

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 23rd May, 2007

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

NOTICES OF MOTIONS

Mr. Mirugi: Mr. Speaker, Sir, I beg to give notice of the following Motions:-

INTRODUCTION OF ANTI- BUREAUCRACY BILL

THAT, aware that delivery of essential services to the people of Kenya is poor; further aware that red tape creates opportunities of corruption; concerned that as a result, millions of Kenyans have not received vital documents such as identity cards, passports, birth and death certificates, title deeds, permits, licences, long after application or request forcing them to resort to the services of "fixers" who receive millions of shillings in payment in *lieu* of speeding up processing of these documents; this House grants leave to introduce a Bill for an Act of Parliament entitled "The Anti-Bureaucracy Bill" to provide for the publication of service charters by all Government Ministries, parastatals and local authorities and to prescribe penalties for failure to act on any applications or grants of rights, privileges, awards and services regularly processed by the stated institutions, and for matters incidental thereto and connected therewith.

INTRODUCTION OF OMBUDSMAN BILL

THAT, aware that the lack of a public office for Kenyans to report complaints for administrative actions and inactions by the Government of Kenya or its appointed agents causes anger, despondency and a feeling of powerlessness and creates a fertile ground for corruption; taking into account that Kenyans need an office that would efficiently and effectively address their complaints and concerns; noting that a public watchdog established to receive and investigate public complaints against state officials would protect whistle blowers and enhance good governance; this House grants leave to introduce a Bill for an Act of Parliament entitled "The Ombudsman Bill" to provide for the creation of an independent office of the Ombudsman which will receive and investigate reports on omissions and commissions of public officials and for matters connected therewith.

ENHANCEMENT OF ALLOWANCES
FOR POLICE OFFICERS

Mr. Ojode: Mr. Speaker, Sir, I beg to give notice of the following Motion:-
THAT, in view of the escalating cost of living and the skewed employment opportunities available for the young educated people in the country; observing that crime rates have consequently gone up partly owing to the inadequate training, equipping and remunerating the police force, thereby lowering the morale of the police force to fight crime effectively; this House urges the Government to immediately initiate the payment of risk, medical and extraneous allowances to the police force in addition to any other appropriate allowances and benefits like insurance on life.

INTRODUCTION OF EDUCATION
LEVY FUND

Mr. Karaba: Mr. Speaker, Sir, I beg to give notice of the following Motion:-
THAT, aware of the high drop-out rate in our public secondary schools arising out of the inability of parents to pay fees, further aware that the Government has instituted various measures and reforms to address the challenges related to access, quality and equity of education; this House urges the Government to establish a fund to be known as the Education Levy Fund to provide for school fees for students from poor and disadvantaged backgrounds.

Mr. Speaker: Mr. Karaba, just before we go further on that, I am not so sure whether that Motion does not offend provisions of the Standing Orders because it entails public expenditure. Is it not, Mr. Karaba? Does it have financial implications?

Mr. Karaba: Yes, Mr. Speaker, Sir. It has financial implications.

Mr. Speaker: If it has then it is out of order. Is it not? You have to convince me otherwise, but for the time being, the notice stands suspended.

(Notice of Motion suspended)

Mr. Speaker: Very well! Next Order!

QUESTIONS BY PRIVATE NOTICE

INTERDICTION OF TEACHERS AT
KANYIMACH PRIMARY SCHOOL

Mr. Ochilo-Ayacko: Mr. Speaker, Sir, I beg to ask the Minister for Education the following Question by Private Notice.

(a) Is the Minister aware that four teachers at Kanyimach Primary School in Rongo District were interdicted last week?

(b) Is the Minister further aware that the said school had a staffing shortfall of six teachers before the interdiction?

(c) What steps is the Minister taking to replace these teachers, so that pupils, especially KCPE candidates, are not disadvantaged?

The Assistant Minister for Education (Mrs. Mugo): Mr. Speaker, Sir, I beg to reply.

(a) I am aware that three teachers, and not four, at Kanyimach Primary School were interdicted while one was served with a warning letter. The headteacher, Mr. Meshack Onyango

Nyakonya, was interdicted for negligence of duty. Two assistant teachers, Mr. Argwings Osongo Onguka, TSC No.403613 and Mr. Tolo Moses Omondi, TSC No.318740, were interdicted for immoral behaviour. Mr. Mogambo George Otieno was warned for negligence of duty.

(b) The school had a staffing shortfall of four teachers before the interdiction and not six. The school has nine streams with enrolment of 545 which requires 11 teachers. The teachers on duty were seven.

(c) The following three teachers have already been posted to the school to replace those ones interdicted: Mr. Wilson Odhiambo, TSC No.238318 was transferred from Kobala Primary School to head the school. Mrs. Jane Opondo, TSC No.286728 and Mrs. Evelyn Okwen, TSC No.430470, were transferred from Nyamaroga and Banda Primary schools, respectively. The situation at the school has been restored to where it was. The school, therefore, remains with a shortfall of four teachers.

Mr. Ochilo-Ayacko: Mr. Speaker, Sir, you have heard the Assistant Minister say that the school has 11 streams and now has seven teachers. This means that if the teachers were to teach from Monday to Friday, there will always be two classes of pupils plain. When will the good Ministry ensure that these children are taught as provided for by the free and compulsory education that is under the Children's Act?

Mrs. Mugo: Mr. Speaker, Sir, the students are being taught as provided for in the free primary education. Let me assure the hon. Member that we are in the process of employing teachers in August this year. We are only waiting for this House to pass the Budget.

Prof. Oniang'o: Mr. Speaker, Sir, we passed the Sexual Offences Bill in this House and we want the Assistant Minister to tell us what kind of immoral behaviour the teachers were involved in and whether it has gone beyond interdiction.

Mrs. Mugo: Mr. Speaker, Sir, the kind of immoral behaviour the teachers were involved in is that several girls were impregnated and, unfortunately, the headmaster failed to investigate the cases properly. The Ministry has investigated the cases and appropriate action will be taken.

Ms. Ndung'u: Mr. Speaker, Sir, the Assistant Minister is saying that she has taken appropriate action. Under Section 24 of the Sexual Offences Act, 2006, a teacher who impregnates his pupils is supposed to be charged and convicted with a sentence of up to ten years. What then is the Ministry doing because this is not a civil matter? It is a criminal matter? Could the Assistant Minister tell us what she will do to ensure that these teachers are arrested and charged?

Mrs. Mugo: Mr. Speaker, Sir, the Ministry of Education does not arrest and charge citizens, but we work in conjunction with the relevant Ministry. The Office of the President, or the administration, are usually informed in such cases. Parents are also supposed to take certain steps, that is to complain and to go to court. All these are in process. Interdiction is only the first step.

Mr. Ochilo-Ayacko: Mr. Speaker, Sir, you can hear how unsatisfactory that answer is. The Ministry of Education is actually responsible for the wellbeing of pupils in schools. If they are sexually molested or assaulted by agents of the Ministry who are teachers is it in order for the hon. Assistant Minister who was a lady and is still a lady to condone this kind of behaviour by saying that they can only interdict teachers who have molested girls when we have the law to address this issue and she has the power?

Mrs. Mugo: Mr. Speaker, Sir, I think I am on record for being very concerned with this kind of behaviour especially when it is meted out to girls and women. At no time can I condone such behaviour. We have to work under the laws as established by this land. The first step has been taken by interdicting these teachers. This does not mean that we have rested there. However, that responsibility is not in our docket, but we will follow it up to see that the relevant Ministry takes action and that the parents also get involved. There also has to be a complainant and that is the parent. It does not mean that we do not follow up the matter and see that these people are prosecuted. We do not do it as a Ministry.

Mr. Speaker, Sir, my responsibility as an Assistant Minister is to make sure that children

are safe in school. That is why we have interdicted those teachers and brought more responsible teachers. We also want to make sure that those girls are rehabilitated; then they can go back to school and continue with their education.

VIOLENT ROBBERIES AT
SAGERO VILLAGE

(Prof. Ojiambo) to ask the Minister of State, for Administration and National Security the following Question by Private Notice.

(a) Is the Minister aware that a series of violent robberies have taken place at Sagero Village in Funyula between January and May, 2007 culminating into the killing of Mr. Wandera Morris on 13th May, 2007?

(b) What urgent measures is the Minister taking to guarantee security for the people of Sagero?

(c) How many people have been arrested by the police in connection with the robbery incidents?

Mr. Speaker: Is Prof. Ojiambo not here? The Question is dropped.

(Question dropped)

ORAL ANSWERS TO QUESTIONS

Question No.258

LAND REGISTRAR FOR
WEST POKOT DISTRICT

Mr. Rotino asked the Minister for Lands:-

- (a) whether he is aware that West Pokot District has no Land Registrar; and,
- (b) when he will post an officer to the district.

The Assistant Minister for Lands (Mr. Kamama): Mr. Speaker, Sir, I beg to reply.

(a) I am aware that there is no Land Registrar in West Pokot District.

(b) An officer will be posted to the district once suitable offices are available to house the District Land Registry.

Mr. Rotino: Mr. Speaker, Sir, while thanking the Assistant Minister for the answer that he has given, I did ask almost a similar Question two years ago. We have prepared an office and I went to there to find out if it is ready. This particular office is causing untold suffering to the Pokot people. Could the Assistant Minister go and inspect the office and send an officer there with immediate effect?

Mr. Kamama: Mr. Speaker, Sir, on the issue of inspecting the office, I will avail myself. I will go straight to West Pokot and inspect that office. Our limitation has to do with funds. We are seeking for more funds from the Treasury so that they can open several Land Registries. I will go there and inspect the office, considering the fact that the Government created many districts the other day and West Pokot is one of the most deserving cases. We will open this office as soon as possible when we get additional funds.

Capt. Nakitare: Mr. Speaker, Sir, now that Trans Nzoia District has been split into two; that is Trans Nzoia West and Trans Nzoia East, when will the Assistant Minister post a Land Registrar in Trans Nzoia West so that we can deal with the settlement of squatters?

Mr. Kamama: Mr. Speaker, Sir, we are considering both districts; that is West Pokot and Trans Nzoia West because both of them are served from Kitale office. So, we will consider both

cases.

Mr. Rotino: Mr. Speaker, Sir, could the Assistant Minister then consider increasing the staff in Kitale so that they can facilitate their work while they are still going to inspect the office in Kapenguria?

Mr. Kamama: Mr. Speaker, Sir, we will look for more officers of the current programme that we have in Coast Province where we posted many officers. Once that programme is over in the next one or two months we will consider Mr. Rotino's case.

Question No.214

ISSUANCE OF TITLE DEEDS TO PLOT
OWNERS AT NDALAT SCHEME

Mr. Sambu asked the Minister for Lands:-

- (a) whether he is aware that all the plot owners of Ndalat Settlement Scheme in Nandi North District have completed paying for their plots;
- (b) whether he is further aware that some of these plot owners are being denied their full title deeds; and,
- (c) whether he could immediately release the title deeds to them.

(Loud consultations)

Mr. Speaker: Order, at that corner! I am requesting the House to allow business to be transacted! Could we please maintain silence?

The Assistant Minister for Lands (Mr. Kamama): Mr. Speaker, Sir, I beg to reply.

(a) I am not aware that all the plot owners of Ndalat Settlement Scheme in Nandi District have completed paying for their plots.

(b) I am also not aware that the plot owners are being denied their title deeds.

(c) The Ministry has released 299 titles, and 135 titles are at various stages of being discharged. One hundred and seventeen plot holders are yet to finalise repayments so that their titles can be issued.

Mr. Sambu: Mr. Speaker, Sir, Ndalat Settlement Scheme was marked out and given out in the early 1960s - I think in 1961, 1962 and 1963. Whenever I go there most people claim that they have repaid the full loans.

Could the Assistant Minister be kind enough to give me a list showing all the details of the people who have repaid for the 299 titles, the 135 titles and also of the 117 people who still owe the Government so that we can be able to display this information confidentially to show them that they have not repaid and, therefore, they cannot get a title deed?

Mr. Kamama: Mr. Speaker, Sir, I have actually said that 299 title deeds have been released and that 117 plot holders have not yet paid the requisite amount. The hon. Member is a good friend of mine. He can come to my office and I will avail that information.

Alternatively, if he wants that information for the consumption of the House, let him submit a substantive Question and we will table that information in this House.

Mr. Khamisi: Mr. Speaker, Sir, during the first year this Government was on a spirited mission to issue title deeds in most cases for political reasons. Could the Assistant Minister tell this House, as a follow-up to the question by the hon. Member, whether he is prepared to issue a list of all the people who have been given title deeds during the last four years and those who are still waiting to be given title deeds?

Mr. Kamama: Mr. Speaker, Sir, first, I want to disabuse the perception that we are giving out title deeds for political reasons. We are not doing that. On the issue of the people who have

benefited for the last four years, I think that is a monumental project which requires a lot of funds. I would advise Mr. Khamisi, who has actually been a frequent visitor to our office, to come and we will avail that information.

Mr. Marende: Mr. Speaker, Sir, could the Assistant Minister explain to the House why the Ministry is unable to regularise the issuance of title deeds so that it becomes a matter of course instead of it being tied to the political developments in the country? It appears that we have a situation where by-elections seem to influence issuance of title deeds.

Mr. Kamama: Mr. Speaker, Sir, once again I want to disabuse that notion that we are giving out title deeds for political reasons. I think my friend, Mr. Marende, is just mourning because of what they saw in Magarini. Nonetheless, I want to assure the hon. Member that the issuance of title deeds will continue as programmed. We intend to make sure that a good number of Kenyans get these title deeds before the next general elections because we will win the next general elections.

Mr. Sambu: Mr. Speaker, Sir, as I said, this is an old settlement scheme. These are farms which have changed hands severally. Unfortunately, the documents still contain the original allottees. The 117 people who have not paid have a problem. They pay, but the payments are credited to the original allottees. Could he facilitate, so that the new-owners are the ones who are given the invoices for the repayment of the loans?

Mr. Kamama: Mr. Speaker, Sir, we will do exactly that, but we will have to liaise with the current and original owners and even contact local leadership.

Question No.273

SUPPLY OF PIPED WATER
TO MARAGUA TOWNSHIP

Mr. Mbau asked the Minister for Water and Irrigation:-

(a) whether he is aware that Maragua Township has not had piped water since Independence;

(b) whether he is further aware that there exists a water supply line from Kigumo Constituency Water Scheme which does not have capacity to supply Maragua Town; and,

(c) what urgent plans he has to supply the town with water.

The Assistant Minister for Water and Irrigation (Maj. Sugow): Mr. Speaker, Sir, I beg to reply.

(a) I am aware that Maragua Town is supplied with piped water from Kigumo Rural Water Supply on a rationing basis.

This is supplemented by water from a low-yielding borehole which operates daily.

(b) I am aware that the 100-millimetre diameter pipeline from Kigumo Water Supply is inadequate to serve Maragua Town. A proposal to supply water to the town through a 300-millimetre diameter gravity pipeline from Kinyona Treatment Works was conceived early 2006 and my Ministry, through the Tana Water Services Board, is undertaking studies to determine viability of this proposal.

(c) My Ministry will include the Kigumo Gravity Pipeline project and the Irati Intake Project in its budget, once the studies are completed and the cost estimates for undertaking these projects are determined.

Mr. Mbau: Mr. Speaker, Sir, I wish to thank the Assistant Minister for that answer. I want to note that he appreciates that this town has not had sufficient supply of piped water since Independence. He also appreciates that the water is supplied on a rationing basis and it is drawn from a low-yielding borehole. He has said that some studies are being undertaken. I would like him

to inform the House when the studies will be completed and how long the studies will take, bearing in mind the fact that there is already a proposal by the local county council with a cost estimate of Kshs20 million that would suffice to supply this town with piped water.

Maj. Sugow: Mr. Speaker, Sir, preliminary estimates for Kigumo-Kinyona Gravity Pipeline is about Kshs150 million. Thorough studies are being done and we expect this to be completed any time. The Irati Water Supply was being undertaken by the local authority and the cost estimate is just about what the hon. Member has indicated. That is also expected to be completed any time and we are hoping that the Irati Water Supply phase will be included in this year's Budget.

However, I urge the hon. Member to put some effort in co-operating with the Ministry of Water and Irrigation and the local authority to ensure that we implement the Irati Water Supply phase this financial year.

Mr. Manoti: Mr. Speaker, Sir, it is not only Kigumo which has no piped water. Most of the towns have no piped water and we are not seeing any indication from the concerned Ministry that water is being supplied.

However, I would like to know from the Ministry which arrangements they have put in place to have the sewer system in most of these towns, for example, Kigumo and Ogembo. People in these towns are using pit latrines.

Maj. Sugow: Mr. Speaker, Sir, problems of various towns in as far as water supply and sanitation is concerned are resolved on a case by case basis. Since we started implementing reforms, we have been working through the regional water Boards. In areas where hon. Members are raising concerns, this can be taken up with the local water Boards to ensure that the problems are solved.

Mr. Mbau: Mr. Speaker, Sir, it would be in order for the Ministry to include this project in the forthcoming Budget estimates. I would only be kind enough to liaise with the Ministry to know how much more money may be required so that it can be supplemented from the local authority.

I would like to thank the Assistant Minister for promising that the estimates are going to be provided for in the forthcoming Budget.

Maj. Sugow: Mr. Speaker, Sir, I would like to urge the hon. Member to visit the Ministry so that we can discuss this issue, since the local authority is also involved in this part of Irati Water Supply.

Question No.076

WAIVER OF LOANS FOR
SUGAR-CANE FARMERS

Prof. Olweny asked the Minister for Agriculture:-

- (a) how many sugar-cane farmers have benefited from loan waivers since 2003;
- (b) if he could specify the loans covered in the waiver; and,
- (c) if he could indicate the beneficiaries, how much they had borrowed, how much had been repaid and the amount waived.

The Minister for Agriculture (Mr. Kirwa): Mr. Speaker, Sir, I beg to reply.

(a) A total of 47,960 farmers have benefited from the waiver of outstanding interest amounting to Kshs1,348,797,669.20 since 2003.

(b) The loans whose interest was waived are those that were expended to the industry's institutions for cane development.

(c) Seventeen out-grower and miller institutions benefitted from the interest waiver as indicated below:-

- (i) The total amount borrowed by July, 2003, was Kshs3,303,731,882.30.
- (ii) The amount repaid by this time was Kshs656,489,515.12.
- (iii) The total accrued interest as stated above is Kshs1,348,797,969.20.

Prof. Olweny: Mr. Speaker, Sir, I thank the Minister for the answer. However, part (c) of my Question has been inadequately answered. I actually wanted to be given a list of the farmers. Although it is a long list, I think the Minister can table it.

Mr. Speaker: How many thousands?

Prof. Olweny: He can table the list!

Mr. Speaker: Did you say 48,000 farmers? I do not think that is practical!

Mr. Kirwa: Mr. Speaker, Sir, it will be impossible to provide the list, but I can provide the names of the 17 out-grower institutions. I will table it if the House requires it.

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

Mr. Sambu: Mr. Speaker, Sir, we have heard that the sugar-cane farmers are benefiting from such big waivers. Could the Minister also consider waiving loans from the Agricultural Finance Corporation (AFC) and other Government institutions, which are owed by grain, dairy, coffee and other farmers?

Mr. Kirwa: Mr. Speaker, Sir, at the beginning of the term of this Government, we brought before the House a waiver totalling Kshs2.8 billion in so far as the AFC is concerned.

Prof. Olweny: On a point of order, Mr. Speaker, Sir. Could you please allow me to ask the last question?

Mr. Speaker: Alright! Since you are pleading, I will give you the Floor!

Prof. Olweny: Mr. Speaker, Sir, I am asking this Question because so many farmers are complaining that they are still paying the loans. According to them, they have paid more than the principal amount that they borrowed. Could the Minister help the farmers out? He should tell us the truth as to whether they have actually paid everything they were supposed to pay and then a waiver given to them?

Mr. Kirwa: Mr. Speaker, Sir, if there are specific cases, I will be willing to address them. If the hon. Member raises any specific cases where farmers are still being asked to pay money, we will address them.

Question No.081

DISBURSEMENT OF LATF
MONEY TO BUTERE/MUMIAS
COUNTY COUNCIL

Mr. Oparanya asked the Minister for Local Government:-

- (a) how much has been remitted to Butere/Mumias County Council from LATF since the Fund's inception; and,
- (b) what projects have benefitted from LATF in Butere Constituency and how much was spent on each project.

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

(a) LATF disbursements to Butere/Mumias County Council were as follows:-

In 1999/2000, it was Kshs11,081,817. Just before the Kibaki Administration, it was Kshs23,414,998. This was in 2001/2002. In 2006, the figure rose to Kshs66,709,000. Figures for the other years are provided to the hon. Member. This is a long list and I would like to table it

before the House.

With regard to the specific projects for Butere/Mumias County Council, I have a long list which I do not intend to read, but I will also table it. It has also been provided to hon. Oparanya.

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

Mr. Oparanya: Mr. Speaker, Sir, I have been asking this Question for the last two years, but I have not got a satisfactory answer. Last time, the then Assistant Minister for Local Government, hon. Tarus, offered to go on the ground and confirm whether what was listed was what was happening. He found that nothing was happening. I have the list with me.

Mr. Speaker, Sir, the second part of my Question specifically asks what projects have benefited from LATF in Butere Constituency. I want to know from the Assistant Minister when Mumias, Khwisero and Matungu became parts of Butere. I am not satisfied with the answer the Assistant Minister has given me. As a result, I have no supplementary questions because I have been given a wrong answer.

Mr. Muchiri: Mr. Speaker, Sir, in 2006/2007, we have actually provided LATF disbursements in terms of constituencies; for example, Khwisero and Mumias constituencies. In the other years, we specifically named particular projects, in particular wards.

Mr. Oparanya: On a point of order, Mr. Speaker, Sir. I asked a specific Question, to which I have not been given an answer. Is it in order for you to allow the Question to proceed if I have been given a wrong answer? I want to show you the answer.

Mr. Speaker: When did you become the Speaker?

Mr. Oparanya: I am sorry, Mr. Speaker, Sir. But I have asked a specific---

Mr. Speaker: What was your---

(Loud consultations)

Order! Order, Members! As I said yesterday, there is a growing and an unnecessary tendency by Members to slur the Chair. Let me tell this House that it is for the benefit of this House that every Member respects the Chair. That must be done. We cannot have an organisation that does not respect its own Chair. You must do that.

(Applause)

Mr. Maore: Mr. Speaker, Sir, when the Assistant Minister was responding to this Question, he seemed to be relishing the glory of having doubled the amount from Kshs23 million to Kshs66 million. That is not the issue anywhere in this country. The issue is the use of the LATF once the money is disbursed. Could the Assistant Minister table an audit report of the said period for the Butere Constituency, so that we can say that it is true this money reached where it was intended to go?

Mr. Muchiri: Mr. Speaker, Sir, the Question was to say how much was given to Butere/Mumias County Council, and I have stated it. The second part was for me to specifically state which projects in Butere/Mumias have benefited. The issue of the audit is not part of the Question.

Mr. Speaker: Very well, I will come back to Mr. Oparanya, because he complained earlier on that his specific question was not answered. What was it?

Mr. Maore: On a point of order, Mr. Speaker, Sir. I thought the Assistant Minister had the capacity to differentiate between a different Question and a supplementary question. I have not raised a different question. An audited report of this period--- I do not expect him to have it now,

but he should promise that he will bring one.

Mr. Speaker: I think that is legitimate.

Mr. Muchiri: Mr. Speaker, Sir, we audit this Fund through the inspectorate of the Ministry. Where an audit is required, we do what is called statutory inspection and we gazette auditors to that effect. I am able to undertake that we can provide that particular audit for that particular constituency.

Mr. Oparanya: Mr. Speaker, Sir, I plead with you to look at my answer, because the Assistant Minister is not answering the Question I asked. That is what I pleaded with you from the beginning. Part (b) of the Question is not being answered.

Mr. Speaker, Sir, I asked a specific question that I needed to know which projects were funded in Butere Constituency. He is not giving me that list. I am pleading with you to look at the answer.

Mr. Speaker: Assistant Minister, can you answer him?

Mr. Muchiri: Mr. Speaker, Sir, the projects he is asking about are the ones I said I tabled and they are many; 1999/2000/2001, in 13 wards; they dug wells, in other places they did some river crossing and all that is with him. I also tabled this list; perhaps, you can have an opportunity to look at it.

Mr. Speaker: Very well. Last question, Mr. Oparanya.

Mr. Oparanya: Mr. Speaker, Sir, I am pleading with you to look at the answer. I want to submit the answer.

*(Mr. Oparanya showed the answer
to the Speaker)*

Mr. Mwanicha: On a point of order, Mr. Speaker, Sir. The funds that are issued through the LATF are sufficient funds that can do projects that are visible like those of CDF. In view of the fact that some of the lists given could actually be of ghost projects, would I be in order to ask the Assistant Minister, through you, to accompany the Member to the constituency to inspect those projects and, at the same time, prepare a list for all of us to ensure that these projects are actually on the ground?

(Applause)

Mr. Speaker: Order, Members! I really do not understand what is the problem with the hon. Member. But could I just ask him, is Butere Ward in your constituency?

Mr. Oparanya: No!

Mr. Speaker: And Township?

Mr. Oparanya: Yes!

Mr. Speaker: South Marama?

Mr. Oparanya: Yes!

Mr. Speaker: Sianda?

Mr. Oparanya: Yes!

Mr. Speaker: Marama North?

Mr. Oparanya: Yes!

Mr. Speaker: Marama Central?

Mr. Oparanya: Yes!

Mr. Speaker: Marama West?

Mr. Oparanya: Yes!

Mr. Speaker: *Sasa, si yote iko kwako?*

Mr. Oparanya: Mr. Speaker, Sir, look at 2006/2007, because those are the current

projects. The others were done when I was not even there as a Member of Parliament.

Mr. Speaker: Khwisero?

Mr. Oparanya: Yes, Khwisero is a whole constituency.

Mr. Speaker: And No.6 is Khwisero, No.7 Khwisero! Everything is in Khwisero, your constituency. What do you want me to do?

Mr. Oparanya: They are not in my constituency. Khwisero is a whole constituency; hon. Osundwa and hon. Arungah are here! So, he is not answering my Question!

Mr. Speaker: I think I sympathise with you. Maybe the Assistant Minister could---

(Loud consultations)

Order, Mr. Assistant Minister! I think the Assistant Minister could check out; isolate from the list the projects within Khwisero; leave those out because they are not a subject of the Question and only table the ones in Butere. I understand the sentiments of Members and I think you, too, Mr Assistant Minister, should share those sentiments. Hon. Members complain a lot about the use, not the allocation of this money. There is a difference between the allocation by the Central Government of LATF funds and the use thereof. I think that is what the Members are complaining about.

(Applause)

Mr. Muchiri: Mr. Speaker, Sir, I wish to draw the attention of the Members to Items Nos.16 and 17. They are all in Butere in that same list. Actually, from Nos.16 to 21 are projects within Butere Constituency.

So, in terms of specific projects, we have in his constituency Manyara-Kwawanda Road, Iskorobe River Crossing, Sianda-Emukaha River Crossing; they are all in his constituency and they are projects funded by LATF. The only thing I need to state here is that in the year 2006, we were insisting on major projects either in the constituency or in a ward, depending on the need. We are reviewing the procedures of LATF and we would wish to invite Members of Parliament, if they need any further guidelines they would like us to implement.

Mr. Sirma: Mr. Speaker, Sir, I think confusion has always been there, because projects funded by the Local Authorities Transfer Fund (LATF) have always been clouded by a lot of secrecy and corruption. Could the Assistant Minister take an initiative and post all the LATF projects in every constituency on a website, just like the Constituencies Development Fund (CDF) projects, so that we do not ask Questions in this House, which relate to the projects undertaken in our constituencies?

Mr. Angwenyi: On a point of information, Mr. Speaker, Sir.

Mr. Speaker: Who do you want to inform?

Mr. Angwenyi: I would like to inform the Assistant Minister!

Mr. Speaker: Would you like to be informed by Mr. Angwenyi?

Mr. Muchiri: Yes, Mr. Speaker, Sir.

Mr. Angwenyi: Mr. Speaker, Sir, I would like to inform the Assistant Minister that the accounts of most of the local authorities have not been audited for the last 15 to 20 years. So, whatever projects he has, have never been audited. He is being embarrassed here because he has been given incorrect information. I am assisting you, Mr. Assistant Minister!

Mr. Weya: On a point of order, Mr. Speaker, Sir.

Mr. Speaker: Order, all of you! First of all, there can never be points of information during Question Time! In fact, that is a wrong procedure. It is only the Assistant Minister who can inform you, because you are asking. You do not know!

The Standing Orders state that a Member cannot ask a Question the answer of which he or she already knows. So, if you have the information, please sit down!

Proceed!

Mr. Muchiri: Mr. Speaker, Sir, I think the suggestion from hon. Sirma is quite pertinent, and we will look into it. I would wish to also state that all local authorities in this country, first, receive Kshs1.5 million. The balance is given depending on the population and also the poverty index of that particular local authority.

In terms of audit, I did say that it is, obviously, the mandate of the Controller and Auditor-General to audit all local authorities. The problem is that the Kenya National Audit Office has not been able to complete the audit for all local authorities. But I believe that, that is going to happen.

Otherwise, in terms of internal controls, we are tightening the rope. I want to issue a warning to all local authorities, that the LATF money must be used properly. Also, the hon. Members of Parliament, in fact, have the mandate to interrogate the spending of that money at the constituency level.

Mr. Weya: On a point of order, Mr. Speaker, Sir.

Mr. Speaker: Order, Mr. Weya! Hon. Members, I intend, as usual, to finish Question Time at 3.30 p.m. It is almost 3.30 p.m., but I wanted to give an opportunity for the next Question to be asked. Please, be understanding!

Last question, by the hon. Member of Parliament for Butere Constituency!

Mr. Oparanya: Mr. Speaker, Sir, if you look at the 2006/2007 Financial Year, I asked for information on specific projects which I have not been given. Could I ask the Assistant Minister to give me specific projects which have been undertaken in the 2006/2007 Financial Year? I have pleaded with the Chair to help me, but it seems not to be doing so! I need the Question to be deferred, so that I can be given the correct answer!

Mr. Speaker: I have tried my best to help you! You know, it does not help to complain even when you are being helped! So, I am becoming helpless.

What is your response, Mr. Assistant Minister?

Mr. Muchiri: Mr. Speaker, Sir, I want to inform the hon. Member that, in his constituency, there is a social hall at Musoma which is being constructed at a cost of Kshs1.4 million. Also, there are two classrooms at Shinyaweyu Secondary School, which are being constructed.

Also, there is the Eshichina River Crossing in Butere/Mumias which is being funded at Kshs1.297 million. So far, Kshs850,000 has been spent on that project. So, I hope that I have satisfied him in terms of what he is actually trying to ask.

Mr. Speaker: Next Question by the hon. Member of Parliament for Laisamis Constituency!

Question No.144

SUPPLY OF ELECTRICITY
TO LAISAMIS SCHOOLS

Mr. Deputy Speaker: Is Mr. Lekuton not here? The Question is dropped.

(Question dropped)
Question No.215

INCREASE IN NUMBER OF KENYAN
STUDENTS IN UGANDAN UNIVERSITIES

Prof. Oniang'o asked the Minister for Education:-

(a) whether he is aware that so many Kenyan students are leaving the country to study in universities in Uganda due to low fees charged by the universities and lack of capacity by local universities to absorb all Form Four-leavers who attain the minimum admission requirements to public universities;

(b) whether he is further aware that some of the universities in Uganda have not been accredited by Uganda's Commission for Higher Education and, hence, the quality of education they are offering is questionable; and,

(c) what urgent steps he will take to ensure that the number of accredited private universities in Kenya is increased, so as to keep our children from leaving the country to look for education elsewhere.

The Assistant Minister for Education (Dr. Mwiria): Mr. Speaker, Sir, I beg to reply.

(a) I am aware that there are about 11,000 Kenyan students, as per 2006 records, who are pursuing university education in Uganda, due to a number of reasons. This is by no means an exodus, since most of our university students are still accommodated locally.

(b) I am also aware that some universities have not been accredited by the Uganda National Council for Higher Education. Our Commission for Higher Education, however, does not do inspection of universities in Uganda, with regard to whether or not they are prepared to mount good academic programmes. Therefore, we are not in a position to comment on the quality of university education which is offered there. However, we have a list of both public and private universities, that are accredited by the Uganda Commission for Higher Education, which is available for the hon. Members who are interested.

(c) The Government is doing a great deal to work with the private sector, by way of providing relevant incentives to expand university education, as well as restructure the Commission for Higher Education, to hasten the process of registering new institutions. As of now, we already have seven chartered private universities. Six universities have letters of interim authority and another six universities have certificates of registration, which allow them to operate as they await the final certificates, to have the official acceptance as university institutions.

Mr. Speaker, Sir, as I said, we have a list of both private and public universities in Uganda that are accredited, which is available to the public. There are four public universities, namely, Makerere University, Mbarara University of Science and Technology, Gulu University and Chambogo University.

There are 18 private universities, namely, the Islamic University of Uganda, Ndejje University, Uganda Martyrs University, Bugema University, Busoga University, Nkumba University, Uganda Christian University, Kampala University, Aga Khan University, African Bible College, and so on. I do not have to go through the whole list. I would be happy to provide it.

[Mr. Speaker left the Chair]

*[The Temporary Deputy Speaker
(Mr. M'Mukindia) took the Chair]*

Prof. Oniang'o: Mr. Temporary Deputy Speaker, Sir, I have asked this Question before, but it has just been answered in the same manner, which is not satisfactory. Eleven thousand students constitute two universities. It is shocking, given the thirst for university education in Kenya, that Uganda has more universities than Kenya.

Could the Assistant Minister tell us how long it takes, from application to accreditation, for

a private university to be registered in this country?

Dr. Mwiria: Mr. Temporary Deputy Speaker, Sir, we should not be so alarmed because there is no evidence that the 11,000 students are in Uganda because they had qualified to join our universities, but they could not get admission. That is why I said that they have a right of reason. Some students have joined some universities without qualifying. So, we should not be so surprised.

*[The Temporary Deputy Speaker
(Mr. M'Mukindia) left the Chair]*

[Mr. Speaker resumed the Chair]

Mr. Speaker, Sir, in terms of public universities, I think we are doing better than Uganda. Uganda has only four public universities, while we have seven. Recently, we made an announcement about other university colleges that we are opening. They include Kilifi University College, under Kenyatta University; Kisii University College, under Egerton University; Kimathi University College, under the Jomo Kenyatta University College of Agriculture and Technology (JKUAT); Chuka University College, under Egerton University; Kenya Science Teachers College as a campus of the Moi University; Kabianga Farmers Training College as a campus of Moi University, Taita-Taveta Teachers College as a campus of the JKUAT; and, the Kitui Teachers College as a campus of Kenyatta University.

Mr. Speaker, Sir, in terms of private universities, we have more than 20 private universities in this country compared to the number that I read for Uganda. However, we realise the challenges raised but we have already begun to address it. I believe that the situation is much better than it was and in the next two years or so, we will be doing much better.

Mr. Sambu: Mr. Speaker, Sir, one of the reasons why many Kenyans are sending their children to Uganda is that the fees in Uganda are much lower. What is the Assistant Minister doing to make public universities in Kenya lower the fees? They are becoming as expensive as private universities. What are they doing to lower the fees in public universities?

Dr. Mwiria: Mr. Speaker, Sir, if you go to India, you will find that universities are even cheaper than our public universities. There are issues about quality here. It depends on what you like to offer. You must also ask questions about the quality of that education that is so cheap before you begin to say that it is cheaper. Here, we are already beginning to say that we will open day universities and we will not tie admissions to bed space because students can come in as day scholars. We are providing loans to needy students and we hope to expand this loans programme. We are taking universities closer to the people to make it much cheaper with regard to constituent campuses and other universities that we are opening outside of Nairobi and closer to the communities.

Mr. Karaba: Mr. Speaker, Sir, I think the Assistant Minister should be concerned about this Question. It is a reality that we are losing a lot of money to Uganda. At one stage, we thought that this money could be used to put up one, two or three universities along the border if that is the problem. We should put up three universities so that we do not have excess students going to Uganda. Are they having plans to lower fees as it has been asked? When the students get to Uganda and they study in such unaccredited universities, what happens to parents when their children have unaccredited degrees?

Dr. Mwiria: Mr. Speaker, Sir, I have already explained that we are doing something. I already read a list of the new colleges that are being opened as well as new campuses. I also indicated that we are trying to restructure the Commission for Higher Education so that it is quicker in terms of evaluating and accrediting new institutions. That process is in place. We would like to

be much faster than has been the case.

However, I would like to assure hon. Members that we are already headed in that direction. In the next year or so, I think the problem of our students going to Uganda just because we do not have enough places here will be a thing of the past. Let us not also not forget that compared to many of the East African countries including Uganda, the actual population of students seeking university places in Kenya is many times higher than is the case in those countries. Therefore, having a surplus is not particularly surprising.

Prof. Oniang'o: Mr. Speaker, Sir, I am surprised that the Assistant Minister does not see it fit that he ensures that Kenyans who are studying outside come back with degrees which are acceptable here. They are going to cause a problem when they come back into the labour force.

Mr. Speaker, Sir, could he table for us the qualifications of the 11,000 students who are in Uganda before he starts, in fact, saying that they do not qualify to enter degree programmes?

Dr. Mwiria: Mr. Speaker, Sir, I cannot table the qualifications of the 11,000 students here. However, I would like to say that there are many students who are in Uganda for whom we do not have any records. They make their own private arrangements. However, I can assure you, on the basis of experience, we know there are many students who go to Uganda because they are looking for a second chance because they did not make it to go to our public universities. Therefore, they go through A-Level and eventually opt to join Ugandan universities. There are many students who go to Uganda, we know that, with a D+ or C- but do bridging courses so they eventually enter universities in Uganda. A lot of this is about money and unscrupulous business people. It is up to all of us to pay more attention to the institutions that are accredited as per the information provided by the Commission for Higher Education.

Mr. Speaker, Sir, just to indicate, last July, the Commissions for Higher Education from the three countries met to talk about collaborative programmes where we will be having this information much more in the public domain for all of us to see. However, we also have a responsibility, as parents and legislators, to ensure that we give some advice and seek a little bit more in terms of information with regard to the kind of institutions that our young people are going to.

Mr. Speaker: Very well! Is Mr. J. Nyagah here?

Mr. J. Nyagah: Yes, Mr. Speaker, Sir.

Question No.188

PROTECTION OF SMALL TRADERS FROM
INSIDER TRADING AT THE NSE

Mr. J. Nyagah asked the Minister for Finance:-

(a) whether he could confirm or not that the Nairobi Stock Exchange (NSE) is conducting its operations properly; and,

(b) what action he is taking in order to protect the small investors from "insider" trading which could affect them negatively.

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

(a) The NSE is conducting its operations properly.

(b) Through the Capital Markets Authority (CMA), the Government will continue to monitor, investigate and take action against any individual or organisation that engages in insider trading activities in accordance with Section 32A(33) of the CMA Act, Laws of Kenya.

Mr. J. Nyagah: Mr. Speaker, Sir, I am very disappointed with this answer because it is public knowledge that the swings of the prices in the NSE - although I am a great supporter of

capitalism - are so huge that it is not possible, under normal circumstances, for what is happening to happen.

Is the Assistant Minister satisfied that the very small cartel of brokers in an economy as big as ours should not be increased? Is he ready to increase the number of brokerage companies so that the games that he knows that I know are going on are stopped? *Mwananchi*, particularly, from where I come from, is going to suffer. When prices are pushed up, they borrow money from coffee SACCOs. The prices collapse and *mwananchi* is left with a SACCO loan which he will never be able to repay.

(Applause)

Mr. Kenneth: Mr. Speaker, Sir, broadly speaking, the NSE is operating in line with international best practices. However, looking at the growth the NSE has had over the years and looking at the small group of brokers who have been licensed within the NSE, it has been prudent to think about increasing the number of stock brokers who can play a role. The CMA has already commissioned a study which is expected to come out at the end of this month to broadly say how many more brokerages should be in competition with the existing ones so that other brokers can be licensed.

Mr. Kajwang: Mr. Speaker, Sir, could the Assistant Minister confirm that the NSE is actually a closed club of friends who agree only on one thing? That they protect their small interests in a liberalised economy? Kenyans are left at the mercy of some friends who keep on fleecing them by changing the figures up and down as they wish, to enrich themselves!

(Applause)

Mr. Kenneth: Mr. Speaker, Sir, I am unaware of any of Mr. Kajwang's friends who have been licensed to operate as stock brokers. I am, however, aware that the NSE has top brokers who are licensed by the CMA to operate.

Secondly, while you operate in a liberalised economy, you expect prices to go up and down; not in the sense of Mr. Kajwang of up and down which is a weighing machine. I expect that the prices are determined by market forces.

Mr. Weya: Mr. Speaker, Sir, recently PricewaterhouseCoopers was banned in Japan for cooking figures. When Uchumi Supermarkets shares collapsed after PricewaterhouseCoopers had done an audit of the firm, it is still operating in this country. What is the Assistant Minister doing to ensure that companies that are doing audits for companies that operate the stock exchange are banned in this country if they do not function properly?

Mr. Kenneth: Mr. Speaker, Sir, I think the most important thing is compliance with the Capital Markets Authority (CMA) Act. The exchange has mandated the Nairobi Stock Exchange (NSE) to do on-site review; that is an inspection report, follow-up and implementation. This is to ensure that investors in the stock exchange, not only have the confidence but are protected by these routine inspection reports that are carried on site.

Mr. J. Nyagah: Mr. Speaker, Sir, I am very disappointed because the Assistant Minister is a very clever man and he knows how to answer questions very cleverly. He knows how to protect them. For the record, I support the growth of the stock exchange. I do not have a problem. However, could he now confirm that he is going to license many companies and give a very wide cross-section of the type of brokerage firms from across Kenya, so that everybody feels that they have a right and are playing their role in the growth of the economy through the stock exchange without cheating *wananchi*?

Mr. Kenneth: Mr. Speaker, Sir, I represent the small men that Mr. J. Nyagah purports to represent too. I am here to protect them. In as much he has them in his constituency, I probably have double the figure he has. It is in the interest of this country that any shareholder, no matter the value that the shareholder has in the stock exchange, is guaranteed the confidence of the Nairobi Stock Exchange (NSE). I said here, and I repeat it, that the CMA is carrying out a study which is expected to be out at the end of this month and it will allow more players to be licensed as stock brokers.

Question No.248

NUMBER OF KENYAN PILOTS
WORKING FOR KENYA AIRWAYS

Mr. Speaker: Very well! The Minister for Labour and Human Resource Development wants to re-direct the next Question on the Order Paper. To what Ministry are you going to re-direct it?

The Minister for Labour and Human Resource Development (Dr. Kulundu): Mr. Speaker, I wish to re-direct it to the Ministry of Transport.

Mr. Speaker: I order that it be re-directed to the Ministry of Transport but it will not come tomorrow. It will be listed as soon as it is sent at the earliest possible time.

*(Question re-directed to the
Ministry of Transport)*

That is the end of Question Time! Was there a Minister who wanted to give a Ministerial Statement? Mr. Kirwa!

MINISTERIAL STATEMENTS

NATURE OF MARKETING CONTRACT
BETWEEN KTDA AND LIPTON TEA

The Minister for Agriculture (Mr. Kirwa): Mr. Speaker, Sir, I wish to issue this Ministerial Statement.

Mr. Speaker, Sir, on the 2nd May, 2007 the hon. Member for Kitutu Masaba, Mr. Mwanicha, demanded a Ministerial Statement on the Tea Development Agency, Lipton Tea Agreement. I wish to state as follows:-

(i) Indeed, Lipton is subsidiary of Unilever which is both a tea producer in the country as Brooke Bond Tea and a buyer as Lipton.

(ii) No tea marketing agency agreement exists between the two organizations, that is Kenya Tea Development Agency (KTDA) and Lipton. What does exist is the tea purchasing agreement between them which is the standard purchasing agreement that Lipton enters with all its tea suppliers all over the world.

(iii) Lipton purchases tea from many other sources including auction centres in the world.

(iv) Lipton buys KTDA tea just like any other buyer and there is no preferential treatment that is accorded to them and still competes to purchase the same tea in the Mombasa auction alongside other buyers.

(v) The purchasing agreement is a renewal of an earlier agreement signed in the year 2003

that expired in December last year, during which time the tea annual average unit price of tea increased from Kshs125 in 2003 to Kshs151 per kilogramme in 2006.

(vi) The nature of the agreement is that it defines the terms and conditions under which both parties conduct business with each other when mutually beneficial to both parties. The agreement neither binds KTDA to sell to Lipton Limited nor Lipton Limited to purchase tea from KTDA.

(vii) The agreement did not involve any monetary transaction.

(viii) Lipton has not been given monopoly to buy KTDA tea as it is not the largest tea buyer. It buys only 27 per cent of tea at the auction. At the auction, tea is available to any buyer who bids highest.

(ix) Contrary to the aforesaid, Lipton is not the largest direct buyer of KTDA tea as it only buys 3.46 per cent compared to the largest sale/buyer under the arrangement called Habitullah/Habibulah, the Russian company which buys 20.8 per cent of the direct sales on this arrangement.

(x) KTDA has taken several initiatives on tea value addition to ensure that all the tea does not lose identity in the world market. This includes product diversification, blending, branding, marketing and manufacture of ready-made tea.

(xi) In the medium term, KTDA-Lipton Association is beneficial to the small-scale farmers and the country's economy as value addition efforts are being nurtured to provide sustainable solutions and development of the tea industry in the country and ensure conservation of the Kenyan name in the marketed tea world-wide.

Mr. Speaker: Who had raised that issue? Mr. Mwanicha and his colleague can seek clarification in that order.

Mr. Mwanicha: Mr. Speaker, Sir, the small-holder tea is delivered to Mombasa auction for the highest bidder. I would like to know the advantage the smaller-holder tea farmer has by signing this agreement with Lipton Tea, according to the Minister's idea.

The Minister for Agriculture (Mr. Kirwa): Mr. Speaker, Sir, what I said is that---

Mr. Speaker: Order, Mr. Minister! This is not Question Time! Just take note before you respond to all of them.

Mr. Angwenyi!

Mr. Angwenyi: Mr. Speaker, Sir, I am surprised by the Ministerial Statement issued by the Minister who is a great friend of small tea farmers. I am really surprised. We know and the Minister knows very well, that our tea is used for blending to upgrade the quality of poor tea from other countries. If this Lipton Limited was friendly to Kenya they would have constructed their packaging factory in Kenya instead of Dubai which does not produce a single leaf of tea. Could the Minister undertake to have that agreement cancelled so that our people could sell their tea to the highest bidder at the auction?

Mr. Mwanicha: Mr. Speaker, Sir, I would like to seek more clarification. In the wisdom of the Minister, every country in the world; India, Sri Lanka sell their tea as tea from those countries. Does he not find it odd that our tea is sold to Lipton and then it sold as Lipton tea worldwide without acknowledging the country?

The Minister for Agriculture (Mr. Kirwa): Mr. Speaker, Sir, may I thank my colleagues for raising those concerns. I want to respond as follows:-

Mr. Speaker, Sir, as far as the benefits are concerned, any tea that is sold through any arrangement, such as the one between Lipton and the Kenya Tea Development Agency (KTDA), it is sold above the auction price of the previous auction. That, therefore, means that it confers better status to the arrangement between the KTDA and Lipton. As I said, neither KTDA nor Lipton are bound to buy or sell to either party.

Secondly, blending of tea is a process that is allowable internationally. It is meant to achieve two things. One, is to give a price that would be appreciated elsewhere in the world, so as to make our tea not more expensive than is necessary. Two, to give the flavour that some of the buyers require.

Mr. Speaker, Sir, we are very cautious about any tea that would be termed as "junk tea", being used to blend our tea. We have been cautious about it. We will continue to monitor that with great interest to ensure that such an occasion does not arise.

Mr. Speaker, Sir, finally, we are also cognisant of the need for value addition. We have set aside money for Tea Research Foundation (TRF) to focus on certain teas, so that we can allow our country to market its tea directly to some of the international markets.

Mr. Speaker: Thank you. Is there any other Minister?

Mr. Kiunjuri!

DISPARITIES IN CONNECTION FEES CHARGED BY KPLC

The Assistant Minister for Energy (Mr. Kiunjuri): Mr. Speaker, Sir, I want to respond to the concerns of Mr. John Sambu. He sought a Ministerial Statement on the charges that are demanded by Kenya Power Lighting and Company (KPLC) for connecting customers to transformers. The hon. Member requested for a Ministerial Statement on the amount of Kshs32,000 that is paid by rural consumers under the *Umeme Pamoja* Project.

Mr. Speaker, Sir, about two and half years ago, KPLC introduced a new connection policy with a primary objective of enhancing connectivity by reducing connection costs. Under the new connection policy, persons within the reach of an existing transformer - that is within a distance of 600 metres from the transformer - are required to pay Kshs32,480. That figure comprises a capital cost contribution of Kshs25,000, power charge of Kshs3,000 and Value Added Tax (VAT) of Kshs4,480 at 16 per cent. Prior to the introduction of that new connection policy, consumers used to be charged between Kshs17,000 and Kshs300,000 respectively, depending on their distance from the transformer. There is, therefore, no consumer who is being charged Kshs5,000 for a connection.

It is not possible to lower the connection fee considering the current cost of materials. Indeed, the rate being charged currently is about 60 per cent of the connection cost being incurred by KPLC due to the sharp escalation of prices of materials since the introduction of the current policy.

Mr. Speaker, Sir, to promote, encourage and ease consumers connectivity and financial burden, KPLC is discussing with various financial institutions on the possibility of lending the required amount to consumers with a repayment period of over 12 months. Under the *Umeme Pamoja* Project, the new KPLC connection policy has a provision for connecting persons who are more than 600 metres away from an existing transformer. The new policy requires such persons to team up and jointly apply for electricity supply. That new group supply arrangement is known as *Umeme Pamoja*. Once a group submits its application form, KPLC prepares a quotation and advises the group on the required standards and uniform connection charge for each member. Under that group based supply arrangement, work commences once 50 per cent of members pay up their prescribed contributions. Upon completion, paid up members are connected. Any other member's application for connection, subsequently, is effected once he pays the prescribed charges plus interest.

Mr. Speaker: The Member for Mosop, I believe you are the one who requested for the Ministerial Statement.

Mr. Sambu: Mr. Speaker, Sir, may I seek three clarifications. One, where we have rural electrification programmes, which are donor-funded--- For example, in my area, by the French, Phase I, Phase II, they do everything, including the transformers. Why is it that KPLC starts charging Kshs32,000 to connect rural people? Secondly, I want to seek the following clarification. Where we have CDF paying for the full transformer on an existing high tension line, the CDF pays for the full transformer and then the KPLC comes down and says: "For the rural people there, they have to pay Kshs32,000." We have to help the people get this electricity because this Government has put in several billion shillings, then paying Kshs32,000 cannot help.

Mr. Speaker, Sir, could he clarify because I know that in many towns, nobody pays Kshs32,000 just to have a meter fixed to the House? Could he clarify?

Mr. Sirma: Mr. Speaker, Sir, way back, members of the public paid a lot of deposits to KPLC in the earlier programme which is not even-- If you look at it, it is just like *Umeme Pamoja* because 20 or 30 people come together and pay money to KPLC. They have not converted the same for the purpose of assisting those people to get power. Could the Assistant Minister see to it that the money which had been paid--- We have not charged you interest. We just gave you free money for all those years. Give us the power!

Mr. Angwenyi: Mr. Speaker, Sir, we know that consumers of electricity throughout the country are charged a levy which I understand collects beyond Kshs2 billion a year. Could the Assistant Minister consider applying that amount to reduce the amount required for reconnection from Kshs32,000 to, for example, Kshs2,000 per person?

Mr. Speaker: Mr. Assistant Minister now! We have to end now and go on to business!

Mr. Assistant Minister!

The Assistant Minister for Energy (Mr. Kiunjuri): Mr. Speaker, Sir, on the issue of donor funded projects, I want to assure the Member that they do everything, and we pay everything back.

Mr. Speaker, Sir, on the issue of CDF, it is true that in some areas, hon. Members have stated paying, at least, for connection and transformers. I want to assure you that we are only doing that where we have the *Umeme Pamoja* Project. Where we have the *Umeme Pamoja* Project, it ploughed back through reducing the amount that is charged by KPLC.

In case, there are some areas where the CDF has paid monies to the Rural Electrification Programme (REP), then the money should go back to *wananchi*.

Mr. Speaker, Sir, on the issue of deposits that had been paid earlier, when we go to connect a project that was already in existence, we do not charge Kshs32,480. However, we ask the members to tell us how much each had paid, then we deduct that from the Kshs32,480. If there is any group that has been connected and yet, they had paid deposits and it has not been considered, they should come and tell us. That is not proper. Their money should be refunded immediately they are connected.

Mr. Speaker, Sir, on the issue of levy that we collect; it is the same money that we use to connect other consumers who have not been connected.

Mr. Sambu: On a point of order, Mr. Speaker, Sir. Could the Assistant Minister clarify this issue here? We have been told the French funding is a grant and, therefore, there is no repayment. Why do we still charge our people yet the French and other donors are giving us grants?

The Assistant Minister for Energy (Mr. Kiunjuri): Mr. Speaker, Sir, the French programme is a negotiated sum of money which the Government will pay back. We have the Spanish and French programmes and we will repay the money. So, it is only prudent that customers also pay for the same.

Mr. Speaker: Very well! That ends everything now.

(*Mr. M'Mukindia stood up*)

in his place)

Sorry, Mr. M'Mukindia, I forgot. Please, proceed!

POINT OF ORDER
ATTACKS ON KENYANS
VISITING SOUTH AFRICA

Mr. M'Mukindia: Mr. Speaker, Sir, I stand to seek a Ministerial Statement on the increased attacks and robberies on Kenyans visiting South Africa, including Members of the PanAfrican Parliament from this honourable House. These include hon. Members such as Mrs. Nyiva Mwendwa. The first person to be attacked on South African roads---

(Loud consultations)

Mr. Speaker: Order! Can we listen to this, please? Please, listen to this!

Mr. M'Mukindia, please, proceed!

Mr. M'Mukindia: Mr. Speaker, Sir, the first person to be attacked on South African roads was a member of staff; Mr. Gichohi, the Senior Deputy Clerk. This was way back in 1998. Up to date, we do not know the results of the investigations by the South African Government on this robbery and attack.

Recently, another member of staff; the Clerk of the National Assembly and his wife, were attacked in Johannesburg. They were robbed of everything they had.

On 4th, April, 2006, Mrs. Nyiva Mwendwa, a Member of the Pan African Parliament in Midrand, was robbed of everything in Johannesburg. She was left just with the clothes she was wearing.

Just the other day; on the 6th, May, 2007, during the latest meeting of the Pan African Parliament in Midrand, Mrs. Nyiva Mwendwa was again chased through the streets of Johannesburg by gangs with guns. They had to hide in one the hospital compounds.

Mr. Speaker, Sir, those are not the only cases. Other Kenyans have been robbed and beaten up in South Africa. We would like to hear from the Minister for Foreign Affairs. What is he doing to:-

(i) Ensure the security of hon. Members of this House who are Members of the Pan African Parliament when they go to South Africa. What kind of security is provided for them to ensure that they are safe when in South Africa?

(ii) The status of the---

(Loud consultations)

Mr. Speaker: Order, hon. Members! It is really disheartening that you cannot even listen to this very important issue!

Mr. M'Mukindia, please, proceed!

Mr. M'Mukindia: Mr. Speaker, Sir, we would like to know the status of all the investigations regarding Kenyans who have been attacked, including hon. Members of this House as well as staff of the National Assembly and whether their monies and items have been recovered.

Mr. Speaker, Sir, in view of the fact that there is such increase in insecurity in Johannesburg, could the Minister consider asking the African Union (AU) to temporarily move the meetings of PanAfrican Parliament from South Africa to a safer country until the security situation

in Johannesburg has been improved.

(Applause)

Mr. Speaker, Sir, this is not the first time this has happened. When we had problems in Burundi, the PTA Bank temporarily moved its headquarters to Nairobi. They are now planning to go back to Burundi. Could the Minister give us that information for the interest of this House, hon. Members who have been directly affected and the country at large? There seems to be increased targeting of Kenyans who are visiting South Africa.

(Applause)

Mr. Speaker: Mr. Assistant Minister when are you likely to respond?

The Assistant Minister for Foreign Affairs (Mr. Wetangula): Mr Speaker, Sir, it is obvious that the Statement required is very complex. We, therefore, need time to get all the facts together. Maybe, two weeks will be sufficient for me.

Mr. Speaker: Okey! Next order now!

Just before we get to the next order, I invite the attention of hon. Members to the Order Paper, particularly Order No.7. It reads: "The Kenya Roads Board Bill (Bill No.19)." The Bill is actually, "The Kenya Roads Bill". Therefore, delete the word "Board". The Bill will be read as printed.

Next order!

BILLS

First Reading

THE KENYA ROADS BILL

*(Order for First Reading read - Read
the First Time and ordered to be
referred to the relevant
Departmental Committee)*

Mr. Speaker: Next order!

Hon. Members, before the Minister moves the next Motion, I wish to explain the following: The rules that we are going to debate were laid yesterday. The Chair will allow hon. Members to move any amendments thereto; if there is any particular rule that you would like to amend either by deletion, addition or removal all together.

(Applause)

You will be at liberty to do so, so long as you have the requisite vote. If you are defeated, I am sorry. However, I will give you the opportunity to do so.

Thank you.

Next order!

MOTION

APPROVAL OF EAC DRAFT RULES ON
ELECTION OF EALA MEMBERS

The Minister for East African Community (Mr. J.K. Koech): Mr. Speaker, Sir, I beg to move:-

THAT, pursuant to the provisions of Article 50(1) of the Schedule to the Treaty for the Establishment of the East African Community Act, 2000; this House approves the East African Community (Election of Members of the Assembly) Draft Rules laid on the Table of the House on Tuesday, 22nd May, 2007.

Mr. Speaker, Sir, as we are all aware of the East African Court of Justice judgement, it became necessary that we draft rules for election of Members of the East African Legislative Assembly. So, these rules may be cited as "The Treaty for the Establishment of the East African Community (Election of Members of the Assembly) Rules, 2007". In these Rules, the parliamentary words and expressions used have the same meanings as assigned to them in the Standing Orders of the National Assembly, unless the content otherwise requests.

"Candidate" means a person who is nominated to stand for election of the East African Legislative Assembly. "Election" means an election of the East African Legislative Assembly. "Nomination" means nomination as a candidate to stand for election of the East African Legislative Assembly. "Party" means a parliamentary political party. "Party leader" means the leader of Government Business, the Leader of the Official Opposition or any other party leader of any party entitled to make a nomination under these rules, and "Returning Officer" means the Clerk of the National Assembly.

Mr. Speaker, Sir, on qualification, no person shall be qualified to stand for election unless he or she is qualified to be elected in accordance with Article 50(2) of the Treaty for the Establishment of the East African Community. The number of candidates a party shall be entitled to nominate for election under these Rules shall be determined by the Clerk of the National Assembly, and shall be the figure arrived at by multiplying the number of elected Members of the National Assembly of that party by nine and dividing the result by the total number of elected Members of the National Assembly. That is how we share the positions.

In order to be validly nominated as a candidate for election, a person shall be nominated by a political party through its Parliamentary Group meetings in the form set out in the Schedule shown. Two, there shall be attached to the nomination form of the candidate, an extract of the nomination proceedings of the Parliamentary Group meeting which approved the nomination of the candidate, signed by the party leader of the Parliamentary Group and the Party Whip.

The Returning Officer shall receive and forward to the House Business Committee the document referred to in Rule 5. the House Business Committee shall consider the nominees of the parties forwarded to it under Rule 6, and ensure that the requirements of Article 50 of the Treaty are fulfilled. Upon the House Business Committee being satisfied that the requirements of Rule 7 have been complied with, the Chairperson of the House Business Committee, or any other authorised Member of the Committee, shall give notice of a Motion seeking the election of the nominees to the East African Legislative Assembly.

The National Assembly shall, within seven sitting days from the date of receipt of the names under Rule 6, consider the Motion and adopt it with or without amendments. An amendment to substitute a nominee may only be moved by the party leader of the party seeking to substitute and may only be in respect of a nominee of such party. After all the amendments, if any, have been disposed of, the Speaker shall put the Question and such Question shall be determined by the Members present and voting in accordance with provisions of the Standing Orders.

Mr. Speaker, Sir, the provision of Part XI, which is about the Divisions, of the Standing Orders shall apply in the event of a Division. The Speaker shall declare to be duly-elected as Members of the East African Legislative Assembly, the nine persons elected pursuant to the provisions of Rules 8 and 9. After the Speaker declares the persons elected as Members of the East African Legislative Assembly, the Clerk of the National Assembly shall publish the names in the Kenya Gazette and transmit to the Secretary-General of the East African Community, the names of the elected Members as published in the Kenya Gazette.

With regard to determination of the validity of the candidates, any question that may arise, whether a person is an elected Member of the East African Legislative Assembly, or whether the seat in that Assembly is vacant, shall be determined by the High Court of Kenya. The procedure, jurisdiction and grounds for an election petition in respect of Members of Parliament shall apply, with necessary modifications, in respect of Members of the East African Legislative Assembly. Where the seat of Member elected under these Rules becomes vacant, the Speaker shall, upon receipt of notification of the vacancy from the Speaker of the East African Legislative Assembly, facilitate the election of a Member to replace the Member in accordance with the procedure set out under these Rules.

Mr. Speaker, Sir, if any matter arises, which is not specifically provided for in these Rules, the Speaker shall make a ruling, directing what should be done, and in making such a ruling, the Speaker shall be guided by the practice and procedure normally followed in similar situations with regard to the conduct of elections in the National Assembly.

These Rules also mean that the Treaty for the Establishment of the East African Community (Election of Members of the Assembly) Rules, 2001, are repealed. We all know why we have got these rules. The previous election of Members of the East African Legislative Assembly was declared null and void by the East African Court of Justice. So, these Rules, which have been drafted in consultation with various party groups, will allow this House to elect Members of the East African Legislative Assembly.

The previous procedure did not allow for the election of the Members of the East African Legislative Assembly. The previous Rules provided that once the House Business Committee finalised the list, it was only brought to the House for authentication, but there would be no election. The Speaker would not put the Question. However, these Rules will allow the Speaker to put the Question and hon. Members to elect Members of the East African Legislative Assembly. Therefore, I want to appeal to hon. Members that there has been a delay in re-constituting the East African Legislative Assembly, and this has caused a lot of untold problems to the integration process of the East African Community.

Mr. Speaker, Sir, there have been a lot of complaints, and it is important that this House today adopts these Rules, so that we can go straight and elect Members of the East African Legislative Assembly, because at the moment, the legislative arm of the East African Community is totally paralysed. This is a community we are building, which is giving a lot of economic development to the people of East Africa. Kenya is benefiting so much from the community. So, it is very important that, as a House, we fast-track the election of the Members of the East African Legislative Assembly, so that we are no longer looked upon as a Kenya that is killing the East African Community.

So, it is important, hon. hon. Members, that, for the operation of the East African Community, we speed up the election of these Members, so that we send them to Arusha even next week, because the Budget of the East African Legislative Assembly, which normally comes earlier than our own Budget, is supposed to come up any time. However, this is not possible because the Members of the East African Legislative Assembly have not been sworn in, because the other partner States are waiting for Kenyan Members. Once this House allows the election of the

Members of the East African Legislative Assembly, the paralysis that exists in Arusha will end, and the operation of the East African Community will be facilitated, so that we continue with all the activities of the East African Community.

In the court ruling, it was also found that there is need for harmonisation of election rules in all the partner States. We are still at the initial stages of our integration process, and there are quite a good number of issues which need to be resolved. These are some of the issues which have come up. So, I want to appeal to hon. Members that we adopt these Rules. These are only the Rules. It is not an election. These Rules will allow Members of Parliament to make a decision. The decision is not going to be made by the House Business Committee, but by Members of Parliament. Once the names have been laid on the Table here, hon. Members are going to make a decision.

So, I want to plead that we accept the rules so that we move towards electing Members of the East African Legislative Assembly (EALA). As we know, the rules were set and there were no elections.

Mr. Speaker, Sir, with these few remarks, I beg to move.

Mr. Speaker: Is there anybody seconding this Motion? The Minister for Planning and National Development?

The Minister for Planning and National Development (Mr. Obwocha): Thank you very much, Mr. Speaker, Sir. I would like to second this Motion and emphasise the importance of having the Regional Economic Communities (RECs) working. We know that there is no EALA right now because of the Kenyan position which has brought this quagmire. Parliament should set a precedent for future election of Members to EALA. I regret that if we had listened to the Chair, we would not have found ourselves in this position.

Mr. Speaker, Sir, you did invite hon. Members of this House to make proposals or suggestions to the rules. So far, the document that has been laid before us has been received from various views that the Chair received. I would like to mention only one or two issues; that, when we were looking at these rules that hon. Members were raising--- I want to put it to Kenyans that, since Kenya is going into coalition politics, imagine a situation where there are 10, 15 or 20 political parties in one coalition that forms either the Opposition or the Government. You are going to have 20 chairmen and 20 party leaders.

Mr. Speaker, Sir, I want to propose that the harmonization of having the Leader of Government Business or the Leader of the Official Opposition, who is going to put these names together, is a permanent feature of this House. Since there are so many chairmen, it is going to be very, very difficult to have the nominations done. Secondly, some of the chairmen may not be hon. Members of Parliament; they will be outside parliament. Therefore, it will be very, very difficult; there will be a conflict of interest and it will be almost impossible for Parliament to make a decision to have these members.

Mr. Speaker, Sir, those of us who were in the Eighth Parliament saw this problem when there was the Social Democratic Party (SDP), where the Chairman, Apollo Njonjo, was not an hon. Member of Parliament. Therefore, we want to draw from those experiences and indicate that what has been drawn here is the most suitable, in my own view, to harmonize the issue of nominations. As we know, there are no names, it is a question of approving these rules so that we can go to the second step, where parliamentary parties would have chosen their nominees.

Finally, Mr. Speaker, Sir, this is an internal matter, particularly in political parties. These are issues which are resolved within either the political parties, or in our own case, within our own country. If there is an issue, it can be sorted out by our own High Court. I am sure that is why these rules were proposed here.

With those few remarks, I beg to second.

(Question proposed)

Mr. Kajwang: Thank you, Mr. Speaker, Sir. These are very important rules because we are seeking to establish the East African Community and the Assembly of the East African Community. We have had agonizing moments since the East African Court of Justice sent our nominees back home so that we can do it properly. It is sad that we did not elect them properly; it is sad that we had to go and wash our dirty linen in front of our neighbours, and it is sad that we are doing this when the East African Community is distressed that they cannot proceed with their business because Kenya is delaying.

We pride ourselves to be the economic giants in the East African Community; we also pride ourselves that, other than the economy, we are also very brilliant people in this part of the world. It is sad that the East African Court of Justice can rule that our own House did not follow the rules as they obtained.

Mr. Speaker, Sir, I just want to start with the definitions section of these rules. I notice that hon. Obwocha has touched on them, but let me just mention that we are dealing with the article that creates the Treaty, Article 50(I). That article talks about parties, and I think that is why these rules seek to define what a party is. It would not have been necessary to define a party if the Treaty did not refer to parties. The Treaty did not refer to the Government, Opposition or hon. Members; it referred to parties!

(Applause)

That is why it is important to look at these definitions. In fact, it is not even important for Kenyans to define a party, because it is already defined in the Constitution and our Standing Orders. But we are defining them here because the Treaty puts a lot of emphasis on the party, and that is why we are here.

Now, look at the definition of the "party" on page 1, Article II of the draft. The "party" means a parliamentary political party. That is how it is defined. If you add "leader", the definition should be very straightforward. It should then say: "A party leader means a leader of a parliamentary political party".

(Applause)

You do not need to have gone to a school of law or the university! Any Form 4 or Standard 7 student can tell you: "If this is the meaning of the party, then if you add "leader", it does not change much".

(Applause)

An hon. Member: Tell them!

Mr. Kajwang: It is like we are creating something afresh! Why are we going into this big thing of now defining it as "Leader of Government Business"; "Leader of the Official Opposition"; "Any other party leader entitled to make nominations" and so on? Why are we saying so many things? Why do we not say as a Standard Three student who knows some English will say that if this is the meaning of a party--- They will, first of all, tell you that they do not know the meaning of a party. However, if you tell them what it means and then ask them, "What would a leader mean?" They will tell you, "A party leader, then, means a leader of a parliamentary political party". That is a tick! They will score ten over ten! So, why are we being confused by so many words? Why are

we being taught new English and new definitions which do not make meaning in law, facts and common sense? It is because there is a mischief.

(Applause)

Mr. Speaker, Sir, these gentlemen and ladies know the meaning of the word "party". They also know the meaning of, "a leader of a party", but they would rather define it differently to suit their present predicament. The present predicament is that they do not like the leader of the NARC Party. They do not have the confidence of the leader of the NARC Party. That is the only problem. So, you must define it in such a way that the leader of the NARC Party cannot be the one to say, "this is the nominee". But definitely, even if you had the majority or even if you passed this, it looks very silly! Any body will tell you, "But how can you define the word "party" this way and the word "leader" this way? How can the Leader of Government Business---?

The Assistant Minister for Lands (Mr. Kamama): On a point of order, Mr. Speaker, Sir. We need your guidance with regard to the use of English in this House. The hon. Member has just referred to the word "silly". Is it parliamentary?

Mr. Speaker: It is very unparliamentary. He is being abusive and it is below the dignity of hon. Members to be abusive.

Mr. Kajwang: Mr. Speaker, Sir, I must explain that I did not abuse anybody. I said that the definition looks silly. However, if it offends anybody, I withdraw.

Mr. Speaker, Sir, let me just come back to what I was saying. How can a Leader of Government Business be a leader of a party? Of course, he can be a leader of party, that is fine. In fact, a leader of a party can be a Leader of Government Business. There is no problem with that. But, definitely, it does not follow that the Leader of Government Business is always the leader of the party. It does not follow and they are not the same. A party leader can be the Leader of Government Business, but it does not mean that a Leader of Government Business must always be a party leader. You know, a "party leader" is defined as a person who is recognised by his party as its leader. You may, of course, have to go to the Registrar of Societies and find the party leader or you may come to the House and talk to the parliamentary group and get the party leader. But, definitely, it is not equal to the Leader of Government Business.

So, Mr. Speaker, Sir, this cannot stand. It will be embarrassing to this Parliament and to this country when we go to the East African Legislative Assembly with this kind of definition. Then the definition of "party leader" goes on. It says, "the Leader of the Official Opposition." Official Opposition is not a party! Official Opposition is Official Opposition and a party is a party! Definitely, you can have a Leader of Official Opposition who is also the leader of KANU. That is fine. But if KANU was to enter into a coalition with another party, it does not always follow that the leader of KANU will also be the leader of that coalition. So, you cannot give us this kind of definition, especially if we want to define the leader of a parliamentary political party. We are opening ourselves to another challenge in the East African Court of Justice one more time. That we will go there and pay lawyers Kshs84 million to argue this very simple thing. Why are we embarrassing ourselves like this and why are we paying for it so heavily?

Mr. Speaker: By the way, Mr. Kajwang, to make the matter very simple, I have already received your proposal for amendment. Why do you not go straightaway to that proposal and we dispose of it?

Mr. Kajwang: Mr. Speaker, Sir, I thought I had a chance to debate, but if I---

Mr. Speaker: Yes, you do, but you know it is good to deal with---

Mr. Kajwang: Maybe I should go to the next point. When we come to the amendment, I will ask for it.

Mr. Speaker, Sir, the next point I wanted to raise is on Article 7. In normal circumstances, rules do not provide where a dispute will be resolved in case of a problem. Even the statutes that we pass in this House rarely provide for where a dispute will be sorted out. Of course, sometimes they do because some say that you must go to a subordinate court and some say you must go to the High Court. But what is the mischief here? Why is it that for the first time, in a mere rule of establishing an Assembly, Kenyans must say, specifically, that in case there is a problem with an election, it will be determined by the High Court of Kenya. We want to host the jurisdiction of the East African Court of Justice. We want to say that these problems are domestic. We also want to say that if there is a problem, then it is ours and yet we are creating and referring to an institution of the East African Community (EAC). How do you want to create an Assembly for the Community and yet when there is a problem with it, you decide it in the High Court of Kenya?

(Applause)

Mr. Speaker, Sir, are we serious with this Community? Let me tell you one thing. When I was in Form VI in 1977, there was a question for us to predict whether the EAC would survive. Being students of Economics at that time, we looked at it and said that it will not survive because of the political bad will at that time. If this is the kind of support that we are giving the EAC, then we can say that it has collapsed before it starts. This is because we are not interested in it. We are more interested in our domestic politics than what we want to create as an institution of the East African people. How will we go to a federation when we love our domestic sovereignty so much? We must be conceding something. Whenever you want to create a community or whenever you want to create a federation, you must be ready to give away something. What is it that we are giving away? If there is a problem in the Assembly, you come back to the High Court of Kenya. What will the Court of East Africa be doing? What is its job? Why did we create it and why have we taken our judges there?

Mr. Speaker, Sir, it is simple that what these rules seek to do is to solve the internal problems of that side. We are not going to help them to solve their problems. We should come clean and accept that "party" means what it means and "party leader" means what it ordinarily means. If there is a problem in an institution of East Africa, whatever it is, it should be sorted out by the East African Court of Justice. Those are the two points I wanted to raise.

I beg to oppose.

(Applause)

Mr. Speaker: I can say, therefore, that you have dropped your intended amendments?

Mr. Kajwang: No! Sorry, Mr. Speaker, Sir. Then in that case can I move my amendments?

Mr. Speaker, Sir, I beg to move that the Motion be amended as follows:-

THAT, we amend Article 2 on page 1, the definition of "party leader" to read or mean "a leader of a parliamentary political party".

(Applause)

With regard to the second amendment, we can deal with that one.

Mr. Speaker: Sorry, Mr. Kajwang. That is not the amendment that you gave me. You must read it in full.

The proposed amendment that I have says:-

"party leader" means the leader of a parliamentary political party entitled to make a

nomination under these rules."

Mr. Kajwang, that is the proposed amendment that I approved. You will not be allowed to move anything that I have not approved!

Mr. Kajwang: Mr. Speaker, Sir, because it was just one copy, I want to be very accurate, just as you have read it. If I could---

Mr. Speaker: Do you want me to give you a copy?

Mr. Kajwang: Yes, Mr. Speaker, Sir!

Mr. Speaker: Sure! The Chair is very generous! In fact, I will give you the original! Proceed!

Mr. Kajwang: Mr. Speaker, Sir, I beg to move that the Motion in, Clause 2, be amended as follows:-

By deleting the definition of "party leader" and inserting in its place the following new definition:-

"party leader" means the leader of a parliamentary political party entitled to make a nomination under these rules."

(Applause)

Mr. Speaker, Sir, I also seek to move another amendment, if you allow me---

Mr. Speaker: Order, Mr. Kajwang! We must tackle the amendments one at a time! I must dispose of the first amendment.

Mr. Kajwang, do you have a Seconder?

Mr. Kajwang: Yes, Mr. Sungu!

Mr. Sungu: Mr. Speaker, Sir, I wish to second the amendment as moved by Mr. Kajwang. I would like to appeal to this House that, for the first time in this nation, let us think as one people and one country. I want to appeal to all of us to look at this issue that affects all Kenyans and leave the attitude of winner-takes-it-all. We know there are problems within our parties. We know those problems exist. But that should not prevent this nation from going on and living its life.

It is incumbent upon the powerful of this world to always bend over backwards to accommodate others who may be less powerful. Therefore, I am calling upon my colleagues on the other side to remember Kenya when we are voting for this Motion, not just the small problems that are existing now. We should vote as Kenyans and support this amendment.

With those few remarks, I beg to second.

Mr. Speaker: Mr. Kajwang, you should have actually moved a Motion to delete some words and replace those words with others!

Mr. Kajwang: Mr. Speaker, Sir, I did that!

Mr. Speaker: Fine, let us proceed!

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

The Minister for Justice and Constitutional Affairs (Ms. Karua): Mr. Speaker, Sir, I stand to support the Rules as they are, and oppose the proposed amendment. I want to agree in total with my colleague on the other side who said that we should think as one Kenya, one nation and one people. I will add: "One country", which are the key words of a political party that I sympathise with. I appreciate those words very much. But let us interpret Kenya broadly, not just to mean our village or locality. Kenya does not mean what I, as a person, like. It does not mean the individuals I

like or support. Kenya means Kenya. It means everyone included. It means fairness and equity to all. To that extent, I subscribe to Kenya, one country, one people and one nation.

(Applause)

Mr. Speaker, Sir, what is wrong with the definition of a party leader? What is wrong with calling a party leader--- Defining him in Parliament as Leader of Official Opposition, Leader of Government Business and leader of any party entitled to nominate? Let us be very clear and honest with ourselves. The party organs outside Parliament are not the same or identical to party organs within Parliament. In Parliament, the recognised institutions or organs of the party are the Party Parliamentary Group (PPG), which has a leader and a whip. On the Government Benches, the party leader is automatically the Leader of Government Business. On the Opposition Benches, the first among equals is the Leader of Official Opposition. Then, there is mention of a party leader of any other party that is entitled to nominate. Parliament does not know a secretary-general or a chairperson of a party. Whenever Parliament has business to be transacted by hon. Members, it goes to the organs of parties within Parliament. That is the PPG.

Mr. Speaker, Sir, we know the path that we have travelled, so that we are re-doing the Rules at this time. Did any party, or NARC as a party, ever call for a PPG meeting to determine these issues? These are the issues we are going through. The Rules are intended to protect every party that is entitled to nominate. It will be required to call its entire parliamentary group to endorse the decision of who is to be nominated.

(Loud consultations)

Mr. Sungu: On a point of order, Mr. Speaker, Sir. I am unable to follow the Minister because of some very loud consultations on the other side!

Mr. Speaker: Order, hon. Members! Order! Could you listen?

Proceed, Ms. Karua!

The Minister for Justice and Constitutional Affairs (Ms. Karua): Mr. Speaker, Sir, all I am saying is this: If you look at the design of the Rules tabled today, they will ensure that no party brings names of nominees without calling its PPG to endorse the decision and to propose the names. It means that this process is intended to make the entire Parliament participate in the names that we shall later debate. This is not what happened last time. People went and sat down with their favourites and came up with lists. This is a Parliamentary process and it must involve Parliamentarians. We do not know secretary-generals here, nor do we know chairpersons. In Parliament, we know the party leader as the person who is empowered by hon. Members to lead that group in Parliament. That is why, like Mr. Obwocha stated, a dispute in the Social Democratic Party (SDP) was solved by the House Business Committee by recognising the voice of SDP's PPG as to who would be their party leader in Parliament. That was in 1998.

Mr. Speaker, Sir, moving on to another point, is it odd for a law to provide where disputes are solved? I say no! It is, indeed, the norm where you are talking of election procedures, you know very well that disputes are likely to result. We must, therefore, provide for dispute resolution. Even in simple club rules, you cannot have the issue of elections without having the issue of how to solve disputes. The rules must provide for that. It is simple. Being an election to a Parliament, the procedure is to go to the High Court, just the same way those with petitions in the National Assembly go to the High Court. There is absolutely nothing wrong with that provision. Let us not play with words.

Mr. Speaker, Sir, I must say that I have read the ruling of the East African Court of Justice

(EACJ). The court was very careful. It knew that it has no jurisdiction over the National Assembly of Kenya. It, therefore, was not and did not attempt to oust our nominees. It only said that our Rules did not comply with the Treaty in so far as elections were concerned. It, therefore, said the National Assembly must elect. Had there been a question put, the case would have failed. So, those who are beating their chests about the case, please, note: You only won on one point; that the question was not put, and not on the process. This National Assembly is entitled---And Article 50 of the Treaty is very clear. We are entitled to determine the procedure by which we nominate. But we must elect. So, the question must be put. That is what we are here for.

If we really want to be true to Kenya, we cannot only say rules are good when they include the names of either our relatives or our fellow villagers. We must like the rules even when they approve a person we do not like. Our members served in the East Africa Legislative Assembly (EALA) for five years, courtesy of the rules that were ousted. Some of those Members returned to the EACJ to say that these rules are bad. For what reason? Because they could not see their names.

We must be fair to everybody and ask ourselves: Is it reasonable for you to expect to be nominated twice when there are other people who should have a chance? Is it reasonable to expect that? Are we talking of fairness? We are very fond of accusing each other of all manner of things. Let us assess ourselves and our behaviour. The Treaty says "shades of opinion". It talks about inclusivity.

Is it not good when we look at Kenya, we look at the nomination of Members of Parliament and then we look at the opposite side, the East African Legislative Assembly (EALA), so that each province may have some nominees? Why would we want to monopolise everything? The whole case and all about these rules is about selfish interests of individuals. It is not about Kenya. It is not about the rules being bad.

Mr. Speaker, Sir, I want to urge hon. Members to reject the amendment and to support the rules as they are. Let us hurry up and take our Members to the EALA. Let us strengthen the Assembly, and for those who have tasted the Assembly once, be grateful that your country Kenya gave you a chance to serve and for goodness sake, allow somebody else to have the chance. That is what inclusivity is all about.

Mr. Speaker, Sir, with those very many remarks, I beg to support the Motion as it is and to oppose the amendment.

(Applause)

Mr. Bifwoli: Thank you, Mr. Speaker, Sir, for giving me this chance first of all to support the Motion with amendment.

(Applause)

Mr. Speaker: Mr. Bifwoli, we would like you to deal with the amendment first although you may contribute to the whole Motion. I think I would advise you to concentrate on the amendment. If an hon. Member speaks on the amendment alone, the Chair may still recognise the Member on the main Motion, so that the Members can concentrate, for the time being, on the amendment. So, can you concentrate only on the amendment?

Mr. Bifwoli: Mr. Speaker, Sir, I once again thank you for giving me a chance to support the amendment.

(Applause)

Mr. Speaker, Sir, I am a teacher by profession. I know very well that we teach and set exams for students to recall the past. On that note, I want to tell the NARC Government that we agreed as gentlemen and formed it. The Liberal Democratic Party (LDP), Democratic Party (DP), FORD-Kenya and other parties. The chair of that group is none other than hon. Charity Ngilu.

(Applause)

Today, we are standing here to pass a law and bar her from being the leader of the party. We want to appreciate a nominee of an individual to be a leader of a group of people who have not given him the mandate. It will be immoral and shameful on ourselves, if we do so. If this House passes this law, then it is killing multi-partyism. More so, there will be no Opposition in this country.

We are in power because many parties came together to form NARC. We are forgetting so fast because we are in position of power. It is bad to assume a position being given and you think you are everything. I am in the Government and I want to safeguard it by saying the truth and nothing, but the truth.

(Applause)

And we have to move more amendments on these rules. It is not only this one alone. There is no way FORD-Kenya will nominate our own candidate and the Leader of Government Business nominates his and we have no authority to question it.

Mr. Speaker, Sir, if I continue to remind you, even the chairman of NARC-Kenya is hon. Raphael Tuju. The chairman of New FORD-Kenya is hon. Soita Shitanda and I recognise him.

(Laughter)

Mr. Speaker: Order! Mr. Bifwoli, you are not the Registrar of Societies. So, will you concentrate on this amendment?

Mr. Bifwoli: Mr. Speaker, Sir, I am not hearing you.

Mr. Speaker: Mr. Bifwoli, I am just reminding you of the obvious which is that you are not the Registrar of Societies. So, please just concentrate on this amendment.

Mr. Bifwoli: Mr. Speaker, Sir, I have taken your reminder with a lot of respect, but you know that is what is in this country. That is what we hear on the streets.

(Laughter)

Mr. Speaker: Order, *Mwalimu!* You know I respect teachers a lot. As they teach people, they should also be receptive to some teaching which is the following: If you want to talk to the streets, then you can go to the streets. So, can we now come back here?

Mr. Bifwoli: Mr. Speaker, Sir, thank you very much. I have come back.

(Laughter)

Mr. Speaker, Sir, now that I am contributing I definitely support this Motion with amendment. I have cited one amendment. I have supported vehemently hon. Kajwang's amendment. If this amendment carries the day, I will definitely support it. Rule No. 8(3) reads:-
"An amendment to substitute---

Mr. Speaker: No, Mr. Bifwoli! Just talk of this one amendment.

Mr. Bifwoli: Mr. Speaker, Sir, I support the amendment. Could I also contribute?

Mr. Speaker: No, please sit down. You will do that later. Let us hear from the representative of the Leader of the Official Opposition and then I will dispose of it.

Mr. Sirma: Mr. Speaker, Sir, today is a good day because when there is a crisis in this House, we have many Members of Parliament and there will be no lack of quorum in this House. I want to laud the work of the Leader of Government Business and the Chief Whip for having filled this House with hon. Members.

Mr. Speaker, Sir, secondly, I support the amendment as moved by hon. Kajwang. First of all, Kenya is going the coalition way. We must support this amendment for posterity of democracy in this country. We have issues which happen in that the Leader of Government Business or the Leader of the Official Opposition may be given a position by virtue of friendship, voting through a party or to marginalise others.

Mr. Speaker, Sir, when the Leader of Government Business turns rogue against other hon. Members of his political party, what happens to this country? It loses its ways of promoting democracy in this country. We have to support this amendment, so seriously, because we want Kenya to move forward and not backwards to the dictatorial days where hon. Members could be told to toe the line.

Mr. Speaker: Order, hon. Members! As the House will recall, I think I did question hon. Kajwang on which words were to be deleted. At this moment, we do not know. What I can only read, and Mr. Kajwang correct me if I am wrong, I think your intention is, therefore, that after the word "party" means:

"delete all the words "Leader of Government Business", The Leader of the Official Opposition or any other leader of a party entitled to make a nomination under these rules".

Is that what you intended?

We have to be very clear, because that is actually what your amendment intends to do.

Mr. Kajwang: Mr. Speaker, Sir, what I have put on paper is that we delete that definition altogether and replace it with this one.

Mr. Speaker: Exactly; that is what I am saying. So, I hope the House does understand. Are we clear on what we are doing?

Mr. Kajwang: Yes,

Mr. Speaker: Very good.

Mr. Sirma: Mr. Speaker, Sir, it is time that we became proud to be Kenyans by not ashaming ourselves to our neighbours, making conflict and showing disrespect of law outside the borders of this country.

Mr. Speaker: Amendment, amendment!

Mr. Sirma: Mr. Speaker, Sir, that is the genesis of the problem; we went out to ashame ourselves.

I beg to support.

Mr. Speaker: Very well, I will put the question and I think the Members do understand the words to be deleted. I will remind you so that you vote knowing what you are voting for. The intention of the [Mr. Speaker]

amendment is to delete all the words after "party leader", delete the words "Leader of Government Business, Leader of Official Opposition or any other party leader of a party entitled to make a nomination under these rules" and replace the same with the following words: "Party leader means the leader of a parliamentary political party entitled to make a nomination under these rules".

Do you understand what I am putting now?

Hon. Members: Yes.

Mr. Speaker: I will put the question to delete the words and then if that is carried, then I will put the Question of the words be substituted. So, I will put the Question twice. First, to delete the definition as it appears in the Rules. If that is carried, I will put another Question that it be replaced by Mr. Kajwang's definition. Now, if the first Question is negatived, then I will not put the other Question.

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

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

Mr. Speaker: Order! What are you standing up for? You must claim a Division! Order, Members! I think we have to do this one afresh. You must sit down now. Once I have announced the results of the vote, you must actually claim a Division. It is not sufficient to stand up. All right? So, is there any claim?

Hon. Members: Division! Division!

Mr. Speaker: All right; can the Clerk-at-the-Table count the number of hon. Members on their feet?

*(The hon. Members on their
feet were counted)*

Mr. Speaker: Order, Members! You have enough numbers. The requisite number is 20; you have more than 20. I will, therefore, order a Division. Before I do so, I wish to remind the Members of the rules relating to a Division. After the Bell has been rung for five minutes, I will put the Question again and the Members for the Ayes will proceed to my right and the ones for the Noes will proceed to my left. In the meantime, as the Bell rings, both sides will be required to present the names of Tellers, two from each side. Hon. Members will be entitled to vote, but you are not obligated to do so. You could abstain from voting and your names will be recorded by the Clerk-at-the-Table. I now order that the Division Bell be rung for five minutes.

(Loud consultations)

Mr. Speaker: Order, Members! I have not ordered a Division yet; so, you will have to sit where you are, please. Just relax for the time being.

DIVISION

*(Question put and the
House divided)*

*(Question defeated by
68 votes to 65)*

AYES: Ms. Abdalla, Messrs. Arungah, Bahari, Balala, Bifwoli, C. Kilonzo, Cheboi, Chepkitony, W. Galgalo, Kajwang, Kamotho, Keter, Dr. Khalwale, Messrs. Khamasi, Khamisi, Khaniri, Dr. Kibunguchy, Messrs. Koros, Kosgey, Ligale, Prof. Maathai, Maj. Madoka, Mr. L. Maitha, Prof. Mango, Mr. Marende, Ms. Mbarire, Messrs. Midiwo, Muite, Musila, Capt. Nakitare, Messrs. Ndambuki, Ndolo, Mrs. Ngilu, Maj-Gen. Nkaisserry, Mr. Ntimama, Rev. Nyagudi, Eng. Nyamunga, Messrs. Ochilo-Ayacko, Odoyo, Dr. Oburu, Messrs. Ojaamong, Ojode, Okemo, Eng. Okundi, Mr. Oloo-Arango, Prof. Olweny, Messrs. Omamba, Omondi, Archbishop Ondiek, Messrs. Oparanya, Osundwa, Owino, Dr. Rutto, Messrs. Samoe, Sang, Dr. Shaban, Messrs. Sirma, Soita, Sudi, Sungu, Syongo, Wanjala, Dr. Wekesa, Messrs. Wetangula and Weya.

Tellers of the Ayes: Messrs. Angwenyi and Cheboi.

NOES: Messrs. Abdirahman, Akaranga, Angwenyi, Awori, Dzoro, Githae, M.A. Haji, J.K. Koech, Kagwe, Kaindi, Kamama, Kamanda, Karaba, Ms. Karua, Messrs. Katuku, Kenneth, Mrs. Kihara, Messrs. Kirwa, Kiunjuri, Konchella, Dr. Kulundu, Dr. Kuti, Dr. Machage, Dr. Manduku, Messrs. Manoti, Maore, Miriti, Mirugi, M'Mukindia, H.M. Mohamed, A.C. Mohamed, Moroto, Muchiri, Mrs. Mugo, Messrs. Muiruri, Mungatana, Muriungi, Dr. Murungaru, Messrs. Murungi, Muturi, Mwaboza, Mwakwere, Ms. Mwau, Dr. Mwiria, Messrs. Ndile, Ntutu, Nyachae, N. Nyagah, Obwocha, Mwanacha, ole Metito, Onyancha, Opore, Rai, Prof. Saitoti, Messrs. Sambu, Serut, Sasura, Shakombo, Maj. Sugow, Mr. Tarus, Eng. Toro, Mrs. Tett, Messrs. Too, Tuju, Wamwere, Wario and Yattani.

Tellers of the Noes: Messrs. N. Nyagah and Koros.

Abstentions: Messrs Lesrima, Munyao and Ms. Ndung'u.

*(Debate on the original
Motion resumed)*

Mr. Speaker: That means that the definition remains as it was. Just before we resume the debate, Mr. Kajwang had presented an amendment to delete Clause 12. That is the Clause directing what court has jurisdiction to deal with petitions. Unfortunately, I will have to reject that amendment because---

An hon. Member: Why?

Mr. Speaker: Because I want to do so. Can you not keep quiet! Because, it actually contravenes Article 52 of the Treaty which vests to the national institutions the power to determine questions as to the eligibility of Members of the Assembly. So, because of that, that amendment falls. Let us now resume the debate.

Mr. Kajwang: Mr. Speaker, Sir, without looking like I am challenging your ruling, does that mean that the intervention of the East African Court of Justice on the previous case was actually unconstitutional?

Mr. Speaker: Absolutely not. It does not mean anything like that. That was not a petition. It was a prayer for a declaration that our rules contravene the Treaty. So, it was not actually a petition. It was a declatory judgement thought. I am sure you understand what I am saying.

Let us proceed! Mr. Muite you had an amendment.

Hon. Members: Put the question!

Mr. Speaker: Order! I cannot put the question. There is one amendment standing in the name of Mr. Muite. It is my business to allow every amendment presented to me to be dealt with.

Mr. Muite: Mr. Speaker, Sir, when one looks at Article 50 of the Treaty it states:-

"The National Assembly of each partner State, shall elect---

The relevant fundamental term is, "shall elect." Therefore, rules for the election of Members must promote and facilitate the National Assembly in genuinely electing. The responsibility of electing

is placed on the National Assembly. Why is that so? It is because when Members are elected to go to the East African Assembly, they do not go there to represent their parties or anything, they go to represent the Republic of Kenya. The reasoning behind this Article was that each Member of the National Assembly will individually and collectively ensure that the people who were elected are---

Mr. Speaker: Order, Mr. Muite! I think for the hon. Members to follow what you are saying, you should begin by moving your amendment, exactly the way you have presented it.

Mr. Muite: Mr. Speaker, Sir, I beg to move:-

THAT, Rule 8, which appears at page 83 of the Rules, be amended by adding a new Sub-Rule 4 to read as follows:-

" Any Member may, at any time, Move that the House votes for a particular nominee or nominees individually."

Mr. Speaker, Sir, in the absence of this amendment, what Rule 8 is asking this House to do is to vote for all the nominees as a bloc. You either vote for them or vote against them. Many Members will not have any problem with 90 per cent of the proposed nominees. In fact, most of us have no problems with those who were proposed by KANU. We have no problems with those nominated by Ford-People. But there is a problem by those nominated by the remaining party.

(Laughter)

Mr. Speaker, Sir, what we are being forced to do is to vote as a bloc for even those who, for various reasons, we may not wish to vote for. What we want to do is to promote the letter and the spirit of Article 50, so that, in the majority of cases, there is not going to be any problem. But if a Member wants to move that a particular individual nominee be voted for individually, the rules should facilitate that. Otherwise, we are violating the spirit and the letter of Article of 50.

Mr. Speaker, Sir, let me say this: Here, we decide issues on the basis of numbers. When we go to a court of law, it is not the numbers. It is the cause of reason. The issue would be decided on the correct interpretation of whether the rules which we are passing are in accordance with Article 50, which is to effectively enable the House and each Member of that House to elect "yes" or "no", to decide on the suitability of a Member. So, I urge that we do not open ourselves again to a suit which is going to embarrass us. The issue will not even be whether a particular Member is validly elected or not, so that we are told to go to the honourable Mr. Justice Nyamu in the Kenyan High Court. The issue will be whether Rule 8, in its present form, is in accordance with Article 50. It will be struck out, if we do not effectively allow this House to vote where it so wishes, individually. I urge that we respect and appreciate the rationale for Article 50, placing the responsibility on the House. If a particular nominee is voted "no" for whatever reason, the party doing the nomination will be required to bring another nominee. It is a good rule. I urge Members, Mr. Speaker, Sir, through you, to vote in favour of this amendment, so that we could avoid another suit. Kenya does not need to continue embarrassing us; holding up the commencement of the Business of the Assembly. Because we are fighting here to promote purely partisan personal considerations.

Mr. Speaker, Sir, we want this House to be able to exercise its authority. I urge hon. Members to vote in a non-partisan manner, so that we give ourselves that flexibility that any Member may be able to move that we vote individually on a particular nominee.

With those few remarks, I beg to move. Mr. Bifwoli will second.

Mr. Bifwoli: Mr. Speaker, Sir, I rise to second this amendment. The Mover has explained to all of us. I am sure all of us have understood what hon. Muite has said. The truth is that these names of nominees should come here to be elected by us. When we talk about Parliament electing, we are electing individuals and not a mass.

Mr. Speaker, Sir, if it is going to be in this country, that 100 people are placed somewhere and Kenyans are asked to elect all of us regardless of individual merits, we will be running into a very bad situation in the world. In fact, Kenya will be rated--- I do not know which world! Whether the third world or the world beyond.

Mr. Speaker, Sir, I am seconding this good amendment by saying that it is time we voted with reason and not personal interests.

With those many words, I beg to second.

(Loud consultations)

Mr. Speaker: Order, hon. Members. Order!

*(Question, that the words to added
be added, proposed)*

The Assistant Minister for Energy (Mr. Kiunjuri): On a point of order, Mr. Speaker, Sir.

Mr. Speaker: Yes, what is it?

The Assistant Minister for Energy (Mr. Kiunjuri): Mr. Speaker, Sir, I seek your guidance. That is because, according to my understanding, the amendment that has been moved is already going against the original amendment, that the Leader of Government Business and the leader of a party are nominating. What is not coming out clearly in Sub-Rule 4 is that any Member can challenge a nominee that has already been brought by the Leader of the Government Business or other party leaders. That is why it is not very clear. I would like to hear the intentions of the Mover. Does he intend to negate the first amendment or is it in line with what has been proposed before?

Mr. Muite: Mr. Speaker, Sir, what the hon. Member for Laikipia East is saying is exactly the intention of that amendment; namely, that the names are tabled here. If there is nobody with any question, then we vote by acclamation. But if any Members wants to move that: "On this list which has been tabled, I would like a vote on so and so for the following reasons!" He or she will be able to persuade a majority of Members to vote for the removal of that name. That is what we are exactly seeking to do.

(Applause)

Mr. Speaker: Order! Order, Members! I do not think we really need to spend further time on this. I think the amendment by the hon. Muite is in order. I see no reason why we should debate it.

Mr. Maore!

Mr. Maore: I still plead with the Chair that the amendment coming from hon. Muite should not be on Article 8(4). He should amend Article 8(3). That is because if he amends Article 8(4) and you read Article 8(3), they are in contradiction. You will see that an amendment to substitute a nominee may only be moved by the party leader.

Now, when you have the party leader, and then include an hon. Member who can also do it, it is contradictory. So, I think we should remove the story of a party leader and amend something else. But I am not putting the amendment.

Mr. Speaker: Please, sit down! I want to follow you.

Mr. Maore: Mr. Speaker, Sir, if you add Sub-Rule 4 as proposed by hon. Muite, you must

delete Article 8(3) because they are contradicting each other. But he has not moved for the deletion of Article 8(3) and we are adding Sub-Rule 4!

Mr. Speaker: You mean Article 8(3)?

Mr. Maore: Mr. Speaker, Sir, you read Article 8(3)---

(Loud consultations)

Mr. Speaker: Order! I think you are right. I think the only way you can have Sub-Rule 4 is by, first, knocking out Article 8(3). Since Article 8(3) has not been knocked out---

(Several hon. Members stood up in their places)

Mr. Speaker: Order, Order, hon. Members. I really do not think you can argue with the logic of Mr. Maoka Maore. You cannot argue with that. I think the best way to do is to delete Article 8(3) and substitute it with what hon. Muite wishes to say. So, would you like to take that option? I have to consult my officers. Since it is actually wrong, what do I do with it?

(Mr. Speaker consulted the Clerks-at-the Table)

Hon. Members, I think the best thing the hon. Member can do, is to deal with Rule 8(3) in the manner he pleases. In the meantime, taking into account what has been said, I think the amendment is invalid!

(Mr. Muite's amendment was declared invalid)

(Applause)

Mr. Lesrima: Mr. Speaker, Sir, with due respect to your ruling, if you remove the word "only" in Rule 8(3), Mr. Muite's amendment---

Hon. Members: Ah! Ah!

Mr. Speaker: Order, hon. Members! Why do you not listen? You see Mr. Lesrima is giving advice. I think it is a sound advice, but it can only be taken or rejected by Mr. Muite.

Mr. Ochilo-Ayacko: On a point of order, Mr. Speaker, Sir. I had ---

Mr. Speaker: Yes, I know you have the amendment. I have it.

Mr. Ochilo-Ayacko: It is in respect to deleting Rule 8(3) that we are talking about.

Mr. Speaker: Exactly! As I said yesterday, patience pays. You must remain patient. I was going to deal with Mr. Muite's amendment and then come to you. I am about to come to that.

Now that I have finished with Mr. Muite's amendment, in fact, there is an amendment by Mr. Ochilo-Ayacko to delete Rule 8(3).

Mr. Ochilo-Ayacko, please, proceed!

PROCEDURAL MOTION

EXTENSION OF SITTING

The Vice President and Minister for Home Affairs (Mr. Awori): On a point of order, Mr. Speaker, Sir. It is very likely that by 6.30 p.m. we may not have concluded this business, could you allow me to move a Motion:-

THAT, notwithstanding the provisions of Standing Order No.17(1) and (2), and for the convenience of the House, this House resolves that sitting time be extended until the business under order No.8 is concluded.

Mr. Speaker: That is right! Do you have a seconder?

The Minister for Justice and Constitutional Affairs (Ms. Karua) seconded.

Mr. Speaker: Hon. Members, this is a procedural matter, so I will put the Question straight away.

*(Question put and
agreed to)*

*(Resumption of Debate
on EAC Draft Rules)*

Mr. Ochilo-Ayacko, please, proceed!

Mr. Muturi: On a point of order, Mr. Speaker, Sir. Granted that the proposed amendment by Mr. Ochilo-Ayacko is seeking to delete sub-section (3) of Rule 8, would I be in order to request the Chair, under Standing Order No.1, to reinstate the amendment proposed by Mr. Muite since it had been moved and seconded? It is after we have dealt with with Sub-section (3) that we could now come to the proposed amendment to sub-section (4) by Mr. Muite.

Mr. Speaker: I cannot! You know, I cannot reverse an order by myself! Standing Order No.1 does not allow the Speaker to cure irregularities. It only allows the Speaker to make interpretations. Not to cure irregularities!

So, Mr. Ochilo-Ayacko, please, proceed!

Mr. Ochilo-Ayacko: Mr. Speaker, Sir, I propose that amendments be allowed to delete Rule 8(3) because of the following reasons.

Mr. Speaker, Sir, the reasons are very similar to those advanced by Mr. Muite. Every hon. Member of this House would desire to have an opportunity to approve or disapprove of any name suggested by any political party. If we delete sub-rule (3), we will be left with an opportunity to augment these rules using the Standing Orders. The Standing Orders will entitle hon. Members to treat the list that will be brought to this House as any other Motion. It will also entitle hon. Members to move amendments and vote for them. That will not rob any political party of a right to bring a fresh nominee. Therefore, this House does not wish to have a situation where a list is brought to us and imposed upon us. Then we are required to vote for the list without having an opportunity to discuss each individual name in the list.

Mr. Speaker, Sir, if this House agrees an opportunity will be available for any hon. Members, so objecting, to move the usual Motion regarding a particular name and cause the House to debate it, and vote either in support of or against it. The Standing Orders will be available to augment the regulations that we have here.

Mr. Speaker Sir, the deletion of Rule 8(3) will empower this House to do what the spirit of Article 150 captured. I would loath the day, as an hon. Member of Parliament for Rongo Constituency, to approve names just by shouting and not having an opportunity to delete a name that I object to.

Mr. Speaker, Sir, I beg to move and ask Mr. Kajwang to second.

Mr. Kajwang: Mr. Speaker, Sir, I second.

*(Question, that the words to be
left out been left out,
proposed)*

The Assistant Minister for Health (Dr. Machage): Thank you, Mr. Speaker, Sir. I oppose the amendment as proposed by Mr. Ochilo-Ayacko by drawing the attention of the House to Articles 5 and 7 of the Draft Rules. Article 5(1) says as follows:-

"In order to be validly nominated as a candidate for an election, a person shall be nominated by a parliamentary party, through its parliamentary group meeting, in the form set out in the Schedule".

Article 7 says as follows:-

"The House Business Committee shall consider the nominees of the parties forwarded to it under Rule 6 and shall ensure that the requirements of Article 50 of the Treaty are fulfilled".

Mr. Speaker, Sir, by removing part (3) of Article 8, we will be introducing mischief in the nomination of the candidates as presented to the House by the parties. It is totally uncalled for.

Thank you.

The Assistant Minister for Justice and Constitutional Affairs (Mr. Mungatana): Thank you, Mr. Speaker, Sir. I would have agreed with Mr. Ochilo-Ayacko's argument if the persons to be proposed were to be proposed in their individual capacities. In other jurisdictions, names of persons holding high offices are proposed by the President and when they are brought here, they are interrogated individually. However, in this particular case, the names are to be proposed by parliamentary parties. So, the nominees are not coming as individuals. It is for that reason that they must be approved as a group, and not as individuals. So, accepting this amendment would be returning what we have defeated under Rule 2 through the backdoor.

Therefore, I beg to oppose.

Mr. Muite: Mr. Speaker, Sir, I beg to move an amendment to the amendment.

Mr. Speaker: Order! I have seen your intended amendment. You are actually overruling the Chair! That is the net effect of your intended amendment. You see, we have to deal with Mr. Ochilo-Ayacko's amendment. If we delete part (3) of Article 8, it goes.

Mr. Muite: Mr. Speaker, Sir, I thought that the Rules of the House permit one to move an amendment to an amendment.

Mr. Speaker: Yes, but you see, you are not moving an amendment to Mr. Ochilo-Ayacko's amendment. Mr. Ochilo-Ayacko wants to part (3) of Article 8 to be removed altogether.

Mr. Muite: So, I agree with his intended deletion---

Mr. Speaker: Will you, please, first of all, listen? Mr. Ochilo-Ayacko wants part (3) of Article 8 removed altogether by deletion. You are telling Mr. Ochilo-Ayacko: "No, instead of you deleting---" By some miracle, you are going to bring back your earlier proposed part (4). So, you cannot have a deletion and yet no deletion. You either negative it or affirm it.

Mr. Muite: Mr. Speaker, Sir, give me just one minute.

Mr. Speaker: Order! Order! It would, in fact, mean a negation. That is my ruling. It would be negation, because Mr. Ochilo-Ayacko wishes Article 8(3) to be deleted altogether, and you are saying "no". So, you either vote for it or against it.

Does anybody want to contribute?

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

Mr. Speaker: Okay, I will give one hon. Member from my right and one from my left, and then we will dispose of it.

Proceed, Mr. Odoyo!

Mr. Odoyo: Thank you, Mr. Speaker, Sir. I wish to make some comments on the amendment proposed by Mr. Ochilo-Ayacko. As we sit in this House, only one hon. Member may be said not to be elected. All of us are elected either from the grassroots or, in the case of your seat and that of your deputy, by the Members of this House. The spirit of the East African Community, especially as seen in Article 50, again, implies that we, as Members of Parliament, must ventilate and be sure that the persons we are sending to the East African Legislative Assembly represent the interests of the nation, for the welfare the Kenyan society and the just Government of men in Kenya and East Africa.

This particular amendment will give us the opportunity to have the advantages of the parties and also the collective wisdom of this House on any particular individual. It may very well be that we may be able to reflect that a certain Prof. Mungatana may be totally ineligible for reasons---

The Assistant Minister for Justice and Constitutional Affairs (Mr. Mungatana): On a point of order, Mr. Speaker, Sir.

Mr. Odoyo: Mr. Speaker, Sir, Mr. Mungatana is not a professor!

Mr. Speaker: Order! What is it, Mr. Mungatana?

The Assistant Minister for Justice and Constitutional Affairs (Mr. Mungatana): Mr. Speaker, Sir, is Mr. Odoyo in order to refer to me as a professor when, in fact,---

Mr. Speaker: Order! Order! Mr. Mungatana, Mr. Odoyo is referring to a Professor Mungatana, and we all know that you are not a professor. So, it cannot possibly be you.

(Applause)

Mr. Odoyo: Mr. Speaker, Sir, I would like to reiterate my point that, in addition to getting the wisdom of the parties, the House, through this amendment, will be given power to ventilate and further re-affirm that the said individuals will represent the nation appropriately. Therefore, I support the amendment by Mr. Ochilo-Ayacko.

Thank you.

The Minister for Roads and Public Works (Mr. Nyachae): Thank you, Mr. Speaker, Sir. I am going to be very brief. I think if you go through these Rules carefully, you will see that the authority of nomination is through political parties. The political parties will sit down and nominate their persons. Having done that, and presented their names to the House, I do not know why hon. Members of this House would want to take over the responsibility of political parties of nominating a person or rejecting him. That way, hon. Members would be saying that they do not recognise the decision of that party. It is wrong! If you are supporting multi-partyism in this country, then respect the various political parties.

Thank you.

Mr. Speaker: Hon. Members, you will make the decision now!

*(Several hon. Members,
including Mr. Samoei,
stood up in their places)*

Mr. Speaker: Order! Order! Mr. Samoei, will you sit down, please? Mr. Samoei, the mark

of leadership is the willingness to obey the law, including that of Mr. Speaker, or rather beginning with it.

Hon. Members, we now have to dispose of Mr. Ochilo-Ayacko's amendment in one way or the other. Finally, you have the power.

*(Question, that the words to be
left out be left out,
put and negatived)*

*(Debate on the original
Motion resumed)*

Mr. Speaker: Are there any more contributors on the main Motion? There being no more contributors, I now call upon the Mover to reply.

The Minister for East African Community (Mr. J.K. Koech): Thank you, Mr. Speaker, Sir. I want to thank the hon. Members for having a very lively debate. We are now going to have elections.

I beg to move.

*(Loud consultations as hon. Members
moved out of the Chamber)*

Mr. Speaker: Order, hon. Members! The hon. Members out there must come in because after this, the Chair will move out, and you cannot be in front of the Chair. Will you come back?

*(The hon. Members walked
back into the Chamber)*

(Laughter)

(Question put and agreed to)

An hon. Member: Next order!

Mr. Speaker: There is no next Order! Order, hon. Members! It is not 6.30 p.m. yet! I am mistaken!

(Loud consultations)

Order! Hon. Members!

Mr. Sungu: What about the Motion to extend time?

Mr. Speaker: Hon. Sungu wants to know about the fate of the Motion moved by the Leader of Government Business. It automatically dies because the Motion says the House sits until Order No.8 is disposed of. We have already disposed of Order No.8. Therefore, Standing Order No.17 applies. So, at 6.30 p.m., we will go home.

Very well. Next Order!

*(Loud consultations as hon. Members
moved out of the Chamber)*

Order! Order! Order, hon. Members! Order, please! Just before you leave, there is an hon. Member who approached the Chair; I forget who it was, that he was going to move Order No.9. This particular Motion is actually crucial to the management of the CDF Fund. If you go on recess without passing it, I am afraid the money will not be disbursed. So, somebody has to do it!

Who was that hon. Member who came to see me?

An hon. Member: Maitha!

Mr. Speaker: Is it hon. Maitha?

The Vice-President and Minister for Home Affairs (Mr. Awori): Mr. Speaker, Sir, hon. Maitha, indeed, came to see me. I was not expecting that we would rise this early. I was expecting that this Motion would be put on the Order Paper for tomorrow. May I be---

Mr. Speaker: Is there no other hon. Member of that CDF Committee who could move this Motion?

*(Loud consultations as
hon. Members moved
out of the Chamber)*

Okay, the hon. Members at the Bar, you are welcome back. If you are not ready to come back, see you!

Next order!

ADOPTION OF REPORT ON
APPOINTMENT OF CDF NATIONAL MANAGEMENT
COMMITTEE MEMBERS

Eng. Nyamunga: Thank you, Mr. Speaker, Sir. I beg to move the following Motion:- THAT, this House adopts the Report for the Constituencies Development Fund Committee on the appointment of members of the National Management Committee of the Constituencies Development Fund pursuant to Section 27(4)(b) of the Constituencies Development Fund Act (2003), laid on the Table of the House on Thursday, 17th May, 2007.

[Mr. Speaker left the Chair]

*[Mr. Deputy Speaker took
the Chair]*

Mr. Deputy Speaker, Sir, this is a very important Motion. In accordance with the Act, the Minister for Finance has submitted names of the new membership of the National Management Committee. We, as Members of the Constituencies Development Fund (CDF) Committee, are happy with the Minister's presentation that there is continuity. This is because out of the seven members who were there, five have been named again to do the work of the National Management Committee. There are only three new members. Therefore, we are in concurrence.

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

An hon. Member: Who is seconding?

Mr. Deputy Speaker: Order, Members! Who is seconding?

Mr. Odoyo: Mr. Deputy Speaker, Sir, I caught his eye and I will second.

Mr. Deputy Speaker: But you did not catch my eye! Will you, please, sit down? You cannot impose yourself.

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

I am sorry, Mr. Odoyo. The Chair has given an opportunity to Mr. Peter Kenneth!

The Assistant Minister for Finance (Mr. Kenneth): Mr. Deputy Speaker, Sir, we did whatever the Mover had done in consultation and we, therefore, second the Motion.

An hon. Member: Put the Question!

Mr. Deputy Speaker: Order, Members! You do not do that. You cannot put a question on a Motion that has not been proposed. So, would you kindly let me do my work? Where is the Order Paper?

Very well, hon. Members!

(Question proposed)

Mr. C. Kilonzo: Mr. Deputy Speaker, Sir, I wish to support this Motion. First, I would like to state the role and functions of the Parliamentary Committee on CDF. Among the duties of this Committee are: To consider and to report to Parliament names of persons required to be approved by Parliament under the Act. This was done in consultation with the relevant Ministry, that is, the Ministry of Finance. For the sake of continuity, the Committee considered the fact that this is an election year. Therefore, the names which were submitted by the Ministry to our Committee are as follows:-

- (i) Kenya National Federation of Agriculture Producers, Mr. Leonard N. Kariuki.
- (ii) Kenya Episcopal Conference, Mrs. Janet N. Mong'are.
- (iii) Kenya National Chamber of Commerce and Industry, Mrs. Jane Ogowapit.
- (iv) The Institute of Engineers of Kenya, Eng. Joel Wanyoike.
- (v) Kenya National Union of Teachers (KNUT), Mr. Wilson Sosin.
- (vi) The National Council of Churches, Mrs. Margaret Burugu.
- (vii) The Supreme Council of Kenya Muslim, Mr. Saad M. Kairara.

Mr. Deputy Speaker, Sir, the only change, I believe, is that there is one new person in the National Management Committee (NMC). We felt that for the sake of continuity, and with the coming of the proposed amendments to the Act, we adopt the same names.

With those few remarks, I beg to support.

The Minister for Planning and National Development (Mr. Obwocha): Mr. Deputy Speaker, Sir, in accordance with what we have done to the Constituencies Development Fund (CDF), and since there have been wide consultations with the Ministry of Finance and the Treasury in general on what the CDF NMC has said, because of continuity, we have no objection to the proposed names.

We support the Motion.

Mr. Deputy Speaker: It looks like we have exhausted debate on this Motion. No hon. Member is interested in contributing.

(Question put and agreed to)

(Applause)

BILL*Second reading*THE CONSTITUTION OF
KENYA REVIEW BILL

*(The Minister for Justice and
Constitutional Affairs
on 3.5.2007)*

*(Resumption of Debate
interrupted on 8.5.2007)*

The Minister for Justice and Constitutional Affairs (Ms. Karua): Mr. Deputy Speaker, Sir, with those few remarks, I beg to move.

Mr. Deputy Speaker: The Minister moved the Bill last time. So, do not take it like she has not made a contribution. She made a major contribution when she was moving the Bill. She just now formally moved the Motion.

Mr. Mungatana, proceed and second the Bill!

The Assistant Minister for Justice and Constitutional Affairs (Mr. Mungatana): Mr. Deputy Speaker, Sir, I want to thank the Minister for moving this Bill. I congratulate her very much. Since we held the Referendum where Kenyans were given the opportunity to decide on whether or not they will have a new constitution, this House has not had the opportunity to put back the process on track. This Bill seeks to start that process. It seeks to give the House the opportunity to take charge of the constitutional matters that this country has been debating for the last 15 years. We even had the Referendum and got a negative answer.

Mr. Deputy Speaker, Sir, this Bill did not just come into this House. It came after wide consultations. Various shades of opinion and NGOs came together under the umbrella of the Multi-Sectoral Committee. What happened there was that, initially, there were discussions between hon. Members from various shades of opinion. Later on, there was a demand by the civil society that they must be included in those discussions.

The most important thing that was passed after all those discussions, in unanimity, was the need to ask Parliament to entrench the process of constitution-making again. That way, whether it is this Government, the next government or another one, there will be no break in the process of making the Constitution.

Mr. Deputy Speaker, Sir, if you recall that day when we sat here past midnight, we were discussing the law and it was important that we finish that day. If we did not do so, the law that formed the Constitution of Kenya Review Commission (CKRC) whose secretary was Patrick Lumumba, would have lapsed and then nothing would have gone on. Since we passed it, we went to the referendum. However, after the referendum, there was no continuity. In fact, the CKRC had to wind up its business because the law that formed and governed it was over.

Now, we want in this particular law, to create a secretariat which will be something similar to that commission, but it will never "die". We also want to entrench the constitution making process. We want the House to take charge of this whole thing because if, for whatever reason, Kenyans reject the proposed constitution, the commission that will have guided the process all the way will not die. There is a clear provision that after a period of 12 months, if the President does

not do anything about it, then Parliament can revive that commission which will then proceed with its work.

Mr. Deputy Speaker, Sir, the intention of this proposed Bill must be understood with the whole picture of constitution making in mind and the recent history. History has shown us that even if this House agrees, there could be other disagreements that can come after we have all agreed here. It has shown that even if majority of Kenyans agree on what is supposed to be non-contentious, we might go there, during the referendum, they become contentious. We are saying that we now have a good framework that will ensure this House passes a Bill that will enable discussions to go on whether or not people agree.

Mr. Deputy Speaker, Sir, I want to also mention some subtle points about this Bill. It creates a very lean organ that can handle contentious issues. It creates various organs. In fact, it creates three main organs, Parliament and the President. These organs, from the experience that we had before, have been made to be manageable.

With those few remarks, I beg to second this Bill and beg this House to look at it without emotion and Parliament should take charge, so that we create an institution that will continue irrespective of whether or not, this House agrees or the next President who comes agrees, with constitution making.

I beg to second this Bill.

(Question proposed)

ADJOURNMENT

Mr. Deputy Speaker: Hon. Members, it is now time for the interruption of business. The House is, therefore, adjourned until tomorrow 24th May, 2007 at 2.30 p.m.

The House rose at 6.30 p.m.