

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Thursday, 26th April, 2007

The House met at 2.30 p.m.

*[Mr. Deputy Speaker in the Chair]*

### PRAYERS

#### QUESTIONS BY PRIVATE NOTICE

##### BURNING OF KITALE TECHNICAL INSTITUTE LIBRARY

**Capt. Nakitare:** Mr. Deputy Speaker, Sir, I beg to ask the Minister for Science and Technology the following Question by Private Notice.

(a) Is the Minister aware that the library of Kitala Technical Training Institute was burnt by a few students on the night of 13th February, 2007?

(b) Is he further aware that there are students who are due to sit for their exams in May, 2007 and have no books and other reading materials to help them prepare for the exams?

(c) What urgent measures is the Minister taking to ensure that innocent students preparing for their May, 2007 exams are aided with books and reading materials so as to enable them prepare adequately for the forthcoming exams?

(d) How much money has been set aside by the Government to rebuild the institute's library estimated to cost Kshs22 million?

**The Assistant Minister for Science and Technology (Mr. Yattani):** Mr. Deputy Speaker, Sir, I beg to reply.

(a) I am fully aware of the unfortunate incident and I have personally visited the institution on two occasions to express my sympathy. During those visits, I have encouraged the students and the teaching fraternity to continue with their normal activities as relevant authorities investigate the incident.

(b) I am aware that some students will be sitting their exams in July, 2007. The Ministry is in constant consultation with the institute's administration to ensure that the said students are well prepared for the exams.

(c) The Institute's management and the teaching staff have embarked on a comprehensive tuition exercise and have also made arrangements to assist the candidates with the relevant learning materials which were stored in the staff room. Heads of Departments have availed reference materials in their custody for the students' use.

(d) The Ministry is not in a position to set aside funds to rebuild the library as the investigations by the relevant authorities have not been completed.

However, this Ministry will give urgent priority to the reconstruction of the library as soon as funds are available. The institute's management has, in the meantime, been advised to insure all the institution's property to mitigate against such incidents in the future.

**Capt. Nakitare:** Mr. Deputy Speaker, Sir, I must applaud the Assistant Minister for that answer but this is a Government institute. Kitala Technical Training College was founded by the Government. It is appalling for the Assistant Minister to say that there are no funds set aside to equip the library and other subsistence supplies to enable this college to continue. This college was supposed to be a constituent college of [**Capt. Nakitare**]

Moi University.

Is the Assistant Minister telling this House that they have no money to rebuild the library and hence the students will not have any equipment, including science equipment to do their exams?

**Mr. Yattani:** Mr. Deputy Speaker, Sir, as you are aware, this was a very unfortunate incident where the library was burnt down by unknown people. The necessary investigation machinery has been put in place and, as a Ministry, we shall have to rely on that report. We do not have funds at the moment but as soon as the report is ready, we promise to do something.

**Mr. Ojaamong:** Mr. Deputy Speaker, Sir, the Assistant says that they do not have money in the Ministry now, but have they made any efforts to talk to the Department of Disaster Management in the Ministry of Special Programmes for any funds to assist this institution?

**Mr. Yattani:** Mr. Deputy Speaker, Sir, in an emergency or a catastrophic situation like that, we would have to call for support from any other organization, including Government departments. As a Ministry we have no objection if the issue is addressed to the Ministry of Special Programmes. The hon. Member could also make a provision from the Constituencies Development Fund (CDF) kitty, so that the emergency can be addressed. But as a Ministry, we may consider doing something in the next Budget.

**Mr. Khamasi:** Mr. Deputy Speaker, Sir, it is common knowledge that resources in this country go where a Minister in this Government comes from. The Minister for Science and Technology comes from this area. I wonder whether he sleeping, so as to leave his people suffer when he can be able to source money from other places and get this thing done.

**Mr. Yattani:** Mr. Deputy Speaker, Sir, it is common knowledge that the Ministry is headed by a very hard-working Minister. It is unfair to insinuate on the character of the Minister, because in my view if funds are diverted to specific constituencies because the Minister comes from there, that would be

corruption and an unfortunate situation. Our Ministry follows specific guidelines and sticks to the Budget. As I said, something is going to be done in the next Budget.

**Mr. Deputy Speaker:** I will give this chance to Mr. Chepkitony and then to the Chairman of the Departmental Committee on Education, Research and Technology, then we finish.

**Mr. Chepkitony:** Mr. Deputy Speaker, Sir, I would like to know whether this building was insured and if it was, how much the insurance will pay.

**Mr. Yattani:** Mr. Deputy Speaker, Sir, in my reply, I have indicated that investigations are on. There could be an unfortunate incident that the building was not insured, but as a Ministry, we have given the necessary guidelines that all the institutions' property be insured as soon as possible.

**Mr. Karaba:** Mr. Deputy Speaker, Sir, to me it is arson when students are involved in the burning of a library. This is not the first time that libraries, dormitories or even whole schools have been burnt by students. What national policy is the Ministry putting in place with regard to acts of arson, not only in Kitale but everywhere else? This could set a precedent in the whole Republic.

**Mr. Yattani:** Thank you, Mr. Deputy Speaker, Sir. As a Ministry, we have put the necessary machinery in place to carry out a thorough investigation as pertains to that particular incident. As I said earlier, we have also given out directives that all institutions should be insured. As you are aware, this is a relatively new Ministry and we are in the process of formulating all the relevant policies, including insuring of all the buildings and how to deal with cases of that sort.

Thank you.

**Mr. Deputy Speaker:** Last question, Capt. Nakitare!

**Capt. Nakitare:** Thank you, Mr. Deputy Speaker, Sir. It is well understood that the Ministry of Science and Technology is a full Ministry, with full funding which is discussed in this House. That college was actually headed for a transition of being a constituent university in memory of the late Vice-President, hon. Michael Wamalwa. If the Ministry says that the Constituencies Development Fund (CDF) should chip in and yet the CDF is just complementing the work that Government Ministries have been unable to do, is the Assistant Minister telling us that the Ministry of Science and Technology was not allocated some money from the previous Budget?

**Mr. Deputy Speaker:** But, Capt. Nakitare, let me ask you a question also. If the students knew all you have told us, and that this institution was going to become a constituent university, why did they burn the library?

**Capt. Nakitare:** Mr. Deputy Speaker, Sir, according to the investigations, the source of the problem is the Ministry itself. Students have been repugnant to accept a principal who has been causing problems, embezzling money, and that was why they were rioting to agitate the Government to pay attention to what was happening on the floor.

**Mr. Deputy Speaker:** You make matters worse because by students refusing a principal does not justify burning down a library and then the Government pays Kshs22 million!

Anyway, Mr. Assistant Minister, you have work to do; it is not mine!

**Mr. Yattani:** Thank you, Mr. Deputy Speaker, Sir. It is common knowledge that every Government department and Ministries are budgeted for. Unfortunately, the rebuilding of the burnt-down library was not part of our budget. But we are looking into it. The results of the investigations have not been brought to the Ministry, but we are doing everything within our means to address the matter.

Thank you.

**Mr. Deputy Speaker:** Next Question by the hon. Member for Mandera Central!

*(Dr. Wekesa was applauded as*

*he entered the Chamber)*

Order! Order, Dr. Wekesa!

The next Question is by the hon. Member for Mandera Central!

#### OUTBREAK OF CAMEL DISEASE IN MANDERA DISTRICT

**(Mr. Billow)** to ask the Minister for Livestock and Fisheries Development:-

(a) Is the Minister aware that hundreds of camels have died in Mandera District in the past two months due to a mysterious disease?

(b) Is he further aware that the epidemic is fast spreading with over 50 camels dead between 17th and 19th April, 2007, in Wargadud Division alone?

(c) What urgent action is the Ministry taking to safeguard the livelihood of the people of the region and control the epidemic?

**Mr. Deputy Speaker:** I can see my good friend, the Minister for Livestock and Fisheries Development is very ready. Unfortunately, hon. Billow is out of the country and, therefore, this Question is deferred indefinitely.

*(Question deferred)*

#### ORAL ANSWERS TO QUESTIONS

##### *Question No.016*

#### ACQUISITION OF NJABINI LAND BY MIDLANDS LTD

**Mr. Owino** asked the Minister for Lands:-

(a) under what circumstances the company by

[**Mr. Owino**]

the name Midlands Limited acquired land at Njabini Farm; and,  
(b) what portion of the land the company acquired, for what purposes and at what cost.

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

After thorough and comprehensive investigations into this matter, the Ministry has established that hon. Kimunya is a director of this company---

*(Applause)*

Hang on! Hang on!

Mr. Deputy Speaker, Sir, I also established that, on 8th February, 2006, hon. Kimunya had actually written a letter of resignation to Midlands Ltd. I also established that the secretary who was supposed to forward the letter to notify the Registrar of Companies actually did not do his job. So, hon. Kimunya---

**Hon. Members:** Liar! Liar! *Uongo!*

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

**The Assistant Minister for Lands** (Mr. Kamama): So, the information at the Registrar of Companies' office indicates that hon. Kimunya is a director of the company.

Mr. Deputy Speaker, Sir, the only thing I want to clarify or know from the House is whether it is a crime to be a member of a company in this country.

Thank you, Mr. Deputy Speaker, Sir.

*(Loud consultations)*

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

**Mr. Deputy Speaker:** Order, hon. Members! Will you sit down?

This Question was almost concluded. In fact, there was only one final supplementary question remaining from Mr. Owino---

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

Will you sit down, Mr. Mukiri?

There was only one final supplementary question remaining from Mr. Owino. Subsequently, a document was laid on the Table by Mr. Owino indicating that the Minister was, at that time---

**Mr. Ojode:** A land grabber!

**Dr. Ali:** *Mwizi!*

*(Laughter)*

**Mr. Deputy Speaker:** Order! A document was laid on the Table by Mr. Owino indicating that the Minister was, at that time, a director of the company. Then, Mr. Kamama refuted that, which forced the Chair to ask the Clerk to seek clarification from the Registrar of Companies. The Registrar of Companies did actually write to us and gave us the details indicating that the Minister was a director. It is not a matter of whether it is a crime or not; that was not the issue! At that time, the Chair ruled that Mr. Kamama would have to go and look at the document and come to this House and apologise for giving misleading information.

*(Applause)*

That was the issue; it was not a matter of whether it is a crime or not! Mr. Kamama, you gave some information to the House and an hon. Member, and even the Registrar of Companies, proved you wrong. So, here, we are just wasting a lot of time and we are not here to revisit the matter! You gave the House misleading information and all you need to do is apologize to the House and we proceed!

**Dr. Ali:** *Mwizi!*

*(Laughter)*

**Mr. Deputy Speaker:** Order, Dr. Ali!  
**Mr. Kamama:** Mr. Deputy Speaker, Sir, I have stated my case; that, there was a letter which was written by the Minister---

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

**Mr. Deputy Speaker:** Order, Mr. Ojode, let the Assistant Minister finish!

**Mr. Kamama:** Hang on! I referred to the letter which was written by the Minister but the information has not yet been reflected in the Registrar of Companies office and because of that, I wish to apologise.

Thank you, Mr. Deputy Speaker, Sir.

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

**Mr. Deputy Speaker:** The Assistant Minister has apologised. Therefore, I now move to the next point, which is to ask Mr. Owino to ask a question.

**Mr. Owino:** Thank you, Mr. Deputy Speaker, Sir. The purpose for which that land was grabbed by the Minister then in the Ministry of Lands was to establish a potato factory to add value. Is the Minister aware that since then, the land has been divided into portions of four acres, and the original aim for which the land was grabbed has been moved to the former Minister's constituency and that the factory is now being built there?

**Hon. Members:** Shame! Shame!

*(Several hon. Members whistled)*

**Mr. Deputy Speaker:** Order! Order!

**Mr. Kamama:** Mr. Deputy Speaker, Sir, whether the land was grabbed or not, I was not there to establish that fact. But that company has 14,000 members who are actually beneficiaries and they are Kenyans. So, I do not see--- I mean, a factory can be established anywhere in the country! What is the problem?

Thank you, Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** Order! That is the end! Next Question!

*Question No.204*

NON-PAYMENT OF SITTING ALLOWANCE  
TO MAKUENI TRIBUNAL COMMITTEE

**Mr. Ndambuki** asked the Minister for Lands:-

(a) whether he is aware that members of District Dispute Tribunal Committee in Makueni have not been paid their sitting allowances since 2005 to date; and,

(b) when the sitting allowances will be paid to the committee members.

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

(a) I am aware that members of the Land Dispute Tribunal in Makueni District have not been paid all their allowances for the years 2005, 2006 and part of 2007.

(b) I am seeking additional funds from Treasury to pay the arrears.

**Mr. Ndambuki:** Mr. Deputy Speaker, Sir, the Assistant Minister is not serious. This problem is not just affecting Makueni; it applies to the entire country. No member of these committees has been paid their sitting allowance. The Assistant Minister has said that he is seeking for additional funding. These members have not been paid since 2005 and yet we have had three financial years in between. How come the Assistant Minister has not sought these additional funds during that time?

**Mr. Kamama:** Mr. Deputy Speaker, Sir, I want to agree with the hon. Member that this problem applies across the country. The kind of funds given to our Ministry are hardly enough to pay allowances for all the Land Dispute Tribunal members and Land Control Board members. I am aware that

**[Mr. Kamama]**

Makueni was allocated about Kshs320,000. They have---

**Mr. Omondi:** On a point of order, Mr. Deputy Speaker, Sir. These people who require the services of the Land Control Board and Land Dispute Tribunals pay some money

to the Government. Why is the Assistant Minister not using this money---

**Mr. Deputy Speaker:** Order, Mr. Omondi! We must have some order here. The Assistant Minister is responding. That is a Question, not a point of order. Would you please try to catch my eye?

**Mr. Kamama:** Mr. Deputy Speaker, Sir, I just mentioned that the amount of money being given to this Ministry is hardly enough to pay allowances to Land Dispute Tribunal members and Land Control Board members. I want to give an example of Makueni where we allocated Kshs320,000 which is almost one-third of what was required. At the moment we have about Kshs3 million in arrears in Makueni. I want to promise the House that we will try to talk to the Treasury to get some extra funding so that we can pay the allowances to these members.

**Mr. Nderitu:** Mr. Deputy Speaker, Sir, this matter is very serious. If this Parliament is worth that statement, all of us should be involved. These members have been working since 2003 and to date they have not been given their allowances. It is not an issue of whether the Treasury will be asked for this money or not. The Ministry should have been aware that these people have been working. Mr. Assistant Minister, time is up. When will these people get paid?

**Mr. Kamama:** Mr. Deputy Speaker, Sir, they will be paid when we get extra funding.

**Mr. Omondi:** Mr. Deputy Speaker, Sir, I will go back to my question.

**Mr. Deputy Speaker:** You had no question! You said it was a point of order. Now you are saying you will go back to your question.

**Mr. Omondi:** Mr. Deputy Speaker, Sir, these members who require the services of the Land Control Board and the Tribunal Board paid fees to the Government. What is the Government doing with this money that people paid, when they cannot pay these board members their allowances?

**Mr. Kamama:** Mr. Deputy Speaker, Sir, the money that these people pay is usually received by those respective offices as A-in-A. The sum total of this A-in-A is actually brought

to this House so that it can allocate the funds to the various Ministries and departments. The hon. Member needs to be informed that A-in-A is not spent. You can only spend it after the authority of this Parliament is obtained.

**Mr. Muriithi:** Mr. Deputy Speaker, Sir, the Government is not taking this matter seriously. We have had inter-tribal clashes and in large districts. The Government should work harder to ensure that these district tribunals are re-constituted. The Provincial Land Dispute Committees have never been reconstituted. So, the Government is encouraging tribal wars. What is the Government doing to ensure that these committees are reconstituted as soon as possible and the money made available? We should not be told that they are going back to the Ministry to collect more funds. The Ministry has not made any budgetary provisions to pay these salaries for three consecutive years. What can they do to convince us that they are doing something now?

**Mr. Kamama:** Mr. Deputy Speaker, Sir, the issue of reconstitution of these tribunals is neither here nor there. They have already been constituted.

**Mr. Omamba:** Mr. Deputy Speaker, Sir, it is a lamentable situation in Kenya. I wonder why this Ministry has not allocated any funds in the Budget for these District Dispute Tribunals. Was the Assistant Minister aware that these salaries were gazetted? Was this a mere promise or was it budgeted and gazetted?

**Mr. Kamama:** Mr. Deputy Speaker, Sir, we will respond to the concerns of the hon. Member appropriately.

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

**Mr. Deputy Speaker:** Mr. Nderitu, I gave you an opportunity to speak. There is no breach of order!

**Mr. Ndambuki:** Mr. Deputy Speaker, Sir, you have heard the outcry in this House about payment of salaries to these committee

members. Is the Assistant Minister telling the House the truth when he says that he will look for funds to pay these people because some of these members are unable to pay school fees their children? They walk around carrying the receipts to show that they have not been paid by their Government!

**Mr. Kamama:** Mr. Deputy Speaker, Sir, as a Ministry we deal with very serious and sensitive matters. I want to confirm to the House that we have liaised with the Treasury on several occasions especially on this matter. We will pursue this issue until we get funds so that these members can be assisted. I know they are really suffering and they need to be assisted.

**Mr. Deputy Speaker:** Hon. Members, we know this is a problem. I would even want this issue to be debated but time for this Question has been exhausted.

*(Messrs. Muriithi and Nderitu  
stood up in their places)*

Messrs. Muriithi and Nderitu, you are not being fair! I have already given you a chance to speak.

Hon. Members, by indulgence of the House and discretion of the Chair Mr. Kimeto has a matter which persuades me to skip some Questions and go to his Question.

*Question No.207*

RELEASE OF TITLE DEEDS TO  
KAMWEGA LAND OWNERS

*(Question skipped)*

*Question No.159*

UTILIZATION OF LATF/FUEL LEVY FUNDS  
BY NAKURU MUNICIPALITY

*(Question skipped)*

*Question No.072*

BREAKDOWN OF VICTIMS

OF 1998 US EMBASSY BOMB BLAST

*(Question skipped)*

*Question No.145*

NON-PAYMENT OF LATE JOSEPH  
KIKO'S BENEFITS

*(Question skipped)*

*Question No.189*

RETURN OF SCHOOLS TAKEN  
OVER BY DEB TO AIPCA

*(Question skipped)*

*Question No.212*

TERMINAL DUES FOR MR. JOHN RAJUAI

*(Question skipped)*

*Question No.222*

IMPLEMENTATION OF MOTION  
ON AMENDMENT OF KRB/CDF ACTS

**Mr. Kimeto** asked the  
Minister of Roads and Public  
Works:-

(a) whether he is aware that a  
Motion to amend the Kenya  
Roads and

**[Mr. Kimeto]**

Constituencies Development Fund  
Acts in order to empower the  
Constituencies Development  
Fund Committees to manage  
roads funds which are  
distributed to constituencies  
was adopted by the House on  
17th November, 2004; and,  
(b) when the Motion will be  
implemented.

**The Assistant Minister for Roads  
and Public Works (Eng. Toro):** Mr. Deputy

Speaker, Sir, I beg to reply.

(a) I am aware that this House adopted a Motion on 17th November, 2004 to amend the Kenya Roads Board Act and the Constituencies Development Fund Act in order to empower the Constituencies Development Fund Committees to manage roads funds which are distributed to constituencies.

(b) The Motion will be implemented as soon as the proposed amendments initially contained in the Miscellaneous Amendments Bill 2004 and now contained in Miscellaneous Amendments Bill 2007 are enacted by Parliament.

**Mr. Kimeto:** Mr. Deputy Speaker, Sir, let me thank the Assistant Minister for the positive answer. From 2004 to 2007, is three years down the line. How soon can this be done?

**Eng. Toro:** Mr. Deputy Speaker, Sir, the Ministry has no problem with the implementation of this Motion. There is nothing we can do until the Bill passes through Parliament.

**Mr. Maore:** Mr. Deputy Speaker, Sir, we have been deliberating on this issue for the last five years in the Roads and Energy Committee. This Assistant Minister should not be answering this Question. It should be answered either by the Leader of Government Business or the Minister for Justice and Constitutional Affairs. Why has this Government been afraid of the Statute Law (Miscellaneous Amendments) Bill since 2003?

**Eng. Toro:** Mr. Deputy Speaker, Sir, that question should be directed to the Leader of Government Business and the Minister for Justice and Constitutional Affairs because we have no control or power as a Ministry to say when the Statutes Law (Miscellaneous Amendments) Bill will be brought to Parliament and prioritised for debate.

**Mr. Muturi:** On a point of order, Mr. Deputy Speaker, Sir. In his response the Assistant Minister talked of Statute Law (Miscellaneous Amendments) Bill 2007. To the best of my knowledge, no such Bill has been published or tabled before this House. Is the Assistant Minister in order to mislead the House?

**Mr. Deputy Speaker:** Mr. Assistant Minister, what we have is for 2006.

**Eng. Toro:** Mr. Deputy Speaker, Sir, I have been advised that the Statute Law (Miscellaneous Amendments) Bill 2007 is on the way coming.

**Mr. Angwenyi:** Mr. Deputy Speaker, Sir, I wonder why Ministers do not want to accommodate this kind of idea from Mr. Kimeto and yet when they are demoted they keep on crying in the Back Bench "Oh! We should have done this or the other". Could the Assistant Minister undertake to seek expeditious publication and tabling of this Statute Law (Miscellaneous Amendments) Bill so that we can have this money in the CDF?

**Eng. Toro:** Mr. Deputy Speaker, Sir, the Statute Law Miscellaneous Amendments Bill contains amendments to other statutes. What the Ministry is now pursuing is the Kenya Roads Board Bill, which seeks to reform the roads sector. The other one is not confined to Kenya Roads Board (KRB) and Constituencies Development Fund Act only, but also other statutes.

**Mr. Deputy Speaker:** Last question, Mr. Kimeto!

**Mr. Kimeto:** Mr. Deputy Speaker, Sir, I am sure you have heard what the [Mr. Kimeto]

Assistant Minister has said. When Mr. Raila was the Minister for Roads and Public Works, he gave an affirmative answer. Mr. Nyachae, through his Assistant Minister, Eng. Toro, has also given an affirmative answer. But there seems to be a problematic individual whom nobody knows! That person is called the Attorney-General, who brings Bills to this House. He is keeping quiet because nobody knows much about him and yet, our roads are completely dilapidated because of the rains we are currently experiencing. Do we need to kneel for that man called the Attorney-General? We demand that he does his work!

**Mr. Deputy Speaker:** What is your question?

**Mr. Kimeto:** Mr. Deputy Speaker, Sir, what are we going to do with that man

who cannot do anything?

*(Applause)*

**Eng. Toro:** Mr. Deputy Speaker, Sir, we, as the Ministry, have done our part. If the Ministry had refused to implement the Motion as passed by Parliament, that is the time we would be taken to task. But we have done our part. We have agreed to the amendments that Mr. Kimeto is talking about. But we have no control over the Attorney-General.

**Mr. Deputy Speaker:** We will now go back to the Questions we had skipped.

Next Question by the hon. Member for Mosop Constituency!

*Question No.207*

RELEASE OF TITLE DEEDS TO  
KAMWEGA LAND OWNERS

**Mr. Sambu** asked the Minister for Lands:-

(a) when he will release title deeds to landowners of Kamwega Adjudication Section in Nandi North District; and,

(b) what has caused the delay in releasing those title deeds.

**Mr. Deputy Speaker:** Mr. Kamama, today is your day!

**The Assistant Minister for Lands** (Mr. Kamama): Yes! Mr. Deputy Speaker, Sir; I welcome the day!

I beg to reply.

(a) I am unable to process title deeds for Kamwega Adjudication Section due to a pending boundary dispute between the adjudication section and Nandi North Forest.

(b) The delay was caused by a pending appeal case, Miscellaneous, Case No.46 of 2007 at Eldoret High Court. The first inter-parties hearing will be held on 8th May, 2007.

**Mr. Sambu:** Mr. Deputy Speaker, Sir, I first asked this Question on 25th July, 2004. I have a copy of the HANSARD. The then Assistant Minister for Lands and Housing, Mr.

Ojode, briefly said:-

"The registration exercise for Nandi-Kamwega Section in Mosop Constituency is expected to be completed by the end of September, 2005."

All those years have elapsed. I want to clarify that the Forest Department has no problem. The Chief Conservator of Forests has sent surveyors and they have marked out the border. They have an instrument called Global Positioning System (GPS). There is no dispute in that area. So, the dispute is a creation of those who want to grab the forest. The Ministry should give title deeds to those who are not involved in the dispute regarding the forest boundary. There is no dispute on the forest boundary. The beacons are there. So, that is just an excuse. Could the Assistant Minister issue the title deeds?

**Mr. Kamama:** Mr. Deputy Speaker, Sir, the Ministry had made substantial progress on that issue. But the obstacle is the court case, which will be heard on 8th May, [Mr. Kamama] 2007. Immediately after that, we will issue title deeds to the people of Mosop Constituency.

**Mr. Khamisi:** Mr. Deputy Speaker, Sir, last year, this Ministry pretended to be launching a very vigorous campaign of issuing title deeds to individuals, particularly at the Coast Province. At that time, we were being told that those title deeds were being issued free of interest. Is he aware that farmers and plot owners are being asked to pay money to the Ministry, even though it was agreed that the fees were to be waived by the Government?

**Mr. Kamama:** Mr. Deputy Speaker, Sir, I wish to confirm to the House that in Coast Province, we waived charges for a number of farmers and individuals to the tune of over Kshs30,000. The Ministry is realising shortages in terms of revenue. But, nevertheless, on the new development that has been mentioned by Mr. Khamisi, I want to confirm to him that we will investigate and

take appropriate action.

**Mr. Deputy Speaker:** Last question, Mr. Sambu!

**Mr. Sambu:** Mr. Deputy Speaker, Sir, I do not know why Ministers do not respect our views and yet, we know the situation on the ground. I have said that the people who live along the forest boundary are very few. The rest of the citizens of Kamwega have no problem with the forest boundary. Why can you not issue title deeds to those who have no dispute with the forest boundary?

**Mr. Kamama:** Mr. Deputy Speaker, Sir, the hon. Member is avoiding to state that there is the principle of *sub judice*. That programme cannot move forward because of that court case. But I have assured him that we will assist the people of Mosop Constituency, once that case is disposed of.

I also want to remind him that, through what is known as the *shamba* system, the people in that particular region actually encroached on forest land by about 500 acres. We are trying to resolve that despite some insecurity incidents in that place. We will---

**Mr. Sambu:** But, there are no---

**Mr. Deputy Speaker:** Order, Mr. Sambu! Could you allow the Assistant Minister to finish what he is saying?

**Mr. Kamama:** Mr. Deputy Speaker, Sir, I confirm to him that we will issue title deeds once that case is disposed of.

**Mr. Sambu:** On a point of order, Mr. Deputy Speaker, Sir. Is the Assistant Minister in order to impute improper motives on my people by saying that there is insecurity? Kamwega is a very safe place. We border Western Province. There is no insecurity!

**Mr. Deputy Speaker:** Mr. Kamama, what do you have to say about that?

**Mr. Kamama:** Mr. Deputy Speaker, Sir, the Chief Conservator of Forests was sent to that area last year to re-establish boundaries as per what was gazetted. But, when he reached there, there was a lot of insecurity in that place. So, I am not misleading this House.

**Mr. Deputy Speaker:** Mr. Kamama, that is done!

Next Question by Mr. Mirugi!

*Question No.159*

UTILIZATION OF LATF/FUEL LEVY FUNDS  
BY NAKURU MUNICIPALITY

**Mr. Mirugi** asked the Minister for Local Government:-

(a) how much revenue the Municipal Council of Nakuru has generated since 2003 to date;

(b) how much money the council received from LATF and Fuel Levy Funds over the same period; and,

(c) how the funds were utilized.

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

[**The Assistant Minister for Local Government**]

(a) The Municipal Council of Nakuru has generated Kshs950,647,048.35 since 2003 to date.

(b) The council has received Kshs366,103,596 from the LATF and Kshs78,714,220 from the Fuel Levy Fund.

(c) Those funds were utilised as follows: Personal expenses---

**Mr. Deputy Speaker:** Order, Mr. Shaaban! Just a minute! Are you about to give us details of the expenditure of the funds you have just talked about? I prefer that you table the list of the expenditure because if you read the whole of it, we will take a lot of time. You should be able to lay the list on the Table of the House.

**The Assistant Minister for Local Government** (Mr. Shaaban): Mr. Deputy Speaker, Sir, the funds were utilised on personal emoluments, operations and maintenance, guests reception and capital projects.

It is proper that I answer the Question

as asked. The hon. Member has the details.

**Mr. Deputy Speaker:** But I am just saying that you will take a long time to give information. So, it is still in order for you to lay that list on the Table for the hon. Member to scrutinise. I am sure the hon. Member has the figures.

Mr. Mirugi, could you now ask your supplementary question?

**Mr. Mirugi:** Mr. Deputy Speaker, Sir, I want to thank the Assistant Minister for the answer that he has given---

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

**Mr. Deputy Speaker:** Order, Mr. Karaba! You are out of order!

Proceed, Mr. Mirugi!

**Mr. Mirugi:** Mr. Deputy Speaker, Sir, I request the Assistant Minister to look at the way--

*(Loud consultations)*

**Mr. Deputy Speaker:** Mr. Mirugi, we cannot hear you! Order, hon. Members! There is an hon. Member who is asking a question, but the hon. Members seated on the second Bench on my left and those on the Front Bench are making it impossible for the House to hear him. Please, let the hon. Member ask the question!

**Mr. Mirugi:** Mr. Deputy Speaker, Sir, I want to thank the Assistant Minister for the answer that he has given. However, what I wanted to know is exactly how the funds were spent. What he has given, in his written answer, are general figures. I wanted a breakdown of the projects undertaken and how much each of them has cost. I also wanted a breakdown of how much money was generated in each financial year, instead of a general figure since 2003. Is the Ministry satisfied that these funds were properly utilised?

**Mr. Deputy Speaker:** Can I help you, Mr. Mirugi? If you want such detailed information, then the Assistant Minister will have to lay it on the Table, in which case, I can defer the Question, so that the Assistant Minister can bring that information. But if you want us to

continue with it the way it is, then I will not defer it.

Do you prefer that we defer the Question, so that the Assistant Minister can provide that information, or do you want us go on with it the way it is?

**Mr. Mirugi:** Mr. Deputy Speaker, Sir, I prefer that we defer the Question.

**Mr. Deputy Speaker:** Mr. Assistant Minister, how long do you need for you to come up with detailed figures, as per the request of the hon. Member?

**Mr. Maore:** On a point of order, Mr. Deputy Speaker, Sir. I think it is appropriate for the rest of the hon. Members, if the Assistant Minister could table audited reports over these years mentioned, so that we can use it to check what is happening in our various county councils, because we cannot see much happening on the ground.

**Mr. Deputy Speaker:** I am not sure about the audited reports. Let us go by the hon. Member's request.

Mr. Assistant Minister, how long do you need to bring that information, whether it is audited reports or whatever?

**Mr. Shaaban:** Mr. Deputy Speaker, Sir, if the hon. Member wants the detailed report of all the projects or how the money was spent, I will be able to answer this Question on Thursday, next week.

**Mr. Deputy Speaker:** Very well. Is that okay with you, Mr. Mirugi?

**Mr. Mirugi:** Yes, Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** The Question is deferred to Thursday, next week!

*(Question deferred)*

*Question No.072*

BREAKDOWN OF VICTIMS OF 1998  
US EMBASSY BOMB BLAST

**Prof. Olweny** asked the Minister of State for Special Programmes:-

(a) whether he could enlist by nationality those who died and those injured during the bomb blast at the Embassy of the United States of America in Nairobi in 1998; and,

(b) whether he could give a breakdown of how compensation for the deaths and injuries was done.

**The Minister of State for Special Programmes** (Mr. Munyes): Mr. Deputy Speaker, Sir, I beg to reply.

(a) The following is the available record of the persons who died after the bomb blast at the Embassy of the United States of America (USA) in Nairobi. The number of people who died by nationality is as follows: 243 Kenyans, 12 Americans, one Ethiopian and one person of unknown nationality.

The number of people who were injured is as follows: 5,585 Kenyans, 14 Americans and one Congolese. The total is 5,600 people.

(b) The Kenyan Government gave a humanitarian assistance of Kshs50,000 to the families of each of the deceased persons. It also issued coffins for burial and met full transport costs for each deceased person to their final resting destinations.

Direct compensation to the victims of the bomb blast was also made by the USA Government. The USA, being a sovereign state, has no obligation to divulge its information to another government.

**Prof. Olweny:** Mr. Deputy Speaker, Sir, the last part of the Minister's answer is quite inappropriate. I am particularly concerned about Kenyans. Several Kenyans lost their lives and some got injured. The Government cannot claim that the USA, being a sovereign state, cannot give us information regarding the compensation that was given for the Kenyans who died and those who were injured. I think the Government is in a position to find out how much was given to the families that were affected; whether their people died or were injured, and compare that with the average life insurance covers in this country. Could the Minister tell us whether the

Government could do this on behalf of the affected families, because we know the Government will---

**Mr. Deputy Speaker:** Order, Prof. Olweny! You have asked a good question. Please, let the Minister respond!

**Prof. Olweny:** Mr. Deputy Speaker, Sir, could he assure the House that the Government will do this on behalf of the families, because these people are complaining all over?

**Mr. Deputy Speaker:** Order, Prof. Olweny!

**Mr. Munyes:** Mr. Deputy Speaker, Sir, my answer remains the same as the one [Mr. Munyes]

I gave some months ago; that the USA will not give that information. If the hon. Member is interested, he should write to the USA Government and give the reasons why he wants that information.

**Mr. Muriithi:** Mr. Deputy Speaker, Sir, while the Minister was replying to this Question, I shed tears. This is because I lost so many employees. My own son was a victim and yet, the Minister can stand here and say that the USA is a sovereign state! Where is its sovereignty? The Government of Kenya is charged with the responsibility of taking care of its citizens, but not to protect another government.

The Minister says that there were some direct payments made to the victims. But my son did not receive any money at all. Most of those who were injured are now incapacitated. Some of them are dying due to lack of medical attention. Can Kshs50,000 sustain a young man aged 35 years, who has lost his eyesight or cannot walk? Could the Minister give us a better answer? If he is not able to tell us the amount of money that was paid to the victims now, he should be given time to bring that information.

**Mr. Deputy Speaker:** Mr. Muriithi, I do I appreciate your feelings, but try to calm down.

Yes, Mr. Minister!

**Mr. Munyes:** Mr. Deputy Speaker,

Sir, I appreciate those concerns, and I am very sorry for the hon. Member's predicament. As I said, this matter was looked at as a matter of confidentiality. That information is confidential. If the hon. Member wants to get it, he should write to the USA Government.

On the issue of a victim who has not been paid, that specific case can be followed.

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

**Mr. Deputy Speaker:** Hon. Members, we have only five minutes remaining for Question Time!

Last question by Prof. Olweny!

**Prof. Olweny:** Mr. Deputy Speaker, Sir, I think the answer given by the Minister is inadequate. This is because he cannot convince this House that he cannot take this matter up with the USA Government, because the USA is a sovereign state. This is an issue of diplomacy but not sovereignty.

I will leave it at that because the answer is very inappropriate and inadequate.

**Mr. Munyey:** Mr. Deputy Speaker, Sir, this is the second time that this Question has been asked in this House. I have given the breakdown - which I can table - of the victims of that disaster, who were supported by the USA Government. I have a breakdown of the Kshs900 million which was spent on those injured as compensation. I do not know what next to say. If any hon. Member wants to get specific figures of the amount of money given to each of the victims of the disaster, he or she should write to the USA Government.

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

**Mr. Deputy Speaker:** Order, hon. Members! This is a matter that has come on the Floor of the House and, I know, even in other areas. I mean, we can take all the time on it.

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

**Mr. Deputy Speaker:** Order, Mr. Khamisi! I am not going to allow any further points of order because I am constrained by time.

Next Question by Mr. J.M. Mutiso!

*Question No.145*

NON-PAYMENT OF LATE  
JOSEPH KIKO'S BENEFITS

**Mr. J.M. Mutiso** asked the Minister of State for Administration and National Security:-

(a) whether he is aware that Mr. Joseph M.

**[Mr. J.M. Mutiso]**

Kiko, P/No.1992006335, former Chief of Kitaingo Location, Kibwezi District, died in office on 3rd April, 2003;

(b) whether he is also aware that a request for processing his benefits was filed with the Office of the President in August, 2003, by his next-of-kin, Ms. Eunice Kalekye Kiko - ID No.2605877;

(c) whether he is further aware that Ms. Kiko has not been paid her benefits because the file is alleged to have been lost; and,

(d) when Mr. Kiko will be paid his benefits.

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

(a) Yes, I am aware that Mr. Joseph M. Kiko, P/No.11992006335, a former Chief of Kitaingo Location, Kibwezi District, died while still in office on 3rd of April, 2003.

(b) I am also aware that a request for his death gratuity has been made by Ms. Eunice Kalekye Kiko.

(c) I am further aware that Ms. Kiko has not been paid her benefits due to delay in submission of supporting documents by the family. I am not aware of the allegation that the file got lost.

(d) Death gratuity papers were processed and forwarded to the Director of

Pensions, Ministry of Finance, on 28th of March, 2007.

**Mr. J.M. Mutiso:** Mr. Deputy Speaker, Sir, we have a problem that this House has to be treated to similar Questions of payment of gratuity and pensions of civil servants. The next of kin, Ms. Eunice Kalekye, submitted all the documents in August 2003. Up to date, which is four years down the line, the late Senior Chief's benefits have not been paid. Could the Assistant Minister tell us exactly what documents were supposed to be submitted and which ones were not submitted to necessitate this inordinate delay?

**Mr. Kingi:** Mr. Deputy Speaker, Sir, normally, the documents that are required for the purpose of processing death gratuity are: an original death certificate; an original marriage certificate from the widow; original birth certificates for the children of the deceased; widow's copy of her identity card; a list of all the legal heirs from the area District Commissioner; the last pay slip and a clearance certificate from Kenya Revenue Authority (KRA).

Mr. Deputy Speaker, Sir, in this case, most of the documents were submitted except the birth certificates of the children, which were later on submitted but it was a bit late and there was a problem with the last pay slip which forced us to go back to our payrolls and retrieve the pay slips for April and May, 2003. As I speak, we have submitted the file to the Pensions Department. I was, personally, there this morning and they are processing this claim.

**Mr. J.M. Mutiso:** Mr. Deputy Speaker, Sir, I wonder whether this House passed an amendment to the Pensions Act that pension should be paid with interest after 90 days of retirement or death of the person. Could the Assistant Minister inform the House whether the Government is going to pay the late Kiko's pension, including interest at market rates as per the amendment made to the Pensions Act?

**Mr. Kingi:** Mr. Deputy Speaker, Sir, we are not responsible for the delay. I have said that the delay was caused by late submission of the documents. Since we are not responsible for that delay, the issue of paying interest does not arise.

*Question No.189*

RETURN OF SCHOOLS TAKEN  
OVER BY DEB TO AIPCA

**Mr. Deputy Speaker:** Hon. Members, it is already 3.30 p.m and I would [**Mr. Deputy Speaker**] like to inform the House that the next Question, No.189, by Mr. J. Nyagah, will not be asked since he is out of the country. Therefore, I request the Minister for Education to bear with us because it will have to be deferred.

*(Question deferred)*

**Mr. Deputy Speaker:** Hon. Members, the next five minutes will be for the last Question by Mr. Midiwo!

*Question No.212*

TERMINAL DUES FOR MR. JOHN RAJUJAJI

**Mr. Midiwo** asked the Minister for Labour and Human Resource Development why Mr. John Nyosiro Rajuaji, a driver working for Dolphin Bus Services (Staff No.6-123) and whose services were terminated on 9th August, 2006, has not been paid his terminal dues calculated as two months salary and one month salary in lieu of notice.

**The Assistant Minister for Labour and Human Resource Development** (Mr. Leshore): Mr. Deputy Speaker, Sir, I beg to reply.

I am aware that Mr. John Nyosiro Rajuaji, a driver working for Dolphin Bus Services (Staff No.6-123) and whose services were terminated on 9th August, 2006, has not been paid his terminal dues calculated as two

months salary and one month salary in *lieu* of notice. This is because Mr. John Nyosiro Rajuaji did not report his labour complaint to either the District Labour Officer, Industrial Area Labour Office, or to the Provincial Labour Officer, Nairobi Province, (Nyayo House, 16th Floor, Room 1) for assistance so that he could be assisted to be paid his terminal dues upon his termination of services on 9th August, 2006. I would request my honourable friend, Mr. Midiwo, to ask Mr. John Nyosiro Rajuaji to report to the Provincial Labour Officer, Nairobi, for assistance. The Provincial Labour Officer has been made aware of the same.

**Mr. Midiwo:** Mr. Deputy Speaker, Sir, this should really be a Question with a straightforward answer given that the Assistant Minister has said that the worker was never paid his dues. On termination of Mr. John Nyosiro Rajuaji's employment, he was asked to go through some process which he did and I have the proof. It is not the duty of Members of Parliament to advise people to go to labour officers. Once I do that, could the Assistant Minister undertake to make sure that Dolphin Bus Services pays Mr. John Rajuaji Nyosiro his dues which is really a simple thing that should not even be a subject of debate?

**Mr. Leshore:** Mr. Deputy Speaker, Sir, I would like to inform my colleague that all labour issues should be reported to the District Labour Officers or to the nearest Provincial Labour Officer so that they can calculate how much is due to the employee.

**Mr. Deputy Speaker:** However, do I understand from Mr. Midiwo that, that has been done?

**Mr. Midiwo:** Yes, Mr. Deputy Speaker, Sir, it has been done. In fact, the Assistant Minister says that Mr. John Nyosiro Rajuaji is owed two months salary and one month salary in *lieu* of notice of his termination. He has confirmed that. Could the Assistant Minister undertake to tell me to send Mr. Nyosiro Rajuaji to a specific place to go and collect his dues because he has confirmed that these people refused to pay him after undergoing the process?

**Mr. Leshore:** Mr. Deputy Speaker, Sir, I

will undertake that.

**Mr. Deputy Speaker:** Very well! Hon. Members, that is the end of Question Time. I have two requests for Ministerial Statements. The first one is by Mr. Balala.

## POINTS OF ORDER

### ARREST OF IMAM AND MAJENGO RESIDENTS

**Mr. Balala:** Mr. Deputy Speaker, Sir, I rise to seek a Ministerial Statement from the Minister of State for Administration and National Security on the recent arrest of an Imam and ten others within Majengo Location in Mvita Constituency. Secondly, the General Service Unit (GSU) used excessive force in destroying property, traumatising citizens and theft in the constituency. I was there this morning and I saw the trauma that was visited on these people. Could the Minister also tell us whether this is the policy of the Government where there is religious profiling? I want him to come very clear in his Ministerial Statement on this matter.

**Mr. Deputy Speaker:** Mr. Assistant Minister, do you have anything to say?

**The Assistant Minister, Office of the President** (Mr. Munya): Mr. Deputy Speaker, Sir, we will give the Statement next week.

**Mr. Deputy Speaker:** Precisely which day next week? Wednesday or Thursday?

**The Assistant Minister, Office of the President** (Mr. Munya): On Thursday next week.

**Mr. Deputy Speaker:** We want that to go on record!

### GAZETTEMMENT OF OFFICIAL BOUNDARIES OF NEW DISTRICTS

**Mr. Ojaamong:** Mr. Deputy Speaker, Speaker, Sir, I rise to seek a Ministerial Statement from the Office of the President.

In the run-up to the referendum, the Government created several districts. Since

then, the Government has been going down, unilaterally, trying to map out the boundaries and, very soon, maybe next week, it is going to gazette the boundaries, which might cause friction in the country. I would like the Ministerial Statement to address the following issues:-

(i) The exact number and names of the districts which have so far been created.

(ii) When the official boundaries of these districts will be made public.

(iii) Before the gazette of these new district boundaries, whether the concerned Ministry will consult with the public and leaders in the respective districts.

(iv) If the beacons, as detailed in the Districts and Provinces Act, 1992, will be adhered to.

(v) What measures the Office of the President has, to address the issue of district headquarters which fall within other districts.

**The Assistant Minister, Office of the President** (Mr. Kingi): Mr. Deputy Speaker, Sir, we undertake to issue the Statement on Thursday next week.

## MINISTERIAL STATEMENTS

### ACQUISITION OF LENANA SCHOOL LAND

**The Minister for Education** (Prof. Saitoti): Mr. Deputy Speaker, Sir, before I read the Statement, let me first of all, apologise for the fact that I should have made this Statement yesterday, but for reasons and circumstances beyond my control, I was not able to do so.

In the recent past, there have been reports on the issue of the Ministry's effort to acquire some land from Lenana School for the building of a district secondary school in the area. Some of the reports appearing in the Press have tended to apportion blame on those who have been pursuing this matter. It is more than fortunate, given the dire need for expanded access to secondary education in Nairobi. For purposes of clearance, I beg to inform this august House as follows:-

(i) Nairobi continues to be the least

provided for in terms of access to secondary education, in that, it has very few secondary schools to meet the high demand for secondary school places.

(ii) Nairobi has no public land for the **[The Minister for Education]**

establishment of new schools. For this reason, in 2005, we appealed to the Nairobi City Council to consider the establishment of new secondary schools on the land belonging to primary schools. As a result of that request, four new secondary schools have been established on primary school land as follows:-

(i) Nduruno Secondary School in Starehe.

(ii) Dagoretti Mixed Secondary School in Dagoretti.

(iii) Karen "C" Secondary School in Langata.

(iv) Dr. Mwenje Secondary School in Embakasi.

However, other three secondary schools are already in the process of development. These are:-

(i) Makongeni Secondary School in Makadara.

(ii) Olympic Secondary School in Langata.

(iii) Baba Dogo Secondary School in Kasarani.

Other three secondary schools have been proposed and will soon be registered. These will be as follows:-

(i) Pumwani in Starehe Constituency.

(ii) Highridge in Westlands Constituency.

(iii) Lavington in Westlands Constituency.

Mr. Deputy Speaker, Sir, all these schools are being developed on the land owned by primary schools whose land size is between five and 42 acres.

Despite this serious problem of land shortage, the primary school communities in Nairobi have continually supported the Government's efforts of absorbing more secondary school students by donating their scarce land for putting up more secondary schools. This positive gesture has greatly

contributed to the Government's policy of expanding secondary education.

In pursuit of the above policy, the school community in Dagoretti area made a passionate appeal to the Ministry, to be assisted in looking for land for the establishment of a day secondary school for their children. We considered the appeal as deserving, given the fact that there is no day schools in the neighbourhood and more students are leaving primary school in the area and are in need of a secondary school.

As a Ministry, we have looked for land in the area without any success. We, therefore, requested the Board of Governors of Lenana Secondary School for a portion of its 240 acres of land, to enable us to develop a new public secondary school facility to serve the Kenyan children. While awaiting the Board's response, we saw the matter appear in the Press. This was most unfortunate, given that dire need of us to increase access to secondary school education from the current 60 per cent of the Kenya Certificate of Primary Education (KCPE) candidates to 70 per cent by 2008. However, I would like to assure this august House that this matter is currently being discussed and I hope that an amicable solution will soon be found.

Mr. Deputy Speaker, Sir, any public school built in Nairobi serves the children of our capital city and Kenya in general. If a primary school with only five acres of land can afford to accommodate a secondary school, there is no reason why Lenana School or any other public school should not support the Government policy, which was approved in this House when the Government approved a Sessional Paper in 2005.

Finally, I also wish to assure Kenyans that we are determined to reach 70 per cent of transition rate from primary to secondary school level. In the pursuit of this noble goal, we hope that we will get as much support as possible.

**Mr. Karaba:** Mr. Deputy Speaker, Sir, the Minister has really come up with very good suggestions. Short of that, I am suggesting that Lenana School which is a national school, with its 240 acres of land, is [Mr. Karaba] also a ground for our future plans to put up a

university. It is not acceptable for the Ministry to target national schools for the expansion of day secondary schools. We would rather have left this land for a university in the future because we also need to expand our universities.

**Mr. Deputy Speaker:** Let us have Mr. J.M. Mutiso seek the last clarification and then the Minister can respond to both of them.

**Mr. J.M. Mutiso:** Mr. Deputy Speaker, Sir, I concur with the Chairman of the Departmental Committee on Education, Research and Technology, that Lenana School, being a national school, has a special place in this country. More importantly, we have a strategic master-plan for the school.

The free land that we have in this city is not confined to Lenana School only. He can also consider the alternative of Ngong Forest, where he can apportion the forest and build whatever they want to build there. Why must we specifically apportion land owned by Lenana School?

**The Minister for Education** (Prof. Saitoti): Mr. Deputy Speaker, Sir, definitely, the two hon. Members have raised concerns which deserve to be listened to. However, it is important, at the same time, to understand and appreciate the fact that following the implementation of free primary education, we already have an additional two million students in our primary schools. I am sure the hon. Members will appreciate the fact that these students need to be provided with places in secondary schools. Therefore, as a Government, we need to ensure that extra schools are built. As a Ministry, we have decided to examine the request on the part of the community in Dagoretti as to whether Lenana School can donate a piece of land, so that a day secondary school can be built to ensure that additional students in transit from primary to secondary schools can receive higher education. Otherwise, if this is not done, we are going to face a major wastage of future brains, and that will not help us at all.

**Mr. Deputy Speaker:** Thank you.

(Mr. Karaba stood up in his place)

Mr. Karaba, this is a Ministerial Statement. It is not a question of debate.

Next, will be a Ministerial Statement by the Minister of State for Administration and National Security in relation to matter raised by Capt. Nakitare.

GOVERNMENT ACTION TO  
ERADICATE INSECURITY IN  
TRANS NZOIA WEST DISTRICT

**The Assistant Minister, Office of the President** (Mr. Munya): Mr. Deputy Speaker, Sir, on 24th April, 2007, Capt. Nakitare rose on a point of order to seek a Ministerial Statement on the recent attacks in Kinyoro Village, Saboti Division, Trans Nzoia West District, and sought to know the action the Government has taken.

Mr. Deputy Speaker, Sir, on the night of 23rd April, 2007, at around 10.30 p.m., between eight and ten suspected criminals, five of them armed with AK-47 rifles, and the rest armed with *pangas*, *rungus* and whips, raided Kinyoro Market, where they dragged out some businessmen from their residences and other members of the public, who were on their way home. Some of these people were beaten with *rungus*, others were slashed with *pangas* while others were shot dead. A lady, who was temporarily abducted was later released without any harm being done to her and is helping the police with investigations.

Mr. Deputy Speaker, Sir, among those who were shot dead were three traders from Maili Nne in Eldoret, who had gone to sell second-hand clothes at Kinyoro Market on the following day. Four local traders, and two others, sustained bullet wounds and are undergoing treatment at Kitale District Hospital. In addition, another eight people, who are residents of the area, were slightly [The Assistant Minister, Office of the President] injured, and have been treated and discharged. We suspect that the killers were known to the victims, and that is why they were killed. At the moment, we are treating the killings as criminal

acts as investigations continue.

Following these criminal acts, both the Provincial and District Security Intelligence Committees are on the ground conducting investigations. In addition, the Government has done the following:-

(i) two suspects have been arrested and are helping the police with investigations;

(ii) the District Security Intelligence Committee has held two public *barazas* to calm down *wananchi* and ask them to assist the police with information that would assist in apprehending the criminals;

(iii) security personnel have been deployed in the area; this personnel includes two platoons of Administration Police comprising of 60 officers, as well as a General Service Unit (GSU) mobile unit, Anti-Stock Theft Unit, Criminal Investigation Department (CID) and Flying Squad officers to give the team technical support as they look for these criminals; and,

(iv) a leaders' meeting has been arranged for today, 26th April, 2007, and it is taking place as I speak and it is to be addressed by the Provincial Commissioner, Rift Valley, and his security team.

Mr. Deputy Speaker, Sir, I would like to bring to the attention of hon. Members the fact that it is still too early to relate this incident to the warning contained in the leaflets earlier dropped in Saboti Division by the so-called "Sabaot Land Defence Force". The warning was that the "land defence force" would invade other districts. However, in-depth investigations on both incidents are going on.

Mr. Deputy Speaker, Sir, finally, I would like to assure hon. Members that the Government is doing everything it can to apprehend these criminals, and other criminals elsewhere, who have been terrorising citizens.

Thank you, Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** Thank you, Mr. Munya! I will allow two requests for clarification from Capt. Nakitare and Mr. Mirugi on this matter.

**Capt. Nakitare:** Mr. Deputy Speaker, Sir, to me, the Ministerial Statement that has just been issued under his portfolio is cosmetic. We had security meetings in Harambee House with the former Minister for Internal Security, Dr. Murungaru, over Trans Nzoia District security. We dwelt at length on the Kanyarkwat issue. During that time, Dr. Murungaru accompanied Messrs. Serut, Moroto and myself to Kanyarkwat to quell insecurity. It was a well-known fact that there were armed people in Trans Nzoia District. As of now, it is very well-known to the Office of the President that there are more than 500 guns in Saboti Constituency, within Kiboroa Forest and Mount Elgon Caves. On 29th March---

**Mr. Deputy Speaker:** Capt. Nakitare, seek your clarification!

**Capt. Nakitare:** Mr. Deputy Speaker, Sir, I am coming to the clarification. There are no delegations. On the night of 22nd April, 2007, at 10.00 p.m. a Toyota pick-up truck with a Ugandan registration number plate, was seen in Kinyoro. We are talking about a few yards to Dr. Wekesa's house. We are not speaking from Heaven. The Sabaot lady was kidnapped by elements of the Sabaot Land Defence Force. If she was from another tribe, she would have been raped and killed. This particular lady was left to go scot-free.

**Mr. Deputy Speaker:** Seek your clarification now!

**Capt. Nakitare:** Mr. Deputy Speaker, Sir, is the Assistant Minister treating the Trans Nzoia crisis with a dialogue motive, just as the Government is doing with the *Mungiki* sect members in Kiambu District? Does he want the emergence of Bukusu, Pokot and Kikuyu defence forces in Trans Nzoia to protect themselves? What is the use

**[Capt. Nakitare]**

of *barazas*? The Government should disarm those people. We have said so right from the beginning!

**Mr. Deputy Speaker:** Capt. Nakitare, these are sad events, but that is no justification for you to break the rules of the House. You have sought clarification, which the Assistant Minister will now give.

**The Assistant Minister, Office of the President (Mr. Munya):** Mr. Deputy Speaker, Sir, we are treating this matter with the seriousness it deserves. That is why we have deployed all those police officers in that area. Secondly, the Government does not dialogue with criminals. We deal with criminals according to the law. These particular criminals will be dealt with in

accordance with law. We are not taking the matter lightly. I would like to take this opportunity to send my condolences to the families of those who lost their loved ones in this particular incident.

**Mr. Deputy Speaker:** Mr. Mirugi!

**Mr. Mirugi:** Mr. Deputy Speaker, Sir, I would like the Assistant Minister to clarify an issue regarding the security problem in Western Province. In the recent past, in Kiambu, we have had a situation where adherents of the *Mungiki* sect have been harassing people, killing some of them, and the Provincial Administration went out of its way and said that it would overhaul the whole security system in that area. However, the following day, the Commissioner of Police dismissed that statement by the Provincial Administration. So, being in the Ministry in charge of security in this country, I would like the Assistant Minister to assure this House that his Ministry and the police are in charge of security matters, and that the Police Department and the Provincial Administration are working together, so that we do not have confusion being displayed in public. Secondly, I would like him to assure this House - the Minister of State for Defence said that the Government was willing to negotiate with the *Mungiki* sect members over the Kiambu skirmishes - that they are not going to negotiate with gangs like the Sabaot Land Defence Force and members of the outlawed *Mungiki* sect.

**Mr. Deputy Speaker:** Mr. Mirugi, you have, indeed, made a very good point. Could you respond, Mr. Munya?

**The Assistant Minister, Office of the President** (Mr. Munya): Mr. Deputy Speaker, Sir, I have already indicated that we are not negotiating with criminals. That has been our position. We are not negotiating. You cannot negotiate with criminals. We follow the law when we are dealing with them. The problems in Kiambu are being dealt with. So far, 328 suspected *Mungiki* followers have been arrested in Kiambu. They will be taken to court to be charged with various offences. I also want to clarify that the police officer who was shot in Kiambu had gone to arrest some gangsters who were hiding in a house. He was ambushed and shot from the back. But one of the gangsters was

shot dead by the police and an AK-47 rifle was recovered. A mobile phone was also recovered. The police are using it to investigate and arrest the rest of the gang. The situation in Kiambu is returning back to normal. So, everything is under control. But, for sure, there will be no negotiations, whatsoever, with criminals.

**Mr. Deputy Speaker:** Next Order!

## BILL

### *Second Reading*

#### THE POLITICAL PARTIES BILL

*The Minister for Justice and Constitutional Affairs on 19.4.2007*

*(Resumption of Debate interrupted on 25.4.2007)*

**Mr. Deputy Speaker:** Who was on the Floor? Dr. Kibunguchy was on the Floor? You have a balance of 20 minutes.

**The Assistant Minister for Health** (Dr. Kibunguchy): Thank you, Mr. Deputy Speaker, Sir. I will not take all the 20

**[The Assistant Minister for Health]**

minutes. I will be extremely brief.

*[Mr. Deputy Speaker left the Chair]*

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

Mr. Temporary Deputy Speaker, Sir, I would like to turn my attention to Part IV of the Bill. Part IV, Clause 21 establishes the Political Parties Fund. We have been agitating for that for a very long time, so that parties are not seen as extensions of certain individuals who have been blessed with money, either rightly or wrongly acquired. That is something that I support. I would like to concur with those who have said that it would have been very good for this Bill to give the percentage of the money that will be taken from the Consolidated Fund and given to Political Parties Fund. If we leave it at the discretion of the Minister for Finance, that would create uncertainties. Political parties will not plan very well. I think we need a certain percentage from the Consolidated Fund, just like the CDF that has 2.5 per cent. Maybe, we could start off with 1 per cent to go to that Fund. I also believe that, as we are looking at the minimum reforms, that Fund needs to be anchored in the Constitution. That way, any future President will not play around with it, as long as it is in the Constitution.

Mr. Temporary Deputy Speaker, Sir, the only other part that I would like to talk about is Clause 23 (1)(F) and Clause 23(2)(a). When I read the two clauses together, they appear to be contradictory. Clause 23(1)(f) reads:-

"Not more than 10 per cent of this Fund would go for administrative expenses of the party".

Mr. Temporary Deputy Speaker, Sir, Clause 23(2)(a) prohibits us from using that money to pay, either directly or indirectly, remuneration, fees, rewards or any other benefit and so on. But when we talk about administrative expenses, we must include issues like office rent, stationery and salaries for office workers. So, those two aspects of the Bill, to me, appear to be

contradictory.

Mr. Temporary Deputy Speaker, Sir, Clause 23 (3) talks about how that Fund will be distributed. Sub-clause 3(a) is very clear. It says that 25 per cent shall be distributed equally among political parties. Now, I have a lot of misgivings about that aspect. If we are going to distribute that money equally among political parties, as my colleagues have said again and again, it is going to encourage the mushrooming of political parties. In my view, I would like to strongly say that, that Fund should be strictly for parties that have shown some credibility. Parties can only show credibility by holding elections, having Members of Parliament in this House or even councillors out there. But we cannot allow those funds to go to parties that would be formed just to access that money. So, I think that 25 percent should be struck off. Let us limit that money to parties that have shown credibility. At the moment, we have more than 70 registered political parties in this country. I am very sure that, if we pass Bill the way it is, many more parties will be formed.

Mr. Temporary Deputy Speaker, Sir, I would also like another aspect to be included; parties that show certain preferences. We can work out how we are going to distribute that. But we have to encourage parties to reach out to certain disadvantaged groups in this country. We have to encourage parties to reach out to, for example, the disabled. We have to encourage parties to reach out to marginalised communities. We have to encourage parties to reach out to the youth. Obviously, we have to encourage parties to reach out to the fairer sex amongst our people. So, I think a clause in that respect should be introduced. We should reward parties that have reached out to marginalised groups. If we do that, we are going to compel parties to deliberately go out there and say: "Yes, amongst our ranks, **[The Assistant Minister for Health]** we shall have the youth! Amongst our ranks, we shall have the disabled. Amongst our

ranks, we shall have people who come from communities that can obviously not compete." We know very well that Kenyan politics revolves around tribes.

Mr. Temporary Deputy Speaker, Sir, last but not least, Clause 24(3) reads:-

"Subject to Sub-section 4, no person shall, in any one year, contribute to a political party an amount, whether in cash or in kind, exceeding Kshs1 million---"

I have two issues to raise at this stage. One, I do not know what is the magic about Kshs1 million. Today, it may look like a lot of money but, perhaps, in another ten to 20 years, Kshs1 million might not be so much money. So, I really do not know the rationale or the reason for this Kshs1 million. However, more importantly, in that sub-section, they are talking about "no persons". They have left out organisations and groups. Are we, therefore, saying that one person cannot contribute a certain amount of money to a party but a certain group, whether it is an organised group or not, can do that? Are we saying that a certain organisation can do that? I cannot understand that. We need a little more clarity at that stage. If we are saying one person cannot but we can allow a group or an organisation to contribute in excess of that, then I have a bit of a problem. More importantly, I said that I do not understand the rationale of the Kshs1 million.

In that same Clause 24(5), it says that:-

"An alien shall not directly or indirectly make a contribution."

First of all, I know the word "alien" has been described. Basically what alien in this Bill is talking about is somebody who is not a citizen of this country. When you hear "alien" mentioned anywhere, in your memory, you start thinking about extra-terrestrial creatures. I wish we could have used a slightly more civil word than alien in this Bill. Some of the so-called aliens are our own brothers and sisters who have moved and are out there. Since our Constitution says very clearly that you cannot have dual citizenship, we have now said that those brothers and sisters, some of whom have migrated to go to the Middle

East to look for bread and butter because things are slightly better there and they are good at using their feet, we now term them as aliens. I wish that word "alien" was removed from this Bill. It is a word, that to me, is unsavoury.

Mr. Temporary Deputy Speaker, Sir, more importantly, we are increasingly realising the importance of the Diaspora. We are increasingly realising that our brothers, sisters, fathers, uncles, cousins and aunts who are out there in the Diaspora have as much stake in this country as Kenyans who live in this country. So, I think as we go about polishing this Bill, I wish that the Minister will, at least, remove the word "alien" from this Bill. It is better to talk about somebody who is not a citizen of this country rather than saying he an alien. However, again, look at the aspect of one of the things that we are looking into in the minimum reforms of the Constitution; it is to see whether we can have dual citizenship. If that happens, I would like that captured in the spirit of this Bill.

Finally, in Part V, when we talk about General Provisions - I will go back to what I said yesterday---

Clause 28(1)(a) says:-

"Every party must keep a register of its membership."

I have no problem with that. I think it is important that every party must keep a register of its members. However, unless these registers are shared or a forum is found for us to know that party A or party B has these members, it becomes a mute point for a party to keep a register of its members and at the same time we are saying that a member cannot belong to two parties. I will repeat what I said yesterday; I think it is [**The Assistant Minister for Health**] important for the Office of the Registrar to have a register of members of all the political parties that are identified. That is the only way we can say that a member or an individual does not belong to two parties.

Mr. Temporary Deputy Speaker, Sir, finally, I would like to mention something

about nominations in this country. We know that most of our political parties are very opaque when it comes to internal democracy. We saw it happen during the NARC nominations in 2002. In many places, things did not go very well while in many other places we had issues of direct nominations. I hate the word "direct nominations" because, really, there is no justification, whatsoever, that somebody can get direct nomination and be able to disregard the wishes of the people on that ground. I wish a clause was introduced in this Bill where we try and reign in political parties that do not regard internal democracy as being important.

With those few remarks, I beg to support.

**Ms. Ndung'u:** Thank you, Mr. Temporary Deputy Speaker, Sir. I stand to support this very important Bill. I think since the repeal of Section 2A, this country has been struggling about how we should actualise multi-partyism. We have it in the books but in practical circumstances, we do not have it because we do not have a legal framework for the organisation, funding, roles and functions of political parties.

Today, we have more than 80 parties. Some exist in name only and some are owned by more than one person. Some are also just there to be sold to politicians when it comes to election time. Therefore, it is a good thing that we are now bringing together a legal framework which gives us explicit management rules on how we manage, provide for arbitration and which will fund political parties. It is very important to fund political parties no matter how small the percentage. It has been shown globally that when you do not fund political parties, politicians and political parties will seek campaign financing through corruption. Many of the scandals that we have heard from the loan that was given to Sololo Outlets, many of the white elephant projects, allocation of land and Goldenberg, have had, in the end, to do with something to do with campaign financing. We are saying that if we are trying to fight corruption, this law is going to be a step forward in our fight against corruption.

Mr. Temporary Deputy Speaker, Sir, we will not be the first country or democracy to put together a political parties law. It has been done

in South Africa, India and even in Tanzania. The difference is that the provisions in their political parties' legislation have always been anchored in the Constitution. Although this Bill has come ahead of the minimum reforms discussions, I hope and appeal to hon. Members to ensure that we anchor the provisions of this Bill into the Constitution so that we can be able to effect what we pass here.

I have looked at the Bill itself and it is divided into five parts. As an hon. Member sitting in the Departmental Committee on Administration of Justice and Legal Affairs, the Committee has tabled some of the proposals through which we would like to strengthen this particular Bill. There has been the issue of the autonomy of the Office of the Registrar. Indeed, the Electoral Commission of Kenya (ECK) petitioned the sub-committee working on the amendments. We have proposed that the Office of the Registrar should be autonomous. We have also tried to see whether the functions of the Registrar can go beyond just registering political parties and go into dealing and arbitration disputes. Currently, we are having a problem because we have disputes as political parties, whether they are intra-party or inter-party disputes. We go to courts but there is no specific court dealing with political parties' issues and it can take years.

Since we have known what happens **[Ms. Ndung'u]** when we have disagreements on things like Memorandum of Understanding (MOU), I think it will be important for parties that come together to form coalitions to deposit instruments of coalitions such as Memoranda of Understanding (MOUs) with the Registrar of Political Parties so that when disagreements arise, then there is somebody who can arbitrate and clearly state what was agreed on.

Mr. Temporary Deputy Speaker, Sir, it is also important to note that although the Bill states that decisions of the Registrar should be appealed against at the High Court, this will

not help us very much because political parties would like to end disputes as far as possible. Therefore, there should be a proposal to introduce a political parties tribunal which will deal with disputes within a period of three months. Of course, you can still appeal to the High Court, but, at least, we should have another body which, hopefully, Parliament will appoint so that we can be certain that the decisions taken by that tribunal are decisions that will favour us equally no matter which side of the House one sits.

Mr. Temporary Deputy Speaker, Sir, the Bill is very silent on the issue of coalitions. The reality in Kenya today is that we have coalitions and we will continue being in coalitions. Not many countries legislate on coalitions, but I think Kenya is an exceptional country. Problems relating to management of coalitions are exceptional and we really need to mention it in this Bill.

The funding of political parties need to be looked at carefully in Part IV of this Bill, including the kind of money that we want to distribute to smaller parties that are not represented in Parliament. One of the intentions of this Bill is to ensure that we get rid of briefcase political parties and those that do not have an ideology or a following. Therefore, the funding needs to be distributed in the same way. If I may share with hon. Members, in the amendments proposed by the relevant Departmental Committee, we have also proposed a small percentage of the fund to go into administration, the same way we have provided for an administrative cost for the Constituencies Development Fund (CDF) so that the larger parties which are participating in elections will get 80 per cent of the Fund. We have also proposed that 5 per cent will go towards meeting administrative costs and 15 per cent will be distributed equally to all persons.

Mr. Temporary Deputy Speaker, Sir, when we were at Bomas of Kenya, we spoke about issues of equity and affirmative action. We also talked about the need to ensure that this Fund supports the participation of both genders in political parties. It is no secret that women

aspirants have been locked out for a long time from participating in politics because, somehow, they have not been able to get into the leadership of political parties. I think it will be a good gesture if this House, through this Bill, could indicate that the Fund will only be available where you have, at least, one-third of each gender as the leadership of a political party. That way, both male and female taxpayers will benefit from the money that they contribute to political parties.

Mr. Temporary Deputy Speaker, Sir, I do not have much to say other than that I support this Bill. We all know that we need money this year. Each political party needs a campaign kitty and each political party needs to reach out to Kenyans.

With those few remarks, I beg to support.

**Mr. M. Kilonzo:** Thank you, Mr. Temporary Deputy Speaker, Sir.

I stand, with your permission, to express, in general principle, support for this Bill. One of the reasons is that this country, since Independence, has not legislated on political parties. This has contributed to some of the biggest problems that we have faced as a country. It is instructive that the time for legislating on political parties has come. As a country, I believe that when we amended **[Mr. M. Kilonzo]**

the Constitution to reintroduce multiparty democracy, that was a lost opportunity in which we should have attempted, at the very least, to provide for political party machinery under the law.

Mr. Temporary Deputy Speaker, Sir, I believe that, as a country, and as we move forward, the future of this country is going to depend on how well we organise or disorganise political parties. In the recent past, we have had serious experiences. Speaking for myself, I have had to work, as an advocate, for very many political parties facing, not only internal disputes, but also invasion by other people from across the political divide. This is a situation that threatens the very purpose of the creation and

inclusion of Section 1 (A) of the Constitution which declares that Kenya will be a multiparty democratic State. Therefore, the legal theory behind this Bill is most welcome. I welcome and support it. I think that we should make a serious effort to produce a political party mechanism that can supplement the provisions of Section 1 (A) that I have just described.

Mr. Temporary Deputy Speaker, Sir, however, there are serious weaknesses in this Bill and I think that they should be considered very carefully. I will only mention a few of them because I do not want to repeat what other hon. Members, who have contributed to this debate, have said. One of them is the definition of what is called "a public officer". You will realise that if we pass this Bill the way it has been designed, neither Ministers nor, for that matter, Members of Parliament will be able to participate as officials in a political party. This will, in itself, undermine the very concept of what a political party is.

The second one is the clause that the Minister has introduced in the part that talks of the Office of Registrar of Political Parties. By saying that the Registrar of Political Parties will be an office in the Office of the Electoral Commission, but at the same time creating this very strange phrase called, "operational autonomy", there is a window there for a Government that really wants to undermine multiparty democracy to use that phrase, "operational autonomy" for purposes of undermining the very purpose that the law is designed for. I hope that at the Committee Stage, opportunity will be availed to us to present suitable amendments to eliminate these two words, "operational autonomy" so that political parties know that their registration management and other works are vested in an Electoral Commission. I also very much hope that the ongoing essential reform discussions in the country will produce the sort of Electoral Commission that we all aspire to. In fact, one that is truly independent and under which we can happily transfer the management of political parties to without fear that there will be political interference.

Mr. Temporary Deputy Speaker, Sir, the other worry that I have about this Bill is that it does not recognise the very nature of Kenyan politics; that as we move forward into the future, coalition making and coalitions are going to be an essential feature of the management of the affairs of our country. The experiences of a single political party rule in this country, if you remember, the one-finger salute, the red shirt and sometimes even the practices of the disciplinary committee of the then ruling party, KANU, created enormous problems in this country that I do not think we have even covered yet. Again, in realisation of the purpose of Section 1 (A) of the Constitution, this Bill should introduce a mechanism that recognises that the country can and should have encouragement for coalitions.

Mr. Temporary Deputy Speaker, Sir, you will realise that the Bill, in a very strange twist of events, has suggested that one cannot belong to more than one political party, which in itself is an antithesis of the concept of coalitions because coalitions envisage that various independent political parties comprising members can, nevertheless, come together and, in fact, [Mr. M. Kilonzo] create a coalition. As I speak, the country is currently being managed by a coalition. Of course, when this Government took over, the country was run by a coalition called Rainbow, which, unfortunately, aborted. However, we are now ruled by a Government of National Unity (GNU), which is also a coalition. As I speak, we have hon. Members who were elected on a KANU ticket, but are now serving in the Government. We need to recognise this fact and I fully agree with hon. Members who have said that we have to find a way of entrenching this Bill, and the law behind it, into the Constitution. In this way, everybody looking at our Constitution will know that political parties can either merge or form coalitions; a *lacuna* that is creating enormous problems.

Mr. Temporary Deputy Speaker, Sir, this gives rise to the other issue that has been

addressed by my learned friend, Ms. Ndung'u this afternoon. This is the problem that arises from the fact that so long as you have no adequate mechanism for entrenching this law into the Constitution, there will always be disputes. Many of these disputes cannot be resolved by the standard method of using the Judiciary.

Mr. Temporary Deputy Speaker, Sir, we need a mechanism to ensure that small disputes that arise within political parties, either internally or externally, can be taken to an alternative dispute resolution mechanism of the nature that has been suggested by hon. Members. This could be a tribunal or an arrangement chaired by a person qualified to be a judge. I know that speaking as I do, I am speaking my way out of legal briefs from political parties, which I have enjoyed doing. However, I think time has come for us to realise the importance of ensuring that disputes of the natures that have appeared in court, can be fanned out to alternative methods. This will save judges from looking like they are interfering with political parties or that they are players in politics. I have seen this sort of thing in court. The judges sometimes think they can also be politicians. We should refer these issues to an independent firmly functional tribunal whose appeals, where necessary and subject to leave of the court, can be re-filed in courts.

Mr. Temporary Deputy Speaker, Sir, the other thing is the issue of funding. I fully disagree with the proposal in the Bill. It appears like the Minister for Finance will be the sole person to determine how funding for political parties will be done in the budget. The Minister, at any given time, can come to the House and say there is not enough money for funding political parties. I think that this function should be left to the House. Parliament itself, through the mechanisms we are introducing, can ensure that sufficient funds are allocated up to a minimum threshold. This should be based on the Gross Domestic Product (GDP) or some such other process where enough money can be assigned to political parties.

Mr. Temporary Deputy Speaker, Sir, it is ridiculous for the Bill to suggest that we put limits on donations emanating from Kenyans

while at the same time barring foreigners or "aliens", as used in the Bill--- I agree with the hon. Member who said the word "alien" should be amended. I do not think it is a very good word. It suggests a situation of war. We should use the word foreigner or a non-Kenyan. The fact of the matter is that we ought not limit these donations. However, we ought to make a provision to require that such donations would not be such as to create ownership by an individual or organisation in the management of a political party. I think we should either raise the threshold or eliminate the limit of Kshs1 million that has been put. I do not think it is adequate.

Mr. Temporary Deputy Speaker, Sir, there is another thing that concerns all of us. This is the issue of changing political parties. This is a case where people defect from one political party to another as has happened in this House since Independence. I think that **[Mr. M. Kilonzo]**

this Bill should consider introducing a mechanism so that where a given number of hon. Members of Parliament, elected on a party ticket, decide that they want to change their political direction, they can receive some element of recognition. I say so because from my experience in courts particularly representing my political party KANU, you find people elected to Parliament on KANU tickets decide, for one reason or another, to vote on the other side of the Floor and support the Government. It is always desirable to ensure that a country can and should encourage the opportunity for changing political positions and opinions.

I think it is not right that the country should force people elected to Parliament to stick to a particular political philosophy merely for purpose of the philosophy. The only way to do this, in an intelligent manner, is to borrow a leaf from other countries. Take the example of India and other countries which say that, as long as about ten per cent of Members of Parliament of a political party decide to change their political vision and opinion, and vote in a particular manner, they

will be recognised as a political faction. By so doing, they will be recognised for purposes of funding. If this were to happen right now--- I am sure that my chairman in KANU may not be happy about what I saying. However, I am a realist and I want a law that enables flexibility in this country because without it, you end up with situations that we have faced as a country.

In a situation such as that, you will not find people seeking to challenge the chairman of KANU in court using the methods they are using. As long as there are enough numbers within certain parameters of the law, they will be recognised as such. They, then, would not use their differences to undermine the very integrity of the political party that I belong to. The only way to avoid these things is to eliminate doubts in the minds of politicians and the country at large once and for all. They should know that in given situations, within certain parameters, people can change their political affiliation and thinking.

Mr. Temporary Deputy Speaker, Sir, one of the critical elements is the issue of resignation from political parties. I notice that in Clause 9 of the Bill, the drafters and the Minister have continued with the fiction that the only way to resign from a political party is by putting it in writing. As we know, in this country, either politicians prefer not to know how to write when changing political positions or alternatively, they find it so intimidating and threatening. This leaves the country continuing thinking that you are supporting a particular line of politics when you have shown by your own actions, activities and pronouncements that your loyalties lie elsewhere. That is why I am saying Clause 9 ought to be looked at very carefully. I hope the committee responsible will look at this clause to make sure that we do not live with the fiction that we have in this country when it comes to people who want to change political parties. Perish the thought that once nominated or elected on a particular party ticket, it is tied to you with a chain such that you can sink in the lake and drown permanently.

Mr. Temporary Deputy Speaker, Sir, I think once the public know that we have a proper

law for the management of political parties, it ought to be possible for people to adjust their political thinking in a proper manner. However, this, as has been said, must be considered carefully so that it synchronises with Section 16 and Section 17 of the Constitution which confer on the President the right to appoint Ministers from Members elected to Parliament. This means he can shop around. I know that this power has been abused and used badly. Leaders of political parties in this country are not consulted when appointments are made. We would like a situation whereby, nevertheless, even in recognition of that power of the President, it is utilised within the parameters of the law as we understand it.

Mr. Temporary Deputy Speaker, Sir,  
**[Mr. M. Kilonzo]**

a lot has been said about this Bill and I want to say another thing. If you look at Clause 23, it is trying to create an impression that out of the funds that the country will allocate to political parties, not more than 10 per cent can be used for administrative expenses of the party. My experience with political parties is that a lot of personnel working for political parties suffer enormously for not being paid. Sometimes they do not receive their salaries and landlords who donate their property to political parties end up not getting rent because the money is not there. In my mind, the single most important thing in any political party is the secretariat. Out of our enormous experience we know that political parties in other countries of the world are, in fact, managed by their secretariats. Politicians may come and go but it is the secretariat that determines how well the political parties function. They are the ones that supervise the nominations and ensure that the regulations pertaining to political parties are complied with.

I think that the 10 per cent provision is unfortunate and unfair. It should be erased and to the very list, eliminated, so that the political party can determine how to use the funds that have been donated by the country

under Clause 23. This is to ensure that a political party is properly managed. I am thinking of a situation whereby, for example, a political party will have computers, stationery, establish branches and so on. All these are administrative expenses. Above all, these are the most critical in the affairs of the political party.

Mr. Temporary Deputy Speaker, Sir, the other thing that I wish to address is the issue of the distribution of these funds once they are made available. I do share the views expressed here on the Floor, that each political party, as long as it is found to qualify for registration, should be considered for allocation of funds. However, the experience in this country is rather unfortunate. I will apologise for using the phrase "briefcase parties" because I am a democrat and I recognise the need to have political parties. So, when I use the phrase, "briefcase political parties," I am using it because it has been used by others. It is not my invention.

Nevertheless, I saw that expression recently, when ODM(K) was struggling to get its logo, trade-mark or political symbol to be recognised and we had been held at ransom by characters who do not belong to ODM(K). I even do not know if they know how an orange looks like. Those people went and registered a political party and took an orange and declared it their party symbol. As a result, we have struggled in order to get our symbol recognised, to the extent that the Electoral Commission of Kenya (ECK) felt that we were invading their offices. But it is them who had made the mistake because they should never have allowed anybody else to use an orange. They are the ones who gave us the orange symbol during the referendum. I believe that we have a right to use it. We also registered the orange on the map of Kenya under the Trade Marks Act and I think it ought to have been freely recognised and accepted. But that fiasco arose from the fact that we do not have a political parties law.

Therefore, I want to plead with those hon. Members who might feel that this Bill is too flawed to be accepted, that I believe that this Bill is capable of being amended in order to bring it within the parameters that this country requires.

This way we can avoid the problems that we have had where ODM(K) officers having to climb gates in order to get their registration certificate, or to go to the offices of the ECK to get their political party symbol. If we had a law like this, it would have been much easier.

Mr. Temporary Deputy Speaker, Sir, I am not reminding you of anything new, but as you know, I am advancing this in view of those of us who might feel that the time for this law has not come. Many political parties, including NARC, KANU, DP or FORD(K) have been my clients. The main problem is that, to register a political party you use the same machinery that people who want to [Mr. M. Kilonzo]

establish burial committees use. It is the same machinery used by our wonderful Kenyan women in the countryside when they want to form an association for purposes of roofing their houses or buying water tanks. It is the same mechanism used by students who want to register a student association, for example, in Makerere University or the University of Nairobi. It is an archaic system. It is negligent as a country, that we cannot recognize that we cannot run political parties the same way we run societies.

Mr. Temporary Deputy Speaker, Sir, I can see the wonderful Chairman of FORD(K) looking at me keenly, because he knows what I am talking about. He has suffered from this problem whereby his political party was invaded and raided by people who were thinking that FORD(K) is just another picnic committee where you can go and declare yourself chairman and by so doing, you become the chairman of the party. We cannot accept that. I think it is very important that we get an opportunity to create a law which will protect my good friend and brother, the chairman of FORD(K) from any future litigation of that nature, so that, should a dispute arise, he can go before a tribunal and then he can be recognised for what he is; a leader. That includes, Mr. Biwott too! If Mr. Biwott thinks that he can lead KANU, we do not want him to use legislation that is for

funeral committees. We want him---

**Mr. Biwott:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the hon. Member in order to bring the name of Mr. Biwott in a political dispute which they themselves, headed by the hon. Member on the Floor went to court to accuse Mr. Biwott of taking over the party which I have already taken?

*(Laughter)*

**Mr. Temporary Deputy Speaker** (Mr. Khamasi): Order! Mr. M. Kilonzo, you are out of order. You cannot discuss Mr. Biwott adversely without bringing a substantive Motion.

**Mr. M. Kilonzo:** Mr. Temporary Deputy Speaker, Sir, I am happy to say that I agree with you. I appreciate that I cannot mention him adversely. But I thought I was speaking of him very well. My remarks were, in fact, legal advice that I am barred from giving him because I represent the other faction of KANU. It is a serious matter and I apologise for appearing to suggest that he has done anything wrong to seek leadership. I am simply saying that when honourable gentlemen like him seek leadership, they should use a law like this with suitable amendments. If I were to give you the story of how he sought that leadership, you will be surprised. But I will not bother because it is *sub judice* and I will leave that procedure to the judge when the issue comes before him. But it is a very serious matter.

So, I am saying that we should formulate a law and create the right atmosphere for the country to realise the very first clause of its Constitution; "Kenya is a multiparty democratic State". The only way to do so is to kindly pass this Bill, subject to amendments being put in to reflect the actual reality prevailing in the country.

With those few remarks, I beg to support.

**The Assistant Minister for Foreign Affairs** (Mr. Wetangula): Mr. Temporary Deputy Speaker, Sir, I am happy to speak after Mr. M. Kilonzo, the man who taught me how to be an advocate.

This Bill is important, critical and necessary if we have to bring sanity to the

political landscape in this country. Many things have been said about this Bill. It is true that it is absolutely desirable and it is also true that we can make it better than it is currently drafted. There are many gaps that we need to fill to make the Bill truly a Political Parties Bill to help political parties be cushioned from marauders and pretenders [**The Assistant Minister for Foreign Affairs**] and also to enable parties to be run democratically and to benefit from a fund to be set up.

Mr. Temporary Deputy Speaker, Sir, this Bill is long overdue, as many hon. Members have said. Our country, being a multi-party democracy, we need to nurture this democracy through public support! That is why I really support the idea of a fund that will be able to assist in the management and running of parties. Mr. Temporary Deputy Speaker, Sir, as we talk about the enactment of the Bill, the first thing I want to say is; the commencement date of this Bill should not be to benefit the current Parliament. It would be dangerously wrong for us to pass a Bill that will benefit ourselves. I thank the Minister for leaving the commencement date open. Perhaps, if we want to put a commencement date, we should put it after the elections. We cannot pass a Bill, Budget and allocate ourselves money to benefit from the law that we have passed. So, I want to agree with Clause 1, that the commencement date be left to the future. But, perhaps, we could have said that the commencement date of this Bill should be after January, 2008, so that when the commencement date is set, then the Bill will be operationalized by the Budget that will come in June, 2008, so that it can start helping parties.

Mr. Temporary Deputy Speaker, Sir, Clause 6 of the Bill that sets out the criteria for which the Registrar should look into and fail to register a party when presented before him, needs to be looked at. Clause 6(1) says:-

"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".

So far so good. But when you look at Clause 6(2), it says:-

"For the purposes of subsection (1), a political party is formed on an ethnic, age, tribal, racial, gender, regional, linguistic, corporatist, professional or religious basis if its membership or leadership is restricted to or includes only members of a particular ethnic, age, tribal, racial, gender, regional, linguistic, corporatist, professional or religious faith or if its structure and mode of operation are not national in character"

This is inapplicable in the following manner: If, for example, you have a party that is formed to cater for the interest of pastoralists of North Eastern Province, you will find that the entire population of north eastern Kenya is Muslim. So, the leaders of this party will end up being Muslim, and they can easily become victims of this Clause when it is not a mistake of their own. I think we need to re-look at this Clause so that if a party has, as its agenda, to champion narrow, sectional interests of religion or tribe, then it can be dealt with. But you cannot stigmatize a party because its leaders are Muslims or Christians because in one way or another, you will find that most of the parties will have a very weighted membership and leadership from a certain religion or a certain ethnic group, as the case may be.

Equally, Mr. Temporary Deputy Speaker, Sir, if a party is formed to champion the interests of farmers around the lake, which is allowed; you can have a party whose interest is just to champion the interests of fishermen, and it may be founded along the coast or Lake Victoria! There is a Clause that says that if a party does not have leadership from all over the country, then it is not a good party. That, again, needs to be re-

looked into because it depends on what [**The Assistant Minister for Foreign Affairs**] the party stands for. If, for example, if you have a party whose primary ideology is to support cane farming, it is unlikely that you will get somebody from Mandera or Meru, whose only interest is Miraa, supporting that party. That is something that we need to address because we might end up spoiling a good law.

Mr. Temporary Deputy Speaker, Sir, Clause 15 of the Bill relates to what I am talking about:-

"A political party shall be qualified to be fully registered if it has-

- (a) first been provisionally registered
- (b) obtained not less than 200 members who are registered as members for the purposes of parliamentary elections from each province".

This falls squarely on what I have said; that, a political party that champions pastoralist interests cannot possibly have cane farmers or fishermen from Lake Victoria joining that party, yet it has noble interests and objectives! So, we should not have a Clause that is restrictive like this because it does not help much.

Clause 15(c) says:-

"on its governing body, a member ordinarily resident or registered to vote in each province".

Again, it does not work. I have already said that. We must appreciate and accept our diversity, which is part of our strength. We should not try to create uniformity that is difficult to police and hold together. We should allow people to be diverse in their interests, attitudes, feelings and behaviour, but still adhere to the centre that holds us together as a country. Mr. Temporary Deputy Speaker, Sir, let me comment on Clause 9, which talks about young persons. When you go to the United Kingdom, you will find out

that parties actually start recruiting membership from schools! You will find out that the Labour Party has membership in secondary schools, and most of these are persons who are not above 18 years, but they are nurtured into becoming future members and leaders of the party! So, we should not restrict young people from being members of the party, as long as we do not allow leaders to use and abuse children in their political ambition. Having an orientation--- I mean, being in FORD(K), my children are in FORD(K). In most cases, you will find that, perhaps, hon. M. Kilonzo's children have migrated with him from KANU to ODM(K), and so on, and so forth. So, we should not restrict children from being members of a party because that is how we start developing their political and ideological orientation in future.

Mr. Temporary Deputy Speaker, Sir, Clause 9 again, about migrating members, and I do humbly agree that persons--- Contrary to what my learned senior and former pupillage master, M. Kilonzo, said, people who are elected to Parliament and councils on a particular party should live honestly. We should not allow politicians to live a lie, pretending to be what they are not! If you are elected to this Parliament on an ODM(K) or Sisi kwa Sisi party ticket and you are lured to join another party--- What happens in India is that they do not even subject you to a by-election. They declare the person who got the second-highest votes in the election the winner of your seat, who takes up your seat in Parliament. Then, you go and queue and wait for the next election! This is the only way we are going to bring sanity to our elections and politics!

Mr. Temporary Deputy Speaker, Sir, my party has gone through this; persons who were elected on my party's ticket came into this House, some tycoon lured them and started "gifting" them with large sums of money and they left the party! Ordinarily, we should take them back to the electorate, subject them to an election and see whether the lure of money that has driven them away from their original party that brought them **[The Assistant Minister for Foreign Affairs]** here can withstand the test of time with the electorate!

Mr. Temporary Deputy Speaker, Sir, once again, a person who has come to Parliament on a party ticket suddenly wakes up, walks out to the Press and declares the formation of another party, when they are in this House on a party that brought them here! This should not be allowed, because it undermines the very rock base of multi-partyism; that, people must not be allowed to benefit by coming to this House and, you know, you cannot remove them from Parliament, unless they resign with their own hands or become bankrupt, insane or something like that happens. So, we are left helpless. I think we need clauses that will tighten the roles of multi-partyism.

Mr. Temporary Deputy Speaker, Sir, this Bill also talks about the creation of a Political Parties Fund (PPF). I also want to lend my voice to those who have supported the Fund. But we must be very careful about how that Fund will be defined, allocated and managed. It will not be proper to leave the design of that Fund to the discretion of the Executive. There may come a time when we have a President or a Government that has no respect for multi-partyism. They can switch off the tap and the parties will die. We need to find a way of putting a clause that provides for a certain threshold, the way we have done with the Constituencies Development Fund (CDF) and other funds that we have set up. If we do that, whether we have a "Hitler" in office or a good president in office, multipartyism will still be protected by the law. Parties that benefit from that Fund must continue benefiting from it. To that extent, I suggest that the Minister consults widely. We need to know how much money will go to the Fund before we get to the Committee Stage. That will limit unnecessary arguments and amendments flying across the Floor. It is always neater for the Minister who brought the Bill to bring amendments to enrich the Bill, after listening to the arguments on the Floor. The manner in which the Fund should be shared needs to be re-looked into again.

Mr. Temporary Deputy Speaker, Sir,

on Clause 23(1)(f), I agree with Mr. M. Kilonzo that funds that come in the way of political parties are used for administrative purposes. Parties have offices all over the country. They have programmes to run through their members of staff. To limit the funds that will go to administrative purposes to 10 per cent is just to kill the parties. Once a party has been given its portion from that Fund, it is only prudent that it accounts back to the Exchequer, by way of audits, how that money has been used. We have some parties that have programmes that they run continuously. Civic education and some things that have been mentioned here are not the only things that parties do. Parties run continuous programmes and we should allow them to pay fees and salaries to their members.

Mr. Temporary Deputy Speaker, Sir, Clause 23(3)(a) reads:-

"The moneys allocated by Parliament under this section shall be distributed as follows-  
(a) 25 per cent shall be distributed equally among political parties; and--"

As I said, we need to identify how that Fund will be distributed. Tied with what I said about provinces, we also need to define the number of parties or the strength of parties that would benefit from that Fund. When you look at Clause 23(3)(b), it reads:-

"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."

Sometimes, you find that, if a party has a strength in a sparsely populated area of the country, it may have even ten hon. Members here. But the aggregate number of **[The Assistant Minister for Foreign Affairs]** votes they got may be less than what one hon. Member gets in a densely populated area. The number of registered voters in Embakasi Constituency in Nairobi, for example, is equal to the number of registered voters in the entire North Eastern Province. When you peg on that, you may end up hurting parties whose strength

lies in some areas that do not have heavy populations. So, we should come up with a better design on how the funds will be given to parties, so that it is not just dependent on the number of votes that a party gets.

It is also important to look at the number of civic seats held by a party. We should also look at the number of parliamentary seats held by a party and weigh them *vis-a-vis* the number of votes so that, where one is greater, you give advantage and where one is lesser, you remove the advantage.

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

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

Mr. Temporary Deputy Speaker, Sir, parties will also get donations. I do not agree with my learned friend, Madam Minister, that we put a threshold of Kshs1 million for donations to parties. If, Mr. Biwott, for example, loosens his hand and wants to hand over his billions to a political party, so be it! Why should we stop him? It should be free for anybody to donate his or her funds to a party. If a party that has an overdose of donations uses that money well, it may develop its programmes and compete favourably in an election. I do not think we should limit donations to Kshs1 million. Let us leave it to those who are generous to contribute to parties. Where we should be limit is the amount of money that is contributed to any party by--- I also agree with Dr. Kibunguchy that the word "alien" is a bit offensive. We should use "non-Kenyans". Where non-Kenyans or foreigners are contributing to parties, we should be very careful because we do not want to create a situation where our parties will be funded and controlled from Washington, London, Nigeria, or even managed by terror groups. We need to agree that the Bill is right. But we should not agree with that provision.

Mr. Temporary Deputy Speaker, Sir, Clause 18 provides for de-registration of political parties. I notice that the Bill provides for circumstances under which a party may be de-registered. I agree that the Registrar should have powers to register and de-register parties. But we need to look at the criteria very carefully. Clause 18(1)(e) reads:-

"The Registrar shall cancel the registration of a political party if satisfied that the political party-  
(e) has not, for each of the two previous general elections, secured, at least, 5 per cent of the national vote;---"

That is very dangerous. It goes back to what I have just said. I think Mr. H.M. Mohammed will be happy to hear this. You will find that the aggregate of our colleagues' votes from North Eastern Province, if they belong to one party, may, all together, not constitute five per cent of the national vote. But it is a vote, nonetheless. We cannot use that to de-register a party. That will be an unreasonable criteria. We should look at the number of votes a party garners, and the number of civic and parliamentary seats that the party is able to bring to this House or councils and weigh them. We shall then gauge what gives a better advantage to a party. If a party is de-registered for that reason, and if our colleagues from North Eastern Province are members of one single party, you can imagine the havoc that we will cause in that area, politically.

Mr. Temporary Deputy Speaker, Sir, **[The Assistant Minister for Foreign Affairs]** I read a letter from the Chairman of the Electoral Commission of Kenya (ECK). I agree it is important to have a Registrar of Political Parties. I also agree that the Registrar of Political Parties should be domiciled at the ECK. But I do not agree that the Registrar of Political Parties, who is domiciled at the autonomous ECK, should also be autonomous. We cannot have an autonomous body within an autonomous body. I want to suggest that the Minister re-defines the role of the Registrar and simply say that the Registrar of Political Parties shall be an officer within the

ECK and leave it at that! The rest will be details founded in the rules and law that govern the Electoral Commission of Kenya (ECK), because we will create a conflict.

**The Temporary Deputy Speaker** (Mr. Sungu): Order, Mr. Wetangula! Please, take note of the Standing Order on repetition!

**The Assistant Minister for Foreign Affairs** (Mr. Wetangula): Mr. Temporary Deputy Speaker, Sir, I have been sitting here and I do not think any hon. Member has argued the point I am raising. It has been mentioned casually, but I am going into much deeper details than that.

Mr. Temporary Deputy Speaker, Sir, it is important to tell you that the most dangerous legal thing that you can do, is to create legal entities with competing powers and put them in the same house. It cannot work! That is why I have always told you that we cannot have an Executive Prime Minister and Executive President at the same time, in the same country, because we will create unnecessary conflict.

**The Temporary Deputy Speaker** (Mr. Sungu): Order, Mr. Wetangula! Please, leave the Chair out of those arguments, because it is independent!

*(Laughter)*

**The Assistant Minister for Foreign Affairs** (Mr. Wetangula): Mr. Temporary Deputy Speaker, Sir, I am also happy with Clause 19 which says that when the Registrar of Political Parties wants to de-register or cancel a party's registration, the party has a recourse to the High Court. It is always important that when you set up a tribunal, however well-founded, the decisions of that tribunal must be subjected to a second level at the High Court, so that those who are aggrieved can go to the High Court and be able to pursue their interest.

Mr. Temporary Deputy Speaker, Sir, there is the Committee Report which has provided for something that is not in the Bill, that I think we need to bring it in. We need to

have accept the reality that this country will continue to be politically run through coalitions. If we are setting up a fund, we must have that reality in mind, that where parties come into a coalition, then the Bill must also recognize and cater for them, so that parties within the coalition do not just melt away and lose their integrity and identity to the bigger organization. So, the clause that is being proposed by the Committee on Justice and Legal Affairs should be accepted. We need to cater for coalitions within this Bill, so that even where parties have agreed to field one presidential candidate, then they have to look at their strengths through the number of votes cast for them and their candidates at the civic and Parliamentary level.

Mr. Temporary Deputy Speaker, Sir, I listened to hon. Ndung'u's contribution and also read about it in the Press today. Also, yesterday, we had quite a number of ladies in the Speaker's Gallery, allegedly, trying to influence the course of debate on this Bill. Part 5 of the Constitution of Kenya confers on Kenyans the right to associate. The right of association will be infringed if we start agitating on every single legislation that we bring to this House on issues of gender. If a party is formed and people subject themselves to an election, and you call elections of a party, how do you start saying that you must elect so many women and

**[The Assistant Minister for Foreign Affairs]** men, when you are subjecting them to a competition? I think we are driving and lifting the issue of gender to ridiculous levels. Everywhere you go today everybody wants to talk about gender issues. I agree that we need to bring women on board, but if a party has an eccentric policy of excluding women, the women who are the majority should shun that party and join parties that have got women-friendly policies, because these are matters of policy. If a party has no time for women, why do you want to force it to have time for you? Simply look for a party that has time for you and join, because you have freedom of choice, association and participation. I do not agree with this clause in the Committee Report. If it is brought here, we will marshal everybody to reject it, because we

should not push issues of gender to ridiculous levels.

Mr. Temporary Deputy Speaker, Sir, so that I can leave time for other hon. Members to speak, I want, again, to appeal that once we pass this Bill, and before we operationalise it - because as it is I would urge hon. Members to pass it - the Minister should bring us together, so that we can re-look at it. Ordinarily, we normally have workshops and look at Bills, as hon. Members of Parliament, and enrich them before they come to Parliament to be debated. This Bill came here without hon. Members going for a workshop on it. It is a Bill, as hon. M. Kilonzo said, that can be made even better. As the late Michael Wamalwa used to say: "A good idea will always give way to a better idea, and a better idea will always give way to the best idea." I am sure that this is a good start. We need to bring sanity to our political landscape, and this Bill will do exactly that.

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

**Mr. Maore:** Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me the opportunity to also say a few words about this Bill. From the outset, I oppose the Bill as well as the amendments.

What we are not being told is about the definition of even what a political party is. It is not a briefcase piece of paper that you fold from the Register of Societies and then call it a political party. A political party is supposed to be an entity with an ideology, philosophy and theory of governance, if it were ever to come to power. If you follow that kind of definition, you will find that in today's political landscape, we do not have entities called political parties. So, when we talk of funding, we are not saying who we are going to fund.

We have been talking about the fraud carried out by the 9th Parliament, about defections and counter-defections, where some hon. Members belonging to the Government side are now sitting on the Opposition side while some from the

Opposition are sitting on the Government side. The situation is so murky that we do not want to invite the taxpayer to fund such entities. I want to give an example of one hon. Member, without mentioning his name. In 1988, he vied on a KANU ticket and came to Parliament. In 1992, he vied on a FORD(A) ticket and again, came to Parliament. In 1997, he vied on a FORD(P) ticket and came to Parliament. In 2002, he vied on a NARC ticket and again, came to Parliament. I can assure you that this year, he will vie on a different party. I am not ridiculing anybody. This political nomadism is in all of us. So, if we were to fund a political party, which one of these parties would we recommend that we fund; is it KANU, FORD(A), FORD(P), NARC or NARC something else? It is for this reason that we need to make sure that we keep Kenyan taxpayers out of this madness that we are in.

Mr. Temporary Deputy Speaker, Sir, if you look at the issue that is coming out of this Bill, you will see that Kenyans do not expect us to differ, because we are a political class and this Bill is going to fund parties and make it easy for us to own and run political parties that are not necessary. If you [Mr. Maore] look at what is happening--- One Chinese once said: "When men speak ill of thee, make sure that you behave properly." Now, the Kenyan taxpayers do not expect the political class here to differ, over this funding of political parties. But we should actually disavow that kind of notion; that we can sit here and differ on something that is about to benefit the political class.

Mr. Temporary Deputy Speaker, Sir, if you look at what is being asked to be funded here, under Clause 4, we seem to be in a hurry to fund the political parties, when this House, two years ago, defeated - and I know I was one of those who did that - the National Health Insurance Fund which was meant to benefit Kenyans. But when it comes to politics - I have been listening to debates - it is only a few of us who have been magnanimous enough to say that we are differing. This is not like establishing the Constituencies Development Fund (CDF) because in that case one can say that he is going to construct a dispensary, health care facility,

cattle dip or borehole. This is not free education for secondary schools where we are asking Kenyans or inviting them to fund. It is our own comfort and misbehaviour.

Mr. Temporary Deputy Speaker, Sir, if you go and see what Kenyans do with these political activities, you will be surprised. It could be money transformed into hiring choppers for a political leader. It could be a slush fund for him to be contributing Kshs100,000 or Kshs200,000 for Harambee. It could be anything that we are not able to contain or control at this time. If you look at what happens in America, Britain and other places about political parties, people join political parties the same way they join the Salvation Army, Methodist Church or the Catholic Church. You go and fund church activities to expect rewards in Heaven. Why do you not want to fund political activities where you get rewards here on earth?

So, if we are having real interest in funding political parties, let us negotiate with the Treasury and the Kenya Revenue Authority (KRA) and put in proper legislation whereby we can expound this issue of voluntary contributions that are tax deductible. You go and contribute, and then launch your claim with KRA. At the end of the year, you have that money deducted from your tax returns. So, let us not, at any given time, think that we can get our way when we misbehave. We are misbehaving by not obeying or forming and being members of political parties for long enough.

Mr. Temporary Deputy Speaker, Sir, if you go to the rural areas, you will find one fellow with five cards. He is a member of five political parties. When a party leader comes to hold a public *baraza*, they all flash cards saying they are members. The following week, you will find the same. So, when we talk of funding, let us wait. It is about time actually. I am talking of time and it is dangerous when we start behaving and feeling like we must live for now. There is a future. We have not reached time when political parties need public funding. We have not

behaved like those political parties. If you ask those hon. Members in the Government when they came to office in 2003, they were in a party called the National Alliance Rainbow Coalition (NARC). Today, there are very few hon. Members who have stood on this Floor to say they are NARC members. They have parties they do not want to mention because it will go on HANSARD and they will have been said to have defected.

So, when we talk of funding political parties today, and I would like to give the example of the Minister for Justice and Constitutional Affairs, would she put this money to fund the Democratic Party (DP) or NARC which she was in before she came to Parliament in 2002, or maybe another party that we are about to hear of now that we are about to have elections? So, it is this definition that we are saying that before we get it and see sane behaviour in politics, let **[Mr. Maore]**

us not use the words of "expanding democratic space" or "democratic spirit". That is language demagoguery. A demagogue, in my political science, class introduction, is somebody who uses those sweet words to cover up mischief so that he can be believed.

Mr. Temporary Deputy Speaker, Sir, my argument is that we need to bring this perfect and very good legislation but not now, not this year, not even next year, not even the next three years or five years. It is unfair to the Kenyan taxpayer to think of funding these kind of entities that are not useful to them.

Mr. Temporary Deputy Speaker, Sir, when you talk of coalitions being mentioned by many speakers who have spoken here, they are being politically expedient. A coalition of political parties is supposed to be a constitutional issue. It cannot be addressed by a statute. Before we can agree on the constitutional amendment, and I am always against constitutional overhaul, let us not talk about coalitions in a statute. Let us not have shortcuts. Let us wait when we can agree on the amendments. I do not want to make any repetitions and I have put forward my case.

With those few remarks, I violently oppose this Bill in its entirety.

**Mr. Wambora:** Thank you, Mr. Temporary Deputy Speaker, Sir. I will take a short time in order to give others a chance.

Mr. Temporary Deputy Speaker, Sir, I want to start by saying that I am for this very, very good provisions of the Political Parties Bill for various reasons. One, Clause 9 talks of the rights of the party members, and I think they have been well stated. Clause 23 talks of the purposes of the Fund, and I am quite happy with the expenditure whereby about 90 per cent of the funds are being spent on core functions of the party as opposed to spending a lot of money on administrative expenses, and the Bill leaves that with only 10 per cent. I think that is the way to go so that the parties themselves can subsidise their secretariat while spending the public funds to promote the core functions of the party.

Mr. Temporary Deputy Speaker, Sir, I have also noticed that the Bill provides various sources of funds for political parties. I find the range very wide and encouraging, ranging from membership fees all the way to voluntary contributions and donations and, indeed, even investment proceeds. I think that is a good way to encourage parties to be prudent and to raise funds from many sources instead of relying on the Government. However, the details is where the problem is. This is where I shall propose some amendments. The needed amendments can only come with---

*(Loud consultations)*

**The Temporary Deputy Speaker** (Mr. Sungu): Order! I appeal to the hon. Members on the Opposition side to consult in low tones. Your turn is coming and you may like other hon. Members to hear you. So, please, listen to the Member on the Floor.

Proceed, Mr. Wambora!

**Mr. Wambora:** Thank you, Mr. Temporary Deputy Speaker, Sir. I want to start with the definition of a "public officer" and I can see right there that it means "a person in the service or holding office under

the Government of Kenya". That one brings a lot of problems to those who are Ministers and Assistant Ministers. They cannot be founding members of a party, neither can they be officials. That definition is faulty. It should be clarified that Members of Parliament, Ministers, Assistant Ministers and councillors are not covered by that definition.

Mr. Temporary Deputy Speaker, Sir, the other amendment I would recommend is on Clause 3 which talks about the Registrar of Political Parties.

Clause 3 (1) says:-

"There shall be an office of the Registrar of Political Parties which shall be an office within the

**[Mr. Wambora]**  
Commission".

That is where it should end because when you begin to say: "and shall have operational autonomy", then it brings problems because the Electoral Commission of Kenya (ECK) is already autonomous. We do not need an individual who is autonomous of the ECK.

Secondly, the practice all over the Commonwealth except Tanzania which is also trying to change, is to allow the electoral commissions to take charge of the registration of political parties. Thirdly, a Registrar of Political Parties autonomous, he can do things which can embarrass the ECK. Finally, I am also worried about the Registrar being autonomous because he is going to make very critical decisions. For example, Clause 18 talks about cancellation of registration of a political party. I would not want to imagine an individual cancelling the registration of a political party. It should be done by the ECK, if necessary, and not by one single individual. So, I propose that the ECK should be given the mandate of registering political parties.

Mr. Temporary Deputy Speaker, Sir, the third amendment I would recommend is on Clause 7. There is a problem there where we are being told:-

"A person who is a member of the Armed Forces, the Administration Police Force, the Prisons Service,

the Kenya Wildlife Service, the Judicial Service, or any other person who is a public officer shall not---"

Mr. Temporary Deputy Speaker, Sir, the biggest problem with this clause is that it has left out a very important security department; the Kenya Police. We have included the Administration Police but left out the Kenya Police. I think that is an anomaly. It is an oversight that should be rectified.

Mr. Temporary Deputy Speaker, Sir, I find Clause 9(5) very ambiguous. Clause says:-

"A person who has been deprived by the decision of a court of competent jurisdiction for the period specified therein of the right to vote, to be elected to Parliament as a Member of Parliament or as a member of the local authority or any public office shall not become a member of the political party."

This means that hon. Kombe, who lost a petition, cannot be a member of the Shirikisho Party. I find this a bit strange. So, Clause 9(5) requires clarification.

Mr. Temporary Deputy Speaker, Sir, we have another clause which is also ambiguous. Clause 23(2)(a) states that:-

"Money allocated to a registered party from the Fund shall not be used directly-  
(a) for paying directly or indirectly remuneration, fees, rewards or any other benefit to a member or supporter of the political party".

I concur with the hon. Members who have said that political parties should have more lee-way without too much restriction, because they know what their priorities are. That clause should be revisited with a view to making it more clear.

Finally, I want to refer to Clause

23(3), which states that:-

(23)(3) Monies allocated to Parliament under this section shall be distributed as follows:-

(a) twenty five per cent shall be distributed equally among political parties; and

(b) seventy five per cent shall be distributed proportionately by reference to the number of votes secured by each of the

**[Mr. Wambora]**

political parties at the previous parliamentary elections".

I have no problem with part (b). I have a problem with part (a) because of what one hon. Member called "briefcase" parties, which will mushroom for the purposes of getting this 25 per cent. This will be unfortunate for the tax-payers if that happens. I want to suggest that this section reads that "25 per cent shall be distributed equally among political parties with, at least, one Member of Parliament or at least, five councillors". We do not want "briefcase" parties to benefit from taxpayers' money. The small parties with at least, one Member of Parliament such as Sisi Kwa Sisi, should enjoy that 25 per cent or those with at least five councillors.

With those few remarks, I beg to support.

**Mr. Ahenda:** Mr. Temporary Deputy Speaker, Sir, this is a good Bill. I must admit that the Political Parties Bill is long overdue. It ought to have come a long time ago.

Because of the absence of a political parties legislation, which should provide for their funding, we are getting all these foreigners masquerading as helping political parties. If we have such an Act in place, we will not have such people. They will pack and go. Their stay in the country has been messing political parties instead of helping them.

I want to congratulate the Minister for Justice and Constitutional Affairs for bringing the Bill to the House. It has come at the right time. We will get rid of those foreigners. However, there are a few things that need panel beating here and there in the Bill. If we can do that, the Bill can come out very nice.

I have in mind Clause 9(2)(c) which talks about the resignation of a councillor from a political party. It states that:-

"A member of a political party who intends to resign from his political party shall give a written notice prior to his resignation to-

(c) the relevant local authority, if he is a councillor".

This is very vague. Who is the relevant local authority? A chief in a ward could be a relevant local authority. This should come out specifically like it has been stated, that a Member of Parliament shall send his resignation letter to the Clerk of the National Assembly. It should be specific and state that if a councillor wants to resign, he should send his resignation letter to the clerk of the local council. Talking about the "relevant local authority" is very vague. At the local level, there are so many masquerading authorities and any of them could do.

Mr. Temporary Deputy Speaker, Sir, I also have a bone to pick with Clause 9(4) which states that:-

"A person while a member of another political party-

(b) joins another political party; or---"

The Bill does not give the consequences of a member of a political party joining another political party. This should also be clear.

**Capt. Nakitare:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Under Standing Order No.87, the debate on this Bill has been going on and there is a lot of repetition on the same issue. In that case, may I seek your indulgence to ask the Mover to reply?

**The Temporary Deputy Speaker** (Mr. Sungu): I agree with you in the sense that there is a lot of repetition. But there is one hon. Member who may want to make his contribution and with the indulgence of the House, let us give him a chance. Mr. Ahenda, proceed, but, please, do not repeat what has

been said by other speakers.

**Mr. Ahenda:** Mr. Temporary Deputy Speaker, Sir, I have not heard any hon. Member quoting the clauses I have quoted.

**The Temporary Deputy Speaker** (Mr. Sungu): Hon. Ahenda, it would be of benefit if you sit in the House and listen to what other hon. Members have said. What you are saying is exactly what other hon. Members have said. We do not want repetitions. It is against the Standing Orders.

**Mr. Ahenda:** Mr. Temporary Deputy Speaker, Sir, Clause 8 states that:-

"Any person who suppresses or attempts to suppress any lawful political activity---"

So, when the Commissioner of Police attempts to suppress us, is he guilty of any offence? To whom is this issue left? This should be specified for the benefit of political parties and then we would know who suppresses a political party and in what manner.

Mr. Temporary Deputy Speaker, Sir, let me take you quickly to Clause 15(a), which says that:-

"A political party shall be qualified to be fully registered if it has:-

(a) first been provisionally registered".

When is a political party provisionally registered and for how long? Could the Bill specify up to what period provisional registration can last, so that a political party knows that if it is given provisional registration, it will last for a certain period of time? If this clause is left vaguely, it can be used or misused to suppress other political parties because they are given provisional registration. It does not state when the real registration should be given. Are you allowed to operate as a political party during that provisional registration? That should be clarified.

Clause 15(2) states inter alia that:-

"Any alien shall not be appointed to any office or be a founding or ordinary or other member of a political party in Kenya".

**The Temporary Deputy Speaker** (Mr. Sungu): Mr. Ahenda, the Chair has precisely

stated that it is of immense importance to sit in the House to hear what other hon. Members have talked about. You are repeating what other hon. Members have talked about extensively. Therefore, I order that if you do not have anything to say, then you can conclude. Otherwise, do not repeat what other hon. Members have said.

**Mr. Ahenda:** Mr. Temporary Deputy Speaker, Sir, if that is what other hon. Members have said, then I rest my speech there.

**Mr. Biwott:** Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity. I would have liked to talk much but, in view of the repetitive nature that this debate has assumed, I will not say much. I will comment on a few things.

First, the Political Parties Bill---

**Maj. Madoka:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Mr. Biwott is not a Member of the shadow Cabinet. So, he has no right to speak from the Dispatch Box.

*(Laughter)*

**The Temporary Deputy Speaker** (Mr. Sungu): Mr. Biwott, you know that if you are not a Member of the shadow Cabinet, you should not address the House from the Dispatch Box. However, since you have already started speaking, I will exercise the authority of the Chair and allow you to continue.

**Mr. Biwott:** Mr. Temporary Deputy Speaker, Sir, I think Maj. Madoka is being mischievous. He knows that there is a case pending in court regarding KANU, and that it will all depend on the outcome of that case. I do not know how the court will rule on the matter. These people have joined the ODM-K. They are no longer KANU members. Therefore---

**The Temporary Deputy Speaker** (Mr. Sungu): Order! Order, Mr. Biwott! Please, keep extraneous matters out of this

**[The Temporary Deputy Speaker]**

House. What we know is what is going on in this House. You have been given the chance to speak. Please, go on.

**Mr. Biwott:** Mr. Temporary Deputy Speaker, Sir, he asked for it, and he has got it. So, let me continue.

Mr. Temporary Deputy Speaker, Sir, my main concern is with regard to the proposed Registrar of Political Parties. I feel that it will be wrong for the Registrar of Political Parties to be in the Electoral Commission of Kenya (ECK), because the ECK has got a lot of problems of its own. Also, the ECK is specialised in conducting free and fair elections. So, we should allow the ECK to continue perfecting the art of conducting elections, so that this country may achieve the best electoral system ever, to be emulated by other similar bodies elsewhere.

We need an independent Registrar of Political Parties, who can be located even in the Attorney-General's Chambers as long as he is independent, operationally. The Attorney-General is a Member of this House, and can be subjected to thorough interrogation if anything goes wrong. Alternatively, the Registrar of Political Parties can operate from the Ministry of Justice and Constitutional Affairs, as long as he is operationally independent, so that the job of dealing with political parties is left with one entity, which can ensure that the registration process of political parties is also perfected.

Mr. Temporary Deputy Speaker, Sir, my other concern is on formulation of political parties. This aspect is provided for under Clause 5(1) of the Bill, which reads as follows:-

"Political parties may, subject to the provisions of this Act, be formed in Kenya to further purposes which are not contrary to the Constitution or any other law."

There is no politics. What is "purposes which are not contrary to the Constitution"? There are so

many "purposes which are not contrary to the Constitution". I think we need a clear definition of what a "political party" is, so that there is no ambiguity.

My other concern is on conflict resolution. Political parties do have problems from time to time, and there should be a clear provision for ensuring that political parties adhere to their constitutions to the letter. Political parties' constitutions should also define clearly the ways in which their own conflicts can be resolved within the parties, and when a political party should go to court, so that there can never be any ambiguity. We have seen cases in the past. As we create this law, we need to have very clear provisions on this issue, so that nobody will be able to take advantage of ambiguity.

Mr. Temporary Deputy Speaker, Sir, the rights and responsibilities of every member of a political party must also be clearly defined, so that we will not have marauding and diabolical membership, where it will be very difficult to pinpoint a member, and where a member will also lose identity in the performance of their duty. A political party should also have an ideology which people can change from time to time if it ceases to be relevant and adopt an ideology that is closer to its objectives.

For that matter, hon. Members should be allowed to cross the Floor as and when they feel they should do so, depending on the wishes of the people they represent. An individual member of a political party should not be dictated to by the whims and wishes of certain oligarchies or certain cliques within the party. It is not every member in a political party who has a say. The say is always with those who "drive". Sometimes, when one feels that he is being "driven" to the wrong direction, or away from their conviction on which they stood for election and got support, they should be allowed to cross over to

another party.

However, I support the provision that if an hon. Member wishes to cross over to another party, they should communicate their intention in writing. It is important that a [Mr. Biwott] party member commits themselves in writing that they have actually moved to another party for good or for worse. That aspect was actually taken care of when this Parliament, at some stage in the past, introduced a resignation provision, which required that once a Member of Parliament crossed the Floor, he had to go back home and face the electorate afresh. That was the correct approach. As of now, people are crossing the Floor with impunity; I do not think this practice has any legal basis.

Mr. Temporary Deputy Speaker, Sir on the issue of funding of political parties, the way it is done at the moment promotes ethnicity. The politics of today is by and large ethnic, whether you want to see it as such or not. People vote because they perceive that leadership is synonymous with ethnic groupings. So, if you reward votes only, you are actually rewarding or promoting ethnicity, and undermining the interests and the welfare of the minority in this country. I think we should relate funding of political parties to the number of Members of Parliament, or the councillors in the various localities. That will be reflective of the legislative authority of the nation. At least, it will be based on the people who will have been brought to this House by voters as determined by the ECK. This may have an indirect relation to numbers. Pegging the funding of political parties on the number of Members of Parliament, or councillors, reduces the effect of ethnicity.

So, I would suggest that this Bill be subjected to severe interrogation, first of all by adopting the suggestion that has been made by the Departmental Committee on Administration of Justice and Legal Affairs, and secondly, by incorporating into it the contributions made by the hon. Members who have spoken. More so, we could take it to a *kamukunji*, or a committee, to thoroughly study it. Probably, that way we could get better brains to interrogate it more and come up with a Bill which actually approximates

to what really happens in the country.

Mr. Temporary Deputy Speaker, Sir, I am not worried so much about the number of political parties, because most of them will fizzle out as time goes by, and as Kenya advances. Kenya is actually advancing towards being a united country, where tribes and other things will not, really, matter. We are just a little bit short of that optimal position.

Mr. Temporary Deputy Speaker, Sir, I thank you for giving me this opportunity and I beg to support this Bill. I think the Minister for Justice and Constitutional Affairs is doing a fairly good job and should be commended and supported.

Thank you.

**Dr. Shaban:** Ahsante sana, Bw. Naibu Spika wa Muda. Tangu mfumo wa vyama vingi ulipoanza hapa Kenya mwaka wa 1992, imechukua muda mrefu sana kuleta Mswada kama huu hapa Bungeni, ili tuwe na sheria ya kurekebisha maswala ya vyama vya kisiasa. Kwa hivyo, ningependa kumpongeza Waziri Martha Karua kwa kufanya kazi hii ambayo tulikuwa tunaingoja kwa muda mrefu. Lakini, kuna mambo mengi ambayo lazima yaangaliwe.

Bw. Naibu Spika wa Muda, kwa heshima yako, ningependa kukubaliana na wenzangu wote waliochangia Mswada huu. Ningependa tu kutaja mambo mawili au matatu. Tangu mfumo wa vyama vingi ulipoanza, tumekuwa na tabia ya ajabu - udoezi wa kisiasa! Tukidoeadoea namna hiyo, vyama hivi havitaweza kutegemewa. Hatutaendelea na mfumo huu kwa muda mrefu. Bila sheria hii, mfumo wa vyama vingi unaweza kupotea. Kwa hivyo, jambo hilo la udoezi ni lazima likomeshwe kwenye sheria hii mpya. Nafikiria tukianzisha hiyo sheria, itakuwa ni rahisi kukomesha tabia hiyo.

Bw. Naibu Spika wa Muda, vile vile, ningependa kuzungumzia juu ya mfuko huo wa fedha ambao utasaidia vyama vya kisiasa. Ni rahisi kwa watu kusema kwamba akina mama wawekwe kwenye vyama kuanzia

[Dr. Shaban]

mashinani. Lakini, tayari, akina baba wanaibuka na hasira kwa sababu wameshatumia kura za akina mama kufika hapa. Kwa hivyo, akina mama hawana faida yoyote. Ningependa kusema sioni ni kwa nini wanaume wanakuwa na wasiwasi. Sio rahisi kwa wanaume kufika hapa bila kura za akina mama. Kwa hivyo, tusiwatumie akina mama kwa ubwete. Tufike hapa bure halafu, tukishafika hapa, tuamue kuwa hatuwahitaji akina mama. Kuna umuhimu wa akina mama kuwekwa katika mashina ya vyama. Hata kitaifa, akina mama inapaswa wapewe asilimia 30 ya nafasi za kazi. Mhe. Rais alitaja mwezi wa Oktoba mwaka jana kwamba akina mama wahusishwe katika kila kitu kwa asilimia 30. Akina mama wahusishwe sio tu katika kazi za kuajiriwa na vyama, bali kwenye shughuli zote zinazotekelezwa nchini.

Vile vile, licha ya kupendekeza kuwa akina mama wahusishwe kuanzia mashinani, ni lazima pia tuweke asilimia ya kura ambazo vyama vitatakiwa kupata ili vinufaike na mfuko huo. Pendekezo langu lingekuwa asilimia 15 ya fedha hizo ziwekwe kando ili tuhakikishe akina mama wamehusishwa kutoka mashinani hadi kitaifa. Hilo litakuwa jambo la muhimu.

Vile vile, tungepende ile tume ya uamuzi kuhusu vyama vya kisiasa pia ihusishe akina mama.

Ahsante sana, Bw. Naibu Spika wa Muda, kwa kunipa fursa hii.

**Mr. J.M. Mutiso:** Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this chance. From the outset, I would like to support the Political Parties Bill. I wish to thank and congratulate the Minister for Justice and Constitutional Affairs for expediting the drafting of this Bill. I think much has been said about the Political Parties Bill. I would like to say that we did not have a written law to regulate the conduct of political parties in this country. Therefore, it is quite in order and timely, particularly this year when we have elections. I think it is good to have a frame-work to enable political parties to participate in a fair manner. Currently, political parties are governed by the Societies Act. It is a wide policy that deals with the registration of bodies that further common interests. The

Societies Act has allowed the proliferation of so many political parties in this country. The last tally I had was more than 50 political parties. I think it has now gone up to 70 parties. Therefore, for a small country like ours, it is quite unproductive or illogical to have so many political parties purporting to further the ideals of democracy. Again, because of that weak legislation, we have a problem in the way political parties are managed.

Mr. Temporary Deputy Speaker, Sir, today, as I stand here, I can say without any fear of contradiction that, many political parties, either parliamentary or otherwise, personify certain personalities. They do not have ideals or philosophies. Therefore, even in our normal discussions, we keep on referring to political parties as "luminary led". Who is behind a certain political party? Who are the personalities behind the political parties? But many citizens do not identify themselves with certain political parties because they explore certain principles or ideals. They do so merely because they are just fans of particular personalities who identify themselves with a particular political party. Therefore, I think it is a high time we came up with a framework to de-personify political parties and prevent them from being luminary-based, luminary-led or baron-based.

Mr. Temporary Deputy Speaker, Sir, it is almost a determined case that some aspirants for civic and parliamentary seats have to pledge their loyalty to particular personalities to be cleared at the nomination stage or be nominated to various positions. I think the Political Parties Bill will come up with a clear framework in which political parties will have structures and organs. Aspirants would be elected based on certain criterion which is not individual based.

Mr. Temporary Deputy Speaker, Sir, I would like to make my final comment, particularly on the issue of funding and

**[Mr. J.M. Mutiso]**  
accounts of political parties. Clause 22 of the Bill pertains to the sources of money to be put

in the Fund. I think there are two aspects which have been mentioned here as possible sources of funding political parties. The first aspect of funding is from the Minister for Finance in the annual Estimates. Once this policy has been passed, it would become a regular feature to fund political parties. Therefore, it is also important to lay a framework to show how much money will be given to a particular political party. As it is now, the funding would be determined by the Minister for Finance. It will depend on the mood and whims of the Minister at that particular moment. I would like to suggest that we put a mechanism, either a percentage or a quantum where political parties will know they will have a particular pool from where they can access funds. For example, we can have 0.5 per cent or even 1 per cent of the ordinary revenue collections of the country. I think this is much more certain and predictive. It will enable us to know exactly how much money will be available in a particular financial year through the Ministry. However, as it were, the Minister could wake up one morning and say that we do not have funds or perhaps the economy is not doing very well, therefore, there will be no money. I am proposing that the Minister should look into that and perhaps bring an amendment at the Committee stage to remedy that.

Mr. Temporary Deputy Speaker, Sir, in part (b), I, again, have a problem with that, particularly on donations and contributions to the fund from "any other source". I think that is also very dangerous because any other source of money includes money that has been laundered. Therefore, I do not know whether it will be prudent for this country to have money wired from a remote corner of this country into the Exchequer Account for purposes of political parties. That would be very dangerous! We have to be very clear on: Which are these other sources? I think the Minister will look into that so that we do not have dirty money coming into the national kitty in the name of funding political parties. This is something we need to look into and come up with a solution for it.

Finally, for purposes of the fund, I am supporting the other objectives which have been

stated there. However, I, again, have a problem with 23(b) on the purposes of the fund. They include "promoting active participation of individual citizens in political life"; this is in order. They also include covering the election expenses of political party--- However, I have a problem with the part on; "the broadcasting of the policies of the political party". I think, again, that aspect is also very risky. We know that broadcasting, particularly commercial broadcasting, is very expensive. As we speak today, Citizen Media has taken the Government to court demanding over Kshs700 million for advertising during the Referendum. Broadcasting is a higher level of media and, therefore, I think if we say for purposes of publicity, without particularly prescribing broadcasting, we will also be addressing the purposes of the fund. I, therefore, entirely support the Bill and hope that we will pass this framework before we approach the Elections.

With those few remarks, I beg to support.

**The Temporary Deputy Speaker**

(Mr. Sungu): Hon. Members, we had a request from the Floor that the Mover be called upon to Reply. However, the Chair exercised discretion because there was interest. I hope that you will limit yourself so that the Minister can reply.

**Maj. Madoka:** Mr. Temporary Deputy Speaker, Sir, I will be very brief. There are a few things which I would like to talk about. First, I believe there is a need to ensure that we have parties which are truly national. What is emerging today in this country is the spirit of ethnicity and tribalism. Therefore, in establishing political parties, may be, we need to find a way of **[Maj. Madoka]**

ensuring that we control this. It can, obviously, be done through the Registrar of political parties.

I believe that if there was a clear guideline to the Registrar to ensure that no political party will be registered unless it gets a certain number of people from each district,

then we would sure that, that party will be truly national. Otherwise, we can never get these national parties that we keep talking about. I know it will be a difficult one but I think it is the only way of trying to ensure that we have parties that are truly national.

The other issue is the funding of the political parties. In Ghana, they have a rule that any corporation, company or individuals who have interests in supplying any materials or any equipment to the Government should not be allowed to contribute to the political parties. This is a means of ensuring that there is no corruption. This is because once you have funded a political party or contributed to it, you will expect favours. So, they have that rule that if you have interest in supplying the Government, you should not contribute to any of these parties. I think this is something that we should consider.

Mr. Temporary Deputy Speaker, Sir, the other one is the question of people who keep changing from one party to the other. Again, in the Philippines, they have very strong regulation. They passed an Act last year where if any hon. Member crosses the Floor to another party or joins another party, he or she is not only barred from contesting any elections in the successive years but also losses that very seat. We also need to enforce certain regulations to ensure that this frequent change of parties is not allowed.

Thank you.

With those few remarks, I beg to support.

**The Minister for Justice and Constitutional Affairs** (Ms. Karua): Mr. Temporary Deputy Speaker, Sir, may I begin by thanking all those who have contributed, either in support or in opposition to the Bill. They have all enriched the Bill. For those who have contributed in support and urged for amendments, I want to state that we will be flexible to listen to the issues raised and find the best way of strengthening this piece of legislation.

This is a step towards getting orderly political parties and of nurturing democracy. We cannot achieve all the steps in one day. It is a beginning! Once the Bill is on the Floor of the House, it belongs to the hon. Members. It is up to them to strengthen it by adding or deleting. This

will be subject to the discussions that will go on. I have seen the proposed amendments by the Departmental Committee on Administration of Justice and Legal Affairs. I have no quarrel with most of them but I have issues that I will, along with hon. Members when they are raising their issues, indicate opposition to and the reasons.

Mr. Temporary Deputy Speaker, Sir, quite a number of hon. Members have wondered about the criteria of eligibility of parties. That is covered in both Section V and VI. It is quite clear that a party will not merit full registration before meeting the criteria. No party, also, will enjoy funding before this Bill receives full legislation. It is, obvious, where we have reached this year, that the funding is unlikely to apply this current year. If this Bill successfully goes through, it would mean that by the time the parties finish the 180 days or six months, by which time they have to comply with the new requirements of the Act, it will be past the Election time. It is necessary that parties have enough time because otherwise, it will throw all of us into a confusion in an election year.

However, passing the Bill is a step in the necessary direction so that parties start preparing themselves for the next phase.

Mr. Temporary Deputy Speaker, Sir, one of the requirements that will ensure that we do not have parties that are restricted to **[The Minister for Justice and Constitutional Affairs]**

one region is that a party must have, at least, 200 members from each of our eight provinces. The party must also have a founding member in all the districts of this country. We cannot spell out in minute details who should be a member of a political party, but in a small way, a skeleton of what a party should look like can be provided. It means that parties are being given a direction that if you are a serious political party meriting full registration, you will have to spread your wings to the entire country. Should members feel, like it has been suggested here, that the requirement be that you have a member in

each of the 210 constituencies, it is up to you to consider whether that is reasonable. For example, is it reasonable that in six months, a nascent party will have gone round all the 210 constituencies? These are proposals that are before the House and they are subject to discussion by members of a political party.

Mr. Temporary Deputy Speaker, Sir, the political registration of a party that appears to have the required criteria is within one month and the period for the party to satisfy the criteria for full registration is six months. All the time limits have been spelt out and where the hon. Members feel that a time limit is needed, we are open to proposals.

There was a point raised about Clause 16(6) which states that:

"A fully registered political party loses its status as a political party and as a body corporate if it has not participated in a parliamentary election or local government election with electoral proposals of its own for a period of six years."

The words "electoral proposals" here refer to the party policies, otherwise known as the party manifesto. Therefore, a party should not only have candidates, but also a manifesto. We could change the language in this Bill so that it becomes quiet clear that we are talking about a party manifesto. We need to ensure that we have political parties which have a clearly defined ideology.

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

*[Mr. Deputy Speaker took the Chair]*

Mr. Deputy Speaker, Sir, many things have been said and it is not possible to reply to each one of them. I would like to urge hon. Members to pass this Bill at this stage so that we go to the Committee Stage and see what the end product shall be. There have been doubts as to whether, at this point in time, we should fund political parties. The reasons for funding political

parties, and the debate has been on since 1999, is that--

## QUORUM

**Capt. Nakitare:** On a point of order, Mr. Deputy Speaker, Sir. This is a very important Bill and it will not be ideal for a few of us to determine the destiny of this Bill now that we have no quorum in the House.

**Mr. Deputy Speaker:** Hon. Members, the Chair's attention has been drawn to the fact that there is no quorum in the House. I, therefore, order that the Division Bell be rung.

*(The Division Bell was rung)*

**Mr. Deputy Speaker:** Order, hon. Members! We have quorum now. You may proceed, Ms. Karua.

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

*(Applause)*

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

## MOTION

### ADOPTION OF REPORT ON INSPECTION OF OCEANOGRAPHIC SURVEY VESSEL

**Mr. G.G. Kariuki:** Mr. Deputy Speaker, Sir, I beg to move 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

laid on the Table of the House on November 1, 2006.

Mr. Deputy Speaker, Sir, this matter is very important for this nation, and particularly, this House. As contained in the Report, the Committee was established and mandated by Standing Order No.151 to oversee the Ministry of State for Defence, the Ministry of Foreign Affairs and the Ministry of East African Community.

*[Mr. Deputy Speaker left the Chair]*

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

The Committee that visited Spain comprised of four Members of Parliament, that is, Maj. Madoka, Maj-Gen. Nkaisserry, and I. The committee was to inspect the controversy-ridden Oceanographic Survey Vessel that is under construction by Euro Marine Industries in Spain. The vessel is being constructed for Kenya.

Mr. Temporary Deputy Speaker, Sir, the committee was also mandated to hold discussions with the relevant officials to understand their prospective---, and establish the situation as it is. Before we undertook those visits, we had discussions with Government officials and Ministers; mainly the Minister of State for Defence, the Permanent Secretary and other senior military officials. We also had discussions with the secretary to the Cabinet, Mr. Muthaura, the Director of the Kenya Anti-Corruption Commission (KACC) and officials from the Treasury.

Mr. Temporary Speaker, Sir, the scene was visited between the 24th, September, 2006 to 27th of the same month. The visit took about three days. When we got there, our main intension was to visit the factory where the vessel was being constructed. It was a very interesting trip because of the way this matter had been published in the Kenyan and international Press.

Mr. Temporary Deputy Speaker, Sir, we were very concerned with what we saw when we got there. Before we inspected the ship, we were guided by the engineer, Col. Fatuku, who is a marine engineer. He is a very effective officer of

the Kenya Navy. His explanation to us was very important. He made us understand what the whole thing was about. The gentleman we are talking about was taken to Spain to oversee the implementation of the construction of the ship. That was in July, 2003.

Mr. Temporary Deputy Speaker, Sir, listening to the gentleman's explanation, it appeared that he supervised the construction of that ship from the beginning to the end. The ship is almost complete as more than 90 per cent has been constructed. We were told that the only part remaining was to mount military equipment such as armaments. We were astonished because by the time we went there, we had already been told that the ship did not exist. It was said that it was a civilian second-hand ship which was being converted to a navy ship. According to our inspection, that was not correct.

Mr. Temporary Deputy Speaker, Sir, we appreciate that none of us was an engineer or an expert in this business.

**[Mr. G.G. Kariuki]**

However, we had with us the right person who had stayed in Spain supervising the construction of the ship for a long time. The navy officer arrived in Spain in January, 2002.

Mr. Temporary Deputy Speaker, Sir, I want hon. Members to listen very carefully; this means that this contract was signed before the current Government came to power. The navy officer arrived in Spain in January, 2002. He told us that it was not only this ship that the company had constructed. There were many more. They delivered some in 1993, 1994 and two offshore patrol boats in 1996. All these are still in service today. This means that the picture that was created by the people of Kenya and the Press about the company is not true.

Mr. Temporary Deputy Speaker, Sir, I, however, think we cannot blame the Press. They lack clear and correct information. The problem is that the military and the Ministry withdrew from talking about this business as if it was not existing. That is a very surprising

thing. Even during the launch of the ship, the officers who witnessed the launch kept quiet as if they did not know what happened. I think everybody got scared of KACC. It is unfortunate that the Government, the Treasury, the Kenya Navy and the Ministry of State for Defence would be scared to stand firm and say: "That ship is there". They should have visited that place before the Committee on Defence and Foreign Relations undertook the visit. It was misuse of public funds because they knew the issue very well. They witnessed the launch and drank champagne. You could see this on video. We were shown all the officers who went there to witness the launching of the ship. I therefore, think this country needs to be a bit serious in dealing with matters of this nature.

For the information of the House, the size of the ship is as follows; 140 tonnes, 85 meters long and 13 meters wide. It is quite a big ship. In fact, we were told it is the only ship of its kind in East and Central Africa. This ship is required by the Kenya Navy as early as yesterday. As we stand here now, our territorial waters are totally undefended. When it was decided that the Government had to build this ship, it was realised that it was required by our defence force. However, it is now that we are trying to find out whether we can find oil under the Indian Ocean. We can get that oil today, but tomorrow, the area could be controlled by our competitors. We need this ship and this is the information we got from them.

Mr. Temporary Deputy Speaker, Sir, we were told that the only thing remaining in the construction of the ship is the fitting of armaments. If that has to be done, they have to enter into a new contract with people who are qualified and competent to do this kind of work. That is what they mean when they talk of 90 per cent of the time. In March, 2003 that was the time the construction started. Hon. Members have this Report but I am just going to mention what is important in the Report. In March, 2003, construction started and the ship was officially launched to the sea in January, 2005. The job was successfully done and the ceremony was attended by the Kenya Navy Commander, Chief of

System, Department of Defence (DoD). So, there was no secret about this. We all thought that since Anglo Leasing had become an "animal" and nobody wants to be quoted, it is unfortunate that we just allowed that situation to continue the way it did, knowing that we are spending millions of shillings to pay the arrears. Up to now, quite a lot of money has not been paid, that is about Kshs1.6 billion which was in arrears by June last year. So, there is a lot that needs to be discussed on this matter.

Mr. Temporary Deputy Speaker, Sir, the Committee was assured that this ship was inspected according to the international standards by Kenya and Loyd specifications and other international marine standards. That was to certify that everything was in order. As I said, 90 per cent is already done and there are other countries today, who want to take over that ship because under the **[Mr. G.G. Kariuki]**

current contract, the amount of money which was spend, which I am going to mention with time--- They are willing to take over this ship because they know that if you want to build a similar one today, it will cost you almost double the amount. That is if the Kenya Government continues to dilly-dally the way it is doing.

Mr. Temporary Deputy Speaker, Sir, when we went and saw the ship, we also had to hold a meeting with the officials of the Kenyan Embassy in Paris in the name of Mr. Samuel Githae and other officers. They were also concerned as to what has happened in Kenya that a big expensive project like that one is just left the way it was left. The Government of Spain is very concerned as to whether Kenya will continue to be respected in international circles when they engage into bilateral agreements. The Kenya Government has not even contacted the Government of Spain to give explanation as to why the situation is the way it

is. I think that is a matter that Kenya should be concerned about because our credibility is in question; whether we shall be trusted again in dealing with business of that nature.

Mr. Temporary Deputy Speaker, Sir, we met the Euro Marine representatives and they confirmed what we had been told by our own engineers, that 90 per cent of the ship is already done and what is remaining is for Kenya to pay the remaining amount so that the training of the personnel can be undertaken.

### **ADJOURNMENT**

**The Temporary Deputy Speaker** (Mr. Poghisio): Order, hon. Members, it is now time for the interruption of business. This House is, therefore, adjourned until Wednesday, 2nd May, 2007, at 9.00 a.m.

The House rose at 6.30 p.m.