

NATIONAL ASSEMBLY

OFFICIAL REPORT

Tuesday, 21st October, 1997

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

ORAL ANSWERS TO QUESTIONS

Question No.651

ISSUANCE OF ID CARDS TO NYATIKE RESIDENTS

Mr. Onyango asked the Minister of State, Office of the President:-

- (a) how many new and renewed identification cards from applicants of Nyatike Constituency were lying at the National Registration Bureau headquarters, awaiting collection; and,
- (b) what steps he was taking to expedite the issuance of these cards to the respective applicants from Nyatike Constituency.

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

(a) I am not aware that identity cards from Nyatike Constituency are lying at the National Registration Bureau Headquarters awaiting collection.

(b) Arising from my answer to part "a", part "b" of the Question does not arise.

Mr. Onyango: Mr. Speaker, Sir, it is very unfortunate for the Assistant Minister to say that he is not aware that there are identity cards lying at the National Registration Bureau Headquarters. Now, that I am trying to make him aware that we have quite a number of identification cards lying at the National Registration Bureau Headquarters, what steps will he take to make sure that these identity cards are taken to the district headquarters?

Mr. Awori: Mr. Speaker, Sir, whenever identity cards have been processed and are ready, they are normally sent as expeditiously as possible to the district headquarters. There are no identification cards lying at the National Registration Bureau Headquarters.

Mr. Speaker, Sir, I will help the hon. Member by advising him that as at 19th September, 1997, a total of 38,060 processed new identity cards had already been dispatched for collection by the applicants from Nyatike Constituency out of which 36,887 had already been collected by their owners, leaving a balance of 1,173 at the divisional headquarters.

Mr. Onyango: On a point of order, Mr. Speaker, Sir. If the Assistant Minister is not aware of what is happening in his ministry, he had better ask for permission to go and look for a better answer and come back to this House with the correct information. This is because I am very sure and even right now I have a copy showing that this person has not received his identity card.

(Mr. Onyango waved a copy of the identity card)

Mr. Speaker, Sir, it seems the Assistant Minister is saying that the KANU Government has already started rigging elections in that particular area. This is because there is quite a number of youths who have not been issued with new identity cards and yet he is trying to tell us here that he is not aware. Can he ask for more time to go and look for better information?

Mr. Awori: Mr. Speaker, Sir, I certainly do not need any more time. My answer still stands. If it is the piece of paper that he is waving, that does not mean that the original copy of that identity card is lying at the National Registration Bureau Headquarters. It simply means that that man applied for an identity card. So, the hon. Member should not try and bring cheap politics in this august House.

Question No.578

DEATHS OF CONDEMNED PRISONERS

Dr. Lwali-Oyondi asked the Minister for Home Affairs and National Heritage if he could inform the House how many people condemned to death had died from other causes in the last ten years.

The Minister for Home Affairs and National Heritage (Mr. ole Ntimama): Mr. Speaker, Sir, I beg to reply.

Eighty-five condemned prisoners have died in prison in the last ten years, from July 1987 to July 1997. The most prevalent causes of death are: Tuberculosis, acute malaria, chronic bronchitis, dysentery, AIDS, dehydration and gastroenteritis, subdural haemorrhage, cardiac malady, the left ventricular hypo-propensity, bronchi-pneumonia and severe chest infection. I wish to lay on the Table the names of the people who have died of these diseases.

(Mr. ole Ntimama laid the paper on the Table)

Dr. Lwali-Oyondi: Thank you very much, Mr. Speaker, Sir. I asked this Question because it appears as if these condemned prisoners die more of diseases than from being hanged. The question is this: Could the Minister now tell us whether it is not true that these diseases particularly tuberculosis, dysentery which is more or less equal to gastroenteritis, pneumonia, diarrhoea and so on are caused by bad management in the prisons?

Mr. ole Ntimama: Mr. Speaker, Sir, I would not really say that. I think these are just diseases and everybody is bound to contract them anywhere, whether in prisons or outside the prisons.

Mrs. Asiyi: Mr. Speaker, Sir, It never happened during my time in the Prison Service. Could the Minister tell us whether this is a deliberate move to let the prisoners die a natural death rather than have to hang them? This is because it is very dehumanising for a prisoner who has been condemned to death to over-stay in the prison cells without being hanged. What is the Minister going to do to make sure that these people are hanged as and when they are due to hang and that they are taken care of very well, so that they do not get tuberculosis, dysentery or other diseases?

Mr. ole Ntimama: Mr. Speaker, Sir, I can only tell the gracious hon. Lady that the number of prisoners who were executed between 1987 and 1997 is nil. But I do not think it is my responsibility to get those prisoners hanged. I think it is a question of--- There are many other things.

Dr. Kituyi: Mr. Speaker, Sir, this Government has been doing some public relations job, that since about 1987 it has not hanged any condemned prisoner. Now, you notice that in the same period, nearly 100 condemned prisoners have been left to die from curable diseases. The hon. Ole Ntimama may not be responsible, but even before he became a Minister in this portfolio, there have been very many unnecessary deaths in custody, particularly in prisons. Could he give his word to this House that the Government is going to do something, urgently, to stop the unnecessary deaths of prisoners from very simple diseases like diarrhoea, dehydration, which could be treated, but because they are leaving these people without any minimal medical attention, they die like animals, the way Adungosi died?

Mr. ole Ntimama: Mr. Speaker, Sir, I assure the hon. Member and the House here that we are going to investigate this question of deaths from other diseases with a view to controlling them, especially for those prisoners who are condemned.

Prof Ouma: Mr. Speaker, Sir, this is a heart-breaking question, because anybody can go to prison any time. These condemned prisoners are only a cross section and what they have gone through is only a cross section of what goes on in the prisons. Could the Minister give this House an undertaking that during his tenure of office, he will issue such measures as to improve the living conditions of the prisoners so that they are reformed and not deformed and killed; that they may have not penal medicine, but normal medicine; not penal medical care, but normal medical care? I have known people in prison who will get malaria and get cured without medicine.

Mr. Speaker, Sir, our prisoners go through hell on earth. Could the Minister take them out of hell before they die? What will he do to improve the conditions of prisons in as far as food and medicine are concerned?

Mr. ole Ntimama: Mr. Speaker, Sir, we are looking into these conditions in the prisons and I can assure the hon. Member that I am not really running away from the problem. We will definitely look into this problem with a view to improving the health conditions of the prisoners, especially, those who are condemned to death.

Dr. Lwali-Oyondi: Mr. Speaker, Sir, a casual look at this paper, which the Minister has laid on the Table, shows that most of the prisoners die of lung-connected diseases such as bronchitis, pneumonia and so on. Others die due to gastroenteritis (infection of the food canal which results in diarrhoea) and so on. Could the Minister, therefore, agree that these pneumonic or lung-connected diseases are caused by poor management of the cells and that the diarrhoea and dysentery are caused by bad food? Could he, therefore, undertake to stop this?

Mr. ole Ntimama: Mr. Speaker, Sir, I can tell the hon. Members that the prison population in this country has increased by about 100 per cent and we have not been able to expand housing facilities for prisoners during this

particular time. This is really a problem because I must admit our prisons are congested. There is no doubt that even the congestion affects all these other prisoners who are in condemned cells. Although I am not a doctor, I cannot really disagree that it is this question of congestion that is a contributory factor to some of these problems that we have. This is definitely because we have not been able to match--

Mrs. Asiyu: On a point of order, Mr. Speaker, Sir. Is the Minister telling the truth to this House by saying that there are more prisoners than the Kenya Government can house when he knows that there are provisions for extra-mural penal employment in the countryside? Why does he not get some of the prisoners out to be employed under extra-mural employment?

Mr. ole Ntimama: Mr. Speaker, Sir, that is another question, as far as I am concerned. But for the hon. members information, we are giving a lot of extra-mural work to the prisoners and a lot of them go home to do many other manual jobs and they are not in prison. But I cannot send out people who are condemned to death!

Mr. Speaker: Next Question!

Question No.669

NON-GRADUATION OF MR. OWIRA

Mr. Mak'Onyango asked the Minister for Education:

(a) whether he was aware that a fourth year student at Moi University, Mr. Gabriel Owira, No.BA/345/90, who qualified and was to have graduated in 1993, is yet to do so, four years later; and,

(b) if the answer to "a" is in the affirmative, what steps he is taking to ensure that the said Mr. Owira graduates and is issued with his certificate this year, given that he obliged the University as required by the same in 1996.

Mr. Speaker: Anybody from the Ministry of Education? We will leave this Question until the end then. Next Question.

Question No.678

MEASURES TO STABILIZE PRICES
OF PETROLEUM PRODUCTS

Mr. Speaker: Is Mr. Kiliku not here? We will leave this Question until the end. Next Question!

Question No.684

UNION FOR BIDCO WORKERS

Mr. Ndicho asked the Minister for Labour and Manpower Development:-

(a) whether he is was aware that the management of Bidco Oil Refineries Limited has refused to allow their workers to form a union to represent them in their industrial grievances;

(b) whether he was further aware that these employees work for nine and a half to 12 hours a day without overtime payment and that they are mistreated by the managers; and,

(c) if the answers to "a" and "b" are in the affirmative, what action he was taking to have the management allow the workers to form a union and pay them overtime allowances.

The Assistant Minister for Labour and Manpower Development (Mr. Ali): Mr. Speaker, Sir, I beg to reply.

(a) I am not aware.

(b) I am not aware.

(c) A team of investigators have been dispatched to interview the workers, the union and the management to confirm the allegations. If the allegations are found to be true, then legal action will be taken.

Mr. Ndicho: Mr. Speaker, Sir, I am very saddened by that answer. The Assistant Minister says that a team has been sent to interview the workers, the management and the union. That team can interview the workers and the management, but there will be no union to interview because it is not there. Secondly, these people work for 12 hours

without being paid overtime. This company was opened seven years ago with 1,000 workers. Out of these 1,000 workers, 800 of them are casual labourers. Whenever these people have attempted to form a union, they have been threatened by the management, who are Asians. The management abuses them and calls them Indian names like "Chori", "boselina", and I am told these are very bad names. Now, could the Assistant Minister promise this House that this investigation team he has despatched will come out with the truth because the management will bribe the labour officer in Thika to give a very misleading answer? Could the Assistant Minister also tell us when he will bring the results of this investigation?

Mr. Ali: Mr. Speaker, Sir, I do not know the story. In the first place, these cases have never been reported to the labour office. Perhaps, it is proper for the hon. Member to assist these workers by taking them to the labour office or to the employer, for that matter, and establish the truth. Anyway, under the Trade Disputes Act Cap.234, it is the duty of the union established--- In this case, it is the Kenya Commercial Food and Allied Workers Union. It is the duty of the union to recruit members. If the members recruited are over 50 per cent, the recognition has to be accepted or rather, the company has to recognize it, failure to which the matter should be reported to the Ministry of Labour and Manpower Development for further appropriate action, and in this case they will be taken to the Industrial Court.

Mr. Anyona: Mr. Speaker, Sir, this Assistant Minister is a real enemy of Kenyan workers. For every Question that comes to this House, we get the same standard answer--- If it were not contrary to our procedures to impute improper motive, I would say a lot of things about this Assistant Minister. He says that he is not aware. Could he tell us when he got this Question and what investigations he set in place? What was the outcome of those investigations?

Mr. Speaker, Sir, I brought a Question here about the workers of Orbit Chemicals who were refused to form a union. He said that he will investigate and he has never come back to tell us the result of his investigations. We will tell the people of his constituency to make sure that he does not come back to this Parliament.

Mr. Ali: Mr. Speaker, Sir, the Ministry attaches great importance to the workers' plight and I totally disagree that the Ministry, or myself, are enemies of the workers. As I said earlier, we have dispatched a team of investigators to carry out investigations. If the allegations are proved to be true, appropriate legal action would be taken.

Mr. Rotino: On a point of order, Mr. Speaker, Sir. A categorical question has been asked by hon. Anyona. Is it in order for the Assistant Minister to evade answering the question? This is a question which deals with the plight of workers. These Asians are exploiting the workers. Could he answer the question? **Mr. Speaker:** What categorical question?

Mr. Rotino: Mr. Speaker, Sir, he was asked to tell the House what investigations he has carried out. This Question was not asked the other day, it has taken a lot of time to get here. What investigation has the Assistant Minister done?

Mr. Leshore: Let him declare his interest!

Mr. Ali: Mr. Speaker, Sir, I said very clearly that we have dispatched a team of investigators who are still carrying out investigations.

Mr. Wamae: Mr. Speaker, Sir, could the Assistant Minister explain clearly? He has been informed by the hon. Questioner that the workers have been prevented from forming a union and the union officials are bribed if they go there. Therefore, could the Assistant Minister take this as a serious matter? Even labour officers are in the "pockets" of these people! What is the Ministry going to do?

Mr. Ali: Mr. Speaker, Sir, I never heard hon. Ndicho saying that the union officials have been bribed. I overheard that the labour officers have been bribed and I deny that fact. In this case, hon. Ndicho should get in touch with the relevant Trade Union so that the members can be recruited and if the membership will be over 50 in number, then they should be given recognition.

Mr. Sambu: Mr. Speaker, Sir, we need your assistance over this Ministry. It is not the question of investigations. If the Assistant Minister goes to the management and demands to know which union the workers are affiliated to, he would come back with an answer. The labour officers collude with the Asian management of our industries and that is a fact, and if the Chair allows me, I will substantiate here. Could the Assistant Minister go back and bring information about which union the workers are affiliated to?

Mr. Ali: Mr. Speaker, Sir, I do not have to go there myself. I have technical people who understand their jobs very well and if this House is not satisfied with the officer in Thika, I would undertake to ask the Commissioner of Labour to attend to the problem.

Mr. Ndicho: Mr. Speaker, Sir, the people who are affected by this matter will hear the Assistant Minister trying to defend the management of Bidco Oil Refineries Limited and, I am sure he will be looking for votes soon. He is going to have a rough time. The Assistant Minister has said something very good that, if his team will find that

this allegation is true, then the Ministry is going to take legal action. That is very consoling. But he has said that the Kenya Food and Allied Workers Union should go there and try to recruit members. Let him know that they have been refused entry into that factory by the management and the workers themselves have been threatened by the same management that, if they talk about forming a union in that factory, they will all be sacked. Could the Assistant Minister assure this House that when Kenya Food and Allied Union goes there now, they will be allowed entry to that factory and if these workers become members of the union, they will not be sacked by the management of Bidco Oil Refineries Limited? The Managing Director is bragging that he is a friend of Jonathan Moi and Daniel Moi and that, there is nothing that can be done to him. That is why we have these problems and it is because of Bevon Shah and Bidi Shah.

Mr. Ali: Mr. Speaker, Sir, if the Trade Union is prevented from assisting the workers, they have the machinery to follow up and, the Ministry will take appropriate action, if that is the case. So, it is not a question of forming a union as such; the union exists and it is its responsibility to go there and if they are refused entry, let them report back to the Ministry of Labour.

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

Mr. Speaker: Order, hon. Ndicho!

Mr. Ndicho: Mr. Speaker, Sir, he has left out part "c" of the Question.

Mr. Speaker: Order, hon. Ndicho! You are not going to run this House, are you? Anyway, what was it?

Mr. Ndicho: You know you are my friend, Mr. Speaker, Sir.

(Laughter)

He has refused to answer the other part of the Question which asks the Assistant Minister to give an assurance that if they form the union they will not be sacked. Let him give that assurance here.

Mr. Ali: Mr. Speaker, Sir, I can give 100 per cent assurance because it is part of our investigation and if it is found that there has been any intimidation to that effect, the company will be taken to task.

Mr. Speaker: For the second time, Mr. Mak'Onyango's Question.

Question No.669

GRADUATION OF MR. OWIRA

Mr. Mak'Onyango asked the Minister for Education:-

(a) whether he is aware that a fourth year student at Moi University, Mr. Gabriel Owira, No.BA/345/90, who qualified and was to have graduated in 1993, is yet to do so, four years later; and,

(b) if the answer to "a" is in the affirmative, what steps he is taking to ensure that the said Mr. Owira graduates and is issued with his certificate this year, given that he obliged the University as required by the same in 1996.

Mr. Speaker: Is anybody here from the Ministry of Education?

An hon. Member: No!

Mr. Speaker: I am afraid, I will have to defer the Question.

(Question deferred)

For the second time, hon. Kiliku's Question.

Mr. Ndilinge: Mr. Speaker, Sir, I wish to ask Question No.678 for the second time, on behalf of hon. Kiliku.

Mr. Speaker: Hon. Ndilinge, did you ask the Question in the first place?

Mr. Ndilinge: No, Mr. Speaker, Sir.

Mr. Speaker: In fact, you should apologize to the House first.

Mr. Ndilinge: I am sorry, Mr. Speaker, Sir, I came late.

Question No.678

MEASURES TO STABILIZE THE PRICES OF PETROLEUM PRODUCTS

Mr. Ndilinge, on behalf of **Mr. Kiliku**, asked the Minister for Energy:-

- (a) why the oil companies recently increased the prices of petroleum products;
- (b) whether he was aware that following that increase, the prices of essential goods and services have been increased; and,
- (c) if the answer to part "b" is in the affirmative, what measures the Government was taking to stabilise the prices of petroleum products.

Mr. Speaker: Anybody from the Ministry of Energy? I will, therefore, defer the Question.

(Question deferred)

QUESTIONS BY PRIVATE NOTICE

ARREST AND DEATH OF MAMA MANG'ERA

Mr. Anyona: Mr. Speaker, Sir, I beg to ask a Minister of State, Office of the President the following Question by Private Notice.

(a) Is the Minister aware that on Friday, 19th September, 1997, three (3) Administration Policemen from Gachuba Chief's Camp in Kitutu Masaba arrested Mama Prisca Bonareri Mang'era and tortured her until she became unconscious?

(b) Is he further aware that Mama Prisca Bonareri Mang'era was admitted to Kisii District Hospital while still unconscious and died on Sunday, 21st September, 1997?

(c) If the answers to part "a" and "b" above are in the affirmative, could the Minister make a comprehensive statement (including a postmortem report) on the circumstances in which Mama Prisca Bonareri Mang'era was arrested, tortured and died; and the measures taken against the officers involved in this brutal murder?

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

(a) I am not aware.

Mr. Anyona: On a point of order, Mr. Speaker, Sir. I did raise the issue of not having received a written answer because the rules of the House require that I receive it before it is read out in the House. I expect the Assistant Minister to respond to that before he begins to answer this Question.

The Assistant Minister, Office of the President (Mr. Awori): Mr. Speaker, Sir, the hon. Member has had a written answer since the first time he asked this Question. This must be the fourth time and the only reason why the Question has continually been put on the Order Paper is because the hon. Member required further information.

Mr. Speaker, Sir, I beg to reply.

(a) No, I am not aware.

(b) I am aware that mama Prisca Bonareri Mang'era was admitted into hospital after she became sick while in custody.

(c) The deceased was arrested by Administration Policemen on 19th September, 1997, for being in possession of chang'aa. She was held overnight at Gachuba Chief's Camp where she fell sick and collapsed. She was rushed to the hospital where she died while undergoing treatment. The postmortem report indicated that she died of cardiac arrest due to hypertensive heart disease. Keroka Inquest File No.32/97 in this respect, is still pending under investigation.

Mr. Anyona: Mr. Speaker, Sir, in the first place, I want to make it quite clear that I never got a written answer even during the first time this Question came up. I have never received a written answer from this Ministry. So, he is making up that story. Secondly, that is exactly the answer we got on that day. The reason the Question was deferred by the Chair was because, we produced evidence to show that, that answer was misleading and was wrong. The Assistant Minister is again reading the same answer to the House. Is the Chair satisfied that this is how this Parliament is going to conduct itself, particularly when it concerns the Office of the President and the death of a citizen at the hand of Government?

Mr. Awori: Mr. Speaker, Sir, my colleague wanted substantiation by asking for the names of the Administration Policemen who were involved in the arrest of this poor woman. I want to give the names---

Mr. Anyona: On a point of order, Mr. Speaker, Sir. I am being misrepresented. I never asked for the names of the Administration Policemen. Where is he getting all these stories from? If he does not have the answer, he had better go back because, KANU is going to break its pledge on this issue. I can assure you of that and you cannot cheat Kenyans and expect them to vote for you.

(Laughter)

Mr. Awori: Please, do not bring in the IPPG. He was a very able co-ordinator of the IPPG. Mr. Speaker, Sir, may I then again ask for your indulgence by asking the hon. Member to ask his question. I have told him that this poor woman collapsed after she had been arrested for being in possession of chang'aa. In fact, the postmortem report was tabled in this House. There is an inquest file open at Keroka Police Station. What further information does the hon. Member want me to give him?

Mr. Anyona: Mr. Speaker, Sir, in the first place, some fictitious postmortem report was read here and was purported to have been tabled, but when I went upstairs, it was not there. It is not part of the records of this House, so that is not true. Secondly, I did tell them that this poor woman's house is only 100 metres away from the Chief's Camp, and there was no question of her being in possession of chang'aa. The truth of the matter is that several people were arrested and were required to pay Kshs1,000, including this poor woman. She offered Kshs500, but the Administration Policemen refused to take that offer. They kept her overnight and threatened to take her to Keroka Police Station. She knows the terror at Keroka Police Station and so, at the mention of Keroka Police Station, the woman collapsed. In the morning, the members of the family visited the Chief's Camp and found her unconscious. The Administration Policemen asked for Kshs500 from the family members and they were given. The family members insisted that the Administration Policemen should take her to hospital, but they refused, instead they asked them to take her. At this juncture, the family members demanded to be given back the Kshs500 so that they could hire a matatu and the Administration Policemen obliged. It is the family members who took her to the hospital.

Mr. Speaker, Sir, what is this Government going to do about murderers, both Administration Policemen and regular policemen, who go around harassing Kenyans like this poor woman?

Mr. Awori: Mr. Speaker, Sir, neither was the bribe given nor a murder committed by the Administration Policemen. There were two relatives present at the time of the postmortem namely; Messrs. Hudson Momanyi and Simon Ombese. Many times, officials are accused of having demanded and received bribes. Very many times we demand that there should be substantiation, but it is not coming forward and neither is it in this case. So, hon. Anyona, I feel very sad for an old woman to have died the way she did, but let us leave allegations out of it.

Mr. Obure: Mr. Speaker, Sir, this is a very sad affair; an old woman was arrested, tortured, asked for a bribe and finally collapsed and died. I would have expected the Assistant Minister to investigate this issue thoroughly and transfer these Administration Policemen. Is the Assistant Minister aware that in Kisii District, Administration Policemen arrest people and hold kangaroo courts? What is he going to do to ensure that these kangaroo courts are not held in police stations any more?

Mr. Awori: Mr. Speaker, Sir, in the first instance, every citizen, the Administration Police officers included, are presumed innocent until they are found guilty. It is sad that the hon. Member is asking me to transfer an Administration Policeman who has not even been charged for a crime. As to the second point, we are trying to do everything we can to ensure that the officers serving this Government follow the letter of the law.

Mr. Sambu: Mr. Speaker, Sir, I have said severally in this House that this procedure of inquests in the Criminal Procedure Code is a way of allowing officers to commit almost open murder. Could the Assistant Minister assure the House that if there is evidence that this woman was tortured, the two officers should be charged directly without going through the inquest?

Mr. Awori: Mr. Speaker, Sir, I can give that assurance without any hesitation whatsoever.

Mr. Speaker: Next Question, Mr. Alphonse Musyoki.

SHORTAGE OF CLEAN WATER IN MACHAKOS TOWN

Mr. Musyoki: Mr. Speaker, Sir, I beg to ask the Minister for Land Reclamation, Regional and Water Development the following Question by Private Notice.

(a) Is the Minister aware that as a result of acute shortage of clean water in Machakos Municipality and its environs, the risk of water-borne diseases is imminent?

(b) If the answer to "a" is in the affirmative, what immediate measures is the Minister taking to ensure that this municipality is adequately supplied with clean piped water to avoid any outbreak of water-borne diseases?

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

(a) I am not aware that as a result of acute shortage of clean water in Machakos Municipality and its environs, the risk of water-borne diseases is imminent. What I am aware of is that the municipality is getting its

rightful share of 7,760m³ of water per day from both the Nol Turesh Pipeline Water Supply and Old Machakos Town Water Supply.

(b) However, since the demand for water in the municipality, of 13,250m³ of water per day is higher than the supply, my Ministry, through the National Water Conservation and Pipeline Corporation, is rationing water to ensure that the municipality and its suburbs get adequate water in the course of the day. In this regard, I do not anticipate any outbreak of water-borne diseases.

Mr. Musyoki: Mr. Speaker, Sir, the project was designed and connected to the old water system for Machakos Town to have adequate water in order to increase its industrial base. Why has the Ministry diverted water to other uses and deny Machakos Town residents adequate water supply? Many people are now suffering from bilharzia and typhoid. Animals are also dying after drinking water from Ikiwe River. How can the Assistant Minister then, say he is not aware of the existence of that problem in my constituency and yet, it has been there for a long time? Can he tell this House, what records he has to prove that people in Machakos Town are not suffering from water-borne diseases as a result of water shortage?

Mr. Ligale: Mr. Speaker, Sir, I am not a health officer to be able to know what diseases people in Machakos Town are dying of. I am only concerned with the amount of water supply that we do give to the municipality. If the Member of Parliament is interested in knowing what the Ministry is doing to alleviate the situation of the current water shortage, I am prepared to discuss that.

Mr. Ndilinge: Mr. Speaker, Sir, the Assistant Minister has said that he is not aware. May I now let him know that people are dying because of water-borne diseases. Since he is now aware that people in Machakos Town are suffering from water-borne diseases, can he solicit for funds from donors and bring clean water to the residents of Machakos Town and Ukambani in general?

Mr. Ligale: Mr. Speaker, Sir, in my original answer, I did indicate that we already have a shortage of water supply because the demand is higher than the supply at the moment. We are currently planning to rehabilitate the old railway water supply so that we can increase the supply into that area.

Mr. Nthenge: Mr. Speaker, Sir, first of all, does the Minister know that the water which has been sustaining the residents of Machakos Town was initiated a long time ago, around 1961 and the population growth was so high that the President of this country ordered that water should be obtained from Mount Kilimanjaro to relief those people? When that project was started, before it reached Machakos Town where it was meant for, it was diverted for other purposes. Is he ready to change that diversion?

Mr. Ligale: Mr. Speaker, Sir, the Nol Turesh Water Supply is assisting not only Machakos Town but also Athi River, where presumably, people from that area do live in, Kajiado Town, Mashuru, Sultan Hamud, Emali, Zima, Kima Kiu and Salama. All these are along the supply line and there are Kenyans there who need water too.

Mr. Ndicho: Mr. Speaker, Sir, I wonder whether the Assistant Minister is the right person to answer this Question. I think his Ministry plays a supervisory role. I think it is the treasurers of the local authorities like Machakos, Thika and other municipalities who are refusing to purchase chemicals for water treatment. But since the Assistant Minister is in charge of water development, can he liaise with the Minister for Local Government to ensure that water engineers in the municipalities and the treasurers are committed to providing clean water to the residents of their particular municipalities? What is required is the purchase of treatment chemicals for treating the water, which the engineers and the treasurers are reluctant to purchase because they are colluding with the people who sell the chemicals. They purchase standard chemicals and the water is not adequately treated. Can he promise to liaise with the Minister for Local Government in this matter?

Mr. Ligale: Mr. Speaker, Sir, water supply is the responsibility of various local authorities. In the case of Thika Town, which I think the Member is referring to, it would be the responsibility of Thika Municipal Council. We can liaise with the Ministry of Local Government to ensure that there is adequate funding for the chemicals and that, they buy the right quantity. In the case of Machakos Town, the water we are discussing now is the responsibility of the National Water Conservation and Pipeline Corporation which is under my Ministry. If there is any doubt as to whether they are using adequate chemicals or that they do not give enough funds for it, we shall look into that and ensure that they do it.

Mr. Musyoki: Mr. Speaker, Sir, I think this Ministry is always conducting a public relations exercise in this House whenever they are answering questions concerning my constituency. He has said that the Government is embarking on the rehabilitation of old Kenya Railway Water Pipeline to increase water supply in my constituency.

Mr. Speaker, Sir, in an answer which the Assistant Minister gave with regard to Question No.046, he said: "The Government has written a proposal to spend Kshs120 million to rehabilitate this water pipeline" and yet, nothing has happened. Even in the Mutituni Water Project, where the Ministry has connected pipes since 1994, they have not supplied water. Even if they are rationing water, those people should be given water even once! Can he tell us how

much money the Ministry has set aside for that project?

Mr. Ligale: Mr. Speaker, Sir, we do not come here to do public relations work. When we answer Questions, we do it because people are involved. When I answered a Question last time, I did indicate that a feasibility study which had been carried out indicated that we shall require that amount of money to rehabilitate the old---

Mr. Maundu: On a point of order, Mr. Speaker, Sir. The Question---

Mr. Speaker: Order, Mr. Maundu! I have not given you the Floor. Proceed, Mr. Ligale!

Mr. Ligale: Mr. Speaker, Sir, I did indicate that we needed that amount of money to rehabilitate the old Kenya Railway Water Pipeline. We are also looking for a possible donor to get the work started. We are doing exactly that.

IMPOSITION OF QUOTA SYSTEM ON KENYAN TEXTILES

Mr. Mwaura: Mr. Speaker, Sir, I beg to ask the Minister for Commerce and Industry the following Question by Private Notice:-

(a) Could the Minister inform the House what measures the Government has taken to safeguard the Kenya Textile Industry as a result of the quota restrictions placed on it by the American Government?

(b) How many people have lost their jobs as a result of this restriction?

(c) What led to the cancellation of a trip to the United States of America, which was to be led by Government officials, to lobby against the quota system placed on Kenyan Textile Industry?

The Minister for Commerce and Industry (Mr. Angatia): Mr. Speaker, Sir, I beg to reply.

(a) The Government has promoted activities in other regions and markets around the world and also it entered into consultations with the American Government in order to safeguard the textile market for Kenyan textiles. In the meantime, steps have also been taken to negotiate so that the quota can be removed.

(b) Due to this restriction, 15,000 people lost their jobs.

(c) There was no trip cancelled. The trip has been arranged so that it can be made during an appropriate time and it will go on.

Mr. Mwaura: Mr. Speaker, Sir, can the Minister confirm or deny that this quota system was imposed on the Government of Kenya in 1994? Before that time, can he tell the House how much volume of textiles used to be sent to America and why no action has been taken during the last three years, resulting in the loss of this number of jobs in the country?

Mr. Angatia: Mr. Speaker, Sir, action has already been taken. I have just said that we have to negotiate an agreement with the American Government in order that we may continue to sell---

Mr. Mwaura: On a point of order, Mr. Speaker, Sir. I am asking the Minister to confirm or deny that this quota system was imposed in 1994. He should also tell us what action the Kenya Government has taken since that time.

Mr. Angatia: Mr. Speaker, Sir, it is true that the quota system was imposed in 1994. Since 1994, we have been negotiating. First, there was an imposition for two years during which we could not negotiate. Secondly, we opened negotiations for the quota to be removed. Thirdly, the American inspectors in fabric manufacturing had to come here to confirm that the goods that we were exporting were actually made in Kenya. All this has been completed. Now, our team is in the USA to pressurise for the Market Mount Bill to go through Congress so that these quotas are removed. We have taken steps.

Mr. Wamae: Mr. Speaker, Sir, can the hon. Minister confirm or deny that part of the problem why this trip to the USA to lobby the USA Congress to lift the quota failed was because of the competition for leadership between the two ladies; the Permanent Secretary (PS), Ministry of Commerce and Industry, and the PS, Ministry of Foreign Affairs and International Co-operation? The fight between them as to who should lead the delegation is what caused the cancellation of the trip.

(Applause)

Mr. Angatia: Mr. Speaker, Sir, I am not aware that any two ladies have fought.

Mr. Munyasia: Mr. Speaker, Sir, can the Minister tell this House, if there has not been a quarrel between the two ladies, who led the Kenyan delegation to the USA?

Mr. Angatia: Mr. Speaker, Sir, the Ministry of Commerce and Industry planned to send a delegation to the

USA at an appropriate time. It is this week that the committee---

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

Mr. Speaker: Order! Once the Question is on the Floor of the House, it becomes the property of the House. Do not assume for a moment, that you have a monopoly to it.

Mr. Mwaura: Mr. Speaker, Sir, but he is misleading the House!

Mr. Speaker: Order! Hon. Mwaura, there is nothing to be excited about this. You must obey the rules. What was it that is itching you all the time?

Mr. Mwaura: Mr. Speaker, Sir, the Minister is telling the House that a delegation will be going to America. The answer I have here says that a delegation has already left for America. Is he not misleading the House?

An hon. Member: Who is leading that delegation?

Mr. Angatia: Mr. Speaker, Sir, three members of the delegation are already in the USA, two are going tonight. So, the delegation is effectively there.

Mr. Munyasia: On a point of order, Mr. Speaker, Sir. I asked this Minister a very clear question: Who is leading the Kenyan delegation to the USA? Is it the PS, Ministry of Foreign Affairs and International Co-operation or is it the PS, Ministry of Commerce and Industry?

Mr. Angatia: Mr. Speaker, Sir, I was going to answer that until Mr. Mwaura interrupted me with his point of order. The PS, Ministry of Commerce and Industry is leading the delegation.

Mr. Mwaura: Mr. Speaker, Sir, can the Minister tell the House whether there was any effort which had been initiated by the Ministry of Foreign Affairs and International Co-operation? If so, why did the Ministry of Commerce and Industry not take advantage of that effort to negotiate? Can he also confirm whether or not there was a meeting in the USA during the month of September which the Kenyan delegation failed to attend?

Mr. Angatia: Mr. Speaker, Sir, we have been making efforts since 1994 to make sure that the quota restrictions are removed. So, those negotiations have been going on. At the moment, we are at the stage of signing an agreement with the American Government. In the signing of the said agreement, it is the Government of Kenya which is involved. The Government may be represented by the Office of the President, Ministry of Foreign Affairs and International Co-operation, Ministry of Commerce and Industry, the Ministry of Agriculture, Livestock Development and Marketing and so on. We are all involved. There is no question of separating the Ministry of Foreign Affairs and International Co-operation and the Ministry of Commerce and Industry. Mr. Mwaura, remind me of your second question.

Mr. Mwaura: Mr. Speaker, Sir, I had asked---

Mr. Speaker: Order! Mr. Angatia, you have no right to give Mr. Mwaura the Floor. I control the Business of this House. Mr. Mwaura, please, calm down. Relax!

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

Mr. Speaker: Order! Mr. Mwaura, you are not relaxing. Mr. Mwaura, relax! Relax!

(Laughter)

Mr. Ndicho: Mr. Speaker, Sir, the Minister has made a very categorical statement. He said that the Americans came here to ascertain whether truly the textiles exported to the USA originated from Kenya. Now, he has told us that they will sign an agreement with the American Government. He knows very well that this will not happen because the American Government discovered that the textiles that were being exported to USA were coming from India and Pakistan, via Kenya, through some Indians here. The Americans established that fact and they will not sign that agreement. The Minister is misleading the House. Is he in order to mislead us when he knows that the USA Government will not sign that agreement?

Mr. Angatia: Mr. Speaker, Sir, there is no way that the American market could allow the Kenyan market a quota, if the goods were coming from another country.

Mr. Busolo: Mr. Speaker, Sir, this Question is very important for the industrialisation of this country. Is the Minister aware that 25 companies dealing in textiles have closed down? If he is aware, could he tell us which companies those are?

Mr. Angaria: Mr. Speaker, Sir, I am aware that 30 and not 25 companies have closed down, but I do not have the list now. If the hon. Member wants the list, I can bring it any time.

Mr. Speaker: Next Order, Mr. Leshore.

POINT OF ORDER

STATEMENT ON DISBURSEMENT OF YOUTH FUND

Mr. Leshore: Mr. Speaker, Sir, I rise on a point of order to seek a Ministerial Statement from the Minister of State, Office of the President, as to why the money for the National Youth Development Fund (NYDF) for Samburu District was remitted back to the Treasury and not disbursed, as it was intended.

Mr. Speaker: Mr. Awori, do you want to respond now or later?

The Assistant Minister, Office of the President (Mr. Awori): Mr. Speaker, Sir, I need time to find out why this is the case because I expected all the money for the NYDF to have been disbursed by now. I will give the Ministerial Statement on Thursday.

Mr. Speaker: Next Order.

BILL*Second Reading*

THE CONSTITUTION OF KENYA (AMENDMENT) BILL

(The Attorney-General on 15.10.97)

(Resumption of debate interrupted on 16.10.97)

Mr. Speaker: Mr. Angwenyi was on the Floor. Are you still interested, Mr. Angwenyi?

Mr. Angwenyi: Yes, Mr. Speaker, Sir. On Thursday, I was contributing to the Constitution of Kenya (Amendment) Bill. The intention and objective of this Bill is to create a level playing ground for the forthcoming general elections, as well as to enhance our governance in this country.

We have already passed the Second Reading stage of the Miscellaneous Amendments Bill. That Bill intends to do away with many obnoxious Acts and laws that have existed in this country for a long time.

Mr. Speaker, Sir, in respect of this Bill, the IPPG package has stated very clearly that Kenya is a multi-party State. Therefore, it means that all the registered political parties will now function effectively and sell their ideas throughout the country. The IPPG has recommended in this Bill, and it has been accepted, that we can have a coalition government, which is a government of national unity, that can draw some of the resources we have on the other side of the House.

In this Bill, we have proposed and accepted that the Constitution be amended to allow the Opposition to choose ten members of the Electoral Commission. I know that the Clause is not included in the Bill. But I would like to tell my friends on the other side of the House to accept the trust and confidence that we have built amongst ourselves, and be sure that the clause will be included. In fact, if they are doubting our President, they may go ahead and propose the names of the people that they want to be in the Electoral Commission.

Mr. Speaker, Sir, another thing in this Bill which makes governance better is the nomination of Members of Parliament. Formerly, the ruling party used to nominate all the nominated Members of Parliament. But now, different parties will nominate their Members of Parliament according to their performance in the elections. Another aspect of this Bill that improves governance and provides a level playing ground is the recognition of gender equality. Women, who constitute 60 per cent of our population have been recognised. Therefore, they will be given 50 per cent of the chances of nominated Members of Parliament. We should accept this Bill and pass it so that the IPPG can dwell on other more important aspects that affect our lives.

Mr. Speaker, Sir, we should deal with the aspect of tribalism. The people who are opposing the IPPG package want to spread tribalism in this country. They are the people who want to remove President Moi simply because he is not from their tribe. They do not want to look at the actual leadership. We also would like to stamp out corruption which is practised in this country at all levels; both at high level and also the general populace. Corruption is a cancer that is destroying our economy and culture. It must be dealt with very urgently. If we pass these Bills quickly, we will be able to go into other aspects of our national life. For example, if corruption is controlled, and we are able to compensate our workers in the Civil Service and Public Sector adequately, a handout of Kshs100 will not make any difference. We should institute stringent laws to curb high level corruption. Those who practise corruption should be put behind bars and what they received should be taken away from them.

Mr. Speaker, Sir, there are other needs like health and education, which we have not served our people adequately. I would urge hon. Members to accept this Bill so that we can move on to other issues affecting our lives, in order to improve the socio-economic status of our country.

Dr. Kituyi: On a point of information, Mr. Speaker, Sir. I wish to inform hon. Angwenyi that, while I appreciate his vigour about the importance of the IPPG, it is not exactly correct to lay claim, that nominating six women to Parliament improves gender equality; nor is it exactly true, that the politicians who have been making the most tribalistic remarks in the recent past, have been in the NCEC.

Mr. Angwenyi: Mr. Speaker, Sir, I want to say when we appoint six per cent of our nominated Members of Parliament, we will improve the gender equation in this House. Sometimes, when we get contributions from hon. Mrs. Asiyo or Mrs. Nyamato, the House is rejuvenated. The opposite sex improves the discussions in this House. They represent the better half of our nation. The people who have identified themselves with tribalism are from the NCEC. They always say that their aim is to remove President Moi, not because he has failed as a President, but simply because he does not come from their tribe. These are the kind of people who want to lead this country. That is why we are saying that we want to create laws, or an atmosphere where anybody can be a leader of this country, so long as he is competent and able. I am even surprised by some of our colleagues on the other side of the House, who are in the NCEC, who want us to assist them to remove President Moi and KANU. I think this is the highest form of ineptitude I have ever seen. I am in KANU and I will always protect my party. I think they want to protect their own parties. But they should not ask us to assist them to remove President Moi and KANU from power because he does not belong to their tribes. I am proposing that if we can create proper laws and follow them, we will change the attitudes of our people. By doing that, we will not mind who will be our leader or president.

With those few remarks, I beg to support.

Mr. Wamae: Thank you, Mr. Speaker, Sir, for giving me this opportunity, to very strongly support The Constitution of Kenya (Amendment) Bill of 1997.

Mr. Speaker, Sir, the IPPG will have contributed to this country in a major way, if the measures that they have proposed to amend the Constitution and other laws, are implemented sincerely and honestly. We hope and believe that the KANU Government is as serious as the Opposition, in ensuring that there will be order, and free and fair elections this year. It is our hope that the Government will stop harassing the Opposition Members of Parliament, and even the NCEC, if we really want the goodwill of Kenyans.

Whereas we support the IPPG, we did not say that the NCEC, which was a creation of the Opposition political parties should be harassed. We are even giving them more importance by interfering with their activities. They should be allowed to go to the late Kimathi's place to plant trees, worship there and even speak to whoever is there. They were doing no harm to anyone. They should not have been interfered with. They should have been allowed to go to Kamukunji, so long as it was not near the venue of the State function, and be allowed to talk themselves hoarse. But when we interfere with them, they will look very important and get heavy publicity. They got more publicity on *Kumi Kumi incident* than President Moi, by being dragged and beaten. That is the only thing that they wanted. So, they succeeded in getting the publicity they wanted. But if we did not send the police and the so-called *Jeshi la Mzee* to harass them with whips, the world would not be interested in seeing them on the Cable News Network (CNN) and other international media televisions. So, the Government is its own worst enemy. They should not rush to harass people, because that is what the world community is monitoring and the fact that we have so many journalists in this country. We have television crews manned by white men who are very keen to see where there is trouble. They never went to Uhuru Park to photograph the President when he was addressing people during the Moi Day Celebrations. Instead, they went to Kamukunji because that is where the action was; to show Africans being whipped by fellow Africans, and a sick man like hon. Ruhii being dragged by "irresponsible policemen" and *Jeshi la Mzee*. That is not the Kenya we want. That is not why we decided to support the IPPG.

Mr. Speaker, Sir, we supported the IPPG as a way of avoiding escalation towards anarchy and also looking for a peaceful solution to our problems in Kenya, through dialogue and compromise. We did not do it for any other reason. Therefore, we want to tell the KANU Government that they cannot have it both ways. They cannot have dialogue or compromise and on the other hand, start harassing Opposition people, whether they belong to the NCEC or any other group. They cannot have their cake and eat it. I am one of the strong supporters of the IPPG, but I would regret if KANU is not sincere in their action. We have taken them in good faith; we have taken KANU as a party which can stand by its principles. That is why the IPPG Co-ordinating Committee went to see President Moi twice, and he assured us that he fully supports the action we are taking. We want to see it in action. We want to see these IPPG recommendations on the three Bills passed, assented to by the President and implemented.

(Applause)

Mr. Speaker, Sir, anything short of that would be a betrayal and cannot be acceptable. We would only be asking for chaos in this country. Therefore, we want to send a very strong warning and signal to everybody that this is not a joking matter. We removed the people from the streets as IPPG to the negotiating table, and we told the NCEC:

"We are not with you, if you want to walk to the streets." It is unfortunate for you now to be seen to be acting against the IPPG recommendations--- Why harass people going to Nyandarua to see where Dedan Kimathi was shot? Why not let them--- (inaudible). That is history. They would not have been reported today in the newspapers if they were not harassed by the policemen. Why give them so much importance? Why is KANU building the NCEC? By their action, KANU is building the NCEC. Therefore, we want to send those people who can be heard at the highest authority by the KANU Government that these measures must stop forthwith.

Dr. Lwali-Oyondi: On a point of information, Mr. Speaker, Sir. I wish to inform hon. Wamae that despite the promise by the Vice-President and Minister for Planning and National Development that he was going to instruct his provincial administration not to interfere with politicians in accordance to the new spirit emanating from the IPPG, the Provincial Commissioner (PC) of Rift Valley, Mr. Yusuf Haji, an old man, and I do not know why he has not reached 55 years of age--- I think his age is in dynamic equilibrium, it will never be 55. He is very old, but he is still "under" 55 years old. Mr. Yusuf Haji stood up yesterday and said he will not allow politicians to address wananchi on national days. I do not think that, that is in the spirit of the IPPG and if KANU is joking about, I would like to inform them that we only deflated the NCEC, and we can easily re-pump it.

Mr. Wamae: Mr. Speaker, Sir, I agree with hon. Dr. Lwali-Oyondi, as to whether it is the right time for a PC to stand up and say he will never allow Opposition Members of Parliament to speak, when we are having compromise in the country.

Mr. Ndicho: On a point of order, Mr. Speaker, Sir. Is Dr. Lwali-Oyondi in order to---

*(Mr. Mwamzandi consulted loudly
with Bishop Tanui)*

Mr. Speaker: Order, Mr. Mwamzandi!

Mr. Ndicho: Mr. Speaker, Sir, is hon. Dr. Lwali-Oyondi in order to imply that they deflated the NCEC and they can re-pump it? Is he trying to imply that the NCEC is a football which they deflated and because now they are frustrated at the IPPG, they want to come back and inflate it again? The NCEC is not a football.

Mr. Speaker: Mr. Ndicho, that is not a point of order. Proceed Mr. Wamae!

Mr. Wamae: Mr. Speaker, Sir, that is not a point of order, and in any case, we have not regretted that we started the IPPG. We have no regrets at all. If I had to do it again, I would do it for the sake of this country.

(Applause)

All we are saying is that even before this Bill is passed, let us try to show the co-existence, the goodwill and let us show the country there is a change of heart. Let us show the country that it is a country of compromise. Let us try to move towards that direction. I am aware that there are die-hards in every society. There are even die-hard Ministers in the KANU Government, who regret that the IPPG was ever formed and they are bitter behind the scenes.

The Assistant Minister, Office of the Vice-President and Ministry of Planning and National Development (Dr. Misoi): On a point of order, Mr. Speaker, Sir. Hon. Wamae has made a very serious allegation that there are Ministers on this side who are frustrated and very bitter that the IPPG was ever founded. Is it in order for him to insinuate without any substantiation?

Mr. Speaker: Dr. Misoi, I do not know whether you are really serious. Has he said you are a die-hard? Or has he mentioned any names? Please have some patience. That is the whole idea, let people talk.

Mr. Wamae: Mr. Speaker, Sir, he is one of the die-hards in every respect. That is why he formed MODAN, but we do not know what MODAN means. Therefore, he is one of them. We want to move towards a country of compromise, which can solve its problems by discussion, where we can tolerate each other, where instead of using force, we can sit down and talk. In this way, we can move forward.

Mr. Speaker, Sir, as a nation, we have been lucky in that we have not had a major conflict as in some countries. We have had a bit of our share in Molo, and recently, in Likoni in Mombasa. I was in Mombasa from Thursday to yesterday. I would like to inform you that tourists have disappeared. Our hotels are empty, and there is only 30 per cent bed occupancy while during this season, we should be having about 70-80 per cent bed occupancy. Kenya is losing not less than Kshs700 million a month from tourists who are supposed to be here and have cancelled their visits because of insecurity in the coastal area. When we are begging for financial aid from the International Monetary Fund (IMF) and other donors, and asking investors to come to Kenya, who is going to pay for this loss to the country? Very many people have been dismissed from their employment, laid off or have been sent on unpaid leave. In my own estimation, more than 50,000 Kenyans in hotels have been affected. Who is going to be responsible for

their welfare? Their children may not go to school as they have no income. I met some of those workers and they are very bitter. They are not bitter against the employers; they say there is nothing the employers can do. But they are very bitter against this KANU Government. They feel the Government did not do much to stop the Likoni clashes. More should have been done to stop those clashes immediately. The clashes should not have lasted for a whole period of eight weeks before they were stopped. In 1982, the attempted coup was stopped within a few hours. Why did it take so long to stop the clashes in Likoni? It can only be because maybe, some people in Government were involved or they knew about it. People were talking freely there of certain KANU people. That man, known as Masumboko, who killed very many people together with Amin in Uganda was recruited by KANU as an activist in charge of Mombasa operations. Surely, somebody must have known that he is a killer.

Mr. Speaker, Sir, then we had Mr. Maitha who, as everybody knows, went to an Opposition rally with a gun one time, and nothing was done to him. People took oaths for three months since April, and yet we have the Special Branch, chiefs and assistant chiefs who never knew that they were doing so. I cannot believe that we have a Government which could not discover this in advance. If the Government was in control, then they knew oath-taking was taking place and did nothing to stop it. It is criminal if that is the case, because we are destroying the economy of this country. Three to five per cent of Kenya's Gross Domestic Product (GDP), has been destroyed by the Likoni chaos, because of the collapse of tourism. That is a very big loss to the nation. I do not know how we will recover this loss and goodwill. Instead of letting that pass by, *jeshi la mzee* and other organized groups start whipping people. This is not helping anyone in this country.

Mr. Speaker, Sir, in the first amendment to the Bill, it is stated that: "Kenya shall be a multi-party democratic State". This is a very important aspect. It is the opposite of saying that Kenya shall remain a unitary State. This means that we intend Kenya to remain a multi-party democratic State; to allow democracy to play its role and free elections every five years, where the best contestants win. We are glad that the Government has already licensed 11 additional political parties. More should be registered because these 11 new political parties have done no harm since they were registered. Therefore, the Government should also register SAFINA. I do not know why they are afraid of SAFINA. Really, SAFINA is being given more prominence by not being registered. Nobody is talking any more about the 11 political parties that were registered, but the unregistered SAFINA is the talk of everybody. It appears that they have a case, which they do not have. This makes them appear very popular, yet they are not.

Mr. Nyagah: On a point of order, Mr. Speaker, Sir. I am concerned about the absence of the Attorney-General or any officer from his Chambers, to take down notes on contributions by hon. Members. I am asking this in relation to the importance of this Bill. What is the ruling of the Chair about this?

Mr. Speaker: In all honesty, since we began debating this Bill, the Attorney-General's office has always been represented by his officers and himself. I think today is the first time I have not seen them here. Since I do not know what would have held them back, it will be premature for me to condemn them. I think the best thing is to wait and get an explanation. For all this time, I think the Attorney-General and his officers have been very concerned. There must be some reason why they have not yet come.

The Minister for Labour and Manpower Development (Mr. Masinde): On a point of information, Mr. Speaker, Sir. I would like to inform the hon. Member that the Attorney-General is just next door consulting. On the other hand, there is a Minister taking notes for him, since it is a collective responsibility.

Mr. Muite: Hon. Murungi is also taking notes! He supports this Bill!

Mr. Murungi: On a point of order, Mr. Speaker, Sir. Is it in order for hon. Muite to suggest that I am taking notes on behalf of the Attorney-General, when I am not a Member of the Government? I think it is extremely in bad faith and he should be asked to apologise to me.

Mr. Speaker: Mr. Murungi, is it defamatory for you to be part of a Government?

Mr. Murungi: Mr. Speaker, Sir, as you know---

An hon. Member: The Attorney-General is here!

(The Attorney-General walked into the Chamber)

Hon. Members: Well done!

Mr. Murungi: Mr. Speaker, Sir, let me not proceed!

Mr. Speaker: Very well! That settles the matter! Proceed, Mr. Wamae!

Mr. Wamae: Mr. Speaker, Sir, this alludes to the fact that the Attorney-General seriously supports this Bill. When you said that you were concerned, he must have over-heard you and quickly came in. I support the fact that the Attorney-General has been very supportive of the IPPG move. I remember working with him in his board-room, working very seriously on this Bill with his coat off. I know he is sincere together with the Solicitor-General and his

whole team. We just hope that in future, there will always be somebody here from his office, when he is not present to take note of our comments. There is nobody from the Attorney-General's office and we are disappointed as you are, that his office for the first time is failing in its major responsibility of listening to the views of Members of Parliament. I will not mind him giving me some information on this, though he has not asked for the opportunity.

Mr. Speaker: Mr. Wamae is only seeking for information from you. Are you conceding to his solicitation?

The Attorney-General (Mr. Wako): Mr. Speaker, Sir, I am sorry I came in when the debate was going on. The fact of the matter is, I came in good time, but the co-Chairmen of the IPPG were consulting with me outside there. I can assure this House that even if none of my officers is here - I notice that there is none - I always make it a duty to ensure that I get the entire HANSARD report of what has been said in this House. This is a matter of course, which I normally do even if I was here taking notes. The Clerks can bear me out on that fact. Therefore, whatever has been said this afternoon, when I and my officers were not here, you can rest assured that I will catch up with it by tomorrow morning.

Mr. Speaker, Sir, we take the work of the IPPG and what is said in this House very seriously.

Mr. Wamae: Thank you, Mr. Wako. We are very grateful and hope that you will continue working faithfully towards the implementation of this Bill. The implementations should start now so as to show the goodwill of the Government even before these Bills are passed and assented to.

Mr. Speaker, Sir, as I was saying, when the IPPG recommends that all political parties should be registered, and since there are no factual reasons why they should not be registered, then they should be registered. If there are good reasons why they should not be registered, then they should be communicated to the party concerned, so that they can appeal to the Attorney-General or go to court. Some of the reasons given for non-registration of SAFINA party were not very convincing. To say that the name "SAFINA" should not be used is not being sincere because we even have a hotel called "The Ark" whose translation in Kiswahili is SAFINA, in operation. This hotel was licensed to operate and Christians did not complain about it.

Mr. Ndicho: There is also a matatu called "SAFINA".

Mr. Wamae: Mr. Speaker, Sir, there is also a matatu called SAFINA plying the Thika-Nairobi Road. Let us have convincing reasons. If we do not have good reasons, let SAFINA be registered. We are making the members appear more important by not registering their party. However, I am not in favour of religious parties. In fact, they have created a lot of havoc in other countries. We do not want parties which have religious connotations to be registered, whether they are Christian, Muslim or traditional. I think they can create havoc. I am not in favour of them.

Mr. Speaker, Sir, let us be faithful and sincere about these new amendments and inclusions, such as: "Kenya shall be a multi-party democratic State". Let us have many parties which people can be proud of. For this reason, I personally do not support the idea of having independent candidates, because it means that when a candidate goes for nomination in a particular political party and is defeated, he or she will go independent. This will really not help us create strong political parties. If someone is defeated, he or she should support the winner if they are sincere to their own party. For example, in the Democratic Party, we are still happy yet, we had three presidential candidates for nomination who even debated publicly. Although one of them disappeared before the date, we do not know why he disappeared. But he simply did not present himself.

Mr. Ndicho: On a point of information, Mr. Speaker, Sir. I wish to inform hon. Matu Wamae that there is essence of having independent candidates because some of the parties would leave some popular candidates out, and ensure that they do not run for elections. The hon. Nyachae is here to bear me witness. I know he will support this because he is very popular in Kisii and even in Kenya. If these things did not come, there could have been something to make sure that hon. Nyachae is not running for elections on a KANU ticket. Now, if KANU rejects him out, he can either---

The Minister for Land Reclamation, Regional and Water Development (Mr. Nyachae): On a point of order, Mr. Speaker, Sir. I would like to say that the hon. Member for Juja is not a Member of my party, and is not also my representative. If any rigging is done on my side, I have the ability to speak about it on my own. Therefore, hon. Ndicho does not have correct information to enable him represent my case.

Mr. Speaker: Order! Order! Hon. Ndicho, you stood on a point of information to enlighten Mr. Matu Wamae, but you did not inform him of anything. You diverted without any reasonable course to Mr Nyachae. Huo ni uchokozi mtupu!

(Laughter)

Mr. Ndicho: No!

Mr. Speaker: Order! Order, Mr. Ndicho! Usichokoze Kiti.

Mr. Wamae: Mr. Speaker, Sir, I regret having given him the right to give me information, because by giving him that chance he provoked my good friend hon. Nyachae, who was seriously listening to me. He provoked him for nothing---

Mr. Ndicho: But I have something to inform you about!

Mr. Wamae: Do not inform me about him; I know him very well, he is my good friend for many years and, I do not need to be informed about him.

An. hon. Member: He is your brother in-law!

Mr. Wamae: Oh, sure, yes!

He is my brother in-law; he is married to a lady from my place. We respect him very much as we respect more in-laws. *Ni muthoniwa*. I wish him well. We should be loyal and sincere to the political institutions that we are creating. That is why we are saying that any political party that has not been registered should be registered, so nobody can have an excuse to say "I want to run as an independent candidate because my political party has not been registered". If we were to register all the political parties that people want, then there should be no need to have independent candidates.

I can imagine what would happen in this Parliament here, if we had 20 independent Members who do not belong to any party. They would create havoc in this Parliament. Since we have a Parliament with several parties and the Leader of the Opposition, which side would they sit? When we are giving Members of different parties the opportunity to speak, where would they belong to? Always when you have an opposition, you give the leaders of different parties the chance to speak first. Independent Members would create quite a bit of problems in the management of this House. I do not think in the long run, when we are creating institutions, independent Members will help us. They will be selfish because they will not support other political parties. They will lack discipline and they will not be nominated by any political party. However, if they are popular, disciplined and they have the people with them, they will be nominated in the nomination process. But to allow people to run for elections as independent candidates, then we are not serious in what we are saying here that Kenya will be a multi-party democratic state. We want to create a democratic state. We want to create viable institutions. The main problem of this country for the last 15 years is due to the fact that we have been destroying our institutions.

For example, we have destroyed the integrity of the Civil Service and that is why there is so much corruption. We have even interfered with the Judiciary, the office of the Controller and Auditor-General. When he presents his report here, nobody takes interest in it because we have no respect for our institutions. Let us respect our institutions because that is part of development of our country. Civilisation means institutionalisation of people's efforts so that we all work towards one direction. We want institutions which we can respect. Some of those institutions are going to be our political parties. That is why I also think the Attorney-General should very soon, bring the Political Parties Bill here so that it can be properly amended to control our political parties and let them know what they can do and what they cannot do.

Part of KANU's problem is that they preach respect for the Constitution, but they never hold elections. I am told that for the last eight years they have not held elections. I hear that somebody became unpopular because he said that elections must be held. Somebody who was popular was not wanted by a certain clique of people within KANU.

An hon. Member: That is what I was saying.

Mr. Wamae: Do not mention people's names.

An hon. Member: Somebody somewhere---

Mr. Wamae: Mr. Speaker, Sir, this is why we want institutions respected and the Attorney-General should be thorough in this.

The Minister for Labour and Manpower Development (Mr. Masinde): On a point of order, Mr. Speaker, Sir. The hon. Member is misleading the House by claiming that KANU has never had elections. We have many KANU Members who have been elected to this House.

Mr. Wamae: Mr. Speaker, Sir, has KANU had elections for the last eight years? You are supposed to have elections every five years. Why have you not had elections for eight years, since 1988?

The Minister for Labour and Manpower Development (Mr. Masinde): Mr. Speaker, Sir, may I remind the hon. Member that KANU had elections in 1995.

Hon. Members: Where was that?

Mr. Muluya: On a point of order, Mr. Speaker, Sir. Why is hon. Masinde deliberately misleading this House? Where were KANU elections held? The only elections which the whole world know about are those which took place in 1988 when the longest queue was declared the shortest and the shortest was declared the longest.

An hon. Member: The shortest queue defeated the longest!

(Laughter)

Hon. Members: Mlolongo!

Mr. Speaker: Order! I do not see in any Section of the Bill before this House, anything to do with KANU or its elections. So, can we stop this diversion. Hon. Masinde, I think you asked for the fire and you got it.

(Laughter)

Mr. Wamae: Thank you, Mr. Speaker, Sir, for being fair and amusing. You have made the House lively today.

The Minister for Labour and Manpower Development (Mr. Masinde): Mr. Speaker, Sir, I am sure I was elected to this House on a KANU ticket on 28th March, 1995 at Busia. So, ---

Mr. Speaker: Order! Order! Can we leave that matter and come to the Bill before the House?

Mr. Wamae: Mr. Speaker, Sir, KANU grassroots elections were held in 1988, and not in 1995.

An hon. Member: And we need reforms in KANU!

Mr. Wamae: Mr. Speaker, Sir, we wish the hon. Attorney-General would make sure that all political parties, including KANU, hold elections when it is due because it is part of their responsibility. That is why I am saying that we should have the Political Parties Bill to ensure that things are done. This will not only help KANU, but all political parties.

Furthermore, if NCEC is registered as a political party and participates in elections like anybody else and brings representatives to this House, I will support that. If they so wish, let them form a political party and participate in the elections and come into this House. But it is not possible for them to come into this House right now and make speeches.

(Applause)

How can we allow them to come into this House when they are not elected Members of Parliament? How do we allow them to gatecrash into this House to make speeches?

An hon. Members: Those are strangers!

Mr. Wamae: Some of them are prominent lawyers and I do not know why they do not realise that it is not possible for them to come into this House and make speeches. I think they have stretched themselves to the limit. They are Kenyans and if they want to come into this House, they are free to form political parties or join the existing ones and vie for parliamentary seats. If they win, they will be welcome into this House, and I am sure, Mr. Speaker, Sir, you will swear them in like anybody else.

(Applause)

So, let us not have such loose talk that they can come to address us when we are discussing this matter. We have been elected by the people! I was elected by 47,000 voters from my constituency, Mathira. I came here with their mandate. I can speak strongly as I am doing now because they stand behind me. Whom will these people speak for when they come to this House?

Mr. Speaker, Sir, it is for the same reason that we recommended in the new amendments to the Constitution that nominated Members of Parliament should be people with special interests because we do not want people who are losers in elections. We want people who can either represent women, as already agreed upon where they will form half the number of them; the disabled or other special interests groups who would normally not have an opportunity to win in an election and come to the House. But, if somebody has had the opportunity to participate in an election but failed to win it, why should he be "sneaked" back to this House through another way? I do not think that is fair, and I am glad that the IPPG has strongly made it clear in their proposals on modalities for nominating Members to Parliament. I think that is one of the most important and novel aspect which has come out of the work of IPPG.

Mr. Speaker, Sir, the Kenya Electoral Commission should be as neutral as possible. For one reason or another, which I do not know, the chairman, Justice Zachaeus Chesoni, is becoming so unpopular. He is so unpopular that, whenever his name is mentioned, people do not want to hear it. But we should not deal with personalities.

For this reason, we said during the IPPG deliberations that we add another ten electoral commissioners to the existing eleven to create an equal representation of all interested parties and bring justice to all. We also changed the code of operations of the Commission where they have to form a quorum before they make decisions. We knew the chairman cannot, in this way, dictate what the electoral commission is going to do. There is no way one person out of twenty others can dictate what is going to happen.

Mr. Speaker, Sir, when proposing names of the ten new commissioners, men and women of integrity and principles should be given priority. So, I do not understand why fear should persist among people with the continued presence of Justice Chesoni at the helm of the Kenya Electoral Commission, and feel that it cannot be free and independent, even after proposing to add another ten able-bodied and qualified people to the current number in the Commission. I think with soberness and restraint during the elections, together with proper election and counting agents and, by making sure KANU is not allowed to rig anybody by inserting new boxes not originally voted in, we would be able to have free and fair elections.

I hope the electoral commission members know that they are starting with a lot of doubts cast over them as the country heads towards the general election. There are doubts and uncertainty about their operations including the registration of voters; where some cards have been spotted in a different area and some people have registered more than twice. I hope they will streamline all these matters to ensure that Kenya has a free and fair elections to avert chaos and self-destruction.

Mr. Speaker, Sir, there has been the question as to whether coalition Government of national unity can be formed under this amended Constitution. When we removed the section that provided that the President can only appoint Ministers from his own party, and made it open for him to appoint Ministers from Members of the National Assembly, not necessarily from his own party, we allowed formation of a coalition Government. Because I do not really believe that taking one person from a political party and making him a Minister creates a coalition Government. In any case, we should provide in the Bill that if you are appointed a Minister by the President of another party, and you accept that appointment, then you have *ipso facto* defected from your party and we should go for a by-election straightaway to fill your seat. You should not be allowed to remain in this House, if you have joined another party and subscribed to its principles and policies. If you are not elected in the by-election, that will be too bad for you.

In the amendments to the Presidential and National Assembly Elections Act, Section 17, we have said that any of those appointments must be done on agreement between parties. I think we have really solved that problem. I do not know why the NCEC and others have argued for so long, saying that a coalition Government, or a Government of national unity, is not allowed, or that we have not dealt with that issue. That issue has been dealt with thoroughly. Dialogue is a question of give and take. There are certain issues which we wanted dealt with, for instance, the one where the President should have 50 per cent of the vote in an election. We debated it for two days, but we were not able to agree on it. We agreed not to break up the whole dialogue because we could not get 100 per cent of what we wanted. Negotiation is about being able to give and take. We even said that we wanted the Presidential candidate to get 25 per cent of the vote in six provinces so as to make it even more difficult for any Presidential candidate to come to this House. But somebody told us that getting 25 per cent of the votes in five provinces is difficult enough, and that adding another province is making it impossible for any candidate to win. Really, you cannot legislate for impossibilities. As far as I know, no person can get 50 per cent of the total votes and 25 per cent of it in five provinces in any election in Kenya. Therefore, why legislate for an impossibility?

It is like when somebody can only jump five feet high, but you put the cross bar at the eight-foot mark, knowing that he cannot jump over the five-foot mark. That is not fair. It is also like setting an examination for school children on something they cannot tackle. You will be joking to put in the Constitution something which is an impossibility. We could, therefore, not legislate for 50 per cent and 25 per cent of the votes in five provinces. We thought the best way was to leave it as it is.

As there is a Presidential candidate from almost every major tribe in this country - this is unfortunate, but is true - even getting 25 per cent of the votes in five provinces by one of them will be an impossibility. People will vote for their sons and daughters. We hope there will be no rigging because winning the election will be difficult enough, even without adding any other requirement.

Despite our efforts, we said it is give and take. Some of our friends from KANU wanted us to remove it completely. We said no, let us have simple majority. We said no, this is more dangerous. Let us leave it, at least, 25 per cent of the votes in five provinces, which I think is a hard hurdle to be jumped. But it also means that everybody who wants to be President, would have to do campaigns in the whole country. He would have to try to have a broad spectrum and broad popularity in as many parts of the country as possible.

One area where we need an explanation from the Attorney-General is: In a run off, does the question of the 25 per cent of the votes in five provinces still apply? Actually, there is confusion, and it is still not very clear. Is it a simple majority or will the rule of 25 per cent in five provinces still apply in a run off, if we have two people now on the second chance fighting for election? The Constitution is not very clear, it is silent, but this silence does not mean that the Constitution permits it. That is an area I would like to be informed, if anybody has any better idea than what I have already mentioned.

We have amended the Constitution on the question of sex, and the rights of people of different sexes. It is part of our interests, as Kenyans, to make sure that we do not discriminate against women or anybody on the basis of sex. I

think this has now been provided for. The Constitution is now gender sensitive and I think we need to explain this to every Kenyan, because many Kenyans still do not realise that all Kenyans are equal, both men and women. There are men in this country who still believe that they can beat women at will, and can punish them as they wish; they think it is their right to do so. I hope the Attorney-General will publicise that issue, and explain that that type of action is a felony; it is a criminal offence in Kenya. Nobody has a right to punish another person, except through the process of law. But some of our men still do not believe this. I think they believe that they have a right to discipline women. When they are disciplining their children, they also think they have a right to discipline women.

I think we need to be educated on those issues so that we know that all Kenyans, regardless of their sex, have equal rights and opportunities, and they need to be respected. We need mass education by politicians when addressing public rallies, to inform the menfolk and also to encourage our women to demand their rights which are due to them constitutionally. This is because the way women are treated in certain communities is not really in keeping with the dignity we would like them to have, or with the intention of our Constitution.

Mr. Speaker, Sir, we know that there are many other areas of our Constitution which need to be looked into. We recognise the fact that we needed only two weeks to sit in the IPPG. We are not going to amend the whole Constitution. We are also aware of the Constitution of Kenya Review Commission, which will be appointed when this House passes that Bill. That Commission will have a clear period in which to delve deeply into what Kenyans of all walks of life want, like the land rights and all other matters relating to our constitutional provisions.

Mr. Speaker, Sir, Kenyans will have two good years, in which to bring other amendments to the Constitution. The amendments due to be effected into our Constitution are only a few, which we felt were urgent in order to create a conducive environment for fair and free elections. However, these amendments are not comprehensive, and Kenyans should prepare themselves to review the entire Constitution. Therefore, those people who say that there is a community or a group whose views have not been heard and incorporated into these amendments should know they will have a second chance to give views on the areas of the Constitution they feel should be amended. They have not been completely denied the chance to give their views. They now have time to prepare themselves within the Constitution of Kenya Review Commission to give their views on how they want this country to be governed.

Finally, Mr. Speaker, Sir, let us build a Kenya we can all be proud of. Now that we are heading for the General Elections, I agree to the fact that we should not postpone them for any reason whatsoever.

(Applause)

Ladies and gentlemen, if you vote here to extend your mandate, the people who want your seat out there will fight hard to ensure that you do not give yourself extra time in this place. Therefore, you will be disadvantaged because there are people out there who are fighting you. Since we respect the views of our electorate who gave us only five years to be in this House, let us be fair and tell them when we go away that we refused to extend the term of office despite the urgings of the NCEC and some of their friends. That will show that we respect the electorate who gave us five years to be in this House. With that understanding and good will, I think we can create a Kenya which we will be proud of; a Kenya where people tolerate each other. By doing so, we will prevent tribal clashes, like the ones which occurred in Likoni recently and those that hit Molo in 1992.

Mr. Speaker, Sir, let Kenyans know that this is their country and every Kenyan is at liberty to live and work anywhere, as long as he or she obeys the laws of this nation. Kenyans should be proud of their country. Let us create a Kenya which is tolerant to enable those people who went into exile, like Prof. Mazrui and others, to return. They should know that this is their country where they can live in peace, like they are living elsewhere in the world.

With those few words, I support this Bill.

The Minister of State, Office of the President (Mr. Biwott): Thank you, Mr. Speaker, Sir. I want to speak for only five minutes. I rise to strongly support this Bill, because we need it so that Kenyans who were in doubt and those outside Kenya who thought that Kenyans cannot solve their own problems will see that we are mindful of their own future and welfare.

Mr. Speaker, Sir, Kenya is a country where people are alert and they like peace. They will always support any peaceful means of resolving conflicts and any peaceful activities that sustain the cordial and stable atmosphere that exist in this country.

Mr. Speaker, Sir, I do agree with the previous speaker that we, as leaders, should be the last ones to ask for the postponement of the elections, because this is a right of every Kenyan. Moreover, at this point in time, Kenya enjoys a lot of peace.

Mr. Speaker, Sir, therefore, we have no designation whatsoever to deny mwananchi his right to choose his representative freely as he ought to do immediately the life of this Parliament elapses. I think we have overplayed the NCEC factor. Who are the members of NCEC? The NCEC is a committee. It is not even the convention that met in

Limuru. It is a committee of that convention. So, why should a committee worry anybody when the body of that committee participated fully in the IPPG and came out with wonderful recommendations that are contained in this Bill?

If however, there is anything that was left out which is brilliant and can help Kenyans and those who did not participate in it have it, I think it is their duty to bring it forward, if they really have the interests of this country at heart. This is because Kenyans want the best and, therefore, anybody who has the best should not withhold it and expect that Kenyans will wait for it.

Mr. Speaker, Sir, I believe that all those who participated in the IPPG talks were people of goodwill. They were the genuine people who really wanted the genuine reforms that were necessary, as minimum for those who thought that the level playing ground was not level. Even though they scored 100 per cent in their own areas, I believe that there is no doubt that all those who talked about three packages got anything else other than the three packages. They scored very beautiful goals in those packages. Therefore, they cannot tell anybody that there is nothing that was not level. If there was anything that was not level, I think, it was not level for those who were kicked out like the hon. Members who were popular, but because they could not fit into the uniforms, they could not score. But despite all that, the KANU Government on this side and the KANU party agreed to most of the amendments. If anything, I think nearly everything that the players of this game asked for they got. Despite the fact that they were scoring every goal, they were still given everything that they asked for to enable them to score more goals. This is because I think it is their right, and as elected Members, they had every right to say what is required for Kenyans to elect their representatives freely. I think that point should have been accepted by those who stayed out like the Members of that committee.

Mr. Speaker, Sir, even then the Members of these committees have had their opportunities to air their views here. Prof Mzee is one of those who have spoken and I believe others have already spoken. What did they ask for? They were complaining about the nature of multi-partyism and we agreed that we amend the Constitution so that it states clearly that Kenya is a multi-party country. We feel that Kenya will always remain a multi-party state and, I believe, that that is okay. We also increased the number of the members of the Electoral Commission so that they can bring in those that they think will sit there as watchdogs to ensure that the Electoral Commission which is fair and independent at the moment will be strengthened even more to become independent in order to convince them that their electoral duties will not impair the free and fair performance of the elections.

Mr. Speaker, Sir, what have we also talked about? We have talked about the freedom of the President to choose from among Members of Parliament. In this issue, we went back to the earlier Constitution whereby a President appointed Members of the Cabinet from the Members of Parliament. That restriction had been brought in the course of time maybe, unwisely but that has been rectified. It shows the goodwill on the part of the KANU Government which is always free and willing to respond to the wishes of wananchi. It is a very responsible party that is close to the hearts of wananchi.

Mr. Speaker, Sir, there was the question of the Nominated Members of Parliament. Again, that part has been amended so that every party can have a share in it. That is every Member of Parliament will also have a share in it. The gender issue has also been taken into account. As the previous speaker mentioned, the rights of women should be taken into account in this Constitution. This is because in the earlier Constitution, we had talked of all the other rights and we had assumed that a woman was part of a man and we used to talk about the rights of religion, creed, colour and so on and we forgot sex. So, that was an additional factor. We enhanced the administration of justice so that appeal cases can now be referred to the Court of Appeal. We also advanced the human rights factor so that aggrieved people can also go to the Court of Appeal. We also gave them the opportunity to apply for constitutional reference.

Mr. Speaker, Sir, with all these factors, I do not see any reason why anybody should doubt the sincerity of the Government and I would like again to repeat here, as a Member of the KANU Government, that the Government will implement to the letter the---

Dr. Lwali-Oyondi: On a point of order, Mr. Speaker, Sir. Is hon. Biwott in order to keep on singing this song of "the Government will implement to the letter", when we had agreed that there will be a spirit of togetherness on the implementation of these provisions but at the present moment, the Provincial Administration and the Police are adamant in fulfilling what we are talking about here.

The Minister of State, Office of the President (Mr. Biwott): Mr. Speaker, Sir, I do agree entirely with the Member of Parliament for Nakuru Town that some of the provisions that are being debated now in the Bill have not come into force. Therefore, their enforcement has not actually matured enough and I think it is incumbent upon this House to pass these Bills, as quickly as possible, so that they become law and then we really hold those people responsible to the letter. That is the letter of the provisions but the spirit of the---

Mr. Muite: On a point of order, Mr. Speaker, Sir. Is it in order for the hon. Member for Kerio South to mislead this House that the reasons why the Police and the Provincial Administration are beating up the Opposition members and members of the NCEC is because the Bills have not matured, presumably because they have not yet become law and yet hon. Nicholas Biwott knows or ought to know that when the Vice-President and Minister for

Planning and National Development stood here and gave his undertaking to this House that the Opposition is not going to be disrupted again, he knew that what we had in mind was the spirit of these Bills that we are debating and he knew that they had not become law and he gave an undertaking to this House that the Opposition is not going to be disrupted or beaten up again and yet that continues to happen? Is hon. Biwott in order to mislead this House?

The Minister of State, Office of the President (Mr. Biwott): Mr. Speaker, Sir, I have not in any way misled the House. If he had marked my words, all I said was that I do agree with the hon. Member that the administration of the provisions of this Bill, which I said will be implemented to the letter, I did agree with him that some of the things may be happening. To that extent, I did not therefore, contradict what the Vice-President and Minister for Planning and National Development had said because I, too, believe in the spirit more than the letter. This is because it is the spirit, it is the way things are done, it is the normal operations, the normal routine things that actually matter. It is what is evident in the field. But I also added that the provisions that are created ought to be put into legal form as soon as possible so that they can be administered and complaints can, therefore, be heard according to the provisions of the law. I think the sooner we pass them, the better.

Mr. Speaker, Sir, I would also like to make a plea. I think all of us ought to assist in the process of ensuring that there is civil behaviour in the country, because "it takes two to tango." In that case, if you avoid confrontation, you assist in that process. You may be right, but sometimes it is better, to show humility, to enable a situation---

Dr. Lwali-Oyondi: On a point of order, Mr. Speaker, Sir. Is it in order for hon. Biwott, again, to state here that "we may be right but we have just to avoid"? Are we dealing with a Government of thugs or are we dealing with a civilised Government which follows laws and regulations? Does the Member imply that we have just to avoid the thugs so that we do not have a tango?

Mr. Speaker: Order! Order hon. Biwott! Patience pays. I think you may have legitimate questions relating to what hon. Biwott has said. But this is not Question Time, Dr. Lwali-Oyondi. It is debating time! Unless there is a breach of order, please, let the debate flow, take your notes and reply when the time comes. Proceed hon. Biwott!

The Minister of State, Office of the President (Mr. Biwott): Mr. Speaker, Sir, in fact I can reply that one right away. I have not said that this Government is irresponsible. This is a very responsible and civilised Government. All I said is that all of us, as Kenyans, the members of the public, the Members of this House, the members of any organised group, ought to take Kenyans' integrity first. This is all I am saying. I said that in any society, "it takes two to tango," in any event, and it is only in a situation where one is trying to provoke and nobody else is given the chance to retaliate, then that person actually ceases to do anything because he is frustrated. But if you get somebody responding, the two of them can argue and then eventually a situation is created. So, I am saying that if somebody is misbehaving, the other person ought to be civilised to avoid any confrontation because the Kenyan name is more important. I think we should build a Kenya that appears to be civil, that is considerate about human rights, the freedom of others and tolerance. But we should avoid provocation. Every Kenyan, I am not talking about Biwott, you, I am talking about everybody else, should be civilised and only do what is good for this country and assist this country and avoid being---

Mr. Ndicho: On a point of order, Mr. Speaker, Sir. Is the hon. Biwott in order to mislead the House? He is talking about civilisation and he is also saying "it takes two to tango." He is saying that all Kenyans should be civilised! Is he in order to mislead the House when we know that it is the KANU police who are the most uncivilised by the way they held hon. Paul Muite? Those pictures are still vivid in our minds, the way they held hon. Ruhii, like a rogue. Is he in order to lecture us about civilisation when those policemen are so uncivilised?

The Minister of State, Office of the President (Mr. Biwott): Mr. Speaker, Sir, I had an occasion to talk to hon. Ruhii the following day because I did sympathise with the situation when I read the story and the condition of hon. Ruhii is well known. When I spoke to him, he was smiling and laughing and he told me that the police did not harass him at all. They took him very quietly to somewhere in Lang'ata where they gave him some tea and really looked after him. He told me that everything was fine and he told me he will never repeat it again, and he is here---

Mr. Speaker: But hon. Biwott, was that a reasonable way of conveying an hon. Member?

The Minister of State, Office of the President (Mr. Biwott): But, Mr. Speaker, Sir, I had expected him to complain, to say that he was manhandled or harassed. Instead, he said that the policeman who took him was very civilised. He took him to his place and gave him tea. They were all joking together and he was telling him that he should not involve himself in these things. He said he convinced him! So it is a different picture from what the hon. Member---

Mr. Ndicho: On a point of order, Mr. Speaker, Sir. The hon. Biwott is playing down this very important issue. I do not know whether in the part of the world that the hon. Biwott comes from, it is civil for an MP to be carried the way hon. Ruhii was carried! What the hon. Biwott is telling us --- When the police read this tomorrow, and this statement is coming from none other than the "Total Man" himself, there is no way the police are not going to manhandle the hon. Muite, myself or any other Member! If it was coming from another person, it would be different,

but coming from the mouth of the "Total Man," he is giving the police a lot of powers to harass us! Could he withdraw that statement so that the police will know what they did was not civil?

The Minister of State, Office of the President (Mr. Biwott): Mr. Speaker, Sir, all I did was to reproduce what the person himself told me. I, too, do not want to see a Member of Parliament being harassed in any way. He is an hon. Member, he should be respected. He was brought into this House by several thousand people. I am not also saying that the police should harass anybody at all. I expect them to enforce the law in a civil way and maintain law and order. I believe in the rule of law and civil behaviour.

Mr. Speaker, Sir, I would appeal to hon. Members that in order to see these provisions operative, we need to find a way of passing these Bills so that they can become law and then we can hold every person or any law enforcing agent responsible and accountable to the law the way the Members of Parliament have passed it.

Mr. Speaker, Sir, before I conclude, once this has been enacted into law and we have passed the other one for the major constitutional review, then I believe that Kenyans will have created for themselves a system of ensuring that Kenya will be led into the path of stability, sustainable peace and prosperity into the second millennium. By the time they complete that constitutional review, they will then have created for themselves a Constitution that would see them right through the middle of the next millennium.

With these few remarks, I beg to support the Bill.

Mr. Muite: Mr. Speaker, Sir, the first point I would like to make in my contribution to the debate on this Bill is to draw attention of my colleagues who participated in the IPPG talks at County Hall to Section 41 of the Constitution and the recommendation made by the IPPG that the additional ten Members to the Electoral Commission will be appointed by the President from a list of names submitted by Opposition Parliamentary parties.

The Assistant Minister for Agriculture, Livestock Development and Marketing (Mr. Osogo): On a point of order, Mr. Speaker, Sir. The hon. Member for Kikuyu is misleading this House. On page two of what he is referring to, it says:

"The Committee recommends that Section 41(1) of the Constitution be amended by deleting the word "other" and inserting after the words "not less than four" the words "not more than 21."

He is misleading this House because what goes on to state that:

"The Committee recommends that the President do appoint the additional ten commissioners from a list of names submitted to him by Parliamentary Opposition parties."

It was not going to be in the Constitution.

Mr. Speaker: Oh! I suppose I do not know.

Mr. Nthenge: He is correct!

Ah hon. Member: That is what it is!

Mr. Muite: Mr. Speaker, Sir, the hon. Osogo correctly reads what I referred to, which states:

"The Committee recommends that the President do appoint the additional ten Commissioners from a list of names submitted to him by Parliamentary Opposition parties."

I think, hon. Osogo should give me the opportunity to develop my argument. The recommendation was that the additional ten commissioners should be appointed by the President from a list of names submitted by the Opposition Parliamentary parties. I would like to say that my understanding of that recommendation is that it was not going to be left at County Hall, or somewhere else as a recommendation. It was to be translated into a legal constitutional requirement. That is the whole basis of an agreement; you draft the amendment in order to incorporate what you have agreed upon. Therefore, if you have agreed that the ten additional commissioners are going to be appointed from a list of names submitted by Parliamentary Opposition parties, that is what should be reflected in the law. If it is not reflected in the law, then there is no constitutional legal requirement to do so and contrast how specific the IPPG was with regard to Nominated Members.

Clause 5 states very specifically:

"That the persons to be appointed shall be nominated by the Parliamentary parties according to the proportion of every Parliamentary party in the National Assembly, taking into account the principle of gender equality."

What I am saying is that, when it comes to the Nominated Members, the Attorney-General has amended or seeks to amend the Constitution, in order to provide very specifically indeed, as he has done in Clause 5, that the Nominated Members are going to be nominated by the political parties proportionately to their strength in Parliament. That is a very specific provision. There is no argument about it because depending on how many seats each Opposition party gets in Parliament, the number of Nominated Members to be forwarded to President for that political party is fixed with accuracy. So, if it has been thought fit that it should be so specific with regard to Nominated Members, as to how many each Opposition party is going to nominate, by parity of reasoning, why has a similar or identical provision not been included with regard to Section 41?

(Applause)

The Assistant Minister for Agriculture, Livestock Development and Marketing (Mr. Osogo): On a point of order, Mr. Speaker, Sir. I pity him, I might have to answer him, but I think, hon. Muite is definitely misleading the House. With regard to the Clause he has referred to that the hon. Attorney-General has transplanted it into the Bill, it says specifically that: "The Committee proposed amendments---" The Committee itself proposed amendments and passed them over to the Attorney-General. What I am quarrelling with is the remark that the Committee did not recommend amendments to be included in the Bill. The IPPG only recommended that the Opposition parties will nominate ten through the President. But it did not say that this will be included in the Bill. That is the difference.

Mr. Speaker: Order! Yes, indeed it is. I think this is a very clear issue. Apparently, all this time the Chair is being introduced into what ought to have been and what ought not to have been in that Bill. The best I can say, as Mr. Speaker, is that, the person who was present ought to know more than the one who was absent. So, do not drag the Chair any further into it.

Mr. Muite: Mr. Speaker, Sir, I am sure that hon. Osogo will get the opportunity to make his own contributions later on. All I am doing is to point out the shortcomings of this Bill, as is currently drafted. I am saying that the purpose of the Bill, according to me, was to implement the agreement reached by the IPPG at County Hall. One of the agreements reached was that, the Opposition parties were to nominate the additional ten commissioners. My understanding of that is that, it should have been incorporated in Section 41 so as to make it legal and constitutional. In the absence of that provision, in fact, Clause 6 which is seeking to amend the Constitution merely says that: "Delete the word "other" after the word "four" and insert the words "not more than 21."

Mr. Speaker, Sir, to simplify this, before the proposed amendment, Section 41 of the Constitution states that: "There will be an Electoral Commission with a Chairman and a Vice-Chairman and not less than four other members."

That is what the present Clause of Section 41 says and, it proceeds to provide that they will all be appointed by the President. Since the current Section 41 provides for the minimum, it does not provide for the maximum--- If all that happened at County Hall was a gentleman's agreement that the President will appoint an additional ten persons to the Electoral Commission, given the wording of the current Section 41 of the Constitution, which says that:

"There shall be an Electoral Commission consisting of a Chairman and Vice-chairman and not less than four members",

Then there was no need to amend this Section because it does not stop the President, even without any amendment, from appointing additional members. The current wording of Section 41 of the Constitution is more satisfactory than the proposed amendment because all that the proposed amendment has done is to fix a maximum of 21 members. So, the new Section 41 is going to read as follows:-

"There is going to be an Electoral Commission consisting of not less than four members and not more than 21 members all appointed by the President".

What I am asking is: Where do I find the legal requirement, the legal constraint on the part of the President that he must appoint the additional 10 persons from a list of names submitted by the Opposition parties? Where is the legal requirement? It is not in this Bill and I cannot find it in any subsidiary regulation. The whole matter is being left to the President.

[Mr. Speaker left the Chair]

[Mr. Deputy Speaker took the Chair]

Mr. Deputy Speaker, Sir, I would like to say that, in my view and fairness to those of my colleagues who went to County Hall, this Bill ought to be withdrawn by the Attorney-General and re-submitted with that amendment so as to require the additional 10 persons to be formally submitted by the Opposition parties in a formula similar to Clause 5 which provides for the nominated Members. We are saying that the disease afflicting Kenya is over-concentration of powers in the institution of the presidency and one hopes that when those fundamental reforms are made, that issue will be resolved. But as an interim measure, we were saying that the proposed amendment to Section 41 of the Constitution should have recognised that the urgent need is to distribute or democratize the power in the presidency of nominating members of the Electoral Commission. One is not talking about, President Moi, there could be another President tomorrow. We are saying that the principle of concentrating too much power in the presidency leads to totalitarianism and dictatorship because the President is a party, who is very much interested in the results of the election. First and foremost, the President wants to be re-elected at a personal level. Secondly, the

President wants his party to win elections. Certainly, why not? That is the very point I am making. The President is a party who is intensely interested in the results of the elections, and for that reason, he cannot be entirely non-partisan when he is appointing members of the Electoral Commission. So, we wanted to distribute these powers amongst other institutions so as to come up with a truly independent Electoral Commission. If we are going to amend Section 41, why do we not do a good job of it and come up with a truly independent Electoral Commission?

The proposed amendments can be compared to a diagnosis that is done by a doctor who has got all the X-rays machines. Using these machines he can find out if there is a lump in the stomach which is cancerous. If the surgeon is going to open up your stomach in order to remove a cancerous growth, it is foolish and illogical for him to open up the stomach and only remove a small part of the lump and then close up the stomach and leave the rest of the cancer inside the stomach. If the stomach is going to be opened up, a surgeon should remove the whole growth so that the patient can regain his health. We are opening up the stomach here by amending Section 41 of the Constitution. So, why do we not remove the whole cancer? Why are we removing only one-quarter of the cancer instead of the whole of it?

The hon. Shikuku referred to the Limuru resolutions several times when he was making his contribution and he specifically referred to Section 41. He went through all the six constitutional amendments that were recommended at Limuru. In respect of recommendation number 3, which was dealing with the Electoral Commission, we said that a truly independent and non-partisan Electoral Commission should be established. Members of the Commission should be nominated by all political parties, religious organisations and organised sectors of the civil society. The new and non-partisan Electoral Commission should be given adequate powers to organise, control and manage elections. That is what we said in Limuru. We find in this recommendation that the powers to appoint people to the Electoral Commission was divided between the religious organisations, the political parties and organised sectors of the civil society. I submit that if we are amending Section 41 of the Constitution, we should go the whole way and divest these powers from the one person who is extremely interested in the results of the elections. We must distribute the powers to appoint members to the Electoral Commission. Let the NCKK, the Catholic Church, the SUPKEM and NGO Council each nominate to the Electoral Commission an agreed number of commissioners and then to be fair, give each of the Parliamentary Political parties two members each and they will sum up to 10 members. Allow KANU to have 10 members to equal the Opposition so that those people, in addition to the people nominated by the NCKK, the Catholic Church, the Muslims and the NGOs---

Mr. Otieno: On a point of order, Mr. Deputy Speaker, Sir. The hon. Muite is misleading this House because, he is implying that the Catholic Church and the NCKK belong to the Opposition, and as far as I know, they do not. So, talk about the Opposition, either registered parties or parliamentary parties, but do not drag the church and usurp their support to belong to the Opposition. They do not.

(Applause)

Mr. Muite: Mr. Deputy Speaker, Sir, the hon. nominated Member, hon. Dalmas Otieno, normally is very alert and I have got a lot of respect for his brain, but I am at a loss to understand where he got the impression that I am suggesting that the Catholic Church belongs to the Opposition. Of course, it does not. The Muslims do not belong to the Opposition.

Mr. Deputy Speaker, Sir, I was quoting a system which was suggested at the Limuru Conference, on how to divide the power to nominate Members of the Electoral Commission. Given the dynamics of our society in Kenya today, one cannot come up with a better formula than to request the Government to give us a given number of people directly, as Commissioners.

Mr. Shikuku: But that has been done!

Mr. Muite: Mr. Deputy Speaker, Sir, I am making my contribution and the hon. Member for Butere should not interrupt me because I listened to him very carefully when he was making his contribution.

The Attorney-General (Mr. Wako): On a point of information, Mr. Deputy Speaker, Sir.

Mr. Muite: Mr. Deputy Speaker, Sir, through you, may I ask the Attorney-General whether that point of information is "coming from his brain and heart" or from hon. Shikuku?

The Attorney-General (Mr. Wako): Mr. Deputy Speaker, Sir, he knows that it is coming from me and maybe that is why he fears it. When hon. Muite read out the list of churches and so on, he mentioned NCKK, the Catholic Church and the Muslims. Not all religious bodies or all churches in the Republic of Kenya belong to the three groups. We have the Evangelicals, the Hindus, Sikhs and Independent African Churches who do not belong to those three. In fact, we have over 800 religious bodies and church organisations registered in this country and only a few of them belong to the organizations that he has mentioned. Maybe he should mention all of them rather than being selective.

Mr. Muite: Mr. Deputy Speaker, Sir, I concede that there are many other religious groups. We know who has sponsored some of them which were registered recently. We even know who sponsored the registration of RCK to rival the NCKK. I was putting forward a formula of distributing the power to appoint members of the Electoral Commission so that we do not have the situation which we have at the moment where a person who is intensely interested in the results of the elections is the one doing the appointing of the Chairman and all the Members of the Commission. I will be quite happy to accept amendment to that proposal so that we are as representative as possible. The Evangelicals could be asked to nominate members to the Electoral Commission. The hon. Attorney-General has got a point there. But the NCKK which groups together CPK, PCEA and the Methodists--- Between the NCKK, the Catholic Church, and the Supreme Council of Kenya Muslims, 80 per cent of this country are represented. So, if we gave power to those institutions that I mentioned, we would end up with a very effective, truly independent Electoral Commission.

Mr. Deputy Speaker, Sir, the other recommendation which we had made at the Limuru Conference was that, that independent Electoral Commission should have adequate power to organise, control and manage the elections. That is very important. Recommendation No.3 reads as follows: "The new, independent and non-partisan Electoral Commission should be given adequate power to organise, and manage elections." If we had that truly independent Electoral Commission, where its members are not appointed by a person who is interested in the results of the election; but appointed in the manner which we suggested at the Limuru Conference, that sort of Electoral Commission will then have power to conduct free and fair elections. That is the Electoral Commission which will consist of men and women of integrity and not owing their allegiance to any person but to Kenyans, the law and the Constitution. If we had that sort of Electoral Commission in place today, it would say: "Wait a minute. If you want us to conduct those free and fair elections, we should accommodate those who have different views." We can have free elections which are not fair. That is the Electoral Commission which would also say: "If you want us to conduct a fair election besides being free, then that election cannot take place in November or December this year." This is because the Opposition parties must be given adequate time to campaign and sell their manifestos and indeed, go to the areas where hitherto, they have not been able to go because of the police and the Provincial Administration.

[Mr. Deputy Speaker left the Chair]

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

Mr. Temporary Deputy Speaker, Sir, I was gratified to see hon. Kipkalia Kones make a plea that the Opposition parties should be allowed to go everywhere to sell their policies. Let them be rejected, but at least, give them the opportunity to peacefully say, who they are, what their manifestos, say and why the electors in Kericho or Baringo should prefer them to KANU. We are not forcing them to vote for this or that party. But if we had an independent Electoral Commission, we would take our complaints to it. If we had that sort of Electoral Commission--- Everything which is happening now in the run-up to the elections is part and parcel of the Electoral Commission. What happened in Nyeri yesterday, what happened in Nyahururu and what happened at Kamukunji would have been handled by the Electoral Commission because the Opposition parties would have gone to complain to it. That sort of Electoral Commission would effectively be able to delink KANU, as a party, from the Government, the Provincial Administration and the police. We would also be able to take our complaints about the KBC to the Electoral Commission because up to this morning, the Kenya Broadcasting Corporation was still being used as a propaganda mouth piece for the ruling party KANU. The only time when the Opposition parties are mentioned by the KBC is when there is a bit of a quarrel. So, it is used to "whip" the Opposition. Without delinking effectively the ruling party KANU from the Provincial Administration, the police and the Government, how is it going to be possible to have fair elections? It is not enough to have free elections.

Mr. Temporary Deputy Speaker, Sir, constitutionally, the elections must also be fair. As long as the chief in the village, through to the DO, DC and PC, owe their allegiance to the person who appointed them single-handedly and can sack them on telephone or at a public rally, then what this law stipulates does not matter because that chief "knows which side of his bread is buttered".

Mr. Shikuku: Jambo la nidhamu Bw. Naibu Spika wa Muda. Je, ni haki kwa mhe. Muite kupotosha Bunge hili kwa kuzungumza kuhusu uwezo wa chifu na hiyo iliondolewa katika ile Statute Law (Repeals and Miscellaneous Amendments) Bill? Nguvu za chifu ziliondolewa zote. Je, ana haki ya kupotosha Bunge hili kwamba machifu wana madaraka mengine na tuliyang'oa yote? Sasa kazi ya chifu inajulikana kwa sababu hiyo ilipitishwa katika ile Second Reading of the Statute Law (Repeals and Miscellaneous Amendments) Bill.

Mr. Muite: Mr. Deputy Speaker, Sir, about ten days ago, I accompanied Prof. Wangari Maathai to Kikuyu

Springs where a piece of land measuring 15 acres has been grabbed. Kikuyu Springs is the source of the water that feeds the whole of Muthaiga Estate in Nairobi. That dam was constructed in 1903 and it has fresh water. The hon. Attorney-General was at Alliance High School so he should know. This is the place where the boys at Alliance High School used to go with their girlfriends on Sundays, after Sunday school.

I was dealing with the point of order raised by the hon. Member for Butere. A piece of land measuring 15 acres has been grabbed. One of the people who has grabbed that plot is the local chief. Prof. Wangari Maathai and I planted a tree on that plot owned by the chief. I am the elected Member of Parliament for the area, but the following day, the chief went there with several of his Administration Policemen and, in full view of the villagers, in order to absolutely drive home where power and authority is, he actually uprooted that tree. On the same day, he fenced off the plot.

I was discussing a different point which, I believe the hon. Member for Butere, perhaps, did not follow. I was talking about the allegiance of chiefs. The constitutional position is that they hold office at the pleasure of the President. It is him who appoints them and he can sack them on telephone or even in public barazas. As long as that is the position from the chief to the Provincial Commissioner level, and as long as the chief knows who can fire or promote him, then I am submitting that it does not matter what we provide in these laws. The chief will do what he thinks will please the person who appointed him, irrespective of the law. This is an argument I am putting forward and it does not have to be accepted. I plead with the hon. Member for Butere to ponder over it.

The Temporary Deputy Speaker (Mr. Ndotto): Order! Hon. Muite, are you sure you have heard what hon. Shikuku has said about what the chiefs can do and what they cannot do? That was the point of order. It has already been defined in the new proposed law.

Mr. Muite: Mr. Temporary Deputy Speaker, Sir, I appreciate that, but I was emphasising the point about the power to hire and to fire--- Have you given the Attorney-General the Floor?

The Temporary Deputy Speaker (Mr. Ndotto): No!

Mr. Muite: So, may I continue?

The Attorney-General (Mr. Wako): On a point of order, Mr. Temporary Deputy Speaker, Sir. I have two points of order to make. The hon. Member did say that I was at Alliance High School and, I believe, during that time he was at Thika High School. The hon. Member did also say that the boys at Alliance High School did go with their girlfriends after Sunday school to that particular forest. Was he following the footsteps of those boys when he went there with his lady friend called Prof. Wangari Maathai? Was he trying to emulate the students of Alliance High School at that time?

Secondly, the point of order really is that; under the IPPG proposals and, as far as the chiefs are concerned---

The Temporary Deputy Speaker (Mr. Ndotto): Order! Mr. Attorney-General, you can only raise one point of order at a time.

Mr. Muite: Mr. Temporary Deputy Speaker, Sir, I can see the hon. Member for Kerio coaxing me about the Professor---

The Assistant Minister for Lands and Settlement (Mr. Sumbeiywo): On a point of order, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Ndotto): Order! Hon. Muite, is dealing with a point of order from the Attorney-General. In fact, he has not even responded to it.

The Assistant Minister for Lands and Settlement (Mr. Sumbeiywo): We do not have Kerio Constituency, but Kerio South Constituency.

Mr. Muite: Mr. Temporary Deputy Speaker, Sir, I really do not need to respond to the point of order raised by the Attorney-General. Kikuyu Constituency is a very densely populated area and that 30 acres piece of land is one of the very few places where one can get a bit of "privacy". Even during my days at Thika High School, I used to go there for picnics on Sunday afternoon. So, I know what I am talking about. There is nothing wrong with that! We would like our children and grandchildren to enjoy the "privacy" that we used to enjoy in those places. There is nowhere else remaining where one can spend his Sunday evening or have a picnic. This is one of the few spots remaining. I was giving that example to demonstrate the powers of the chief.

The point I was making and which I plead, through the Chair, that hon. Members should appreciate here is that; the "demon" afflicting us is the constitutional order that vests far too much power in the institution of the Presidency. I am not talking about President Moi. Even if tomorrow, we were to get an Angel from heaven and make him or her the President of Kenya with the present constitutional order which gives omnipotent powers to that institution, that Angel will cease to be an Angel very quickly.

Mr. Otieno: On a point of information, Mr. Temporary Deputy Speaker, Sir. Hon. Muite has raised this matter several times - the issue of the powers of the President. But as a lawyer he knows very well that something

short of creating another institution to which some of those powers can be divested is the only way to reduce them. In other words, we agreed in the IPPG that there will be a comprehensive review of the Constitution; what we are making now are amendments to facilitate the current elections. That is not to say that the IPPG did not recognise the powers of the President which he has described aptly as "excessive" as of now. What cannot work and what, in fact, we also did consider is that you cannot create the religious community as another institution outside any laws and Constitution and attempt, in the same process, to divest some of the current Presidential powers to that amorphous body called "the religious community".

So, it will save hon. Muite a lot of unnecessary belabouring of a point which we do recognise that, as of now and until a comprehensive review can make alternative institutions to which some of these powers can be divested and balanced, he cannot do it by creating his own supporters and attempting to persuade us to give them some of those powers. That could not hold in the IPPG proposals.

Secondly, on the issue of the Independent Electoral Commission, hon. Muite has done a good job telling us how far we need to go for the Commission to be independent. We did recognise that, but we had to take necessary actions for this particular set of Commissioners. We made specific recommendations for constitutional amendment and we made administrative recommendations that those additional names be appointed. If we were to put it into the Constitution right now, it will only be about the ten commissioners while the Constitution must be a lasting document. What happens if two or three others resign tomorrow? Who is going to appoint them? It is still the same President. So, the appointment mechanism remains, but only administratively. In this way, we can accommodate the views of some of us who classified the 11 Commissioners as belonging to KANU. We will then have ten commissioners nominated by their people, administratively, but still appointed by the President, so that they can act and take us through the elections.

My point of information is: I want Mr. Muite to make his contribution, cognisant of the fact that we did not exhaust everything and some of the things he is telling us to do right now, actually, are the subject of the comprehensive review commission. The faster Mr. Muite allows us to complete this debate so that the rest of the process can commence, the more he will be contributing towards solving his own problems.

(Applause)

Mr. Muite: Mr. Temporary Deputy Speaker, Sir, very sincerely, I accept the point of information from hon. Dalmas Otieno, but he proceeded to present his contribution. I am sure he is going to have an opportunity to make the sort of contribution that he has made. I am not complaining about that, and I appreciate that when this Bill becomes law, this is perhaps, the last time that hon. Dalmas Otieno is making a contribution on the Floor of this House.

This is because unless he contests on an NDP ticket, he is unlikely to see this Parliament again. But the hon. Member for Butere will be here. There is no question about that.

Mr. Temporary Deputy Speaker, Sir, there is a very important issue that I am arguing here. I am not disagreeing with the thrust of the argument by hon. Otieno. I accept that there are some reforms that must wait for the comprehensive parliamentary reforms. I have no quarrel with that. I appreciate that. The issue that we addressed at Limuru is: What short-term interim measures can we put in place to ensure that we get to those comprehensive reforms in two or three years time? That is the question. The answer to that question is that a truly independent Electoral Commission is critical. This, in our view was, and remains non-negotiable as an interim measure. The way to come up with a truly independent Electoral Commission is to distribute the power of appointment of Commissioners to these institution. This is not an amorphous institution.

Mr. Shikuku: On a point of order, Mr. Temporary Deputy Speaker, Sir. As I stand here, I am wondering whether I represent all the people in Butere, which I think I do. I represent all the pagans in Butere Constituency. I represent all the snakes, crocodiles and everything in Butere. Is it in order for the hon. Member, who has laboured so much on religious differences, to make us believe that once we are elected here, we can only represent a certain section of the people, and the views of religious organisations, Non-Governmental Organisations (NGOs) and others are beyond our scope here in Parliament? I think we are treading on a very dangerous ground. It is time we accepted that all the religious people are represented by us. Everybody is represented here, and there is no question of saying that there are Muslims, Christians and protestants. There are Muslim, Christian and pagan Members of Parliament here. Is it in order for the hon. Member to go on harping on these issues, and trying to make these religious groups as the spokesmen of the people while they are not? I am a Catholic and I may not represent the CPK and so forth. I am also told that there are several Freemasons here. So, once you are a Member of Parliament, you represent all these people. There is no question of trying to say that there are religious groups, NGOs and so forth, where somebody said that he has got his friend. We represent all the NGOs.

Mr. Muite: Mr. Temporary Deputy Speaker, Sir, the hon. Member for Butere likes to style himself as the

master of the Standing Orders and yet, when he was making his contribution, he will remember that not once, did I attempt to interrupt his contribution. I am not entirely certain that, that was a point of order. That was a contribution which he is entitled to make. The hon. Member for Butere may not agree with what I am saying. That is his right. When he catches the Chair's eye, he will make his contribution. But he is now trying to present his arguments under the guise of raising a point of order.

I specifically want to respond to that point of order, by saying that let us not kid ourselves, that as politicians, we are the best guardians of democracy in this country. In fact, politicians and political parties anywhere in the world, are not the best guardians of democracy. This is because the business of politicians and political parties is to get political power. That is the major consideration. That is what each party is doing, and that is what we are all doing. So, in every country, the best organisations and institutions of holding the politicians at check, where democratisation and human rights are concerned, and not the political parties, they are the organised sectors of the civil society together with the churches. That is the truth. That is why when it comes to appointments to the Electoral Commission, given the dynamics of this country today, those are the institutions that we should go to. Then we would end up with a truly independent Electoral Commission. That is the contribution that I am making. It is not just my contribution, but it is what we said at Limuru, where there were about 600 Kenyans from all walks of life, including the hon. Member for Butere.

Mr. Angwenyi: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is hon. Muite in order to mislead this House that the 600 people who were at Limuru were more than the people we represent? We have 120 KANU Members of Parliament who represent millions of Kenyans. Is he in order to mislead this House that the Limuru Convention should decide for this country?

Mr. Muite: Mr. Temporary Deputy Speaker, Sir, the example that the hon. Member gave is hardly appropriate. This is because if he looks at the statistics of the 1992 General Elections, he will realise that when he talks about 120 KANU Members of Parliament, they only represent 34 per cent of Kenyans. It is the Opposition that represents the majority.

I am saying that, as far as we are concerned, the only way that we can have a truly independent Electoral Commission, which has executive powers to conduct free and fair elections, is to disband the current Electoral Commission, and set up an Electoral Commission whose membership is going to be appointed as per the recommendation number three of the Limuru Recommendations. If we are amending Section 41---

Dr. Lwali-Oyondi: On a point of order, Mr. Temporary Deputy Speaker, Sir. I am sorry to interrupt the hon. Member for Kikuyu, but I think while we are putting things on record, we really have to have them correct. This is a flier which we made as the summary of what was happening, but in the actual declaration, it was stated:

"The President should, therefore, appoint to the Electoral Commission, an equal number of nominees suggested by the Opposition and the civil society, as those already appointed".

This is what is written. I have marked this particular section and I can give it to you.

(Dr. Lwali-Oyondi laid the document on the Table)

Mr. Muite: Mr. Temporary Deputy Speaker, Sir, I was using the same document which was used by the elder brother of the hon. Member for Nakuru Town and who is more experienced in politics. This is the document he used, and it is the one I am using. In any event, even the document that Dr. Lwali-Oyondi is reading, where is the input from the civil society in the nomination of these members?

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

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

I would now like to go to Clause 218---

Mr. Gatabaki: On a point of information, Mr. Temporary Deputy Speaker, Sir. What hon. Muite is trying to emphasise, and it is very crucial, indeed, is the overwhelming power of the Presidency. No matter what you try to do, that Presidency permeates in every institution. When we talk about the Electoral Commission, the Presidency is there. Hon. Muite is talking about chiefs and sub-chiefs who have excess powers from the Office of the President and you cannot change it. The hon. Members on the opposite side cannot criticise this because they are there and they hold office. They are in this Parliament through patronage and by the fact that they were appointed to those positions by the President of this country. Unless this power is curbed, and hon. Muite is quite clear on this--- Let us not try to

confuse the Presidency and President Moi. Anybody who becomes President of Kenya enjoys that power. Unless we curb it, and address that imperial presidency, we cannot have free and fair elections.

Mr. Shikuku: But these powers were there during Kenyatta's regime. Why did you not say something about them then?

Mr. Muite: Mr. Temporary Deputy Speaker, Sir, I would like to state that I can now perfectly understand why the late President Kenyatta dispatched the hon. Member for Butere to some place for detention.

Mr. Angwenyi: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is hon. Muite in order to deride at the suffering of the honourable Member for Butere, having been castrated in prison by our late President? Does Mr. Muite know we are aware that when he was about to go to jail without trial, he escaped and appeared at State House with his wife?

Mr. Muite: Mr. Temporary Deputy Speaker, Sir, first of all, I did not hear the hon. Member for Butere objecting. If I heard right, I thought he talked about the hon. Member for Butere having been "castrated" in detention but he continues to have children!

(Laughter)

The Temporary Deputy Speaker (Mr. Wetangula): Order, hon. Shikuku! I believe the hon. Member for Kitutu Chache intended to say "incarcerated."

Mr. Shikuku: On a point of order, Mr. Temporary Deputy Speaker, Sir. I am not worried about that. Is it in order for the hon. Member who believes in human rights--- Could we still trust him as a leader of this nation? Wrong is wrong. When the late President Kenyatta did what he did to me, I am sure the hon. Member for Kikuyu had been born then and he raised no hand. This Constitution which we are discussing now is the Kenyatta regime Constitution, and they all kept quiet at that time. Is he in order to say that the late President Kenyatta was right in detaining me and have me incarcerated because of what I said? For those who may not be aware, I was sent to detention because I was trying to find out the killers of J.M. Kariuki and I said that KANU was "dead". These are double standard fellows and they should be watched!

Mr. Muite: Mr. Temporary Deputy Speaker, Sir, I understood that during the Kenyatta regime, they used to look after the detainees very well. There was enough *ugali*, they were given mattresses---

Mr. Shikuku: On a point of order, Mr. Temporary Deputy Speaker, Sir. The hon. Member for Kikuyu is misleading the House and above all, he is telling us untruths. He talks of us who were incarcerated as having had enough *ugali* and that we slept on mattresses. I am sure the whole nation knows very well the state in which I left detention. I was weighing only 80 pounds and the food was abominable. He can make a joke of it today because he does not understand the bitterness I have in me. It is very fortunate that the detention clause has been deleted, but if I had powers, I would detain him to taste what I tasted. Mr. Muite should understand that while in detention, we were inhumanly treated. Some of us believe that if we find those who detained us for doing no wrong in Heaven, we would leave that Heaven. Although everybody wants to go to Heaven, if I find them there, I will walk out.

(Mr. Sunkuli stood up in his place)

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

The Temporary Deputy Speaker (Mr. Wetangula): Mr. Muite, you can have another point of order before you respond. Let me take this as well.

Mr. Muite: Mr. Temporary Deputy Speaker, Sir, your predecessor said one point of order at a time.

The Temporary Deputy Speaker (Mr. Wetangula): We can take up to two, so that you respond to all of them.

The Assistant Minister, Office of the President (Mr. Sunkuli): On a point of order, Mr. Temporary Deputy Speaker, Sir. My point of order relates to hon. Shikuku's point of order. Is Mr. Shikuku in order to demand from hon. Muite that he recognises the human rights of hon. Shikuku when he knows that hon. Muite never regards contravention of human rights against anybody else who does not belong to his tribe?

(Applause)

The Temporary Deputy Speaker (Mr. Wetangula): Hon. Muite, you can handle three points of order. Can you not?

Mr. Muite: Mr. Temporary Deputy Speaker, Sir, there is no problem.

The Minister for Local Government (Mr. F.P.L. Lotodo): On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the Member of Parliament for Kikuyu in order to mislead the House that during Mzee Kenyatta's regime, there were mattress in prisons when in fact, I am the one who started buying mattresses for the Prisons Department?

Mr. Muite: Mr. Temporary Deputy Speaker, Sir, those are three points of order.

Mr. Achieng'-Oneko: On a point of order, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Wetangula): No, Mr. Achieng'-Oneko. Carry on, Mr. Muite.

Mr. Muite: Mr. Temporary Deputy Speaker, Sir, it is true hon. Lotodo introduced mattress in prisons. I was in Kamiti for two weeks and I saw the mattresses. But perhaps, hon. Lotodo introduced those mattresses after having discovered how difficult it was to sleep on cement floor, when he himself was imprisoned.

An hon. Member: Was he imprisoned by President Kenyatta or President Moi?

Mr. Muite: He was imprisoned by President Moi.

Mr. Achieng'-Oneko: On a point of order, Mr. Temporary Deputy Speaker, Sir. I think it is just fair to use the Floor of this House to say what is real. But when the hon. Member for Kikuyu is talking about having been confined in Kamiti for two weeks, that was not detention. He might have been accused of incitement or something of that nature. But in reality, we did not have mattresses at Kamiti, Shimo Latewa and Naivaisha prisons. I spent five years sleeping on a mat on the floor plus two blankets. That was during Mzee Kenyatta's time. In fact I have no grudges against anybody, including the late President Jomo Kenyatta, because that was the situation then. Now when the hon. Member for Kikuyu talks about good treatment--- It [**Mr. Achieng'-Oneko**]

does not matter whether somebody sleeps on a bed or on the floor. The truth is that one has been confined and denied his liberty. That is enough punishment because there is already moral torture in that man. This is why you see quite a number of us being very thin after release. I think you must have observed that and I think this is very serious.

The Temporary Deputy Speaker (Mr. Wetangula): Order! Let us give hon. Muite time to make his contributions!

Mr. Muite: Mr. Temporary Deputy Speaker, Sir, I was going to Clause 2 of this Bill.

Mr. Shikuku: I am very bitter!

Mr. Muite: Mr. Temporary Deputy Speaker, Sir, through you, may I appeal to Mr. Shikuku, that his bitterness is a burden. He should not carry bitterness. It weighs heavily on him, and the quicker he gets over bitterness, the lighter he will feel, and the better he will be able to relate to other people. We must be able to get over bitterness and not carry it through life. This is excess baggage.

Secondly, Mr. Temporary Deputy Speaker, Sir, through you, let me appeal to hon. Shikuku not to direct his bitterness at every Kikuyu. It is not every Kikuyu who detained him! It is one individual who detained him. That bitterness should not be directed at me.

Mr. Nyagah: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for hon. Muite to tell hon. Shikuku that he must not carry bitterness for too long because it does not do any good to anybody, when he is on record as saying that as soon as the Opposition comes to power, President Moi will face 45 charges? That is the bitterness he carries against President Moi.

Mr. Muite: Mr. Temporary Deputy Speaker, Sir, it is on record that, at Limuru, I seconded a proposal by Mr. Gibson Kamau Kuria, that in these proposed constitutional amendments, there must be a constitutional provision, granting absolute immunity to President Moi, for what he may or may not have done. That is on record and I have no desire to be put on the defence---

(Several hon. Members stood up in their places)

Mr. Muite: Mr. Temporary Deputy Speaker, Sir, I am responding to a point of order!

The Temporary Deputy Speaker (Mr. Wetangula): Let him finish responding to the point of order!

Mr. Muite: Mr. Temporary Deputy Speaker, Sir, before the repeal of Section 2(A), the late Payman Onyango was given two to three minutes on KBC television and radio, and KTN. He told the world and Kenya that I had drafted 45 charges. I heard it for the first time when the late Payman Onyango was reading that news item on television. I had an occasion to ask the late Payman Onyango: "Even if I had drafted 45 charges, why would I confide in you that I have done a thing like that?". The late Payman Onyango told me how a vehicle was sent to him from State House -he was fluent in Kikuyu although he was a Luo - and his assignment was to go round bars in town and find out what the Kikuyus were saying, because they would not know he understands Kikuyu. Then he would take that information to certain individuals at State House. A vehicle was sent to him, it took him to State House and in his presence, a member of the Special Branch was given Kshs20,000, which he put in an envelope and closed. The late Payman Onyango only

knew the contents of the statement that he was reading when he was in Chester House, after the Special Branch had already set up that press conference for him.

Mr. Temporary Deputy Speaker, Sir, if anyone wants to correct history and do research, that statement was drafted by none other than Franklin Bett, and it was given to the late Payman Onyango in State House. That was a disinformation campaign. I am not saying that there is anything wrong in drafting the charges. I am just stating for the record, that at no time, did I ever draft any charges, and at no time did I ever say that I am going to draft any charges. On the contrary---

Mr. Shikuku: On a point of order, Mr. Temporary Deputy Speaker, Sir. We are all hon. Members and we are supposed to stick to the truth. Is it in order for hon. Muite to mislead this House that he seconded Dr. Kamau Kuria in Limuru, that he was forgiving and doing away with all things that Moi had done, and that there would be no prosecution for him? I was there and I know that it was Dr. Kamau Kuria who did so and I seconded him. As a matter of fact, he appealed to me, because I had suffered in detention just as he did. It was hon. Muite - this can be produced from the Minutes and is also contained in the resolution - who said: "We can only do that if Moi accepts reforms". That is the resolution and I can produce it tomorrow. It was his motion which amended the first motion, which was to forgive Moi for any wrongs done. It was that resolution that went through. If I produce that document tomorrow, could he promise to resign from this House?

Mr. Muite: Mr. Temporary Deputy Speaker, Sir, they say that: "Success has got many fathers", and the hon. Shikuku is very fond of claiming fatherhood about each and every issue. I have no wish to answer him beyond that.

(Several hon. Members stood up in their places)

The Temporary Deputy Speaker (Mr. Wetangula): Order, hon. Members! Could we allow hon. Muite to contribute on the Bill? I would like us to allow hon. Muite to make his contributions.

Mr. Muite: Mr. Temporary Deputy Speaker, Sir, I want to move on to Clause 2 (1)(a) which states that the Republic of Kenya shall be a multi-party democratic State. Whereas, there is nothing critically wrong with this provision, that the Republic of Kenya shall be a multi-party democratic State---

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 made a categorical statement that, he is the one who seconded the motion moved by Gibson Kuria. Hon. Shikuku disputed that, but you ignored that and we are now moving on. Where do we stand between the two statements?

Mr. Temporary Deputy Speaker (Mr. Wetangula): We are not in a contest as to who seconded Kamau Kuria's motion because he is not a Member of this House.

(Loud consultations)

Mr. Muite: The Kenyan public loves me and that is enough. I was saying that let us analyse what this proposed clause means, that the Republic of Kenya---

Mr. Magwaga: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for hon. Muite to escape with an untruthful statement that he seconded when that was not the case? He told lies and untruths to the House. He should either be requested to apologise or withdraw.

Mr. Muite: Mr. Temporary Deputy Speaker, Sir, why is the hon. Member assuming that what the hon. Shikuku said is the correct version and not what I said?

Dr. Kituyi: On a point of order, Mr. Temporary Deputy Speaker, Sir. Whereas I am saddened by the level of heckling that we have reduced ourselves to on this matter, if it would help to clear the air, I wish to record that I was the one who was taking minutes at the meeting being referred to. I wish to further state that whereas both the Member for Butere and Member for Kikuyu were for according unconditional amnesty to the President, I was against that. However, when the request for amnesty was rejected, hon. Muite proposed that we make it conditional, as a way of getting some of those who were against amnesty for President Moi, to support some form of amnesty. He seconded that amendment as proposed by Gibson Kamau Kuria.

Mr. Muite: Mr. Temporary Deputy Speaker, Sir, I was moving to Clause 2(1)(a). When we provide here that the Republic of Kenya shall be a multi-party democratic state, this is all very well. However, my submission is that this does not translate into any practical advantages. When we say that the Republic of Kenya shall be a multi-party democratic state, the only way in which we can give effect to this sort of constitutional amendment, is in fact, by allowing all individuals who want to register their parties to do so. In a multi-party democratic state, the only practical benefit that this can have to Kenyans, is that any Kenyan wishing to form a political party will have the absolute

constitutional right to do so.

This provision, Mr Temporary Deputy Speaker, Sir, is meaningless for all practical purposes, if we are going to continue to have the Societies Act, and to regard political parties as societies, and therefore, to give power to the Registrar of Societies to refuse to register political parties. This is a junior civil servant who knows that he holds office at the pleasure of the President. His promotion and dismissal depends on the President. How can he be expected to give effect and meaning to a constitutional provision that the Republic of Kenya shall be a multi-party democratic state? What is the meaning of this, if political parties like "SAFINA" have not been registered or as long as a junior civil servant, who can be sacked by the President, has the power to tell you; "Despite these constitutional amendments, I am not going to register your political party?"

What sort of multi-party democracy are we going to have in practical terms, if indeed, the position is going to continue to be, that the Registrar of Societies can, in fact, refuse to register certain political parties? When we are coming up with these sorts of amendments, let us give some thought to the practical implications. How, as a matter of practice, are we going to realise what the law has provided? That is what is important to the Kenyan people. What is needed is the political commitment or the political will, particularly on the part of the Government, to respect, in practical terms, the spirit of the law, if there is going to be a difference. So, it is not enough just to pass laws. We must go beyond that and in particular, the party in power must demonstrate that it is committed to the spirit of reforms to the letter.

For example, why is the Kenya Broadcasting Corporation (KBC) still partisan? The KBC is funded by tax payers. What fairness is that in the electoral process? It does not require any legislation. We would begin to believe that this Government is committed to reforms if, with immediate effect, KBC were to start being non-partisan. But last night, this morning, and I am still going to listen to it again in the evening, both the Corporation's radio and television stations are totally partisan. Even the Kenya Television Network (KTN), which is supposed to be privately owned, we know that the licensees are State House operatives. Anybody who is truly independent has not been given a radio or television licence. So, if the Government is truly committed to respecting the practical implementation of the IPPG package, why does it not begin with KBC? Let us see a difference in behaviour.

Mr. Temporary Deputy Speaker, Sir, I went to Kamukunji on Moi Day. I would like the Attorney-General to confirm to this House that there is no law in this country which prohibits the holding of another public rally merely because it is a public holiday and the President is addressing a rally in some other place. There is absolutely no such law. There is no law that prohibits Kenyans from gathering, because all of us do not have to attend the presidential function. On *Kumi Kumi* day, we did not all have to go to Uhuru Park. We had a choice to go to Uhuru Park, stay at home or to attend any other rally. So, we were breaking absolutely no law by going to Kamukunji. Even if we were breaking a law---

Mr. Angwenyi: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the hon. Member for Kikuyu in order to say that the Government is not committed to the IPPG package, yet the same Government has registered 28 political parties out of 30 which applied for registration? The remaining two could not be registered because they had chosen wrong names. Secondly, is the hon. Member in order to say that, for example, in a situation where he is chairing a meeting in his own house, his wife can hold another meeting next door while his child can hold another one in the same hall? On that day, the President was presiding over a national holiday and everybody should have respected that day.

(Applause)

Mr. Muite: Mr. Temporary Deputy Speaker, Sir, my argument was addressed to the Attorney-General who is versed with the law of this land. I was asking the hon. Attorney-General, through you, to confirm to this House that there is absolutely no law that prohibits Kenyans from having another meeting just because President Moi is having a rally at Uhuru Park on Moi Day.

Mr. Gatabaki: Mr. Temporary Deputy Speaker, Sir, last Thursday I happened to be at my home and I tuned to KBC and KTN television channels at 7 o'clock and 9 o'clock, respectively. For 7 minutes, KBC talked of President Moi's tours to people all over the country. From 7.20 to 7.30 p.m., it was the Vice-president and Minister for Planning and National Development, Professor George Saitoti, and from there up to the end of the news, it was another announcement of a function somewhere in Western Kenya.

I asked myself, and even my small children in turn asked me whether the Government of Kenya is sincere in the reforms agenda as recommended in the IPPG package.

Mr. Muite: Mr. Temporary Deputy Speaker, Sir---

Mr. Nyagah: Mr. Temporary Deputy Speaker, Sir, I would like to inform hon. Muite that I concur with him on the biasness of KBC. Most of us in Parliament should get a copy of a booklet entitled: "Elections 1997", which has

been researched and compiled by credible people with no favouritism towards any side. The report reads as follows: The proportion rate distribution on KBC radio airtime, in the last two months was KANU events 52 per cent, Presidential events 43 per cent and Opposition events 5 per cent. The slightly larger percentage of coverage given to the Opposition in three weeks and four weeks focused on the *Saba Saba* rally. This coverage was mostly negative and tended to attribute the violence experienced during that period to the opposition.

Mr. Temporary Deputy Speaker, Sir, to conclude, the report adds: The proportionate distribution of KBC TV airtime was KANU events 50 per cent: Presidential election events 40 per cent, Opposition 5 per cent. Public coverage of KANU and Presidential events decreased as coverage for Opposition events increased towards the end of the month. However, the increase in the news coverage of Opposition events was restricted to those events that portrayed the Opposition negatively. For example, the event that received week-wide coverage was the arraignment of a Member of Parliament for Limuru, Mr George Nyanja FORD(A) in a Limuru court charged with inciting Limuru people. Similarly, people taking advantage of the chaos to loot, were portrayed as supporters of the Opposition.

Therefore, my brothers and sisters in this Parliament, if the IPPG is not to be criticised, we must go ahead and implement these issues we are discussing, so that we can continue---

(Applause)

Mr. Muite: I thank the Member for Gachoka for that information. The serious argument I am putting forward is that, we do not really need any amendments to the law. It is within the power of this Government, and through you Mr. Temporary Deputy Speaker. Let me say that it is within the power of the Minister for Information.

We are not happy when we go on the streets of Nairobi and hear the Minister for information being called the Minister for disinformation.

The Minister for Local Government (Mr. F.P.L. Lotodo): Now, I would like to inform hon. Muite that during Kenyatta's regime, one could not hold a public rally at Lokichogio while Kenyatta was holding another one at Nakuru in the same province. So it was not fair for him to have one at Kamukunji while there was a State function at Uhuru Park!

(Applause)

Mr. Muite: Mr. Temporary Deputy Speaker, Sir, I do not dispute that at all. I accept it. No one has at all said that the Kenyatta regime was free of errors and as such, a perfect government. Many mistakes were made but we should not multiply those mistakes. We are now entering the 21st century. Let us not justify perpetuation of wrongs on the basis that 20 or 30 years ago, the Kenyatta regime was doing X, Y and Z.

At personal level, I was not a Minister at any time during the Kenyatta regime. So, I do not want to be made to feel guilty in any manner, because of errors of commission or omission that the Kenyatta regime did. Let us move forward. The point I am making is that this Government does not need any legislation to demonstrate that it is going to respect the IPPG package by starting with Kenya Broadcasting Corporation (KBC). Come tomorrow, let us see a difference and then we are going to see---

The Minister for Information and Broadcasting (Mr. Makau): On a point of order Mr. Temporary Deputy Speaker, Sir. I am surprised that hon. Muite has not seen the amount of air time that we are giving to the Opposition since the IPPG recommendation.

Mr. Muite: Mr. Temporary Deputy Speaker Sir. I did say that we would like the Minister to enjoy the reputation of being the Minister of Information and not a Minister of "disinformation", as he is called in the streets. He should start by making the KBC truly non-partisan by taking fresh blood there. Let us see a repeat of what used to be Kenya Television Network (KTN) when it was being run professionally and without interference.

Mr. Mulusya: On a point of order Mr. Temporary Deputy Speaker Sir. Is hon. Muite in order when talking about the KBC, to tell the hon. Minister for Information and Broadcasting to display some impartiality in broadcasting? Mr. Muite knows very well that Mr. Makau has no control over the corporation and that there are other people who have more powers than him.

Mr. Muite: Mr. Temporary Deputy Speaker Sir, I can see the Minister for Information and Broadcasting continuing to sit down while such a serious allegation is being made. Is he agreeing with it? Is the position such that even though he comes from Ukambani he is unable to at least give the hon. Charity Ngilu - he can forget the rest of us - coverage on KBC? He himself should run for Parliament on a ticket of the Social Democratic Party (SDP) if he wants to see this House again.

The Assistant Minister, Office of the President (Mr. Sunkuli): On a point of order, Mr. Temporary Deputy Speaker, Sir. I know that hon. Muite has a lot of regard for his tribe. But is he in order to spread tribalism to hon.

Makau. Can he not keep it to himself? Is it for export?

Mr. Muite: Mr. Temporary Deputy Speaker, Sir, I am not a tribalist. That is why you find Maasais, Somalis and other people in SAFINA. It is multi-racial. This is the only reason why it is not being registered!

The Assistant Minister, Office of the President (Mr. Sunkuli): On a point of order, Mr. Temporary Deputy Speaker Sir. The hon. Muite seems to be here today to mislead the House. Apart from the fact that there are no Maasais in SAFINA, is he in order to make an allegation that he is in control of SAFINA, when he knows that the party belongs to Dr. Leakey? It is not his political party, and that is why he has no control over it. He should join another party like FORD(A).

Mr. Muite: Mr. Temporary Deputy Speaker, Sir, if I were to join another party it would, probably, be FORD(P) and not FORD(A).

I am not a tribalist. That is why I was in FORD(K). I had a choice, that is why I am in a party that accommodates all races, all tribes and I never suggested that I control SAFINA. SAFINA is one of the parties that are building an institution of a party, not under the control of anyone person; and if there is any doubt on the part of the hon Assistant Minister in the Office of the President, I challenge him to register SAFINA. Wanaume ni kuonana!

The Assistant Minister, Office of the President (Mr. Sunkuli): On a point of order, Mr. Speaker Sir. Since he has asked for a challenge about SAFINA is the hon Member in order to allege that SAFINA is a "registerable" party when, in fact, he knows that the committed purpose of SAFINA is to make Kenya ungovernable and that, it is totally committed to violence even during election? It is not registerable, it is a foreign instrument and the hon Member is a mere youth-winger in that party!

(Laughter)

Mr. Muite: Mr. Speaker, Sir, I challenge hon Sunkuli to use his powers to get SAFINA registered and he will see in his own constituency in the next election there will be a SAFINA Member of Parliament. We shall sponsor a very good young man from Kericho. They are the majority in his constituency and that young man will come here on a SAFINA ticket.

The Minister of State, Office of the President (Mr. Koech): On a point of order, Mr. Speaker, Sir. Is it in order for hon. Muite to continue to mislead this House and the whole nation, that the unregistered SAFINA party has nationwide support, while we know that there are no SAFINA supporters all over the country, except for a clique of a few people who surround Mr. Muite and some foreigners?

Mr. Muite: Mr. Speaker, Sir, the hon. Minister will be very surprised. He is a living in world of his own and he has access to security intelligence. He has information from the Special Branch. Surely, he must know that it is not for any other reason that this Government is afraid to register SAFINA, other than what it will face in the coming election even in Bomet, Kericho and Kilgoris in particular. He will be surprised what support SAFINA has.

Mr. Ruhiu: On a point of information, Mr. Speaker, Sir. The reason given by the Registrar for the non-registration of SAFINA is that the name "SAFINA" is undesirable and he suspected that if registered, the party was likely to be used for purposes prejudicial to or incompatible with peace and the welfare of good order in Kenya. That is not true because the name KANU is the most undesirable since it is racial. The name KANU stands for: Kenya African National Union and that is why Europeans and Asians in this country cannot join that party.

An hon. Member: But they have a Greek Member!

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

Mr. Ruhiu: I have not finished my point of information!

The Temporary Deputy Speaker (Mr. Wetangula): Order! Order, Mr. Ruhiu! You had finished your point of information and Mr. Muite was on the Floor.

Mr. Ruhiu: Mr. Temporary Deputy Speaker, Sir, I had not finished my point of information. What I wanted to say is that, it is the ruling party, KANU, which is undesirable and incompatible with peace and security in this country, as exemplified by what happened in Likoni.

Mr. Mulusya: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is hon. Ruhiu in order to say that the ruling party KANU, stands for Kenya African National Union, when we know about the merger that took place between KANU and KADU and he subsequent events which took place? Therefore, the meaning of KANU inherently and internally changed to: "Kamata Angusha Nyanyasa na Ua."

(Laughter)

Mr. Muite: Mr. Temporary Deputy Speaker, Sir, I see both the Leader and the Deputy Leader of

Government Business seated, so I assume that they entirely agree that, that is what KANU stands for.

(Laughter)

The Vice President and Minister for Planning and National Development (Prof. Saitoti): On a point of information, Mr. Temporary Deputy Speaker, Sir. I want to inform hon Muite that, that remark was not worth commenting upon.

Mr. Muite: Mr. Temporary Deputy Speaker, Sir, I am saying that this Bill should be rejected, because under Section 47 of the Constitution, it can only be accepted *in toto* or rejected *in toto*. It cannot be amended according to Section 47 (4) of the law. So, I am urging my colleagues on this side of the House not to vote in support of this Bill, until the minimum conditions are incorporated here; for example, an independent Electoral Commission in the manner we suggested. This is very important because we would like the next General Elections to be fair and free.

Mr. Temporary Deputy Speaker, Sir, nobody wants chaos. It has been suggested many times, even by the President, that I am for chaos. I want to make it quite clear that I have never advocated for chaos. I make every effort to ensure that there is no chaos in this country. I hold passionately the view that the only way this country can avoid chaos----

The Minister of State, Office of the President (Mr. Koech): On a point of order, Mr. Temporary Deputy Speaker, Sir. The hon. Member for Kikuyu is misleading this House and telling us what is untrue. I have heard him say, with his own voice, over the British Broadcasting Corporation (BBC) that they want to make this country ungovernable. They want to make sure that Kenya becomes ungovernable and is faced with a lot of problems. When somebody talks about making a country ungovernable and causing a lot of trouble, is that not agitating for chaos? Is this not what hon. Muite is advocating for?

Mr. Muite: Mr. Temporary Deputy Speaker, Sir, the hon. Minister is absolutely right. I have said that we want to force the Government, through mass action but not through guns and pangas, to incorporate minimum reforms into our Constitution. When we say that we will make the country ungovernable, we are talking about mass action, civil disobedience, like what the teachers did; going on strike, as a way of forcing the government to agree to reforms. It is because we do not want chaos.

We do not want bloodshed and in all these events of mass action, bloodshed is caused by the police and not by us.

ADJOURNMENT

The Temporary Deputy Speaker (Mr. Wetangula): Hon. Members, it is now time for the interruption of Business. The House, therefore, stands adjourned until tomorrow, 22nd October, 1997 at 9.00 a.m.

The House rose at 6.30 p.m.