker, Sir. Will it be in order for me to call upon the Chair to put the Question, so that we can see what will be done next?

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

(Debate on the original Motion Resumed)

Nominated Member (Prof. Anyang'-Nyong'o): Mr. Speaker, Sir, I think it is important that when we come to the question of how many Members are going to be appointed by this House to the House Business Committee, that we first and foremost must agree on the principal which is objective. I know that we may have all kinds of reasons as to why we want different political parties, whether the Opposition or the ruling party to nominate too many Members to the House Business Committee. First and foremost, we should come to a principal objective which is acceptable to the House. That is only a fair way we can make a decision. That objective would have been better served, were it to be stated in the Standing Orders. But Standing Order No.145 does not establish such a principle. In each case, it is incumbent upon the House to arrive at a principle which is objective enough. It may not be acceptable to each and every individual but objectivity is the only way which we can come to a decision. The proposal made by the Leader of the Official Opposition is the only objective principle which we can go by. It is very difficult to argue against the mathematics in this argument. It calculates the proportionality on the basis of Members of Parliament elected to this House. That is a trend which we cannot change. It so happens that KANU has got 113 Members of [Nominated Member (Prof. Anyang'-Nyong'o)] Parliament; DP has 42 Members of Parliament; NDP has 23 Members of Parliament and so on. If we are going to make decisions as to how many people go to the House Business Committee, the only objective principle, we would deal with is a representation in the House.

So, I would appeal to KANU, that, in as much as they would like to have a majority in that Committee, the views they are giving for trying to get that majority are not objective. It will be as valid as any other reason

which can be given on this side, for getting more Members in the Committee. So, let us be reasonable and accept a principle that is objective and acceptable to both sides of the House. That is one point which I think that any reasonable person will accept.

Mr. Speaker, Sir, the second point which I would like to make is as follows: Hon. Anyona made an important point; that a party in Parliament is a party. Any other adjective added to that party can only be given either by the Standing Orders or the Constitution of Kenya. When those adjectives do not exist either in the Standing Orders or the Constitution, they become unparliamentary. When hon. Anyona says that those parties which may not have the numbers which, by the proportionality worked out by hon. Kibaki, do not qualify them to be represented in the Business Committee, they should have another way of getting into the Committee. That other way exists in the traditions of this House.

In the year 1993, FORD(K) qualified to have about three Members in the Public Investments Committee (PIC). But the late Jaramogi Oginga Odinga in FORD(K) Parliamentary Group, suggested that FORD(K) should cede one of the seats to hon. Anyona as a Member of the Kenya Social Congress (KSC), and as represented in Parliament. That was a decision that was taken by FORD(K) under the chairmanship of the late Odinga, establishing a tradition in this House. In this case, it is something that either KANU or any other Opposition parties can follow as a tradition, but not necessarily as a principle established in the House. Therefore, I would like to say that in trying to get the one representative party on the Sessional Committee, it should be incumbent upon the larger parties, which have more than two members or so, to think in a bigger way. If KANU, as hon. Biwott said, identifies hon. Anyona as a very capable Parliamentarian, and it has 11 positions in the House Business Committee, it would be good if they could follow the footsteps (since they are a party that follows footsteps), of the late Odinga, and cede one position to hon. Anyona.

With those few remarks, I beg to support hon. Kibaki's position. Thank you.

The Minister for Foreign Affairs (Dr. Godana): Mr. Speaker, Sir, I intend to be very brief. I stand to support the Motion as moved by the Leader of Government Business. It is unfortunate in the sense that the amendment by hon. Anyona came in the form that it did, because I think there was a merit in the suggestion that the smaller parties could be considered as a coalition, and assured some form of representation. Be that as it may, that is now a multi-question. I think we have got to accept that in an adversarial Parliamentary system such as this one, so dramatically illustrated in the sitting arrangement itself, we have two sides; the Government side and the Opposition side--- The principle on which the Government is formed; party or parties form the Government and party or parties in combination form the Opposition, is that one side, which has the majority, however tenuous it may be, forms the Government. The idea of the actual proportions of membership as between the parties in the committees of the House is supposed also, to be dealt with as much as it is humanely possible, on some kind of pro-rata consideration. This is the principle on which this particular composition has been made.

The number 20 is the traditional number of the size of standing committees of this House. As it is now, if you have to give a nominal majority on this committee to the Government side, you cannot give a majority of one. The minimum nominal majority possible is two. That way, you will end up with 11 to nine. This is simple mathematics and I went to the old mathematic schools.

(Loud consultations)

Order! Order! I beg your pardon!

(Loud consultations)

Mr. Speaker: Order, hon. Members!

The Member for Kamukunji (Mr. N. Nyagah): On a point of order, Mr. Speaker, Sir. I am extremely surprised that Dr. Godana is misinforming this House, about the nominal figure of 20. In the last Parliament, the figure for the Sessional Committee was 19 and not 20. Therefore, it is a baseless argument to say that the figure 20 is nominal and it is in all committees. It is most unfortunate that in the Seventh Parliament, KANU had a majority of three. What we need is to co-operate as we were told by the Head of State, and operate here 10 by 10.

The Minister for Foreign Affairs (Dr. Godana): Mr. Speaker, Sir, if the actual number, not withstanding the provisions of the Standing Orders as they were then, was 20 and not 19, I stand corrected. But the fact as it is now is that we have a proposed figure of 20, which is on the maximum. That is the maximum that is provided for in the Standing Orders. If we are going to accept the figure of 20, and respect the principle that the Government must have a nominal majority, then the majority will be two out of the figure.

Nominated Member (Prof. Anyang'-Nyong'o): On a point of order, Mr. Speaker, Sir. Is it in order for Dr. Godana to mislead this House that there is a principle that the Government must have a majority in the Sessional Committee, when the principle is neither stated in the Standing Orders nor in the Constitution of Kenya?

The Minister for Foreign Affairs (Dr. Godana): Mr. Speaker, Sir, the principle is so obvious that it did not require to be stated in the Standing Orders! It is so obvious that it is only when you have to derogate from it that such arguments arise. Sometime last year, when we brought the amendments to the Standing Orders Committee, we went round, a sub-committee composed by members from both sides of this House; hon. Obwocha was there. Even for the PIC and PAC, wherever we went, we were told it was the watchdog committee, but the principle is the nominal majority, very often of one and only one, has to be preserved for the Government side. So, I would like to appeal to hon. Members that I do not think that this Committee, given its nature of work, and given the experience that hon. Munyao referred to, is a powerful committee that we are going to have a contest every time. I think that if there has been unfairness, it is on the side of the smaller parties, represented by hon. Anyona and others. I would like to appeal to the Democratic Party of Kenya, which is the Official Opposition party with four members, to cede one to these junior parties in the Opposition.

I thank you, Mr. Speaker, Sir.

The Member for Kangema (Mr. Michuki): Mr. Speaker, Sir, I thank you very much for giving me this opportunity to speak on this Motion. I am somewhat saddened this afternoon, having noted that the spirit of the President's address during the state opening of this House, and by the nature of the arguments presented here, it seems that the Government benches, either have been briefed, or they are ignoring the spirit in which that Speech was made. It has been quoted by hon. Kathangu. Indeed, before that quotation was made, it was my intention to quote that Speech for the purposes of this debate. I am saddened because the matters that are before this House are so enormous and of great importance, that for this House to begin differing and not coming together on the question of the composition of a committee - which is neither a Government committee nor a committee of the Opposition, but a committee of this House - is a very regrettable development, in the light of what is contained in the President's Speech, where the spirit of reconciliation and working together is stated very clearly.

Mr. Speaker, Sir, we have enormous economic and financial matters to handle in this House. We are moving to the amendments of the Constitution, very weighty matters. If we cannot begin showing that we can come together on a matter like this, how far apart do we want to go in the most important aspect that affects this nation? I am saying, therefore, that the proportional representation - if that is what is desired - and I think I support that opinion, which has been very well stated here by the combined Opposition on this side of the House---

If I take the figures read out by the Leader of the Official Opposition, the combined Opposition on this side is 9.9, while the KANU side is 10.1. And it is normal as, Prof. Saitoti witnessed, not only in his profession, which I highly respect, but in the work he was doing at Treasury as the Vice-President and Minister for Finance, to round up anything above 0.5 to one full unit. A 0.9 is rounded up to 1.0. You cannot round up 0.1 into anything that is mathematically sensible.

[Mr. Speaker left the Chair]

[Mr. Deputy Speaker took the Chair]

Mr. Deputy Speaker, Sir, therefore, in the spirit of moving together, and given that we need this spirit in order to move forward, we are in a financial mess and it is neither KANU nor the Opposition which is in a financial mess; it is this country. We are in huge debts, we must agree on how to move forward. Here we are arguing and almost differing on how to round up numbers, as if we are beginning to learn arithmetic in Standard One. Therefore, I want to support, purely on sheer numbers, the equality in this Committee. To show, first of all, goodwill, to be logical and to create an atmosphere within which we can face the problems that are in this country. As we sit here, some of the issues are so weighty that I do not know how they are going to be solved, unless we discuss them in this House in a very co-operative way. How are we going to repay the banks and insurance companies of this country, Kshs150 billion for which we have no revenue? We have to sit and talk about this. Is this the way we are going to talk? On the first day, we disagree on a very minor but important matter.

Thank you, Mr. Deputy Speaker, Sir. I support the Leader of the Official Opposition.

The Minister for Home Affairs, National Heritage, Culture and Social Services (Mr. Nassir): Bw. Naibu Spika, tulikuwa na nia nzuri sana katika mambo yote ambayo tunaka kuyafanya hasa wakati huu ambao tuko na Wabunge wavya. Tunataka kuonyeshana mapenzi.

Lakini kitu kinachosikitisha ni maoni ya mhe. Kibaki ambaye amekuwa katika Bunge hili kwa miaka

mingi na anajua siasa na vile ulimwengu unavyoendelea. Leo katika Bunge hili Wabunge wa KANU tuko 113 na wa Upinzani ni 109. Ikiwa hatuwezi kusikizana hapa kwa sababu ya mtu mmoja, sijui mhe. Kibaki ataniambia nini ikiwa tutaenda katika Kamati hii ambapo Wabunge watakuwa kumi-kwa-kumi. Mtu yeyote anayeshika usukani katika Serikali, lazima aiendeshe vizuri. Hatutaki mfumo kama ule wa Italy ambapo watu wanateta na kupigana hadi Bunge linavunjwa. Mara nyingi wanakosa kupitisha makadirio ya mapato na matumizi ya pesa za serikali. Hawawezi kuendesha serikali kwa sababu kila wakipiga kura, wanakwenda sare na kila mtu anatoka. Naomba kwamba, tukubaliane na kuonyesha moyo wa upendo katika hali ya kutaka kuwasaidia watu ambao wana taabu, kama vile mhe. Michuki alisema kwamba tuna madeni mengi ya kulipa. Kukubaliana kuwa na mbunge moja zaidi sio kitu kikubwa. Ikiwa kuna wanasiasa zaidi, katika KANU kuwe na Wabunge 11 na upande wa Upinzani Wabunge tisa--- Ikiwa kuna jambo zuri na la haki kupitishwa, litapitishwa. Lakini ikiwa tutakubali KANU na Upinzani wawe na idadi sawa ya Wabunge, tunafikiria kuvunja Bunge, hatuna haja ya kuendesha Serikali.

Kwa hivyo, ikiwa ni haki, yafaa tupige kura.

The Member for Kimilili (Dr. Kituyi): Thank you, Mr. Deputy Speaker, Sir. First, I wish to congratulate you on your elevation to that office and it is my belief that you have the capacity to perform.

Mr. Deputy Speaker, Sir, I wish to start my contribution by moving an amendment under the provisions of Standing Order 146(c), which I have given notice of. I wish now to move the following amendment to the Motion:-

THAT, the Motion before the House be amended by deleting the name of the hon. A.M. Noor, and replacing it with the name of the hon. P.K. Muite.

Mr. Deputy Speaker, Sir, what I am doing is basically formalising what has been the most important and most powerful argument that has been brought before the House so far. I will spare the House a repetition of these factors. Nobody from either side of the House has challenged the basic logic so far of an objective allocation of the positions on the House Business Committee; the principle enunciated by hon. Mwai Kibaki. Therefore, my task is reduced to rebutting some of the less fortunate assertions that have been made in reaction to a desire for parity; first and foremost, by the Minister for Foreign Affairs, hon. Dr. Bonaya Godana.

In logic, if you are having a deductive argument, once we accept your premises, your inference must be accepted. Hon. Dr. Godana is a clever man. He knows that an inference deduced from premises will be very difficult to defeat and he sneaks in two unsound premises. The first unsound premise he gave is the assumption that there is some principle by which there has to be a majority of two. But there is something to be rectified about the number 20.

The second false premise given by the hon. Dr. Godana is that Government means majority. The National Assembly of Norway has 165 Members of Parliament. The coalition government has 51 Members. That Government is ruling. There is nothing inherent about majority in that.

The Minister for Foreign Affairs (Dr. Godana): On a point of information, Mr. Deputy Speaker, Sir.

The Member for Kimilili (Dr. Kituyi): I am reluctant to receive that information for the time being.

Mr. Deputy Speaker, Sir, there is a very important statement made by the hon. Anyona---

The Assistant Minister, Office of the President (Mr. Sunkuli): On a point of order, Mr. Deputy Speaker, Sir. I like hon. Dr. Kituyi's eloquence, but is he in order to call a fact a presumption? It is a fact that the Government is a majority. What he is debating is a hypothetical issue which is out of order.

The Member for Kimilili (Dr. Kituyi): Mr. Deputy Speaker, Sir, I thought that lawyers understood the English Language!

(Laughter)

An hon. Member: They do!

The Member for Kimilili (Dr. Kituyi): Thank you, Mr. Deputy Speaker, Sir, because you have seen the weaknesses in the argument by the hon. Sunkuli. I just wish to emphasise a very important thing which was said by the hon. Anyona. We are in the process of setting up the House Business Committee, not a Government Business Committee. Secondly, I would like to remind hon. Members of the statement made by our substantive Speaker in the opening of the current Session. He said, "We should look for a possibility to accommodate as many Members of this House in parliamentary Committees as possible".

Mr. Deputy Speaker, Sir, this Committee we are constituting now is the largest committee that will be constituted by this House. Virtually all the other committees are going to have 11 members. If we cannot find the capacity to accommodate a parliamentary party with six Members on a committee of more than 18 Members,

how will we find a capacity to accommodate them on a committee of 11 Members? In fact, it would have been the magnanimity of KANU, more than anybody else, to say look: "We want to lead by example. We want to accept the principle that we will always be the largest block in any committee; but we do not seek to dominate a committee whose decisions have by tradition, been arrived at by consensus." Why should the Government worry about a business as if it is by voting?

The Minister for Energy (Mr. Okemo): On a point of order, Mr. Speaker, Sir. I am completely amazed by the logic that is exposed by very eloquent, but somewhat illogical hon. Members.

Hon. Members: What is your point of order?

The Minister for Energy (Mr. Okemo): Hon. Dr. Kituyi talked about inference and logic. I know it is very difficult to win against hon. Mwenje, but I think I will continue to speak.

(Mr. Mwenje stood up in his place)

Hon. Members: What is your point of order?

The Minister for Energy (Mr. Okemo): My point of order is this: KANU has got a majority---

Mr. Deputy Speaker: Order! Order! Hon. Okemo, if you have a point of order, please stand up, speak up and then shut up!

(Laughter)

The Minister for Energy (Mr. Okemo): My point of order is this: There is a lot of logic in saying that KANU has to have a majority of Members in the House Business Committee because we have 113 Members against 109 Members for the Opposition---

Mr. Deputy Speaker: Order Members! Proceed, hon. Okemo.

The Minister for Energy (Mr. Okemo): Mr. Speaker, Sir, a figure of 113 is the majority in the House compared to the number of Members in the Opposition. That is a fact. So, if it is a fact---

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

Mr. Deputy Speaker: Order! Order, hon. Members! Hon. Okemo was on a point of order and we must allow him some indulgence being a new Member. Hon. Okemo, would you like to make your point of order now and sit down?

The Minister for Energy (Mr. Okemo): Mr. Deputy Speaker, Sir, the fact that I am a new Member does not mean that I do not think and that I do not have brains. If the Opposition Members would lend me their ears, I will make my point of order. KANU has 113 Members against 109 of the Opposition, so the question of---

Hon. Members: No! No! Sit down!

The Member for Kimilili (Dr. Kituyi): Mr. Deputy Speaker, Sir, we can understand a certain level of excitement. The hon. Okemo is an hon. man, but he is rearing to go to battles where his generals have not advised him about direction. We have a collective task; we will slowly get him to understand some of these things, but we would wish he can study a bit to understand the meaning of a point of order, and then it will help us.

[Mr. Deputy Speaker left the Chair]

[Mr. Speaker resumed the Chair]

Mr. Speaker, Sir, since the Government side has not had any cogent argument to negate the principle of objectivity set out by the hon. Kibaki; since the Government has committed itself to the principle of being accommodative, of us finding consensus in doing the business of the nation; since the committee being formed is a committee of the House not a committee of the Government; since by tradition the decisions of this committee are by consensus and not through voting, there is nothing in the interest of the Government which is negated by abandoning obsession with absolute majority on this committee. Also, there is nothing wrong in realising that by objective assessment, percentages according to numbers, the Members of SAFINA are entitled to one of the mandate on such a committee.

Mr. Speaker, Sir, with those remarks, I beg to move and request that the hon. Dr. Leakey seconds me.

Nominated Member (Dr. Leakey): Mr. Speaker, Sir, it is not my intention to speak on this particular matter, given the personality and the party involved, but let me simply say that I do second with enthusiasm and I

do believe that if we carry this amendment, we would be sending a message to our country that is an extra-ordinary message to send at this time.

Mr. Speaker, Sir, I second.

(Applause)

*(Question of the first part of the amendment, that
the name to be left out be left out, proposed)*

The Minister for Local Authorities (Prof. Ongeri): Mr. Speaker, Sir, I would like to take this opportunity to correct a wrong impression that has been created by some hon. Members about the

[The Minister for Local Authorities]

composition of this Committee. First of all, we are debating on a premise which has been presented before this House based on a mathematical formula. The first premise that we must start off with is the premise of majority. Those of us who are well-versed with mathematical figures do also appreciate that there are also mathematical fictions. Therefore, we cannot turn a mathematical fiction into a principle of the House to be adopted for a major decision like the one which we are about to make.

The Minister for Local Authorities (Prof. Ongeri): Mr. Speaker, Sir, therefore, the hon Member wants to mislead the House by taking the number of the combined Opposition and apportioning the number of seats that must be given to the Opposition to be 9.9. I do not wish to enter---

Nominated Member (Prof. Anyang'-Nyong'o): On a point of order, Mr. Speaker, Sir. Is it in order for the hon. Prof. Ongeri to mislead this House that a simple arithmetic is fiction when Prof. Ongeri himself read what E. Carey Francis said about arithmetic number one where this proportionality has been accepted as a piece of knowledge for the whole world? Is Prof. Ongeri not aware that the Electoral Commission itself has established this very principle in nominating seats in various councils in this nation which he, himself as the Minister for Local Authorities has gazetted?

The Minister for East African and Regional Co-operation (Mr. Biwott): On a point of order, Mr. Speaker, Sir. Is the hon. Prof. Anyang'-Nyong'o in order to mislead this House by saying that the Electoral Commission followed the point form in nominating councillors? I had a practical example from my county council where we had a number which would have given us an additional councillor, had the Electoral Commission followed the point form in the percentages.

An hon. Member: What is your point of order then?

The Minister for East African and Regional Co-operation (Mr. Biwott): Is the hon. Member in order to mislead the House that in the formula that the Electoral Commission followed they considered points one, seven or eight when they did not? For example, we had a point seven which would have given us an additional seat, but the Electoral Commission did not accept those point forms and that is why I argued against hon. Kibaki's number.

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

Mr. Speaker: Order! Order, Members! At this rate, I may require a copy of Advanced Calculus and Logarithms. So, can we proceed!

The Member for Mukurweini (Mr. Mutahi): On a point of order, Mr. Speaker, Sir. I want some clarification here. Prof. Anyang'-Nyong'o stood on a point of order and before his point of order was responded to by Prof. Ongeri, you gave hon. Biwott a chance to make another point of order. I need your guidance. Is it really in order for you to allow two points of orders to be raised before the first one is responded to?

Mr. Speaker: Order! Mr. Mutahi, thou shall not assume a role not assigned to you. Yours is the third point of order. I can, as a matter of fact, allow 100 points of order if they are valid.

The Minister for Local Authorities (Prof. Ongeri): Mr. Speaker, Sir, indeed, the premise upon which I based my earlier arguments was on the basic principle of majority and the hon. Anyang'-Nyong'o knows that once the Ministry starts parting from the principle of majority, you can permit any figures to read anything. Therefore, mathematics is a beautiful science which can give you an answer or fiction. Be that as it may, I think the point that we are discussing here is a very basic issue. We are discussing the principle of majority in this House. There is the Government side which in principle and in reality and in representation is the majority out of 20, the midway is ten. In order to reflect that majority, that principle in itself shows that one additional seat makes it 11 and hence, the majority. If we are talking of that principle, then that should be the correct principle to apply. But if we are talking about other languages, then that is a different story. But I do not want this House to be misled to think

that, when you are talking on the basis of a principle, you can ignore the very basis upon which this House is set. The basis is that we came here in different parties. The basis was that there was a party that has a majority and guaranteed, there is also equally a party which qualifies to be the Official Opposition party and that is based on the majority too. It is not based on the permutations of a combined Opposition. It is based on the basis that as a party, it has more than 30 seats and, therefore, as a majority party, it qualifies in principle to be the Official Opposition party in this House. Therefore, similarly, in order to avoid belabouring the point, the basis and the correct principle in mathematics to apply at this stage is a simple logic of the principle of majority in which case KANU is the majority at this stage and, therefore, the House Business Committee should only reflect that simple principle.

Thank you, Mr. Speaker.

The Member for Kamukunji (Mr. N. Nyagah): Mr. Speaker, Sir, what a great shame that this nation is going through right now! The flexibility of muscles is what we are experiencing this afternoon. The question is: Do we need to flex our muscles to show how powerful we are? I believe, the answer is no. We need to be objective in what we need to achieve and I want to go slightly back to some short history which happened here a few days ago, when the President was speaking and said "Let us co-operate in this House. Let us not appear to belong to too many political parties when we bring issues here". It is also very clear---

Nominated Member (Mr. Haji): On a point of order, Mr. Speaker, Sir. I believe the Chief Whip of the Opposition was party to what was agreed between him and this side and one wonders whether he is in order to come here and talk about what he has already agreed upon?

The Member for Kamukunji (Mr. N. Nyagah): Mr. Speaker, Sir, Standing Orders are very simple. Nowhere does it allow an hon. Member to raise his hand, when he wants to catch the Speaker's eye. Secondly, we do not want assumptions. If we had agreed on what to do here--- It is quite possible not to agree and in this case, there was no agreement. The hon. Member is only assuming that there was an agreement. May I tell him that there was no agreement and that is why we are sitting here to look for a solution.

The intention---

Nominated Member (Mr. Haji): On a point of order, Mr. Speaker, Sir. We would like hon. Nyagah to tell us what was agreed on. Secondly, the Opposition seems to be emphasising more on co-operation. Co-operation is a two-way issue. It is not a one-way issue. Therefore, we urge them to agree on what was agreed.

The Member for Kamukunji (Mr. N. Nyagah): Mr. Speaker, Sir, Parliamentary matters are very difficult to understand, but over a period of time, the new Members in this House will understand them. We will not teach them, although we are "masters" of Standing Orders. That was not a point of order!

We need to divert from that and move on into serious things---

The Member for Chagamwe (Mr. Kajembe): On a point of order, Mr. Speaker, Sir. Hon. Members have been talking of "new Members" in this House, but we are all new in the Eighth Parliament! We are not in a classroom to be referred to as "new". We have been given a copy of the Standing Orders and, therefore, we are all hon. Members of this House!

An hon. Member: What is your point of order?

Mr. Speaker: Order! First of all, I would like to drive the point home that there are new hon. Members in this House. Any hon. Member who made entry into this House for the first time in the elections of 1997 is "new". Therefore, when you rise, for the benefit of records and of other Members and the Chair, will you announce your name so that we know you? Secondly, hon. Members who are making their first contribution in this House upon their election have the privilege of not being interrupted. The hon. Members who were interrupting hon. Kajembe were out of order because hon. Kajembe is a new Member!

Proceed!

(Applause)

The Member for Kamukunji (Mr. N. Nyagah): Mr. Speaker, Sir, My apologies to you. I sympathise with the hon. Member because he is new and he will learn Standing Orders. Mr. Speaker has just confirmed that he is new.

The Member for South Imenti (Mr. Murungi): On a point of information, Mr. Speaker, Sir. Hon. Nyagah is saying that he wants to move this debate to a new dimension. The new dimension I would like to inform him about is the fact that, so far, we have been talking about proportional mathematics. The evidence given in the House does not even support the principle of proportional mathematics because, out of a total of 222 Members of Parliament, KANU has a majority of four. If we divide that number by two so that we have 111 Members, KANU will be entitled to a majority of two. For KANU to have a majority of one, this Committee

would need to be 55.5 Members. Now that the Committee has 20 Members only, KANU is entitled to less than 0.5 majority. This is proportional mathematics if we want to talk about proportional mathematics! My suggestion is: Let us move away from this business of mathematics to the question of justice and politics. The only reason why KANU wants this majority of two in the House Business Committee is in order to control the business which comes to the Floor of this House. Let us not cheat each other about it. I suggest that we look into the question of justice. Let us support Dr. Kituyi's amendment by dropping the name of hon. Noor and replacing it with hon. Muite. This way, we shall have done some substantive justice.

The Assistant Minister for Finance (Mr. Lomada): On a point of order, Mr. Speaker, Sir. Is the hon. Member in order to suggest that the ruling party does not have a majority of seats in this House?

The Member for Kamukunji (Mr. N. Nyagah): Mr. Speaker, Sir, we are talking about equations. We probably need to support why we want a representation of 10 Members from the Government and 10 Members from the Opposition in the House Business Committee. If we divide the total number of hon. Members in the House Business Committee of 20 by 222 Members, then the base answer will be 0.090009. If we multiply this figure by the base figure given by KANU, then the answer will be 10.19017. If we continue to use a base figure of 0.09, then the representation in the House Business Committee will be as follows:- KANU will have 10 members because it is the party with majority seats in the House; DP will have four Members; NDP and FORD(K) will have two Members, and SDP and SAFINA will have one representative each in the Committee. That is a total of 20 Members.

The Minister for Home Affairs, National Heritage, Culture and Social Services (Mr. Nassir): What about SHIRIKISHO party?

The Member for Kamukunji (Mr. N. Nyagah): Unfortunately, if hon. Nassir carried a calculator into the House, he would be able to see that FORD(P), SHIRIKISHO and KSC, according to the base multiplier that I gave, will not multiply to anything beyond 0.5. I would like to appeal to the KANU side, as we enter into a new era, not to flex their muscles, but let us appear to work together. Unless, there is anything that they are hiding and they want to bring it up at a later stage--- We want to trust them as much as they trust us. Let us have 10 Members from each side in the House Business Committee. Short of this, we will be here for a long time.

The Minister for Transport and Communications (Mr. Ntimama): Mr. Speaker, Sir, thank you very much. I am going to be very brief indeed. I am not going to dwell on the mathematics that has been projected by some hon. Members. I agree on the co-operation, working and talking together because we are all sons of this country. But we have to talk knowing that we have democratic principles. The first democratic principle is that the KANU side has formed the Government and has a majority of seats in this House. We must recognise some of these democratic principles. The Committee that will deliberate on the Business of this House will dwell on Government Business; in reality, what the Government wants to be brought into this House to be debated. It is important and fair to give the Government the opportunity to bring that business in this House which they think is the right business at the right time. What is the use of us going through this House Business Committee when we are deadlocked? It is not fair and good for this House. If we have to remove this deadlock, then we must give the Government the extra Member, so that the business of House Business Committee is not deadlocked. In any case, the Government has the majority of seats in this House. It does not matter how big, small, fat or slim that majority is.

Mr. Speaker, Sir, I want to remind hon. Members of a very important point that was made by one of the speakers of this House. He said, "Let the majority have their way and the minority have their say". I think the idea of having nine Members in the House Business Committee is to give Members of the Opposition more say. And the Government, with an extra Member, should be given its way, otherwise, it is no use going up there and getting deadlocked. I am also saying this for the sake of co-operation, so that people will listen to some of these ideas as they come.

Thank you very much.

The Member for West Mugirango (Mr. Obwocha): Thank you Mr. Speaker, Sir, for recognising me at last. I want to make very brief comments. The first one is about my colleagues who are in the Standing Orders Committee, that is hon. Sunkuli and Dr. Godana, who made certain allegations in the House. They said that in New Zealand, there is proportional representation. They went further to say that in every country we visited, the government had a majority representation. I would like them to retract those false claims.

Now, Mr. Speaker, Sir, everybody knows that the Government has a very small majority in this House. As a way forward, I am appealing to the Leader of Government Business to oblige by Standing Order No. 145 which says that the House Business Committee should constitute of not less than 5 and not more than 20

Members. It is not mandatory that they should be 20. As a way forward, and in line with the spirit within which the President gave his Speech during the official opening of Parliament, I would like to inform the Leader of Government Business that they do not need the majority of two in the House Business Committee. Since the Government has a slim majority, I am appealing that it reduces one Member from the Committee, so that it has 10 and the Opposition has 9 Members. It is only then that we can make progress.

The Member for Githunguri (Mr. Gatabaki): Mr. Speaker, Sir. I would like to congratulate you for winning the Speakership. I contested the seat and you defeated me. I accept this in the true manner of democracy.

Mr. Speaker, Sir, we may be wasting our time by debating the composition of the House Business Committee. I must congratulate KANU for demonstrating their true nature. KANU wants to control every facet of our country. For the first time, and you know it is true, I listened to the President of Kenya delivering his speech during the State opening of Parliament, unlike in the past when I used to walk out. I looked at that man and for some time, I believed the appeal he was making on co-operation between the Opposition and KANU. But the President was not talking about the KANU party. KANU does not understand what co-operation is all about.

Mr. Speaker, Sir---

The Minister for Education and Human Resource Development (Mr. Musyoka): On a point of order, Mr. Speaker, Sir. Is it really in order for the hon. Member for Githunguri to refer to His Excellency the President as 'that man', while he knows that the President is first and foremost the Member for Baringo Central and, therefore, entitled to proper reference?

Mr. Speaker: Order! Hon. Members, I know you are men and women, but you know we have a rule in this House that states that there are neither men nor women in this House: There are hon. Members. So, he is not allowed to do so. Proceed.

The Member for Githunguri (Mr. Gatabaki): Mr. Speaker, Sir, thank you very much. Now listen to what the hon. Member for Mwingi North says. What horrifies me is the number of sycophants in this House led by the hon. Member for Mwingi North. I must thank His Excellency the President for removing this Member---

(Loud consultations)

Mr. Speaker: Order! Order! What is it? There is nothing to be hysterical about, Mr. Gatabaki. When another Member has been given the Floor, all hysteria must cease and you obey the laws of gravity by going right to your seat.

Proceed.

The Minister for Education and Human Resource Development (Mr. Musyoka): Mr. Speaker, Sir, is it really in order for the Member for Githunguri to impute improper motive while referring to the Minister for Education as a sycophant when, in fact, if matters are put on the balance, one wonders who is a sycophant?

Mr. Speaker: Order! Order! Certainly, that is a very unparliamentary language. No Member is allowed to use that kind of language in this House and, therefore, I do order the Member for Githunguri---

Hon. Member: Both of them.

Mr. Speaker: Order! Order! I will order the hon. Member for Githunguri to withdraw the reference to the hon. Member for Mwingi North as sycophant. Proceed to withdraw the word and apologise accordingly.

The Member for Githunguri (Mr. Gatabaki): With due respect, and having notified how sycophantic some Members of Parliament can be, I wish to withdraw the word "sycophant" from my usage in this House. Having said that, Mr. Speaker, Sir---

Mr. Speaker: Mr. Gatabaki, you will comply with the direction from the Chair. Withdraw the word and apologise to the House.

The Member for Githunguri (Mr. Gatabaki): Mr. Speaker, Sir, with all due respect to the office I contested, I wish to withdraw the word "sycophant" and having said that---

Mr. Speaker: How about the apologies to the House?

The Member for Githunguri (Mr. Gatabaki): I am speaking to the Speaker and I now wish to apologise to the House.

The Member for Kimilili (Dr. Kituyi): Jambo la nidhamu Bw. Spika. Hata kama Mhe. Mbunge wa Githunguri ameondoa utumizi wa neno "ukereketwa" kumhusu Waziri wa Elimu, huyu Waziri pia alilitumia jina hilo kumhusu Mhe. Gatabaki. Ninaomba Bw. Spika amuulize aondoe utumizi wa neno hilo.

Mr. Speaker: Order! Order! I recall the Minister saying that if hon. Gatabaki and him were put on a

balance, we do not know who would be more sycophantic than the other. The word "sycophant" by itself, referring to any Member, is absolutely unparliamentary. So, Mr. Minister, I will not allow any Member to bring a scale here to weigh the sycophancy of Members and, therefore, I also order you to withdraw your remarks.

(Applause)

The Minister for Education and Human Resource Development (Mr. Kalonzo): Mr. Speaker, Sir, I just referred to the balances which, by the way is biblical. I withdraw and apologise to the House and hope that the hon. Member will not provoke me again because I could similarly provoke him.

The Member for Githunguri (Mr. Gatabaki): Mr. Speaker, Sir, if I can continue with that, it congratulates KANU Members for being true to their true colours. They will never give in even where it is so justifiable, sensible and even when their leader was here and persuaded this House to be co-operative. I would like to ask the hon. Member for Lang'ata and his party to understand that this is what KANU calls co-operation. Within no time, they will come here weeping about the betrayal and misuse of that co-operation.

(Laughter)

The Assistant Minister, Office of the President (Mr. Angwenyi): On a point of order, Mr. Speaker, Sir. Is the hon. Member for Githunguri in order to blame KANU for not giving up a seat, when the opposition have left out the small parties by not giving them a seat in this Committee? Is he in order to blame KANU when he cannot blame the opposition itself?

Mr. Speaker: Order! Order, Mr. Angwenyi!

The Member for Githunguri (Mr. Gatabaki): Mr. Speaker, Sir, the theory of majority, all these concepts of dialectical materialism and philosophical rantings are uncalled for. When we talk about majority by KANU, what does this House understand by the fact that 43 per cent of Kenyans chose to vote for the Opposition? KANU has come here as a minority representative of the people of Kenya, and yet, it wants to dominate this House as the majority! I differ with this and I wish we could go back to school and learn what majority is.

Mr. Speaker, Sir, KANU is not the majority here by the will of the people. In fact, KANU is the majority here because it rigged the elections.

(Laughter)

The Minister for Local Authorities (Prof. Ongeru): On a point of Order, Mr. Speaker, Sir. Is the hon. Member for Githunguri justified to state that Members of Parliament, KANU included, were not elected by the spirit and willingness of Kenyans? Is he in order, because I know that the people of Nyaribari elected me in the spirit of participation in this Parliament?

The Member for Githunguri (Mr. Gatabaki): Mr. Speaker, Sir, I would like to respond to that.

Mr. Speaker: Order! Order! That is not the issue before the House.

The Member for Githunguri (Mr. Gatabaki): But I have not finished!

Mr. Speaker: Honestly, I thought after you had made the last remarks about rigging, you sat down without anybody standing up, and that meant you had concluded your speech. I will go to somebody else. Mr. Ndubai!

The Member for Tigania West (Mr. Ndubai): Thank you Mr. Speaker, Sir. I will beg to differ with the other contributors to this Motion. The purpose of this Committee we have been discussing the whole afternoon and the other committees of this House is to assist the House to be very effective. It is not the committee to assist the Government and neither does it assist the Opposition.

Mr. Speaker, Sir, on that basis, I would request both the Opposition and KANU to think seriously about the matter. Let us be guided by the spirit of co-operation to bring unity to this country, to improve our economy and to lead this country to a proper leadership. The only way we can achieve all these is by making proper use of our time. We have to use the August House to seriously discuss the matters affecting this country. We have wasted almost the whole afternoon discussing one simple issue which we would have finished in less than an hour. The only thing I would ask this House is that, as the Eight Parliament, we have to think well in order to perform better than the Seventh Parliament. We must have the spirit to lead and not the spirit to come and talk about other individuals here.

Mr. Speaker, Sir, the reason why I am saying this is, because, if we look seriously at our economy, it has collapsed. On the other hand, nobody in this House can tell us which direction we need to take in order to make our economy recover. Let me refer to what happened when Jesus died. When Jesus died, his disciples were left in a situation similar to the one we are in today and they decided to talk about co-operation. The co-operative movement started when Jesus died because he left the people in a very desperate situation. In this country, we are left in a situation where we are seeking co-operation, but we do not need it. What we need is the sincerity to lead this country. What we need in this country is not the question of one party trying to support the other party. All these are political parties, and each party must survive, but the question which should be in our mind is the interest of this nation more than that of the party. But on the same basis, there is no way the country can survive when those political parties have different opinions which have no proper direction.

Mr. Speaker, Sir, KANU is the party with the majority Members in this house; that is a fact that cannot be disputed. However, on the basis of that co-operation they are talking about, they should show goodwill, wisdom and fatherhood by surrendering one seat to the Opposition to accommodate it. Instead of coming up with the names like hon. Noor, hon. J.J. Kamotho or hon. Mwiraria, let the party concerned be given time to decide on those to drop. The question of just standing and proposing that a certain Member be dropped is not good. There is nobody who has the mandate to propose which name should be dropped. That should be left entirely to the party to decide who they want to give up in that direction.

Secondly, Mr. Speaker, Sir, the Sessional Committee will be the committee to lead this House for the next five years. It will be the one to govern the business of this House. If we have to be sincere and want this House to function properly, we must start with a sober mind. We must respect each side and stop suspecting the motives behind the majority in this committee. If the Standing Order says that KANU should have the majority, it should be given that. The various parties must be guided to select the number each of them can accommodate. The question of coming here to say that we should have more Members because we are the majority is not right. If the Government needs the majority, it does not need a majority of two but one. But even if we have an equal number, I do not see why a problem should arise because the interest of each one of us in this House is to make sure that the Government functions properly.

Mr. Speaker, Sir, there is no single Member of Parliament who would like this country to collapse. There is no single hon. Member who would not like this House to function properly. So, the purpose is to have trust in this country, this House and in each party. It is on this basis that we will make this House function properly.

Mr. Speaker, Sir, I would like to revisit what the Official Leader of the Opposition, hon. Kibaki, said regarding the composition of Members of the House Business Committee. His mathematics is very right and that is the only basis upon which this House could have come up with proper numbers of representatives of each party in this Committee. That does not need further explanation because the method used to arrive at that proportion is very clear.

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

The Member for Lagdera (Mr. Shidie): Thank you, Mr. Speaker, Sir. I think this matter is very simple. If we have to cooperate, the process should first and foremost start with the Opposition side of the House. The Democratic Party of Kenya (DP), for instance, which is the Official Opposition party in this House has four Members on this Committee. If the party is talking about cooperation, they should have surrendered one of its positions to hon. Anyona's Kenya National Congress (KNC) or to FORD(P) or FORD(A).

(Applause)

Mr. Speaker, Sir, I find it very illogical for the Mover of this amended Motion to talk about removing hon. Noor from this Committee. Hon. Noor, who comes from Northern Kenya, is the only Member from the area who is in that Committee. It will be very illogical and discriminatory for him to be removed from the Committee. Having said that, KANU is a generous party. During the IPPG reform process, the spirit was that of give-and-take. We gave the Opposition six Members. We are running a government and a government cannot be run on the basis of stalemates. There must be a leader. For instance, if the House Business Committee is to have equal representation from both the government and the Opposition, then what is likely to happen? The business of the House will collapse! That means that there will be no business. On that basis, we must have a leader. Even when you are being driven, the person driving you is the leader, and we must accept that fact. If KANU gives up one position to the Opposition, it will mean that it is being too generous. Too much of generosity is being foolish and we will not accept to do that. I am a layman, Mr. Speaker, Sir---

The Member for Manyatta (Mr. Ndwiga): On a point of order, Mr. Speaker, Sir. We seem to be going round and round in this Motion. Fortunately, sanity is not like virginity. Sanity can be reclaimed. So, instead of

confusing ourselves here, would I be in order to ask you to put the question?

Mr. Speaker: On what?

Hon. Members: On the amendment!

The Member for Embakasi (Mr. Mwenje): On a point of order, Mr. Speaker, Sir. As we see it, most Members have not contributed to the Motion and we would have wanted as many Members as possible to give their views so that we reach a consensus. I would wish that more Members are allowed to contribute and you do not put the question until we have exhausted the debate.

Mr. Speaker: I will gauge.

Proceed!

The Member for Lagdera (Mr. Shidie): Mr. Speaker, Sir, I am a layman. I know that we have 113 Members on the Government side and 109 Members on the Opposition side. Given the nature of this House, I think it would be fair enough if things remain as they are. At least, we have a majority. Democracy is the rule of the majority. We were elected through a democratic process and if we accept the losers to lead us, we shall be negating the democratic principle through which we were elected into this House.

Mr. Ndwigwa: On a point of order, Mr. Speaker, Sir. I am confused. I thought I moved that the question be put. I do not want to be confused any further; I need your guidance. Normally, what is the procedure? I thought that the practice is that once a Member stands up and asks for the question to be put, it is put without further debate.

(Loud consultations)

Mr. Speaker: Order! Order! Mr. Ndwigwa's confusion is derived from the misunderstanding of the rule. Mr. Speaker is not a machine that you can switch on and off. I do decide whether it is the right time to put the question or whether, in my view, I should hear more from you. And I did mention, in fact, that I will hear a little more before I accede to the question.

(Applause)

The Member for Lagdera (Mr. Shidie): Mr. Speaker, Sir, I think hon. Ndwigwa should have read the mood of the House. Many Members want to contribute to the Motion. Democracy allows that the **[The Member for Lagdera]**

winner takes it all. If there will be cooperation, we will accept it. Our party, KANU, is currently cooperating with the National Democratic Party (NDP) and FORD (K). If we were opposed to the idea of cooperation, we would not be cooperating with these parties; after all, we have a majority in the House. We decided that we still want cooperation with other parties, and that is the point. I do not wish to repeat myself. We want to have the two extra Members on the Committee, so that the Business of the House can proceed.

With those few remarks, I beg to oppose the proposed amendment.

The Member for Kanduyi (Mr. Wafula): Thank you, Mr. Speaker, Sir. My name is Wafula wa Munyinyi. I am the new Member for Kanduyi.

Hon. Members have contributed a lot to the Motion and I would like to take this opportunity to make just a few remarks. On the question of majority, an hon. Member has talked about giving KANU 10 places and letting the Opposition have the other 10 places. But if KANU takes 10 places and DP takes 10 places---

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

Mr. Speaker: Order! Order! I have already guided the House that a Member making the first contribution called "maiden speech" shall not be interrupted. And least of all, by another new Member. Proceed!

(Laughter)

The Member for Kanduyi (Mr. Wafula): Thank you, Mr. Speaker. This formula of ten to ten is not applicable, because we are parties. If KANU has taken 20 seats, they are already the majority. DP will take four seats; FORD(K), two; NDP, three; and a seat for each of the other parties. So, KANU still remains the majority.

Mr. Speaker, Sir, the other point is that, it is this side of the House which should demonstrate the need to have co-operation in view of the fact that we are talking about co-operation and consensus. We do not wish to adopt a confrontational stand. This side of the House should demonstrate that they are for genuine co-operation

and not just lip co-operation.

The Member for Wajir North (Dr. Ali): On a point of order, Mr. Speaker, Sir.

Mr. Speaker: What is your name?

The Member for Wajir North (Dr. Ali): Mr. Speaker, Sir, it is unfortunate that only the new Members are supposed to give their names whereas we would also like to know the names of the old Members. We the are the majority here. I would like to request that if any Member of the House stands, they should give their names and say where they come from.

Mr. Speaker: First of all, who are you?

The Member for Wajir North (Dr. Ali): Mr. Speaker, Sir, my name is Dr. Abdulahi Ali, Member for Wajir North Constituency.

Mr. Speaker: Very well, you have the Floor!

The Member for Wajir North (Dr. Ali): Mr. Speaker, Sir, I would like to request all hon. Members who stand to make their contributions to tell us who they are. This is because the House has 120 new Members.

Mr. Speaker: Order! Order! I think, if Members are attentive, all old Members are known by Mr. Speaker, and they are called by their names. So, would you be listening to Mr. Speaker?

Proceed, have you finished?

The Member for Wajir North (Dr. Ali): Yes, Mr. Speaker, Sir.

Mr. Speaker: Very well! He was on a point of order! Mr. Kajembe!

The Member for Changanwe (Mr. Kajembe): Mr. Speaker, Sir, it is true that KANU has the majority of Members. Since we have the majority, our friends should not expect co-operation only from KANU; we also expect co-operation from them.

Mr. Speaker, Sir, KANU is dealing with the Opposition not as one political party, but many political parties which are represented here. Hon. Members in the Opposition should co-operate because the difference we are talking about in the constitution of this committee is only two Members. It is true that some other committees will be constituted and if they co-operate now, that will now be a signal to us that they want to co-operate with them in future.

Mr. Speaker, Sir, it is true that KANU is governing. Since KANU is the governing party, this is one of the important committees in this House that it must have an upper hand. We want co-operation with all Opposition parties. As it stands now, there are a few Opposition parties which I really salute for honouring this co-operation, but there are some parties which are not honest on this co-operation. For this reason, it is important that KANU must have control of this committee.

Mr. Speaker, Sir, with these few remarks, I would like to call upon the Opposition Members to co-operate and agree to the membership of this committee as proposed in the Motion.

The Member for Fafi (Mr. Shill): Thank you, Mr. Speaker, Sir. I have been listening to this debate attentively throughout this afternoon where so many hon. Members have made their contributions. Sometimes one wonders where we are heading to. For instance, when the Leader of the Opposition suggested that we should have 10 Members each side, we had a very good amendment to the original Motion by hon. Anyona whose composition was still 10 for each side. I do not know why that amendment was rejected.

Mr. Speaker, Sir, I also agree with hon. Ndubai that we should not name names. While I particularly agree that SAFINA party should be represented in this committee, I disagree that hon. Noor should be targeted for exclusion. Attempts to marginalise minority communities inside and outside this House is of great concern. If, for instance, we have not accepted hon. Anyona to be incorporated in the committee, I think it is stabbing us in the back by asking for the exclusion of hon. Noor. I personally look at that move with great suspicion.

Mr. Speaker, Sir, while I agree that there should be fair representation for the sake of co-operation - since we are mature representatives of Kenyans - we should also consider minority communities. For example the Democratic Party should cede one seat. I support this gesture, because it will show some kind of co-operation. Since I am a new Member in this House, I do not know whether an amendment to an amendment to a Motion is acceptable. I would like that Motion to be amended, but not to name names. The Government side should suggest any person that they would like excluded. This is because if there were names rejected in the first amendment, why should we suggest new names to be excluded. I am viewing this with great suspicion and concern. We should deal with this issue carefully, since we are mature and would like to co-operate. It seems that very many Members are not serious about this issue.

Mr. Speaker, Sir, I would like this to be considered, and beg to move that amendment to the amendment.

The Assistant Minister for Water Resources (Mr. Mokku): Thank you, very much, Mr. Speaker, Sir, for giving me this opportunity. I support the suggestions from hon. Members that there should be co-operation

from both sides. I totally agree with them that it is an issue we should all take seriously as hon. Members of the Eighth Parliament.

Mr. Speaker, Sir, I also totally agree with hon. Dr. Ali, that the question of naming names should not arise. I wonder what criteria the proposer of this amendment used to pick on hon. Noor. This makes hon. Members from hon. Noor's province suspicious, considering that he is the only Member from the whole Province in that committee. The basis of our debate should be equal representation between the Opposition and the Government sides and not personalities. I wonder why the Speaker allowed debate on such an amendment again.

Mr. Speaker, Sir, I would like to urge Members from the other side of the House to agree to work in harmony as a team and as hon. Members of this august House. In any organised group or society, there must be a leader. In this august House, there is the ruling party and the Opposition. For easy and manageable governing, I think the proportion given in this committee is quite realistic.

I think the proportion given in this Committee, 9 - 11, is quite convenient. Every Member who has been given the floor has given a suggestion on how to constitute this Committee. If you look at the regions where these Members come from, to me the distribution has been fairly done. As a party, even the Electoral Commission had actually looked at some fraction and that fraction has fairly been adhered to in this proportion. This has taken the House the whole afternoon, although during the first sitting we should co-operate--- There is no need to struggle on one issue. If we keep on arguing and everybody takes his time without agreeing on one point, it seems that from the way we have started transacting business in the House, the future seems to be bleak and we thought that the future of this august House would be very bright. One hon. Member who was on the floor in the beginning said that in the seventh Parliament, there was a lot of misunderstanding in this House and actually from the way we have now started in this Parliament, it is clear that the system we used to have in the Seventh Parliament needs to be changed. My suggestion is that it was unfair for hon. Noor to be picked as a person, to begin with. It was also unfair---

The Member for Embakasi (Mr. Mwenje): On a point of information, Mr. Speaker, Sir!

Mr. Speaker: Would you like to be informed?

The Assistant Minister for Water Resources (Mr. Mokku): No, I do not want him to inform me. Since he is new, I think I am in a better position to inform him. My suggestion, in summary, is that this list should be left as it is and we go to the next business, if any.

The Member for Kiharu (Mr. Kariuki): Mr. Speaker, Sir, I am baffled that during our first day in this very serious and august House, the type of debate that is going on worries the new Members because we came here with a spirit of co-operation, working together, but the start has been very poor, very bad and very disappointing to the new Members. I hope that the older Members will teach us better tricks of co-operating and working together rather than what we have seen today. This is because Mr. Chairman--- Sorry, I am not very conversant with parliamentary language. I was worried when I heard that we are talking about the theory of majority. The theory of majority, as propounded in the Standing Orders, does not specify the number of majority. It does not say whether it is one or two and I think the best criteria is one that is transparent. The criteria that has been used today to establish the majority of two---

The Member for Bumula (Mr. Sifuna): On a point of order, Mr. Speaker, Sir. The hon. Member has just crossed the Floor from here without bowing at the Bar.

Mr. Speaker: Which hon. Member?

The Member for Bumula (Mr. Sifuna): The new one! I do not know whether he comes from the bush or not. There he is and I do not know his name!

(Laughter)

Mr. Speaker: Order! Order! Mr. Sifuna, you have put me in a very difficult situation because I was not looking there, so I did not see the Member, and you do not know the name.

(Laughter)

For the benefit of new hon. Members and all hon. Members, for that matter, Members are not allowed to cross the Floor straightaway. If a Member wants to cross from one side to the other, he shall proceed to the Bar - not to the bar out there - bow to the Chair, and then proceed. If he wants to return, he will repeat the same process. So, because I did not see the Member, and hon. Sifuna does not know his name, I assume that no Member has done a mistake.

(Laughter)

The Member for Kiharu (Mr. Kariuki): Mr. Speaker, Sir, thank you very much for allowing me to continue. From what we have known in the past, this House has been known to suffer lack of quorum and I guess there has been a sense of lack of commitment on both sides. If by having 11 members from the Government and nine from the Opposition will portray any sense of commitment, I do not know. My contention is; for the Government to be more serious in their commitment in attending various committees, their number should be reduced accordingly to ten. This is because purely on the basis of proportionate representation, the figures worked out very well as shown by the Opposition Chief Whip. They are ten to nine and that is what hon. Obwocha talked about. By reducing the number of representation of the Government side to 10, that will make the Government more committed in ensuring that their Members attend meetings of that very serious committee. On the same token, Mr. Chairman, it will follow the very principle that was established--- Sorry, Mr. Speaker, Sir, as I said I am from the business world and my language is that of "Chairman", and I very much apologise for misusing that terminology. To continue, that proportionate representation worked out very purely in mathematics of ten to nine. There is no point going for hazy, unfounded and unproved methods of giving figures of two which does not mathematically work out. We cannot convince the world out there that we are fair and just and I think the fairest way is to go by pure mathematics which says that the government takes nine Members and the Opposition takes nine.

As far as the personalities involved are concerned, I think the President did articulate that point very eloquently in his final paragraph of the Address to this august House that "hon. Members should set aside their individual interests." I think here we are harbouring on individual interests. The 11 Members from the Government do not want any of their names removed. Why do you not keep your personal interest out and let the Leader of Government Business pick on nine good Members out of the 11? It does not matter who, but the onus should be left on him to decide, so that the Government retains ten Members and we on the other hand, nine. Thank you.

Nominated Member (Mr. Haji): Mr. Speaker, Sir, for those of us who are new in this House, we feel very sad that the top cream of this country, who are representatives of the people, should be sitting here for the last three hours not able to reach a compromise. I say this because if somebody was taping the jokes that we have been making here and the laughter, anybody who elected a Member of Parliament would feel that he did not make the right choice. When we talk about an item like this, I expect that people will consider not only co-operation, but also logically what they are talking about. For example, when people cannot compromise, you use the simple majority and I would like to propose that there is no need for us to continue discussing this. The matter be put to the vote so that we resolve this issue that way.

The Member for Kinangop (Mr. Waithaka): Mr. Speaker, Sir, one hon. Member from the KANU side said that KANU is co-operating with two other parties, the NDP and FORD(K). If that co-operation is a serious one, then fear that the Government will not be controlling that important Committee cannot be real. Unless the co-operation being talked about is not a serious one. If these parties are working together and we have two hon. Members from FORD(K) and NDP respectively, then, the three parties will have a total of 13 hon. Members in House Business Committee. Unless you [**The Member for Kinangop**] are telling us indirectly that, that co-operation is not a serious one, then your fear is misguided. I think that is the only fear the Government has that it will not be controlling the House Business Committee. If that co-operation between the three parties is real, then they will be deciding one side because they are working together. By so doing, there will be no stalemate in the Committee as mentioned by hon. Ntimama because there are three parties which will be working together.

The Member for Belgut (Mr. Kirui): Mr. Speaker, Sir, as a new Member in this House, I must say that I came to this House with a lot of expectations. There are a lot of problems that beset this country and it is a bit worrying as my colleagues who are new have indicated. We came to this House to discuss serious business and here we are spending a whole afternoon talking about numbers. We have bandied around words "like co-operation." I think we have had enough arguments about this. Co-operation has to be both ways. I would not like to belabour that. If we are willing to co-operate and work together, then it should be very easy to arrive at a very amicable conclusion on the choice of the House Business Committee. I am not well-versed with mathematics, but I know a bit of simple arithmetics. In simple arithmetics, when one is dealing with abstract numbers, one can round them up or down. Here we are dealing with people and we cannot round them up to the nearest whole number. I believe that the numbers that were presented earlier on the basis of an understanding,

but if we were to use simple arithmetics, then we do not need to round the numbers up or down but we should use whole numbers. The total membership of this Committee should be 17. This should translate as follows: We should have seven hon. Members from KANU, Three hon. Members from DP, two hon. Members from NDP, one hon. Member from Ford(K) and SDP respectively.

Mr. Speaker, Sir, I would like to leave this to my more experienced colleagues to move an amendment that would take care of that number and bring it down to 17.

With those few remarks, I would like to oppose the amendment moved and support the original Motion.

The Member for Laikipia East (Mr. Mbitiru): Mr. Speaker, Sir, if we go by statistics as the KANU side is arguing, I was elected by 22,000 voters. On the other hand, if we were to combine five hon. Members from the KANU side, the tally can not even reach 20,000.

An hon. Member: That is not true! Some of us were elected by over 40,000 voters!

Mr. Speaker: Order, hon. Members! Mr. Mbitiru is a new Member and he enjoys my protection today, but he will not have it next time. If you play with fire, it will burn you. He has the liberty to show to the whole world how he was elected.

The Member for Laikipia East (Mr. Mbitiru): I would like to remind the hon. Members from the KANU side to follow the instructions from the Chair. They should not interrupt a new Member when he is on the Floor.

Mr. Speaker, Sir, this House is supposed to be composed of "just men." But what I can see from the KANU side is a Government of "unjust men." If we go by the words, the KANU side is not arguing on the proportionality of the figures but the proportional fear that they have. Whenever they contribute, one can see that they are guided by fear. I would like to remind this House, and especially the KANU side, to follow the advice given by the KANU National Chairman, hon. Daniel arap Moi, wherever he is. The KANU side is very much used to following orders and they should follow that order to co-operate.

Mr. Speaker, Sir, the question of majority should not prevail in this House. The KANU side should calculate the number of votes which they got against a combined Opposition. The question of 113 Members of Parliament does not really mean much. They can have 113 "rigid Members" of Parliament while the Opposition have 100 "non-rigid Members" of Parliament. However, even if they are a majority inside here, they are a minority outside there! Let us also be guided by a majority of ideas that somebody has and not majority of numbers. If they are genuine in the co-operation they are talking about, let them have ten hon. Members from each side of the House. That does not change anything. In any case, we can also form a Government. We have always been opposing what is not right. We cannot oppose what is good. Even if we have two or ten Members in the House Business Committee, we shall go ahead and support the will of the people. The will of the people should also prevail in this House. This House should therefore accept the fact that we are all Kenyans, elected by the people and others rigged in by the people. The KANU side should be genuine enough. Let them co-operate with NDP and FORD(K) but at the end of the day, let them win genuinely. They should not fear what we have to say. They should support the Opposition side by dropping one of their Members from the Committee, so that we can have ten hon. Members from each side of the House. They should respect SAFINA which has always been waking them up whenever they have fallen asleep.

With those few remarks, I beg to support the amendment

The Assistant Minister for Foreign Affairs (Mr. Morogo): Mr. Speaker, Sir, I stand to oppose the amendment to this Motion. But first, I hope that some of the hon. Members will learn very soon that there is a difference in the style of speech given out there, and inside this House. May I remind the hon. Member who last spoke (hon. Chege Mbitiru) that this country is guided by a Constitution, which says; that a party that has the majority forms the Government. It is not a question of what he says that the Opposition has the majority.

Mr. Speaker, Sir, I think it should be very easy for us to reach an understanding. He just talked of fear. Obviously, one cannot help to fear because the Opposition wants to make things difficult if we are 10 to 10. It is obvious that when they say KANU should give in because of the co-operation that the President called for the other day, it is not the kind of co-operation that they are talking of. First of all, as far as I understand, the co-operation that the President spoke of was that, which will enable this country to move forward. When we argue here that we should have ten members each for the House Business Committee, the Members of the Opposition will want to make things difficult. That is the only conclusion that one can reach. It is obvious that they want to make things difficult. That is not the kind of co-operation that the President was speaking of. Members of the Opposition should not be referring to it because it is the wrong type of co-operation that they are calling for.

The Member for Kangema (Mr. Michuki): On a point of order, Mr. Speaker, Sir. Is the hon. Member

speaking, within the Standing Orders, in order to impute on the Opposition, an ulterior motive as to how the Opposition representatives will behave in that committee, which, in any case, works with consensus?

The Assistant Minister for Foreign Affairs (Mr. Morogo): Mr. Speaker, Sir, as you notice, hon. Michuki is saying that I was not in order. That is my view and opinion that I have formed after listening to the contributions of the hon. Members. I think I am within my privilege and rights to form an opinion.

We should not drag this debate for so long. If what we want as a House, is to make it difficult for the country to move, and yet this country depends on this institution to move and enable it to solve very serious problems that we are facing, I think we should not drag this debate any longer. We should agree to have it the way it is. There is a majority of 113 to 109 and the only way out is to give KANU a majority of one. But in this case, it is not possible to get a majority of one. That is why we should agree that it should be two. Otherwise, we should go by hon. Obwocha's proposition that we should go by ten to nine.

With those few remarks, I beg to oppose.

The Member for Embakasi (Mr. Mwenje): Mr. Speaker, Sir, I beg to support---

Mr. Speaker: Can you, please, give your full names?

The Member for Embakasi (Mr. Mwenje): Mr. Speaker, Sir, I am a very, very old Member---

Mr. Speaker: Order! Order! You may be old, but many Parliamentarians are, anyway. For the purposes of the records of this House, people in HANSARD do not know you and they do not know your voice; so do other hon. Members. What is your name?

The Member for Embakasi (Mr. Mwenje): Mr. Speaker, Sir, it is not many years. It is only one session which I went on recess. My names are David Mwenje, the Member of Parliament for Embakasi, where the national airport is situated.

Mr. Speaker: Very good.

The Member for Embakasi (Mr. Mwenje): Mr. Speaker, Sir, I beg to support the amendment as moved. Without saying much, I want to reply to a question by an hon. Member from North-Eastern Province, who asked how we chose hon. Noor to be replaced by hon. Muite. The simple reason is that, according to the list, he is the last Member mentioned on the KANU side. Hon. Leshore, who is the Chief Whip cannot be replaced. So, that is how the Mover arrived at hon. Noor. Certainly, he is the last listed Member here. It is not because he comes from North-Eastern Province.

Mr. Speaker, Sir, I hope that I am appealing to my former brothers in KANU. I want them to realise why it is important for us to be equal here. We participated in the elections and were sent back to this House. There are new hon. Members in this House and we are all on an equal level. Therefore, in everything that we do, we should consider that we are equal here. Unlike in the novel *Animal Farm*, I do not think that anybody here will claim that some are more equal than others. We are all equal and are here for the good of this country. Whatever we are doing, we should consider that we have all come from our people, who brought us here on equal chances.

Mr. Speaker, Sir, I do not want to break Standing Order No.73 by imputing any improper motives to the KANU side, but unless there is an ulterior motive, I do not see why we should continue debating on this matter. I believe that there should be no ulterior motive because whatever business they decide will come here for debate, and we will discuss it. All they should do is prioritise what should be discussed at a given time. So, I believe that we all have the goodwill of our people and this country. So, whatever will be brought here will be for the good of our people and will be debatable. So, even if the KANU side had few Members, the achievement will be the same. At the end of the day, we should achieve the same thing. Indeed, in accordance with the African traditions, the big boys normally allowed the small boys to have a little bit more, so that they could also grow. I think that it is in this spirit that the KANU side, having achieved the bigger portion, should not only be asking for ten Members, but should be asking for about eight. This is because, at the end of the day, they should let the other parties grow. We are all here for the good of this country.

Since what we are debating in this amendment is to have ten by ten Members, and taking into account that even the ten positions in the Opposition will be shared among many parties, why not have it that way?

All we are saying is that, there may be a party which did not get anything. The one which got four will be comfortable with the four that they have. The others will have three and two. So, the only other chance that we have and which we are taking so the we are equal--- I am appealing to them because having been with them for a long time and having known them and, knowing how they are and how we used to work, they should agree that, being their former brother, that there is nothing sinister on this end. Whatever sinister motive that any person may have, should be discarded.

Mr. Speaker, Sir, if we agree that we replace that one person, let him be replaced with Mr. Muite of

SAFINA Party. After all, all of us require that kind of brain. We require those lawyers that we have here. The mathematics which has been done--- I am surprised that we are debating on something that has been done here mathematically. The Minister for Education and Human Resource Development is here, if we need any mathematician - the professors are here, we did it on the Table here. I do not think we need to debate the matter any more. I think it is time we agreed that because this House has got a lot of work which we should be debating in future. We want to ask ourselves why we came here. We want to discuss about the problems facing our people, the problems we have in our City and everywhere. We have a lot matters which are now pending and which we want to talk about.

Mr. Speaker, Sir, I think the whole country will wonder that we have spent the whole afternoon discussing about one hon. Member from KANU, in the House Business Committee, being replaced by an Opposition Member. As one person said, if we are referring to the co-operation that was referred to here by the Head of State, it is clearly stated in the Presidential Speech. The President, in his Speech, said that he had agreed to talk to leaders in the Opposition. We are also ready to talk to the President because after all, we are talking about this country. But if we are going to have a hitch over one person, or about the House Business Committee, and we have many more Committees, while this matter is going to be debated in this House--- This Committee does not make any decisions there apart from deciding the business that will come to the House.

Mr. Speaker, Sir, I appeal very strongly to those opposing this amendment to realise that there is not much that will be lost. Nobody is losing anything. We are all talking about Members of Parliament who will sit and discuss the business of this House. We have not come to the real issues. The real issues are coming. Problems are many, financial and otherwise, and we will all debate them. We hope that even this Committee will be guided by the urgency of the matters which are supposed to be discussed for this nation. We have economic problems; on food, agriculture, roads in Nairobi are in a total mess at the moment. We need to discuss them and know where the money will come from. We are appealing to those who will be in this Committee to realise the priority and preferences of hon. Members in this House and our people; what they need and what we are required to debate so that we can fulfil what we came to do in this House.

Mr. Speaker, Sir, it will be a very sad day if we continue discussing and disagreeing on over one hon. Member being replaced by another from a different party. If it was a question of the personality, then maybe I will appeal to the Government side to come up with an amendment to pick on the name of another Member on the KANU list and replacing it with the name of hon. Paul Muite who has been proposed. I do not think we will object to their changing the name of hon. Noor, if that is the problem.

The Member for Webuye (Mr. Kombo): On a point of order, Mr. Speaker, Sir.

It would appear that this amendment has been discussed exhaustively and I would ask the Chair to put the question.

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

(Debate on the original Motion resumed)

Mr. Speaker: Very well. The Motion remains as it was before. Any more Members willing to speak?

Hon. Members: No!

Mr. Speaker: Very well. Then I will ask the Mover to reply.

The Minister for Lands and Settlement (Mr. Ngala): Mr. Speaker, Sir, I would like to thank all the hon. Members who have contributed so immensely to this very important Motion before us. Mr. Speaker, Sir, you have seen the spirit in [**The Minister for Lands and Settlement**] which this Motion has been debated, there is a lot of interest and concern about the Committee which is before the House for formation. The spirit with which this debate has been conducted is encouraging even though we do not appear to be agreeing entirely on the mechanisms of how the composition of the Committee should be.

Mr. Speaker, Sir, this Committee is very vital. If we are going to understand principles which we have been referring to here, the principle of majority has it has been expressed by hon. Members, I would also want to urge this august House to consider what has been proposed as a way of giving support to this Motion. I would also like to say that, having shown those differences, I want to suggest that since we have spoken and since it is something that we believe is important for the House, my humble submission to the House is that we should not allow the difference of a majority of one or two to make the deliberations of this House to continue longer than

they should.

Mr. Speaker, Sir, hon. Members have eloquently said that the point in contention is that, as a Government, it has got to have a position where it can conduct certain businesses of this House. It is not right to have, others have even said that they have checked and seen in other parliamentary systems, a situation where the Government has its hands tied that it cannot do anything.

So, I would like to urge this august House to take into consideration the new spirit that was brought out in the Speech by His Excellency the President and this is what we should carry along with us. It does not suggest, in my opinion, that the person who has told us to work together should lack the ability to work. I think this is a point we should consider. He has told us to work together. He has a job to do, but I think it is fair for this House to allow the Government to operate using that difference of one or two Members since it has been said that there would be no problem when the Committee meets. I think it is prudent. The people who will hear this will not understand why the Government has had its hands tied and has done nothing about it. So, this slight difference will not make any difference or create bad blood between us.

I would like to urge the hon. Members that we agree and support this Committee so that we can carry on with the business of the House. It will be good if this can be agreed upon today so that by Tuesday, the House starts to transact its business.

Mr. Speaker, Sir, I beg to move.

(Applause)

(Question put and agreed)

ADJOURNMENT

Mr. Speaker: Order! Order, hon. Members! We have now concluded our business, and the House stands adjourned until Tuesday, 7th April, 1998, at 2.30 p.m.

The House rose at 6.20 p.m.