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NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 1st October, 1997

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

ORAL ANSWERS TO QUESTIONS

Question No.595

INVALID INSURANCE POLICY:
ACCESS INSURANCE COMPANY

Mr. Mumba asked a Minister of State, Office of the President:

(a) if he was aware that on 3rd October, 1994, an Isuzu Matatu registration No. KAB 220M, insured by Access Insurance Company had an accident along the Mombasa/Malindi Road at Shariani and caused the death of Ms.Sidi Tete and Ms. Sidi Mweni and seriously injured Mr. Abdalla Athman and 37 others;

(a) whether he was further aware that Insurance Policy No.501/03/MO/M/93/04/495/C/Y issued by Access Insurance Company to cover the said vehicle was invalid, since the Company had been deregistered; and,

(c) if the answers to "a" and "b" are in the affirmative, what action he had taken against the owner of the vehicle, a Mr. Shadrack Mataka Munyasia, for allowing an uninsured Public Service Vehicle on the road.

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

(a) Yes, I am aware.

(b) The Access Insurance Company was de-registered on the 29th of November, 1994 vide the Commissioner of Insurance Letter reference INSURANCE/01/001/01. This was after the accident had already occurred and not before, as alleged.

(c) The vehicle had a valid insurance cover at the time of the accident and, therefore, no action could be taken against the owner.

Mr. Mumba: Mr. Speaker, Sir, this accident killed two people and maimed 37 others. First, I have the information that there has been no police action whatsoever taken. Secondly, this insurance company had been de-registered. The Assistant Minister is now telling me that this insurance company was fully registered at the time. Why is it that no police action has been taken up to now? In fact, as a result, the lawyer who was handling this case withdrew because his information also was that the company was deregistered. Why has police not taken any action against Mr. Munyasia? Why has there been no compensation for any damages and loss of lives?

Mr. Awori: Mr. Speaker, Sir, the police indeed, did take action. They visited the scene and arrested the driver, who had veered off the road and caused this accident. He was found guilty and fined Kshs23,000 or in default, one year in prison. As to the liability, the insurance policy at the time of the accident, was valid. It is one of these very unfortunate cases where, after this car had caused the deaths of two people and injured very many people, less than a month later, the Commissioner of Insurance de-registered the insurance company with which this vehicle was insured. The company, being out of business is, therefore, unable to pay, and the only recourse would be, perhaps to institute a civil case against the people behind the insurance company.

Mr. Obwocha: Thank you, Mr. Speaker, Sir. There is a firm of accountants, who were certifying the accounts of Access Insurance Company. In their accounts for that year, Access Insurance Company was certified as being liquid at that time, a fact which is disputed. Since there is negligence on the part of these people, who said that this insurance company was liquid, what action is the Assistant Minister intending to take against that firm of

accountants, who misled the insurers in continuing to insure with Access Insurance Company and now they are in this unfortunate situation of not being paid for their claims?

Mr. Awori: Mr. Speaker, Sir, I am afraid that I do not see how our Ministry can help in this case. If hon. Obwocha can show me a way, indeed, I will follow it. I always take advice from professionals.

Prof. Mzee: Mr. Speaker, Sir, arising from the answer which the Assistant Minister has given just now, in 1967, there was an insurance company in England which became bankrupt overnight, and left a lot of people uncovered. So the Government in England did what is called 'piercing the veil'. They went behind the 'veil' and identified the owners, pierced the veil and held them responsible. They sold their houses and properties and paid those people. This case of 1967 involves the Racer Company in England, and the Government was able to do this. Will the Assistant Minister undertake to look into this situation and apply the same method of 'piercing the veil' in Kenya here and do what the Government of England did in 1967, when an insurance company, similar to this became bankrupt overnight?

Mr. Awori: Mr. Speaker, Sir, I will look into the situation, provided the laws of Kenya are perhaps similar to the laws of England, 1967. If we find out that Mr. Jayesh has the money and the property, and we have got the instruments to pierce the veil, I will take advice and do so.

Mr. Mumba: Mr. Speaker, Sir, the Government has a responsibility to protect its citizens. If the only action that was taken was to fine the driver Kshs3,000, the Assistant Minister has not told us what action was taken against the owner of the vehicle. I believe the Ministry or the office concerned should have taken appropriate action, now that it was aware that this company was deregistered after one month. Why does the Office of the President in its responsibility over citizens of this country not follow up Mr. Munyasia, the owner of this vehicle and attach his property to compensate those innocent wananchi?

Mr. Awori: Mr. Speaker, Sir, we are very sensitive to the unfortunate people who lost their lives and property, but I do not see the responsibility of my Ministry in this matter vis-a-vis the owner of the vehicle. We prosecuted someone who committed a crime. The owner did not commit a crime. At the time of the accident, the owner had a valid insurance policy. It is an unfortunate situation that a month later, the company was deregistered. I do not think I can make the owner responsible for that other than having a bad driver.

Mr. Speaker: Next Question!

Question No.568

LAND ALLOCATED TO THE LATE STANBUL

Mr. Farah asked the Minister for Lands and Settlement:-

- (a) how many acres of land were allocated to the late Senior Chief Maalim Mohammed Stanbul in Garissa Town by the Colonial Government;
- (b) who occupies the said land and why the land was allocated to other people; and,
- (c) what he was doing to revert the said land back to the family of the later Senior Chief Stanbul or have them compensated.

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

(a) My Ministry has no record of any land that was allocated to the late Senior Chief Maalim Mohammed Stanbul in Garissa Town by the Colonial Government.

(b) Since I have no records of any land that was allocated to the later Senior Chief Maalim Mohammed Stanbul in Garissa Town by the Colonial Government, it is therefore, not possible to establish the size of the land being referred to and if it was re-allocated to other people.

(c) In the light of the foregoing, it is not possible therefore, for my Ministry to give back the land or compensate the family of the late Senior Chief Stanbul for the same.

If the hon. Member has more information on this matter, he can avail it to me for further investigation and action.

Mr. Farah: Mr. Speaker, Sir, the late Senior Chief Maalim Mohammed Stanbul is the son of Chief Stanbul who started Garissa. It is common knowledge that though we did not have title deeds in North Eastern Province or Garissa District until 10 years ago, the land so-called the New Muthaiga of Garissa where the provincial headquarters is and where the powerful and rich have their plots, belonged to the family. That can be found in the archives and the records of the Government from the colonial times. Could the Assistant Minister undertake to go back with my assistance, and the relevant information on that and give the land back to the family that owned it?

Mr. Sumbeiywo: Mr. Speaker, Sir, the land in Garissa at that time was trust land as defined in the Trust Land Act Cap 288 until 1974, when the status changed and the customary rights were removed. Therefore, the land has now

fallen under the local authority. I presume all people who had any vested interests in the land were compensated as required by the law. If by any chance they were not compensated, I am prepared as suggested by the hon. Member, to conduct further investigations with his help and verify the ownership of the land at the time.

Mr. Speaker: Mr. Farah, I think you are happy!

Mr. Farah: Mr. Speaker, Sir, I am happy.

Mr. Speaker: Very well! Next Question!

Question No.626

COMPENSATION FOR LAND:
MITUNGUU WATER PROJECT

Mr. Speaker: Mr. Murungi is not here! Next Question by Mr. Gichuki!

Question No.607

WATER SUPPLY TO OL JORO-OROK DIVISION

Mr. Githiomi, on behalf of **Mr. Gichuki**, asked the Minister for Land Reclamation, Regional and Water Development what plans there were to supply Ngano and Silibwet area of Ol Joro-Orok Division with clean piped water.

The Assistant Minister for Land Reclamation, Regional and Water Development (Mr. Ligale): Mr. Speaker, Sir, I beg to reply.

My Ministry has put in place a self-help water project support programme in Nyandarua District which is giving technical and financial support to the community-based water supply projects. Against this background, I appeal to the Member of Parliament for Ndaragwa to advise his constituents to organize themselves into water management groups, for Ngano and Silibwet Water Projects to be able to benefit from this programme.

Mr. Githiomi: Mr. Speaker, Sir, the people of Silibwet and Ngano in Ndaragwa Constituency have no source of water. The only source they have is an open earth dam which is highly polluted. The dam has never been desilted.

Mr. Speaker, Sir, there is a project that was started 15 years ago, and that is Silibwet Water Project. Three tanks were built to hold 50,000 gallons each. The project was abandoned and these people do not know when the Ministry is going to embark on the project because indeed, the Ministry had spent a lot of money on that project. Other than going for assistance from this self-help water project team that is in Nyandarua, could the Assistant Minister tell the House what he is going to do to the abandoned water project which had used a lot of Government money?

Mr. Ligale: Mr. Speaker, Sir, the hon. Member should know that the reason why this project was abandoned was because twice, the water pump involved was stolen. That is why we have come up with these self help projects where members will set up management committees, so that they take responsibility for the management of the projects. There is both technical assistance and money to assist them in coming up with projects that are manageable.

Prof. Ouma: Mr. Speaker, Sir, arising from that answer given by the Assistant Minister and realising that the question of rural water supply comes to this Floor so frequently, I beg to ask the Assistant Minister to give us more information. One time this Ministry of this Government had a plan of providing piped water to all Kenyans by the year 2000 which is just three years away. This project at Ol-Joro-Orok serves small communities. Does this Ministry have an overall plan for this entire nation? What time do we expect to provide good drinking water for all? It should be indicated whether it will be by the year 2,100 or the year 2000? By what period do you hope to provide that water or are we just rolling on? By what time will you give Kenyans the hope of getting drinking water?

Mr. Ligale: Mr. Speaker, Sir, the Member knows that we had a target, but that target could not be met partly because it was not possible to realise all the financial resources that we had hoped to realise. However, we have an overall plan and depending on financial resources, it will be achievable.

Prof. Ouma: On a point of order, Mr. Speaker, Sir. I had humbly asked my good friend and colleague, especially in the spirit of reforms, to tell us what time the drinking water will be provided to all Kenyans. Will it be in the next 20 or 30 years from now? Give Kenyans the time frame?

Mr. Speaker: Order! Prof. Muga. If you are really directing that question about Ol Kalou, we can expect him to answer. But when you are generally asking about the whole country for which he was not asked to prepare, then that is out of the scope of the Question.

Mr. Githiomi: Mr. Speaker, Sir, the answer given by the Assistant Minister was quite misleading. Now, here is a project that was started by the Government 15 years ago. The engines were supposed to be taken care of by the Government and yet the Assistant Minister says that because the pumps were stolen, the project was abandoned

and yet the Government has spent a lot of money from the public coffers. Could the Assistant Minister now tell us when they are going to embark on this project? In actual fact the Government has spent a lot of money which is now going to waste.

Mr. Ligale: Mr. Speaker, Sir, if the Member listened to me very carefully, I did indicate that currently our main thrust is to ensure that small water projects are managed by committees themselves so that the local people can have an interest in the matter and ensure that engines or any other facilities that are installed are not stolen.

Question No.645

SALE OF MERU MULIKA LODGE

Mr. Maore asked the Minister for Tourism and Wildlife:-

(a) whether he could confirm the status of the Meru Mulika Lodge advertised for sale in July, 1997; and,

(b) on what specific dates had the Kenya Tourist Development Corporation, as the proprietor, planned to pay terminal benefits for the employees declared redundant as per the letter of 27th February, 1997, by the Company Secretary.

The Minister for Tourism and Wildlife (Dr. Momanyi): Mr. Speaker, Sir, I beg to reply.

(a) Meru Mulika Lodge Ltd was advertised for sale through the local dailies by the Executive Secretariat Technical Unit (ESTU) of the Parastatals Reform Programme Committee (PRPC) and it is in the process of being privatised in accordance with the Government's policy of privatisation and divestiture.

(b) Meru Mulika Lodge and the management of Kenya Tourist Development Corporation are making necessary arrangements to pay terminal benefits for their employees declared redundant once all formalities with the union and the Ministry of Labour and Manpower Development are finalised. This hopefully will be completed within the next 60 days.

Mr. Maore: Mr. Speaker, Sir, the Minister did not attempt to answer my Question. I was asking about the status of the lodge. Has the lodge been sold, is it in the process of being sold or what has happened? This is because as far as we know, there is a lot that the Minister does not want to say. However, since the---

Mr. Speaker: Mr. Maore, can you put that first question?. Has the lodge been sold or not sold?

Dr. Momanyi: Mr. Speaker, Sir, it has not been sold yet.

Mr. Speaker: Very good. Now, you can ask another question.

Mr. Maore: Mr. Speaker, Sir, I was interested in the issue of the terminal benefits because the Kenya Tourist Development Corporation has stated categorically that they are in the process of processing the deals for all the people who were laid off in the process of carrying out renovations. They never told them that they were being declared redundant. They had entered into an agreement that they were to close the lodge for three months. Now, it turned out that they were going to close the lodge forever. How soon are you going to answer my question by giving specific dates? Are you going to prepare to pay a paltry amount of Kshs1.5 million that is due to the 16 people who were recorded in your list?

Dr. Momanyi: Mr. Speaker, Sir, there are very many questions in one question from the hon. Member.

First, the lodge was burnt down and the proprietor who is the Kenya Tourist Development Corporation wanted to refurbish it and so they had to lay off temporarily the staff for some time. In the meantime, this question of privatisation came up and they had decided to privatise or sell it to the people. Those who had temporarily been stopped from working, were then told that finally they had to go. However, as I said here, all formalities that were to be finalised between the union and the Ministry of Labour and Manpower Development have been finalised now. The whole exercise hopefully will be completed within the next 60 days and they will be paid.

Mr. Wamae: Mr. Speaker, Sir, the workers are not involved in privatisation. What they want is their terminal benefits. They do not care who buys the hotel later so that they can re-apply for employment, if they want. Could the hon. Minister say why the workers have to wait for another 60 days without being paid their terminal dues?

Dr. Momanyi: Mr. Speaker, Sir, hon. Matu Wame owns a hotel and he knows very well that if he has to lay off all his staff, negotiations between different parties have got to be finalised and their amounts agreed upon and then payments be done.

Mr. Falana: Mr. Speaker, Sir, the Minister is not coming out clearly. He has just said that the problem started with the lodge being burnt then the privatisation programme set in. Now, I agree with what hon. Matu Wamae said that these ex-workers who are looking for their benefits do not care whether it was affected by burning or poaching or whatever. What they want are their benefits to be paid. Now, the Assistant Minister says that there are still 60 more days on top of the sufferings that they have undergone. I do not know how they are calculating that the past suffering is not enough. The Ministry and the parties still think that these Kenyans have got to suffer for 60 more days

before they can be paid.

Dr. Momanyi: Mr. Speaker, Sir, I will repeat the answer to part (b). It is very clear, unless hon. Falana was not carefully listening. Meru Mulika Lodge and the management of the Kenya Tourist Development Corporation are making necessary arrangements to pay terminal benefits for the employees declared redundant once all formalities with the Union and the Ministry of Labour are finalised. This is expected to be within 60 days, that means negotiations are going on and will be finished within 60 days.

Mr. Speaker: Final question, hon. Maoka!

Mr. P.N Ndwiga: On a point of order, Mr. Speaker, Sir, I think the Minister is taking this question round for a tour. Is he in order to mislead this House that KTDC and the Union are discussing the mode or formalities of paying these workers when it is common knowledge that KTDC has no money, it is gone burst, is he in order to continue misleading this House and it is common knowledge that there is nothing called KTDC now, the thing is burst?

Dr. Momanyi: I will request the Member to lay proof on the Table for that serious allegation that KTDC is burst; KTDC is one of the healthiest parastatals existing now.

Mr. Maore: Mr. Speaker, Sir, the Minister says he is having problems or issues that are formalities, that are not finalised. Now while waiting for him to say one or two things, four, five, that are not finalised, and bearing in mind that in his knowledge he is aware that the fire that brought down the lodge was not accidental, it was a deliberate move by the KTDC to bring the value of the property down so that it could be sold at a throw away price, or merely given out to Block Hotels the way it has happened--- The Hotel or the facility has already been sold and the Minister is not being honest with this House; it was finalised on 22nd July. Now can the Minister explain? While knowing that the fire was not accidental, why are you taking this long in this formalities while you knew what you were doing?

Dr. Momanyi: Mr. Speaker, Sir, allegations should be brought with facts in this House, but if they are not true, they are not. I will tell you what is going on with the sale. Of the bidders who wanted to buy the lodge, Mohammed Yusuf Sarawa offered Kshs 2.2 million, Miriaini Hotel Ltd. Kshs 18 million, Ewaso Narok Tourist Lodge, Kshs 6.5 million, Block Hotels Kshs 22 million, Ziza Hotels, no bid. How can somebody say that it was planned to be sold to so and so, so burnt, and that is a very bad allegation accusing the KTDC of a crime.

Mr. Speaker: Next Question, for the second time, hon. Kiraitu Murungi!

Question No.626

COMPENSATION FOR LAND:
MITUNGUU WATER PROJECT

Mr. Speaker: Is Mr. Murungi still not here? Question dropped!

(Question dropped)

QUESTIONS BY PRIVATE NOTICE

IMPLEMENTATION OF KIPSIGAK-SEREM
ROAD PROJECT

(Mr. Sambu) to ask the Minister for Public Works and Housing:-

(a) Is the Minister aware that the Contractor, who was awarded tender to construct the Kipsigak to Serem Road (D291), has pulled out?

(b) If the answer to 'a' above is in the affirmative, could the Minister give the reasons why the contractor pulled out?

Mr. Speaker: John Sambu! Is hon. Sambu not here? Question dropped!

(Question dropped)

Next Question, hon. Joseph Mulusya!

KILLING OF MUKAMUKUU RESIDENTS BY HIPPOS.

Mr. Mulusya: Mr. Speaker, Sir, I beg to ask the Minister for Tourism and Wildlife the following Question By Private Notice.

(a) Is the Minister aware that from 8th September, 1997, to date three (3) people have been killed and seven (7) others seriously injured by marauding hippos at Mukamukuu area of Kianzabe Location in Kangundo Constituency?

(b) If so, what action has the Minister taken to eliminate this menace and compensate the victims?

The Minister for Tourism and Wildlife(Mr. Momanyi): Mr. Speaker, Sir, I beg to reply.

(a) I am not aware of any cases of human beings having been killed or attacked by marauding Hippos at Mukamukuu area of Kangundo Constituency.

(b) In view of the above answer, to 'a', this question, therefore, does not arise.

Mr. Mulusya: Mr. Speaker, Sir, in the spirit of reform, I am very disappointed. One, as we talk, a game warden who is an officer under his Ministry is ailing at Kilimambogo Hospital with one buttock missing, it was mauled by a Hippo--- He has no buttock, yet this Minister has the audacity to say nothing happened and one of his officers has one buttock less---

(laughter)

Mr. Speaker, I do not know what government we are dealing with. Is it not in order for the Minister to go back and send an officer on site to that area, Kangundo Hospital, because there are two bodies which are not yet buried, they are supposed to be buried tomorrow, the other was buried and the other people are still at Hospital--- Is it not in order for him to send an officer or an independent team to go and find out the truth so that he can bring the truth to this House and also replace the missing buttock for that officer of his?

(laughter)

Mr. Momanyi: Mr. Speaker, Sir, I am sorry for my officer. But the matter is; an incident can happen in the field and if it is not reported in time, we have no way of knowing. The incidents here talk of 28th September, you can see it is two days back and this thing has not been reported.

An hon. member: No it is 8th of September. What are you reading?

Mr. Momanyi: No I have it here, 28th September, incidents happened; the Hippos went to the Shambas and if there is any human injury or death, I do not need hon. Mulusya, my officers will soon bring it to our offices and the necessary arrangement will be made for compensation as usual.

An hon. Member: Point of order, Mr. Speaker, Sir!

Mr. Speaker: Order! Order Members, it does appear that this is not sinister. According to you, the issue occurred on 28th and therefore you have not heard anything. Is it not fair that you truly look into this issue and answer it there on?

Mr. Momanyi: Mr. Speaker, Sir, the incident that occurred on 28th does not involve loss of human life or injury. It involves shambas and in fact we shot five Hippos. It does not involve human injury or death.

Mr. Speaker: Mr. Mulusya!

Mr. Mulusya: Mr. Speaker, Sir, my request, a humble request to the hon. Minister who used to be my friend before he was appointed is for him with the game officers to go and find out the truth and come back. Can he promise when he is going to bring the answer here?

An hon. Member: Can the two go straight?

Dr. Momanyi: Mr. Speaker, Sir, I think my friend, hon. Mulusya was so excited and he did not listen. I said that if there is any human injury or death that has occurred between that day and now, I expect the officers to bring the report to us in the office, after which the necessary arrangements will be made for compensation.

Mr. Raila: On a point of order, Mr. Speaker, Sir. The Minister is not really responding to the question by the hon. Member for Kangundo, who is asking him to carry out investigations. Instead, he is telling us that he is going to wait for his officers to bring the report to his office. Will he answer the question? Is he going to undertake before this House to go and carry out investigations and come back with a report to this House, and when?

Mr. Speaker: Dr. Momanyi, what hon. Mulusya is asking you is: If you have not got the correct information, why do you not investigate and report back to the House.

Dr. Momanyi: Mr. Speaker, Sir, I will start investigations as soon as possible. In fact, I will do that before the end of the week. As soon as I get the correct answers, I will report back to the House.

Mr. Speaker: The consequence of your request is that, I should defer the Question to Wednesday next week, when you should also have your answers ready.

Mrs. Asijo: On a point of order, Mr. Speaker, Sir. It is not only in hon. Mulusya's constituency that hippos have been causing havoc. In Karachuonyo Constituency, hippos killed a man early this year and the game officers have not even attended to the problem! My own farm and that of other farmers in the area have been destroyed by

hippos. Can the Minister allow community members to kill those hippos if his own officers cannot do it and even compensate the affected farmers?

Mr. Speaker: Maybe you can leave that until Wednesday when he comes to answer the Question. Next Order!

(Question deferred)

BILL

Second Reading

THE STATUTE LAW (REPEALS AND MISCELLANEOUS AMENDMENTS) BILL

(The Attorney-General on 25.9.97)

(Resumption of Debate interrupted on 30.9.97)

Mr. Speaker: Mr. Raila was on the Floor. Would you like to continue, Mr. Raila?

Mr. Raila: Mr. Speaker, Sir, I wish to continue from where I left. I had promised hon. Members that I was going to do justice to the work that was done at County Hall and I was only going to offer constructive criticism to what they have done. So, I am just trying to construct these rags.

Mr. Speaker, Sir, I ended when I was talking about the Kenya Broadcasting Corporation Act. I had just referred to Section 8(J) which says: "Keep a fair balance in all respects in the allocation of broadcasting hours between different political viewpoints." This is complete hogwash. It does not mean anything because it leaves the whole thing to the discretion of the officers, who have continued to act in a biased manner in favour of KANU in the electronic media. Paragraph 1(A) says:

"In subsection (L and J), the expression campaign period means the period between the initiation of an election under the provisions of the relevant law pertaining to the election and eve of the polling day."

Mr. Speaker, Sir, nobody has attempted here to set the election date or specify the election period. Whereas KANU at the moment enjoys absolute monopoly of the electronic media and is likely to continue to do so until Parliament is dissolved and the election is called, the Opposition is completely marginalised.

Mr. Speaker, Sir, I want us to borrow a leaf from other countries. In Mozambique, for example, the law is very specific about the campaign period. It says: "The election campaign shall commence 45 days prior to the date of elections and shall terminate 48 hours before the opening of the polls." These are 45 clear days of a campaign period during which all political parties enjoy equal treatment in the electronic media. In Mexico, the campaign period is three months, that is 90 days of campaign period. In this country, the ruling party has continued to monopolise the electronic media and it is going to call snap elections without giving the Opposition the benefit of campaigning through the electronic media. The importance of the electronic media in election campaign cannot be overstated and that is the reason why we are saying that, for all these recommendations to take root and to be meaningful to the Opposition, it is absolutely necessary for the life of this Parliament to be extended, so that the Opposition can have time to enjoy the airtime which they are going to get when this Bill is passed.

Mr. Speaker, Sir, I talked yesterday about the Societies Act and there is one point which I did not emphasize and that is Section 4 (2) where it is stated:

"The Registrar shall consider every application for registration of a society or for exemption from registration and shall communicate its decision thereon to the society within 120 days of receipt of the application."

Mr. Speaker, Sir, there is no rationale for the 120 days. There is no reason why public servants cannot be able to carry out investigations and respond within 60 days.

Mr. Speaker, Sir, 120 days is too long for a society or for members of a society to know the fate of their application. On the following page 519, section 2, it says delete the words "it appears to him" appearing in paragraph (a) of subsection two and insert "he has reason or cause to believe."

Mr. Speaker, Sir, the original Act talks of "if it appears to the Registrar that this society is a subversive society". Now, we are substituting that with "if he has reasonable cause to believe". We are just merely playing with words saying the same thing. The discretion is still left to the Registrar and this is what we have been fighting against, that we want to remove "discretionary powers" from the public servants.

Mr. Speaker, Sir, the next one, immediately thereafter delete the words "in the opinion of the Registrar" appearing in sub-section 2. The next one is section 12 on page 519. Delete the words "in his opinion" wherever they occur and insert "where he has reasonable cause to believe." Now, "in his opinion" and "where he has reasonable cause to believe", what is the difference? I would like the Attorney-General to come and tell us what is the difference here. My view is that in practical terms, it makes no difference; whether "it is in his opinion" or whether "he has reasonable cause to believe".

Mr. Speaker, Sir, these reforms are a result of very many years of struggle by the people of this country. Many people of this country have lost lives. Remember the 14 people who were killed during *saba saba* strike. If we are talking about reforms, then we want to have meaningful reforms which will not make it necessary again for Kenyans to take to the streets. We are saying that what we have been offered here falls far short of the expectations of the Kenyan people.

Mr. Speaker, Sir, I wish now to turn my attention to the National Assembly Presidential Election Act on page 529. It is proposed here to amend section 34 by inserting a new section 34(a) to provide for Electoral Code of Conduct to be set out in the new proposed Schedule of the Act. This code of conduct is mandatory. In other words, every political party is required to subscribe to and observe this code of conduct. Now, this is a very major piece of legislation. The most interesting thing is that although this code of conduct is meant for the political parties, no political parties, in my knowledge, were ever consulted or asked to give their opinion when this code of conduct was being drafted. To the best of my knowledge, those legislators who met at County Hall did not represent their respective political parties.

Mr. Speaker, Sir, this is a very important legislation which should have been referred to political parties for debate and comments before it was brought into a Bill here.

The whole work of the IPPG team stands or falls, in my view, on this section here. If you look at subsection 3 on page 534, this makes it an offence punishable on conviction to three years or to a fine of Kshs50,000.00 or to both on conviction.

Mr. Speaker, Sir, this code of conduct gives the Electoral Commission a lot of powers over the political parties. It gives the Electoral Commission powers to control and regulate activities of a political party. I wish to refer here to page 541 paragraph 8 which says:-

"Where in the opinion of the Commission, any political party participating in any elections or the leader or officers, member or support of such political parties or any candidate at any election in any way infringes any provision of this code, the Commission may:-

(iii) not withstanding any provisions of any other law, issue an order for anything such political party whether permanent from utilising any public media through the television or radio broadcasting services of such media as have been or may be allocated to the political party for electoral purposes."

Mr. Speaker, Sir, all we are saying here is that the Electoral Commission is being given powers to deny a political party air time broadcasting on radio as a punitive measure. We are also saying that we are giving Electoral Commission powers to bar a candidate from using posters and so on when he is still running as a candidate. Which Electoral Commission are we talking about? What has been provided for here makes a very fallacious assumption that we have an independent Electoral Commission in place, which we do not have. The Electoral Commission that we have, even with the amendment that is proposed, that consists of over 50 per cent of hand-picked commissioners; commissioners whose conduct are known because they were responsible for the rigging of election in 1992. If we are going to give people like Justice Chesoni powers to make decision as to which party should be punished, we cannot have any semblance of a free and fair election.

Mr. Speaker, Sir, a lot has been said here about the conduct of political parties, about violence in election campaign. The fundamental question to be asked is: Who is going to make the judgement? Who is going to provide information to the Electoral Commission?

Mr. Speaker, Sir, our experience from the last by-elections show very clearly that the Electoral Commission does not have the capacity to carry out independent investigations to establish what is happening in the field or is subservient to the authority or the powers that be. I want to give just three examples. During the Lugari by-elections campaigns, it was the regular police who were wearing KANU T-shirts and attending Opposition campaigns rallies and throwing stones at the crowd. When the crowd decided to retaliate, then the regular police were ready with teargas canisters and bullets. In the end, it was Opposition supporters who were arrested because this was being done by the policemen.

Mr. Speaker, Sir, in Bonchari, at a place called Gesonso, near Kisii Town, there was a permanent road block during the by-election campaign which was manned by KANU youth wingers. They were smashing windscreens of every vehicle that had Opposition posters, whether it was FORD-K, DP or FORD-A. The police refused to disperse that crowd. It continued to terrorise the people there up to the eve of elections, yet, it was the hon. Obure with FORD-K youth-wingers who was arrested and badly beaten at Kisii Police Station, and eventually charged with violence. All those KANU ragamuffins, who were unleashing violence at Gesonso, were never arrested. In the

Kisauni by-election, Mr. Maitha brought the so-called Giriama warriors, who came and said that they want Majimbo. They wanted to burn all the buildings in Kisauni. They begun to shoot people with arrows saying "Watu wa bara warudi kwao". In that mayhem, many people were killed. We wrote a report which is published on Kisauni by-election about the violence, fully detailed with who was responsible for this violence, the names were detailed in the report. We, again, sent a copy of this report to the Chairman of the Electoral Commission. Instead, 12 of our people were the only people who were arrested and charged despite the fact that three of our supporters were killed. None of Maitha's supporters were actually arrested. So, I am giving these facts to illustrate or to say that to give these kind of excessive powers to this Electoral Commission, is basically to try to destroy the little freedom that political parties still enjoy in this country.

Mr. Speaker, Sir, I do not know whether my colleagues on this side, fully read and understood the implications of this Code of Conduct, paragraphs 8 and 9. Paragraph 9 reads:-

"Without prejudice to the provisions of paragraph 8, the Commission may either of its own motion or in consequence of any report made to it, institute proceedings in the High Court in its unlimited original civil jurisdiction as may be appropriate in the case of any alleged infringement of the Code by a political party or by the leader or any office-bearer, member or supporter of a political or any candidate and where such court finds the infringement of the provisions of this Code:-

(a) in the case of a political party, any act or omission involving violence or intimidation or a gross or systematic violation of the rights of any political party, candidate or voter, such Court may in addition to or in substitution for any other penalty or sanction specified in paragraph (a) of paragraph 8 make an order cancelling the right of such party to participate in the election concerned."

Mr. Speaker, Sir, if we are making the laws, we must make the laws that are going to be with us for today, tomorrow and the future. What I have said about paragraph 8 also applies to paragraph 9. We have an Electoral Commission that is not independent, and then we give them all these excessive powers without laying down the criteria of an offence. We have not also specified how they are supposed to carry out their investigations, and how we are supposed to be found guilty. Then you are taken before a Court of law which is also partisan. What could stop the Electoral Commission from taking all the Presidential candidates with exception of one before a Court law, to make it possible for one candidate to be elected unopposed? So, these excessive powers are likely to be abused. I will urge the hon. Members to carefully look at these very excessive powers which are intended to be given to the Electoral Commission, and the Electoral Commission, which as I said, is still appointed by one of the players in the field. Even the 10 members from the Opposition are supposed to be recommended and then appointed by one of the players. But we are going to talk about the Electoral Commission when the time comes.

Mr. Speaker, Sir, on the National Assembly and Presidential Elections Act, first, the most interesting part about this, is that the sections that are proposed for amendments, most of them are not very critical. But the most important sections under Section 34, the regulations is Section 22, which the NCEC had proposed to be amended. This has to do with the ballot boxes. **The Attorney-General** (Mr. Wako): On a point of information, Mr. Speaker, Sir. This issue of regulations, there will be amendments to the regulations, but they will come by way of a Motion for the House to resolve the amendments because there are regulations. When I moved the Bill, I said that there were three Bills, plus a Motion; the Motion will deal with regulations. So, we can safely confine ourselves to the proposed amendments to the Act.

Mr. Raila: Mr. Speaker, Sir, we do not know when the regulations are going to be brought before this House. This is because I hear that the issue of ballot boxes was discussed; and the question of introducing transparent ballot boxes was raised. We do not want to over-emphasise the need for transparent ballot boxes at the polling stations. Uganda has seen the need to do it. I saw it recently in Mexico and even a very advanced country like France, where you would think that rigging is minimised has also introduced the transparent ballot boxes. It makes a hell lot of difference.

The other one is the question of the counting of the ballot papers at polling stations. There have been a lot of problems in the transportation of ballot boxes, particularly in the remote rural areas, to say nothing about tampering with ballot boxes, when they are on transit from the polling stations. It is only logical that we should now, at this point in time, when we are carrying out reforms, introduce this reform which is long overdue; that ballot papers should be counted at the polling stations.

[Mr. Speaker left the Chair]

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

Mr. Temporary Deputy Speaker, Sir, if this was done, several other things would be made easy. The

question of voters cards; where a card is the problem. The voters cards which are being used make it easy for duplication and rigging. For example, I have three voters cards. All these cards belong to a Mr. Henry Fedha Anamangi who registered once at Lang'ata, and his identity card is given in the cards. It is registered at Station 4/3, Lang'ata. The same Henry Fedha Anangwe is registered at---

An hon. Member: But you referred to him as Anamangi!

Mr. Raila: It is Henry Fedha Anangwe. I have a photocopy with me here and I can lay it on the Table.

(Mr. Raila laid the document on the Table)

He is also registered at Station 6/6 in Westlands. The identity card number is the same. The same Henry Fedha Anangwe is also registered at Station 6/45 in Westlands.

An hon. Member: Are you sure it is the same person?

Mr. Raila: Yes, it is the same person. Two of the voters cards are written in the same hand writing. So, they must have been done by one officer. They are very nicely sealed. This is just the tip of the iceberg. There are very many people who have registered this way.

(Mr. Raila displayed a copy of Mexico's voter's register with photographs)

Mr. Temporary Deputy Speaker, Sir, this is a computerised system and there are only two companies which have developed this system of computerisation. They are available for choice. The system that they are using here, is the system that is being used in other countries. You can put into this register any kind of information that you want. All that you need is to specify the information. I have here a copy of a register from Mexico. The ballot paper and everything is the same size. But it contains the photographs of the voters. It contains the image of the voters. At no extra cost, this would have been introduced, instead of something like this. This kind of register makes it easy for you to tell whether you are dealing with the same person or not. This is something that our Commissioners may consider in the future.

Mr. Temporary Deputy Speaker, Sir, Section 16(2) on page 531---

An hon. Member: Which Order Paper are you using?

Mr. Raila: This is an older Order Paper. I do not know your page, but mine is 531. This has to do with somebody who has committed an election offence. Under the old Act, such a person was banned from participating in an election for five years. This made it impossible for those who had been thus disqualified to participate in the subsequent elections. In 1975, you will remember that Paul Ngei had been banned from standing because the court had found him guilty of having committed an election offence. Then the law was hurriedly changed to give the President the power to pardon the people who had committed electoral offenses. That amendment came to be known as the "Ngei Amendment".

I know that there are quite a number of Members of Parliament who have been unfairly disqualified, or banned from standing in by-elections in this Parliament. I have in mind the hon. Musikari Kombo, the former Member of Parliament for Webuye and also, the former Member of Parliament for Mandera East. I have nothing against those hon. Members, but I think we should take issue with the manner in which they were barred from taking part in the subsequent by-election, rather than changing the law. This is because when we say in this paragraph:

"Delete the words, "for five years" and insert the phrase, "during the remainder of the life of that Parliament"; this makes it possible for such an hon. Member to participate. We are not making the law for just an individual. We make the law for the whole country. Knowing the length of time that some of these litigations take, somebody can be found to have committed an election offence at the end of his term. We have a practical example here of Anaswa versus Angatia, in which the verdict for the petition was given two weeks before Parliament was dissolved. So, even if Anaswa had been barred from contesting, he really had completed his term. He would then have been eligible to run in the subsequent general elections. So, my view is---

The Temporary Deputy Speaker (Mr. Wetangula): There is a point of information for you.

Mr. Raila: I accept it from the gracious lady.

The Assistant Minister for Education (Mrs. Ndeti): On a point of information, Mr. Temporary Deputy Speaker, Sir.

If hon. Raila Odinga does not mind, it is the same law we amended to say that, these election cases must be heard with a limited period of time so that they do not go on until the end of the term of Parliament. So I think what he is saying is a little bit misleading.

Mr. Raila: Well, as much as I appreciate the fact that the petition cases should be heard expeditiously, although I am a Thomas who only believes it when he sees it, I still believe that there was nothing wrong with this law

as it stood.

Mr. Temporary Deputy Speaker, I will turn now to the Local Government Act, on page 525, Cap. 205; electoral areas. The Amendment reads as follows:

"The Electoral Commission may by order in the Kenya Gazette divide any municipality, county, township, or county division into electoral areas having such boundaries and names as may be prescribed by the order. The principles and matters set out in sub-sections 3 and 5 of Section 42 of the Constitution relating to the division of Kenya into constituencies, shall *mutatis mutandis*, guide the Electoral Commission in the exercise of its powers and performance of its functions under this section."

Mr. Speaker, Sir, one of the problems we have in this country is that of the unfair distribution of the electoral constituency boundaries. The gerrymandering which has been done in this country since Independence has left us with constituencies that are very different in terms of population density. The Constitution, in Section 42(3) says that:-

"All constituencies shall contain as nearly equal numbers of inhabitants as appears to the Commission to be reasonably practicable. But the Commission may depart from this principle to the extent that it considers expedient in order to take into account the following:-

- (a) Population density, and in particular the need to ensure adequate representation of urban and sparsely populated rural areas.
- (b) Population trends;
- (c) The means of communication;
- (d) Geographical features.
- (e) Community of interest; and,
- (f) The boundaries of the existing administrative areas.

Mr. Temporary Deputy Speaker, Sir, the Constitution is very clear. First and foremost, the consideration is about the population. But the current Electoral Commission has not used that criteria. If you look at the disparities in terms of the numbers of the registered voters in the country, you will find some constituencies with hardly 10,000 to 15,000 voters and some constituencies having over 100,000 voters. So, the Electoral Commission itself responsible for an over-representation on one side and under-representation on the other side, through the process of gerrymandering. The Electoral Commission has been so much amenable to political manipulation. It cannot be right that a Member in this House, like myself, represents over 100,000 voters and another Member represents 5,000 voters and when we are in this House, our votes are equal. When he sits on that side, his vote is equal to mine on this side. That is the reason why we think that, to give these powers to the Electoral Commission without some safe-guards, is letting it loose and making it subject to abuse, the way this has been done. One would have thought that the Electoral Commission was going to use the additional 22 seats to try to redress the imbalance that exists here in this House. Instead, they have added more seats to the areas where people are already over-represented.

For example, Marakwet District had 87,000 registered voters for four constituencies, whereas Mathare Constituency had 115,000 registered voters. Kisumu Town had 100,000 registered voters; only in one constituency.

Mr. J.N. Mungai: While Molo had 122,000 registered voters!

Mr. Raila: Last time it had 106,000 registered.

Mr. J.N. Mungai: No, it had 122,000!

Mr. Raila: It was Mathare Constituency which had the highest number of registered voters. But then, what has happened is that the Electoral Commission had added more seats to those very same areas which are already over-represented, thereby enhancing the disparity that already exists in this country.

So, we must have something that will tie the hands of the Electoral Commission so that they can be stopped from trying to use their powers to do to the local authorities what they have already done with the Parliament.

Mr. Temporary Deputy Speaker, Sir, Nairobi has had eight Parliamentary seats from time immemorial. And yet in the last boundary review, no single seat was added to Nairobi. The Electoral Commission found it fit to come and interfere with constituency boundaries here in Nairobi, so as to confer certain advantages to some parties within Nairobi; to the extent that my own constituency has been so dismembered that Dagoretti Constituency is running all the way from Dagoretti Corner to Uhuru Highway here. This was done merely to remove those areas where I got more votes and transfer them to Dagoretti. And then, to take away Kasarani Constituency from Dagoretti and give it to Westlands so that certain communities there can vote for hon. Ngumo in Westlands. So, the hands of the Electoral Commission must be tied. They should not be left loose, because if they are left loose, then they are going to do exactly what they have done with the Parliamentary constituency boundaries. There is no provision for Kenyans who live outside this country to be able to register as voters. It is very important that we should enfranchise Kenyans who, through no fault of their own, are not able to exercise their democratic rights of voting for the candidates they prefer.

If Mozambique can do it there is no reason why it cannot be done here in Kenya. You will remember that in the last general election in Israel, it was the external votes of the Israelis who live outside the country which made a

difference: They made it possible for Mr. Netanyahu to win. There are very many Kenyans who live outside this country in Europe, in the U.S.A. and so on. I think it will do no harm, even to the party in power, to enfranchise them so that they can be able to exercise their democratic rights.

Mr. Temporary Deputy Speaker, Sir, the question of funding of political parties is not touched on at all here. Yet it is a very crucial element in the electoral process. We are talking about a level playing field. This has to do with the means and wherewithal. We know that we are dealing with a situation where the ruling party has been so entrenched in power for very many years, and has acquired most of its wealth and property from public resources.

While we have to scratch our pockets to pay office rents - hon. Shikuku has had to hire a small office in Olympic Estate because he cannot afford a posh office in town - the ruling party enjoys the occupancy of KICC, which was put up with public funds. The playing field is not level. It cannot be level when KANU continues to enjoy such financial advantage over other political parties. This is similar to trying to run a 100-metre race with somebody who is already at the 50-metre mark and then when he beats you he says that he is faster than you are.

Mr. Temporary Deputy Speaker, Sir, this is done these days everywhere. In Zimbabwe they have put a law, that any political party with more than 15 MPs is eligible for State financing in the campaign. They have had a single party-system for a very long time. There was a situation where the emerging Opposition had no MPs and, therefore, did not qualify. So, it became a chicken and egg affair. To get those 15 MPs they needed resources, but they had been told to get the MPs before they could get the resources. Recently, as I said yesterday, the High Court of Zimbabwe ruled against that legislation. It said that it was unconstitutional and, therefore, from henceforth every political party in Zimbabwe was going to qualify for funding by the State.

The same thing is being done in Tanzania and Mozambique. In Mexico they have a formula where, first they agree on the amount of money that is going to be used for the campaign. The law then says that every political party cannot spend or receive more than five per cent of its campaign budget from private sources. Ninety five per cent of campaign funding must come from the State. The reason is because they knew that the ruling party would use its position to try to extort contributions from members of the business community. That is the reason why the business community's hand is tied. So they said: "This is the amount of money that is going to be used". The formula for its distribution is that 30 per cent of that money is divided among political parties equally. The remaining 70 per cent is divided among political parties proportionately to the number of votes they received in previous elections. The criterion used is the number of votes - not the number of MPs - because some MPs are rigged in and do not represent anybody.

They also have an upper ceiling on campaign expenditure, which is very important. Each candidate whether civic, parliamentary, senatorial or presidential, must keep very clear accounts of their expenditure so that it can be inspected by the electoral commission, which has a special department that audits accounts of all the candidates. This is meant to guard against bribery, corruption and prostitution of the political process. So, if you go to a Harambee and produce Kshs500,000, you will be asked whether you have exceeded the upper ceiling and you will be disqualified.

Mr. Temporary Deputy Speaker, Sir, if we want to have clean elections then we must introduce this legislation, otherwise the people who have imported sugar without paying duty for it, and have banked billions of shillings, will flood the market with this money and try to buy votes. If we want the playing field to be level, then these are issues that must be properly addressed. Opposition political parties must be empowered. They must be able to move around the country.

Democracy is expensive. In Mexico they spent \$900 million on the electoral commission and \$300 million was divided among political parties for campaign. If we want to institutionalize multi-party democracy in this country, then we must be prepared to spend money. It is better to spend it for a good cause, as the Mexicans did, than to let the Somaia, the Pattnis and the Sajjads of this world and so on, take our money away.

(Applause)

So, we must address ourselves clearly to this fundamental issue. It is not addressed in this package, and so ought to be addressed.

All this was meant to level the playing field. I said yesterday that a lot of ground has been covered here. Certain pieces of legislation, which form a bonus have been introduced, and others have been repealed. This is very good, but the Attorney-General had promised this country a long time ago that he was going to deal with those particular legislations. That is why he had set up all those, now defunct, task forces, which have consumed a lot of public funds. Our concern was on the levelling of the playing field before the elections. That is why we said that we wanted the facilitative reforms before, and then the comprehensive reforms after, the elections. So, one needs to look at this package here with a microscope. We have subjected the recommendations to microscopic examination. Our conclusion is that we are still far away from levelling the playing field for the forthcoming elections.

(Applause)

Mr. Temporary Deputy Speaker, Sir, I want to deal with a very fundamental question of attitude. It is one thing to write and amend the Police Act, but it is quite another thing for the police officer down in the field to understand that a change has come. Amending the Police Act itself was not enough. We needed to introduce security of tenure for the head of the Police Force and the GSU.

We also need re-training of the Police Force to decolonise their minds. This is because our Police Force still suffers from colonial hangover. The colonial Police was never meant to treat Africans humanely. To the colonial masters, the African was a species between an ape and a human being. That is why, in our police cells, we have no mattresses or blankets. We have nothing, but bare concrete. They have mattresses and beds in police cells in Britain.

Mr. Temporary Deputy Speaker, Sir, in Britain, if you lose your direction and you go to a cop or a bobbian asking for direction, he will tell you, "Go straight, turn left and right." In Nairobi, if you lose direction and go to a police officer, the first question will be, "Wapi kitambulisho?" The next thing, you will be in police cells and the following day, you will be in court charged with vagrancy. That is why we are happy that the Vagrancy Act has finally been repealed. On Sunday, I had visited the Mt Elgon area and as I was touring around, a police officer approached me and found me greeting people. He said, "I have instructions that this is illegal and it should not proceed," and I replied, "I am only greeting the people and there is no law which forbids that. So, there is nothing and you cannot remove what does not exist". There is no law that says that a Kenyan cannot travel to any part of Kenya and greet Kenyans. I understand that this is the campaign period. We have only two months to the general elections and we have to travel throughout the country. Our competitor is jumping from place to place campaigning, using public resources. And when I tell a police officer that I am campaigning for the presidency, he looks at me as if I am crazy.

(Laughter)

This is because in his mind, he does not believe that somebody can stand to challenge President Moi for the presidency. Mr. Attorney General, this is the creation of attitude. This policeman thinks that I am committing a crime by saying that I am vying for the presidency and they are wondering what will happen to President Moi. So this is something that has to change. I wish the Attorney General could listen to this. There is nothing here that talks about a presidential candidate, particularly something that bars the incumbent President from using his power and state resources to campaign. If campaigns are done in the pretext of inspecting development projects, that is fine, but you do not go out there and say, "Vote for me," because then you are campaigning. You do not use an Air Force aircraft or helicopter to campaign. Here, he uses presidential limousines with presidential standards to campaign. He should not go and say, "Vote for me" or "Vote for KANU".

I have attended many campaigns in United States. Basically, what the aspiring Presidential candidate will do, is to talk about the general development in an area. He will also talk about what he would like to see done, but he would never say, "Vote for me next time". He will not say, "Vote for the Democratic Party next time", because that is clear campaign. If you did that, you would be impeached. That is not allowed in law. Here you find the President, and the whole entourage; Ministers, PCs, DCs and DOs using GK vehicles and public resources to do partisan campaign. We are talking about levelling the playing field, and that is why what I am talking about is very important. We chartered an aircraft to go to Hola, but when we got there, we found that the airfield was blocked with logs and stones. So, we had to circle over the airstrip and eventually come back to Nairobi. How much does it cost us to charter a plane, not forgetting that the candidate that I am complaining against is using State aircraft? Those logs and stones were placed on the runway by none other than the DC. The DC of Hola was the one who gave instructions. He gave instructions to a councillor to go and have those logs placed on the runway. The contract was that, the boys who were going to place those logs were to be paid Kshs300 each. They were paid an advance of Ksh100 each to place the logs. When we came around and saw the logs, we came back to Nairobi, but the boys were not paid the balance and so they did not remove the logs. The logs remained on the runway until Tuesday. On Tuesday, the Flying Doctor Service aircraft came carrying doctors, but could not land. It circled for half an hour and eventually they got some people from the National Youth Service camp nearby to come and remove those logs from the runway. Now, how can this field be levelled when this is being done by the Administration? When is it going to be level? We have two months before the general elections. When is it going to be level? In other words, you tie your competitors hands and begin to box him and then you say that you are Mohammed Ali! What is happening here is that the current President is trying to tie the hands of his opponents because he knows that he cannot win genuinely. He cannot win free and fair elections.

An. hon. Member: Absolutely true!

Raila: Mr. Temporary Deputy Speaker, Sir, a clause needs to be added here that would "tie" the hands of the incumbent President from using State resources to carry out partisan campaign when he is still in office. We are not just making regulations for today, we are not making these regulations for the present President, but we are making

these regulations for the future. So, although the hon. Members may be on this other side of the House, I know that very soon they are going to be on the other side of the House, and they are going to say how wise we were. Very many hon. Members will not see this House and so they are sitting here for the last time. The question of the Administration must be seriously addressed.

We need to begin from the top. The instructions were given by none other than the Head of the Civil Service, Mr. Kuindwa, who comes from Hola and who had declared Hola a KANU zone. If these are the people who are going to be around during these elections, how are we going to play on a level field? Yesterday, an article appeared in *The Financial Times*, which said that what is happening is that all this is just a charade. It is a cosmetic exercise to try to placate the donors, but nothing will change in the field in good time to make a difference before the elections. That is why we are saying that if this Government is sincere as the Attorney-General and hon. Biwott said, that they are committed to true reforms, and that they are also going to be committed to the implementation of these reforms, we are saying that there is no time between now and December, 1997. Therefore, for these reforms to be of any meaning to the hon. Members of the Opposition here, the life of this Parliament must be extended by at least, six months. Otherwise, we will just have been involved in the exercise in futility.

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

(Applause)

The Assistant Minister for Information and Broadcasting (Mr. Nassir): Bw. Naibu Spika wa Muda, kwanza, ninakushukuru kwa kuniangalia na kunipatia nafasi ingawa mimi ni mfupi na mzee. Pia, ninamshukuru Mwenyezi Mungu kwa wale wote waliofanya hii kazi kwa roho safi, na ninawaombea waishi maisha marefu kwa sababu ya bidii yao, na kwa hivi sasa, roho za watu wa Kenya ziko usalamani.

Lazima ninawashukuru hasa wale waliokuwa katika Kamati ya kuunda Katiba ya Kenya, 1962, hasa Rais Moi, mhe. Shikuku, Dr. Toweett na wengine. Pia ninawashukuru wale wanaofanya kazi sasa. Ni wanaume, hawakuogopa matusi wala lolote, na wakafanya kazi hii ikawa kubwa sana. Kwa mstari wa mbele walikuwa Mkuu wa Sheria, mhe. Shikuku, mhe. Murungi, mhe. Falana na wengine. Hata wanaopinga pia sasa ninawaona wanapinga kwa roho safi. Wanatoa maoni lakini si kama mhe. Raila ambaye anapinga tu. Mtu akiwa katika Upinzani ana wajibu wa kupinga kila kitu. Hata upepo ukienda upande mmoja, yeye anataka kupinga.

Waliofanya hii kazi waliifanya kwa roho safi na kubwa, wakaandika kile ambacho kinafaa katika Kenya, na ni lazima Katiba itaendelea kufanyiwa marekebisho kwa sababu nchi yetu inaendelea kukuwa na Katiba hii iliandikwa wakati wa Mkoloni. Leo, wakati umefika lazima igeuzwe.

Bw. Naibu Spika wa Muda, katika ukurasa wa 565, kuna sheria ambayo inaruhusu Wabunge kuzuru wananchi popote katika Kenya na kuamkuana nao. Haya ni mambo mazuri, hasa kama watazungumza nao mambo yanayohusu umoja wa Kenya na miradi ya maendeleo. Lakini, kama mtu anataka kuwa Rais wa nchi, na akienda pahali kama Mombasa halafu awaite wenzake "mwana wa kivetu, njoo," jamaa zake wanakuja, halafu wanazungumza lugha ya kabila lao. Ninataka mambo kama haya tuyachunge sana, hasa kwa wale wanaotaka kiti cha Rais.

An hon. Member: Na wewe pia si uzungumze lugha yako!

The Assistant Minister for Information and Broadcasting (Mr. Nassir): Bw. Naibu Spika wa Muda, utapata kwamba mtu huyu ameenda katika constituency yangu, mahali ambapo panaitwa Majengo, halafu anawaita jamaa zake, na *Daily Nation* inaripoti kwamba mkutano ulihudhuruwa na watu wengi kule Mtaa wa mhe. Nassir na akakaribishwa kwa shangwe na furaha nyingi. Huyu mwandishi hakuandika ukweli. Mungu amjalie siku moja aandike ukweli, kama aliita jamaa zake kuzungumza nao--- Tunawapenda jamaa wote wa Kenya wanaoishi Mombasa. Lakini tunaogopa msitugawanye kwa sababu mnataka kuwa Rais. Msitugawanye, na msituyonyeshe roho chafu. Sisi tunapenda kila Mkenya na tunaishi kwa amani. Lakini tunawaomba msitutie vidole kwa macho. Kwa sababu ya matendo mabaya, hata yule asiyependa kuzungumza, siku moja atazungumza. Sisi tunapenda kuishi kwa amani na makabila mengine kutoka zamani, hata leo tunaishi kwa amani. Lakini watu wakitaka uongozi, wasiende kutafuta uongozi wakitumia ukabila. Anayetafuta kura akija, tutampatia ruhusa ya kuzungumza na Wakenya kwa kila mtaa, na wakiwaona, wawaambia kwamba huko wanaishi kama ndugu, siyo kuhubiri ukabila katika mitaa ya watu. Sisi hatuna tabia ya "kina fulani", hatutaki kuwataja. Tabia yetu si kubeba mawe mkononi, sisi tabia yetu ni kupenda kuzungumza na watu na kuwafahamisha. Hata mhe. Raila aliposema kwamba ukienda--- Mimi kama mhe. Nassir nikienda Kikuyuni na kutukana yule mhe. wa pale, Serikali itajua kwamba ninatafuta vita na kupigwa. Ukiwa wewe ni mtu wa matusi, Serikali ikikuondoa usikasirike, kwa sababu huu si mtaa wako na umeenda kuleta taabu na kutukana watu. Kama unatoka kura, omba kura na ujue kwamba wakati wa kuomba kura haujafika. Firimbi haijapigwa ya kuomba kura. Mnaanza ngoma haraka, mtamalizika haraka. Mtamalizika haraka halafu siku zikifika mtakuwa mmekwisha maliza pesa zenu.

Hapo mwanzo nilisema kwamba yafaa tuheshemiane, tulete mapenzi Kenya na pia tusionyeshe ukabila mwingi. Hapa Kenya, ukabila ndio unaoleta taabu na kutaka bendera ambayo mwisho wake damu humwagika.

Mmefanya kazi nzuri kutoa ruhusa, lakini ruhusa hii isitumiwe kumwaga damu.

Ukurasa wa 619 - Electoral Commission. Ninafikiri wale waliofanya haya mambo hawakuchunguza sana. Ninasema hivi kwa sababu mara nyingine mtu anashinda uchaguzi halafu anapelekwa kortini kila mara. Mimi nimeingia katika Bunge mara tano na mara nne, nimeenda kortini. Kila mara kwa mwaka mzima, ninaenda kortini nikirejea.

Bw. Naibu Spika wa Muda, jambo la kushangaza ni kwamba, yule aliyenipeleka kortini huniregeshea yale makosa aliyoyafanya. Sasa, badala ya kuwatumikia watu wangu, huwa ninatafuta mawakili kama mhe. Muite na wewe, Bw. Naibu Spika wa Muda, ili wanitete kortini badala ya kuwasaidia wale walionipigia kura, ili niwajenge mashule na kuwapeleka kwa masomo zaidi. Wale ambao wamezoea tabia hiyo watakufa maskini. Kwa hivyo, inafaa Tume ya Uchaguzi itoe ripoti yake kortini ikiwa huyo aliyempeleka mwingine kortini anasema ukweli au la, kabla hatujapoteza pesa zetu kwa mawakili. Mambo hayo ni lazima yatazamwe sana kwa sababu, watu hupoteza miaka mingi kortini. Baada ya uchaguzi ni lazima wabunge asilimia tano waende kortini.

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

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

Bw. Naibu Spika wa Muda, kuna mabadiliko mengi na ninafikiri mmefungua mlango. Ninawashukuru wale waliofungua mlango huu. Hao ni Wakenya ambao wanajua kwamba, kuna Wakenya wenzao ambao wanaumia kwa sababu ya hii Katiba tulio nayo. Kuna wenzao ambao wanaumia sana na kupata taabu. Hatupendi watu wapigane. Haya mabadiliko ndiyo dawa yake. Inafaa tufungue mlango ili, kwa mfano, kama mbavu zinaniuma niweze kusema hivyo bila uoga na hata ikiwa tuna njaa, tuweze kusema hivyo. Inafaa tuangalie ni njia gani ya kuwanusuru wale wachache nchini Kenya, ili wasiumizwe na walio wengi.

Bw. Naibu Spika wa Muda, mabadiliko juu ya uwezo wa Serikali, namna ya kupiga kura na njia za kufuatwa ikiwa mtu fulani anataka kuwa Rais na kadhalika, ni mambo ya siasa. Lakini mabadiliko haswa, Mungu akitujalia turudi Bungeni ndipo tutakapofanya mabadiliko. Hakutakuwa na kubembelezana, kila mtu atakuwa na mahitaji yake. Ndio maana ya msembo mmoja wa Kiluyia: *Omundu khu mundu*. Kuna mambo mengi ambayo ni lazima yafanywe.

Bw. Naibu Spika wa Muda, wale walioomba mabadiliko ya uwezo wa machifu wamefanya kazi nzuri. Kwa sababu, hata zamani, na ninafikiri mhe. Mathenge ambaye alikuwa mkuu wa mkoa anajua, machifu wa zamani walishughulikia maendeleo katika kila mtaa. Walikuwa wakiwapatanisha watu wanaoteta. Kila mtu alimpeleka chifu malalamiko yake, na chifu aliyapeleka kwa Serikali ili yatatuliwe. Machifu walikuwa wakijenga mashule. Kwa mfano katika Mkoa wa Nyanza, ikiwa mtoto hakuenda shule, babake alitafutwa na kupigwa, ili aeleze ni kwa nini mtoto wake hakuenda shule. Lakini machifu wa kuketi ofisini ni wabaya. Katika constituency yangu, kuna machifu wazuri na wabaya. Kazi ya machifu siyo kushughulika na siasa na kuwatia watu mbaroni ovyo ovyo, lakini ni kuleta amani katika nchi. Inafaa alete amani katika mitaa, wajenge mashule, kuangalia watoto wawe na adabu na wasivute bangi, na wakivuta, awapatie adhabu. Lakini wakati huu, machifu wamekuwa kama wafalme. Hata wafalme wa zamani hawakuwa namna hiyo. Kwa hivyo, inafaa machifu waambiwe kwamba, kazi yao ni kushughulikia maendeleo. Mara nyingi hata chifu akiingilia Harambee, watu wengi huwa hawataki kuchangia hadi walazimishwe na Serikali. Inafaa machifu wajue lugha ya kuzungumza na watu. Kwa hivyo mabadiliko haya ya kisheria juu ya machifu yafaa sana.

Bw. Naibu Spika wa Muda, ninafurahi kwa sababu mabadiliko haya yameguzia habari ya utangazaji ambako mimi ni Waziri Msaidizi.

Mr. Muite: Unafanya kazi gani huko?

The Assistant Minister for Information and Broadcasting (Mr. Nassir): Ninafanya kazi ya kuenda kortini kuwanyang'anya watu pesa!

Bw. Naibu Spika wa Muda, mimi ninafanya katika Wizara hiyo.

Mr. Shikuku: Jambo la nidhamu, Bw. Naibu Spika wa Muda. Mhe. Nassir ameulizwa swali na mheshimiwa mwingine kwamba, anafanya kazi gani. Na yeye anasema kwamba, kazi yake ni kwenda kortini kunyang'anya watu pesa. Je ni haki Waziri Msaidizi kufanya kazi ya kuwanyang'anya watu pesa?

The Assistant Minister for Information and Broadcasting (Mr. Nassir): Bw. Naibu Spika wa Muda, tunakuja katika Bunge ili tuwe na furaha na mhe. Muite alitaka kufurahi nami pia nifurahi.

Bw. Naibu Spika wa Muda, nilikuwa nikisema kwamba, ingawa mimi ninafanya kazi kule nimepigwa picha mara ishirini na hata moja haijawahi kutokea katika televisheni asubuhi, jioni na hata usiku. Ninaambiwa kwamba, kulikuwa na kazi nyingi sana. Inafaa watu wote wawe na nafasi ya kuonekana katika televisheni

Mr. Mathenge: On a point of order, Mr. Temporary Deputy Speaker, Sir. I am surprised to hear the Assistant Minister lament that he has been video-taped 20 times and he has never appeared on television. Does this

mean that he is only a figure-head in that Ministry, has no teeth to bite, no control over his juniors and that these junior officers have more powers than him? Is that the truth and the same for all the Government Ministers? If that is the case, then we have a Government which is being led from behind.

The Temporary Deputy Speaker (Mr. Mcharo): Mr. Mathenge, I do not think that is a point of order!

The Assistant Minister for Information and Broadcasting (Mr. Nassir): Anyway, Mr. Temporary Deputy Speaker, Sir, just to reply the former PC---

Mr. Munyasia: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is hon. Nassir in order to start speaking in Kiswahili and then somewhere in the middle, he begins speaking in English?

The Temporary Deputy Speaker (Mr. Mcharo): Hon. Nassir, stick to Kiswahili!

The Assistant Minister for Information and Broadcasting (Mr. Nassir): Bw. Naibu Spika wa Muda, nilikuwa ninamueleza mhe. Mathenge kwamba, ile Serikali ambayo alikuwa mkuu wa mkoa ilikuwa tofauti na ile ya sasa. Ungefanya lolote wakati huo, ungefunzwa adhabu vile nilivyofunzwa kwa kupewa alama kwa pua, na ilikuwa vizuri niliona Manyani.

An hon. Muite: Alama ya nini?

The Assistant Minister for Information and Broadcasting (Mr. Nassir): Ya kiboko!

An hon. Member: Kiboko cha nani?

The Assistant Minister for Information and Broadcasting (Mr. Nassir): Cha serikali ya wakati wa Bw. Mathenge!

Mr. Mathenge: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the Assistant Minister in order to say that alikosana na "Serikali ya Mathenge" ile hali inajulikana wazi kwamba Mathenge alikuwa Mkuu wa Mkoa tu wala hakuwa Rais wa Kenya? Mhe. Nassir anajua kwamba wakati alikuwa amefukuzwa kutoka KANU kule Mombasa nilimsaidia kutoka mashakani mpaka akarudishwa katika kiti chake na Rais wa zamani, hayati Kenyatta. Unakumbuka ama umesahau?

An Hon. Member: Tell us more!

The Assistant Minister for Information and Broadcasting (Mr. Nassir): Bw. Naibu Spika wa Muda, nafurahi kwa kuwa mhe. Mathenge anakumbuka mambo yote ya zamani. Kulikuwa na mambo ya kufukuzwa, kupigwa na kadhalika. Lakini katika Serikali hii, hata huwezi kumtolea office messenger ukali kwa sababu tunaamini demokrasia, kupendana, amani, imani na mapenzi. Mimi nasema hivyo kwa sababu hata sisi wenyewe hunung'unika juu ya televisheni kila siku. Kwa hivyo, hakuna ubaya kwa kufanya marekebisho ili televisheni iwahudumie watu wote. Lakini nasema kwamba msilete vitendo vya kupigana katika televisheni. Msije mkaketi katika jukwa akisema: "Serikali hii ni mbovu. Moi ni lazima tumtupe. Lazima aende zake", ndio mkaonyeshwa katika televisheni. Mtafanya aje?

Mr. Shikuku: Jambo la nidhamu Bw. Naibu Spika wa Muda. Ni haki Mhe. Nassir huyu kujaribu kuvuruga akili za Wabunge hapa wakati yeye mwenyewe ni Waziri Msaidizi katika Wizara ile inayohusika na mambo ya televisheni? Inaonyesha anapigwa picha lakini picha haipeleki katika televisheni. Yeye hasemi mambo mabaya kuhusu Serikali. Sasa anatuambia sisi tukitaka tupigwe picha, ni vyema tuseme mambo mazuri kuhusu Serikali. Yeye anayesema mazuri hapigwi picha na kupeleka katika televisheni. Kwa hivyo, sisi tutasema mazuri gani kushinda yeye?

The Assistant Minister for Information and Broadcasting (Mr. Nassir): Bw. Naibu Spika wa Muda, hakuna haja ya kusifu Serikali. Serikali inajisifu yenyewe kwa vitendo vyake. Chema chajiuza na kibaya hujitembeza. Tunasema hivi kwa sababu televisheni ni chombo cha kuonyesha watu wote. Ukileta lugha ya watu kupendana na kujenga nchi, hiyo ni sawasawa. Kuna mabadiliko mengi ambayo tumeleta hapa chini ya Section 605 ambapo tunataka kufanya mabadiliko kwa Societies Act ambayo inahusika na registration of political parties. Hapo tumeweka muda wa kuandikisha vyama vya siasa wa siku 120. Hata tungeongeza muda huo kulingana na maoni yangu. Vyama vya siasa ni vyama ambavyo vinachukua roho za watu wa Kenya. Kama havikuchungwa na vikatazamwa na watu wanaohusika---

Mr. Orengo: Zichungwe na nani?

The Assistant Minister for Information and Broadcasting (Mr. Nassir): Labda yafaa tumpatie wadhifa huo wakili kama Mhe. Orengo. Ni lazima vyama vichunguzwe maovu, ili tuondoe maovu ambayo yanaweza kuwadhuru watu wote wa Kenya. Vikifanya mema, mema hayo ni ya watu wote. Kwa hivyo, ni lazima vyama viangaliwe kwa makini. Ikiwa havitaandikishwa viambiwe sababu. Tumechoka na hatutaki mambo mabaya. Tunataka amani katika Kenya. Kuna nchi nyingine ambazo zina vyama 40. Wakati wa kusoma Bajeti ukifika haisomwi. Wananchi wanakaa na njaa mpaka mwaka mwingine kwa sababu kuna vyama vingi ambavyo vinatatiza Bajeti hii. Italy na Israel zilikuwa namna hivyo. Lakini si vyama vingi ambavyo watu wetu wanataka. Wanataka maisha mazuri katika Kenya. Yafaa tuwaeleze Wakenya kwamba ni lazima waishi kama ndugu.

Mr. Mathenge: Na je huko Likoni!

The Assistant Minister for Information and Broadcasting (Mr. Nassir): Bw. Naibu Spika wa Muda, mhe. Mathenge anaishi katika constituency yangu. Ana nyumba ambayo namchungia. Anapokea kodi ya kutosha kutoka

kwa nyumba hii. Katika shamba lake, ana watoto, kuku na kadhalika. Ningetaka tuishi kwa amani. Tusiombe tena mambo mabaya yatokee tena kule Likoni. Si vizuri kuzungumzia yale yaliyotokea kule kila mara. Tuzungumzie mazuri ambayo sisi watu wa Pwani tunawafanyia. Tumejanya mambo mengi. Tumeumia. Watoto wetu hawana kazi lakini tunataka umoja wa watu wote wa Kenya. Lakini hatutaki a disunited Kenya.

Mr. Orengo: Mnaua watu!

The Assistant Minister for Information and Broadcasting (Mr. Nassir): Lakini nyinyi yafaa mfanye vitendo vya kufanya wenzenu wawapende. Msiwadharau! Msiwaonee wasije wakaonea watu wengine wivu. Binadamu ni binadamu. Hata kama amesoma vipi, mwishowe ana wivu. Ukinywa maji mengi pia utakuwa na wivu. Tunapenda mambo kama haya yatengenezwe zaidi na atueleze namna ya kuishi.

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

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

Watu wamezungumza mambo mengi.

An hon. Member: Kwa hayo machache.

The Assistant Minister for Information and Broadcasting (Mr. Nassir): Si kwa hayo machache, ni kwa hayo mengi! Tumezungumza juu ya haya mambo ya reforms na mambo mengi. Ni sawa kutaka kila kitu kibaya kibadilishwe kiwe kizuri. Lakini bahati yetu kubwa katika Kenya ni kwamba watu wenyewe wanapendana. Ndani ya nyumba moja katika Mombasa watu wa kabila nyingi wanaishi pamoja.

The Temporary Deputy Speaker (Mr. Wetangula): Can I hear more about this Bill?

The Assistant Minister for Information and Broadcasting (Mr. Nassir): Ndio, nazungumza juu ya reform. Nimesema kwamba ni bora tutamke yale maneno ambayo yatafanya Wakenya wapendane. Usiseme sana kwamba unataka kuwa mkubwa kwa sababu hujui utaishi miaka mingapi. Wewe unataka kuwa mkubwa lakini pengine utakufa kabla uchaguzi haujafika. Zungumzeni juu ya mapenzi ili tuondoe taabu, halafu atakaye kuja baadaye ndiye atakayeama baba ama mama.

Mr. Orengo: Ni nyinyi watu wa Mombasa ambao mnawaua watu!

The Assistant Minister for Information and Broadcasting (Mr. Nassir): Bw. Naibu Spika wa Muda, unajua sitaki kufanya Bunge hili kama jukwa la kujibiana na Mhe. Orengo. Mambo yake yaendelea kule kortini lakini hapa ni pahali pengine. Hapa si kortini. Mwishowe nawaomba wakubwa, na hasa Mkuu wa Sheria, ajue kwamba Waislamu wako one third ya watu wote katika Kenya hii. Kuna wale ambao wanafikiria kwamba Wakristo ni pagans au hawana dini lakini Waislamu ni wengi. Nataka kile tutakachofanya kilete mapenzi ili kusije kukatokea taabu. Ni bora tutazame shida zinazokabili Waislamu katika Kenya. Hawa ni watu wenye roho nzuri. Ingefaa tuwatimizie kidogo kama mambo ya kazi na masomo. Tungetaka waalimu wapelekwe kusomesha Koran kama tunavyosomesha Biblia katika shule na mambo mengine madogo madogo. Mkichagua wakurugenzi na kadhalika ni vizuri mwaajiri Waislamu pia. Mimi nishazoea kuwa Waziri Msaidizi na nafurahia wadhifa huu. Lakini yafaa mtazame mambo ya Waislamu katika Kenya.

Bw. Naibu Spika wa Muda, wale wanaofikiria siasa ya Sheikh Balala ni siasa ya Waislamu wanajidanganya sana. Mtakuja kujua siri yake kama vile Wajerumani na watu wengine walivyomjua.

Kwa haya machache, naunga mkono.

Mr. Muite: Mr. Temporary Deputy Speaker, Sir, the issues that we are debating here are very fundamental indeed. The gravity cannot be overemphasized because this is a chance to either move forward and save this country or fail to do so, because we have reached crossroads. I would like to state that when we are talking about the minimum reform agenda, the minimum reform package is a package with three components making one complete package. The three components of the minimum reform agenda are first of all, the specific sections in the current Constitution which we have been arguing that they must be amended. That, of course, is the subject of another Bill and it cannot be debated here. But what I want to emphasize is that those sections in the current Constitution that we have specified as requiring amendment, is a necessary component to the minimum reform agenda. The second component is the administrative reforms that need to be undertaken in order for this package to be complete. So, the statutory reforms are but one of the three components. The fundamental mistake that can be made, is to evaluate the statutory reforms in isolation as if it is a complete agenda item on its own. It is not. It is part and parcel of the minimum reform package consisting of those three components. So, when we are patting ourselves on the back, that we have done a very good job with the minimum reform agenda because of the current Bill on statutory reforms, let us bear in mind those two other components. The correct test as to whether the statutory reforms are far-reaching is to weigh them against the objectives that we had in mind, when we were formulating the minimum reform agenda. That

objective was the holding of free and fair elections.

Mr. Temporary Deputy Speaker, Sir, it is an error for any of us to stand here and point out at a long list of amendments to the Chiefs' Authority Act and say that these amendments are more than what the NCEC was recommending. The point is not the number of sections or list of statutes that have been amended. The true test is whether the package, in its totality, is going to help us to hold free and fair elections. That is the test. So, every time we look at the reform package, let us put it on the screen and weigh it against the test, as to whether the IPPG package arrived at in County Hall is going to assist this country in holding free and fair elections. That is the question that needs to be answered. If that answer is going to be in the negative, then history is going to judge those who participated in the County Hall meeting very harshly indeed. The question that must be answered is whether that package will facilitate the holding of free and fair elections. It is possible to have free elections which are not fair. The constitutional obligation is to hold free and fair elections. These two terms mean different things. We can have an election that is free but not fair. For example, the Member for Langata was at pains to emphasize the need to postpone the elections.

Mr. Temporary Deputy Speaker, Sir, even if the entire IPPG package is translated into laws in this country and then elections are called in November or December, those elections will not be fair. The time dimension is critical. There must be adequate time for the parties on this side of the House, including Safina and other parties that might be formed to campaign.

Mr. Temporary Deputy Speaker, Sir, even if the amendments to the KBC Act are effected now, upto this morning when I listened to the KBC, it was still being used as a propaganda mouth-piece for the ruling party, KANU. All the parties on this side of the House need time once these amendments are implemented - assuming that they are going to be adequate. All the parties on this side of the House need to be given adequate time and access through the KBC, so as to reach all Kenyans. This is a relevant issue to the fairness of elections in a country like Kenya, where the widest circulating newspaper, the *Daily Nation* is read by about 3 million people. The only way we can access the majority of Kenyans in the countryside is through the radio and if one party has been campaigning for the last five years using the radio--- People living in Pokot, Turkana, Marsabit and other areas of this country have no access to the Opposition parties on this side of the House. They only know what they hear on the radio or what they are told by the chief, DO and occasionally, the DC. Those areas have effectively been excluded and that is why the KANU Government has got an undue advantage over the other parties in the countryside, because of the use of the radio.

Prof. Mzee: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is hon. Muite in order to assume that KBC will change its attitude even after the IPPG package has been approved? I do not think that it is in order to assume that there will be any change in KBC.

Mr. Muite: Mr. Temporary Deputy Speaker, Sir, I agree entirely with the Member for Kisauni. I will come to that point later, when I will examine the amendment to show how, even with this amendment, nothing on the ground is going to change. At the moment, I was arguing on a different point. For the purpose of argument, I was assuming that something is going to change. It will be good change if for example, the Electoral Commission was given executive powers to give directives to KBC. All that I was saying is that even with these amendments, we need time---

The Assistant Minister, Office of the President (Mr. Sunkuli): On a point of information, Mr. Temporary Deputy Speaker, Sir. This information is very useful to him because he says that the reason why the Opposition is not strong in the countryside is because KANU has used KBC. I want to inform the hon. Member that the main reason why this has happened is because there are no political parties in the Opposition. They are tribal parties. There is a tribal element and that is why whatever party he belongs to is not in Trans Mara, for instance, and mine probably is in his area.

(Laughter)

Mr. Muite: Mr. Temporary Deputy Speaker, Sir, if I may move on. The party that my learned friend belongs to is a "conglomeration of tribal balancing". It is not truly a national party. People are given positions because of their tribal origins. So, it is not really a national party.

But even these tribal parties do need time to utilise KBC and sell themselves across the entire country so that they can stop being tribal. Perhaps, the reason why they are tribal is because this Government has ensured that those particular parties are going to be confined to a particular part of the country. If they were able to access the radio and were able to access the people of Trans Mara, who knows, a majority of the people of Trans Mara will opt out of KANU because of the superior policies of the other parties.

All I am saying, at this point in time, Mr. Temporary Deputy Speaker, Sir, is that that opportunity needs to be given to other parties, if elections are going to be fair. If you conduct elections after enactment of these structural reforms in November or December, it is not possible for those elections to be fair. They could be free, but they will

not be fair.

Even now that there are some amendments here on the Public Order Act, again, assuming that the Provincial Administration and the police are going to be delinked from KANU, the other parties will need time now that they can hold meetings or to move to the countryside. They need adequate time to move to the countryside. Therefore, if you repeal or amend the Public Order Act today, and then call elections in November or December, again, those elections are not going to be fair.

All I am saying, Mr. Temporary Deputy Speaker, Sir, is that the time factor is a critical dynamic, if the elections are going to be fair. We must, after the enactment of these repeals and amendments, accord enough time to the parties if the elections are going to be fair at all.

Mr. Shikuku: Jambo la ufahamisho, Bw. Naibu Spika wa Muda. Namshukuru mhe. Mbunge kwa kunipa nafasi ili nimpashe habari. Ukweli ni kwamba tulipokuwa tukizungumza juu ya mabadiliko haya ya Katiba tulisikizana; waheshimiwa Wabunge wa KANU na wa Upinzani, kwamba ratiba ya uchaguzi wa mwaka huu kuwa ni baada ya masikizano kati ya Upinzani, Serikali na Tume ya Uchaguzi. Jambo hilo litatekelezwa kwa sababu tumefikia--Najaribu kumpasha habari mhe. Mbunge na wale waheshimiwa Wabunge wanaozungumza kwa sauti ya juu ni wale waheshimiwa Wabunge waliogopa kuja kunguzumza na waheshimiwa Wabunge wenzao na sasa wanazungumza hapa!

(Applause)

Mr. Muite: Mr. Temporary Deputy Speaker, Sir, I am pleased to hear that the Member for Butere is conscious about the issue that I am raising. It is a very fundamental issue, if the elections are going to be fair. I am encouraged to hear that, at least, there was an effort to address the critical importance of fixing the date of election so as to give adequate time to parties on this side to take advantage of the little progress that may be made with these reforms.

Mr. Temporary Deputy Speaker, Sir, the point is that many promises have been made in the past and they have been breached. I am not sure that the hon. Member for Butere is not going to see the wisdom of what I am saying now; perhaps, in less than a month's time, when elections are called without any consultation. Once this Parliament is dissolved, the IPPG goes and the Member for Butere, I can guarantee, will hear about the date of elections on the radio and no consultations are likely to take place. But the point I was making, Mr. Temporary Deputy Speaker, Sir, is that the elections that are going to be "rushed" even after implementation of these packages are not going to be fair elections. A minimum period of six months is absolutely essential for every party to be able to sell its policies, to take advantage of the repeals or amendments to the Public Order Act and KBC Act. Time is critical! If these amendments and repeals become law in the course of October, the earliest date then that fair elections can take place is six months thereafter. If that is not done, then those elections might be free, but they are not going to be fair elections.

Prof. Mzee: Jambo la ufahamisho, Bw. Naibu Spika wa Muda. Nataka kumpasha habari mbili mhe. Muite. Kwanza, yeye anaposimama hapa akizungumza mhe. Moi anafanya kampeini yake huko. Leo nikipita kwenye reli na kwingineko nimesikia waimbaji wakiwafundisha kwaya za mashirika na watu wa Serikali. Wanaimba nyimbo mpya kabisa. Kwa hivyo, ikiwa wataraji kupata haki, basi nyimbo mpya zinaimbwa. Hakuna haki!

Jambo la pili, huu Mswada tunaoadili sijui ni kwa nini anazungumza sana kwa sababu yote waliokubaliana ni kama kucheza mpira. Kuna wainua vibendera wawili na refarii, hawa waheshimiwa Wabunge wameambiwa wachague mwinua kibendera mmoja, refa ni Moi na pia mwinua kibendera wa pili. Kwa hivyo, yule mwinua kibendera akikiinua, refarii Chesoni hakioni!

(Applause)

Mr. Muite: Mr. Temporary Deputy Speaker, Sir, a cartoon in *the Daily Nation* captured this issue very well indeed. With Chesoni there, very tiny being asked the date of election and he said that he is going to announce the date of the elections at "a convenient time". Standing next to him is a "well-recognisable hand" waiting for him to be told when he is going to announce the elections.

Mr. Temporary Deputy Speaker, Sir, I am saying that adequate time must be given after the enactment of these recommendations into law if the elections are going to be fair.

The other issue that does not appear to have been adequately addressed regards the delinking of the KANU, first, from the Government and, secondly, from the Provincial Administration and, thirdly, from the police. No elections can ever be fair in this country until we agree on a mechanism where KANU can be at par with other parties and where there can be effective and practical delinking of KANU from the Government, Provincial Administration and the police. At the moment, the Provincial Administration regard themselves as part and parcel of KANU. Even

at the divisional level, the DO will be the chairman of the Divisional Security Committee, the OCS is sitting on that committee and then KANU as a party, is represented on that security committee.

The Assistant Minister, Office of the President (Mr. Sunkuli): On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the hon. Member for Kikuyu in order to say that KANU is represented in the District Security Committee, when, in fact, no politician at all is represented there? I do not even attend the District Security Committee at all. The hon. Member is misleading this House.

Mr. Muite: Mr. Temporary Deputy Speaker, Sir, surely, the hon. Sunkuli must be living in a Kenya we do not live in. We read in the papers the other day, that Mr. Maitha and Mr. Masumbuko attended a security committee meeting in Mombasa. I was talking about what happens in Kikuyu Constituency, the local KANU Chairman attends the security committee meetings there.

Hon. Members: No way!

Mr. Muite: Also, the OCS attends the security committee meetings. The point I am making is that we must divorce the party, KANU, we must delink KANU from the Provincial Administration, and the police and if this is not done, then there is no way in which elections can ever be free and fair in this country. To demonstrate that the police regard themselves as part and parcel of KANU, we saw it the other day when KANU held its National Delegates Congress (NDC) at Kasarani. How is it that it was the police who were manning the gates there and saying who was to go in? It is the Provincial Administration which arranged for the transportation of the delegates to Kasarani. It is DCs and DOs who transported the delegates and the police were manning the gates---

The Minister of State, Office of the President (Mr. Koech): On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for the hon. Member for Kikuyu to give very alarming statements to the effect that KANU delegates were organised by the Provincial Administration, when, we as KANU members, organised our own delegates all over the country? I am saying this because the hon. Member for Kikuyu is not even sticking to the Bill. He is continuing giving very alarming statements to divert the attention of a successful IPPG proposals to his own cause.

Mr. Muite: Mr. Temporary Deputy Speaker, Sir, I would like to request the hon. Minister, that him and I, agree to leave to posterity and to history, the judgement as to whether this was successful or not. You were interested parties---

Mr. Githiomi: Mr. Temporary Deputy Speaker, Sir, I want to inform the hon. Muite that the Head of the Civil Service and Secretary to the Cabinet, Mr. Fares Kuindwa, and the Permanent Secretary in-charge of internal security, Mr. Kimalat, attended the KANU National Delegates Congress meeting as delegates.

The Assistant Minister, Office of the President (Mr. Sunkuli): Mr. Temporary Deputy Speaker, Sir, I would like to raise a point of order on two matters. In the first place, the hon. Member for Kipipiri has stated that the Head of the Civil Service and Secretary to the Cabinet, and the Permanent Secretary in-charge of internal security, attended the KANU National Delegates Congress meeting as delegates. That is not true. Is he in order to mislead the House? The two, along with diplomats who were there, attended as observers.

The hon. Muite has said that the police were manning the gates on that day, which is true. But is he in order to mislead this House, when he knows that under these proposals here on page 551, it is clearly stated that the organiser of any excluded meeting may request the regulating officer that the police be present at such meetings to ensure the maintenance of peace and order? Any political party can request for the police to be present at their excluded meeting. Is he in order to mislead the House when he is very literate and he knows all these things?

Mr. Muite: Mr. Temporary Deputy Speaker, Sir, the hon. Sunkuli was referring to the recommendation on page 510. If I may ask him, through the Chair, to look at that recommendation very clearly, this is talking about "excluded meetings", and I will be coming to it later on. But the question I would like to raise immediately is: If the IPPG show it fit to provide for the organiser of an "excluded meeting" to request the police to go and keep peace why, by the parity of reasoning, do you not bring the same provision to "public meetings", which is what we are saying? If the police can be requested to keep order in an "excluded meeting", we are saying that the same should apply to "public meetings." They should not go dispersing them, instead they should keep peace and order.

(Mr. Sunkuli stood up in his place)

Mr. Temporary Deputy Speaker, Sir, I am responding to his point of order. He should wait for his opportunity.

The Assistant Minister, Office of the President (Mr. Sunkuli): On a point of order, Mr. Temporary Deputy Speaker, Sir. Yes, I will wait for my opportunity, but the hon. Member should not mislead this House. He knows the reason why this particular provision has been made for "excluded meetings" is because the police do and must maintain peace in other meetings. He knows that.

Mr. Muite: Mr. Temporary Deputy Speaker, Sir, the serious point I am making---

Mr. Muluya: On a point of order, Mr. Temporary Deputy Speaker, Sir. I want to draw the attention of the House to page 597, Clause 7 which states:—"The organiser of every public meeting or public procession or his authorised agents shall be present throughout the meeting or procession, and they shall assist the police in maintenance of peace and order at the meeting or procession".

This means that the police are present for the purpose of maintaining peace and order. They have to be invited. If you feel that you can afford to continue with your public meeting or procession without the necessity of calling the police, then you can go ahead. But you, as an organiser, should be in the meeting throughout.

Mr. Muite: Mr. Temporary Deputy Speaker, Sir, that clearly is not a point of order, but a defence of the agreement that IPPG has resolved to---

Prof. Mzee: Jambo la nidhamu, Bw. Naibu Spika wa Muda. Mimi sijui ni kwa nini wahe. Wabunge wanakanusha kwa kuwa mkutano wa KANU wa Kasarani umetumia pesa nyingi sana za Serikali. Mawaziri wote walitumia magari ya Serikali. Pia Rais Moi alitumia magari ya Serikali na huu ni mkutano wa kisiasa ambao lengo lake ni la kisiasa. Mnakataa kuwa mkutano huu wa kisiasa umetumia pesa chungu nzima za Serikali kuwapeleka watu na maofisa wa Serikali kule. Je, magari ya GK si magari ya Serikali? Yalienda kufanya nini katika mkutano wa chama cha KANU?

The Assistant Minister, Office of the President (Mr. Sunkuli): Mr. Temporary Deputy Speaker, Sir, the hon. Prof. Mzee says that Government funds were used for that meeting, but he is misleading this House. Only party funds were used and he cannot challenge the fact that the President went in a Government vehicle. He knows that even President Clinton uses "Air Force I" even during campaigns. He is the President of this country at all times, even at night and he cannot challenge that. The rest of us went in our own vehicles.

The Temporary Deputy Speaker (Mr. Wetangula): Mr. Muite, if you want your points to flow properly and be more focused, limit your own points of information, so that you can carry on.

Mr. Muite: Mr. Temporary Deputy Speaker, Sir, the point I am making here is that if this country is going to have any chance of conducting free and fair elections, then the ruling party, KANU, must agree to the delinkage completely of the party, KANU, from the Government, the Provincial Administration and the Police. That is absolutely critical in a country like Kenya. Here in Kenya, every public servant owes his allegiance to the President. This is critical because even the policemen who are likely to disperse meetings, from constables, corporals to the Commissioner of Police are effectively employed by one person. They hold their offices at the pleasure of the President. Therefore, they cannot be neutral. The police officer, in whichever part of the country, will be listening to what directive he is given by the Officer Commanding Police Division (OCPD) or the Commissioner of Police. It is not just the Opposition.

Mr. Michuki: On a point of information, Mr. Temporary Deputy Speaker, Sir. I would like to inform hon. Muite that the de-linkage he is talking about; of the Police Force from the Civil Service was recommended by the Inter-Parties Parliamentary Group (IPPG), and passed by this House, as a resolution authorising the Attorney-General to provide for this de-linkage in the law. It does not appear in these amendments.

Hon. Muite, if you look at the recommendations of the Peace and Security Committee, you will see that they have recommended the de-linkage. If you look at the recommendations of the Committee that dealt with Constitutional, Legal and Administrative reforms, they also recommended for the de-linkage. Yet, the resolutions passed on the basis of those Papers were, "to authorise" if I may use the words, the Attorney-General to produce legislation, which is missing here. So, you might wish to follow up the issue.

The Temporary Deputy Speaker (Mr. Wetangula): Hon. Michuki, I believe you have not looked at page 602. Carry on, hon. Muite.

Mr. Muite: Mr. Temporary Deputy Speaker, Sir, that was a good piece of information. I was just underlining the importance of that de-linkage in a country like ours where, if as a lawyer, I was to be asked what sort of Constitutional Order we have, my answer would be that we have in Kenya, a constitutionally legalised dictatorship. That is the sort of Constitutional Order we have in this country. This is because 99 per cent of all the powers of the State are vested in the institution of the Presidency. The institution of the Presidency is omnipotent in this country; so that all the civil servants, from the lowest clerk in the Civil Service, to the Head of the Civil Service owe their allegiance to the President. When you come to the Provincial Administration, the Sub-Chief right up to the Provincial Commissioner; a very powerful monolithic institution, owe their allegiance to the President. They hold their offices at the pleasure of the President. When you come to the Police Force, it is the same thing. So, what I am saying here is that given these omnipotence of the Presidency, before we can democratise this country through a new Constitutional Order, as part of the minimum reform package and if the reforms are going to lead to the holding of a fair election, there is a need to take immediate measures to secure in practical terms, the de-linkage of the KANU party from the Government, the Provincial Administration and above all, from the Police Force. So, when we are evaluating these minimum reforms package, let us remember that it is part and parcel of the Constitutional minimum reforms, and it is part and parcel of the Administrative reforms that we have recommended.

If we do not do that way, and start praising the Statutory reforms in isolation, losing sight of the fact that the Statutory reforms are one component of the three components, then we will not go far. The situation is like praising a car because the paint work and colour is very good. But in order for that car to move, it must have tires. But above all, it must have an engine which is functional. When one analysis the IPPG package, the outside in terms of the bodywork and paint work might be there. But the pistons in the engine are not there. So, this is not a car that is going to ensure that we get free and fair elections. It is a car that is going to be stationary. The objective of the package that the National Convention Executive Council (NCEC) was recommending is the holding of free and fair elections. One does not see that in the package that has been agreed upon by the IPPG.

*(Dr. Kituyi addressed the Attorney-General
in his vernacular)*

There is tribalism being practised right in the House!

Mr. Temporary Deputy Speaker, Sir, coming to the specific provisions, the Attorney-General spent a bit of time debating. But I was tempted to say that he was preaching to this House instead of debating. I got the distinctive impression that the Attorney-General was addressing the donor community rather than us. He was giving the history of consensus and how our fore fathers used to sit under a tree, and how they used to talk until they reached a consensus, in order to make the point that as soon as we sat as Kenyans, a consensus emerged. This is a message that one continues hearing, because we also talk to the ambassadors from donor communities. We also talk to them and I must say that the Attorney-General has probably succeeded in throwing a bit of cotton wool into the eyes, because of this thing called, "the African way of doing things".

But the first thing to note is that no one has bothered to write a book at the intellectual level, to tell us what this "Africanness" is and what its limits are. This red herring called Africanness was used in the 1960s by Kwame Nkrumah, Mwalimu Nyerere in Tanzania and everybody else, to sell this thing to us, the Africans. No society was more democratic than the original African community. But this mythology called Africanness was used, first of all, to create the one-party state. Those one-party states very quickly descended into a one-man rule. This is because for a long time, even in those single-parties, there was no democracy whatsoever. We all remember the days of the late Amayo and the KANU Disciplinary Committee and what have you. You say one thing and out you go! The one-man dictatorship was the end-product of what started of as: "We are Africans and we do our things differently". This is the same thing that the Attorney-General is resurrecting. Africans are human beings like any other human beings anywhere in the world.

The Attorney-General (Mr. Wako): On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the hon. Member in order to allege that, that concept which I referred to, and which I believe in, cannot be brought into a multi-party state? Is he in order to imply that I did not mention in my address, that the concept had been misused during the one-party state because during the one-party state, there were no free discussions and no consensus was arrived at voluntarily.

I said so and I said that we must go back to the original concept, which he admits, was very democratic, and see how we can marry that original concept into a multi-party state.

Mr. Muite: Mr. Temporary Deputy Speaker, Sir, there is more democratic space that our colleagues from that side of the House are enjoying today, because of the work done by the hon. Members from this side of the House. Now, they can talk and say things that they could not say previously. They are the beneficiaries of our sweat.

I was making the point that nobody has elaborated on this concept and, there is a danger of telling the donors "leave this to us, we are going to resolve it in the African way." First, and foremost, if the objective was to get a consensus, then it was critical that the churches and the civil society should have been involved in that consensus. So, this was not a consensus involving very important stakeholders, the churches and the organised sectors of the civil society. So, their omission weakens fatally the Attorney-General's claim that this was a broad consensus; that we arrived at a consensus and at that time when everybody had agreed. Human memory is short, so we may overlook---

Mr. Shikuku: On a point of order, Mr. Temporary Deputy Speaker, Sir. I do not like to interfere with the hon. Member's contribution, but one thing is very clear. The IPPG was discussing a document which resulted from the meeting we had at the convention at Limuru. So, the religious people, the unemployed and university students were represented. He was there and I was there. We were discussing that document which was agreed upon by all. So, they did not come but we used that document to reach where we reached. This was a document agreed upon by all religious sections and the youth. All groups were encompassed in this document. So, he cannot say that the religious people were not involved because they are part and parcel of that Limuru document.

(Applause)

Mr. Muite: Mr. Temporary Deputy Speaker, Sir, I have no need to digress into having an argument with the hon. Member for Butere. I was making the point that, if the Attorney-General was taking the issue of consensus with the seriousness it deserves, then the major fault in it is that, important stakeholders were not there when that consensus was arrived at. We will be coming to the issue of the document later. The fact of the matter is that, initially it had been agreed that the religious leaders from both the Christian community and the Muslim community were going to preside over this dialogue. This would have brought in many more stakeholders. That is the consensus that one would---

Dr. Lwali-Oyondi: On a point of order, Mr. Temporary Deputy Speaker, Sir. I think the hon. Member for Kikuyu is misleading the House, in the sense that, we needed the religious groups to preside over or to be middlemen, in case we did not like to look at each other, and since we had agreed that we could have a dialogue with KANU and KANU agreed, there was no need for a third party.

(Applause)

Mr. Muite: Mr. Temporary Deputy Speaker, Sir, I do ask of you that I have the opportunity of presenting my arguments on this document without being interrupted on what are clearly not points of order. They are points of argument.

The Temporary Deputy Speaker (Mr. Wetangula): The moment you receive less information, some of which are not points of information, I will also curtail some points of order. You have wasted your own time by accepting every information from every Tom, Dick and Harry.

Mr. Muite: Mr. Temporary Deputy Speaker, Sir, the gravity of the issues we are discussing is such that I feel constrained if there is a point of information to accept it. We are talking about the future of this nation. Nothing could be more serious or more grave than the issues which we are discussing. That is why I have been accepting the points of information.

Mr. Temporary Deputy Speaker, Sir, the point that I have been making is that these statutory reforms have, at all times and at every stage, to be seen against the objective of what we were going to say. Are we going to have free and fair elections or not? That is the test. I am submitting that when one weighs that objective against the IPPG package, then one arrives at the conclusion that the IPPG package does not take us anywhere nearer than we were; nearer the holding of free and fair elections. That is a judgement that is going to be passed by history and posterity. All I was saying is that, let us not continue patting ourselves on the back, that we made a major historical break-through, that this has been a resounding success. Let us leave that to posterity and history.

Mr. Temporary Deputy Speaker, Sir, let me now come specifically to the Societies Act. The recommendations of the IPPG to the Societies Act are to be found on page 518. The original recommendations by the Attorney-General which---

An hon. Member: Which one are you talking about?

Mr. Muite: The original Order Paper of 25th, September.

Mr. Munyasia: Can I use the new one?

Mr. Muite: Yes. You have the liberty to use that one and I have liberty to use the earlier one, where I made notes on my copy. This is on page 518, of the 25th September issue.

Mr. Temporary Deputy Speaker, Sir, let me first of all concede that the recommendation of the IPPG on the Societies Act is certainly an improvement on the insulting amendment that had been originally suggested by the Attorney-General on page 510 of the Bill; where basically he was reducing his sentence from 14 years to 10 years for organising an unlawful society. I know that the Attorney-General has not had the pleasure of sleeping at Kamiti Prison, like most of the Members on this side of the House have had. But I can tell him, through you, Mr. Temporary Deputy Speaker, Sir, that if you are going to send somebody to prison for 10 years, you might as well send him for 15 years because, it makes no difference. Once you get used to sleeping on the cement, it is not years that matter, it is the minutes and the days. So, these amendments that he had initially suggested are clearly insulting and I am conceding that it is an improvement for the IPPG to have made the suggestions they made on page 518. But having conceded that, I would like to make the point that the proposals by IPPG do not go far enough, so far as regards political parties. Our position is that, political parties are not societies like any of the other societies which are formed for the purposes of selling eggs, or rearing pigs and such sort of things.

Political parties are part and parcel of the electoral process and this is a fundamental point that should have been appreciated by the IPPG. Political parties are not societies, they are the first phase in the electoral process. If you are going to entrust the Electoral Commission with a heavy responsibility of registering voters and with a heavy responsibility of conducting elections, how is it that we are denying them the obligation of keeping the register of political parties? If it is recognised that political parties are part and parcel of the electoral process, and indeed, the first phase in the electoral process, then logically, the register of political parties should be kept by the Electoral

Commission. What then should be provided is that once any party satisfies a set criteria to be registered as a political party, then registration by the Electoral Commission should be automatic.

Mr. Temporary Deputy Speaker, Sir, in Tanzania, if you are able to demonstrate that your political party has 1,000 members its registration becomes automatic. This is the sort of situation we are looking for, so that elections can be truly free and fair. We want to have a register of political parties kept by the Electoral Commission of Kenya (ECK). The ECK can then set a criteria for the registration of political parties and once those criteria are satisfied by an party it gets automatic registration in the register kept by the ECK. It is illogical to entrust the responsibility of preparing voter registration, even deciding on constituencies boundaries and conducting an election to the ECK and then deny it the responsibility of keeping a register of political parties. Any amendments that do not recognise the inherent nature of a political party and that a political party is not a society does not go anywhere whatsoever.

So, I am saying that those recommendations by the Inter-Parties Parliamentary Group (IPPG) do not assist in our democratisation process or enjoyment of the constitutional freedom of association, which is given by our Constitution. The right to organise political parties is very fundamental. To turn round and give the discretion to register political parties to a junior officer in the Office of the Attorney-General (AG)--- This junior officer actually holds office during the pleasure of the President. That is why Safina Party has been waiting for registration for three years. Registration of the party is not at the discretion of the Registrar of Societies. We know that he has nothing to do with the registration. We know that even the AG himself has nothing to do with it: He is also appointed by the President.

If we are going to move towards democratisation we must recognise the demon in our constitutional order. The demon in our constitutional order is over concentration of powers in the presidency. So, it is completely futile for the Constitution to give freedom of association and then give power to a junior officer in the Office of the AG to decide if he or she will register a political party, and if so, how it will take him or her to do so. That is not democratisation. We must remove political parties altogether from the purview of the Societies Act. We can leave other societies to be governed by the Societies Act, but political parties must be removed completely from this Act and power over them vested in the ECK.

I would go further than that. It is the right of any Kenyan to form a political party, if they so wish. Even if one wanted to form a political party tomorrow where he or she is the chairman, his wife or her husband is the vice-chairman and his son or daughter is the secretary-general that person should have the right to form that party. Let it be for the Kenyan public to say: "This is a family affair and we are not going to join it". It is not for anybody to hinder anyone from forming a political party. The Constitution clearly provides that no one will be hindered in the enjoyment of his or her constitutional rights. Yet on a daily basis, we are hindered in the enjoyment of our constitutional right of association by this junior officer in the AG's Office.

Mr. Temporary Deputy Speaker, Sir, I do recognise, for example, that the IPPG recommended that all the parties should be registered or be told why they are not being registered. Safina Party has been waiting for registration for the last three years. So, we are quite happy to wait for tomorrow and on Friday. I believe that the AG gave an undertaking to the effect that we will know by Friday whether we are being registered or not. I am saying that we must recognise that never again must we allow this sort of situation to obtain. Registration of one's party should never again be treated as a favour. It is not a favour: This is a right.

What I am saying is that we can only begin now to correct this situation. Before we can come up with a new constitutional order the short-term measure that can be taken is to amend the Societies Act so as to remove political parties from its operation, and vest the power of keeping the register of political parties in the ECK. As you are aware, I have given notice of my intention to introduce amendments in the Committee Stage by which I intend to secure exactly what I am saying. When we come to the Committee Stage I shall be moving those amendments to the Societies Act, so that political parties are by law removed from the operation of this Act, and their register kept by the ECK.

What I am saying is that, although the amendments suggested by the IPPG are an improvement to what the AG had previously suggested, they do not take us to the point where we want to go. At page 518 of their package the IPPG suggests the insertion of a new clause to become section 4. Here it is provided that the Registrar of Societies shall consider every application for registration of a society or for exemption from registration and shall communicate his decision thereon to the society within 120 days of receipt of the application. This provision covers political parties. The section is intended to apply to political parties. The danger is that if a party applies for registration tomorrow--- There could be parties applying for registration tomorrow. I read in the newspapers that one faction of FORD(A) is going to apply for registration. There may be other parties which intend to apply for registration. Some people may be excluded from the electoral process by the existing political parties and may want to form parties in exercise of their constitutional freedom of association.

The shortcoming in this recommendation is that, if a new political party applies for registration tomorrow the Registrar of Societies does not have to register it or even reject its application until after four months. In a country

where the elections are around the corner, is this a fair clause? Is this going to be a fair section when the Registrar can sit an application for registration and, probably, say after four months, long after the elections are held, that he is not going to register a party? Is that giving the Kenyan people the freedom of choice, multiplicity of choice as regards political parties? We have an example of the FORD(A) section that Mr. Kimani Wanyoike was talking about. He said that they have applied for a change of name and registration of their party. Now, if they submit that application, a junior officer in the Office of the Attorney-General is being given powers to "sit" on it for four months. He can decide to tell Mr. Kimani Wanyoike and hon. Kenneth Matiba, four months after the elections have been conducted, that they cannot register their party.

Mr. Temporary Deputy Speaker, Sir, when you examine the provisions of the Societies Act in terms of the constitutional order we have, it is supposed to be regulatory. It is not supposed to obstruct the constitutional freedom---

Mr. Mulusya: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is hon. Muite in order to speak on behalf of hon. Kenneth Matiba? Hon. Kenneth Matiba is a Member of this House. He was here and he can complain on behalf of his people. Why is hon. Muite representing hon. Matiba when he is a Member of this House?

Mr. Muite: Mr. Temporary Deputy Speaker, Sir, I am talking about the merits and demerits of this proposal. I was using the situation of the hon. Kenneth Matiba and Kimani Wanyoike as an example. I am talking about the deficiency of this proposal. I have said that this is not the way it should be. In respect of political parties, particularly when the elections are around the corner, it is wrong to give a junior officer the right to "sit" on an application for four months and to only deal with it after the elections. That is the specific complaint that I am making about this particular recommendation. This strengthens the argument that I was putting forward namely; that we must remove political parties from the operations---

Mr. Shikuku: On a point of order, Mr. Temporary Deputy Speaker, Sir. I am seeking your guidance. The hon. Member is contributing very well and he has even spoken on behalf of hon. Matiba. Hon. Muite is a Member of this House and he was welcome to the IPPG talks, but he opted to stay away. The best forum for expressing his views would have been at this meeting. Now, he comes here and begins talking like an Angel when he would have shared his views with hon. Members there. Is he in order to do that?

Mr. Muite: Mr. Temporary Deputy Speaker, Sir, I respect the view that is being expounded by the hon. Member for Butere. But he equally has to respect my decision. It cannot be right that I should be restricted in making my contributions in this House. The people of Kikuyu Constituency elected me to this House. They did not elect me to go to County Hall. They elected me to come here.

Mr. Obure: On a point of order, Mr. Temporary Deputy Speaker, Sir. The hon. Member says that he was not elected to go to County Hall, but to come to Parliament. What we are discussing here today is what we passed, as Members of Parliament, in County Hall. Is he in order, therefore, to discuss the same here? Can he refrain from discussing what we discussed out there?

The Minister of State, Office of the President (Mr. Biwott): On a point of order, Mr. Temporary Deputy Speaker, Sir.

Mr. Muite: Mr. Temporary Deputy Speaker, Sir, I am responding to the point of order raised---

The Temporary Deputy Speaker (Mr. Wetangula): You can respond to both points of order.

The Minister of State, Office of the President (Mr. Biwott): Mr. Temporary Deputy Speaker, Sir, the hon. Member for Kikuyu said quite rightly that he was elected by the people of Kikuyu Constituency to this Parliament to represent them here. But is he in order to continue insisting on SAFINA being registered because he was not elected to go to the Limuru Convention?

Mr. Muite: Mr. Temporary Deputy Speaker, Sir, the people of Kikuyu Constituency were at Limuru. There were people from Kikuyu Constituency who participated with me in Limuru and the hon. Member for Kerio South was invited to come to Limuru and he did not. And the hon. Member for Kerio South was rigged into this House---

Mr. Nyagah: On a point of order, Mr. Temporary Deputy Speaker, Sir. I would hate the people of Gachoka Constituency to think that I, Norman M.G.K. Nyagah, who went to County Hall, went outside Parliament. County Hall is part and parcel of the National Assembly. However, most of the material contained in that report was done in the Committee Rooms where I was involved for many hours.

The Minister of State, Office of the President (Mr. Biwott): On a point of Order, Mr. Temporary Deputy Speaker, Sir. Actually, I do not want to interrupt the hon. Member, but is he in order to say that the Member for Kerio South was rigged into this House? The Member for Kerio South was elected by over 25,000 voters while the Opposition Member there got only 400? The results were supervised by the British, the Human Rights activists and everybody in the world who in the end certified that the election was free and fair.

Mr. Muite: Mr. Temporary Deputy Speaker, Sir, I may have got the wrong information from Tabitha Seii---

Dr. Otieno-Kopiyo: On a point of information, Mr. Temporary Deputy Speaker, Sir. I would like to inform hon. Muite that the first time the hon. Nicholas Biwott came to Parliament was in 1979 and he bought his seat for

Kshs4 million which he paid to Robert Kipkorir so that he did not stand against him. He knows that.

The Minister of State, Office of the President (Mr. Biwott): I think the hon. Member---

The Temporary Deputy Speaker (Mr. Wetangula): Order! Dr. Otieno-Kopiyo, that purported information is in contravention of Standing Order No.73(3)and(4). I order you to withdraw the same and apologise.

Dr. Otieno-Kopiyo: Which part do I withdraw?

The Temporary Deputy Speaker (Mr. Wetangula): The information you purported to give.

Dr. Otieno-Kopiyo: That Robert Kipkorir stepped down for hon. Nicholas Biwott in 1979, is a fact. I cannot withdraw that. He paid that money. We can debate that, but I think he did. I cannot withdraw that either.

The Temporary Deputy Speaker (Mr. Wetangula): Dr. Otieno-Kopiyo---

Dr. Otieno-Kopiyo: I am explaining that--

The Temporary Deputy Speaker (Mr. Wetangula): Order! I did not invite you to give an explanation. I ordered you to withdraw those remarks. If you want to discuss how hon. Biwott paid Kipkorir, bring a Motion here. You know the Standing Orders. Can you withdraw and apologise?

Dr. Otieno-Kopiyo: What am I supposed to withdraw?

The Temporary Deputy Speaker (Mr. Wetangula): Order, Dr. Otieno-Kopiyo! You seem to be very amused by what I am saying. Five years down the line, we expect every hon. Member to take the affairs of this House very seriously. Can you comply with my order.

Dr. Otieno-Kopiyo: Mr. Temporary Deputy Speaker, Sir, he did not buy Robert Kipkorir, therefore I withdraw that one and apologise.

The Temporary Deputy Speaker (Mr. Wetangula): Order, Dr. Otieno-Kopiyo. If you are soliciting for an expulsion I will not give it to you. Can you withdraw the remarks you made and we carry on?

Dr. Otieno-Kopiyo: Precisely, Mr. Temporary Deputy Speaker, Sir. I thought I was speaking in English. I was saying that he did not buy Robert Kipkorir. So he came here unopposed, Mr. Kipkorir having stood down. Therefore, I apologise.

The Minister of State, Office of the President (Mr. Biwott): On a point of order, Mr. Temporary Deputy Speaker, Sir. First of all, somebody like the hon. Member for Kasipul Kabondo should accept that he mixes his facts. Robert Kipkorir has absolutely never been an hon. Member for Kerio South. Therefore, he has maligned somebody else who has never been an elected hon. Member of this House. If he is used to paying people, he should realise that there are people like Nicholas Biwott, who will never buy a seat to come to Parliament. I will win or lose outright through the ballot box and in the daylight.

(Applause)

Mr. Muite: Mr. Temporary Deputy Speaker, Sir, I can only trust that in so winning in broad daylight, the hon. Member for Kerio South will not get more votes than the registered voters.

(Laughter)

The Minister of State, Office of the President (Mr. Biwott): Mr. Temporary Deputy Speaker, Sir, may I assure hon. Muite that there will be no time that I will win with more votes than the registered voters.

The Temporary Deputy Speaker (Mr. Wetangula): Order, Mr. Biwott! I will not have this as an exchange between you and hon. Muite.

An hon. Member: Things are becoming total now!

Mr. Muite: Mr. Temporary Deputy Speaker, Sir, the hon. Member for Butere raised what I think is a serious issue because, this is a question that has been asked by many people and not just our colleagues in this House. There are people who have been asking "why did you not---

(Dr. Opere stood upright as he took a glass of water)

The Temporary Deputy Speaker (Mr. Wetangula): Order, Dr. Opere! It is out of order to stand upright between the hon. Member on the Floor and the Chair.

Mr. Muite: Mr. Temporary Deputy Speaker, Sir, I think the hon. Member for Butere was raising a legitimate issue. This is a question that has been asked of me by many people; "why did you people not go to County Hall and say what you are saying there?" Let me explain that what the NCEC was talking about was "fundamental and comprehensive" constitutional reforms. There is a philosophical error of thought here, that the President and Parliament are the ones with the sovereignty. But when we are talking about a new constitutional order, it is the other

way round. The sovereign authority rests with the Kenyan people because it is the Kenyan people who must decide what institutions they want to have for their own governance.

Mr. Shikuku: On a point of order, Mr. Temporary Deputy Speaker, Sir. Just as much as I would like to agree with my hon. friend, I thought lawyers are people who should seek and speak the truth. But I am now having a different view in respect of this lawyer sitting beside me. Is it in order for hon. Muite to intentionally, openly and almost dishonourably, try and mislead this House? He is talking of the NCEC having talked about "comprehensive" reforms. I am a founder member of the NCEC and it was my brain child. In case of any doubts, you can check with the following hon. Members: Messrs. Orengo, Nthenge, Wamalwa and Kibaki. With me here, I have the Limuru 'bible' which talks about "minimum" constitutional, legal and administrative reforms, not "comprehensive". Is it in order for the hon. Member, who is a respected lawyer by profession and whom I thought is beyond telling untruths in an honourable House to mislead this House that the NCEC was talking about "comprehensive" reforms? We had talked and we are still talking of "minimum" reforms.

(Mr. Shikuku raised the Limuru document)

This is the document we used during our discussion on "minimum", not "comprehensive" reforms. Is he in order to mislead the House?

Mr. Muite: Mr. Temporary Deputy Speaker, Sir, when these issues were being discussed both at Limuru and Ufungamano House, I noticed that the contributions by hon. Shikuku, were rather limited. It is quite possible that he did not follow what was being discussed. We said all the time that comprehensive constitutional reforms were the first option. Indeed, the putting in place of the institutional mechanism for bringing about comprehensive reforms, was to go simultaneously with this minimum reform agenda. From the beginning, we said that the objective was comprehensive---

Mr. Mulusya: On a point of order, Mr. Temporary Deputy Speaker, Sir. Either hon. Muite was completely absent from Limuru, he sent his representative from Kikuyu because it is near Limuru or he was asleep. We spoke and agreed on minimum constitutional, legal and administrative reforms and it is documented. That is the document we went by at County Hall. We were given the mandate to examine that document and come up with the minimum constitutional, administrative and legal reforms and this is what we exactly did.

Mr. Muite: Mr. Temporary Deputy Speaker, Sir, there is clearly a confusion of thought here. I am not saying that we did not agree on a minimum reform agenda; we did. Because we recognized that the comprehensive reforms would take two or three years to bring about. That was all we recognized. The reason why we were talking about a constitutional convention Bill was to put in place, the institutional mechanism that was going to attend to those issues after the elections. We accepted and still accept that it is not possible to have the comprehensive reforms before the elections. That was always accepted. But before the elections, we needed the minimum reform package and that is what I said.

Mr. Temporary Deputy Speaker, Sir, the document we agreed on at Limuru---

The Minister of State, Office of the President (Mr. Koech): On a point of order, Mr. Temporary Deputy Speaker, Sir. The hon. Member is talking of NCEC as though it represents the whole nation. The hon. Member is misleading the House because when you look at the whole country, you will find that we do not have members from all districts in Kenya in the NCEC.

Mr. Muite: Mr. Temporary Deputy Speaker, Sir, I really do not know the point of order, the Minister is making there. In the next meeting in Limuru or wherever the meeting will take place, I will ensure that people from Kericho and Buret come.

The Minister of State, Office of the President (Mr. Koech): On a point of order, Mr. Temporary Deputy Speaker, Sir. I could discern that when hon. Muite talked about the people of Kenya he meant the people representing the whole nation and not a section of people from Kikuyu.

Mr. Muite: Mr. Temporary Deputy Speaker, Sir, that is the precise point that I am making. The philosophical error being made here is as if it is for the President or for the Parliament to decide for the Kenyan people what institutions they are going to have for their governance. I am saying and this is a fundamental point that coming up with a new constitutional order needs a completely radical different approach from amendments to the Constitution. Parliament can amend a Constitution, but Parliament cannot come up with a new Constitution for the Kenyan people. The sovereignty or the right to decide for a new constitutional order as opposed to amendments that sovereign right rests with the Kenyan people. That is why we were saying that the institutional mechanisms should be put in place now that would ensure that it is the Kenyan people, after the elections, who are going to decide whether to have a bicameral Parliament or whether to have a Parliamentary system or Presidential system and that sort of thing. It is not for anybody as a President---

Dr. Lwali-Oyondi: On a point of order, Mr. Temporary Deputy Speaker, Sir. I think the hon. Member is

belabouring on a point which has already been passed by the IPPG in that we are already having a Bill which is going to have a Commission to effect comprehensive reforms. Now, is he, therefore, in order to keep on misleading the House that there are no institutional arrangements to effect comprehensive reforms including consulting all Kenyans?

Mr. Muite: Mr. Temporary Deputy Speaker, Sir, we will be debating the Constitution of Kenya Review Commission Bill when it is here. That is not what I am debating at all. I was making an entirely different point and, in fact, before this point of order, I was moving on to explain what I thought was a legitimate issue that was raised by the Member for Butere as to why some of us were elected not to come to County Hall. I was making the first point that when we were talking both about the minimum reform agenda and the comprehensive reforms, this emanated from the position that it is the Kenyan people who must discuss what sort of institutions that they want to govern them. That was the starting point and that is important to appreciate so that one can now see why some of us did not come to County Hall. We did not come to County Hall because we want institutions in place that are going to involve all the Kenyan people. This Parliament itself needs reforms. We cannot ask Parliament to reform itself. It is the Kenyan people who have to be given the opportunity to do so.

Mr. Nyagah: On a point of order, Mr. Temporary Deputy Speaker, Sir. Members of NCEC went to Safari Park to negotiate with KANU. I was not part of that group. Were they the representatives of the people? What instruments did they have to represent the people that IPPG did not have to represent the people?

An hon. Member: Who elected them?

Mr. Muite: Mr. Temporary Deputy Speaker, Sir, the instrument that we did not have was the decree and this is one of the reasons why some of us on principle were unable to come to County Hall. We spent our lives trying to dismantle dictatorship, totalitarianism and authoritarianism in this country and the fact of the matter is that it was the President who dictated that only elected Members of Parliament are going for dialogue. That is not something that some of us are prepared to accept.

Mr. Angwenyi: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the hon. Member for Kikuyu in order to state here falsely, that he has spent his life liberating Kenya, when we have got here people who fought for the Independence of this country, like: Hon. Achieng'-Oneko, hon. Kibaki, hon. Nthenge, hon. Shikuku and President Moi who are not bragging for having fought for the Independence of this country? Is he in order to say that he participated in the liberation of this country?

Mr. Muite: Mr. Temporary Deputy Speaker, Sir, I would like to ask the hon. Member to identify his candidates who fought for this nation. Some of us have read the HANSARD and we do know what line President Moi was taking in 1956 in this House. When it comes to discussing what sort of institutions we want to have in this nation, that is something that is wider than Parliament. That is not something on which some of us are prepared to give in at all. We went to Safari Park and we wanted to discuss and it was the religious leaders who were facilitating and presiding. We waited and KANU did not turn up at Safari Park. The next thing we heard was a decree by the President that, only elected Members of Parliament were going to dialogue on this issue.

The Assistant Minister, Office of the Vice-President and Ministry of Planning and National Development (Mr. Noor): On a point of order, Mr. Temporary Deputy Speaker, Sir. Hon. Muite has repeatedly tried to mislead the nation and this House. I fail to understand what institutional framework he is talking about. Is he saying that it is only the NCEC that should have discussed the Constitution of this country? Can he really come up with a proposal to say what kind of institutional framework or set up that could have been required?

Mr. Muite: Mr. Temporary Deputy Speaker, Sir, I have the amendments to the Constitution of Kenya Review Commission Bill and I do not want to go into them.

The Temporary Deputy Speaker (Mr. Wetangula): Mr. Muite, you know that you are making a series of inaccurate statements. Why do you not come back to the Bill?

Mr. Muite: Mr. Temporary Deputy Speaker, Sir, that is what I am exactly doing.

Mr. Temporary Deputy Speaker, Sir, it would not be right for me to ignore a point of order that had been raised by the hon. Member for Butere. That is what I was responding to. I was saying that it has been forgotten. The President himself had asked the religious leaders to facilitate this dialogue and they spent a lot of money and time. They got themselves together and they were prepared to sit down and agree on true reforms that would have made it possible for this country to hold free and fair elections. How is it that these religious leaders were shunned aside, without any word or notice to them and a decree issued, that only elected Members of Parliament were to go and discuss in County Hall. We are saying that the issues they were discussing are much wider than this Parliament, because the reforms we are seeking go beyond this Parliament.

Dr. Wako: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the hon. Member not misleading this House by referring repeatedly to decree and orders, when he clearly knows that the IPPG was the brainchild of hon. Falana? There was no decree at all!

Mr. Muite: Mr. Temporary Deputy Speaker, Sir, the flurry of activity initiated by the hon. Falana came immediately after the President had said repeatedly that the dialogue was only going to be between Elected Members

of Parliament.

Mr. Otieno: On a point of order, Mr. Temporary Deputy Speaker, Sir. Having listened to hon. Muite for so long, I find that I should tell him that "we missed him at the right time; we now need the material which he kept to be given to us and we do not need his excuses for not coming!"

(Applause)

Mr. Temporary Deputy Speaker, Sir, I find hon. Muite out of order trying to lecture us on his beliefs on conventions and other forums he thinks are bigger than this Parliament, at a time when we need his contributions to issues we have taken time to go through in detail.

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

The Temporary Deputy Speaker (Mr. Wetangula): Order! If there is anything that the Chair detests it is "institutionalising co-operate heckling" in this House!

Mr. Muite: Mr. Temporary Deputy Speaker, Sir, the hon. Nominated Member Dalmas Otieno who, through you, I will suggest very strongly that he should try to run on a NDP ticket, so that he might come here. With the will of people, of course, he wants to be elected.

(Applause)

Mr. Temporary Deputy Speaker, Sir, I did say a little earlier, that I have drafted the amendments. I do not want to anticipate debate because that would be in breach of the rules of this House.

The Temporary Deputy Speaker (Mr. Wetangula): You have breached them so much this afternoon that I do not know why you are saying you will be breaching!

Mr. Munyasia: On a point of order, Mr. Temporary Deputy Speaker, Sir. Considering the first day the IPPG was meeting in County Hall, hon. Muite and the other members of NCEC were constituting themselves into a constituent assembly at Ufungamano House, is hon. Member for Kikuyu not misleading this House to say that he is going to bring an amendment to this House when he belongs to another "assembly" outside this House?

(Applause)

Mr. Muite: Mr. Temporary Deputy Speaker, Sir, it is a great pity that some of the participants of that assembly were against the proposal to set up that constituent assembly because that is the assembly that has support of 90 per cent of the Kenyan people, not this one!

Mr. Shikuku: On a point of order, Mr. Temporary Deputy Speaker, Sir. How long can we continue being told untruths here when we know otherwise? The hon. Member says that that is the "people's assembly", yet you and I and everybody who is informed in the Republic of this country know very well that there were prayers which took place at Uhuru Park at which I saw the hon. Member very clearly on television, and he was looking around to find the audience, but he could not. He went to Kamukunji, but he addressed the meeting in his car and the *Daily Nation* reported that there were about 500 people. Now, which people is he talking about?

(Applause)

Mr. Muite: Mr. Temporary Deputy Speaker, Sir, the hon. Member for Butere, who I understand is a Presidential candidate, will understand what kind of people I am talking about when he stands for the presidency. He will see who is going to vote for him as a Presidential candidate!

Mr. Shikuku: You will see how popular I am!

(Laughter)

Mr. Mulusya: On a point of order, Mr. Temporary Deputy Speaker, Sir. This is a very important Bill before this House, and the whole country wants to listen to sensible contributions by hon. Members. Now that hon. Muite has chosen to wander around, is it not in order for him to sit down and give other hon. Members who have got something to say a chance to contribute?

Mr. Muite: Mr. Temporary Deputy Speaker, Sir, when history comes to be written in this country, the only achievement of that IPPG package at County Hall, will turn out to be that they have handed over victory to President Moi and KANU for the next five years. That is the only thing they have achieved.

Mr. Busolo: On a point of order, Mr. Temporary Deputy Speaker, Sir. It seems to me that hon. Muite has

failed to distinguish between the reforms which this country needs and the removal of President Moi from power. Is it in order, that when it suits hon. Muite, when his life is under threat, he can surface in State House with President Moi but now, he wants to tell us otherwise?

(Applause)

Mr. Muite: Mr. Temporary Deputy Speaker, Sir, a truly independent Electoral Commission and the 50 per cent clause are vital. If those two had been included in the IPPG package, then the reforms and the removal of President Moi would become synonymous.

Mr. Ruhiu: On a point of order, Mr. Temporary Deputy Speaker, Sir. Since I do not see any useful purpose being served by further debate on the IPPG package, since the IPPG was illegally constituted, and since our colleagues on the other side, have been compromised and become more KANU than KANU themselves---

(Applause)

The Temporary Deputy Speaker (Mr. Wetangula): Order! Order! Mr. Ruhiu, I believe you know the difference between a Bill before the House and recommendations of the IPPG.

Mr. Nyagah: On a point of order, Mr. Temporary Deputy Speaker, Sir. There are certain records that must stand straight. I am from the Democratic Party of Kenya; I am a Member of the IPPG, but I have not been compromised by anybody neither am I in KANU. The point I want to bring out here is that those same people who claim that we have been compromised, go to bed with President Moi! That is English I am talking. I am not literally--- And they do it at night.

Is it in order for some of these Members to then tarnish the names of those people who are committed to this country, to avert bloodshed and to do it during the day?

(Laughter)

An hon. Member: Going to bed!

Mr. Muite: Mr. Temporary Deputy Speaker, Sir, the NCEC was on the verge of concluding and enforcing a package of reforms that would have ensured that the next elections are going to be free and fair.

If those of our colleagues who went to County Hall, had waited for another week or two, the deal that would have been struck, would have included a truly independent Electoral Commission. It would have included, that whoever is going to be President will be elected by more than 50 per cent of the votes cast. If those two had been part of this package, I would really have "taken my hat off" the colleagues who went to County Hall, because it will then have ensured that this country would have a truly free and fair elections. That did not happen and history will bear us out, that the package that was struck at County Hall was a package that has handed President Moi and KANU victory in the coming general elections.

ADJOURNMENT

The Temporary Deputy Speaker (Mr. Wetangula): Order, hon. Members. It is now time for the interruption of Business. Therefore, the House stands adjourned until tomorrow, Thursday, 2nd October, 1997, at 2.30 p.m.

The House rose at 6.30 p.m.