

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 31st August, 2016

The House met at 6.45 p.m.

[The Speaker (Hon. Muturi) in the Chair]

PRAYERS

Hon. Speaker: Hon. Members, it is confirmed to me that we have quorum. So, we can commence business.

BILL

Second Reading

THE ELECTION LAWS (AMENDMENT) BILL

(Hon. A.B. Duale on 31.8.2016)

(Resumption of Debate interrupted on 31.8.2016 - Afternoon Sitting)

(Several Hon. Members entered the Chamber)

Hon. Speaker: Order, Hon. Members! Hon. Members who are making their way in and those at the door, remember my earlier Communication. Do so in an orderly way. I know you may have been resting somewhere outside because it is resumption of debate

Hon. Wanjiku Muhia was on the Floor of the House and has a balance of six minutes.

You may proceed, Hon. Muhia.

Hon. (Ms.) Muia: Thank you very much, Hon. Speaker. Just to recap, I had a concern on Clause 14 where Article 97(b) of the Constitution does not refer to women representatives as women representatives. I remember your ruling last year but one. You indicated that there is no women representative because it is clearly written that there shall be 47 women members from the counties elected by registered voters. So, I seek the clarification either from the Leader of the Majority Party or the Legal Department on this. We should get the right name.

I also had a concern with the 500 voters per polling station. I had the benefit to oversee the Tanzania elections and the provision of 500 voters per constituency was really working well. People do not queue for many hours. However, the clarification I also want to seek here is in connection with the 500 voters per polling station or per stream. We are aware there are some polling stations which have even 3,000 voters. In this case, they normally divide them into streams. So, is this Bill speaking about streams or polling stations?

Having said that, I continue supporting this Bill in totality. The main issue which has attracted a lot of attention is party-hopping, which I continue to oppose and support that there should be no party-hopping. Party-hopping has been misleading, mischievous and a sign of indiscipline. It is time now for us, as leaders, to guide this country and act without fear.

Parties like the Conservative and the Democratic started somewhere. I believe they had issues. So, we cannot continue holding nominations that have issues. It is time that we accept that they have had issues so that we rectify them and move on. To add more weight, even a woman cannot be married by Man “A” and put another man in pocket “B” and say: “If things do not work, I will go to pocket “B”. You stick to one man until death do you part.

In the past, Members of Parliament have not been able to support their presidential candidate. We have witnessed several members lose their elections because of moving around with their presidential candidate. I am prepared to win the nomination, stay with my certificate, move to Malindi and face Hon. Aisha Jumwa. As she asks for votes for Hon. Raila, I will also put on a *buibui* and ask for votes for Hon. Uhuru.

Time and again, the people with disabilities have been left behind mainly because of the way polling stations have been merged. The issue of the Independent Electoral and Boundaries Commission (IEBC) is highly recommended. If we go this direction, we shall offer free and fair nominations to every person who is willing to participate.

A very big headache which members have possibly not realised, particularly those who sit at the county elections, is the agents. In Nyandarua County, I have 450 polling stations. When they are divided into streams, they increase to 2,000. In the last election, I paid 2,500 agents to represent me. If we go the IEBC way, I do not need to bother. Because of the madness of nominations, you do not need to look for an agent but a mighty agent. In this case, it is very difficult to get 2,000 mighty agents. So, this is a big headache that will be moved from the people who will be contesting at the county level.

Finally, as I say the amendment is good, we need to have a holiday on the nomination day. Why do I say this? The nominations are conducted by people who are normally in town. That is mainly those who are not working but have been paid and are willing to vote. Mothers and people who are working in towns and rural areas do not leave their work to go and participate in nominations. For this reason, the person nominated may not indicate the will of the people of that constituency. For that reason, I will ask the other parties to agree to move as one team and have nominations on the same day.

I ask Hon. Members to support because deep inside our hearts we are all sure that a party should represent a nation. No wonder The National Alliance (TNA) is a purely Central Region party. We try to bring on board people from other parts of the country but we do not get Members of Parliament from those areas. Going forward, this is a good Bill which will remove all the mischief. Candidates will also not be subjected to more than one election. In the past, we have been subjected to two elections. One goes through the hell of nomination and then goes through the elections process with the same candidates.

With those few words, I support.

Hon. Speaker: Hon. Members, I just want to observe that Article 97, with the subheading “Membership of the National Assembly”, states that the National Assembly consists of 290 members, each of whom is elected by the registered voters of a single member constituency; and 47 women, each of whom is elected by the registered voters of the counties with each county constituting a single member constituency. We should just be faithful to what is in the Constitution instead of importing other phrases borrowed from the streets.

Let us hear Hon. Wanga.

Hon. (Ms.) Nyasuna: Thank you, Hon. Speaker for giving me this opportunity. I would like to support the Election Laws (Amendment) Bill.

I thank our leadership and the Joint Parliamentary Select Committee that worked hard to build consensus and bring a Bill that is nearly acceptable. I thank the leaders of the two coalitions in this country for agreeing to work together to move this country forward as far as electoral reforms are concerned.

Some of the people who agitated for electoral reforms lost their lives during the street protests that took place in this country. I honour them for putting their lives on the line so that we can have electoral reforms that will ensure we have free and fair elections that are representative of the will of the Kenyan people. Before making a few points at this juncture, I would like to say that we really struggled to get where we are today. However, we did not go to the streets to stop people from party-hopping, grass-hopping or any other kind of hopping.

(Applause)

I am disappointed that a course that was meant to be bigger than all of us has been hijacked by some later-day Pharisees to achieve their own selfish ends. I am a bit sad that we are going to stand here trying to help a few people to meet a few selfish ends of building one big basket party, and yet Kenya is a multiparty state.

Having made those remarks, I would like to say that the fact that we are going to have one voter register is very important because we have had a green book, a yellow book and a black book. It is now being provided in law that we shall have a single register of voters. The voter register is key because it was a key factor in getting us where we were as far as election outcomes were concerned in this country. I am happy that the voter register audit report will not just be retained by the IEBC but it will also be tabled in the National Assembly and the Senate. So as to establish that the audit has been properly done, after implementation, a Report will be brought to the Floor of this House. Apart from just a name appearing at a polling station, Clause 7 is very clear that one will need to have their biometrics along.

I have spoken about the issue of party-hopping. Stopping people from hopping from one party to the other is just returning our State to those dark days when people did not have a choice of which political party to belong to, albeit technically. You tell them that you can belong, but at the end of the day you do not belong.

There are fundamental issues if you look at Clause 14 as far as transmission of results is concerned. Clause 14(c) states that we shall publish the polling results forms on an online public portal to be maintained by the Commission. What this means is that as election results are transmitted, there will be a public portal that has polling station result forms so that any Kenyan can go to that portal and see, for example, Alara Korayo polling station where I vote, how people have voted. The actual form is visible.

I hope that technology does not let us down in the manner it has in the past. If we can see visible forms from every polling station publicly, we will not have to wait for that poster at the Bomas of Kenya. Everybody will be working out his or her own results and the correct person will be sworn in.

The Commission is now required by law to acquire this technology and test it. It should do this in consultation with the relevant agencies, institutions and stakeholders including political

parties. I am happy that political parties will now have a stake in verifying and testing equipment as we move forward to the next elections.

“Madam” Speaker, the fact that under section 20 you have an appeal, it will now act as a stalemate--- I am sorry, Hon. Speaker.

Hon. Speaker: Just look up and see. It is only the Speaker, who may not see. I am sure you can see, Hon. Wanga.

Hon. (Ms.) Nyasuna: Hon. Speaker it is because of the laces.

Hon. Speaker: I appreciate there was some time to rest a bit.

Hon. (Ms.) Nyasuna: Hon. Speaker, the fact that an appeal will act as a stalemate--- This will prevent us from having some Hon. Members in this House, while waiting for their appeals to be determined out there. That is a very important improvement.

Another important aspect which I had spoken to earlier on is the fact that political parties will now have an incentive to bring in more women members and special interest groups to Parliament. This is a very good incentive. I hope that my party, which I am Chair and work side by side with Hon. Kaluma in Homa Bay will now bring in more female members so that we can benefit effectively.

(Laughter)

The roles of the Commissioners and the Secretariat have been clearly delineated. The Commissioners will now not mix themselves up with procurement and other things that have made them to become very disgraced at the end of the day.

With those many remarks, I support. I hope we will not be used to meet any selfish ends of anyone. What we wanted was electoral reforms and the IEBC to go. We also wanted a new IEBC. We do not want to stop people from moving from one party to another or the same being used as an agenda to hijack what has been a very straight agenda for which Kenyans have lost their lives.

Thank you, Hon. Speaker.

Hon. Speaker: Even as we say these things, I wonder whether we have forgotten that whenever it is appropriate, we shout ourselves hoarse about the very comprehensive and robust Bill of Rights under Chapter 4 of the Constitution, which I thought every Kenyan should be waving. Whenever you wave the Constitution, you should open Chapter 4 which, among others, has Article 38 on political rights. Those rights can only be taken away in a referendum. However, Members are free to express themselves. Every Kenyan has a right to form or participate in the formation of a political party. That right cannot be taken away by mere legislation. I believe we are alive to that. If that were to happen, obviously the courts would be there to stop it.

Of course, Article 85 of the Constitution also recognises that one may run as an independent candidate, only that you must not belong to a political party three months to the election. We have many avenues. So, let us not be worried. Should there be an attempt to take away those rights, you can bet that this House will rise to the occasion to make sure that those rights remain embedded and entrenched in the Constitution.

Hon. Anthony Kimaru, you have the Floor.

Hon. Kimaru: Hon. Speaker, thank you very much. I believe the tabling of this Bill is a milestone towards having free and fair elections. When the Report was presented, we were quite apprehensive about its intentions. I personally participated in ensuring that the amendment was

passed. After looking at the Bill properly, I am now convinced that it is the best thing to happen for a few reasons.

One, for us to grow party democracy, it is important to have party discipline. In some areas like where I come from, if you conduct nominations and party-hopping is still allowed, it is like you will be doing the nominations twice or thrice before the actual election. It is only fair that after nominations, you should be allowed to prepare for the general election and meet other candidates from other parties who may have different ideology and agenda. At that point, it is for people to decide. I do not think it is too much to ask people to make their choices early enough because choices have consequences. If you feel that you are not comfortable in a particular party, now that we have been given early warning in good time, a person can choose which party ticket he or she would like to go into elections on. Having been given that clear understanding, it will be upon all of us to decide early enough if we want to be in CORD, ODM, Jubilee or the other parties. The beauty of it is that nobody is prohibited from moving to a party of his choice. However, after making a choice, you have to stick by it up to the end.

I am also happy that the rules that have been put in place and the cleaning-up of the voter register will be a step forward. We are aware that registered voters who are dead and ghost voters have voted in the past. If we have a proper clean-up of the register, there will be no chance whatsoever for dead voters to vote. When we have the electronic voter identification in place, I do not think we will need the blue book, black book or the red book. We only need to ensure that the electronic system of voting and identifying voters works.

I am a witness to a situation. We had a by-election in Ngobit Ward, in my constituency. The electronic voter identification was used and at no point did it fail. So, we have evidence that this technology can work if we want them to work. If they work to everybody's satisfaction, nobody will have any fear that they will be rigged, be it at the presidential, parliamentary or ward level.

If we have the IEBC conducting nominations on the same day, like will happen, nobody will have the fear that people who belong to one party will participate in nominations in a different party which they do not belong to. The involvement of the IEBC will help create confidence in party nominations. Party nominations are a politician's worst nightmare. When you think of party nominations, more often than not, if you are not alert, your victory is bound to be stolen. However, if we have a credible process during the nominations, we can all be certain that we will have peaceful elections. It does not matter whether somebody is beaten at the nomination. It is about time we had mature democracy. If you are defeated in the nomination, let the person who has won carry the party's flag. This will enable us to have a more credible electoral process.

We have come together, as a nation, through consensus, to decide that the IEBC commissioners must leave. I think the high temperatures that were there in this country have now gone down. As the day for elections approaches, we can look forward to a peaceful and a successful election. Those who had fears that some people have an interest in postponing the elections now have their fears allayed. If everything moves as it should, then come 8th August, 2017, we shall have elections in this country. Winning an election is not only about working hard; you also need luck on your side. High as the turnover maybe, I do not think people do not work hard. For instance, I remember what happened to a former Member of this House, Gen. Mulinge. He did all he could have done in his constituency. He had built hospitals and roads. He would tell his people in Kamba, "*Ninamuleteile balabala na sipitali*", which means, "I have

brought you roads and hospitals”. The people would answer him, “*osa*”, meaning, “take away your roads and hospitals”.

So, if the election processes are free and fair, we can all relax and be satisfied that we were not cheated out of victory. If we go that way, we will support our parties and contribute in other ways to make sure that this country moves forward. This country needs peace and unity. Through the reforms we are embracing, that objective will definitely be met.

I support the Bill.

Hon. Speaker: Hon. Eseli Simiyu, you have the Floor.

Hon. (Dr.) Simiyu: Thank you, Hon. Speaker for giving me this opportunity to also support this Bill. Of course, it goes without saying that I will support it because I was one of the architects of this Bill after a prolonged period of negotiations with the other people who were in the Committee.

I would like to state clearly that the idea of having 500 people per polling station was not just picked out of the heart. It was actually out of calculations based on how many people an electronic voter identification device can handle in a day. The gadget takes a number of minutes to work. Based on that information, we calculated the best figure it can handle in a day, which is 500 people.

On the issue of polling stations and streams, “a stream” is a polling station. If a polling centre has 6,000 voters it means they will have 12 streams or stations. That should clear the air because one Hon. Member had wondered about that figure.

Party-hopping is a side show because it was a small bit of the Bills that have been brought to the House. Anybody trying to take advantage of that is being unfair to the whole process. I encourage Hon. Members to read carefully about the use of electronic gadgets in elections. This Bill is very clear on how electronic gadgets can be used, how they can be monitored and how they can be audited for performance. This Bill is quite comprehensive on that.

Elections in Africa are a very emotive event. One of the issues that lead to emotions is the tendency of certain people to do what is colloquially called “ballot stuffing”. The use of electronic gadgets in elections is intended to minimise the incidence of ballot stuffing. Ballot stuffing removes the will of the people. Once there is ballot stuffing, that is not the will of the people but the will of some presiding officers and Returning Officers. These people eventually hijack the will of the people. While we agree that we have to be very careful with electronic gadgets since they can also be manipulated, with good care that should not happen.

That brings me to the major point. Good laws can be in place but if the implementers are not willing to implement them, or they interpret those laws in a cynical way and mishandle them, we will get back to where we started.

It is important for people to realise that electoral reform is not a one-off thing but it is a continuous thing. I believe that after the next general elections, we will pinpoint more problems that the 12th Parliament will be called upon to clear and improve the electoral process. This is a process and this is the best we have at the moment.

We request those who are charged with the responsibility of implementing the laws to not only implement them to the letter but also the spirit of those laws. Sometimes the problem is that people interpret the laws to the letter and forget the spirit. If they were to take into consideration the spirit of the law, it will give us a better outcome.

As we sat down, as a Committee, we realised that there are very many countries which are willing and ready to assist Kenya to make the electoral processes much better. Countries with

wide experience like India, which has over 800 million voters, is able to deliver an election in a record time, and would be willing to assist. Many other countries would be willing to assist us in this endeavour for electoral reforms and ensure that our elections are better handled than before.

If you look at this Bill, you will realise that we have also put in something for future elections. I would call on the Committee in charge of security to look at this Bill properly. We are talking about voter registration to the extent that people must walk to some place and register themselves as voters. That is duplication because once you get an ID, you should be a voter. The only thing you will need to do is to go and verify the polling station you want to vote at. That should be the way we should be going.

We expect the Departmental Committee on Administration and National Security to take this seriously. There has been a move to try and put all these things together in one card. That is the future that we should be looking at. This Bill has made provision for that aspect so that in future, the National Bureau of Registration and the IEBC can be working in collaboration with each other. In fact, in some countries, the electoral body is the keeper of the register of persons because once you clock 18 years, you are eligible to vote. All you need to do is verify the station you would like to vote at.

On the issue of party hopping, we should realise that even the Constitution itself says that independent candidates must not have belonged to a political party for, at least, three months before the election. What we have done is nothing new.

Another thing that people need to realise is that Article 138 of the Constitution is very clear that when there is more than one candidate for presidential elections, a presidential election shall be held in every constituency. The Constitution is saying that the election of the President must happen in every constituency. Therefore, the Returning Officer and the presiding officers in the constituency become very important. That is why we have provided that the results should be transmitted directly from the polling station to the constituency tallying centre and from the constituency tallying centre to the national tallying centre. The results of the presidential elections will not be transmitted to the County Returning Officer. That is one thing that people need to get very clearly. You could say in simple terms that you are having 290 elections in 290 constituencies. That is to put it simply. That is what people need to realise.

Finally, what we were trying to do is to keep the spirit of our Constitution, which anticipates free, fair and secure elections. Krieglger himself recommended that we look at the electronic voting for that to happen. We are not yet at the actual electronic voting. We can only use parts of electronics in our voting process while we still have a few areas that are manual like, the voting and the counting. I would urge the Jubilee administration, which prides itself as a digital administration that this is one area they should look at. As they claim to be digital, they need to put things in place to ensure that elections in this country are provided with enough funding. This will make sure that we head towards digital age in elections rather than allowing a lot of manual events which are amenable to manipulation by not just clever people who can also manipulate electronics but by anybody else.

I wish to tell my colleagues that this Bill is very critical to us as a country because it will determine how our elections will be conducted. It will also determine our standing in the community of nations.

Thank you.

Hon. Speaker: Yes, Hon. Emanikor.

Hon. (Ms.) Emanikor: Thank you, Hon. Speaker for giving me this chance. I rise to support this Bill in totality.

Before I go to my points on the Bill, I would like to react to comments made by Hon. Ngeno on how we were whipped and how we went under beds. This suggests that we are worshipping our leaders. I know Hon. Ngeno was addressing both sides of the political divide, because last week there was a coalition that was also whipped.

Hon. Speaker, every house which has a parent has rules. When parents summon their children, they go. I want to appreciate and understand Ngeno's situation because he is yet to get into the family way, and understand how some of these things work.

(Laughter)

I want to support this Bill. It has addressed many issues. One of the critical issues that this Bill has addressed is the register of voters. It has decontaminated the whole system. It has freed it from irregularities that we previously heard. People were complaining that the IEBC was being an unfair referee. Many problems were bedevilling the Commission, and there was loss of public trust. All these are addressed in this Bill.

Clause 4 of the Bill amends Section 6 of the Elections Act to require the IEBC to maintain a portal to allow online inspection of the register of voters. This will increase efficiency and reduce the cumbersome procedures of visiting offices to check the manual registers.

Clause 5 gives 90 days for biometric verification of the register before elections. This is adequate time before elections. That addresses the issue of the election register. It also allows for the audit of the register by an independent firm for accuracy, six months before elections, and to report the findings to Parliament.

There is also the issue of ghost voters or non-existent voters. This Bill is basing eligibility of voting on the biometric voter register and the production of identification documents by the voter. This is a good thing.

Clause 14 amends Section 39 of the Elections Act to provide electronic transmission of results. This has always been the problem in previous elections where people have been suspicious of rigging and manipulation of results. It also reduces the complaints from agents who usually say they have been chased from the polling stations for manipulation of votes to take place. The transmission of results to the national tallying centre from the polling station, the constituency and the county tallying centres is a very good thing.

This Bill prescribes the processes and mechanisms for presentation of petitions. I know of a case in Turkana where after one member lost, she tried to present her petition to the Returning Officer. This is because people do not know the mechanisms and the processes of presenting petitions. The Bill also prescribes processes for nomination of independent candidates, submission of party lists and provision of voter education.

With those few remarks, I support this Bill.

Thank you.

Hon. Speaker: Let us now hear Hon. Jakoyo Midiwo.

Hon. Midiwo: Thank you, Hon. Speaker. I rise to support the Bill. We stayed in the House most of the afternoon, and we have begun another sitting at night because we are doing what is expected of us. We did not just get here. We are here because we want to better our electoral processes. In the last two elections, we went through a process where at the end, we either blamed the election chief or the IEBC. This has to be work in progress. The Committee which got us here tried its best. I am not too sure that this is the best they could have given the

country. They could have done a lot more to clean the process so that we do not revisit it before elections. This House must begin the process.

Hon. Speaker, if you remember, not too long ago, both sides of this House suggested that a team needed to be selected to look at all these issues. We even spent public funds on a socio-economic audit of the Constitution. We thought it would lead to this but that was overtaken by other events. We are here—

Hon. Chepkong'a: On a point of order, Hon. Speaker.

Hon. Speaker: What is your point of order, Hon. Chepkong'a?

Hon. Chepkong'a: Thank you, Hon. Speaker. I apologise to my good friend, Hon. Jakoyo Midiwo. I did not intend to disturb him. He is speaking the truth and he is being factual.

I rise pursuant to Standing Order No.95. Would I be in order to request that we call upon the Mover to reply after Hon. Midiwo finishes because this is a negotiated document? All of us have agreed on it. In fact, those opposing it like Hon. Ng'eno have already spoken. There is nobody else to close him out. There is no problem. Those who are in opposition have spoken. Some of us who are in support have not asked to speak. Would I be in order to request that the Mover be called upon to reply after the eloquent speech by Hon. Jakoyo Midiwo? He is speaking very well for many of us.

Hon. Speaker: You have heard the request by Hon. Chepkong'a. I can see that there are over 54 requests. This means that the period we allocated ourselves of not more than three hours will not be enough. Even if we sat for the entire period, less than 20 of the 54 Members will speak. We have to make up our minds one way or the another.

Let us allow Hon. Midiwo to finish his contribution.

Hon. Midiwo: Thank you, Hon. Speaker. It is also good to understand that the next Bill is also related to this. Members will still have a chance to say the same things in the next Bill since we are about to finish. You can say the same things in the next Bill. My friend, Hon. Joyce, said that their party was whipped this morning.

Last week, another party was whipped to support the Bill. It is good to set the record straight because, "Madam" Speaker--- I apologise. I did not mean "Madam Speaker", I meant "Hon. Speaker". I was talking about "Madam Joyce". I apologise

Hon. Speaker: I think it is due to my absence last week.

Hon. Midiwo: I apologise, Hon. Speaker.

Hon. Speaker, last week, I did not know that we lent Hon. Olago to the other side to even bring the amendment which seeks to stop party-hopping. Hon. Olago is ours. When you say that we were whipped and did the opposite, then you are not being factual. I want to tell Members of this House that I have gone through elections three times, but it has never been easy. It is also factual that only 24 per cent of sitting Members come back to this House after elections. It is also factual that more than half of those 24 per cent become a product of party-hopping. This happens because of certain issues. When discussing these issues, we must ask ourselves, are we doing the right thing? We should ask ourselves whether we are doing it for the sake of it or just because people outside this Parliament have instructed the debate.

(Applause)

From where I come from, I do not think it is possible for me to contest in another party. I can be a direct beneficiary of that issue. It is good to put the facts straight. When we were debating the Report, I said that Article 38 of our Constitution gives these political rights. When

we are passing a law, let it not be that 76 per cent of Members who will not come back will regret. It is extremely important that we talk about it honestly so that we pass a law after we have convinced ourselves. It is just that simple.

We sent Members of the Joint Select Committee to go and negotiate on our behalf and not to make up issues. We are in a scenario where elections bring a lot of friction in our country and yet they should be peaceful. This is especially in a country configured by people from all walks of life and backgrounds like Kenya. Parliament should strive to achieve that.

This Bill has issues. Clause 10 of the Bill proposes to create a New Sub-clause 2D. It is good to be meticulous so that you do not make mistakes and commit suicide when you do not have somebody around you who may try to help. The Clause states as follows:-

“A candidate for a presidential, parliamentary, or county election shall be selected by persons who are members of the respective political parties and whose names appear on the party membership list as submitted to the Commission under Section 28.”

What are you telling Kenyans? It means that that somebody can submit a list and go to Whitesands Hotel, Mombasa to produce candidates. That is a direct violation of Article 38 of the Constitution. This clause needs to state that nominations shall be done according to party nomination rules, which are submitted and gazetted by the Commission. Let us not rush through this Bill because we will be committing suicide!

New Sub-clause 2A states as follows:-

“Every political party shall submit the names of the party candidates who have been selected to participate in general elections under this Act at least 60 days before the elections.”

I have been here long enough to even see Members of Parliament voting to deny themselves allowances. Hon. Speaker, please, hear me out for just one minute.

We know we have had problems. We have 24 hours to look at this matter with a toothcomb. The Departmental Committee on Justice and Legal Affairs needs to save us. I looked through the Bill of the Departmental Committee on Justice and Legal Affairs. It is much better for this issue to be produced by this Joint Select Committee in terms of elections. Let us not rush. We know people want to come together. We also know that party-hopping may be bad, but you cannot come here, not once or twice, and talk about cleaning up the electoral process without talking about political party democracies. It must be looked at. You cannot. I know chaos. I have been through that chaos not once but three times, yet I am an influential member of my political party.

I know I am in the majority but I want to defend the rights of the minority who create so much tension during elections because they feel they are offended. Truly, many people are often offended.

Elections are only 11 months away. With 11 months away, we have time within 24 hours for the Hon. Chepkong’ a Committee with Hon. T. J. Kajwang’, Hon. Kaluma, Hon. Mutura and others to sit down and read this Bill. Tomorrow, we should come here with something that is worthy of taxpayer’s money. At the end of it, we shall have passed a law that you may not have enough time to revisit. This behoves on us. We can do these things.

I want to agree with Madam Joyce that you can be called. But let you not be called, come and not do your duty. This is a duty. That is why we are here. We are on taxpayers’ money.

I have looked through very many sections of this Bill. We have to look at the sections of this Bill and I want to allow even the party-hopping. However, there are some provisions which are not acceptable in law.

Given our history where people fight and kill each other during the electioneering period, I will even be questioning what the big Kiraitu and the big Orenge went to do. Kiraitu has been here when it is bad. Orenge has also been here when it is bad. What did they go to do? It is just good to talk about it. I am not a shy man. I will stand for the rights of the minority.

(Applause)

Hon. Speaker, I beg you---

(Loud consultation)

Hon. Member: Donate---

Hon. Speaker: Hon. Members, you have no minutes to donate.

(Laughter)

But Hon. Midiwo can, with the sympathy of the Speaker. That is the way it is done. With the sympathy of the Speaker, he gets an addition of three more minutes.

Hon. Midiwo: Thank you, Hon. Speaker. It is because there was a lot of tension in this House last week. We have had time and even a whole weekend. It is nearly a week when we talked about that Report. When you want to do something that can save or spill blood of your people and you are being paid to do it, you know you must do it properly.

In the other elections, people talked about the voter register. Hon. Kimaru spoke about these many voter registers. Somebody or this Committee says "go and audit them". They said that a reputable firm or a private firm, to audit the voter registers. That is how you plunge the country into chaos. How do you audit a voters' register? How? This Committee should have told us there is a committee established to check the timelines and know what is happening and give us a formula.

Do not tell us to go and do---

Hon. Member: On a point of order.

Hon. Speaker: There is nothing out of order. A point of order must be about something that is out of order.

Hon. Midiwo: Hon. Speaker, on this issue of the voter register, this morning, I heard on radio that many Kenyans want the IEBC Commissioners to walk free. Having them walk free does not mean we should not clean their mess. There is no known voter register of IEBC. Now that, that is there and we are past that stage, let us agree even in this Bill. On this audit of the voter register, Senators Orenge and Kiraitu could not figure it out. Were they in a rush or it did not work? Hon. Chepkong'a, tell us at what point will we know how many Kenyans are registered and who will monitor? Let those people report directly to your Committee - like with the Abdikadir Committee - so that you can save this country and bring back the trust into the electoral process. You can do it my brother. What is this portal they are talking about that my mother or grandmother can go and check if they are registered as voters by the IEBC? What are you telling people? You are trying to tell us that somebody can sit somewhere and do some

shenanigans and then one year later, we cry about rigged elections because we are making the same mistake. What is it?

I plead and ask the Justice and Legal Affairs Committee to spend time and go through this Bill with a toothcomb so that, as a House, when we go to the Committee of the whole House, we are not like the Committee that was co-chaired by Senators Orengo and Kiraitu because they have done nothing. I thank you.

Hon. Speaker: Hon. Robert Pukose.

Hon. (Dr.) Pukose: Thank you, Hon. Speaker, for allowing me to contribute to this Elections Laws (Amendment) Bill (National Assembly No. 37 of 2016). At the outset, I support this Bill. I know we have a big challenge when it comes to issues of political parties, but we must make choices and choices have consequences. It is not that people are being prevented from joining any political party because in the Bill of Rights, that is protected. Anybody can belong to any party, but you must make a choice on the party you want to belong.

Just as the Mover of the Bill, the Leader of the Majority Party, has put it, when parties are formed, occasionally, we have had members who go for nomination when they have other certificates in the pocket. Just to make fun, one Hon. Member today was saying that he has two certificates from TIP TIP. Unfortunately, TIP TIP has already joined the Jubilee Party. So, the two certificates are now redundant. Those are the challenges. When you go with such a fellow to the nominations, after you have defeated him, he vies with another party in the general elections. This creates a lot of nuisance. In any case, if you want to go for elections, get your party and then let us have IEBC conduct nominations and everybody competes in a fair field.

This country has a record of people even killing one another during nominations. For example, Hon. Kaluma and Hon. Wanga had problems until Hon. Kaluma had to agree to work under Hon. Wanga and things are now moving in the right way.

(Laughter)

Hon. A.B. Duale: Hon. Wanga is the boss.

Hon. (Dr.) Pukose: Hon. Wanga is the boss. She is the party *supremo* in Homa Bay. Hon. Kaluma has to agree to work under her.

Hon. Speaker: Hon. Members, is there anything wrong with Hon. Gladys Wanga being the party boss somewhere? Those who are members of the party in lesser positions are obviously working under her.

Hon. Pukose, you are trying to suggest that Hon. Kaluma is working in a position lower than that of Hon. Wanga. Hon. Kaluma, do you want to say something? Let us hear Hon. Kaluma. Maybe, he is working over.

Hon. Kaluma: Hon. Speaker, the position in which we are working with Hon. Wanga is bothering other parties and everybody in the House. Hon. Wanga said that we work side by side and yet, she is my party boss in the county. I am working under her.

Let me confirm to the House that the temperatures were very high in Homa Bay County since I started working under Hon. Wanga, but they have since gone down. There is a lot of peace in Homa Bay. “Baba” knew the solution to the tension in Homa Bay. Hon. Wanga had a high temperature. I also had a high temperature, but we have now cooled down. Therefore, this matter should never bother any other person.

Hon. Speaker: Very well. Hon. Members, Hon. Kaluma has set the record straight. As he has said, their temperatures must be low. Let us also assume that ours have now sufficiently cooled down. Hon. Pukose has not said he is working over whom or under whom?

Proceed.

(Laughter)

Hon. (Dr.) Pukose: Hon. Speaker, I am the boss in Trans Nzoia. I know Hon. Ferdinand Wanyonyi is trying to say that he is the boss, but he is in the Opposition. He works under me. He is my immediate neighbour. I have told him to come to the Jubilee Coalition to which, I know, he belongs. With these amendments, even the presidential candidates will be blocked. This is a big slaughter. They cannot hop. My friend knows where he belongs.

Hon. Speaker, even my friend, Hon. Ng'eno, has run to the opposition. I know he is hopping, but he will hop back.

The aspect of the election nomination rules that enables people to check the party biometric system 90 days before the elections gives voters an opportunity to ensure that they are in the register. During the last general elections, some people went to vote and found that their names were missing from the voter registers because they had been transferred to other polling stations without their knowledge. This provision gives us the opportunity to rectify such errors. We will be able to ensure that all the registered voters are in the right place.

Regarding the issues of relaying the results from the polling stations directly, party agents will be able to know from the polling stations and the constituency tallying centres what their presidential candidates scored. That data can be reflected as preliminary results that will give us the direction the vote is headed.

With those few remarks, I support the Bill.

Hon. Speaker: A suggestion was made that I give two more Members. So, I will hear the last one, Hon. Maanzo, after which Hon. Members, I will put the Question that the Mover be called upon to reply as was suggested. Nevertheless, the lady in a hijab, do not attempt to do that in future. You will get a chance to speak. Even the next Bill is about elections. Unfortunately, not many of you are referring to specific sections or clauses of this Bill. There is nothing wrong with you making the same useful contributions in the next Bill. The Election Offences Bill has been plucked out from Part 6 of the current Elections Act of 2011. You can still variedly make your contributions. I am saying this because there are still 58 of you who have indicated a desire to contribute. Therefore, do not feel frustrated that we will finish this because we will go to the next one, which is also about elections. That suggestion was made by the Hon. Members. In any event, I will not vote. It is you who will vote on whether the Mover be called upon to reply or not. Hon. Maanzo.

Hon. Maanzo: Thank you, Hon. Speaker for giving me an opportunity to comment on this very important legislation. Elections are very important in a nation and I want to go straight to the point where there are contentious issues. First, I would like to mention that this week, 8 Members of Parliament from Sweden visited the Departmental Committee on Agriculture, Livestock and Cooperatives and after the normal business, we shared with them. They explained to us that in their country, the term party hopping is unheard of although they have eight different political parties. The reason why it is not there is because their parties have grown for about 100 years and the members belong to parties because of ideology. I support this law. They said they have set systems of nominations so that when you lose in a nomination, you are satisfied. In fact,

80 per cent of their members in every election go back, which is totally the opposite of what happens here.

The problem has been nominations which are not free and fair and where the mechanisms and the time given are really not defined in law. While I support this law, I do not think that has been given sufficiently in this law. That is why in the Third Reading, we have a lot to do to make this law even much better. It is not clear whether IEBC will conduct nominations. That has not come out clearly and is not legislated. So, it leaves it neither here nor there. But it is for the parties to decide.

Again, I have seen several Acts of Parliament have been combined in this law; which can even be better. We need to come up with a situation or law whereby members' democracy is promoted within a political party. Political parties are the basis of serious politics. In the United States of America (USA), when candidates lost to George Bush, they supported the party. We did not see some crossing to the democrats to support Bill Clinton or to compete with him. They stayed even when they were discontented to decide whom they will support on the voting day.

For good democracy, we need strong parties whereby people will not leave parties simply because they feel one or two things have not been done. There are enough lawyers in this House and also in the Departmental Committee on Justice and Legal Affairs. So, at the Third Reading, will refine and make sure that Members are protected.

Party hopping is not a good ideology. This is a negotiated document which is a very good step. That is why it has two signatures of the Leaders of the Majority and Minority Party. Therefore, it is a big step in forming strong political parties so that in future, people do not just party-hop carelessly. It weakens political parties and democracy. Therefore, I want to urge Members to support this Bill because elections are not far and we have already made gains for the country. But we will refine it during the Committee of the whole House stage so that we can make sure there is democracy within political parties.

About electronic and manual systems, it is good to have the two systems so that we do not have elections abused in any way. Electronically elections results can be transferred and recorded. The problem with that system in the last election was that you could put your finger, but it would not be posted to a central server to see how voting took place. That did not happen. Electronic systems can be hacked. The moment they are hacked, you cannot rely on them to determine what the vote was. So, it is also good we use the same system during nominations. It should be clear that IEBC is well-funded to conduct nominations and the general elections.

I would like to support and urge Members to support this negotiated document. We should be keen at the Committee of the whole House so that, as a country and as a Parliament, we can get a way forward.

Hon. Speaker, I support. I thank you for the opportunity.

Hon. Speaker: Order, Hon. Members. It was suggested by Hon. Chepkong'a that I put the Question, which I hereby do, that the Mover be called upon to reply.

*(Question, that the Mover be now called upon to reply,
put and agreed to)*

Hon. A.B. Duale: Thank you, Hon. Speaker. At the outset, I want to thank Members who have made contributions. One, I want to go on record that this Bill is a bipartisan Bill. It is a Bill that was borne out of a long struggle. A Committee of seven Members each from both sides was formed. I want to go on record that, as the Leader of the Majority Party; I have full confidence in

the leadership of Sen. James Orengo and Sen. Kiraitu Murungi and the other members because they were a creation of this House.

(Applause)

Two, the signature of the Leader of the Minority Party and my signature are appended to this Bill. That means that this is a Bill of both coalitions in this House. Thirdly, I want to go on record that this Bill is borne out of the passage of the Joint Select Committee's Report, which was done last week. The passage means that those Bills are legitimately before the House.

Finally, although I am going to raise it at the Committee of the whole House, I have a Communication which was made by the substantive Speaker. We will raise those objections when we get there.

We want the leadership to view this thing with a lot of care. Yes, we might discuss one or two provisions, but this is not an ordinary private Member's Bill or ordinary Government Bill. I said when I was moving the Bill that it is the first time in the 11th Parliament that a Bill is co-signed by the two leaders of the House. It reminded me of the National Accord to which Hon. Kibaki and Hon. Raila Odinga appended their signatures. This might be of a lesser implication, but they are the same. It is a negotiated document. We have a choice on how we treat it. Debate has concluded and Members have contributed clause by clause. Issues were raised. We have an opportunity tomorrow to relook at it, but I want to urge everybody that this is a very unique Bill. It is a bipartisan Bill. It is a Bill that is part of the reform agenda of reforming the IEBC and August 2017 general elections.

With those many remarks, I beg reply.

Hon. Speaker: Hon. Members, I can see we more than quorate!

(Question put and agreed to)

BILL

Second Reading

THE ELECTION OFFENCES BILL

Hon. A.B. Duale: Hon. Speaker, I beg to move that the Election Offences Bill, 2016 be read a Second Time.

Hon. Speaker, again, this is a Bill that has the signature of the Leader of the Majority Party and the Leader of the Minority Party. That tells you that this is a product that is negotiated by our colleagues from both Houses. I am sure it is in the interest of what brought us together, what removed us from the streets, what made Kenyans die and properties destroyed. That has culminated into this Bill. Therefore, it is not an ordinary Bill. This is a Bill that seeks to provide for offences related to elections in one Act. Currently, all the offences that relate to elections are in different pieces of statutes. This Bill, therefore, brings them together. The reason is to enhance the administration of election offences and the prosecution of election offences. Under the previous Bill, those powers were in the Office of the Director of Public Prosecution (DPP) as opposed to IEBC which had investigative and prosecutorial powers.

This Bill prohibits the use of public resources by candidates during elections. Public resources include county resources, national Government resources, Constituency Development Fund (CDF) and the affirmative resources for our 47 women representatives. It empowers the Commission to demand a full account of all the public resources ordinarily at the disposal of every candidate. For example, if we use the CDF money in our election campaigns--- I remember the petitions against Hon. Mwashetani and Hon. Outa were in relation to the CDF money. For county governments, it is the devolved funds while for the national Government, it is national Government funds.

The Bill provides for offences related to the use of Information and Communication Technology (ICT) in elections where systems are hacked, data transmission is curtailed or distracted. Clause 3 deals with offences relating to the registrar of voters. Clause 4 deals with offenses relating to multiple registrations as a voter where you register yourself in many places. Clause 5 provides for offences relating to the voting process. What you do on the voting day? Clause 6 provides for offenses by members and staff of the Commission. For example, if the staff of the Commission are bribed or compromised, then they would have committed an election offence. Clause 7 provides for secrecy during elections by members and staff of the Commission. For example, do they leak secrets to candidates and their competitors?

Clause 8 deals with the offence of impersonation with regard to elections; for instance, where one impersonates a returning officer.

Hon. Speaker, Clause 9 provides for the offence of bribery and Clause 10 provides for the offence of undue influence. This can mean many things. I relate it to the story between my great friend Hon. Wanga and her subject in Homa Bay. It is good to have Hon. Kaluma as one of your subjects. He is a very loyal man, particularly when he is under.

Clause 11 outlaws the use of force or violence during elections period. Those who hire *mungiki* and *chinkororo* and many other people will be dealt with according to Clause 11.

Clause 12 deals with the use of the national security organs: the police, the army or the General Service Unit (GSU) to win an election. Clause 14 deals with the use of public resources during election, such as the National Government Constituencies Development Fund.

Clause 16 deals with conveyance of voters with intent of influencing an election result. Clause 18 deals with an offence that requires employers to allow their workers or employees a reasonable period of voting. Denying your staff time to go and vote is an election offence. That is found in Clause 18.

Clause 20 deals with breach of the Electoral Code of Conduct. Clause 21 deals with powers of prosecution under the Bill. It gives all the powers.

Hon. Speaker, this is basically a Bill that has been harmonised to bring together all the offences related to elections. In general and as earlier agreed to certain clauses of the draft, the formation of this bill as a standalone code for election offences gives the Director of Public Prosecutions (DPP) easy life. He does not need to pick different offences. They are in one statute. We did the same with taxation. Remember, this House harmonised taxation to one Act - VAT, Income Tax and Excise Duty under one tax regime.

The only problem I have is the limiting of the period in which the DPP may commence prosecution of an elections offence, which is under Clause 22, which classifies that offence in a special category. That timeline does not look tidy.

I do not know who is going to second. The Deputy Leader of the Minority Party is here. He had a change of heart. We will talk to the Principal. I am not intimidating him, but part of the

caucus of the leadership is the way my good friend Hon. Jakoyo can talk to the President at times. I will also talk to Hon. Kalonzo, Hon. Wetangula and Hon. Raila on what has changed.

This is straight forward. We should not spend more time on this one. It is about offences. They have removed some very serious offences. The offences of transportation or offences of feeding people have been done away with. It used to be an election offence to slaughter a goat for the people. Giving water to the people on an election day used to be an offence also. It was an offence to bring water to people who are queuing.

So, as much as you might not like Sen. Kiraitu Murungi and Sen. James Orengo, those of you who are used to bribing voters with water and transporting people should say halleluiah. You must say Halleluiah. Those 14 men have saved you.

With those many remarks, I beg to move and ask the Member for Gem, who is the Deputy Minority Leader, to second.

Hon. Midiwo: Hon. Speaker, I rise to second.

As it has been said by Hon. Duale, there is nothing new about this suggestion. The memorandum of objects and reasons is so clear. It is consolidating offenses relating to elections into one Act. I have been informed by my lawyer, David Ochieng, that he has checked all the statutes and confirmed that there is nothing new in this Bill.

Hon. Duale, I have not changed my heart. That thing is called the Orengo-Kiraitu Committee. Even Hon. Junet was there. If they do not work, I just tell them. *Akina* Junet went there, but they did not work. So, it is called the Orengo-Kiraitu Committee. I have a lot of respect for them. Of course, that is on a light touch.

There are a few things which are in this Bill that are going to affect our elections. If passed, they will help us. You know the counties and the misuse of the county funds. The governors are under the impression that they will have the county staff and the county resources to work. How nice do I feel to nail them down tonight? This thing makes reference to the county governors or members of the county assemblies. We will have to know in this Bill, when the regulations come to effect, the time when the governors will turn in all the county property so that when they go to campaign, they cannot order the signing of the cheques.

There are so many counties which are creating liabilities that they should not. Given the chance, those people will bleed this country to death. I am so happy that the Bill specifies directly because there has never been another election where they were involved. As you know, we are going to vote six people for the first time to attempt to re-elect. That to me is a very good addition. I want to apologize to my friend, Hon. Junet, because it now seems that they did some work.

Even my friend, the Leader of the Majority Party, is seeking to run from the heat in Garissa Town. He promised us that he will be going to Balambala on Saturday because Garissa Town has become very hot. I wish him well. He is constituency-hopping. The man who took Members of Parliament to eat Government food so that they do not party-hop will be constituency-hopping on Saturday. This is a good day. It is his democratic right as enshrined in Article 38 of the Constitution.

I beg to second.

(Question proposed)

Hon. Speaker: Hon. David Ochieng. Before you start, let me hear the point of order from Hon. Gikaria.

Hon. Gikaria: Thank you, Hon. Speaker. Hon. A.B. Duale has said this is not a very crucial Bill. Notwithstanding the provisions of the Standing Order which we passed, can we reduce the time for the Members to contribute from 10 minutes to five minutes, so that we can hurry?

Thank you.

Hon. Speaker: What do you mean?

Hon. Gikaria: I was asking whether we can reduce the time for contributing from 10 minutes to five minutes.

Hon. Speaker: That should have come before the Bill was moved.

Hon. Gikaria: Yes.

Hon. Speaker: Is it the mood of the House that the Members should speak for five minutes?

Hon. Members: Yes.

Hon. Speaker: Hon. Members, it is your right to make that kind of proposal, but is it the mood of the House?

Hon. Members: Yes.

Hon. Speaker: Member for Kiambu, you have just walked in a few minutes ago, and you cannot sit.

(Laughter)

Hon. Members, the only way to determine this is to put the Question.

*(Question, that debating time be reduced to five minutes,
put and agreed to)*

Hon. Ochieng.

Hon. Ochieng: Thank you so much, Hon. Speaker. I hope that ruling does not apply to me because it was made after I rose on my feet. I want to support the Bill. Before I support this Bill, I would like to say that whenever you see the leaders of political parties in this country agreeing, the country is in problems, especially on political matters like this one. Whenever you see everyone saying we should not allow this to happen, there is a conspiracy. There is a conspiracy to block Kenyans from enjoying their political rights. This House must be allowed to express itself in these two Election Bills by allowing us to amend what we think is offensive. You cannot allow us to rubber stamp these two Bills as if we are zombies. We are people who have gone to school. We are debating the Bills based on what we think is right. You must allow us to amend these Bills on where we think the Committee did not do a good job.

Hon. Speaker: Hon. Ochieng, I will give you an extra minute. Hon. Members, let me make it absolutely clear. As Members, you have the role of legislating. In performing that role of legislation, you make legislative proposals. Any proposals which are before the House are amenable to amendments. You can amend the proposals as long as your amendments are not against the Constitution. That is allowed. It is the House which will decide what it wants to make of the proposed amendments. If any Member desires to propose amendments, let it be known that I will approve it. It is up to you to come and decide what to do with the amendments.

Hon. Ochieng: Thank you so much, Hon. Speaker. What has been harped by the Leader of the Majority Party this afternoon is that this is a negotiated Bill and some things cannot be

done. Thank you so much for that ruling. The offences in this Act, like Hon. Jakoyo has said, are not new. I wish the Committee which we tasked this job considered the problem. The problem is not the offences, but the capacity of the bodies concerned to enforce the law. I wish they had proposed to appropriate some money to enable Independent Electoral and Boundaries Commission (IEBC) to employ more staff to enforce the law. Party hopping is in the law, and it is not allowed 45 days to elections. In the last elections, we saw Jubilee and the Orange Democratic Movement (ODM) changing names up to 12 days before the elections. That is because the Independent Electoral and Boundaries Commission (IEBC) had no capacity to stop party-hopping. Even now, unless we build the capacity of the IEBC to enforce the law, party-hopping will be there whether it is in the law or not. I wish this Parliament would allocate enough money to IEBC and the police to enable them enforce the law.

I have looked at those offences again and I have heard people talking about the use of resources. This has been in the law for a long time. Offences with regard to voting have been in the law, but the problem is enforcing them. Sometimes, we see photos and media reports about offences being committed, but no one follows them through. We do not see the IEBC and the police following them through because of lack of capacity to enforce the law.

Hon. Speaker, on the issue of nominations, I want you to listen to this because, sometimes back, there was only one party in this country called KANU. In the years before in Siakago Constituency, and I wish Hon. Nyenze was here---

[The Speaker (Hon. Muturi) consulted with the Clerk-at-the-Table]

Hon. Speaker, I want your ear on this because it is important. This is very important. I want you to get this. Some years back, KANU was the only party in this country. In Siakago Constituency where you come from, Hon. Nyenze, who is not here today, was the returning officer. You remember how he messed up the KANU nominations and gave the ticket to somebody else and not you. He rigged you out and you know it. You cannot preside over those matters and allow this kind of thing to happen.

My case against my party in 2013 was heard at midnight in Milimani Courts. I won my nomination. The party gave the ticket to somebody else and I had to go to court. Instead of campaigning for my voters to vote for me, I was rushing against my party to get my ticket back. Somebody told us this afternoon that we should allow this to happen because some two party officials have decided that this is the best way to go. We are not going back to Form 2A. We are not going back to the old dark days where political party owners called the shots. We cannot allow it. We must allow this country to fester and prosper through political party membership that is neutral, peaceable and voluntary.

There is an election going on in the United States of America right now. Bernie Sanders has never belonged to a party in his life until two years ago when he joined the Democratic Party and had a fair chance. Donald Trump just joined the Republican Party last year and had a fair chance. Now he is the party's candidate. He wanted to join the party. We cannot force individuals to join parties just because you think if there is party hopping, you will lose favour and there will be mayhem and chaos. Political parties must be run independently and democratically, if this country must move forward.

I want to talk about campaign financing which was gazetted some two weeks ago. We must allow the IEBC to do its job. I have looked at the Bills that have been prepared. Some of the Bills that are being proposed are merely administrative. How do you talk about procurement

when you have laws to regulate such? I want you to allow us to amend this Bill to make sure that Commissioners are appointed in the right manner. You cannot give the President two names to choose from and yet, he will also be a candidate in the coming elections. You cannot give him nine names for him to appoint seven, when he will be a party in the coming elections. Sen. Kiraitu and Sen. Orendo should have seen those anomalies and corrected them. Even in the last law, Kibaki and Raila were supposed to consult. Now we are saying that the President can appoint commissioners to the IEBC without consulting anybody else. We have also been told that we cannot change that. We must change it and ensure that what is being proposed here fits within the law and the aspirations of Kenyans.

I support the Bill.

Hon. Speaker: Let us have Hon. Peris Tobiko.

Hon. (Ms.) Tobiko: Thank you, Hon. Speaker. I rise to support this Bill. As the earlier speakers have said, the offences and criminal acts that have been mentioned here are not necessarily new, but now they have all been put under one law. Particularly, when it comes to the electioneering period and party primaries, women have borne the brunt of election violence.

I am also happy because this Bill gives details of how to deal with violence during the election period. There are many other offences that have been mentioned in this Bill. I want to agree with Hon. Ochieng that we do not lack good laws in this country. The challenge has always been the implementing agencies. Either there has not been goodwill to implement those laws or we have deliberately decided to shove off the laws and operate as if we are in a jungle during the electioneering period.

Not long ago, there was a question of vacation of office by the Independent Electoral and Boundaries Commission (IEBC) commissioners. There is a procedure in law of removing them from office, but the other side of the divide went to the streets causing mayhem that left some Kenyans dead, just so they could push their wishes through. I am not sure, that even if we amalgamate those laws into one, or if we come up with a good piece of legislation, we will stop Kenyans from operating with impunity. I am not certain that there is goodwill by various political leaderships and the IEBC to implement these laws.

This Bill states that there shall be no use of public resources during the electioneering period. This is to ensure that we do not have undue advantage over the other aspirants. We should pass this Bill. This Bill, however, has major concerns. We should not keep saying this is a negotiated document and yet, there are flaws that need to be addressed. We will not be doing any justice as a House. Some of these issues will come back to haunt us.

Some penalties that are proposed in this Bill are excessive. When somebody is charged Kshs1 million or a jail term of about three years, then that raises concern about those two Bills that need to be addressed.

I want to call upon the House to rise up to the occasion and make sure that we do not pass laws that will not be implemented. I support this Bill.

After going through those two election Bills, I am yet to come across very specific---

Hon. Speaker: Hon. (Ms.) Tobiko, your time is up. Hon. Junet Nuh.

Hon. Nuh: Thank you, Hon. Speaker.

Hon. Kajwang': Hon. Junet, you have already contributed.

Hon. Nuh: I have not contributed at all. This is plenary and not Committee of the Whole House. Maybe, you were in the streets.

Hon. Speaker, there is somebody here who is disturbing me. You removed him from the Speaker's Panel.

Hon. Speaker: Proceed.

Hon. Nuh: Hon. Speaker, I was a member of the Joint Select Committee, and I want to congratulate it for doing a very good job. You remember the circumstances under which that Committee was formed by Parliament. People were demonstrating in the streets causing mayhem as one of the Members has just alluded to. We were led to the streets by Hon. Kajwang'. Some Members have forgotten about the history of this matter. The Joint Select Committee comprised of Members from both the Majority and Minority parties. Both sides of the Committee had their own demands, which they said were irreducible minimums. The spirit of give and take prevailed in consultation with their party principals and leadership. I am shocked the Deputy Leader of the Minority Party whom I respect so much does not even know what a public portal is. I did not know he is so ignorant about electronic matters. I came to know today that he does not know what a public portal means. He asked, "what is a public portal?" in front of Kenya's cameras.

For those who do not believe in party ideals, nobody has forced you to stay in a party. You can leave your party even today if you want – the way Mwaura has done. I really congratulate the *mzungu* man. He said "I am leaving my party which is the Orange Democratic Movement (ODM) today." You do not wait for 21 days to decide whether you want to leave your party or not. For the last three years, I have not agreed with Jubilee on anything, but I agree with them today on the matter of party-hopping. In that, I support Jubilee 100 per cent. If I am a mole because of that, I want to be a mole from today.

The people who are saying this Committee has not done any work and that it would have done better work than this and are saying this Bill should be transferred to the Departmental Committee on Justice and Legal Affairs are the same people who dewhipped their Members from the Departmental Committee on Justice and Legal Affairs when they wanted to do the Bill. They wrote to you as the Speaker. They said, "as Coalition for Reforms and Democracy (CORD), we have removed our people from that Committee." The leadership of this CORD removed those Members. Today, they are here saying the Departmental Committee on Justice and Legal Affairs should do the work. That is hypocrisy and it should be denounced totally.

This Joint Select Committee has done the much they can. If you are a good parliamentarian, you will have an opportunity to amend anything you want and bring any law you want on the same matter after six months. Some Members are old here but they are speaking like me who has just come here for the first time. It is really sad.

Let me be honest with Members here, if this Bill does not go through, Jubilee has nothing to lose. CORD has everything to lose. They have to go back to the streets, they will be killed by police, they will be tear-gassed and be beaten to death.

(Laughter)

Why are you talking on my side here like you came from the moon yesterday? You will be beaten. This time, I am going to oppose you. You should be jailed for 30 years for bringing chaos in this town of Nairobi which does not belong to you people.

A whole Member stands here and says that--- I know some of them are members of ODM. He left ODM a long time ago and he wants to still be in ODM. I am sure he will not get ODM's certificate. We know each other. Why do you not shop for a party as early as possible so that you are not locked out of that party?

I am saying this for free: we support this Bill. It must go through without any amendments. The Leader of the Majority Party has shown leadership on this Bill. I support him

whether he goes to Balambala Constituency or comes to my Suna East Constituency. I am happy he is supporting the Bill.

Thank you so much, Hon. Speaker.

Hon. Speaker: Hon. Members, for avoidance of doubt and in full implementation of my earlier direction about any Member wishing to propose amendments, you should do so. That is so that the Clerks are in a position to prepare those amendments in a Supplementary Order Paper by 1.00 p.m. If you have any amendments you wish to propose, feel free to do so. Submit them to the Office of the Clerk or the Clerks' Department for processing. They will then be brought to my attention so that I can either approve or reject. If I reject, there will be reasons given. It will not be because you are not entitled.

Obviously, Hon. Junet is a party honcho. When he gives instruction that there are people who will not get certificates, that may obviously send shivers down the spine of some people.

Hon. Yusuf Chanzu.

Hon. Chanzu: Thank you, Hon. Speaker, for the opportunity to support this Bill. It is a very good coincidence that we debated the earlier Bill, the Election Laws (Amendment) Bill, and now we are debating this Bill. There are a lot of complimentary aspects. We are talking about how best we can improve the election process and the kind of measures we can put in place just in case there are areas where we go offline.

The offences which have been outlined here are good because it now makes it very clear to those who participate in the elections and those who commit the offences. There have been issues which sometimes arise out of ignorance. It is said that ignorance is no defence. However, it is very important and useful that the laws are in place and some of the aspects have been outlined so that everybody is made aware in good time. The issue of discipline and culture is something that we cannot divorce ourselves from as a country and society. So, the most important thing is to put safeguards which can be seen in advance to assist to forestall some of the offences.

I do not know whether it is because we are still a developing country but there is a lot of ethnicisation of the process such that people sometimes react before the results. An example is the election of 2007, where, because of the opinion polls, people had already made up their minds in some areas of the country. In fact, if you look at what happened after that, it happened because of the preconceived ideas that were already made in the minds of the electorate and the people in some of the areas like Kisumu and Eldoret where we had a lot of violence. It is because of that. However, I think the people who were acting were not aware or conscious about the kind of offences they were committing. Some incidences were very bad just because information was given out and people relied on it.

So, it is good for these rules to be in place so that awareness is created early enough and the people who commit those offences are aware in advance. There are issues of incitement that happen around the election time. Even those who lose elections and know very well that they are going to lose like to cause chaos so that results are nullified. That is why it is very useful that we have laws in place.

There is the issue of the security organs. After these laws have been put in place, there will be need for them to get some kind of exposure or training on how they can be implemented. This is because there are some incidences which happen during elections and are reported to the police and the police take a lot of time to act. It is going to require a lot of facilitation in terms of means of communication in order for these offenders to be apprehended so as not to cause further damage or destruction.

With those few remarks, I support.

Hon. Speaker: Member for Butula.

Hon. Onyura: Thank you very much, Hon. Speaker. I support the Election Offences Bill.

This is a comprehensive tabulation of the various malpractices that occur during elections. Issues of cheating, collusion and conspiracy to breach confidentiality have been addressed. Other issues that have been addressed include impersonation, bribery, violence and intimidation. This reminds of a fraudulent publication which published very misleading information about me during a previous general election. They published false posters purporting that I had defected from a certain party to another – something which cost me an election victory in 2007. If these rules were in place then, those people would be in jail.

The inclusion of these things in this Bill calls for proper civic education because a number of the offences listed here may be committed by ordinary citizen out of ignorance. An example is the temptation to vote or register more than once. Therefore, the organs that will be charged with the responsibility of enforcing this law should develop an appropriate civic education programme. I support what Hon. Ochieng' said. He said that one of the weaknesses is lack of capacity within the regulatory bodies to enforce the law. This aspect should be taken into account to ensure that proper capacity is built within those institutions, so that they can do the job.

Regarding the electoral rules and processes, at the stage of developing our parties we should recognise party-hopping as a necessary evil. Political parties in this country are run like personal property. There is need for the threat or risk of losing Members so that party leaders can take the whole process of elections seriously.

In any case, if you know that you have picked the most popular candidate in a given constituency, why should you be worried, if I decide to join a smaller party? I would like to see the part that purports to stop party-hopping removed from the statute. The reason is simple and I repeat it: There is no party that has the capacity to run a fair, free and effective party nomination. The resources required for such an exercise are massive. A party will need ballot papers, poll clerks and supervisors as well as people to oversee the logistics involved. Not even The National Alliance (TNA) party has the capacity to run such a process. We should accept that that is a major limitation and see how to address it.

With those remarks, I support the Bill.

Hon. Speaker: Let us hear Hon. Sakwa Bunyasi.

Hon. Bunyasi: Thank you, Hon. Speaker.

I am of a mixed mind, whether it is something good or bad that is before the House. First of all, I think it is good that the process which led to these proposals through the Joint Select Committee was able to lower political temperatures in the country and we ended up with some legislation to look at.

In many ways there are some improvements in respect of governance within IEBC and I hope that the proposals turn out to be realized so that IEBC as will be constituted becomes a fully functioning and dependable institution. All of this, of course, is still just a plan and we do not know how it will turn out but we are hoping for the very best.

The intention to have an integrated electronic voting system is good but its failure might not be its logic but a power failure and everything will collapse. This time round we need to get clearer assurances that there is a clear plan "B".

The elephant in the room is not about all these nice things which people have talked about, but the issue of freedom of individuals to choose which parties they belong to. I

completely disagree with any suggestions that when you think about parties, you think about individuals. Therefore, the choices that were being given of individuals who are current party leaders who are all in the race, is a mistaken view.

I would like to ask my colleagues who for various reasons, whether it is as a result of corporate whipping or any other reasons, have now decided contrary to last week's mood that the thing to do is to restrict party-hopping, to think about it. I am hoping that tomorrow we will have amendments to put this to the test. They should ask themselves the last time their party held internal elections and how they went. I have read in the Press that there are some parties which have never held elections since they were set up. They are all run by interim officials. They plan to hold elections only after the next general elections. There is a good reason why they are doing this; the system does not work internally. The systems are going to be driven top-down and that is what we are against. Ask yourself if that is the case.

The second question is if you have an answer as to why your party has not held successful elections internally and why it has no unique register. That has been the pain of political party membership. Parties do not have the capacity or the willingness to produce unique registers that can then be used on the voting day so that nominations are handled just by those who are members.

The issue is not whether you have been fairly selected, but whether you have selected the most popular candidate in the elections.

[The Speaker (Hon. Muturi) left the Chair]

*[The Temporary Deputy Speaker
(Hon. (Ms.) Mbalu) took the Chair]*

Hon. Speaker, I like your guidance earlier on that this House is finally the one that does legislation and can make any amendments. A casual look at the Bill of Rights in the Constitution indicates clearly the individual freedoms to the individual which are not conferred by the State but the Constitution itself. These processes that are being conferred by the State are limiting freedom of individuals. I find that extremely problematic. In respect of the Election Offences Bill, the only thing that I see there that is probably new are the powers that are granted to the Director of Public Prosecutions (DPP). It is a critical institution in this country as indicated in the Constitution. I do not think the DPP's Office has been proactive and willing to take on difficult subjects as we see in other countries where there are independent prosecutors that run this function. It is only when there is national noise that the office of the DPP seems to wake up.

I doubt that in fact, there will be an institution that will be strong enough to back these laws that we are passing today. I still think that we are not out of the woods yet.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Well spoken, your time is over.

Hon. Muthari: On a point of order.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Nothing is out of order. Hon. Member for Ruaraka.

Hon. Kajwang': Thank you, Hon. Temporary Deputy Speaker. As I look at the Election Offences Bill and the Bill which we have just debated, I am very delighted that I blew the first whistle that brought a series of activities out of which these two Bills were borne. Sometimes I think the sacrifice I paid was a small one. Today, Members from both sides of the divide are

taking this country to the next level. Were it otherwise, perhaps we would not have reached where we are.

As I look at the Election Offences Bill, there is one offence that if I was in the position to put in law, I would do so. Any Returning Officer (RO) who wilfully changes an election result should be put to death. That offence should attract a death penalty so that a Chairman and members of the IEBC who decide to change an election result that has been transmitted to them from a polling station should be put to death. If we did that, nobody would want to steal elections. That is one proposal I am tempted to bring tomorrow. I want to propose death penalty for anybody who tries to joke with elections in this country.

Number two, we have been talking about party-hopping since yesterday. Let me tell Members: You have not seen what is coming. There will be no party-hopping. We have suggested in one of those clauses that IEBC shall conduct party primaries using taxpayers' money.

Hon. Oyugi: No.

Hon. Kajwang: It will come to the Floor. You are saying no and the other time you did not want party-hopping. We want credible nominations which will be accepted by everybody, conducted using taxpayers' money, the police, with the national register, at the same time and in the same venue so that *mnakanyagana hapo hapo*. There is no need of going to another party when you have finished the process unless you are the one who wants to steal from the other. If you know you are strong, go and win the election.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Are you supporting the Bill or not?

Hon. Kajwang: I am saying that we have taken too long discussing party-hopping when there is a provision which will fully cure this issue that we have been fighting. This problem is because of the weaknesses in the internal democracy or in the ability of political parties to conduct nominations. It will be on the Floor tomorrow. Once it is done, you do not even have to appear as an independent candidate because you will know whether you are losing in a polling station or not. It will be obvious. So, we do not have to be excited for no reason. Party-hopping comes about because there are mandarins controlling political parties. It comes about because you and I want to influence the change of member register and rig out others. If all of us were to go to the elections and look at who has been genuinely--- Some of us are waiting to kick the ballot boxes so that they can come to the party headquarters and look for certificates. This is what we want to do, but I can tell you that, having sat at the Departmental Committee on Justice and Legal Affairs, I know there will be no need for party-hopping because that will have been decided right there where *wananchi* will be voting.

I thank you so much.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. John Waiganjo, the Member for Ol Jorok.

Hon. Waiganjo: Thank you, Hon. Temporary Deputy Speaker for giving me an opportunity to support this Bill. Today, we are very fortunate as a House because we are now able to ventilate and debate the most important pieces of legislation considering that we have seven months to go to party primaries. We need a lot of sanity in our political parties so that our electoral process can be one that brings to this House and our county assemblies leaders who are truly a reflection of the voters' choice.

I have heard my good friend intimate that he does not regret blowing the first whistle thereby bringing to this House these pieces of legislation. I cannot but completely disagree with

him. I want to state clearly that this law was coming anyway. Let it not appear that this law has been brought by the Select Committee. In fact, the Departmental Committee on Justice and Legal Affairs dealt with these matters before the Select Committee was formed. It has always been my opinion that the Select Committee, despite having done a good job, would have its work end up here in Parliament. Remember, people went to the streets. They lost their lives and properties were destroyed. This was to confirm that this House was not capable of doing legislation that would help the country because of the so called tyranny of numbers. However, all those activities were all in vain. Lives were lost and properties destroyed in vain. Sponsored skirmishes in our streets were done in vain. Businesses were disrupted and people lost properties in vain. All these things were done as a strategy by our colleagues in the opposite side of the House. If you look at the vanity of what we do in our political processes, you will appreciate that this House must claim back its independence and must do its work according to the provisions of the Constitution.

I thank the Speaker for confirming to this House that he will allow amendments to these pieces of legislation. To claim that these laws will pass without amendments is to make this House a rubberstamp. In fact, we will be abdicating our roles under the Constitution. We will also be abdicating our honour and that of our constituencies when we come here to say that the Leader of the Majority and the Leader of the Minority are the only ones who can move amendments. So, I thank the Speaker for taking leadership and protecting Parliament as a legislature, that is, the only House that is mandated to make laws. The Electoral Offences Bill is long in coming. In fact, it is coming at the right time.

The blocking of party-hopping, whereby Members would want to choose the party they would wish to sponsor them, is streamlined within the law. The Bill that we have already discussed is clear on the way forward in our electoral process. The only reason that the Independent Electoral and Boundaries Commissions (IEBC) should be involved is to professionalise our electoral process and to make sure that the party primaries are conducted in a good way. It will ensure that party mandarins do not necessarily rig out popular candidates, therefore, circumventing the will of the people. If we have the IEBC conducting party primaries, there should not be an issue of party-hopping. People do not hop because they want.

I thank you, and I support, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Gideon Ochanda, Member for Bondo. Hon. Members, I have 24 Members on my request list.

Hon. Ogolla: Thank you, Hon. Temporary Deputy Speaker. As a country, it is very unfortunate that since 1997 we have been talking about making changes to the electoral laws to improve administration of elections. We did this ---

The Temporary Deputy Speaker (Ms.) Mbalu): I see an intervention.

Hon. Ogolla: In the last four elections ---

The Temporary Deputy Speaker (Ms.) Mbalu): Is it a point of order? Hon. Ochanda, let me hear what the Member for Igembe North has to say. Is it a point of order or a point of information? There is nothing out of order. What do you want to say?

Hon. M'uthari: Hon. Temporary Deputy Speaker, I rise under Standing Order No.95. We have been debating this matter since this afternoon and so we are repeating the same things. We are not saying anything different. Would I be in order to ask that the Mover be now called upon to reply so that we can deal with other business?

The Temporary Deputy Speaker (Ms.) Mbalu): It is Hon. Members who have to take the vote. Hon. Member, the substantive Speaker welcomed any possible amendments to the Bill.

Some Hon. Members have an interest in coming up with amendments to the Elections Offences Bill. We were given until 1.00 p.m. tomorrow by the substantive Speaker. He said he will sign them.

I have 22 requests. Let the Member first finish prosecuting his points.

Hon. Ogolla: Hon. Temporary Deputy Speaker, I had not settled. I hope I will get back my minutes.

I was saying that it is unfortunate that the country has been doing more or less the same thing that we are doing today. We have been doing this in the last many years. Every time we have elections, we come up with all manner of changes in the electoral laws. We do not learn much because all the time we get to this, the players are in front. Any time we have players in the front, it becomes difficult to come up with a proper legislation. This is happening at this particular time when we have all along talked about the issue of the IEBC. All these are issues of enforcement and administration, which are entirely in the hands of the IEBC. As of now, we are talking of coming up with a new Commission which must be in place in the next five months. If we are to meet the deadline that has been proposed in the legislation, we should have a new Commission in place by February.

In the meantime, this must be done in five months. This is where I want to fault the Committee. We needed to come up with something like the one we have in the Fifth Schedule, indicating timelines within which we are supposed to do certain things. Right now the commissioners are supposed to be out of office, based on the negotiated arrangement. It is still not known how they are going to get out. Some crafting is still going on and this must happen in the five months period. If it does not happen, what will happen?

There is need for an oversight authority or an agency to oversee this roadmap to ensure that it is implemented within the first five months after this Bill becomes law. If this is not done, there will be a lot of gaps and challenges to an extent that we might end up with a complete new team that will not do much when the general elections are held in August next year. The deadline for putting in place a commission must be February. Between now and February we have five months. Technically, we are talking about certain things that are not very easy.

We have the Electoral Code of Conduct, the Political Parties Act and the entire Chapter Seven of the Constitution that have never been enforced. This has been there, whether we had a commission or not. If we are to have a credible election body to take charge of the forthcoming election, it is critical that they have space and capacity to do some of these things properly. As of now, I am not sure whether this is going to happen or not. The time that is left is very short. The kind of legislation and things we are proposing are massive. We might end up in a situation where parties, in terms of nomination processes, push a lot of chaos and garbage to the IEBC, which will be less prepared to manage them. We will have chaotic elections. Elections are not necessarily what we have towards the elections date. They are cumulated activities, particularly, the primaries that parties do are very critical.

We have been talking about the IEBC managing the elections of political parties. It will not happen the way it is in the Bill because it is supposed to be on request. The parties that will request are the ones which are supposed to be assisted. It means that we are going to have public money spent on some parties and not on others that will be requesting or not requesting. If at all the elections are to be proper, the issue of nomination must be looked into in much detail – much more detail than even when we talk about party-hopping. There are people looking for this space largely because things are never done well.

There are many incidences when things were not done well. If we had a situation where nominations are done well, with influence being put aside in terms of the leadership of political parties and stuff like that, our elections could be done in a manner that is useful. As at now, there are still chances of elections becoming chaotic because of the amount of time that we have.

Thank you.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Before I get to the request by Hon. M'ruaki, I had given the Floor to Hon. Opiyo. Is he in the House? He is not in.

Hon. Paulata Korere.

Hon. (Ms.) Korere: Nimeshukuru Mhe. Naibu Spika wa Muda kwa kunipa fursa hii.

Hii itakuwa sheria ya kufana sana, tukizingatia makosa yanayofanywa na wapiga kura na baadhi ya wagombeaji viti vya uchaguzi. Imebainika kwamba akina dada mara nyingi huwa wanazuiwa kugombea ama kushiriki kwenye chaguzi huru kwa sababu ya makuruhu na dhuluma wanayofanyiwa na baadhi ya wapinzani wao wa kiume.

Kifungu cha 16 kinazungumzia ubebaji wa wapiga kura kutoka sehemu moja hadi nyingine na kuwaregesha. Hili limekuwa pigo kubwa sana kwa akina dada wanaogombea viti. Wakati wa kuwasajili wapiga kura, wapinzani wengine huwasafirisha wapiga kura kutoka wilaya moja hadi nyingini.

Kifungu cha 18 kinaangazia suala la baadhi ya waajiri ambao huwazuia waajiriwa wao kwenda kupiga kura. Ninavyoelewa ni kwamba kuna kampuni ambazo zimeajiri zaidi ya Wakenya 600 ama 1,000. Wakenya hao wamekatazwa kuweka vituo vya kupigia kura miongoni mwao. Siku ya kupiga kura, wenye kampuni hizo huwazuia wafanyikazi wao kutoka nje ili kwenda kupiga kura. Huo ni unyanyasaji na ukiukaji wa sheria za Kenya.

Mengi yamesemwa kuhusu sheria za upigaji kura. Ninataka tu kuchangia kuhusu maneno ya kugura vyama vya kisiasa. Kuwakataza wagombeaji kuhama vyama vyao vya kisiasa baada ya uchaguzi wa mchujo ni kuturegesha katika hali ya chama moja.

Sisi sote katika Bunge hili tunajiunga na vyama vya kisiasa kwa sababu ya kuamini miundo misingi ya vyama hivyo. Litakuwa jambo la kufana iwapo tutaamini miundo misingi ya vyama hivi na tukae katika vyama na tutafute namna ya kusuluhisha matatizo yote ambayo yatatokea baada ya chaguzi za mchujo. Iwapo mtu anahisi kwamba ana nguvu za kuunda chama chake, agure vyama vya kisiasa kabla ya uchaguzi wa mchujo.

Katika Bunge hili, mimi ni mmoja wa watetezi wa haki za kibinadamu na ukiukaji wa haki za kibinadamu. Mhe. Spika wa Muda, sheria hii imezungumzia, haswa usawa wa kijinsia, baadhi ya wagombeaji na wapiga kura. Ninapooonga kuhusu usawa wa kijinsia, tumeongea sana kuhusu uteketaji wa wasichana. Litakuwa ni jambo la maana kutunga sheria ambayo inaidhinisha na kulazimisha kutahiri kwa wanaume, katika nchi hii yetu ya Kenya. Mbali na kudhibiti makali ya ugonjwa wa ukimwi, imebainika kwamba iko pia na faida ya kusaidia kukomaa, ili tusione wanaume wazima wakiketi kwa barabara kulazimisha Tume Huru ya Uchaguzi na Mipaka ing'atuke. Tunajua kuna sheria ambayo imetungwa ambayo inasema wazi kuhusu kung'atua Tume Huru ya Uchaguzi na Mipaka.

Hon. (Ms.) Odhiambo-Mabona: On a point of order, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Member, do not express yourself in some languages. You may not become too popular. Hon. Millie Odhiambo, what is your point of order? Members, that is why we will come to the closure of the debate. Let us not deviate from what we are debating here.

Hon. (Ms.) Odhiambo-Mabona: Thank you, Hon. Temporary Deputy Speaker. Is the Member in order to be relating the issue of demonstration to circumcision? Even though

Kiswahili is not my mouth, if I heard her correctly, I was demonstrating, but I do not have any male organ, circumcised or otherwise. Is the Member in order to be equating issues of demonstrations with circumcision? She must respect the cultures of communities.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Paulata, because you are debating on a different issue, can you withdraw and apologise? Otherwise, if you have nothing to say in the House, allow me to give the opportunity to somebody else. Can you withdraw and apologise? We do not want to marry other issues.

Hon. (Ms.) Korere: Mhe. Spika wa Muda, kwa vile Nyumba ilivyotulivu leo na viwango vya joto vikiwa chini, naomba msamaha.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Wacha kupandisha joto katika Bunge hili. Finish your contribution. Hon. Paulata, are you through with your contribution?

Hon. (Ms.) Korere: Yes.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Members, before I come to Hon. M'ruaki's request on Standing Order No. 95, I must admit that I have 20 requests here. He was in order procedurally to request for closure of debate. The House will have a take on this. Allow me to give the opportunity to Hon. Millie Odhiambo who is next on my request list, and then I put the Question.

Hon. (Ms.) Odhiambo-Mabona: Thank you, Hon. Temporary Deputy Speaker, for giving me the opportunity to contribute. I had closed my books. I thought we were adjourning. I had spoken generally on elections. I will bring amendments to this Bill. If we want to bring party-hopping, I have said from a governance perspective that there must be party discipline. I will bring amendments which will cause us to have party discipline. I am a victim of indiscipline in parties. I have said before it is not an issue of party leaders, but of individuals who take advantage. Unfortunately, I know there are new members who think they are the party owners. I have bad news for them. They are not, and will never be the party owners. I have a testimony from Hon. Oburu Odinga who is a brother to our party leader. He did not get his nomination certificate. So, those who are here and think they are closer to Hon. Raila Odinga more than Hon. Oburu are in for the greatest shock of their lives.

We need to spur people who are misusing our parties. There are technocrats within parties and others who do not vie for elective positions. I will propose several amendments. I cannot say all of them. For example, in the definition of the word "election", I will propose to add the words "and party primaries" so that we say, "Election means a presidential, parliamentary or county election, and includes a by-election and party primaries, so that every offence we put here in relation to main elections must also apply to parties. If you bribe voters during main elections and primaries, you should pay Kshs1 million which you will force other people to pay. We cannot say we wait for the main elections. Some of us come from places where party primaries are the elections. If I get the party certificate in Mbita it is because I am doing an excellent job right now. Today, in the newspapers, it is shown that I officiated over the establishment of the first school in Sukuru Island since the era of the Zinjanthropus. The people of Mbita are happy with me. I do not want somebody who has never vied for any elective position to thwart the will of Mbita people by doing all manner of things including the shooting that happened during my own election.

The Directorate of Criminal Investigation (DCI) officer who was involved has not been transferred to date. Therefore, I am going to face the same challenges, I am not waiting. God has given me an opportunity to come to this House and so I do not mind if I fail but I will propose amendments that will bring discipline in our parties. I support the Bill with amendments.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): As the Speaker said, amendments are quite in order. We may propose them during the Third Reading Stage. Hon. M'ruaki stood pursuant to Standing Order No.95 to request that the Mover be called upon to reply. We passed a Motion that allowed us to debate these Bills for not more than three hours. That would take us to 9.45 p.m.

*(Question, that the Mover be now called upon to reply,
put and agreed to)*

I, therefore, call upon the Mover to reply.

Hon. (Dr.) Shaban: Thank you, Hon. Temporary Deputy Speaker. I wish to donate one minute each to Hon. Regina Ndambuki from Kilome, Hon. Mwadeghu from Wundanyi and Hon. Savula. How many minutes do I have?

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): You have 10 minutes. You have already donated three minutes.

Hon. (Dr.) Shaban: I will donate another minute to Hon. Macharia from Molo and Hon. Iringo. Those are five people. Finally, I will donate one minute to Hon. Nakara from Turkana.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Member, you have donated one minute each to Hon. Regina, Hon. Mwadeghu and Hon. Savula. Hon. Regina Ndambuki, you have one minute.

Hon. (Ms.) Muia: Thank you, Hon. Temporary Deputy Speaker. Since I have only been given one minute, I am going to make use of it.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): It is almost over. Make use of it. Just carry on.

Hon. (Ms.) Muia: Hon. Temporary Deputy Speaker, I hope the light flashing is not for me.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Regina, you are already consuming your minute.

Hon. (Ms.) Muia: Hon. Temporary Deputy Speaker, I support this Bill. I hope the National Cohesion and Integration Commission (NCIC) will be given teeth to bite. We have read about this all the time. I have seen some regions during elections where people fight, kill each other and burn cars yet no action is taken against them.

With regard to party-hopping, people must make decisions. If you want to vie for an elective---

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Your time is over. Hon. Mwadeghu, you have one minute. Hon. Regina, you have been heard. You are on record.

Hon. Mwadeghu: Mheshimiwa Naibu Spika wa Muda, ningependa kutoa shukrani kwa wakati huu ambao nimepewa kuunga mkono Mswada huu. Ni maoni yangu kuwa pale ambapo kuna vipengele ambavyo vinahitaji marekebisho, vifanyiwe marekebisho ili angalau tupate sheria ambazo zitadumu. Wakati umefika kwa sisi kuangalia kuwa wakati wa uchaguzi, wale ambao wanafanya dhambi wakati wa uchaguzi nao pia waadhibiwe vilivyo.

Ningependa kuunga Mhe. Millie Odhiambo mkono kuwa lazima tuhakikishe tunapofanya mchujo, atakayepewa tiketi ya chama akifanya makosa lazima ahusishwe katika dhuluma ambazo zimetajwa na vipengele hivi ili aadhibiwe kwa mujibu wa sheria.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Savula.

Hon. Angatia: Thank you, Hon. Temporary Deputy Speaker. I stand to add my voice to the Election Offences Bill, especially on Clause 5 that bars candidates from purchasing election materials. This will ensure that we have fair elections.

Clause 12 of the Bill bars the use of security organs. I will move an amendment to ensure that we also add security organs at county levels.

Clause 15 of the Bill bars participation of public officers in elections. This will ensure that public officers at county and national levels do not interfere in the election process. That way, we will have free and fair elections.

Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Macharia.

Hon. Macharia: Thank you, Hon. Temporary Deputy Speaker. I support this Bill. It is important to have order in the electoral process. It is high time we adopted the systems of democracy that have come of age. It is important also, as a matter a principle, that whoever loses in any nomination supports the candidate who wins. I do not know why we always hop to other parties. I support the Bill.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Cyprian Iringo.

Hon. Kubai Iringo: Thank you, Hon. Temporary Deputy Speaker. I would like to thank the Deputy Leader of the Majority Party for giving me a minute to make my contribution. This Bill is timely. What is addressed here is happening on the ground. It has affected people who have been rigged out in elections in one way or the other because of malpractices. This will bring sanity as far as elections are concerned. People will be elected as a result of people's choices and not individual choices. They will not be elected because of their interest, influence or because of their money. Persons will only be elected because of the clout they command amongst the people. We will get astute leaders brought to this Parliament by the people themselves.

Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Nakara.

Hon. Nakara: Thank you, Hon. Temporary Deputy Speaker. I would like to talk about Clause 16 of the Bill on unlawful expenditures. This law provides an equal playground for both the poor and the rich. Some people use their wealth to manipulate voters. With this kind of law, even the poor man without money but with qualities of a good leader now stands a chance to be elected.

I support this Bill because it takes care of the poor and the minority who also want to be leaders.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. (Ms.) Alice Wahome.

Hon. (Ms.) Wahome: Thank you, Hon. Temporary Deputy Speaker. I would like to thank the Deputy Leader of the Majority Party for giving me a minute to make my contribution. I support this Bill.

I was a victim of election violence and to date that case has not been concluded. Acts of destroying election materials and even defacing of candidates' adverts still exist. Pulling down of candidates' materials should be well catered for in this law.

We need to legislate against early campaigning because right now there are candidates already on the ground with posters even before the election period is declared.

Finally, I am also looking at Section---

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Your time is over and you have your points well said.

The last three minutes are to the Mover, Hon. Naomi Shaban the Member of Taveta Constituency.

Hon. (Dr.) Shaban: Thank you, Hon. Temporary Deputy Speaker.

As I reply, I want to thank all the Members for all the support and contributions they have made. Even the Members who are planning to bring amendments are doing so within the mandate they have been given in this House.

I want to take this opportunity in also thanking the Joint Select Committee for the work that was put in. It was not an easy fete. Even when we came up with the decision of putting all the election offences that were scattered all over in one place, it is because a lot of work had gone into it. The Director of Public Prosecutions (DPP) also said he was having a very difficult time because even when he knows there are offences which have been committed, he would not know what to do because it was not being addressed in the laws of Kenya.

With the passage of this law, it will now be possible for the DPP to prosecute election offences in a more organised manner. He can even come in on issues which have been impossible in the past.

The Judiciary should also now take very serious steps in punishing offenders. This is because in the last Petitions, they chose to be silent on the issue of commission officials, most of the Returning Officers who really misbehaved in the last elections. None of them was really punished. Instead, the Independent Electoral and Boundaries Commission was punished on their behalf. That will not make anybody responsible at the constituency or county level. Returning Officers were able to just get away with some of the naughty things they did.

Hon. Peris Tobiko talked about these sentences and the fines which have been put there as being too much. I think she should not be worried because those are the maximum levels that any judgement can go to. There are minimum levels. It is actually very specific on not exceeding the sentences and the punishments which have been put there.

I know Members have been very keen on us having a new commission and also for us, as we are moving on to next year's general election, Members are so keen to make sure that some of the obvious things which were going wrong should be corrected for us to have a fair and level paying ground.

I beg to reply.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Members, I must pronounce that we are not able to put the Question on the Bill. So, I order that the Question for this Election Offences Bill (National Assembly Bill No. 39 of 2016) be put in the next appropriate time.

(Putting of the Question deferred)

Next Order.

SPECIAL MOTION

REMOVAL OF THE CHAIRPERSON OF THE ETHICS AND ANTI-CORRUPTION COMMISSION

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Before I defer because the Chairman of the Departmental Committee on Justice and Legal Affairs is not in, I must say and

report to the House again that we moved an extension Motion to sit until around 9.45 p.m. We are still within the time.

For the Special Motion No. 10, I defer because the Chairman is not in.

(Special Motion deferred)

Next Order.

BILLS

Second Readings

THE PUBLIC FUNDRAISING APPEALS BILL

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Again, this is a Bill from the Chairman of the Departmental Committee on Justice and Legal Affairs. Because of the obvious reason that the Chairman is not in, I defer the Second Reading of the same.

Next Order.

(Bill deferred)

THE STATUTE LAW (MISCELLANEOUS AMENDMENTS) (NO.2) BILL

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Again, from the Speaker's Chair, the Second Reading of the Statute Law (Miscellaneous Amendments) (No.2) Bill (National Assembly Bill No. 58 of 2015) by the Leader of the Majority Party is deferred to the next appropriate time.

(Bill deferred)

ADJOURNMENT

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Order, Hon. Members! There being no other business in the Order Paper for today, 31st August 2016 after 6.45 p.m. Sitting and the time being 9.35 p.m., the House stands adjourned until Thursday, 1st September 2016 at 9.30 a.m. It is so ordered.

I thank you all. Thank you, Hon. Members for being in the House until this time. The public should know the kind of work you do. From the Speaker's Desk, I must appreciate and thank you all.

Thank you.

The House rose at 9.35 p.m.