

NATIONAL ASSEMBLY

OFFICIAL REPORT

Thursday, 19th April, 2007

The House met at 2.30 p.m.

[Mr. Deputy Speaker in the Chair]

PRAYERS

COMMUNICATIONS FROM THE CHAIR

MOTION FOR ADJOURNMENT BY
HON. OJODE NOT UNDER STANDING ORDER 20

Mr. Deputy Speaker: Hon. Members, there are two pieces of communication from the Chair. The first one has to do with clarification on the matters of adjournment this afternoon. My attention has been drawn to an article in *The Standard* newspaper under the heading: "Parliament to discuss Arturs Saga", and another one in the *People Daily* under the heading "House to debate Arturs yet again". In the two articles, the writers claim that the House would today interrupt the normal business in order to discuss a matter of national importance. This is a misrepresentation of facts by the newspapers. The correct position is that Mr. Joshua Ojode sought the adjournment of the House under Standing Order No.18(1). It says:-

"Upon any Motion "That, this House do now adjourn" moved under the provisions of paragraph (4) of Standing Order No.17 (Hours of meeting), any Member other than a Minister or an Assistant Minister, who has obtained the right to do so, may raise any matter of administration for which the Government is responsible".

Mr. Ojode had a Question No.013 on Wednesday, 11th April, 2007 in the morning, in which he had sought to know when the report by the Kiruki Commission would be made public. The hon. Member was not satisfied with the reply given and, therefore, wrote to the Speaker requesting for adjournment of the House after the end of normal business in order to discuss the issue under Standing Order No.18(1). Yesterday, hon. Members will recall, I made a Communication from the Chair conceding to Mr. Ojode's request. I clearly stated that a matter of unsatisfactory answer to Question No.013 shall be raised by Mr. Ojode at the rise of the House today at 6.30 p.m. I want to emphasise here that the House will not interrupt any business as alleged in the articles. This has nothing to do with Standing Order No.20, which relates to matters of national importance.

Hon. Members, once again, I urge newspaper reporters, not only to report the proceedings of the House correctly, but also to familiarise themselves with Standing Orders of the House.

Thank you.

(Applause)

MR. MIDIWO'S OUT OF ORDER
FOR IMPLICATING VICE-PRESIDENT

IN INTERFERENCE WITH COURT

Hon. Members, the other communication relates to the matter raised by Mr. Midiwo yesterday. Hon. Members, once again my attention has been drawn to today's headline in the *Daily Nation* which reads: "V-P named over bid to free murder suspects" and also an article on Page 14 of *The Standard* under the heading: "Awori tried to interfere with case". A similar article appears in the headlines of the *People Daily* under the heading "V-P under siege". The three articles allege that the Vice-President and Minister for Home Affairs, Mr. Moody Awori, was yesterday accused of trying to secure release of three murder suspects. The article in the *People Daily* actually alleges that the Vice-President and Minister for Home Affairs was implicated by an hon. Member in a conspiracy to secure the release of the suspects. The reports are based on a letter laid on the Table of this House by the Member of Parliament for Gem, Mr. Jakoyo Midiwo during debate on the adoption of the Report of the Public Accounts Committee (PAC) yesterday.

Hon. Members, when Mr. Midiwo was contributing to the above debate, he said and I quote from the HANSARD:

"...I have a letter here with me. I want to table it, so that I do not accuse anybody unfairly. It is written by Mr. Moody Awori. It is instructing a magistrate to release people who are personally known to him from custody in Busia District. These are people who have murdered others..."

It continued, but I end the quote there. The key words here are "instructing a magistrate to release people who are personally known to him". The Chair immediately requested to have the letter. On scrutiny, I found out that the letter did not give any instructions. The letter read as follows and I quote:

"I have received a letter from Mr Patrick Lumumba on the above case which also involves Messrs. Vincent Okumu and Dennis Wandera. Will you, please, let me know the status of the case".

Hon. Members, I ordered Mr. Midiwo to withdraw the remarks and apologise as the letter which he tabled did not, in my view, constitute instructions to release anyone, of which Mr. Midiwo obliged, withdrew and apologised. I also cautioned hon. Members against violating the provisions of Standing Orders No.73(1) and 73(4) which state as follows:

"Neither the personal conduct of the President, nor any conduct of Mr. Speaker or of any judge, nor the judicial conduct of any other person performing judicial functions, nor any conduct of the ruler or the government or the representative in Kenya of any friendly country shall be referred to adversely except upon a specific substantive Motion moved for that purpose."

Standing Order No.73(4) reads:

"No Member shall impute improper motive to any other Member except upon a specific substantive Motion calling in question the conduct of that Member."

The rules of this House must be strictly adhered to by all hon. Members. No Member should cast aspersions on any other Member without moving a substantive Motion to discuss the conduct of that particular Member. Mr. Midiwo was out of order for having brought up allegations on the hon. Member for Funyula who is also the Vice-President and Minister for Home Affairs, bordering on his conduct without bringing a substantive Motion in accordance with Standing Order No.73(4).

Hon. Members, in the past, the Chair has cautioned hon. Members against making utterances on the Floor of the House in contravention of our own Standing Orders. I, therefore, once again ask hon. Members to strictly observe our own Standing Orders.

Thank you.

(Applause)

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

Mr. Deputy Speaker: Order, Mr. Midiwo! You should familiarize yourself with the Standing Orders. On a matter that the Chair has ruled on, you do not debate it! Certainly, if you have any issues, you can raise them with me or Mr. Speaker in the Chamber, but not on a matter that the Chair has already given a Communication on.

Next Order!

PAPERS LAID

The following Papers were laid on the Table:-

Supplementary Estimates for the year 2006/2007 (Recurrent Expenditure).

Supplementary Estimates for the year 2006/2007 (Development Expenditure).

Revised Consolidated Fund Services for the year 2006/2007.

*(By the Assistant Minister for
Finance (Mr. Kenneth) on behalf
of the Minister for Finance)*

The Annual Report and Accounts of Kenya Industrial Property Institute for the year ended 30th June, 2006, and the certificate thereon by the Controller and Auditor-General

*(By the Assistant Minister for
Finance (Mr. Kenneth) on behalf of
the Minister for Trade and Industry)*

The Annual Report and Accounts of the Kenya Tourist Development Corporation for the year ended 30th June, 2005, and the certificate thereon by the Controller and Auditor-General

The Annual Report and Accounts of the Kenya Tourist Development Corporation for the year ended 30th June, 2006, and the certificate thereon by the Controller and Auditor-General.

Annual Report and Accounts of the Kenya Tourist Development Corporation, Utalii Investment Limited for the year ended 30th June, 2005, and the certificate thereon by the Controller and Auditor-General.

Annual Report and Accounts of the Kenya Tourist Development Corporation, Utalii Investments Limited for the year ended 30th June, 2006, and the certificate thereon by the Controller and Auditor-General.

*(By the Assistant Minister for
Finance (Mr. Kenneth) on behalf of
the Minister for Tourism and Wildlife)*

Annual Report and Accounts of the Kenya Accountants and Secretaries National Examination Board for the year ended 30th June, 2006, and the certificate thereon by the Controller and Auditor-General.

Annual Report and Accounts of Egerton University for the year ended 30th June, 2006, and the certificate thereon by the Controller and Auditor-General.

Annual Report and Accounts of University of Nairobi for the year ended 30th June, 2006,

and the certificate thereon by the Controller and Auditor-General.

*(By the Assistant Minister for Finance
(Mr. Kenneth) on behalf of the
Minister for Education)*

Annual Report and Accounts of the Kenya Marine and Fisheries Research Institute for the year ended 30th June, 2006, and the certificate thereon by the Controller and Auditor-General.

*(By the Assistant Minister for Finance
(Mr. Kenneth) on behalf of the Minister
for Livestock and Fisheries Development)*

Annual Report and Accounts of the Medical Practitioners and Dentists Board for the year ended 30th June, 2004, and the certificate thereon by the Controller and Auditor-General.

Annual Report and Accounts of the Medical Practitioners and Dentists Board for the year ended 30th June, 2005, and the certificate thereon by the Controller and Auditor-General.

*(By the Assistant Minister for Finance
(Mr. Kenneth) on behalf of the
Minister for Health)*

Annual Report and Accounts of Nyayo Tea Zones Development Corporation for the year ended 30th June, 2006, and the certificate thereon by the Controller and Auditor-General.

Annual Report and Accounts of Tea Research Foundation of Kenya for the year ended 30th June, 2005, and the certificate thereon by the Controller and Auditor-General.

*(By the Assistant Minister for Finance
(Mr. Kenneth) on behalf of the
Minister for Agriculture)*

Annual Report and Accounts of Kenya Forestry Research Institute for the year ended 30th June, 2003, and the certificate thereon by the Controller and Auditor-General.

*(By the Assistant Minister for Finance
(Mr. Kenneth) on behalf of the Minister
for Environment and Natural Resources)*

Annual Report and Accounts of National Water Conservation and Pipeline Corporation for the year ended 30th June, 2005, and the certificate thereon by the Controller and Auditor-General.

*(By the Assistant Minister for Finance
(Mr. Kenneth) on behalf of the
Minister for Water and Irrigation)*

Annual Report and Accounts of National Museums of Kenya for the year ended 30th June, 2005, and the certificate thereon by the Controller and Auditor-General.

*(By the Assistant Minister for Finance
(Mr. Kenneth) on behalf of the Minister
of State for National Heritage)*

NOTICES OF MOTIONS

APPROVAL OF SUPPLEMENTARY ESTIMATES (RECURRENT AND DEVELOPMENT) 2006/2007

The Assistant Minister for Finance (Mr. Kenneth): Mr. Deputy Speaker, Sir, I beg to give notices of the following Motions:-

(a) THAT, a sum not exceeding Kshs13,349,636,120 be granted from the Consolidated Fund to meet expenditure during the year ended 30th June, 2007, in respect of Supplementary Estimates for 2006/2007 Financial Year, Recurrent, having regard to the proposed reduction of Kshs6,190,662,070, therein appearing.

(b) THAT, a sum not exceeding Kshs15,565,597,574 be granted from the Consolidated Fund to meet expenditure during the year ending 30th June, 2007, in respect of Supplementary Estimates of 2006/2007 Financial Year, Development, having regard to the proposed reduction of Kshs3,240,846,105, therein appearing.

Mr. Deputy Speaker, Sir, His Excellency, the President has given consent to these Motions.

ADOPTION OF REPORT ON INSPECTION OF OCEANOGRAPHIC SURVEY VESSEL

Mr. G.G. Kariuki: Mr. Deputy Speaker, Sir, I beg to give notice of the following Motion:-

THAT, this House adopts the Report of the Departmental Committee on Defence and Foreign Relations on the fact-finding visit to the Kingdom of Spain to inspect the Oceanographic Survey Vessel on 24th September to 28th September, 2006, laid on the Table of the House on 1st November, 2006.

QUESTIONS BY PRIVATE NOTICE

Mr. Deputy Speaker: Hon. Members, we are starting Question Time rather late. Therefore, Question Time will run until 3.45 p.m.

First Question, by the Member of Parliament for Sigor Constituency, Mr. Rotino!

DESTRUCTION OF SECURITY CAMP IN SIGOR CONSTITUENCY

Mr. Rotino: Mr. Deputy Speaker, Sir, I beg to ask the Minister of State for Administration and National Security the following Question by Private Notice.

(a) Is the Minister aware that on 9th March, 2007, thugs from Turkana District destroyed a security camp built through money from Sigor CDF?

(b) How many arrests have been made so far in connection with the incident?

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

(a) I am aware that a gang of people from the Turkana community destroyed some unit huts put up at a disputed border point between West Pokot and Turkana.

(b) Following the incident, a report was made at Kapenguria Police Station, vide OB No.7/17/03/2007 and two people were arrested and recorded statements. Inquiry file No.1/2007 was opened and the case is pending under investigation.

Mr. Rotino: Mr. Deputy Speaker, Sir, the Assistant Minister, in his answers, says that the border point is in dispute. The security camp was built on the border point. It is situated about two kilometres from the border of Turkana and West Pokot. In fact, it is right inside West Pokot. It was built for the sake of all the communities. It is not somebody's house, but a security post. Now that the Assistant Minister claims that it was built at a disputed point, what has the Government done then, to solve the dispute, and try bring the warring communities together?

Mr. Kingi: Mr. Deputy Speaker, Sir, we have instructed Provincial Commissioner (PC) to convene a meeting of the two communities, in order to resolve that issue and allow us to continue with the construction of a police post.

Mr. Kimeto: Thank you very much, Mr. Deputy Speaker, Sir. According to this Question, the security camp was destroyed by thugs. I believe that we have a Government in place but so far, those people have not been arrested. What are you doing to enable this Government exist longer than expected?

Mr. Kingi: Mr. Deputy Speaker, Sir, I said earlier that when the incident was reported, investigations were carried out and two people were arrested. Investigations are still going on and we will prefer charges as soon as we are convinced with the evidence that we have.

Capt. Nakitare: Mr. Deputy Speaker, Sir, the answers given by the Assistant Minister regarding the tension existing between the Turkana and Pokot tribes is not satisfactory to this House.

*(Mr. Masanya consulted loudly
with other hon. Members)*

Mr. Deputy Speaker: Order, Mr. Masanya!

Capt. Nakitare: Mr. Deputy Speaker, Sir, these two tribes have been fighting from time immemorial. It is not a question of boundary or politics; it is a question of cattle rustling across the border.

Mr. Deputy Speaker: Ask your question!

Capt. Nakitare: When are you going to bring a "China" wall to separate these tribes from fighting?

(Laughter)

Mr. Deputy Speaker: Order! It is the responsibility of hon. Members to try and promote harmony within the communities of our Republic. Therefore, that question is misplaced!

Dr. Rutto: Mr. Deputy Speaker, Sir, I would like to ask the Assistant Minister to tell us when exactly, the Government is going to construct another security camp? Just telling the House that the Government is going to commit itself to building another one is not helping us much. We know that Turkanas and Pokots have been involved in skirmishes before and I think that the construction of a security office or camp is very urgent. Therefore, he should tell the House when that will be done.

Mr. Kingi: Mr. Deputy Speaker, Sir, I want to believe that a police station or police post should be put up around that area. That is why we have asked the Provincial Commissioner to

convene a meeting of the leaders in order to resolve this problem and thus allow us to put up a police station at this point. When this meeting is convened, my appeal to the leaders is to ensure that an amicable solution is arrived at so that we can go on with the construction of the police post.

Mr. Deputy Speaker: Last question, Mr. Rotino!

Mr. Rotino: Mr. Deputy Speaker, Sir, the Government is not serious about the security between the Pokots and the Turkanas. Since 9th April, 2007, when that incident happened, there are more than three incidents which have happened and many people and animals lost their lives. I wish the Ministry could take this seriously so that we do not have a problem, like what happened in Mt. Elgon, because it is the Government which is trying to fuel the situation. Could the Assistant Minister now ensure or tell us when the Provincial Administration is going to ensure that the meeting which he is talking about is going to be convened? It is more than a month now and things are happening everyday. They should not play games with the lives of people!

Mr. Kingi: Mr. Deputy Speaker, Sir, the incidents which the hon. Members is talking about are even more evidence to show that a police station is required in that place and we have initiated the process of putting up one. It is only the wrangles between those communities that are holding us back. That is why I am saying that if the leaders are called, they should see to it that they arrive at an amicable solution and we will be able to put up that police station as soon as possible.

Mr. Deputy Speaker: Mr. Assistant Minister, I hope that you have taken the sentiments by the hon. Member seriously. We all know now about the number of insecurity incidents that we are having. This is, certainly, a matter that should be given priority.

Mr. Kingi: Mr. Deputy Speaker, Sir, we will give it the priority that it deserves.

Mr. Deputy Speaker: Very well!

Next Question by the hon. Member for Kisumu Rural, Prof. Anyang'-Nyong'o!

BARRING OF MR. OLE SAKUDA FROM
NGONG TOWN FOOTBALL MATCH

Prof. Anyang'-Nyong'o: Mr. Deputy Speaker, Sir, I beg to ask the Minister of State for Administration and National Security the following Question by Private Notice.

Could the Minister explain why police prevented Mr. Moses ole Sakuda from presenting trophies at a football match in Ngong Town over the Easter weekend?

The Assistant Minister, Office of the President (Mr. Kingi): Mr. Deputy Speaker, Sir, on behalf of the Minister of State for Administration and National Security, I beg to reply.

Mr. Moses ole Sakuda was not prevented from presenting trophies at a football match in Ngong Town over the Easter weekend.

Thank you.

Prof. Anyang'-Nyong'o: Mr. Deputy Speaker, Sir, it may be possible that the Assistant Minister and myself do not live in the same country. It is also quite possible that everything you read in the newspapers may be fiction. But it is quite evident to me that on televisions and the print media, it was reported that Mr. ole Sakuda was not only prevented from entering the stadium, but subsequent to entry, he could not present those trophies and was frog-marched by the police under the supervision of an Officer Commanding Station (OCS) called Mr. Saitoti up to Karen. Could the Assistant Minister tell us whether: One, we live in the same country; and two, we were reading fiction.

Mr. Kingi: I want to repeat that Mr. ole Sakuda was not prevented from presenting trophies. What happened is that on 8th April, 2007, the OCS, Ngong, and officers working under him went to the Ngong Stadium to cover the football match between Black Burners FC and

Hillside FC. The two teams were the main finalists and Mr. ole Sakuda was the chief guest. The match ended well at around 6.00 p.m., and the chief guest gave out US\$450 and five pairs of football shoes to Mr. John Bakari Nakodo, who is the Deputy Treasurer of the Kenya Football Federation (KFF), Kajiado Sub-branch. The money was to be converted into local currency and the winning team was to be awarded Kshs10,000. The balance was to be shared among the other teams. So, the money and boots were given out. But after that, Mr. ole Sakuda started addressing the crowd and some youth became rowdy. That necessitated the Ngong OCS to order the crowd to disperse and they offered to escort Mr. ole Sakuda out of the stadium for his own safety. So, he was not frog-marched from the stadium.

Mr. ole Ntimama: Mr. Deputy Speaker, Sir, it is a pity that the Assistant Minister denies the fact that--

(Loud consultations)

Mr. Deputy Speaker: Order, hon. Members! Please, hon. Members, particularly on my far right, should consult in low tones because we want to continue with House Business!

Proceed, Mr. ole Ntimama!

Mr. ole Ntimama: Mr. Deputy Speaker, Sir, it is a pity that the Assistant Minister is denying the harassment that was meted out to Mr. Moses ole Sakuda in the stadium. Evidence shown by the people themselves shows very clearly that, it was a direct harassment by the police.

Mr. Deputy Speaker, Sir, whatever actually happened, this is an election year. Therefore, could the Assistant Minister assure this House and the nation that he will ensure that all aspirants to parliamentary and civic seats are given democratic opportunity to play their own game without harassment by the Ministers, just because they have panicked?

Mr. Kingi: Mr. Deputy Speaker, Sir, that assurance is granted only if you follow the laid down procedures. But I want to insist that we are talking about a football match which actually took place and the chief guest went ahead and gave the presents that he had brought for the teams. There was no harassment whatsoever.

Prof. Anyang'-Nyong'o: Mr. Deputy Speaker, Sir, I am very impressed by the Assistant Minister's attempt to sanitise the story. You could sanitise the story, but you will not prevent the truth from being known. It was said quite clearly, that the OCS, Mr. Saitoti, explained that he had received orders from above to stop the match from going on.

It was only after popular persuasion and pressure that he allowed the match to go on. In the end, he stopped the chief guest from addressing the crowd. How can you be a chief guest who does not speak to the people? What kind of Government is this? Do you know the concept of a chief guest? A chief guest should address his people when he is giving them something. Could he explain to us whether he knows who a chief guest is?

Mr. Angwenyi: On a point of order, Mr. Deputy Speaker, Sir. Under which Standing Order is the hon. Member basing his argument on newspaper reports?

Mr. Deputy Speaker: You are quite right, Mr. Angwenyi! The hon. Member should not refer to newspaper reports as his authority. You are right in that, Mr. Angwenyi. Prof. Anyang'-Nyong'o, therefore, you should not refer to newspaper reports because our Standing Orders do not allow hon. Members to pick on newspaper reports as authority of whatever they say in the House.

Mr. Kingi: Mr. Deputy Speaker, Sir, I am being asked to explain whether I know the role of a chief guest. I have been one, the hon. Member has been one and all of us have been chief guests and we know the role of a chief guest.

Mr. ole Sakuda was invited and he honoured the invitation. The match went on undisturbed. He was accorded the opportunity to present whatever he had brought with him. It is

only after he stood to address the crowd that some people in the stadium refused to listen to him and started heckling him. That is when the OCS decided to call off the meeting. Otherwise, the football match was not interrupted.

Prof. Anyang'-Nyong'o: On a point of order, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Prof. Anyang'-Nyong'o, you see, it is not a matter of argument about this and that. The Assistant Minister has given you a response. I had already given you the last chance. Do you want to ask another supplementary question? I will give it to you, but not as a point of order.

Prof. Anyang'-Nyong'o: Mr. Deputy Speaker, Sir, as hon. ole Ntimama has said, this is an election year and all of us are going to do what Mr. ole Sakuda did. We would like honesty from the Government.

Mr. Deputy Speaker, Sir, is it really true that the youths heckled Mr. ole Sakuda, to stop him from addressing them, when had been their guest of honour and was giving them presents? It defeats logic that after giving so much money, you can be heckled. Is it not true that the OCS who went to stop Mr. ole Sakuda from addressing the crowd, is the one who caused trouble?

Mr. Kingi: Mr. Deputy Speaker, Sir, if we are invited to a football match, we will all go whether we are pro this or that person. It is only during the address that our differences will be seen. When they are seen, police officers should be there to ensure that law and order is maintained. That is what we did.

DISAPPEARANCE OF SUGAR FROM NZOIA SUGAR FACTORY

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

(a) Could the Minister confirm that sugar worth Kshs15 million disappeared from Nzoia Sugar Factory premises between 2nd and 7th April, 2007?

(b) How did such a large consignment of sugar leave the factory undetected?

(c) What action has the Minister taken to recover the sugar and punish those responsible for the loss?

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

(a) Yes, I am aware that sugar worth Kshs11,000,080 disappeared on 23rd March this year from Nzoia Sugar Company and not between 2nd and 7th April, 2007.

(b) The consignment was allowed to leave the factory on presentation of the normal documents, which include purchase receipt and invoice, weighbridge ticket and gate pass.

(c) The following officers, suspected to have been involved in the loss, have been suspended from Nzoia Sugar Company: Joseph Ng'ang'a, Human Resource Manager; Henry Amwayi, Management Accountant; David Mulungwa, Factory Manager; Stanley Ndombi, Marketing Manager; Abraham Sabuko, Ledger Accountant; and, Eric Owino, Marketing Trainee.

The matter was reported to the CID who have arrested eight suspects, impounded two trucks which were used to transport the sugar and have recovered 43 bags of sugar.

Mr. Wamunyinyi: Mr. Deputy Speaker, Sir, a man whose name has been given as Ndichu approached the Managing Director of Nzoia and ordered for 6,000 bags of sugar. This new customer, ordered for 6,000 bags of sugar and paid by cheque an amount of over Kshs11 million. This Mr. Ndichu was accommodated at the Nzoia Sugar Company guest house for four days and four nights.

He presented a cheque from Barclays Bank, Enterprise Branch, which does not exist. The bank code on the cheque leaf was from a different Barclays Bank branch. Why did the management

of Nzoia Sugar Factory, particularly the Managing Director, who was approached by Mr. Ndichu release the sugar before the money was in the company's account?

Mr. Kirwa: Mr. Deputy Speaker, Sir, the policy in all sugar companies including Nzoia Sugar Company, is that once a cheque is presented, verification is done and upon confirmation of the same, the sugar is released. I have said that the officers I have named did not comply with the necessary procedure. The Managing Director was on leave. Mr. Ng'ang'a was the acting Managing Director at the time the transaction took place.

Hon. Members: Ah!

Mr. Bett: Mr. Deputy Speaker, Sir, Kshs11 million or Kshs15 million is a colossal sum of money. All the sugar companies, save for Mumias, are all in debts. This is money due to the farmers. Farmers in all these sugar companies are not being paid. Nobody is serious about controlling the flow and payments of sugar in these factories.

What assurance is the Minister giving the country that he will protect the farmers' money and it will not be stolen like has been the case?

Mr. Kirwa: Mr. Deputy Speaker, Sir, I understand that thieves do not announce that they are coming. This is an isolated case and I have taken the necessary action. I am very firm that I will follow up the matter personally with the CID and make sure that anything like this does not recur in any of the factories within my Ministry.

Mr. Muriithi: Mr. Deputy Speaker, Sir, the Minister is a lawyer by profession---

(Laughter)

Sorry, I apologise. The Minister, in his wisdom, has told us that he is going to do everything possible to ensure that theft of this nature does not occur again. Do the sugar companies release goods on uncleared cheques or bankers cheques?

Mr. Kirwa: Mr. Deputy Speaker, Sir, first I want to appreciate the fact that the hon. Member, in his honesty, thinks that I am a lawyer, of which I am not.

Nonetheless, I have already answered the question he has asked. Indeed, there was impropriety among the officers of Nzoia Sugar Company and we have taken the necessary action to ensure that those officers are not only removed from the premises of the company, but they are properly investigated. Those who will be found to be responsible for the loss, will be taken to a court of law.

(Mr. Mukiri stood up in his place)

Mr. Deputy Speaker: Mr. Mukiri, I had already said that the last question on this matter would be asked by Mr. Wamunyinyi. So, it is now Mr. Wamunyinyi's turn.

Mr. Wamunyinyi: Thank you, Mr. Deputy Speaker, Sir. I do not think the Minister is taking this matter with the seriousness it deserves. The level of efficiency at Nzoia Sugar Factory has gone so low. I recently stated that farmers and, generally, the community in Nzoia are so demoralised. So, there must be a serious problem. We are talking about 6,000 bags of sugar worth Kshs11 million. The Minister says that it is the policy of the company not to cross-check with the bank to confirm that the amount is there. Surely, is that the way we want to run the affairs of our companies?

Mr. Deputy Speaker: Order, Mr. Wamunyinyi! Up to now you have not asked question!

Mr. Wamunyinyi: Mr. Deputy Speaker, Sir, let me now ask the question. It has been alleged that when the said Mr. Ndichu went to Nzoia Sugar Factory, he posed as someone who had been sent from State House and intimidated the managers. Could the Minister confirm or deny that

some senior people within the Government, particularly at State House, are involved in this matter?

Mr. Kirwa: Mr. Deputy Speaker, Sir, let me put the record straight. First of all, I never said, and no stretch of imagination would have allowed me to say it, that it is not the policy of the company to cross-check with the bank to confirm whether money is paid. Verification of cheques is a standard procedure that we require. The officers involved never followed that particular procedure. It is for that reason that we have taken the action that we deemed necessary. On the second part of the allegation, it remains just that - an allegation - and it is upon my colleague to prove that the said individuals are linked to any of the organs of power within the Government.

Mr. Deputy Speaker: Next Question, Prof. Olweny!

ORAL ANSWERS TO QUESTIONS

Question No.006

INVASION OF WETLANDS BY WATER HYACINTH

Prof. Olweny asked the Minister for Environment and Natural Resources:-

- (a) whether he is aware that water hyacinth has invaded wetlands, streams and other small water bodies, thus threatening their survival;
- (b) whether he is further aware that the weed has also invaded some irrigated lands in western Kenya, making it expensive to till the fields; and,
- (c) what efforts he is making to eliminate the weed from the affected areas.

The Assistant Minister for Environment and Natural Resources (Mrs. Kihara): Mr. Deputy Speaker, Sir, I beg to reply.

(a) I am aware that the water hyacinth has invaded wetlands, streams and other small water bodies, thus threatening their survival.

(b) I am further aware that the weed has also invaded some irrigated lands in western Kenya, making it expensive to till the fields.

(c) My Ministry is already taking measures aimed at ensuring that the spread of water hyacinth is brought under control by use of beetles, which is one of the most effective control methods. The Lake Victoria Environmental Management Project (LVEMP) managed to control about 95 per cent of the water hyacinth by December, 2005 from over 17,000 hectares to less than 500 hectares, but there has been some resurgence due to cessation of funding of the project.

Prof. Olweny: Mr. Deputy Speaker, Sir, the Assistant Minister has not read the entire written reply. However, even the part that she has read out baffles me. What she is telling us here is that the Government is not able to sustain a project if it was donor-funded. Here is Lake Victoria, the largest lake in Africa, which is under threat of dying, and the Government says that it needs funds from a donor. What kind of money is needed? The question is: How much money did the Government, or whoever funded the project, spend on the beetles that were brought to control the weed? Does the Government still need money from a donor to sustain that project?

Mrs. Kihara: Mr. Deputy Speaker, Sir, the money required to remove this menace is a lot. There is also an ongoing research by the Kenya Agricultural Research Institute (KARI). It is looking into the possibility of importing other control agents to be released to the affected areas. I may not have the figures now, but what I am saying is that there is work in progress. We are working with the KARI. There is also the LVEMP Phase II, which will be implemented in the next few months.

Mr. Mukiri: Mr. Deputy Speaker, Sir, the water hyacinth has been a great problem in Lake

Victoria. The project involving the beetles has been there for a very long time. If you overfly Lake Victoria, you will see that the water hyacinth is actually increasing. In fact, we do not know whether it was the beetles which have been eating the water hyacinth, or whether it is the other way round. Could the Ministry consider physically removing the water hyacinth from Lake Victoria? It seems that this project has already failed. Why can the Government not use young people in that area to pull out the weed from the lake, instead of waiting for the second phase of a project which has been there for over ten years but which has failed to work?

Mrs. Kihara: Mr. Deputy Speaker, Sir, even physically removing the water hyacinth from the lake is an option that is being considered, so that the affected communities can be advised to physically remove the weed and, probably, get an incentive for it. It is going to be like employment, and that will encourage the communities to help.

Mr. Cheboi: Mr. Deputy Speaker, Sir, the Assistant Minister comes from a place which has the potential for growing the water hyacinth. Can she confirm or deny that the real reason as to why this weed cannot be controlled is the release into the lake of raw sewage and chemical waste from industries, which are perfect fertilizer for water hyacinth?

Mrs. Kihara: Mr. Deputy Speaker, Sir, water hyacinth is also found in areas where there is no sewage. If the hon. Member is talking about my area, there is also flower farming going on, on which fertilizer is used. So, it is not a matter of sewage.

Mr. Deputy Speaker: Hon. Members, I will allow two more questions on this matter, from Mr. Owino and Eng. Nyamunga.

Mr. Owino: Thank you, Mr. Deputy Speaker, Sir. The water hyacinth problem has been in Lake Victoria for over ten years now. The weed grows along the streams that enter Lake Victoria, thereby affecting the fields along those streams. That will continue happening. For a long time up to now, this weed has been in existence. Could the Assistant Minister tell us the immediate action she is taking? Waiting for donors to be consulted, or waiting for the results of a research programme to solve the problem will take a long time. What are her intended immediate actions, starting from tomorrow?

Mrs. Kihara: Mr. Deputy Speaker, Sir, I said that the Ministry is considering having the weed removed physically. We are still considering that option.

Mr. Deputy Speaker: Eng. Nyamunga!

Eng. Nyamunga: Thank you, Mr. Deputy Speaker, Sir. In fact, it has also been proved that raw sewage and industrial waste, which get discharged into Lake Victoria, also serve as fertilizer for the weed. The weed actually feeds on them, causing it to increase. So, could the Assistant Minister also consider making sure that discharge of industrial waste into the lake is also controlled?

Ms. Kihara: Mr. Deputy Speaker, Sir, all options are going to be considered.

Rev. Nyagudi: Mr. Deputy Speaker, Sir, it is very evident that the Assistant Minister does not know what she is talking about. Right now, 95 per cent of Lake Victoria is covered with hyacinth. Fishermen cannot get any income because of that problem. Could the Assistant Minister tell this House when she will table a report showing how much money has been spent through Lake Victoria Environmental Management Project to fight water hyacinth? Could she also give an undertaking that more money will be factored in the Budget for that purpose?

Ms. Kihara: Mr. Deputy Speaker, Sir, the hon. Member wants me to confirm what I have already said. All options are being looked into, including funding.

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

Mr. Deputy Speaker: Order, Order! Last question, Prof. Olweny. We have to go to other Questions We are not dealing with hyacinth only.

Prof. Olweny: Mr. Deputy Speaker, Sir, I am a researcher by profession. That is what I used to do before I came to Parliament. I want to tell the Assistant Minister that, if they could establish a breeding facility for beetles, they could have a population of beetles to release to the lake as the need arises. It will be cheaper to control the hyacinth using that method than waiting for someone else's money. Maybe, your scientists and officers want to "eat" that donor money! What prevents the Government from establishing a breeding facility for the beetles so that they can be used to control hyacinth.

Ms. Kihara: Mr. Deputy Speaker, Sir, they are asking me the same question in very many ways. So, my answer remains the same. That is also an option.

(Prof. Olweny stood up in his place)

Mr. Deputy Speaker: Order, Prof. Olweny! Next Question by the hon. Member for Ntonyiri.

Question No.019

GOVERNMENT POSITION ON INTEGRATED
NATIONAL TRANSPORT POLICY

Mr. Maore asked the Minister for Transport:-

- (a) what the position of the Government is on the draft Integrated National Transport Policy which was concluded in February, 2004; and,
- (b) when the Sessional Paper will be presented to the House for debate.

Mr. Deputy Speaker, Sir, I note that the Minister has not provided a written answer.

Mr. Deputy Speaker: Mr. Minister, you have heard the Member!

The Minister for Transport (Mr. Mwakwere): Mr. Deputy Speaker, Sir, there is a written answer, but I apologise if it was not delivered to the hon. Member. I beg to reply.

(a) The draft Integrated National Transport Policy was formulated in February, 2004, by a task force committee. Thereafter, the Ministry of Transport constituted a team to study the policy recommendations contained in the document, and also requested Ministries and institutions directly or indirectly touched by the recommendations to make their comments. The report was, thereafter, revised and a small task force was established to prepare a draft Sessional Paper on the country's Integrated National Transport Policy. The draft Sessional Paper is now ready for submission to the Cabinet for approval.

(b) The Sessional Paper would be presented to the House for debate as soon as the Cabinet approval is obtained.

Mr. Maore: Mr. Deputy Speaker, Sir, if you listened properly, you heard the Minister mentioning other Ministries. I am sure he has in mind Ministries such as Roads and Public Works, Local Government and the Office of the President. Now, since he is the Minister tasked to bring forward that policy to the House, when does he estimate to be the likely time frame to bring it to this House? This year or next year!

Mr. Mwakwere: Mr. Deputy Speaker, Sir, I estimate that the Sessional Paper will be presented to Parliament for debate within the next ten weeks.

(Mr. Mbau stood up in his place)

Mr. Deputy Speaker: Last question, Mr. Maore. Is that Mr. Mbau?

Mr. Mbau: Thank you, Mr. Deputy Speaker, Sir. I want to get a clear answer from the Minister. We have read Press reports citing his inability to instil discipline in our road sector, purportedly due lack of harmonisation between the Ministry of Public Administration and National Security and his Ministry. Many people continue to lose their lives on our roads. Among the recommendations of that policy is the establishment of an authority to deal with transport matters. The Minister is now talking about ten more weeks. In the meantime, many people will continue to lose their lives. Why can he not bring that policy Paper sooner than ten weeks?

Mr. Mwakwere: Mr. Deputy Speaker, Sir, ten weeks is the upper limit. It could be done earlier than that. May I also inform the hon. Member that the presentation of a transport policy does not mean that all our problems will be solved. It is an integrated transport policy that involves, not only Government Ministries, but also the private sector. It is a document that will map the future of the transport sector in this country to make it secure, safer, efficient and more useful to the people as a whole.

Mr. Maore: Mr. Deputy Speaker, Sir, in the absence of that policy, how does the Minister enforce public transport laws and rules that are there?

Mr. Mwakwere: Mr. Deputy Speaker, Sir, public transport laws are being enforced by various sectors and Ministries. We want to bring all those laws under one umbrella. But it does not mean that there is no machinery for the enforcement of the laws at the moment.

Mr. Deputy Speaker: Next Question!

Question No.092

CLOSURE OF KERICHO KRA OFFICE

Mr. Bett asked the Minister for Finance:-

- (a) why the Kenya Revenue Authority offices in Kericho were closed down and the services therefrom transferred to Kisumu; and,
- (b) whether he is aware that, that is likely to cause a reduction in revenue.

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

(a) The Kenya Revenue Authority (KRA) offices in Kericho have not been closed down. It is the Road Transport Department functions that were transferred to Kisumu and other neighbouring KRA offices owing to the high cost of operations as a factor of total revenue collected. The KRA is currently training officers from its Domestic Services Department, Kericho, to enable them perform any Road Transport Department duties at the station.

(b) The transfer of Road Transport Department functions from Kericho to Kisumu and other neighbouring KRA offices has had an insignificant effect on revenue collection as road licence fees are currently tapped through Fuel Levy products and other licences are renewed on an annual basis. They are available in the neighbouring offices.

Mr. Bett: Mr. Deputy Speaker, Sir, it is my humble submission that those offices were closed and there is no need to mislead the House. There is a training programme that is taking place, being an indication that services had gone down. Could the Assistant Minister tell this House when that training programme will be concluded? Indeed, as we speak, people from Kericho continue going to Kisumu and Nakuru for services offered by the Kenya Revenue Authority (KRA).

Mr. Kenneth: Mr. Deputy Speaker, Sir, the hon. Member's humble submission that the KRA offices have been closed is not true. What has been closed is the department that was dealing with road transport. What I am trying to say is that last year, this House passed a legal notice to

abolish licence fees on motor transport. That is the department that has been closed. We have Domestic Taxpayers Department of the KRA in Kericho and we are hoping that some of the officers who are being re-trained - we hope by 30th June, 2007 - will be able to offer any small services that were in the Roads Transport Department (RTD) to assist in Kericho.

(Mr. Omondi stood up in his place)

Mr. Deputy Speaker: Mr. Omondi has not asked a question this afternoon. I will also have the last question by Mr. Bett.

Mr. Omondi: Thank you, Mr. Deputy Speaker, Sir. The reply that has been given by the Assistant Minister points to the fact that there is no need for additional staff at the KRA. I want to know from him if that is the case, why has it been possible to have an influx of women who are being employed at the KRA on a casual and temporary basis? According to the answer, they are not necessary.

Mr. Deputy Speaker: Mr. Kenneth, could you attempt that one?

Mr. Kenneth: I will try it, Mr. Deputy Speaker, Sir, because it is a different Question. First, there were still very few services that the RTD was doing like transferring motor vehicles. These are the few people we are saying are going to be re-trained to alleviate the problem that is there right now. However, the majority of duties that the RTD was doing, was for renewal of road licence, which this House abolished.

As to the question that Mr. Omondi has asked, I am not able to answer as to why many casuals, and especially women, are being employed. I am not aware!

Mr. Bett: Mr. Deputy Speaker, Sir, could the Assistant Minister assure this House that such erratic decisions to close down offices or stop services is costly and should not be entertained in future?

Mr. Kenneth: Mr. Deputy Speaker, Sir, the KRA has done a very commendable job. I am sure that hon. Members are aware, when they look at the percentage in the Constituencies Development Fund (CDF) which has been going up because of the revenue collection that KRA has achieved. Actually, in terms of revenue collected, this country has seen an upward growth. I think we should be commending the KRA for a job well done.

Mr. Deputy Speaker: Thank you. For the next Question, Mr. M.Y. Haji is indisposed. Therefore, it is deferred generally without fixing a day until he is well.

Question No.177

COMPLETION OF MASALANI BRIDGE

(Question deferred)

Next Question by Mr. Salat!

Question No.179

KITCHEN/LAUNDRY FACILITIES FOR
LONGISA DISTRICT HOSPITAL

Mr. Deputy Speaker: Mr. Salat is absent, so the Question is dropped!

(Question dropped)

Next Question by Prof. Ojiambo!

Question No.180

NON-REGULATION OF
HORTICULTURE INDUSTRY

Prof. Ojiambo asked the Minister for Agriculture:-

(a) whether he was aware that the horticulture industry employs over 200,000 people directly and indirectly and is the second biggest foreign exchange earner; and,

(b) why he has failed to formulate a policy to regulate the industry.

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

(a) I am aware of the significance of the horticulture industry in the country's economy, in terms of employment and foreign exchange earning.

(b) The Ministry has formulated a draft horticulture policy to regulate the industry. This draft is being discussed by relevant stakeholders for their concerns to be incorporated before presenting the same to the Cabinet.

Prof. Ojiambo: Mr. Deputy Speaker, Sir, the horticulture industry in this country brings a lot of revenue and income and, therefore, it is a very important sector. I am surprised that this policy paper has taken so long. Could the Minister tell us how long we are going to wait? He has not specified the time frame and we know that this could be anything, even years. It may never come to this House in our lifetime.

Mr. Kirwa: Mr. Deputy Speaker, Sir, like I said, it is being discussed in various provinces by all the stakeholders. We are now preparing for the month of May to have a stakeholders' forum at the national level so that effective consultations are done and we channel the rest of the programmes.

Capt. Nakitare: Mr. Deputy Speaker, Sir, could the Minister tell this House why most of the prominent horticultural farmers are relocating to Ethiopia?

(Loud consultations)

Mr. Deputy Speaker: Mr. Minister, did you get the question?

Mr. Kirwa: Mr. Deputy Speaker, Sir, well, there are some loud consultations. Could my colleague repeat the question?

Mr. Deputy Speaker: Order, hon. Members on the Front Bench! The hon. Member there has to repeat the question because the Minister for Agriculture did not hear it, obviously, because of loud consultations.

Please, repeat the question!

Capt. Nakitare: Mr. Deputy Speaker, Sir, my question to the Minister is: Why are prominent horticultural farmers relocating to Ethiopia if this policy is anticipated? What steps is he taking to convince them to remain in Kenya?

Mr. Kirwa: Mr. Deputy Speaker, Sir, just like any other businessmen, horticulture farmers are experiencing opportunities in Ethiopia. I wanted to make it clear to the House and to the nation at large that there is no threat whatsoever from any serious relocation by farmers to any other country because Kenya still offers the best opportunities for horticulture farming.

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

Mr. Deputy Speaker: Last question, Prof. Ojiambo! I am sorry the clock does not allow me to accept more questions.

Prof. Ojiambo: Mr. Deputy Speaker, Sir, could the Minister consider allowing the stakeholders in the industry to regulate their own policy rather than him having to write a Paper for them and take to the Cabinet? I know that this has been the cause for that Paper not coming out and assisting the farmers to move on.

Mr. Kirwa: Mr. Deputy Speaker, Sir, in fact, what my colleague is referring to is the intention of the policy; that, we allow the private sector to regulate itself. However, in so regulating itself, other organisations such as the Kenya Plant Health Inspectorate Services (KEPHIS) and the Horticultural Crops Development Authority (HCDA) must be able to provide the leadership in terms of regulations so that those who break the law can have the full force of the law, ensuring that nothing goes against the grain of production and marketing of the same produce.

Mr. Deputy Speaker: Next Question by Mr. Cheboi!

(Mr. Cheboi sat in his place)

Mr. Cheboi, you are not attentive! I have already called you!

Question No.190

NUMBER OF TEACHERS EMPLOYED
IN KURESOI IN LAST THREE YEARS

Mr. Cheboi asked the Minister for Education:-

- (a) how many teachers have been employed to serve in schools within Kuresoi Constituency in the last three years; and,
- (b) how many of the said teachers still serve in the Constituency.

The Assistant Minister for Education (Dr. Mwiria): Mr. Deputy Speaker, Sir, it seems like he was not really interested in the answer to this Question. So, if you allow me, I will also take it easy. However, I would like to seek the indulgence of the House that I will need to get a little bit more details on this Question to be able to answer it. I have already talked to the hon. Member and he is agreeable.

Mr. Deputy Speaker: Dr. Mwiria, how long do you want us to give you? I think you need to give the Chair an indication.

The Assistant Minister for Education (Dr. Mwiria): Mr. Deputy Speaker, Sir, I will answer it on Wednesday next week.

Mr. Deputy Speaker: Mr. Cheboi, is that okay with you?

Mr. Cheboi: Mr. Deputy Speaker, Sir, that is okay with me.

Mr. Deputy Speaker: Therefore, Question No.190 is deferred until Wednesday afternoon.

(Question deferred)

Hon. Members that brings us to the end of Question Time.
Next Order!

BILL*Second Reading*

THE POLITICAL PARTIES BILL

*(The Minister for Justice and
Constitutional Affairs on 18.4.2007)*

*(Resumption of Debate
interrupted on 18.4.2007)*

Mr. Deputy Speaker: The Minister was moving the Bill. Proceed!

The Minister for Justice and Constitutional Affairs (Ms. Karua): Thank you, Mr. Deputy Speaker, Sir. I had already indicated that there will be an independent Office of the Registrar of Political Parties. I would like to state, in terms of the proposed Clause 3 of the Bill, that there shall be an Office of the Registrar of Political Parties, which shall be an office within the Commission and shall have operational autonomy. I would like to stress that although the office will be under the Commission, it will have operational autonomy.

Mr. Deputy Speaker, Sir, Clause 5 of this Bill clearly indicates that political parties can only be formed within the provisions of this Act and for purposes which are not contrary to the Constitution or any other written law. The disqualifications of parties which promote certain things are given in Clause 6 which states that parties based on ethnic or religious considerations are expressly prohibited.

Clause 6(1)(a) states the following:

"The Registrar shall not register a political party which-

(a) is founded on an ethnic, age, tribal, racial, gender, regional, linguistic, corporatist, professional or religious basis, or which seeks to engage in propaganda based on any of these matters."

This is a very important clause when you consider that today there is indiscipline in the political world where leaders are openly propagating ethnic hatred and deliberately balkanising Kenyans on grounds that are clearly not within the best interest of the country. This particular clause goes on also to indicate that a political party that uses words or slogans that would arouse negative feelings on the same basis will not be registered. It goes on to give further qualifications of behaviour that is prohibited if a party wants to be registered. For instance, a party that accepts or advocates the use of force or violence as a means of attaining its political objective---You will recall that there has been widespread complaints from across the political divide about violent behaviour of parties, violent disruption of political rallies held by opponents and, the most recent incident, the violent ejection of a Member of Parliament from a cultural activity. It means that each party will have to ensure that its members do not promote violence, otherwise that party will be deregistered.

Mr. Deputy Speaker, Sir, certain public officers are also prohibited from being founding members of a party. In other words, certain holders of public offices cannot found parties. These include those officers in the Armed Forces, the Police Force, the Kenya Prisons Service, The Kenya Wildlife Service (KWS), and Judicial Officers. All those officers are not eligible to found political parties. Also, people who are, for the time being, not qualified to be elected as Members of Parliament under the National Assembly and Presidential Elections Act cannot be members of

the Executive and founding members of a political party. This is necessary because the definition of a political party is clearly an association or organisation which has, for purposes of its objective, one or more of its objects, the purpose of proposing or supporting candidates for the national or local elections with a view to forming or influencing the formation of the Government or of any local authority. In other words, if you are not qualified to hold the offices for which you want people to propose others, then you cannot be a founder or a leader in terms of the executive of such a political party.

Mr. Deputy Speaker, Sir, another very important provision of this Bill is the participation in political activities and the rights of party members. It is known that, even currently, when people join parties as members, the founders of the party, or its leadership, do sometimes, unlawfully, exclude its membership from full participation. Sometimes party leaders can even arbitrarily determine who vies for a parliamentary seat, or who becomes a leader in the districts, or in any other area within that party. This clause clearly confers a legal right on any person who is a citizen and has attained the age of 18 years, the right to participate in political activities which are intended to influence the composition and policies of the Government and to join any political party of his choice. This will protect people from coercion.

It is also clearly stated that a member of a political party, who intends to resign from their party, must give a written notice. If they are Members of Parliament, they must address that notice of resignation to the Clerk of the National Assembly or to the relevant local authority, if they are members there. It is further provided that:

"No person shall be a member of two or more political parties."

Currently, even within this House, majority of hon. Members do appear to belong to more than one political party. This is not healthy for democracy at all. It does not help to build and nurture political parties that can foster democracy.

Mr. Deputy Speaker, Sir, it is further provided that even where a person has not given notice of resignation, you can by conduct, be inferred to have resigned from your political party if you start promoting another party, or if you join in the formation of another political party. Most of us are guilty of this offence. This Bill will bring back the stability that is needed to nurture democracy and protect parties in order to enable them to instil party discipline to their members so that there can be a clearly defined Government and Opposition, which is healthy for the country.

Mr. Deputy Speaker, Sir, Clause 10 states that any party that applies for registration after, on the face of it, fulfilling certain conditions, will be given provisional registration and thereafter, within six months, they have to fulfil certain conditions to either secure full registration or fail to qualify as a political party. So, what are those requirements that a party must fulfil? For provisional registration, the application must be signed and the name set out. If there is any abbreviation of the name the party wishes to make, it must be shown. A copy of the constitution must also accompany this application.

Clause 11 provides some of the necessary things in a party constitution. There are certain things that a party must indicate in its constitution. It shall also be entitled to hold and address public meetings in any area of Kenya within the provisions of this Act. Once it is provisionally registered, it will be entitled to security of the State when holding or furthering its objectives. This is meant for the conduct of peaceful and orderly meetings.

This is something which is already provided for under our laws. However, it is necessary to restate it in the Political Parties Bill, so that the legitimate activities of political parties enjoy State protection without any discrimination and hinderance.

Mr Deputy Speaker, Sir, the Registrar will be entitled to refuse to register a political party if its name is obscene, offensive or excessively long; or if its name is an abbreviation of another political party's name or nearly resembles the name or abbreviation of the name of another political

party registered under this Act. We know the situation today where we have so many parties having similar or nearly similar names. We, therefore, need to sort this out, so that we do not have political parties that confuse the public because of the similarities of their names.

Mr. Deputy Speaker, Sir, it is clearly indicated that a party that has secured provisional registration shall not participate in elections until it attains full registration. And that from the date of provisional registration, a party will have 180 days to put its house in order and acquire full registration.

Some of the conditions for full registration are: The party has to be provisionally registered and obtained, within 180 days, not less than 200 members who are registered voters for the purposes of parliamentary elections in each province. The party must at least have 200 adherents who are registered voters from each of the provinces. This is meant to rule out regional or ethnic-based parties. It must also submit a list of names, addresses and identification particulars of at least one founding member of the party, ordinarily resident in each of the district of this country. Currently, we have 105 districts. This means that a political party, in addition to having 200 members in each of the eight provinces, must have another 105 members from districts. This is not a difficult thing for any serious political party to attain within a period of six months.

Mr. Deputy Speaker, Sir, the party must also submit to the Registrar the exact location of its head office and its registered office within the Capital City of Kenya. Even if the head office is not in Nairobi, the party ought to have a registered office within the capital. It must have a postal address to enable communication. It must also provide exact location and addresses for its district offices, if any. It is therefore, not mandatory that the parties have district offices. However, if it has them, then all those particulars must be with the Registrar.

This Bill proposes to prohibit an alien from being appointed to any office or be a founding member or ordinary or other member of a political party in Kenya. This is in recognition of the fact that we are independent and must control our political destiny without interference from outsiders.

Mr. Deputy Speaker, Sir, the Registrar is then obligated to issue a certificate of full registration to a political party which has fulfilled all these conditions.

Today, political parties registered under the Societies Act are not legal entities. When you want to sue a political party, you have to chase its secretary general, treasurer or the chairman. Section 16 of this Bill proposes that political parties shall have corporate status with perpetual succession. They will be capable of suing and being sued in the corporate name. This is good because it will separate the affairs of the party as corporate entities and that of the officials, as individuals.

Mr. Deputy Speaker Sir, this Bill also proposes that each party give a declaration of its assets and expenditure, including all the contributions, donations and pledges to the Registrar of Societies. This would enhance accountability of political parties. It is also required that this information be published in the gazette by the Registrar of Societies and one daily newspaper having a circulation nationwide. This, again, is to avoid people running political parties as though they are their own personal outfits.

Mr. Deputy Speaker, Sir, we know that in most political parties, members never get to know the financial dealings of their parties. Even when they contribute, not all political parties publish their audited accounts. To enable the members and public to know about the financial dealings of political parties, their audited accounts will be published by the registrar of political parties. This is necessary because, apart from public accountability, this Bill is for the funding and regulation of political parties. Therefore, if there is funding from the Exchequer, there is need to ensure that there is a certain measure of accountability.

Mr. Deputy Speaker, Sir, there are penalties for failing to comply or giving false information in this respect. The penalties are directly to the officers concerned and the party. The

penalties include a party losing its status as a political party and a body corporate if it fails to comply with the provisions.

Mr. Deputy Speaker, Sir, we know that although we have 80 registered political parties, some of them have been on the shelves for the last ten or more years.

Mr. Deputy Speaker, Sir, this Bill, therefore proposes that a fully registered political party, will lose its status as a political party and as a body corporate if it has not participated in a parliamentary election or a local government election with electoral proposals of its own for a period of six years. This means that, if a party fails to participate in a general election for two consecutive elections, then it will lose its status as a political party. This will discourage briefcase political parties and also those parties meant to be cash-cows which can be sold to those who can find that they are out of favour with their political parties.

It is also a requirement of this Bill that when a registered party intends to change its constitution, rules or regulations, title, name or address of any person or office, its name, emblem, slogan or colour, it shall notify the registrar of its intentions and the Registrar, shall within 14 days publish that in the Kenya Gazette and in one daily newspaper having a nation-wide circulation. This is to notify their members. In the past and even in the present, we have known political parties changing their constitution, the office bearers and sometimes putting in office members of the same family without the knowledge of the members of the political party. As a result, most political parties are in court due to wrangles. It is, therefore, necessary that members of a political party be aware of any move that is being made. Once that is published in the newspaper and in the Kenya Gazette, everybody who may be aggrieved or in support of the move will be put on notice. This will enhance, not only internal democracy of parties but also accountability of the leadership of the parties to their members.

Mr. Deputy Speaker, Sir, I have already said that for non-compliance with the provisions of the Act, the Registrar has wide powers, including for very serious breaching, to de-register that political party. In case that happens, then there can be an appeal against the decision of the Registrar to the High Court, which decision is final.

Mr. Deputy Speaker, Sir, Part IV of this Bill provides for funding and accounts of political parties. It establishes a fund to be known as the Political Parties Fund, which shall be administered by the Registrar. The sources of the Fund are: Such funds as may be provided by the Minister for Finance in the annual estimates, so that the first source of funds for political parties will be the Exchequer. Secondly, contributions and donations to the Fund from any other source. This means that any foreign government entity or non-governmental institution that wishes to contribute to political parties, can do so through the Fund. This Fund will be administered by the Registrar. The monies in the Fund which are not immediately required for payment to political parties, shall be invested in such securities as may be approved by Treasury. It means that once money from the Consolidated Fund goes to the Political Parties Fund, it will not return to the Exchequer again but remain part of that Fund, but can be invested for the benefit of political parties.

The purposes of that Fund is proposed to allocate such monies to the registered political parties and which must be used by those political parties for purposes compatible with democracy. This includes, promoting active participation by individual citizens in political life, covering the election expenses of the political parties and the broadcasting of the policies of the party, ensuring continuous vital links between the people and organs of State. I would imagine that includes helping people to put their Government to account. Further, the purposes include the organization by the political party of civic education in democracy and other electoral process, bringing the parties' influence to bear in the shaping of public opinion and not more than 10 per cent of this money shall be used for the administrative expenses of the party.

Mr. Deputy Speaker, Sir, the monies allocated to political parties by the Fund shall not be

used for the following purposes: It cannot be used for paying directly or indirectly remuneration fees or rewards or any other benefits to a member or a supporter of the political party. In other words, such funds should not be used to buy membership or to bribe people to become members. It cannot also be used to finance or as a contribution to any matter or cause, directly or indirectly which contravenes any code of ethics binding on public officers. This again raises the bar on accountability. It can also not be used whether directly or indirectly for the purposes of establishing any business or acquiring or maintaining a financial interest whatsoever in any business or removable property, except for purposes of acquiring unmovable property to be used by the party, solely for the ordinary political party purposes. Therefore, the Fund could be used to buy premises for the party but not to help the party join business ventures. It can also not be used for any purpose incompatible with the promotion of multi-party democracy and the electoral processes.

Mr. Deputy Speaker, Sir, a formula is suggested here of distributing this money to the political parties. In the first instance, 25 per cent shall be distributed equally among political parties. What does that mean? Today we have 80 political parties and they are going to be, may be, 100 by the time we finish debating this Bill because there are people who are anticipating that this is a way of drawing cash from the Consolidated Fund or from the public. But remember that there are stringent conditions for a party to acquire full registration. It means that this Bill will help to identify serious parties and briefcase parties. It means that serious parties, which I believe will not be anywhere near 80; all those parties will, in the first instance, share out equally the first 25 per cent of the monies in the Political Parties Fund. The rest of the money, 75 per cent, shall be distributed proportionately by reference to the number of votes secured by each of the political parties at the previous parliamentary elections.

This is what we do when we are distributing the slots for the nominated Members or even the Members of the East African Legislative Assembly. We always refer to the number of votes a party acquired at the last general election. This is something that we are already doing in another area and it is a good proposal. This is what is also happening to funding of political parties in other countries like Germany where it is even more stringent. They provide that a party that has not garnered 5 per cent of the votes should not get State funding. But in Kenya, the proposals are more generous; 25 per cent equally to all fully registered political parties and, then thereafter, the threshold to be the number of votes each party garnered in the last general elections.

To those who have been forming parties, hoping to only cash in with the Political Parties Bill, then you know that the funding will have stringent conditions. I believe that it is the duty of Parliament to safeguard public funds.

Mr. Deputy Speaker, Sir, the Bill also states, in proposed Clause 24 that the sources of other funds of political parties will be membership fees, that is, each party should be funded by its members, voluntary contributions, donations, bequests, grants from any other source but not being a foreign government or inter-government or Non-Governmental Organization (NGOs). Therefore, foreign governments, inter-governmental organizations and NGOs are prohibited from directly funding political parties. If they wish to fund political parties in Kenya, let them channel the money directly to the Political Parties Fund.

The other authorised fund is the proceeds of any investments, projects or undertaking in which the political party has an interest. Let us assume that a party has buses or some housing estate. Then, it can draw the earnings from its businesses as a source of its funds.

Mr. Deputy Speaker, Sir, I want to state here why it is so important to safeguard our sovereignty, and we do not allow political interference by outside entities. In the last three years, in a country that used to belong to the Eastern European bloc, there occurred what was called the "Orange Revolution". It was sponsored by an NGO from the West. Since the Orange Revolution, that country has not been the same again. Everything has gone upside down. Right now, the

country is in turmoil. There was even chemical poisoning of a presidential candidate in that country. Its people appeared to settle, but two years down the line, they are in turmoil, all because of the Orange Revolution funded by an NGO supported by Western governments. It is, therefore, important that political direction in any country be home-grown and not foreign-sponsored. That is why it is important that we safeguard our political parties from being influenced through funding.

A political party will be obligated to disclose to the Registrar the full particulars of all funds, or other resources, obtained by it from any source. This is, again, to enhance accountability. It is also indicated that no individual should donate to their party an amount exceeding Kshs1 million, with a proviso that on request, the Registrar can allow a person to contribute an amount exceeding the Kshs1 million. This threshold is not made a requirement to parties that have been in existence for less than one year, because within the first year, a party can be funded without the limit being applied. I think this is a consideration this House has to accept. If we are going to have funding from the taxpayer, do we also want direct funding from individuals which make them almost the owners of the political parties? If person X fully funds a political party, then that political party becomes kind of their private property, and they may deny other members full participation. This the mischief we want to safeguard against, and it is up to this House to consider and see how to strengthen these particular proposals, so that we can have orderly political parties.

Mr. Deputy Speaker, Sir, a political party will also be obligated to make declaration of assets, liabilities, and also expenditure in relations to election. This will be within 40 days after an election. That party will have declared before the election its assets and liabilities. Then, within 40 days after the election, it will submit a detailed statement indicating all the expenditure incurred in respect of each of the candidates supported by that party. This may appear onerous, especially now that we are going to a general election, and parties may be fielding candidates in every constituency and ward. But remembering that each party will keep a record of what it has given to whom, it will be a question of collating the returns and then handing them over to the Registrar of Political Parties.

Mr. Deputy Speaker, Sir, there are other provisions relating to the duty of the political party to, on request from the Registrar, avail their records for inspection, for matters that are allowed within the law, and also to allow the Registrar to make extracts of those records.

A duty is imposed on political parties intending to hold public meetings to comply with the provisions of existing law. It means that a political party will have to train its members to conduct themselves in relation to a matter within the law. Currently, when there is violence by members of a political party, we all disown the violence and blame it on our supporters. We will now be required to ensure that the supporters of each party operate within the law. This may be the way forward in eradicating electoral violence. Let us convince the electorate, and let us not use violence to intimidate our opponents, whether within our parties or outside them.

Mr. Deputy Speaker, Sir, the Electoral Commission of Kenya, which will house the Registrar of Political Parties, and which will also be distributing the Political Parties Fund, will be empowered by Clause 36 to make regulations for purposes of giving effect to the provisions of this Act. In particular, it will be able to make regulations prescribing the manner of registration of political parties, restricting the change of name, prescribing what forms may be used, securing the submission of accounts to the Registrar, prescribing the fees payable and all other matters connected with the registration and regulation of political parties.

Mr. Deputy Speaker, Sir, in Part VI, this Bill has transitional provisions. This is very important. What will happen to political parties already registered that do not attain the threshold of the requirements prescribed by this proposed Act? All of them will immediately acquire provisional registration, so that within 180 days from the date of the commencement of the Act, they will also have to comply with the new law. Bearing in mind the time we are debating this Bill,

it may be necessary to consider what will be practical within this year, being an election year. It will also be necessary for us to look at what is missing in the transitional provisions, so that we are able to save our status in this Parliament. I believe that the provisions requiring hon. Members to strictly belong to one party may not be properly applied to this Parliament, which is in its exit stage. We will require to look at that and make a saving provision, so that we do not dissolve ourselves before the election time comes.

Mr. Deputy Speaker, Sir, I indicated earlier that there are certain things which will now become mandatory in the constitutions of all political parties. These are to be found in the Schedules. Apart from the name, the registered office, the eligibility for membership, there should also be a provision for admission and resignation of members. The rights and duties of members must also be clearly spelt out. Disciplinary measures, methods and procedures must be indicated. The general organisation, the district organisations, the issue of branches and the powers of the various organs of the party must also be included. The titles and terms of office bearers and their method of election, appointment, dismissal and suspension must also be clear. There must also be the authority and the method of filling vacancies in the committees.

Mr. Deputy Speaker, Sir, in other words, there are certain key requirements, so that a party is seen as observing democratic principles. Those are what are spelled out here. Also, there is the requirement for transparency and accountability to its members. There must also be the annual or periodic audit of the accounts, *et cetera*. That will ensure that parties, whose constitutions do not include that basic requirement, including democratic practices that cover gender, nomination and human rights, do not merit registration.

It is remembered that we, the women folk of this country, have complained for a long time that we do, at times, suffer discrimination from the parties. Since the Constitution outlaws discrimination, it is important that the constitutions of parties protect the vulnerable from being marginalised by their political parties.

Mr. Deputy Speaker, Sir, in conclusion, I would like to repeat in part what is contained in the Memorandum of Objects and Reasons. It reads:-

"This Bill seeks to provide a framework for the registration, regulation and funding of political parties."

Instead of the current situation where political parties are registered by the Registrar of Societies, upon its enactment, all political parties will be registered and regulated under this Bill. That will be a departure from the current situation. It will help us to nurture the growth of democracy. Mr. Deputy Speaker, Sir, may I, again, reiterate that the journey towards this Bill began in 1999, when hon. Members from various political parties got together and, with the help of the Civil Society, started formulating a Bill for the funding of political parties. A Bill for funding of political parties was published in 2002. But it was never debated. This is the same Bill which, in 2003, a similar journey begun with stakeholders to discuss the drafting of a Bill that did not only cover funding, but covered registration and regulation. In other words, I am affirming that this is a product of consultation. I also want to say that when I convened the multi-sectoral forum in August last year, the forum looked through the Political Parties Bill and endorsed it as it was. They also suggested certain slight amendments which have not been incorporated. They can now be discussed and incorporated during the Committee Stage of this Bill. This process, therefore, calls for bi-partisan support for its strengthening. That is the role of Parliament. We should bear in mind the objectives of the Bill, so that we may begin to have order in the political sector, which is also order in the area of governance.

Mr. Deputy Speaker, Sir, I beg to move and request the Leader of the Official Opposition to second this Bill.

(Applause)

[Mr. Deputy Speaker left the Chair]

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

Mr. Kenyatta: Thank you, Mr. Temporary Deputy Speaker, Sir. I rise to second the Political Parties Bill, as introduced and moved by the Minister for Justice and Constitutional Affairs. This Bill is long over due. As we are all aware, Kenya returned to multi-party democracy in 1992, with the removal of Section 2A of the Constitution. Since then, we have yet to come up with a clearly defined law on how political parties relate within each other, with one another and, ultimately, with the nation as a whole.

Mr. Temporary Deputy Speaker, Sir, as a result of having no clear law, there has also been a lot of confusion in the way we have operated in this House. It has never been clear what rules bind or govern us. One of the main reasons for the clamour for a return to multi-party democracy was lack of internal democracy within the, then, political party, KANU. However, when we eventually opened up, and multi-party became a fact, we did not really look into how to regulate parties and find a way of how to relate to each other. I say that because what ended up happening was a sudden explosion of political parties. There was the registration of a huge number of political parties. That was largely a gimmick by the then State to create further division and confusion. A tradition of parties belonging to individuals as opposed to members also started developing. People began to seek more outlets.

So, Mr. Temporary Deputy Speaker, Sir, I stand to second this Bill which I believe can only enhance and entrench democracy in our country and create greater stability within the political body of our nation. There are a number of issues that some of us have seen. They have been taken into account in this Bill.

First and foremost, there is the issue of registration of parties and the role of the Registrar of Societies in overseeing matters pertaining to political parties. You are aware that, over the last few years, we, in KANU, have been having ongoing clashes with the Registrar of Societies with regard to the manner in which they have acted and operated in matters regarding our own political party. Therefore, when we say that we want the Registrar of Societies to be an independent body under the umbrella of the Electoral Commission of Kenya (ECK), I believe that is a positive move. But a move can only be positive so long as we guarantee the independence of the Registrar of Societies, even within that body.

Mr. Temporary Deputy Speaker, Sir, I do hope that when it comes to the Committee Stage, we will look into the issue of how that Registrar will be appointed. We should not leave it again without a clear definition. It is, indeed, my hope that just as we vet those appointed to the Kenya Anti-Corruption Commission (KACC), the names of those who will be appointed, will also be vetted by this very House. I believe that is one sure way of ensuring that we have a Registrar who can truly be independent and able, in a bipartisan way, to arbitrate over all political parties.

Mr. Temporary Deputy Speaker, Sir, another issue that has been taken into account is the issue of creating a sense of discipline within political parties. Once again, the Ninth Parliament, in particular, will go down in the records of history as being the most confused Parliament since Independence. I say so, because the Chair itself, when asked to rule on this particular issue of Floor crossing, who sits where and who belongs where, you admitted before this House that what you were observing was a destruction of political parties and a return to a mass party situation.

Mr. Temporary Deputy Speaker, Sir, it is, indeed, about time we were clear as to how we

relate to one another as political entities. It is about time that Members of Parliament became loyal to the electorate on the platform on which they were elected. It is also, indeed, about time that Members of Parliament or councils who choose to change their platform were made to account, first and foremost, to the electorate who elected them on a different political platform.

(Applause)

Mr. Temporary Deputy Speaker, Sir, the Chair is, indeed, aware that I have, on several occasions, asked for its ruling and guidance on many hon. Members from my political party who have crossed the Floor and, indeed, been appointed Ministers in a Government that is formed by a party other than that which gave them mandate in the last general election. The Chair consistently said that it can do nothing until it receive their letters of resignation. How much clearer do we want an issue of defection and Floor crossing to be than when a Member of Parliament elected on one ticket that is in the Opposition stands at the Box on your right and answers Questions on behalf of a Government of a party that he was not elected under?

So, the fact that we are actually clarifying and defining is what Floor crossing and resignation from a party means. Adding to the fact that it is not just merely the question of writing to the Chair, but also the actions, words that are spoken by that individual can determine or be used to determine whether that particular individual has actually moved from one party and belongs to another. However, I would like to see greater clarity on this Bill as to what action is taken on somebody who has actually crossed the Floor. I believe we must expressly specify that a person who belongs to one party, but who resigns or crosses and joins or articulates the policy of another party, and thereby being deemed to have resigned from his party, if he or she is a Member of Parliament or a member of a council, that resignation should be followed by his or her resignation as a Member of Parliament and as a councillor in order to seek a fresh mandate on his or her new party.

Mr. Temporary Deputy Speaker, Sir, I also believe the issue of political party funding is long overdue. Corruption has been a vice that has ailed this country for a long time. A number of the biggest scandals that this country has seen have, in one way or another, been associated with political party activity, electioneering and campaigning. There is need to find resources to finance political activity.

Mr. Temporary Deputy Speaker, Sir, we have also seen the inability of parties to go beyond personalities and to be more issue-based. Why? Once again, this is because political parties have been seen again as fiefdoms of those who have the resources to keep political parties and programmes afloat. By saying that the state will take on the responsibility of funding of political parties, this needs greater transparency in the way in which political parties manage their affairs and finances. It means an opening up of different shades of political opinion and activity from those that were previously excluded because they could not finance their political activities. Ultimately, I believe it will result in a greater say by those who previously have been muzzled as a result of lack of financing. I believe that with state funding of political parties, the issue of personality cults can stand to disappear. We can, indeed, see the beginning and blossoming of issue-based politics.

Mr. Temporary Deputy Speaker, Sir, there is one issue that I believe needs to be given greater attention in this particular Bill. As we all know, the 2002 General Election was won by a coalition of parties. We all saw them as they held hands and signed a document called Memorandum of Understanding (MOU). However, today, we have forgotten that it was a coalition that won and now say that it is an individual party that is in power. We have seen the kind of confusion once again that particular situation has brought to this House. I believe that within this

law, we need to elaborate and strengthen or at least have a law that allows and governs coalitions, so that when two political parties that have similar interests, ideals and objectives get together and decide to pool their resources, there is a law that allows for that kind of operation to exist. A law that will then govern both prior to an election and post an election, the relationship between those two, three or four political entities.

Mr. Temporary Deputy Speaker, Sir, one of the things that have killed or threatened to destroy the very fabric of our nation, is ethnicity, and the issue of ethnic-based politics in our country. I am, indeed, happy to see that, that issue has been dealt with, in quite some detail, in this particular Bill. We need to begin to address ourselves as Kenyans. The voice of the people is normally expressed by the politicians. It is my belief that Kenyans, themselves, are not necessarily tribal. But rather, it is the political leadership in the land that uses ethnicity to advance personal agenda. Consequently, the time has come for us to silence those voices that seek to divide and have one Kenyan fight against the other, for personal objectives and thus, retard our ability to work together as a united people.

Mr. Temporary Deputy Speaker, Sir, that said and done, I also believe that we need to make room for and accommodate special interests. There are individuals or communities that have specific interests, that they may feel are not necessarily best articulated by a national party. Therefore, we need to accommodate some of these voices, in order to ensure that nobody is locked out of national debates or politics. I believe by so doing, that too, will force national parties to begin to take more seriously specific regional inequalities that have continued to persist in our country since Independence. There is no need for sections of our nation to consistently feel neglected or left out, simply because their voice is not necessarily that loud.

As I argued when making my comments on the President's Speech, it is that kind of mentality that sees some regions of our country neglected and makes them be seen as basket cases; for example, North Eastern Province and upper Eastern Province. They are seen as a burden or areas which require aid and yet, we have countries like Botswana which have lesser livestock than some of those regions. The export proceeds in Botswana are basically equivalent to those that we receive from the sale of Tea. Those people need to have a voice. If their voice will not be accommodated in national parties, then they must have a way of expressing their views and feelings, in order to ensure that nobody is left marginalised, because that, again, is reversed discrimination by the majority against the minority.

Mr. Temporary Deputy Speaker, Sir, as I conclude, we need to look at the Political Parties Bill not in isolation, but as part and parcel of the overall need for Constitutional reforms in our country. As long as we cannot guarantee the independence of the Electoral Commission of Kenya (ECK), even if we move the Registrar of Societies to the ECK, we will have done nothing. We need, as we have been advocating and pushing for essential reforms, to ensure that we have an independent Electoral Commission, with independent Commissioners. We need an Electoral Commission that has teeth to act independently from the Executive. These reforms plus many others, will all go a long way to ensuring that the hard-earned gains of democracy in this country are not lost.

As the Minister has urged, I hope that we shall move together, as a House, in passing this Bill. I call upon hon. Members, especially during the Committee Stage, to critically look at every Section with a view of strengthening this Bill, so as to ensure that the democratic gains that have been made are not lost. In the same spirit, the President recently took the initiative to bring about dialogue on the need for essential constitutional reforms. I do hope that the same bi-partisan spirit, that the Minister has called for, will be seen in our Constitutional debate that we have currently started under the chairmanship of the Vice-President and Minister for Home Affairs.

Mr. Temporary Deputy Speaker, Sir, I beg to second this Bill and call upon all hon.

Members to support it, with that bi-partisan spirit that the Minister has called for.

(Applause)

(Question proposed)

Prof. Maathai: Thank you very much, Mr. Temporary Deputy Speaker, Sir, for giving me an opportunity to contribute to this Bill. I want to begin by thanking the Minister and congratulating her for bringing this Bill to the House. As the Minister said, this Bill is, indeed, a Bill which many of us have been waiting to see brought in this House. We have been waiting to see a situation where there is a legal mechanism that will support a multi-party system in our country.

Mr. Temporary Deputy Speaker, Sir, we all remember that, when we became Independent in 1963, we started as a multi-party democracy. But, somehow, we lost our way and we eventually became a one-party system and, indeed, a dictatorial system that so many of us fought for so many years to overcome. We should, therefore, congratulate ourselves for having come this far and being able to discuss this Bill and embrace competitive politics in our country. We want to thank the Minister for embracing many of the contributions that have been made in the course of the involvement of this Bill, and also embracing many of the concerns which have been raised, especially the ones contributed by the civil society in the course of the many discussions and eventual breaking down of the one party system that we used to have.

Mr. Temporary Deputy Speaker, Sir, good governance is good for all of us. Indeed, as we cultivate a culture of good governance in our country through this Bill, it will be good for every Kenyan and for all of us if we embrace good governance, democracy, responsibility, accountability and all the other values that we talk about here and which have been mentioned by the Minister and, indeed, by the Leader of the Official Opposition. These are very important values if we are, indeed, serious about multi-party democracy.

Mr. Temporary Deputy Speaker, Sir, having many political parties is not equal to having democracy. Democracy does not necessarily mean that we ought to have development. Whether we have a one party system or a multi-party system, it is very important for us to know that, much more important, are the responsibilities that leaders embrace. So, we should conduct ourselves within the rules of the game. Therefore, what we approve or embrace in this Bill is what we shall practise when we go to the field.

Mr. Temporary Deputy Speaker, Sir, as the Leader of the Official Opposition has said earlier, there has been a lot of frustration, both in the course of developing and practising competitive multi-party politics in the House. But at the same time, we did not have the rules and regulations to control the politics within that multi-party politics. So, many of us are extremely happy and would like to encourage the Minister to continue bringing in the nitty-gritties that will ensure that we, indeed, have multi-party politics that will ensure that both the Government and the Opposition are nurtured. Unless we nurture the Opposition, it is very easy to eventually disintegrate or go back to the one party system that we used to have before. We cannot have a strong democracy if we do not have an opposition. We must have an Opposition that will hold the Government to accountability.

(Applause)

We all know that if power is not curtailed or contained, it can be misused. It is, therefore, our responsibility and in our interest as leaders, especially as hon. Members of Parliament, to ensure that we are Members of a House that ensures that we embrace responsible governance and

those in power are checked by the Opposition. Indeed, the culture that we ought to be cultivating should be such that even within the political parties, dissention is allowed. It is not as if you become a puppet when you become an hon. Member of a political party or even a Member of the Government.

(Applause)

You should be able to have a voice of dissent when you feel that the right thing has not been done. None of us has the absolute wisdom and, therefore, it is important for us to be willing to listen, because even within our own parties, Government or the Opposition, there can be dissention, and that should be allowed.

Mr. Temporary Deputy Speaker, Sir, as it has already been said, especially by the Leader of the Official Opposition, in this country, we are still working towards political parties that have ideologies. Although we call our political parties names that suggest philosophies, ideologies or values, we all know that those are just names. Quite often, those names are not reflected by the activities, philosophies, actions or practices of the members of those political parties. But it is very important for us to have political parties that pursue ideologies, philosophies or values, because that is the only way in which we can break down the current policy of political personalities or personality cults. Much of what we call "political parties" in our country are still parties that are designed or defined by the person who is the leader of that party. If the leader of that party believes in tribalism, we all practise tribalism; if the leader of that party believes in democracy, we will all practise that democracy. We need to move away from personality cults and ethnicity politics and move towards politics that is directed and inspired by values, philosophies and ideologies. That would indicate political maturity that, definitely, we can only hope for. But at the moment, that is not what is guiding us. That, definitely, is what we ought to aim at. If we have a strong Bill, this culture can be cultivated so that, in the future, it will not be strange for a person from any part of the country to follow a leader, not because of the region from where they come, but rather because of the philosophy, values, ideals and principles which that person represents. That will, definitely, have helped us overcome ethnicity and personality cult politics that we now find dominant in our country.

Mr. Temporary Deputy Speaker, Sir, I want to commend the Minister for introducing the core issue of funding political parties. The inability of political parties to fund their activities and the fact that the majority of people who support political parties at the grassroots levels are poor has largely contributed to the fact that, it is only those who have money and those who can support parties who eventually define what those political parties will be, who will be supported by that political party and even who will become a candidate in that political party. So, finding money from the Consolidated Fund to support political parties is extremely important. It is a milestone in the development of our political system because it will, definitely mean that those people with ideas and philosophies can articulate them without being held hostage by the people who have money.

Mr. Temporary Deputy Speaker, Sir, I also want to support the Minister on the issue of proportionality. Obviously, we must support parties that seem to receive support from the members of the public. Those parties that have the appeal and the support of the people deserve to be supported adequately, so that people can feel that their money is being put into the political forum which they support.

The Bill ought to also provide for nurturing of political parties. I heard the Minister suggest that there will be a deliberate effort to nurture political parties. We should not make it virtually impossible for anybody or group to try to articulate their values through our political systems

simply because they cannot reach the threshold that has been set. To say a certain number of votes are necessary before a political party can receive funds is adequate, so that you do not have people registering political parties just because they want to draw resources from the Fund.

Indeed, we ought to nurture political parties and encourage as many political parties as people are willing to form. Eventually, in a truly competitive democratic system, very few political parties will eventually emerge and thrive and survive. Eventually, the situation will sort itself out, so that the majority of Kenyans will show which parties they support.

Mr. Temporary Deputy Speaker, Sir, I also want to support the Minister on the issue of gender. Indeed, for a long time since we were at Bomas and even in this House, we have been trying to emphasise the need for affirmative action for women, in order to allow 50 per cent plus representation of women in this House. It has been extremely difficult because we have not been able to overcome the gender discrimination and the triviality with which even the general public opinion holds women.

We really need to ensure that political parties are required to express support for women. Even the distribution of resources from the Consolidated Fund should accommodate parties that are going to give special consideration to women. Parties that will embrace a policy that supports women should be supported by the Government, so that we deliberately and consciously support women. Otherwise, women will continue to be discriminated by political parties.

Mr. Temporary Deputy Speaker, Sir, when we were in Bomas, we tried to encourage the mixed proportion. We asked why political parties cannot have lists of candidates starting for example, with a man, but the second or the third person, can be a woman. If we had a list like that, then we would be sure that women would have a much greater opportunity to be elected as hon. Members of Parliament. Also, if we had that kind of an arrangement, it would be much easier for women to campaign for parties that support them. Having said that, I also want to encourage women to embrace competitive politics. If we do not try as much as possible to compete at the same platform with men, and we over-emphasise the need for us to be nominated or get extra seats, we could easily reduce the importance that is attached to female hon. Members.

Mr. Temporary Deputy Speaker, Sir, quoting some of our neighbouring countries that have been experimenting with some of these affirmative actions may not be a very good thing. These experiments have not been tried. Let us be creative here in Kenya and introduce our own initiatives that will support women, end discrimination and encourage political parties to support women. Women will definitely support political parties that are willing to support them.

I want to emphasise the need for merit. As we get into competitive politics, it is also very important to encourage merit in our politics. Sometimes we forget merit and settle on mediocrity. We do ourselves a lot of harm when we do not recognise talent and quality. In the final analysis, it is that talent that is going to make the difference in the development of our country. I hope that political parties will encourage merit. I am quite sure if they were to look at merit, many women would be in a better position, not only to be elected, but also to serve in positions of power. We do not always have to feel that as women, we have to be specially considered as if we are not as qualified as men. Quite often, women are more qualified, but they are side-lined for reasons that we all know.

Mr. Temporary Deputy Speaker, Sir, finally, it is extremely important for us as leaders, especially, in political parties, to guard against misuse of power and receding back to the times when democracy was perceived as not being an important issue here. I know that some people can quote many countries which are not necessarily as democratic as we are or which are not in competitive politics, but are doing very well in form of development. That is why I said that multi-party politics does not necessarily mean democracy or development. But since we have made a choice of having a multi-party political system, then it is for us to work very hard to make this

system work for us. We should make this system the best system for our country. We do not have to follow anybody. We can be creative and that is exactly what this Bill is doing. We should create a political system in our country that works for us.

I have been repeating this message often, but I do not think I can repeat it too often; good governance is the foundation of many other issues. We should practise good governance as we know, believe and understand it and get committed. We should put ourselves in the position of others. For example, those of us who are in the Government today, if we put ourselves in the position which we were in, in the last Parliament when we were in the Opposition, we can appreciate why it is very important to practise good governance. In many ways, the NARC Government has demonstrated that good governance is good for everybody. If you go to the country-side, you will hear a lot of people saying that for the first time, they are seeing what the Government is doing. This is mainly because of the CDF. The CDF was created here by the hon. Members. We were trying to practise good governance by making sure that resources are reaching the people at the grassroots level. It is very important for us to practise good governance.

Mr. Temporary Deputy Speaker, Sir, good governance demands that we promote equitable distribution of resources. Equitable distribution of resources in the country is essential if we want to enjoy peace. We will never have peace, whether in the form of safe streets and homes or riding in safe *matatus*. We will only have peace if we continue to practise good governance and, consciously, promote equitable distribution of resources. I am sorry to say that Kenya is one of the most unequal countries in the world. Therefore, we should not be surprised that we are also riddled with a lot of conflict in the streets as well as between communities, and sometimes even within communities. So, we need to work very hard, as a Government, people and leaders, and continue to, consciously, promote equitable distribution of resources.

Mr. Temporary Deputy Speaker, Sir, as political parties and leaders, we also need to protect resources. In particular, we must protect our natural resources. This country is very specially endowed with very special natural resources such as wildlife, forests and mountains. There are very few countries in the world which are as endowed with natural resources as Kenya. It is our responsibility, as leaders practising politics, to ensure that these resources are used for the benefit of our people and protected for the benefit of future generations.

With those remarks, I support and commend the Minister.

Mr. Kajwang: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me the opportunity to contribute to the debate on this very important Bill. We have actually been putting a lot of pressure on the previous and present Governments to bring this Bill to this House, because the amendment that was made to the Constitution in 1992 was very simple and fundamental. Section 1A of the Constitution says this country shall be governed under a multi-party democracy. That Section so provides, but nothing else was done to make sure that the multi-party democracy that was planted in the Constitution came to fruition.

Since then, we have been behaving, in this country, as if political parties are clubs, which you can join, run away from, join another, merge and, later on, do whatever you like with them, so long as they can bring you to Parliament. So, the manner in which political parties have been managed, and treated, does not give due consideration to the fact that the foundation of the political dispensation in this country is a multi-party democracy. If you want to practise democracy then you must make sure that you give the political parties the respect they deserve, being mindful of the reasons as to why they were created, and protecting them against disintegration and, sometimes, against hostile take-overs.

Mr. Temporary Deputy Speaker, Sir, I want to start with where we should have started. The reason as to why we wanted a Political Parties Bill was to provide for the registration of political parties, as well as for their management, by a body that is not controlled by Government - but

which is independent of Government - because a Government is also formed by a political party or a coalition of political parties. So, if that Government is in charge of the administration of political parties, then the other political parties that are in competition with the governing party are disadvantaged.

(Loud consultations)

The Temporary Deputy Speaker (Mr. Poghiso): Order! Order! Could the hon. Member behind Mr. Kajwang listen?

Mr. Kajwang: Thank you, Mr. Temporary Deputy Speaker, Sir. That was the chairman of a splinter group of KANU. The hon. Member should listen very carefully, because we are talking about political parties, and there is trouble in KANU. So, this is very important for this country. KANU is the party that earned this country Independence. When there is trouble in KANU, there is trouble in all parties. There is trouble in NARC, FORD and in other parties. That is why we need the Political Parties Bill. So, I want to urge Mr. Biwott to listen very carefully.

I started by saying that a political party must be independent. Secondly, the person who will be the custodian of the political parties must, himself, or whatever institution, be independent. Kenyans have been toying with the idea of where to domicile the political parties. We looked at the Registrar of Societies. We found that the societies registered by that office include churches, fishermen groups, clubs and many others. We thought that political parties are so important to this country that we need an institution that will register and manage them. So, we thought of the idea of creating an office of the registrar of political parties, but look at Clause 3(1) of this Bill. It says as follows:-

"There shall be an office of the Registrar of Political Parties, which shall be an office within the Commission, and shall have operational autonomy."

Mr. Temporary Deputy Speaker, Sir, even the wording of this clause alone shows that it does not sit properly. This Bill will soon become an Act of Parliament, and will go to court for interpretation, in case of trouble. What is this thing called "operational autonomy"? Why should the office of the Registrar of Political Parties "sit" within the Commission? The definition is very complicated. Where, within the Commission, will it "sit"? What will be the role of the Commission over political parties? Will the Office of the Registrar of Political Parties be part of the Commission, or will it be an office "sitting" within the Commission's premises? Will it be subordinate to the Commission? Will it be an arm of the Commission? Will it be an organ of the Commission? What will it be within the Commission?

You know, law is very important. When we make it, we have to be very serious. We should, for instance, decide that our political parties are going to be registered and managed by the Electoral Commission of Kenya (ECK), in which case we should provide, in this Bill, specific powers to be exercised by the ECK, including the power to make rules and regulations pertaining to the conduct of political parties, as well as provide for an officer, within the ECK, who will actualise some of these functions. That would be fine. If that were the case, we would not even have to provide for the creation of the Office of the Registrar of Political Parties in the Bill. So long as we provide that political parties will be registered by the ECK, the ECK itself can create the office of a registrar or a manager, or whatever the ECK will want to call that office to discharge that function.

Mr. Temporary Deputy Speaker, Sir, you can, therefore, see the half-heartedness in this clause. Somebody is pretending that we are creating an independent body, but we are also putting it in the ECK, and there is no clear-cut definition as to how that body will relate to the ECK. There is something called "operational autonomy", which is very clouded. That is very "big" English, but I

do not know what it means. I have been a teacher of English, but I do not know the meaning of "operational autonomy", which is not any other autonomy. So, if the proposed Office of the Registrar of Political Parties will be autonomous of the Commission, then why should it "sit" at the Commission? The Commission itself is autonomous, because we have created it in the Constitution. It is independent. So, why create another office, which is supposed to be autonomous, within an autonomous institution?

(Applause)

When you look at this Bill, you will see that the person who was writing this had an agenda. An officer who is still answerable to the Government pretends that he is at the Commission. So, when there is a conflict between the Registrar and the Commission, the Government will decide who has the power to make that decision. Let me ask you: If the Registrar was to decide that a party will be de-registered, as it is provided later--- I will point that out. If the Registrar was to decide that a party will be de-registered because it is promoting ethnicity or linguistic--- I will come to that. Does the Commission have the powers to tell the Registrar that he or she is not supposed to de-register it? That is the question. If the Registrar was to decide that he/she is going to punish a political party for engaging in electoral violence by de-registering or fining it, what will be the powers of the Commission? Assuming that the Commission decided that a party participated in an election offence, like the one which used a Government helicopter to campaign--- If the Commission says: "This party has committed an election offence and we are going to punish it" Then, the Registrar refuses. What will happen? We have to be clear when we are making a law. We have to be very honest with the National Assembly. We were elected here to be very serious with some of these things! If you are going to give those powers to the Commission, give it to the Commission. If you are going to create an autonomous Registrar, then let us create an autonomous Registrar. We should then define his powers and give them to him. But do not confuse us with big English words like "operational autonomy".

Mr. Temporary Deputy Speaker, Sir, if I may move on, I can show you that this Bill needs to go back to the Departmental Committee on Administration of Justice and Legal Affairs, so that they can look at these things. Those are people who are competent. We have very good lawyers there. Many others can attend their sessions and give their views. They will tell you that this definition is the beginning of trouble for political parties. Instead of giving us joy that we are now getting a new thing and we are going to have political parties that are operational, we are beginning with a problem.

Secondly, Clause 4 says that the Registrar shall keep and maintain the register containing the list of registered political parties. So, who is going to keep and maintain? This Bill is giving the powers to the Registrar. But this Bills also says that the Registrar shall be within the Commission. So, from the word go, throughout this Bill, there is a conflict between two independent and autonomous institutions. It must be solved quickly before we even decide to vote on this.

On Article 6, there is also the prohibition of ethnic and religious parties. It is good to say these things; that a party is ethnic or a party is religious. But what is an ethnic party? Does it mean that if one party has Mr. Otieno Kajwang, Prof. Olweny, Mr. Weya and Archbishop Ondiek, it is an ethnic political party? What is the meaning of this thing called "ethnic political party"? You know, we cannot just make laws just because people are shy of talking about these things. You cannot intimidate us to pass a law which, tomorrow, somebody will go to court and nobody will define what an ethnic party is. What is this party called "ethnic party"? We must say clearly that if one of the objects of a party is to promote Kikuyu hegemony, that is now "an ethnic party". If it is Luo supremacy, then you say: "No! No! This is now a political party." If it is christian fundamentalism,

you say: "This one is now a political party." But merely because the members are Otieno Kajwang, Ondiek, Weya and Olweny does not make it an ethnic party. Unless I did not learn English. But you see, the meaning of an ethnic party cannot be equated with the names of people who are members of the party.

Mr. Temporary Deputy Speaker, Sir, what is this thing called "the age"? That is a party that is founded on age. If members of a party are 50 years and above, is it founded on age? If they are 18 up to 35 years old, is it founded on age? Unless the party itself says: "One of the objects of this party is that it will be for the youth between 18 and 35." That is now a different matter. But we do not just ban these things. I have seen some very "big" English there. If you look at Clause 16(1)(a), it reads: "If founded on corporatist!" I do not know what that means. There is something even in Clause 6(1)(a), which reads: "It is founded on ethnic, professional, religious basis or which seeks to engage in propaganda!" I do not know that even the word "propaganda" has now even become an English word. But even if it was, what is it? What is this thing called "propaganda"? If you do not want propaganda, then do not join politics. That is because politics is propaganda as far as I am concerned. What else is it? You are trying to persuade somebody to join you. You are trying to lure somebody to join you. Is that not propaganda? We are good! You know our colour is nice! You know this is how we treat people! Is that propaganda? If it is not, then what is? The flower never dies! Is that not propaganda?

Mr. Temporary Deputy Speaker, Sir, this is civil society language. Civil society is going to destroy this country, if we are not careful. The flower withers! Orange Democratic Movement orange! *Hiyo ni propaganda yote!* You cannot outlaw propaganda in this country. When will you decide, assuming that the Registrar was to decide that it is founded on propaganda? So, how will the Registrar decide that because you went and shouted ODM orange: "*Hiyo ni propaganda* and so, I de-register you!" You know I am an ideologue of propaganda! So, are you going to de-register me? We should be very careful with some of these very serious matters, which we are talking about.

Further, there is Article 9, which talks about participation of members in a party. First of all, the age limit of participating in a party is 18. Who said that we must be 18 years of age before we identify our party? What about young brigades of our party? What about the youth movement of our party? Where are you going to get the members when they get to 18 years, if you did not start inducting them into party policies at school and teach them about political parties? We are going to introduce this Bill in our curriculum in our schools, so that our children can know the meaning and purpose of a political party. They should also know what they do and what they cannot do. That is what we used to learn in civic education when we are in Standard III, IV and V. What has happened now that we must fix the age at which you must participate in a party at 18 years? We used to shout *Uhuru! Uhuru!* when we were in Standard IV and V. Was that participating in a political party? What was so unlawful about it? Let us not just make laws in some fashion - as if it is a vision to be elected a president! You can say anything.

The Temporary Deputy Speaker (Mr. Poghio): Mr. Kajwang, do you disagree with the definitions given in Section 6, Subsection 2 on page 62?

Mr. Kajwang: Mr. Temporary Deputy Speaker, Sir, it reads:-

For the purposes of Subsection (1), a political party is formed on an ethnic, age, tribal, racial, regional, linguistic, corporatist--- If its membership or leadership is restricted to or includes only members of a party ethnic---

Who will go through all this. Why are we creating things which will not be done? Why are we creating things that will not be done? Will you go through the register and start combing to find out whether, for example, a Mr. Ondiek: Is he Kisii or Luo? *Na huyu Kamau, is he from upande huu ama ule mwingine?*

The Temporary Deputy Speaker (Mr. Poghisio): Order, Mr. Kajwang! Please, speak in one language!

Mr. Kajwang: Or do they speak one language, Mr. Temporary Deputy Speaker, Sir. How would you know? First of all, Ondiek comes from Ugenya and speaks another dialect of Luo that I do not understand.

(Laughter)

I speak Kisuba which he does not understand although I also speak Kijaluo. Will I be deregistered for speaking two languages? Let us not make law for things that are neither here nor there. Law is a very serious matter! We make it for things that matter. That was Article 9.

Article 9(3) at page 64 at the top says that a person shall not be a member of two or more political parties at the same time. I like that and that is how it should be. However, what is happening in this country? Unless you fix the Constitution, this Act of Parliament will be a piece of paper. The Constitution says that the President can nominate any Member of Parliament to be a member of his Government; the Government of his party. If he does that, like he has done, and another Act of Parliament says that before he does that, he must get the concurrence of the party from which he is "poaching"--- Assuming he does not get the concurrence, like KANU says that their concurrence was not got, is the Member of Parliament who is now a Member of the Government of the party of the President, is he or she a member of two parties or one party? If he is a member of one party, which one? So, unless you fix the Constitution and it is very clear and says that any person who is a member of a party other than the party of the President, but accepts to be nominated to the Cabinet loses his seat, full stop, then this can work. However, there is no need wasting our time with this piece of paper when the Constitution says the opposite. When we complained, we were told that the Constitution actually allows the President to nominate any hon. Member to his Cabinet.

Mr. Temporary Deputy Speaker, Sir, but that is the beginning of the destruction of multi-party democracy because the lure of being in the Cabinet is so sweet. In fact, I am very doubtful that if I was offered the chance, I may not change very quickly!

(Laughter)

The lure of being in the Cabinet has its benefits. The flag is sweet even to my voters. I may be re-elected just because of that. Unless the Constitution is fixed--- We tried to fix it in the Inter-Parliamentary Parties Group (IPPG) but it was done haphazardly. It was fixed anyway but it has been ignored. Now, the courts have to interpret whether the President has breached it or not because it was not clear in the Constitution. There is a conflict between an Act of Parliament and the Constitution. We have to be very clear; that, before we do this, we should deal with minimum reforms because they identify this as the major problem in this country for multi-party democracy.

(Applause)

However, you have heard the Government sometimes saying that there is no need for minimum reforms; that those who are looking for minimum reforms are selfish people. They bring a Bill which says that you can only belong to one party while the Constitution says that the President can go anywhere and pick from this House anybody. Then you are not sure whether you are still a member of KANU(A), KANU(B) or KANU(C) as you belong to the Government side.

An hon. Member: Or KANU Biwott!

Mr. Kajwang: I cannot say more than that!

Mr. Temporary Deputy Speaker, Sir, there is something else that I was discussing with Archbishop Ondiek because he has personal experience. One time, he won an election petition but because somebody handled some ballot papers - I do not know whether they were 23 or 24 - they found him guilty of an election offence. So, he did not participate in the subsequent election. This Bill at Article 9(5) says:-

"A person who has been deprived of a right to vote---"

Maybe, you committed an election offence and now you have been told that you have no right to vote or a person who has been deprived of the right to be elected to Parliament, like Archbishop Ondiek was deprived temporarily, cannot belong to a party. What kind of provision is that? It says then that immediately Archbishop Ondiek was deprived, he should have ceased to be a member of KANU. That is what it means! How can you bring such a provision? This is the most oppressive thing I have ever seen. You would have done that with Mr. Kombo. I was his lawyer when he had that problem with *Silulu* or something like that, yet he remained an hon. Member of the Executive of FORD(K). Mr. Ngei also had that problem. Does it stop one from being a member of a political party merely because a court of competent jurisdiction has found you guilty of an election offence? We can look at that again. I am sure that is something that can be looked at.

Mr. Temporary Deputy Speaker, Sir, then it says the following on amendments to a constitution of a party because the constitution of the party is its Bible. Article 11(3) states that:-

"Notwithstanding the provision of the constitution or rules of a political party, a political party shall, for the purpose of complying with the order specified under subsection (2), convene a meeting as is required by its constitution or rules, for amending its constitution or rules---"

That is fine because we always amend our constitutions so long as we meet the two-thirds requirement of the delegates conference or whatever.

"---or if the constitution of rules make no provision for such amendment---"

How can you have a constitution that does not provide for its amendment? That should be a constitution written by God on a stone that cannot provide for its amendment. So, let us just delete that quickly. That, you cannot have a constitution that does not provide for its amendment. It would be an incompetent constitution! Let us not even add those too many words. Just delete that part that suggests that a political party can have a constitution that does not provide for its amendment. It should, just like the national Constitution must, provide for its amendment. Even the American one provides for its amendment.

Then there is another one; Article 12 which talks of the name, abbreviation, colours, - orange and oranges - because that is what we were fighting over just the other day. Let me tell you; if you all build KANU together and you invest in it heavily, not in money terms but in recruitment and all that, and KANU were to break into two or three parties, or irreconcilable segments, would you then say that if someone registered himself as New KANU, the other as authentic KANU, the other as FORD(A) and yet another as FORD(K), that those are two names which are too similar? Or they resemble each other so that they would be registered? That would be wrong! What about NARC, NARC(K) and NARC(A), sooner or later? They are going to be many. The point is this: That when parties break, I think it is good sense, like the Attorney-General ruled in the case of FORD; that, "please add something that distinguishes you." However, because you have all invested in FORD, you can all use it because it is capital, if you think so. It is capital that you have put together. Companies have similar names. People can have one company here and another one with a similar name, but with a hyphen or a suffix, say, plc, added to it and so on and so forth. So, there is nothing wrong with a company calling itself 2000 and another one calling itself 2008. That is not a resemblance as to make members not to know where they belong. So, even that may be

misused by the Registrar. Unless we say that this thing be domiciled at the Commission, which we shall make sure is independent, in the amendments that we shall bring, we are in trouble. The Minister will just tell the Registrar that, "Although you are at the Commission and even though you have operational autonomy, we are telling you that you do this and that." The Registrar will not have any constitutional cover which can give him the security of tenure. That, surely, is the beginning of trouble.

Mr. Temporary Deputy Speaker, Sir, I wanted to say something on money because there is something about it in this Bill. First of all, let us start with where the money is coming from. It is said in this Bill that, "---the money as will be given by the Minister for Finance." First of all, I am not so sure that the Minister for Finance is a permanent feature. Sooner or later we may have somebody who is a Minister for Finance---

The Temporary Deputy Speaker (Mr. Poghio): Mr. Kajwang, your time is up!

Mr. Kajwang: Mr. Temporary Deputy Speaker, Sir, I support, but with amendments.

The Assistant Minister for Water and Irrigation (Maj. Sugow): Thank you very much, Mr. Temporary Deputy Speaker, Sir. I stand here to support this Bill. I would like to congratulate the Minister for Justice and Constitutional Affairs for this important Bill which marks a milestone in the political development of this country.

Mr. Temporary Deputy Speaker, Sir, since 1992, this country has been struggling to develop politically. Every other year, I believe, we have been improving and we should accept that and congratulate ourselves, as a country, for the development that we have so far made. There are quite a number of political parties in this country today. As one of my colleagues, who spoke before me indicated, to have many political parties does not necessarily mean that a country has good democracy. Good governance and putting in place the necessary legislation, which has to be followed to the letter by these political institutions, is the most important thing to do. Therefore, as we discuss this Bill today, we must be very careful by avoiding being emotional and steering away from local politics. The idea of calling something white or black simply because you want to oppose me should not arise.

Mr. Temporary Deputy Speaker, Sir, for propaganda, as I know it myself, the better part of it is a lie. We came here to discuss facts and not lies. While the hon. Member who spoke before me may have raised a few facts, the better part of his discussion was propaganda. If I may refer to Clause 6(1)(a), he tried to interpret the words "in isolation." We know very well that today, of course, there are ethnic-based political parties. There are tribal parties in this country. It is true that they exist. We also have political persuasions based on cults. In fact, we should include that in this Bill as well. There are people who, if they do not follow political persuasions of individuals, will not see the inside of this House. I call that a cult. I believe that also exists.

(Mr. Wamunyinyi consulted loudly)

The Temporary Deputy Speaker (Mr. Poghio): Order, Mr. Wamunyinyi!

The Assistant Minister for Water and Irrigation (Maj. Sugow): Mr. Temporary Deputy Speaker, Sir, therefore, let us not try to oppose what we know is the reality on the ground in this country. Let us aspire to improve and remove the negative aspects of our political development so that this country can embrace good governance politically.

Mr. Temporary Deputy Speaker, Sir, I come from a minority community in this country and I yearn to see that day when a person from the El Molo tribe will be the President of this country. I would like to see the day when a person from a minority community will lead this country, not because of anything else, but because of the quality of leadership that the person is ready to provide for this country. Under the current arrangement, I do not see an El Molo, a Somali, a Ndorobo or

any other person from a minority community becoming the President of this country. We must, therefore, put in place legislation that will bring Kenyans together. If there is a way we can tailor this Bill to reduce political parties in this country to a maximum of, say, three, then, we have a good chance. Quality in leadership will play an important part in developing this country other than regarding the tribe which one comes from.

Mr. Temporary Deputy Speaker, Sir, the political parties and coalitions that exist today are based on tribes. They are coalitions that have conveniently been put together for the purpose of ascending to power. In Somalia, when the former President Siad Barre was ruling that country with an iron fist, various ethnic groupings were formed along clans that were each struggling to overthrow him. Each group had its own ambitions to lead that country, but when each one of them was unable to remove Mr. Siad Barre independently, they decided to concoct a coalition whose main aim was nothing else, but to remove Mr. Siad Barre. It was a coalition that did not have any common idea of how to run Somalia other than the need to remove Mr. Siad Barre. After they achieved that, today, over a decade down the line, Somalia is unable to get a stable government.

In our quest to remove former President Moi from power, since 1992, when this country re-embraced multiparty democracy, our Opposition parties were unable to remove the KANU Government individually. They, therefore, united and came up with a Memorandum of Understanding (MoU) with no basis in the Constitution and with the sole aim of dislodging former President Moi from power. When they achieved that, they realised that they had no common ideology that would make them forge ahead together. Then things went asunder. That is the path we should avoid to walk. If this country is to have a stable political system, we must avoid coalitions based on conveniences and selfish interests of political leaders who just want to take power. We must have controls, which some of us are already refusing now here on the Floor of the House.

Mr. Temporary Deputy Speaker, Sir, Clause 6(i)(a) is in the interest of many communities in this country. We cannot accept to amend it. We want to avoid a situation where few tribes can come together and register a political party and then influence politics in this country.

Mr. Temporary Deputy Speaker, Sir, there is a provision for provisional registration of political parties within a month of application. This gives the Registrar a time frame within which to register or refuse to do so. However, before the political parties are registered, they cannot hold rallies for the purposes of campaigning for elections. This Bill does not give the time limit within which a political party can be fully registered. That is an issue we need to look into because political parties are registered for purposes of participating in elections.

Mr. Temporary Deputy Speaker, Sir, I would like to support the Minister on the issue of funding political parties. However, political parties must fulfil certain qualifications before they are funded. This is the only way we can discourage every Tom, Dick and Harry from registering political parties for purposes of fleecing the Exchequer.

Mr. Temporary Deputy Speaker, Sir, when the Leader of the Official Opposition was contributing to this Motion, he lamented about the Government poaching Members from other political parties. This is one of the problems bedeviling this country. He talked very passionately about the need for support for northern Kenya. We all know that the KANU regime had a stronghold in northern Kenya despite the fact that it was, probably, the last frontier as far as the liberation of this country was concerned. Nobody would have seen the inside of this House without being elected on a KANU ticket. However, this does not necessarily mean that KANU was popular in northern Kenya. It was not. Therefore, it was natural for us to remain in KANU because it was the only boat we could use to cross the river. However, once we were on the other side of the river, nobody could have forced us to remain in that boat. We had the opportunity to construct our own boat and make our own choice. Therefore, it is important those provisions be in our Constitution.

Mr. Temporary Deputy Speaker, Sir, it is ironical for those now crying over poaching of Members from other political parties by the Government. I believe that was part of the emancipation of some areas in the country. KANU led this country for over 40 years, but there is nothing to show in terms of development on the ground.

*(Hon. Members on the Opposition side
gestured at Maj. Sugow)*

Mr. Temporary Deputy Speaker, Sir, if you do not mind, please, protect me from the hon. Members sitting on the opposite side.

Hon. Members: Where you belong!

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

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

The Assistant Minister for Water and Irrigation (Maj. Sugow): Mr. Temporary Deputy Speaker, Sir, the Constitution allows me to be where I am. I need your protection according to the Standing Orders of this House.

Mr. Temporary Deputy Speaker, Sir, through this Bill, I believe this country will have an opportunity to fund fewer political parties that will take it forward. That way, I will be able to see a Mr. Weya, Mr. Ojwang and Mr. Odinga sitting on this side and a Mr. Odhiambo, Mr. Tuju and anybody else, sitting on the opposite side. We do not want to see a situation where all Ojwangs, Weyas and Odhiambos sit on one side. That is what this Bill is all about.

With those few remarks, I beg to support.

Mr. Kipchumba: Mr. Temporary Deputy Speaker, Sir, I wish to support this very important Bill. In fact, many hon. Members of Parliament are products of the flawed political process that exists in our political parties.

Mr. Temporary Deputy Speaker, Sir, rigging begins at political party levels. I am very happy that this Bill will go a long way to correct this. Many of us would not have made it to Parliament if it were not for the voice of the people. Many political parties are owned by individuals. I hope, with the enactment of this Bill, that will be a problem of the past. I do not expect democracy to flourish if all the good leaders are rigged out at grassroots level. I, therefore, think this Bill is a step in the right direction. However, I am surprised that many hon. Members who have been clamouring for the enactment of a Political Parties Bill, are not here with us. It is a shame! I am sure they will troop in when the Artur---

QUORUM

Mr. Wamunyinyi: On a point of order, Mr. Temporary Deputy Speaker, Sir. You heard Mr. Kipchumba point out the importance of this Bill. This is a Bill in which the House needs to have a quorum. We need hon. Members to be here to contribute. I, therefore, wish to draw your attention to the provisions of the Standing Orders.

Mr. Kipchumba: Mr. Temporary Deputy Speaker, Sir, I merely said that this is a very important Bill. Our Standing Orders do not provide for the importance of a Bill. Therefore, I should continue.

Mr. Wamunyinyi: Mr. Temporary Deputy Speaker, Sir, I pointed out that it appears that there is no quorum in the House!

The Temporary Deputy Speaker (Mr. Kagwima): Are you trying to draw the attention of the Chair to the fact that there is no quorum?

Mr. Wamunyinyi: That is correct, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Kagwima): Yes, you are right, we do not have a quorum. Ring the Division Bell!

(The Division Bell was rung)

Order, hon. Members! We now have a quorum. Sit down and let us proceed with our business.

Proceed, Mr. Kipchumba!

Mr. Kipchumba: Mr. Temporary Deputy Speaker, Sir, now that we have a quorum, as I clearly said, when the Motion about the Arturs will be coming all the hon. Members will be present here and I think I was right.

The Political Parties Bill is, in my view, more critical than the Arturs. Without a good democratic process in any political system, many of these hon. Members will be rigged out. There has been political nomadism that we have experienced in this country, for example, whenever a Member is defeated at the party elections, without shame and consideration whatsoever, moves to the next party. You have heard a colleague say that hon. Members cross to another political party with a lot of dishonesty. If you are popular, why not go to your constituency and seek a fresh mandate? If you are elected on a particular political party ticket, then you must be a very dishonest person to assume that you can change the political party at will. We have hon. Members here who have been members of ten or more political parties. Political nomadism will never stop in this country until we enforce this Bill.

Mr. Temporary Deputy Speaker, Sir, every time we go to a political rally, hon. Members talk of funding of political parties. I wish that all those hon. Members were here today so that they could contribute and enrich this very important Bill. I would like to say that I have looked at this Bill and there will be amendments to it as any other Bill. That should not be a cause for alarm. All we need to do is to request the relevant Departmental Committee on Administration of Justice and Legal Affairs, to do its job well and the Minister to take into consideration all the proposals that will be mentioned by hon. Members.

Mr. Temporary Deputy Speaker, Sir, there are limitations as to how much a Member can give. I want to talk on the issue of economics first. Kshs1 million is okay now but not tomorrow. There is inflation which is never static to the extent that if we fix a figure of Kshs1 million it may not be acceptable now. Therefore, I want us to probably re-word it in such a way that we will not be amending the Bill as and when inflation affects the country. I want the Minister to re-word it in the legal language that will allow us to continue. As you are aware, many of the punishments and penalties that are enforced in this country are now so low that if somebody was to be told that "you are paying Kshs2,000" it would be laughable.

I also want to talk about the allocation of the monies as voted by the Exchequer. When you talk of 25 per cent, it may look like very little money when the vote is very low. But when the amount is in billions, 25 per cent is a lot of money. To give a very small political party 25 per cent is, in my view, too much because 25 per cent of Kshs1 billion is Kshs250 million. With the stringent regulations, we would not have many parties anyway. We would not be having 80 parties. Most of the parties present now will fizzle out. There will probably be about ten or so parties. Therefore, if we were to share Kshs250 million between only ten parties, it will be Kshs25 million

for a briefcase party. Assuming that it has grown from being a briefcase to something that can be registered, then you are talking of a few people having Kshs25 million from Kenyans who are the taxpayers every year. In my view, that is unacceptable.

Therefore, I want us to consider reducing that 25 per cent to 10 per cent. I do not expect that, in this House, we will just vote Kshs1 billion for all the political parties. Maybe we will vote for Kshs2 billion. Therefore, increasing the figure makes our calculation even worse. At a later stage, I will be proposing, or if the Minister could amend that, that be amended to 10 per cent. The second part of that Clause 23(b) says that 75 per cent will now be shared as per the number of votes secured by all political parties. I want to pose this question: How do we fund a party that has not participated or did not have a presidential candidate? How then, would we calculate the number of votes that each political party has secured? I would like to get an explanation, probably when the Minister is replying, as to how the number of votes will be calculated for each political party. My reasoning is that each political party will have a certain number of votes as per the participating presidential candidate.

Mr. Temporary Deputy Speaker, Sir, I am raising a very important point. That, the 75 per cent which will be shared according to the number of votes secured by political parties is not practical given that not all political parties have candidates participating in a general election.

I would propose that this be done as per the number of Members of Parliament that every political party will have been able to secure to Parliament. The reasoning is that any serious party in this country must have, at least, one or two Members of Parliament. For example, SAFINA has, at least, one Member of Parliament in this House. That is an indication of some sort of seriousness in that party. Therefore, I do not agree that we should only look at the number of votes secured. We should also consider the number of Members of Parliament that each political party will have secured.

Mr. Temporary Deputy Speaker, Sir, the Bill also talks of the accounts being audited by the Auditor-General. We do not have in this country a person called "Auditor-General". We have this officer in other jurisdictions, but in this country, we call him the "Controller and Auditor-General". Therefore, I want the Minister to make that correction, otherwise we will be referring to a totally different officer, but probably the same person in another jurisdiction.

This Bill says that the accounts must be taken to Parliament. That is obvious. Once the Controller and Auditor-General has audited the accounts, they are always made available to Parliament. Therefore, it does not make sense to say that the accounts should be made available to Parliament. Once they have been audited, they must be made available to the Public Accounts Committee, or any other committee of Parliament that will be supposed to look into them. Therefore, it is not necessary make this provision.

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

[Mr. Deputy Speaker took the Chair]

Mr. Deputy Speaker, Sir, in Clause 9, there are issues about resignation. It is very clear that when a Member of Parliament resigns, he or she must presents his or her resignation letter to the Clerk of the National Assembly. But when it comes to political parties, it says a person resigning will submit their resignation letter to the political party. That is ambiguous. A political party is an entity and, therefore, we must define who will be given the resignation letter. So, we will probably have to say that the letter shall be addressed to the Secretary-General of the political party. If a Member raises a query, then we know to whom they gave their resignation letter.

Mr. Deputy Speaker, Sir, there are also issues of disqualification, and who should be a leader of a political party. The Bill says a political party shall not have, as its leader or a member, any person who is not qualified to hold public office. We must state when a person is not qualified to hold a public office. We are very much aware that there are people who have been recommended not to hold public office, but they continue to do so. The law, as it is, is not clear as to the extent to which somebody will be made not to hold a public office. Therefore, I would request for that to be defined more clearly.

In Clause 6(f) says that the Registrar shall not register a political party which does not allow regular, periodic and open elections of its office-bearers. It is not yet a political party. Therefore, how do we then talk of a party which is not holding regular, periodic and open elections? It is just seeking registration! Therefore, I do not know what that clause intended to achieve.

I would also want the Minister to define what we mean by "provisional". Clause 13 says a party can be "provisionally" registered. I think it is important that we are told what is "provisional". What are the provisional requirements that a party must meet so that it can be registered? Is it just a name and an emblem, or a name and a few officials or just a name and 200 members in every province? I think that must be made very clear. It also talks of a party formalising itself within 180 days. This is quite a lot of time. Actually, it is half a year. I would want to reduce that to only three months. There is no reason why a political party worth its name would want to remain informal for 180 days.

Clause 15 talks of a political party being registered in the capital city of Kenya. I do not understand what that was intended to achieve. A political party can have its offices in Mombasa or Eldoret. Therefore, I think we should not define where a political party should have its headquarters. I would want this provision to be deleted completely, and replaced with a provision that a registered political party must have a known address in addition to meeting other requirements. Its head office does not necessarily have to be in the capital city. In fact, many jurisdictions in the world allow most activities to take place outside their capital cities. They have them distributed all over the country so that the capital city is not congested by unnecessary offices.

Mr. Deputy Speaker, Sir, Clause 16, says the Registrar shall, within 90 days, publish in the Gazette and in one daily newspaper, having a nationwide circulation--- One newspaper is not enough. There are people who would want to read other newspapers. Therefore, for us to reach as many Kenyans as possible, we must talk of, at least, two daily newspapers with nationwide circulation. That will make a lot of sense, because we do not want monopoly in information dissemination.

Mr. Deputy Speaker, Sir, as I said before, there is a requirement by the Bill that the Registrar will cause the books of accounts to be published. It is the responsibility of every political party to ensure that it publishes its own books of accounts for public consumption. It is not the responsibility of the Registrar of Political Parties to ensure that the accounts are published. In fact, if you look at all the public institutions in this country, you will see that every one of them ensures that all its audited accounts are published, so long as the Controller and Auditor-General has gone through them. Therefore, we should not continue putting more burden on the taxpayer of this country by requiring the publishing of books of accounts by the Registrar.

It will be very unworthy for the Registrar of Political Parties to follow parties and ask them: "Where are your books of accounts so that I can publish the annual reports?" It must be on record that every political party should publish its books of accounts at some stage. After all, those political parties must ensure that they account for the money they have been given at the end of any financial year. They must follow Government regulations. At the end of June, which marks the end of the financial year, they must account for their money. If all the money that the political parties have been given is not utilised, it must be returned to the Exchequer. Those are Government

financial regulations. We do not want political parties to be accumulating money to become a source of wealth. If a political party did not, for example, use Kshs25 million last year, it is not fair to give it another Kshs25 million this year to keep it in its account. We should require that any money that has not been utilised within a financial year should be surrendered immediately to the Exchequer. In fact, any political party that is unable to utilise funds is not promoting democracy. Therefore, there should be another requirement that such political parties should be de-registered.

Mr. Deputy Speaker, Sir, publishing of audited accounts of every political party is reflected in Clause 27(3), which reads:-

"The Registrar shall publish an annual report on the audited accounts of every political party."

I propose that, that clause be amended. It should not be every political party.

Mr. Deputy Speaker, Sir, there is an issue that I have been grappling with. That is reflected in Clause 28(2), which reads:-

"A political party shall maintain at each of its district offices an accurate and permanent record in relation to the requirements under subsection (1) of the matters relating to the district and constituencies comprised in the district."

Many political parties have moved out of districts because of in-fighting for political supremacy. There is no merit for political parties to be registered at district headquarters. Most political parties are registered at the constituency level. It is from the constituencies that many of those democratic ideals start. Therefore, instead of us putting a requirement that political parties must maintain an accurate record at each of its district offices, they should maintain it at the constituency level. It makes a lot of sense. The reason why KANU had a lot of problems is because there were four or five hon. Members in a district and they all wanted to become the chairman. Therefore, there was fighting for political supremacy in the various districts. As a result of that, KANU changed its constitution and elections were conducted at the constituency level. We do not want to reverse the clock. Therefore, I would like to propose that, that clause be amended accordingly so that we move forward as opposed to moving backwards. Wherever the word "district" appears, it should be replaced with the word "constituency".

Mr. Deputy Speaker, Sir, finally, I do not understand what we want to achieve in Clause 281(d). It does not make sense to me. It reads:-

"Every political party shall maintain at its head office or national office in a form approved by the Registrar, an accurate and permanent record of-
(d) in books of accounts approved by the Registrar,---"

I do not know whether we want the Registrar to approve accounts. I would like the Minister to clarify whether the Registrar is supposed to approve the books of accounts. When the Controller and Auditor-General has audited the books, I think that should be sufficient.

With those few remarks, I beg to support.

Mr. Muturi: Thank you, Mr. Deputy Speaker, Sir, for giving me this opportunity to say one or two words about this very important Bill. Like the previous speakers, I fully support this Bill. But, like others, I will also be proposing some amendments because some of the provisions are not quite clear.

Mr. Deputy Speaker, Sir, going straight to the definition section, that will require an amendment. In Part I, there is a paragraph which reads:-

"public officer" means a person in the service of/or holding office under the Government of Kenya, whether that service or office is permanent or temporary, or paid or unpaid."

Mr. Deputy Speaker, Sir, under the Public Officer Ethics Act, which we passed, we also defined hon. Members of Parliament as public officers. Therefore, I think there is need to

harmonise the provisions of this Bill with what is contained in the Public Officer Ethics Act.

Mr. Deputy Speaker, Sir, I also take issue with the fact that, we merely provide that there will be established the Political Parties Fund (PPF). The source of funding for that is stated in Clause 22(1a). It reads:-

22(1) The sources of the Fund are-

- (a) such funds as may be provided by the Minister of Finance in the annual estimates; and,
- (b) contributions and donations to the Fund from any other source."

I want to be a bit careful here. If the Minister for Finance does not provide, because we are just using the permissible word "may" -and we know right now we have an interesting one, very roguish!--- If he does not make any provisions in the Annual Estimates, political parties which expected funding of whatever levels, in any given period, will not have any money. Therefore, we will go back to the situation which we are trying to rectify now, by the enactment of this Bill. Therefore, it is important that we specify the Minister for Finance "shall" provide in the Annual Estimates, funds in a specific quantum, just like the Constituencies Development Fund (CDF) and the Local Authorities Transfer Fund (LATF). It is important that we specify in this Bill, how much of the national income the Ministry of Finance will allocate to the Political Parties Fund (PPF). We should not leave it to the discretion of the Minister for Finance. If we do not do that, he may provide Kshs100 million this year and Kshs1 billion next year as he pleases! That way, we will destabilize political parties at will. Therefore, I will be proposing to the Minister that we need to look at that. It is healthy that we provide a specific percentage of the national income to fund political parties.

Mr. Deputy Speaker, Sir, there is also the issue of a political party obtaining 5 per cent of the national vote. I am one person who believes that we should have some thresholds, to avoid situations where briefcase carriers would hover around the streets of the city and other urban areas in the countryside, pretending to be party leaders or owners of political parties. The parties must attain some threshold to qualify for funding from the national kitty. They can only be de-registered if they do not garner 5 per cent for a period of ten years. We run the risk of fellows running around with briefcases for ten years pretending to be owners of political parties and receiving public funding, especially the 25 per cent that is provided for! I support the idea of a certain threshold. The only question that I would add is this: If a party, even after those ten years, has got hon. Members of Parliament like Mr. Kagwima and Mr. Gitau who belong to parties such as *Sisi kwa Nyinyi* and others - those fringe parties--- If they are hon. Members of Parliament and for ten years, they do not garner---

(Laughter)

The Assistant Minister for Foreign Affairs (Mr. Wetangula): On a point of order, Mr. Deputy Speaker, Sir. Could the hon. Member tell us which party is called "*Sisi kwa Nyinyi*"?

(Laughter)

Mr. Muturi: Mr. Deputy Speaker, Sir, that was a slip of the tongue. There is a fringe party called Sisi Kwa Sisi. I have been corrected. So, a party like that one, or SAFINA, can continue having Members of Parliament and councillors, but not the 25 per cent.

**MOTION FOR THE ADJOURNMENT
UNDER STANDING ORDER NO.18(1)**

UNSATISFACTORY REPLY TO
QUESTION NO.013: RELEASE OF
KIRUKI COMMISSION REPORT

Mr. Deputy Speaker: Order, Mr. Muturi! You will have 25 minutes when this Debate resumes.

Hon. Members, pursuant to the provisions of Standing Order No.18(1), I will now call upon a Minister of State, Office of the President to move adjournment of the House to enable the Member for Ndhiwa Constituency, Mr. Ojode, to raise a matter concerning an unsatisfactory reply to Question No.013 replied to on Wednesday, 11th April, 2007, in connection with the Report by the Kiruki Commission on the activities of the Armenian Brothers.

The Assistant Minister, Office of the President (Mr. Kingi): Mr. Deputy Speaker, Sir, I beg to move that this House do now adjourn.

The Minister for Water and Irrigation (Mr Katuku) seconded

(Question proposed)

Mr. Deputy Speaker: Hon. Members, your attention is drawn to Standing Order No.18(3). It says:-

"No Member speaking on any such matter shall speak for more than ten minutes without the leave of the House".

So, Mr. Ojode, you will have no more than ten minutes. The other hon. Members will have three minutes each. The Assistant Minister will have ten minutes to reply.

Proceed, Mr. Ojode!

Mr. Ojode: Thank you, Mr. Deputy Speaker, Sir. This is a very important Motion. The Chair will remember when I asked my Question requesting that the Kiruki Report be made public, the answer which was given to me was quite unsatisfactory. That is when I asked for the Chair's indulgence for the House to adjourn and discuss this very important Motion.

Mr. Deputy Speaker, Sir, we are dealing with a very, very touchy issue. This issue touches on the security of this country. If the Report would have been laid on the Table, all the propaganda which people are spreading could not have been there. We believe that this was a Government project because the Government itself constituted a commission using public money from taxpayers but, later on, they said they could not make it public. That is ridiculous. Why do we have to spend money on reports which will not be tabled? It is shameful! When I went through that Report, anyway, I found that the very things which are being said--

Hon. Members: How?

Mr. Cheboi: On a point of order, Mr. Deputy Speaker, Sir. When Mr. Ojode asked his Question, we were told that the Report has not been tabled and yet, he has just said that he has gone through it. If he has any documentation to that effect, why should he not table it, so that all us can read it?

(Applause)

Mr. Deputy Speaker: Mr. Ojode, if you already have had access to the Report, where is it? Do you have it?

Mr. Ojode: Mr. Deputy Speaker, Sir, I have the Report and I beg to table it.

(Mr. Boit took the document)

from Mr. Ojode)

The Temporary Deputy Speaker (Mr. Musila): Order, Mr. Boit! That is Mr. Ojode's document. Give it back to him, so that he can table it himself since it is his responsibility!

(Laughter)

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

(Applause)

Mr. Ojode: Mr. Deputy Speaker, Sir, when you go through the Report, on page 8, Paragraph 5, it gives details of what actually happened even at Runda Estate. It says in part:-

"The police recovered the imported goods which they had refused to pay duty on and 13 motor vehicles which had been believed to have been stolen."

That is Mr. Kiruki's Report.

Mr. Deputy Speaker, Sir, the other thing which is mentioned---

The Minister for Water and Irrigation (Mr. Katuku): On a point of order, Mr. Deputy Speaker, Sir. Is it in order for hon. Ojode to keep on quoting a report which you have not verified?

Mr. Ojode: Mr. Deputy Speaker, Sir, please, protect me from the hon. Member!

Mr. Deputy Speaker: Continue, while I verify the document!

Mr. Ojode: Mr. Deputy Speaker, Sir, the Commission, itself, also found out that the right procedures were not adhered to in registering some of the companies associated with the Arturs. The registrations were false. They all---

Mr. Deputy Speaker: Order, Mr. Ojode! I have just had a very quick perusal of what you purport to be the Report by the Kiruki Commission. Indeed, this is a photocopy containing a letter, purportedly, addressed to the President, but I see no signature on it. Anyone who addresses the President on a matter like this one will sign the document.

Therefore, this, in my view, cannot be accepted because it bears no signature. It may as well be the correct report, but it has no signature. Therefore, for the purposes of this House, it is not acceptable.

Mr. Ojode: Mr. Deputy Speaker, Sir, under normal circumstances, reports are not supposed to be signed. There is a covering note which goes with the report. That is the letter which will be signed, but not the report itself.

Let me continue. When you look at some of the---

The Minister for Water and Irrigation (Mr. Katuku): On a point of order, Mr. Deputy Speaker, Sir. I hate to interrupt my friend. However, will I be in order to request for your guidance on this matter, because the hon. Member has tabled a report which you have rejected? Do we, therefore, take it that he has not tabled any report?

Mr. Deputy Speaker: The rules of the House stipulate that once documents are tabled and the Chair rules that they are not valid, we proceed on!

Proceed, Mr. Ojode, but you should not refer to this report, because it is not now an official document, as I have just ruled!

Mr. Ojode: Thank you, Mr. Deputy Speaker, Sir. That is a valid report!

Even if I leave the report aside, we were told that the Kiruki Report will be made public. I have excerpts from the HANSARD which indicate that the Minister for Justice and Constitutional Affairs and the Minister for Administration and National Security, Mr. Michuki, said that the

Report would be made public. Even the President said it anyway. Now, they are claiming that the Report has got some details which touch on matters of security. But if you go through that report, there is nothing like security matters. In fact, that report is so shallow that it cannot be accepted by the Kenyan public.

Mr. Deputy Speaker, Sir, the Arturs were transnational criminals. What really perplexes me is that when they were deported, their passports were not stamped to indicate that they were prohibited immigrants. That was an anomaly. That is why I am saying that they knew that this was their project.

Mr. Ojode: Mr. Deputy Speaker, Sir, they were also--- They were strangers.

Mr. Deputy Speaker: Order! Order, hon. Members in the Front Bench on my right!

The Assistant Minister for Energy (Mr. Kiunjuri): On a point of order, Mr. Deputy Speaker, Sir. The hon. Member raised a very serious allegation that the passports of the Arturs were never stamped for exit when they were leaving the country. That is a very serious matter! Could the hon. Member substantiate his claim?

An hon. Member: Of course!

Mr. Ojode: But, Mr. Deputy Speaker, Sir, that is a point of argument! Can he prove otherwise? Anyway, it is in the Report.

Mr. Deputy Speaker, Sir, when a Question was brought here, this was the answer which was given by the Minister for Immigration and Registration of Persons:

"The two individuals were granted entry into Kenya under Class "H" Visa as businessmen having valid work permits and a duly registered and taxpaying business company".

Mr. Deputy Speaker, Sir, these fellows have never paid any taxes and they were drug traffickers!

(Applause)

They were out there to extort money from people, and I will give you one example before my time elapses. Recently, they called one of the Media Houses in Kenya and they said that they were called for a meeting with a Minister in this House at Windsor Golf Club with hon. Michuki. Present at the meeting were the two of them together with Julius Maina. Julius Maina is also popularly known as Maina "Chui", who is a personal assistant to the NARC activist, *Mama!*

(Laughter)

When they went for the interview, hon. Michuki asked these fellows to give him protection fees to the tune of US\$3 million! All this is on tape, and I have the tape here.

(Loud consultations)

Mr. Deputy Speaker: Order! Order!

Mr Ojode: Mr. Deputy Speaker, Sir, upon refusing to give US\$3 million to hon. Michuki--

Mr. Deputy Speaker: Order! Order, Mr. Ojode! It is only this afternoon that I talked about hon. Members imputing improper motive on others without bringing a Substantive Motion. That was only today!

Mr. N. Nyagah: He should withdraw and apologise!

Mr. Ojode: But, Mr. Deputy Speaker, Sir, I will table this as a substantiation and if,

indeed, it is not what I am saying, I will withdraw and apologise.

Mr. Deputy Speaker: What is that?

Mr. Ojode: This is the tape---

Mr. Deputy Speaker: Order! Order, Mr. Ojode! Take it easy! What is that tape supposed to substantiate?

Mr. Ojode: But, Mr. Deputy Speaker, Sir, I have made an allegation that, when they met at Windsor Golf Club, hon. Michuki asked for protection money to the tune of US\$3 million. Artur Margaryan told hon. Michuki that he did not have that kind of money. Then hon. Michuki went on-- This is Artur explaining: "Hon. Michuki: I want you to do a dirty job for me"; "Artur: What would it be?"; "Hon. Michuki: I want you to kidnap hon. Gideon Moi for me in order for us to get money, and I want you to check for us if he has an account in Dubai".

(Applause)

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

The Minister for Water and Irrigation (Mr. Katuku): On a point of order, Mr. Deputy Speaker, Sir. Our rules prohibit hon. Members to discuss others without moving a Substantive Motion. Has the hon. Member now moved from his original Motion in order to discuss hon. Michuki? If so, then he is wrong! Is he in order?

Mr. Deputy Speaker: Mr. Ojode, will you bring that tape here?

Mr. Ojode: But, Mr. Deputy Speaker, Sir, my time is going!

(Mr. Ojode laid the compact disk on the Table)

(Applause)

The Minister for Education (Prof. Saitoti): Mr. Deputy Speaker, Sir, we are bound by the Standing Orders of this House. However sweet a statement is made, I do not think it can be accepted if it violates our own Standing Orders. There is no doubt that an allegation has been made by hon. Ojode against hon. Michuki, and that is contrary to the Standing Orders.

Mr. Deputy Speaker, Sir, I am seeking---

(Loud consultations)

Mr. Deputy Speaker: Order! Prof. Saitoti has to be heard!

The Minister for Education (Prof. Saitoti): Mr. Deputy Speaker, Sir, we are bound to respect the Standing Orders. I seek your guidance on whether hon. Ojode is in order to impute improper motive against hon. Michuki without bringing a substantive Motion to the House as laid out in the Standing Orders.

Mr. Ojode: Mr. Deputy Speaker, Sir, we are not discussing Goldenberg. We are discussing the Artur saga!

Mr. Deputy Speaker: Order! Will you sit down, hon. Ojode. You are making a very serious allegation against an hon. Member of this House. You have laid on the Table of the House an audio Compact Disk (CD), which I am holding, but whose contents I do not know. Therefore, the only thing I can do is to give this CD to the Clerk of the National Assembly to verify its contents.

In the meantime, you must observe the rules of the House. The subject here is not hon. Michuki, but the Kiruki Report. In any case, your time is up!

Mr. N. Nyagah: On a point of order, Mr. Deputy Speaker, Sir. Just to be very clear about what has been laid on the Table for the record of this House, shall we record that as not a tape, but a CD, so that in case there is any change, it is noted?

Mr. Deputy Speaker: This CD is going to be in the custody of the Clerk of the National Assembly. We will have to rule later whether it is of any meaning. Really, what I am holding here is just a piece of metal and I do not know what it contains. Until the Clerk listens to it, I have nothing to say about it. Be that as it may, we are discussing the Kiruki Report. We only have 14 minutes to go.

The Assistant Minister for Energy (Mr. Kiunjuri): Mr. Deputy Speaker, Sir, I have three questions that I am asking myself. First, why the Artur issue always comes up when opinion polls are conducted and the President is rated very highly. Secondly, whenever the Opposition feels that it has nothing to say about this Government and it cannot give credit for its achievements, it always brings up the issue of the Artur brothers.

The Mover of this Motion has clearly laid his evidence before the House. He has Tabled evidence which he could not substantiate. We have heard the same kind of allegations and I do now know whether this will be allowed to go on. I do not believe the Kiruki Report is complete without the person who blew the whistle having given evidence before the Commission.

Why did hon. Raila refuse to give evidence before the Kiruki Commission? The Artur brothers said clearly that they gave money to hon. Raila---

Mr. Midiwo: On a point of order, Mr. Deputy Speaker, Sir. Is the Assistant Minister in order to mislead this House that hon. Raila refused to testify before the Kiruki Commission, when he knows very well that hon. Raila said that he wanted to testify publicly and not in secret? Secrets have led us into this whole saga!

The Assistant Minister for Energy (Mr. Kiunjuri): Mr. Deputy Speaker, Sir, I am surprised at the hon. Member's ignorance. You can only confess to a Commission that is properly set according to the rules of this land.

The Artur brothers confessed that they gave over Kshs100 million to hon. Raila. They also confessed that they met hon. Musyoka, whom they gave an equal amount of money.

Mr. Deputy Speaker: Order! Order, Mr. Kiunjuri! You see, now, it is mudslinging! I have said that we should not discuss other hon. Members, in the way you are doing without a substantive Motion. Now, this should not be a matter of throwing names here and there. In any case, your time is up!

Mr. M. Kilonzo, you have only two minutes!

Mr. M. Kilonzo: Thank you very much, Mr. Deputy Speaker, Sir. This is a very serious matter. On 13th June, 2006, the President, through Gazette Notice Nos.4308 and 4309, appointed the Kiruki Commission. The purpose of the Commission was to investigate wrongful, criminal, unlawful acts and omissions. I say without fear that any attempt by the Government to cover up any wrongful, criminal or unlawful acts is a violation of the law.

(Applause)

We demand that the Report be published, so that Kenyans can know what happened at the Runda House, the Registrar of Companies, the Kenya Revenue Authority and at our airports, where our people were assaulted. We want to know, because it is our money that has been used on the persons who were under investigation. It seems to me that a Kenyan lady called Wangui, a beautiful lady at that, appears to be what is called "national security". How can a single person be

treated as national security, so that the country cannot be told the results of an investigation merely because this beautiful woman is photographed in newspapers, parading and enjoying herself with these people?

Mr. Deputy Speaker, Sir, may I mention something else? Public property, including funds and institutions, were involved in this inquiry.

Mr. Onyancha: On a point of order, Mr. Deputy Speaker, Sir. You have just ruled here that no hon. Member should mention the names of persons who are not in this House to defend themselves. Why is the name of this beautiful lady called "Wangui" being mentioned here? She cannot defend herself.

Mr. Deputy Speaker: Mr. Onyancha, you are out of order! I talked of an hon. Member!

Mr. M. Kilonzo: Mr. Deputy Speaker, Sir, this matter is extremely serious, and it appears that my colleagues sitting on the other side of the House have forgotten that during the clashes of 1992---

The Minister for Water and Irrigation (Mr. Katuku): On a point of order, Mr. Deputy Speaker, Sir. You ruled here earlier that hon. Members should not come here to malign names of persons who cannot defend themselves here, without bringing substantive evidence before the House. Could the hon. Member on the Floor table evidence showing that Ms. Wangui has been protected as a matter of state security?

Mr. M. Kilonzo: Mr. Deputy Speaker, Sir, I think the hon. Member is talking about the beauty of Ms. Wangui, and not her protection. It is a matter of common knowledge that she even refused to go and give evidence to the Kiruki Commission.

Mr. Deputy Speaker, Sir, could you allow me to say something very important?

Mr. Deputy Speaker: No, your time is up!

Mr. Kingi!

The Assistant Minister, Office of the President (Mr. Kingi): Thank you, Mr. Deputy Speaker, Sir, for giving me this opportunity.

Mr. Deputy Speaker, Sir, the issue before us arises from Question No.103, which was raised in this House by hon. Ojode. He now feels that the response that was given on 11th April, 2007, was not satisfactory.

(Loud consultations)

Mr. Deputy Speaker: Order, hon. Members! Order, Mr. Weya! Could you listen to the Assistant Minister?

The Assistant Minister, Office of the President (Mr. Kingi): Mr. Deputy Speaker, Sir, in that Question, Mr. Ojode wanted to know when the Minister would release the Report of the Commission of Inquiry into the activities of the two Armenian brothers, which was presented to the President in 2006. The response to the Question, as given by the Minister, was that the Government would not release the Kiruki Commission Report on the two Armenian brothers due to national security considerations. It is this answer that Mr. Ojode says was not satisfactory. That is the matter under debate today.

Mr. Deputy Speaker, Sir, I think we are making a lot of fuss out of a very ordinary thing. Commissions of inquiry are provided for under Cap.102. Once a commission of inquiry has been appointed, its duties are set out. Allow me to read the duties of a commission of inquiry. The relevant section of Cap.102 says as follows:-

"It shall be the duty of a commissioner, after making and subscribing the prescribed oath, to make a full, faithful and impartial inquiry into the matter into which he is commissioned to inquire; to conduct the inquiry in accordance with the directions

contained in the commission and, in due course, report to the President in writing, the result of the inquiry and the reasons for the conclusion arrived at, and also, if so required by the President, to furnish him with a full record of the proceedings of the commission."

Mr. Deputy Speaker, Sir, their duties ended there. Now, there is nowhere, where it is stated that it is mandatory for the appointing authority to release such a report. That is a law we have made ourselves. We are here and we can amend it if we feel we do not want to continue with that kind of scenario. We can change the law to compel commissions of inquiry to make their findings public. Now that, that requirement is not there, it is the appointing authority that decides whether it wants to make that report public or not. In this case, the Government looked at the report and make a conclusion that it is not in the interest of the public to release it. So, a decision was made and the answer which Mr. Ojode is contesting was given.

Mr. Deputy Speaker, Sir, I humbly want to say this: It is us here who can give this country the direction. If you want to change the law, change it and make it mandatory that, when such commissions are appointed and have done their work, they should make the report public.

Mr. Deputy Speaker, Sir, having said that, some issues were raised---

Mr. M. Kilonzo: On a point of order, Mr. Deputy Speaker, Sir. Is the Assistant Minister in order to mislead the House and the country that there is no law that requires such reports to be released, when we have on record the judgement of the court with regard to the Akiwumi Commission where the court ordered that, that Report be published and it was, subsequently, published? It was a ruling of the court and it is binding on this House.

The Assistant Minister, Office of the President (Mr. Kingi): Mr. Deputy Speaker, Sir, then, they can go to court and we will release the report if we are ordered to do so.

Mr. Deputy Speaker, Sir, I want to say that the Question which was asked by Mr. Ojode on 11th April, 2007 regarding the release of the Kiruki Commission Report elicited a lot debate from hon. Members. In the ensuing debate, some hon. Members raised matters which were speculative in nature and, to a great extent, extraneous! Unless those matters are clarified, they will go into the official record of the proceedings of this House as the truth. That eventuality should not be allowed. Otherwise, it would do a lot of injustice to those whom the rather unprovoked insinuations were directed at.

Mr. Midiwo: On a point of order, Mr. Deputy, Speaker, Sir. The Assistant Minister is reading a certain report. He has not told the House what kind of report he is reading. Is he allowed to read to the House?

Mr. Deputy Speaker: The Assistant Minister is allowed to do so.

The Assistant Minister, Office of the President (Mr. Kingi): Mr. Deputy Speaker, Sir, I am addressing issues that came up during the time when this Question was asked. While I hold hon. Members in very high esteem, it is important for them to also acknowledge the fact that, the Government has an obligation to discharge its mandate responsibly. In doing so, some decisions taken may not be popular with certain people. But as long as the decision taken is for the common good of the people, such dissatisfaction will not deter the Government from discharging its duties.

Hon. Members: Time up! Time up!

Mr. Deputy Speaker: It is the Chair who will tell the Assistant Minister when his time is up!

Hon. Members: Time up! Time up!

The Assistant Minister, Office of the President (Mr. Kingi): Mr. Deputy Speaker, Sir, as stated by the Assistant Minister, Office of the President, the work of a commission of inquiry---
Thank you!

ADJOURNMENT

Mr. Deputy Speaker: Order, hon. Members! I hope that everyone can now relax and have a good weekend.

Hon. Members, it is now time to adjourn the proceedings of the House today. The House is, therefore, adjourned until Tuesday, 24th April, 2007, at 2.30 p.m.

The House rose at 7.05 p.m.