

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Thursday, 10th July, 2014

*The House met at the Senate Chamber,
Main Parliament Buildings, at 2.30 p.m.*

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

PRAYERS

PAPER LAID

REPORT OF THE STANDING COMMITTEE ON AGRICULTURE, LANDS
AND NATURAL RESOURCES ON STUDY TOUR OF SPAIN

Sen. Kivuti: Mr. Speaker, Sir, I beg to lay the following Paper on the Table of the House.

The Report of the Standing Committee on Agriculture, Lands and Natural Resources on the study tour of Spain, held between 28th March, 2014 and 6th April, 2014.

(Sen. Kivuti laid the document on the Table)

NOTICES OF MOTIONS

SANCTIONS AGAINST SUSPECTED PERPETRATORS
OF GENOCIDE IN SOUTH SUDAN

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, I beg to give notice of the following Motion:-

THAT, noting that the crime of genocide entails the deliberate killing of a large group of people, especially those of a particular nation or ethnic group; concerned further that there is evidence that the crime of genocide may be occurring in our neighbouring Republic of South Sudan; aware that the Republic of Kenya is of strategic and economic importance to all countries of the East African region; noting that the Republics of

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Kenya and Uganda are hosting a majority of the kith and kin of the military generals and other combatants of the protagonist sides to the conflict who are suspected of perpetrating genocide in South Sudan; the Senate urges the national Government to take immediate action against those suspected to be perpetrating genocide in South Sudan by imposing sanctions against them, including but not limited to freezing of their bank accounts, deportation of their families and such other action as will force the protagonists to stop the genocide and settle their disputes in a peaceful manner.

The Speaker (Hon. Ethuro): Sen. Kivuti, put your request.

(Sen. Kivuti walked to the Dispatch Box)

Sen. Kivuti: Thank you, Mr. Speaker, Sir.

The Speaker (Hon. Ethuro): Sen. Kivuti, I do not have your request. Put your request, I did not tell you to proceed.

*(Sen. Kivuti walked back to his place
and placed a request to speak)*

That is better now. Why are you running away from such a simple exercise? Proceed, Sen. Kivuti.

ADOPTION OF AGRICULTURE COMMITTEE
REPORT ON STUDY TOUR OF SPAIN

Sen. Kivuti: Mr. Speaker, Sir, I beg to give notice of the following Motion:-

THAT, this House adopts the Report of the Standing Committee on Agriculture, Lands and Natural Resources on the study tour of Spain, held between 28th March, 2014 and 6th April, 2014, laid on the Table of the House on Thursday, 10th July, 2014.

The Speaker (Hon. Ethuro): Sen. Lesan, you are on a point of order.

Sen. (Prof.) Lesan: Mr. Speaker, Sir, it is not a point of order.

Can I proceed?

The Speaker (Hon. Ethuro): Do you have the Order Paper?

Sen. (Prof.) Lesan: I do, Mr. Speaker, Sir. We are on notices of Motions.

The Speaker (Hon. Ethuro): Next Order!

STATEMENTS

STATUS OF BONUS PAYMENT TO SMALL-SCALE
TEA FARMERS UNDER KTDA

Sen. (Prof.) Lesan: Mr. Speaker, Sir, I wish to seek a Statement from the Chairperson of the Committee on Agriculture, Livestock and Fisheries on the following:

(i) What is the status of the second payment of the proceeds from the sale of green tea leaves, commonly known as “bonus” to small-scale tea farmers under the 66 factories, under the aegis of the Kenya Tea Development Agency (KTDA) as directed by the Chief Executive, His Excellency the President?

(ii) If e-trade is now an accepted mode of trading in auctions internationally, has the KTDA considered implementing this mode of trading at the Mombasa Tea Auction?

(iii) Could the Chairperson indicate the number of directors in all the 66 factories, showing the total emoluments for the year 2012/2013?

The Speaker (Hon. Ethuro): The Chairperson, Standing Committee on Agriculture, Livestock and Fisheries.

Sen. Murungi: Mr. Speaker, Sir, that statement will require a bit more research. I am requesting for 14 days within which to respond.

The Speaker (Hon. Ethuro): Fourteen days should be fine.

Sen. Sijeny: Mr. Speaker, Sir, I rise to give a Statement that was sought by Sen. Murungi. If it is in order, I can proceed.

The Speaker (Hon. Ethuro): Proceed.

STATUS OF MIKINDURI-MAUA ROAD

Sen. Sijeny: Mr. Speaker, Sir, on 12th June, 2014, the Senator for Meru County, Sen. Kiraitu Murungi, requested for a Statement from the Chairperson of the Standing Committee on Roads and Transportation regarding the status of Mikinduri-Maua Road. In the Statement sought, the Senator wished to be informed on the following:-

- (i) the current status of Mikinduri-Maua Road;
- (ii) the cost of the project and the contractor;
- (i) why it has taken so long to complete the road;
- (ii) how much money has been allocated to the road this financial year; and,
- (iii) when the road will be completed.

Mr. Speaker, Sir, I wish to respond to the Statement as follows:-

The Mikinduri-Maua Road is located in Meru County and it is 18 kilometres long, out of which, 8.5 kilometres has been completed to bitumen standards. The contract sum is Kshs1,721,871,230. The contractor is M/s Mulji Devaj and Brothers Limited.

The construction of this road has taken longer than the contractual period due to budgetary provisions in the past Financial Years 2012/2013 and 2013/2014. In the

Financial Year 2012/2013, the allocation for the project was Kshs469 million while in 2013/2014, the allocation for the project was Kshs155,496,897. The contractor is still on site, but no work is going on.

In this Financial Year 2013/2014, the project was allocated Kshs155,496,897 which was not adequate to complete the works as per the initial expected time of completion, in September, 2013. The Ministry, through the Kenya Rural Roads Authority (KeRRA), plans to complete the remaining part of 9.5 kilometres before the end of the next Financial Year 2014/2015.

The budget estimate in the next Financial Year 2014/2015 for Mikinduri-Maua Road is Kshs400 million. Enclosed are contract details and the project location map.

Mr. Speaker, Sir, I beg to submit.

(Sen. Sijeny laid the document on the Table)

(Applause)

Sen. Murungi: Mr. Speaker, Sir, I am surprised that our colleagues on the other side are cheering the Chairperson of this Committee. I am very disappointed by this Statement. In the lines of what I said yesterday regarding the Isiolo Airport, there is total lack of seriousness and no political will in the implementation of this particular project.

The road is only 8.5 kilometres long and it is taking five years. The Governor of Machakos did 33 kilometres in three months; that is, 11 kilometres per month. Why should the Government take five years to do 8.5 kilometres? That is why I am saying that they are not serious and there is no political will. They are even saying that there was lack of adequate budgetary allocation in the previous years. That is a clear demonstration of lack of seriousness.

The Speaker (Hon. Ethuro): Order, Sen. Kiraitu! Seek a clarification. One of the issues that you were interested in was not whether or not there was political goodwill.

Sen. Murungi: Mr. Speaker, Sir, you have heard them say that the contractor is on site, but no work is going on. Could the Chairperson explain why no work is going on and what the contractor is doing on the site? It is a common practice now for contractors to make money by just parking vehicles, tractors and other equipment on the roads and claiming costs and damages from the Government under a formula called escalation of costs.

Mr. Speaker, Sir, this road is a clear example of that reckless and wasteful expenditure by the Government. The Government is paying contractors who are doing nothing. Could the Chairperson explain how much of the budgetary allocation given has been paid to the contractor for doing nothing, by way of damages and escalation of costs?

Finally, I asked for the specific date when this road will be completed. They have been on the site since 2011. Could the Chairperson give a commitment that the remaining eight kilometres should be done by the end of this calendar year?

The Speaker (Hon. Ethuro): Let the Chairperson dispose of those fully loaded issues and then I will allow other Members to seek clarifications.

Sen. Sijeny: Mr. Speaker, Sir, as concerns the issue of why the contractor is still on site, as I had said earlier, the delay was because of the budgetary provisions which have now been provided. That is from the Financial Year 2014/2015. This amounts to Kshs400 million. The financial year begins this month. Once the funds are released, they will continue.

Concerning the damages paid, I need time to get the information, if any, and if the contractor has sought for any.

As for the date, according to the contract or what they have agreed on, the completion should be by 2015. The financial year in 2015 does not end in December. This is not in the contract. However, if I get more time, I will ask for the specific month when the completion is expected. I request for a week.

The Speaker (Hon. Ethuro): Order, Sen. Sijeny! If you had been asked to comment on the political will, I would grant you more time because that was not sought initially. But when a statement is asking when the road will be completed, you must have asked whoever was responsible to, at least, give you that undertaking, including whether or not the money allocated this financial year will be enough to complete the road. They just follow, even if they were not sought.

Let us hear Sen. Wetangula as you contemplate on how to deal with that matter.

The Senate Minority Leader (Sen. Wetangula): Mr. Speaker, Sir, before I seek a clarification, I wonder whether the gracious lady has the capacity to give any reasoned response about the political goodwill of the opposite side. She has none whatsoever. The questioner is better placed to find out whether his grouping has any political goodwill. But on a more serious note, I want the Chairperson to tell this House, as a matter of policy---

Sen. Murungi: On a point of order, Mr. Speaker, Sir. Is it in order for the Senate Minority Leader to raise an issue which was settled in this House that when it comes to making statements, we do not look at the political parties? The Chairperson, irrespective of the political parties, answers the questions put by the Senator. I was not asking my statement from any person from CORD or ODM. I was asking from the Chairperson of the Transport and Roads Committee. She should answer all the questions put to her.

The Senate Minority Leader (Sen. Wetangula): Mr. Speaker, Sir, actually the lady is from WIPER party not even the ODM party. As a matter of policy---

Sen. Wangari: On a point of order, Mr. Speaker, Sir. I know it is common for the Senate Minority Leader to refer to lady Senators in this House as: "That gracious lady or that colourful lady." But is it in order for him to keep doing that yet it is clear in the Standing Orders that every Senator here should be referred to as: "hon. Senator so and so".

The Speaker (Hon. Ethuro): He is absolutely out of order!

The Senate Minority Leader (Sen. Wetangula): Mr. Speaker, Sir, the distinguished nominated Senator, Judith Sijeny, is not just a lady, but a gracious one.

(Applause)

She did not complain. In fact, she smiled very broadly when I made the reference to her as “gracious”.

(Laughter)

Mr. Speaker, Sir, what is the policy of the Government---

The Speaker (Hon. Ethuro): Sen. Wetangula, what will help you, as long as you give us the minimum required by the Standing Order that is: “Hon. Senator so and so.”

The Senate Minority Leader (Sen. Wetangula): The distinguished lady, who is gracious!

The Speaker (Hon. Ethuro): You can add the rest.

The Senate Minority Leader (Sen. Wetangula): Thank you, Mr. Speaker, Sir. I stand guided and I will obey you.

The issue of Government contracts on roads, and I share the pain of my brother from Meru County, we have a road in Bungoma from Kamukuywa, Mt. Elgon round to the Uganda border. Construction of this road started in 2007. Up to today, it is not even half way done. In effect, that road started earlier than Thika Super Highway. Thika Super Highway was funded, completed---

The Speaker (Hon. Ethuro): Order, Sen. Wetangula!

The Senate Minority Leader (Sen. Wetangula): I am asking on policy. I am not asking about the specific road. I am just giving an example.

The Speaker (Hon. Ethuro): Even when you are asking, you are doing so, under Standing Order No.7 on Statements. What you do after a statement has been issued, is to seek clarification.

The Senate Minority Leader (Sen. Wetangula): Yes, Mr. Speaker, Sir.

The Speaker (Hon. Ethuro): Sen. Wetangula, the way you are proceeding, it is like you are contributing to a debate which does not exist.

The Senate Minority Leader (Sen. Wetangula): Mr. Speaker, Sir, the distinguished Senator for Meru County asked about policy. Therefore, I am following up on the issue of policy. When a road is started, like the road from Kapenguria to Nadapal, which passes through the Speaker’s County, then it is abandoned on the way, and you see other roads being done, completed and commissioned, what is the policy of the Government when they award tenders and start roads and abandon them?

The Speaker (Hon. Ethuro): Order, Sen. Wetangula! I take great exception that you want to enjoin the Chair on your issues. You are perfectly in order to consider your road and compare it to Thika Super Highway. What we are looking at is the time when

construction on a road began and when it was completed. I was just questioning the way that you are doing it. So, please, keep the Chair out of your issues.

Sen. Kajwang: Mr. Speaker, Sir, as a way of asking for clarification, although I also sit in the same Committee, but I think the Chairperson should come up with a broad policy statement as to what happens to the roads which have stalled all over the country. The fact is that all the roads that were being constructed, including one from Mbita to Homa Bay, which is 43 kilometres, have stalled. They only did 20 kilometres of the road from Mbita to Homa Bay. They have been giving them money as little as medicine just to keep them alive, but not enough to make them move. The whole country is in a mess. Could we have a broad statement from the Ministry on this situation? I think now they are trading with the Eurobond, I think they have enough money which will go to all contracts that have stalled. We can now sit comfortably and see projects completed.

Mr. Speaker, Sir, allow me to say this, in the former Government of Hon. Mwai Kibaki, no project was started until the Government was satisfied that there was sufficient money. When these projects started, most of them were completed. However, immediately he left the seat, all the road projects *kwamaad* all over the country. Could we get a policy statement from the Ministry?

The Speaker (Hon. Ethuro): I see there is a bit of interest in the matter.

The Senate Majority Leader (Sen. (Prof.) Kindiki): Mr. Speaker, Sir, I want to join those Senators who are saying road projects have stalled all over the country. It is true that many roads across the country have not been worked on for a while, but I think there is a reason for that. When the new Constitution entered into force, there was a bit of lack of clarity on which roads fall under the national Government and which ones fall under the county governments.

Secondly, other than that confusion, there was also confusion about KeRRA funds. At some level, some of the money went to counties. That wasted a lot of time.

Sen. (Dr.) Khalwale: On a point of order, Mr. Speaker, Sir. Listening to the Senate Majority Leader, it is clear that he is not seeking for any clarification. Instead, he is giving unsolicited information. He did not say “point of information”. He was given an opportunity to seek for clarification.

The Speaker (Hon. Ethuro): Order, Senators! You cannot proceed arguing on who stood on what point of order or what point of information when I am just here. I will help you. As far as I am concerned, Sen. (Prof.) Kindiki rose on a point of order. I was expecting him to seek clarification. He has gone ahead to purport to be answering which, of course, ordinarily we have no problem with that. Probably, the Chairperson must have referred the issue to him in his capacity as the Senate Majority Leader. However, I thought this time that reference had not been made.

In any case, latter in the proceedings, the Senate Majority Leader will have an opportunity to give us the business of the House for the next week. He could perfectly use such an opportunity to make such kinds of statements that he is making. For now, let us not deny the Chairperson all the glory, grace and honour for this moment.

(Laughter)

Let us hear Sen. (Prof.) Lesan, Sen. Mutahi Kagwe and Sen. Mungai.

Sen. (Prof.) Lesan: Mr. Speaker, Sir, as a way of clarification for the Senator for Meru County, he gave an example of the time duration it took for the Governor of Machakos to complete construction of a road. However, I wish to inform the Senator and the House that there was a documentary in the media this afternoon showing graphic potholes that have developed on that road, 28 days---

The Speaker (Hon. Ethuro): Order, Sen. (Prof.) Lesan! I have just disqualified the Senate Majority Leader from answering. Now what do I do with you?

Secondly, the issue was about completion of the road, not about the quality or how soon a road can acquire potholes. You are being irrelevant.

Sen. Kagwe: Mr. Speaker, Sir, I also want to seek clarification regarding the matter that Sen. Wetangula has rightly emphasised on. That is the issue of when you want to complete the road such as the one Sen. Kiraitu has raised and we can see new ones being built. What is the position with regard to this? Yesterday, I read in the *Financial Times* about a road that is supposedly complete. This is the road from Murang'a, Sagana through to Marwa. The contract for this road was awarded in 2002. I drive on the road and I know for a fact that it is not complete. We have a bigger problem on these roads. Perhaps, the Chairperson could address those matters when they are addressing matters of policy.

Currently, the contractors are going to court and are being awarded some money for interest on roads that have never been completed. I read that a contractor has been awarded Kshs322 million to be paid for a road which I drive on and supposedly completed, but I know is not complete. We have small Goldenberg scandals that are developing as far as the contracting business is concerned. If you put them in totality, even the Anglo Leasings that we talk about here every day will not match them. It is just a clarification I am seeking.

The Speaker (Hon. Ethuro): Order, Sen. Kagwe! You have made your point. A clarification does not go into putting emphasis on things.

Sen. Muthama: On a point of order, Mr. Speaker, Sir. I do not think the Chairperson has the inside information requested by hon. Senators. The only thing that she has, if she wants to be truthful to the House, is the report that was written on the issue that was sought by Sen. Murungi. Beyond that---

The Speaker (Hon. Ethuro): Order, Sen. Muthama! I have spoken time and again in this House that we should not attempt to answer on behalf of the chairpersons of committees. We have given them that mandate according to the Standing Orders. If you do not like it, we change our Standing Orders. That is the avenue you have. But let us not try to attempt to answer on their behalf. I believe all the chairpersons we elected are

competent enough to handle the matter. When they do not have the information, they will tell the House. We have always deferred matters so that they seek more information.

The Senate Minority Leader (Sen. Wetangula): On a point of order, Mr. Speaker, Sir. I am seeking the guidance of the House. I will not go the direction of the distinguished Senator for Machakos County who has the dubious distinction of being a Senator of a county with the oldest new road in Kenya.

(Laughter)

In view of what is being raised and given the importance of roads in this country, and considering an example given by the distinguished Senator for Nyeri County on how cowboy contractors go to court and walk away, sometimes corruptly, with huge sums of public money for doing nothing, is it not fair that you direct that the relevant Committee sits and invites the Cabinet Secretary for Roads and all other relevant parties to bring to this House a comprehensive statement for the satisfaction of Senators? In that Statement, we need to know how many roads have stalled in the country. What is the cost? Why? How will they be completed?

The Speaker (Hon. Ethuro): Order, Senator!

Sen. Mungai.

Sen. Mungai: Mr. Speaker, Sir, thank you very much for “catching my eye”.

An hon. Senator: “For catching your signal”

Sen. Mungai: Yes, “for catching my signal” just for clarification.

Mr. Speaker, Sir, I would also like to add my voice on seeking clarification on stalled roads in this country. There is a road linking Molo Town and Eldoret Highway at Kibunja. The construction of this road stalled long time ago. When these roads are left uncompleted for a long period, dust accumulates and brings diseases like Tuberculosis and other chest problems to residents who live nearby. So, it is important because like in my area---

The Speaker (Hon. Ethuro): Order, Senator! That has nothing to do with Mikinduri Road. I allowed others on the basis of stalled road projects in their areas. That was related, but this other one, you can seek your own Statement.

Sen. Mungai: Thank you, Mr. Speaker, Sir, I stand directed.

The Speaker (Hon. Ethuro): Sen. Wetangula, I believe you had finished yours.

Let us hear Sen. (Dr.) Machage first, Sen. Khaniri, Sen. Kembi-Gitura and then Sen. (Dr.) Khalwale.

Sen. (Dr.) Machage: On a point of order, Mr. Speaker, Sir, because this has already been captured by the HANSARD, is Sen. Mungai in order to mislead this House and, indeed, the nation that dust causes Tuberculosis?

Sen. Khaniri: Mr. Speaker, Sir, thank you for the opportunity to ask a supplementary question. Last week, I made a request for a similar Statement on the Kisumu-Kakamega Road. I was promised an answer for next week. As I was making this

request, I thought that this road had been neglected because the residents of that particular area did not support the Jubilee Government during the last election. I thought that is why we were being sidelined. However, I am surprised that even areas that overwhelmingly voted for the Jubilee Government like where Sen. Murungi comes from are also neglected. Could the Chairperson confirm my worst fears that infrastructure and road network is not a priority in the Jubilee regime?

Sen. Kembi-Gitura: Mr. Speaker, Sir, I am shocked that my friend Sen. Khaniri can make that kind of statement because he is the last person I expected. Having said that, each one of us has a road or roads that are outstanding regardless of where we come from. That is a fact.

Mr. Speaker, Sir, I am convinced that the Chairperson of this Committee is not going to do justice to the answers being sought. I support Sen. Wetangula and I know you have given a direction on this, but we will ask them for more information. Although she has already said without being asked, that she be allowed to go back and come with more comprehensive information. That is not sustainable. Considering the road network in this country and that each one of us has a road or roads, may I request you again to agree to convene for us a meeting with the Cabinet Secretary for Roads and Infrastructure so that he can come with a map and tell us because there are so many roads that are unfinished. We will interrogate him and know whether the roads are going to be done or are they going to be a wasted resource on the infrastructure. Unfinished roads are expensive. That is a fact on the ground.

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, I seek for clarification on behalf of the plight of local contractors. Just like in this particular road, many other roads, including Kakamega-Webuye Road, Sigalagala-Butere Road and others have stalled. Local and struggling contractors go to the bank, secure loans and buy machinery hoping that they will start the project and get paid. However, at the end of the day, when the Government stalls the projects, those machines are seized by their creditors and auctioned. The local contractors wind up and yet the Government is sitting pretty. Could the Chairperson clarify what the Government will do so as to compensate these contractors, especially the contractor of Sigalagala-Butere road? This is an innocent Asian whom we grew up with; he has become a businessman and now this Jubilee Government has fleeced him.

Sen. Sijeny: Mr. Speaker, Sir, regarding the issue of Mikinduri-Maua Road which Sen. Murungi had asked, I am ready with the answer.

He asked about the date of completion. The Cabinet Secretary has assured us that the road shall be completed before the end of June, 2015, as per the contract agreement. That is what I can state for now.

Mr. Speaker, Sir, concerning the other reactions by other Senators on the policy of stalled roads, I can only say that the issue of policy had not been requested. Therefore, I cannot address it now. As a matter of information I am aware, unless things change, the Cabinet Secretary for Roads shall be attending a meeting of the Committee on Delegated

Legislation on 15th July, 2014. He has confirmed he will be attending that meeting. So, some of our colleagues who would like to attend can do so and ask those questions.

(Several hon. Senators stood up in their places)

The Speaker (Hon. Ethuro): Order, Senators! Sen. Murungi, I gave you the first opportunity and you asked about four questions.

Hon. Senators, I just want to remind you that on 16th May, 2013, you passed a Motion in this House asking that particular department to bring you an annual report on the status of roads. So, do not bring back to the Chairperson what your Committee was supposed to do. The Committee has a permanent avenue which we, as a House, granted to interrogate these stalled projects. The second avenue is that a Committee of the House is always at liberty to demand or summon any person in the Republic and particularly the Cabinet Secretary responsible for your portfolio as she has mentioned to you.

Hon. Senators, I just want to refresh your memory because some of the petitioners were quite eloquent in their submissions. The Motion was brought here by Sen. Musila. It says:-

“THAT, noting with concern the skewed infrastructural development in Kenya, particularly in the roads sector; aware that without suitable roads to connect all counties the nation cannot meaningfully achieve the development goals envisaged in our Vision 2030; noting further that in his Presidential Speech on the occasion of State opening of Parliament on 16th April, 2013, His Excellency the President promised the nation to improve local roads so that our people can move freely across our nation; the Senate resolves that the national Government takes immediate steps to correct the skewed roads development in Kenya and requires the Department of Transport and Infrastructure to submit to the Senate, through the Senate Committee on Energy, Roads and Transportation an annual report of roads development programmes covering all counties in Kenya beginning July, 2013.”

One year is gone and I direct that the Committee invites the Minister and Members so that they can deal with the matter. We can assist if you want it to be a *Kamukunji*. Those are details that the Chairperson of the Committee can arrange. We can prosecute all matters on the plenary. It is so directed and I have dispensed with that matter.

You should be happy that your Statement has exposed all the other problems afflicting the sector. You should be very pleased that it has gone beyond your wildest imagination. We have to manage time.

Sen. Khaniri: On a point of order, Mr. Speaker, Sir.

The Speaker (Hon. Ethuro): What is it, Sen. Khaniri? I hope it is nothing to do with roads.

Sen. Khaniri: No, Mr. Speaker, Sir. It has nothing to do with roads.

I hate to see Members of this House flouting or violating the Standing Orders that we put in place to guide us on how to conduct ourselves here, particularly if it is done by the senior leadership of this House.

Mr. Speaker, Sir, did you notice Sen. (Prof.) Kindiki when he crossed from the Government side to this side--- He tried as much as possible to adhere to Standing Order No.106, but it has No.106(1) and (2). He did very well on Standing Order No.106 (1), but he went to the bar and bowed. However, Standing Order No.106 (2) says in part “No Senator shall pass between the Chair and any Senator who is speaking.” Sen. Sijeny was responding to the question that we had raised and you were on the Chair. None other than the Senate Majority Leader came and passed in between you and Sen. Sijeny. He must be disciplined for this.

The Senate Majority Leader (Sen. (Prof.) Kindiki): Mr. Speaker, Sir, what the Senator for Vihiga County has said is absolutely true, but it was not intentional. We are still in the learning process. I want to take this opportunity to apologize to the Speaker and to this House for breaking Standing Order No.106 (2).

Sen. (Dr.) Machage: On a point of order, Mr. Speaker, Sir. Standing Order No.110 (h) says that the conduct is grossly disorderly if the Senator concerned commits any serious breach of these Standing Orders. The Senate Majority Leader has done exactly that and he has not apologized.

The Speaker (Hon. Ethuro): In any case, under Standing Order No.110, where is the breach?

Sen. (Dr.) Machage: Mr. Speaker, Sir, he did breach Standing Order No.106 (2).

Hon. Senators: He has apologized.

Sen. (Dr.) Machage: I am informed by the House he has apologized. So, I withdraw.

The Speaker (Hon. Ethuro): You also need to apologize to the House. There is a difference between disorder or being out of order and being grossly disorderly. Standing Order No.110 to me is grossly disorderly. I do not think the Senator was grossly disorderly.

Let us proceed. Sen. Karaba.

Sen. Karaba: Mr. Speaker, Sir, I wish to seek a Statement from the Chairperson of the Committee for Roads. You said that we should finish that matter, but I also have a Statement to seek from her.

The Speaker (Hon. Ethuro): Just put your request.

Sen. Karaba: My request is this---

Sen. (Dr.) Khalwale: On a point of order, Mr. Speaker, Sir.

The Speaker (Hon. Ethuro): What is it, Sen. (Dr.) Khalwale.

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, I am hoping that you are still aware that the Chairperson of the Committee Finance, Commerce and Budget has come to give me a

Statement. He has already given me a copy, but I have seen you have moved to requests for Statement. I am worried you might have migrated.

The Speaker (Hon. Ethuro): You have no reason to worry apart from yourself. We are yet to determine the sequence. You can issue a Statement or put a request, whichever way.

Sen. Karaba.

STATUS OF SAGANA-KUTUS-KERUGOYA
-KAGUMO-KARATINA ROAD

Sen. Karaba: Mr. Speaker, Sir, mine is almost similar to what Sen. Murungi had requested. It is about the road from Sagana-Kutus-Kerugoya-Kagumo-Karatina. I would wish that the Chairperson of the Committee on Roads and Transportation clarifies in the Statement as to what was the time of commencement. Who is the contractor right now? What was the contract sum? How much has been paid, so far, to the contractor and what is the balance? What percentage of the works has been done so far? When will it be completed?

Sen. Sijeny: Mr. Speaker, Sir, I would require at least three weeks to be able to give a comprehensive report considering that we are still expecting the Cabinet Secretary here next week. So, to give them ample time to get all the details I would request for three weeks.

Mr. Speaker (Hon. Ethuro): Order, Senator! Since the Cabinet Secretary is already prepared and you had invited Senators to raise all other questions on roads, I do not see why you are asking for more time. Since we passed a Motion for the Cabinet Secretary to give an annual report on the status of roads, then you would expect that report to have those details. So, you have next week.

Sen. Sijeny: Much obliged, Mr. Speaker, Sir.

ESCALATING BANK INTEREST RATES

Sen. Billow: Thank you, Mr. Speaker, Sir. I rise to give a Statement that was requested by the Senator for Murang'a on the escalating bank interest rates.

The Speaker (Hon. Ethuro): Order, Senators! What did we agree about Tuesday, next week? Was it not about that Statement?

Sen. Billow: Mr. Speaker, Sir, it is listed on the Order Paper today.

The Speaker (Hon. Ethuro): I know it is listed, but I think we had agreed that actually that matter will come up from Tuesday, next week. The issue was canvassed and I agreed. Let us just keep it that way.

(Statement deferred)

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, before we went on recess, I was promised an answer on my request for a statement concerning agreements between the two Governments of China and Kenya. I have been given the answer, so I expect that the Chairperson is ready to lead me through it.

The Speaker (Hon. Ethuro): Is that the Chairperson for the Committee on Finance, Commerce and Budget?

Sen. (Dr.) Khalwale: Yes, Mr. Speaker, Sir.

The Speaker (Hon. Ethuro): Proceed, Sen. Billow.

DETAILS OF AGREEMENTS BETWEEN THE
GOVERNMENTS OF KENYA AND CHINA

Sen. Billow: Thank you very much, Mr. Speaker, Sir. I have the answer. I wanted to respond because the answer is available and I am sure the hon. Senator has gone through it; it is an extensive answer. However, I really wanted to seek clarification on one or two items from the Cabinet Secretary (CS). So, I seek the indulgence of the Senator so that I can bring the Statement on Tuesday. I have seen the Statement; it is a good one. But as an accountant, when I go through it, I know that there are some things which I would prefer that they address them so that it is useful.

Thank you, Mr. Speaker, Sir.

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, I am prepared to have the answer on Tuesday, next week. But just for emphasis, let it be Tuesday because a part of the reason I am asking this question is that we want to challenge how those loans are being shared out amongst the counties of Kenya. So, if we do not challenge it early enough, tenders will be flying out. By the time we are challenging it, we will just be crying in the park. We would like to stop the way the money is being shared out because all Kenyans will be paying for these loans for 40 years.

(Applause)

Sen. Billow: Mr. Speaker, Sir, even on the basis of the statement that the hon. Senator has, I can assure you that there is no money that is borrowed in cash form from China that gets shared out. Money is borrowed on the basis of specific projects that are submitted to various institutions in China. It is clear even from what he has, but I will respond to this on Tuesday.

The Speaker (Hon. Ethuro): Hon. Senators, the Statement is not on the Floor. So, for us to start arguing whether a point has been made or not; or whether he has made it correctly or not, the fact is that he has not given the Statement. The Statement is due on Tuesday, next week.

The Statement will be delivered on Tuesday, next week.

(Statement deferred)

Next Statement, Sen. Kivuti.

MEASURES TO ERADICATE POACHING OF WILDLIFE IN KENYA

Sen. Kivuti: Thank you, Mr. Speaker, Sir. I stand to answer a question raised on 11th June, 2014, on the measures put in place to eradicate poaching of wildlife in Kenya.

The Speaker (Hon. Ethuro): Order, Senator! I do not see the one who sought the Statement, although I know you kept missing each other. The only problem is that by the time we pushed it, both of you were present. So, I would be a bit reluctant that the Senator might think that we pushed it in order to ambush. Why do we not just give it one last time? Then if she does not show up, then you should be at liberty to proceed. You will give it on Tuesday, next week.

(Statement deferred)

Where is the Chairperson of the Standing Committee on Agriculture, Livestock and Fisheries? You have the Order Paper; you are listed under Statements on outbreak of maize disease in Narok, Bomet, Kericho, Nyamira, Kisii and Migori Counties.

OUTBREAK OF MAIZE DISEASE IN NAROK, BOMET,
KERICHO, NYAMIRA, KISII AND MIGORI COUNTIES

Sen. Ndiema: Thank you, Mr. Speaker, Sir. I stand to respond to a Statement sought by the Senator for Kisii, Sen. Chris Obure, on 17th June, 2014, in respect to maize disease. In the Statement, the following were sought:-

(a) Whether the Cabinet Secretary (CS) responsible for crop production and husbandry was aware of an outbreak of a disease which has severely affected maize production in the counties of Narok, Bomet, Kericho, Nyamira, Kisii and Migori in the last three or so planting seasons.

(b) What urgent steps the Ministry has put in place to contain the threat.

(c) Considering that maize meal is the staple food for the majority of citizens in these counties, could the CS then confirm that the situation, as of now, is a matter of grave concern as it poses serious threat to food security and economic welfare of families in the affected counties?

(d) Respond on the Ministry's plan to provide relief by way of compensation to farmers who have lost their crop during the three consecutive seasons.

Mr. Speaker, Sir, on the first issue, as to whether the CS is aware, the CS of the Ministry of Agriculture, Livestock and Fisheries is aware of the outbreak of the maize disease which is severely affecting maize production in the country. The disease was first

reported in September, 2011 in the low altitude zones of Bomet District affecting 200 hectares of the second season maize crop. The effects of the disease were sudden, devastating and could not be explained.

Mr. Speaker, Sir, after laboratory tests in 2012, it was revealed that there were infestations of a combination of viruses; one, maize chlorotic mortal virus and, two, sugarcane mosaic virus. The infestation of the two diseases or viruses gave rise to a condition known as Maize Lethal Necrosis Disease (MLND), also referred to as cone lethal necrosis.

The disease expression shows a diverse range of symptoms such as ears drying up when the rest of the plant is green, yellowing and premature death of plants. The transmission of the disease can be mechanical by insect vectors such as thrips, leaf beetles, leaf hoppers and through seed, although at a low rate. The virus can also be transmitted through soil and infected plant debris since it can survive in plant residues. Due to premature death of plants and rotting of any grains that maybe harvested, the disease impacts negatively---

The Speaker (Hon. Ethuro): Sen. Ndiema, I hope you are not planning to read the entire thing.

Sen. Ndiema: Mr. Speaker, Sir, I will try to summarise it.

The Speaker (Hon. Ethuro): Please, do so.

Sen. Ndiema: Mr. Speaker, Sir, due to premature death of plants and rotting of any grains that maybe harvested, the disease impacts negatively in terms of national food security---

The Speaker (Hon. Ethuro): I am assuming the Member has a copy?

Sen. Ndiema: Yes, Mr. Speaker, Sir.

Mr. Speaker, Sir, what are the urgent steps that the Ministry has put in place to contain the threat? In respect to the outbreak, the Ministry has put in place a multi-disciplinary technical team of the Ministry of Agriculture, Livestock and Fisheries, research institutions and so forth to deal with the disease. Awareness creation has been done to the public and private institutions and to farmers through the media, field days and demonstrations. The awareness efforts have been in respect of the disease history, spread and the government responses; available management options, importance of disease along maize value chain and identification of alternative food crops.

Mr. Speaker, Sir, in addition, the Ministry is doing screening of germplasm and the tests that have been carried out have shown three to five promising hybrids that require more evaluation. From the selection, one outstanding hybrid which was considered for release by the Kenya Agricultural Research Foundation (KARI) under the trade name "Drought Tego" has shown some tolerance to the disease. Three; the establishment of regional screening facilities; four, investigation of epidemiology of maize lethal necrosis disease and, five, is pesticide evaluation for management. That means trying the available pesticides to see whether they can control the vector.

This includes seeds treatment combined with foliar application alone, and so on, and so forth. These are experiments to try to find out how to deal with the disease. Number six is treatment of disease and also, seven, capacity building and screening of seeds and surveillance. Number eight is that the Ministry was also reviewing crop protection law to strengthen enforcement of local quarantine. Finally, there are efforts to work with the manufactures of pesticides in order to find out which pesticides can be used because so far, no conclusive data has been generated on which pesticides can work best.

Mr. Speaker, Sir, on the issue of compensation to the affected families, as to whether the disease causes a threat, I wish to confirm that the disease, indeed, causes a threat to national food security and farmers in the affected areas have been encouraged to diversify. On the Ministry's plan to provide relief to the farmers, the Government has put in place programmes in the affected areas to provide subsidized seeds and fertilizers over the last five years.

The package consisting of maize seeds, Basel and top dressing fertilizers, stalk borer and storage weevils dusting chemicals. Two, in many parts of the country, farmers plant maize for food. Through the traditional high value crops programme, promotion and provision of subsidized alternative planting materials such as beans, sweet potatoes, cassava, Irish potatoes, cowpeas and green peas have been done. In 2012, the subsidized materials issued by the Government had a total value of Kshs306 million.

Thank you, Mr. Speaker, Sir.

Sen. Obure: Thank you, Mr. Speaker, Sir. First of all, I want to thank the Chairperson, Vice Chairperson and Members of the Committee of Agriculture, Livestock and Fisheries for the effort made to provide the answer within the time promised. However, a number of measures have been enumerated on what steps have been taken and all that. I have read all that and I have listened to the answer, but it does not appear that any specific method or steps have been taken to deal with the situation in my own county, Kisii, although I appreciate that steps have been taken to deal with this disease in a number of counties among those I mentioned in my request. But specifically for Kisii, in fact, there is no acknowledgment even from the CS that they are aware of the presence of this disease in Kisii County. So, I would like some clarification as to why this has not been done with respect to Kisii and in particular where the impact of this disease has been severe and very devastating.

Secondly, Mr. Speaker, Sir, I want to know why it has taken so long; three planting seasons from the year 2011 up to now, and yet the Ministry has not found a cure for this disease. I also want to know what specific measures the Ministry is taking to prevent the spread of this disease to other areas of the country which have not been affected so far.

Mr. Speaker, Sir, you have listened to the answer; I wanted to know what relief measures or compensation is being provided to farmers who have suffered for three consecutive years for failing to harvest their crops, and so on, who are now suffering

severely through hunger and all that. What specific measures does the Ministry intend to take to provide some kind of relief to those farmers? The answer given here is that, yes, there is subsidized fertilizer and seeds being given; but we also know that this is a programme for all the farmers in the country. I wanted to know what specific relief measures are being provided to the farmers in the affected counties.

Sen. (Prof.) Lesan: Thank you, Mr. Speaker Sir. I wish to seek clarification. I come from Bomet County where this maize disease has been a disaster in the last planting seasons. The main question that farmers are asking on the ground, which has not been given adequate response, is why the issue has reappeared. The question being posed is whether this has anything to do with Genetically Modified Organisms (GMO) or whether hybrid maize seeds are GMOs.

These are the questions which are persistent on the ground. We need to explain the cause and how this issue came about. I would like to seek some clarification from the Chair on whether this problem has something to do with genetically modified elements or whether the seed hybrid is a genetically modified element and whether it is associated with this disease.

Sen. Mungai: Thank you, Mr. Speaker, Sir. First of all, I would like to congratulate my Chairman for that statement. As I congratulate him, I want him to take note of the fact that it has taken too long for the Government to come up with chemicals to eradicate this disease. There are chemical companies that provide and sell chemicals to farmers that we are not sure can cure this disease. It is important to note that the costs that farmers are incurring in terms of losses of production are high despite the fact that recently, the Cabinet Secretary, Agriculture, encouraged Kenyans to switch from *ugali* to other products for food. It is our tradition in this country and maize remains a staple food. This is a matter that requires speed. Otherwise, currently, we are importing maize from Tanzania and yet we have enough land that can grow enough food for our country.

Sen. (Dr.) Machage: Mr. Speaker, Sir, the situation upcountry is abhorring. There has been total crop failure in Migori County which, hitherto, has been a bread basket for Nyanza and the rest of the country. The interesting scenario is that as you cross Isebania to the Tanzanian side, there is a bumper harvest and no disease. When you cross Namanga to Arusha side, there is also a bumper harvest and no disease. It is as if the disease is obeying the Kenyan boundaries.

One, why is this situation seen to be so? Is it because of the poor seeds that are given to farmers in our country? Two, there is now hunger in the affected areas and especially so in Migori County. How many tonnes of maize has the Government allocated as relief food to Migori County?

Sen. Ndiema: Thank you, Mr. Speaker, Sir. I want to thank the Senators who have raised the issues that are very important since they impact on the food security of our people. I may not have read everything but the Report on the disease is affecting all counties including Kisii County.

The Ministry is aware that Kisii is one of those counties that have been affected. As to why it has taken very long to find a cure, this is an area that experts are working on. The disease is a virus. As we all know, viral issues are very complicated. However, the Ministry is doing all that it can with the researchers to find a way of dealing with the disease.

Awareness has been created on how to prevent the spread of disease by way of using insecticides and treating seeds. Right now, all seed companies are required to treat their seeds to ensure that they do not carry diseases. Farmers are also encouraged to destroy the entire affected crop. So, efforts are being made. A lot of investment has been put into trying to find a way of dealing with the disease.

On the issue of compensation, the Ministry has so far tried to compensate farmers by giving them alternative crop. From this answer, it is evident therefore, that no monetary compensation has been considered. That is the situation. The question as to why the disease is erupting now and whether this is a result of GMOs, these are not new diseases. Scientifically, they are known to have been there. According to this Report, one of the viruses that cause this disease is the sugar cane mosaic virus. This is a pathogen that was first reported in 1930 in East Africa. The virus is also prevalent in many parts of Kenya. This is not a new disease. Its combination that gives rise to the lethal maize nucleases disease is what has complicated matters.

As to the issue of the disease being confined to Kenya, the Ministry in this Report has indicated that the disease has also been reported in neighbouring countries of Tanzania, Uganda, Rwanda and South Sudan. It has also been noticed in other maize growing areas in Kenya. As to Sen. Mungai's observation that chemical companies are selling chemicals for the purpose of treating the disease, I want to say that this disease is spread by a vector; the insects and so forth. Even at the Ministry, trials are going on to find out what insecticides can best deal with the vector, the thing that spreads, just like mosquitos spread malaria. So, with regard to the most effective pesticides, trials are still being done and they do not have one that they can prescribe, as a Ministry, to be the best.

I agree that Migori being a border town to Kisii, Narok and Bomet, has equally been affected. The advice that the Ministry has been giving is that we have tried to look at other food crops like millet and so forth, that are less susceptible.

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

[The Temporary Speaker (Sen. (Dr.) Machage) took the Chair]

Sen. Obure: Thank you very much, Mr. Temporary Speaker, Sir. By way of concluding my remarks on this, I want to take this opportunity to make an appeal to the Ministry of Agriculture, Livestock and Fisheries through the Senate Committee. I want to emphasise to the Ministry that this outbreak has caused immense suffering to residents in the counties affected. This has also increased the incidences of poverty among the

citizens of those counties. Therefore, I want to urge the Ministry, again through our Committee on Agriculture, Livestock and Fisheries, to intensify preventive efforts and act with speed and urgency to find a way through which they can assist affected farmers to come back to their feet.

BUSINESS FOR THE WEEK COMMENCING
TUESDAY 15TH JULY, 2014

The Senate Majority Leader (Sen. (Prof.) Kindiki): Mr. Temporary Speaker, Sir, I want to briefly, under Standing Order No.45, give the business of the Senate for the week commencing 15th July, 2014.

On Tuesday, there will be two events. First, the Rules and Business Committee (RBC) will meet as usual at 12 noon to schedule business for that week. At 2.30 p.m, during the sitting, the Senate will discuss the business that will not be concluded today and commence the Second Reading on the following Bills:

The Inter-governmental Relations (Amendment) Bill;
The Government Proceedings (Amendment) Bill;
The Public Finance Management (Amendment) Bill; and,
The County Assembly Powers and Privileges Bill.

On Wednesday, the Senate will continue with the business which will not be concluded on Tuesday. The Senate will also discuss any other business that will be scheduled by the RBC including the following Motions:

- (i) Motion by Sen. Karaba on measures to develop clear policy guidelines on accreditation of institutions of higher learning;
- (ii) Motion by the Chairperson of the Standing Committee on Energy on the Adoption of the Report of the Standing Committee on the benchmarking visit to New Zealand, Australia and the United Arab Emirates and;
- (iii) Motion by Sen. (Dr.) Khalwale on Action to be taken against those Perpetrating Acts of Genocide in South Sudan.

On Thursday, the Senate will continue with the business that will not be concluded on Tuesday and Wednesday and consider any other business that will be scheduled by the RBC.

I thank you and lay the statement on the Table.

(Sen. (Prof.) Kindiki laid the document on the Table)

The Temporary Speaker (Sen. (Dr.) Machage): Under Standing Order No.39(2), I will skip Order No.9 for important reasons. Therefore, after order No.8, we will go directly to order No.10. So, be advised.

BILL*Second Reading*

THE POLITICAL PARTIES (AMENDMENT) BILL

*(Sen. Khalwale on 9.7.2014)**(Resumption of Debate interrupted on 9.7.2014)*

The Temporary Speaker (Sen. (Dr.) Machage): Order. Sen. Wetangula was on the Floor and had 35 minutes. I do not see him around and any other Senator can stand to continue.

Sen. Kagwe!

(Sen. Murkomen stood up at his place)

The Temporary Speaker (Sen. (Dr.) Machage): Order. I was clear on who I called upon to speak.

Sen. Kagwe: Thank you, Mr. Temporary Speaker, Sir. Clearly, Sen. Murkomen is still blind about these things.

From the outset, I want to say that Sen. Khalwale has brought this Bill at the appropriate time. I believe that the Political Parties Act, in its totality, needs to be looked at afresh. This Act was passed just before the passing of the new Constitution. I feel very strongly that there are many aspects of that Act that need to be changed.

As I support Sen. Khalwale, I want to say that I will propose very specific and profound amendments to the Bill. You will notice that Sen. Khalwale proposes that we have a party with a single member constituency, whether in Parliament or in any county assembly in any of the 47 counties being funded by the taxpayer.

I wish to remind my colleague that when we talk about funding of political parties, we are talking about money that comes from the VAT, paid by an old lady, who is working somewhere in a shop in Kasipul Kabondo or Mukurwe-ini. That is the money that will be used to fund political parties and it would be very dangerous and very wasteful if we were to allow an individual who has got one MCA somewhere in the midst of Kenya to now purport to have a political party which we are supposed to fund.

The Temporary Speaker (Sen. (Dr.) Machage): Order, Sen. Kagwe. You are bound by the Standing orders and limited on the amendments you can make. You cannot make amendments that will tilt the substance that was so desired by the Mover.

Sen. Kagwe: Mr. Temporary Speaker, Sir, indeed, I have shared this with Sen. (Dr.) Khalwale. We are not actually changing the concept that he has. If we change the figure 1 to 5, it does not really change the idea; what changes is the magnitude by which

we should allow the same thing that he has desired to continue. If we were to move in that direction and to agree that there is need to:-

(a) allow for development of political parties but;

(b) be careful about what level we allow. What is the yardstick we are going to use? How much are we going to allow and what is a political party *per se*?

Once we have agreed with Sen. (Dr.) Khalwale about what number that would be, I would propose further amendments following that and that would be that once a party does not acquire any political funding, and if a member is a Member in this House or in any assembly in Kenya, and that party does not attract any funding of any kind, then that individual should be allowed to move to whatever other party they deem fit or to be an independent person. The reason being that if you are in a political party that has got no funding from anywhere, what programmes can you be able to proceed with in Parliament and elsewhere?

I think Sen. (Dr.) Khalwale is correct in wanting to beef up political parties and wanting to support even small political parties, but I think the definition that we will have to agree with is what the definition of “small” is and at what point do we encourage briefcase or fly-by-night parties? Where is the demarcation line between encouraging fly-by-night parties and having real political parties that can be able to push programmes and, therefore, deserve to be funded by the Kenyan taxpayer?

Mr. Temporary Speaker, Sir, I further think that if indeed a party does not have the requisite number; if it does not even have two or three Members such as the ones we have in this House, for example, I am the only Member of my party in the Senate. I am the only Senator in the party called NARC, in which I am alone and there is no funding. If it was not for the mercy of the Jubilee Coalition, I would probably not be chairing any committee. You wonder at what point, how able you are to push your programmes as a party. Let us not forget that the whole purpose of a political party is to be able to push party programmes. So, if you are not able to push party programmes and you are also not able to oppose from the Opposition side as an able Opposition, then there is a very big question mark about your role in Parliament or your role in any county assembly.

Therefore, even though I support Sen. (Dr.) Khalwale’s amendment, I would propose that serious consultations be done on this Bill. I have also proposed the same to the Mover of the Bill; that we should have very serious consultations and ask ourselves some very serious questions; what exactly do we want to achieve? What are we going to achieve with the Bill? Is it for the benefit of political parties’ development in Kenya or not? I believe we will need negotiations and compromise on this Bill in order for us to make the political class in our country and political parties be the kind of parties that we are talking about.

Mr. Temporary Speaker, Sir, it is great to have many small political parties, but if you look at any country that has got serious democracy, you will find that they either have one, two or three very strong parties, so that each party can be able to check the other with numbers and with money. If you look at our political parties’ landscape, you

will find that up to this day and until now, we have never really developed ideologies inside the political parties. If today a person in the streets or a journalist were to be asked the difference between the ideological position of the Jubilee side and the CORD side, except for arguments about this or that point, if you asked ideologically the difference in the construction of roads, migration or foreign policy, you will find that perhaps it is in the manifesto but nobody else knows it. Therefore, we must ask ourselves: Are Kenyans spending a lot of money on these political parties simply as election vehicles?

Sen. Hassan: On a point of order, Mr. Temporary Speaker, Sir. Is the Senator for Nyeri in order to suggest that there no fundamental, ideological and value differences when it comes to the vision and the contrast of parties which he says is merely cosmetic, yet him being in Jubilee and I in CORD know that we have definite ideological disparities?

The Temporary Speaker (Sen. (Dr.) Machage): Sen. Hassan, you cannot dictate your opinion into his thinking. That is his opinion and he is entitled to it.

Proceed, Sen. Kagwe!

Sen. Kagwe: Thank you very much, Mr. Temporary Speaker, Sir.

Sen. Hassan: On a point of order, Mr. Temporary Speaker, Sir. That may be his opinion, but it must reflect the accuracy of what parties are. It would be wrong for him to allege that our party manifestos talk of similar issues.

The Temporary Speaker (Sen. (Dr.) Machage): I can only thank you for your opinion.

Proceed, Sen. Kagwe.

Sen. Kagwe: Mr. Temporary Speaker, Sir, I said very clearly---

Sen. (Dr.) Khalwale: On a point of order, Mr. Temporary Speaker, Sir. I think the point of order being raised by Sen. Hassan should be taken very seriously because whereas those of us---

The Temporary Speaker (Sen. (Dr.) Machage): Order, Sen. (Dr.) Khalwale! Are you trying to suggest that the Chair is not taking seriously contributions of Sen. Hassan?

Sen. (Dr.) Khalwale: Mr. Temporary Speaker, Sir, I beg to withdraw that implication. Is the Senator for Nyeri in order to suggest that our parties are ideologically similar when we know that on this side we do not support corruption and parties of that side even paid Kshs1.4 billion to Anglo Leasing?

The Temporary Speaker (Sen. (Dr.) Machage): Order, Sen. (Dr.) Khalwale! That is subject to another debate.

Sen. Kagwe: Thank you, Mr. Temporary Speaker, Sir. There is a difference between heckling and contribution. What we have just heard is heckling. I merely said that if you walk in the streets of Nairobi and you ask the people in the streets the difference between the ideological approach to issues between the Jubilee Coalition and CORD, they will not know. I am not saying this because I am on this side or Sen. (Dr.) Khalwale is on that side. I am simply stating a fact which everybody very clearly knows

in Kenya. Those of us who live here understand that, but those who live elsewhere may not understand that.

If we want to develop political parties and give choices to the people of Kenya, it must be choices that are based not on tribe or strong individuals who can fund political parties, but on the basis of build up ideological positions. That is simply what I am saying. I believe that that is what Kenyans would like to see. For too long, we have used political parties as buses by which we travel to Parliament or the county assemblies. I think we have got an opportunity in our hands to make these amendments, to try and address the mischief that currently exists and the gaps that exist as far as political party construction in Kenya is concerned.

Therefore, I want to urge Sen. (Dr.) Khalwale, now that the Bill belongs to the House, that we engage ourselves in serious debate on this matter, we also engage Members of the National Assembly and engage leaders of political parties. When I talk about political parties, I am talking about the political parties that are represented in Parliament and in the county assemblies so that we get an opportunity. I want to believe that Sen. (Dr.) Khalwale is up to the task of consulting and accepting that there are some areas that we are going to have to compromise about so that we can end up with a serious political landscape in Kenya.

With those few remarks, I beg to support.

The Temporary Speaker (Sen. (Dr.) Machage): Sen. Kajwang Gerald Otieno, Homa Bay County.

Sen. Kajwang: Thank you very much, Mr. Temporary Speaker, Sir. I did not know that your machine is so efficient in names; you have called me by all the three names.

Mr. Temporary Speaker, Sir, what was the reason for enacting this particular act of Parliament about three to four years ago and why do we now want to amend it? We must go to the intention of Parliament at the time that we made this particular Act of Parliament. In fact, earlier even before this Constitution came into operation, there was actually no reference to political parties in our Constitution or in our statutes except to say that Kenya shall be a multiparty democracy. That was Section 2(A) of the Constitution. Kenyans yearned for political parties that are strong, national and believe in something and are persuading Kenyans on some path of development. That is why we decided, first of all, to define the political parties and put it in the Constitution. So, in this Constitution, there is a reference to political parties. In Article 91, the whole of Part III is headed “Basic Requirements for Political Parties”. In fact, one of the basic requirements is not ideology. I have looked at it carefully although it is important.

In Article 91 (1) (a), it says one thing; that the parties must have a national character as prescribed by an Act of Parliament. If you look at the Act of Parliament, we were trying to say that a political party however large, so long as it only belongs to western Kenya, cannot be a political party. It must have a national character. We are saying that a political party however rich, if it only belongs to the former Central

Province, it cannot be a political party. We were saying that a political party must be a party that has membership across the country because that is the meaning of a political party. It persuades and mobilizes people and resources for the national good and not for the good of a particular region.

In fact, certain countries have serious problems on this issue. If you go to Germany, for example, there is a Bavarian Party. Bavarians are a proud people in the centre of Germany that are also very rich. They are hardworking people; the best industries are there, they make the best BMW model of cars and also brew a lot of beer which gives them a lot of money. So, Bavarians are also very nationalistic. In fact, they do not sometimes consider themselves to be Germans; they say they are Bavarians. They have a political party; the UDU which is only found in Bavaria.

Now, we were trying to break away from that. We were saying that even if a party was as big as the Bavarian Party, it will not be a political party within the meaning of our constitution because we want a party that will cut across the whole country. In fact, the UDU has always been in a coalition with other parties to form Government or to form the official Opposition. They cannot themselves form a Government. It is strong and rich, but it is provincial. So, the intention of the legislature at the time we were making the Constitution and at the time we were making the Bill, was to create political parties that go across the country. You cannot be a party that says that you have a membership across the whole country when you only have one MCA in Kwale or in my village.

Mr. Temporary Speaker, Sir, first of all, the law was open; create as many parties as you wish but make sure that after the first election if you do not get 5 per cent of the votes, then you wither. First of all, you will just wither by attrition. The intention was to create a few strong parties, probably three or four and not more than five. They were supposed to be very strong parties that go across the country to deal with certain things that we have in this country.

First, the intention of the law was to deal with tribalism, because somehow all our tribes seemed to live in certain areas which they call theirs. A political party cannot be a tribal party however big or rich. We were trying to cure a serious problem in Kenya. If we now go backwards and say, any party so long as it has an MCA in--- for example, mine is Igembe Ward - then I am entitled to political party funding, then I will go and form a party today and then make sure that I am the MCA and make sure that my party is paid a lot of money from the taxpayer and I become a millionaire.

Secondly, it will encourage people to form hundreds of parties just to make money from the Exchequer. That was the mischief we were dealing with. We were dealing with a mischief in which people will start political parties to make money from the Exchequer. I can tell you that we have 3,000 plus wards in this country and so we might very well get 3,000 plus parties. Where will the Exchequer get the money to fund 3,000 plus parties? In fact, they will rob the serious political parties of the entire budget so that the meaning that we put behind this law will completely be defeated.

Let us look at why we did this and the thinking of Parliament and Kenyans at that time because, generally, this Constitution was voted for by Kenyans. We were intending to have parties that have presence from Mombasa to Kuria and from Turkana to Maasailand. That is the kind of party that ODM is, and I am proud to be in it because at least, it meets that requirement. We debated very strongly as to this threshold of 5 per cent of the votes that are cast in an election and we said why do we not make it 20 per cent? Then we thought that if we make it 20 per cent, then there would be very few parties that will ever reach that threshold, and consequently, we will never be developing political parties.

The intention of funding these political parties was to develop them so that they are strong. In fact, the biggest problem we have ever had since we started multiparty politics is that if the party is not led by Matiba who was a billionaire, then the party just dies. Immediately Matiba resigned from FORD-(A), it died. Then if it is not led by Jaramogi Oginga Odinga who was a nationalist those days and was larger than life, immediately he died, FORD-(K) split into small pieces. If it is not led by Raila, it breaks into pieces until you form some tribal coalitions and then have something large.

The intention was to remove these big landlords; the people who own political parties, so that the party is owned by the people of Kenya who are members and they will do so in two ways. First by paying membership fee and also, if they meet this threshold, but getting some little money from the Exchequer that will help them and make them real national parties, so that even if the leader of the party were to be removed by popular revolt from his party, the party still remains the party. Even if the leader were to die, resign or retire from politics, the party would still remain a party.

So, if we go the way that the amendment seeks, then we will not even have made meaning of the reason we were funding political parties. This is because no party will get any money. First of all, it will be shared equally at another threshold. Equally means equally to 100, 200 or 300 parties and then what remains is to be given to a party which has one member in a county. Then the large parties that actually deserve this money to make them really national would collapse.

Sen. Muthama: On a point of order, Mr. Temporary Speaker, Sir.

Sen. Kajwang: You may disagree with me, but let me just---

The Temporary Speaker (Sen. (Dr.) Machage): Order! Order!

Sen. Muthama: On a point of order, Mr. Temporary Speaker, Sir. I stand just to alert the Chair that the air conditioner in this Chamber is not working. It is stuffy here. If you look at the whole Chamber, there is no single ventilation that can bring in fresh air. So, the air conditioner is supposed to be working. I want to confess to the Chair that I have been sending messages to the attendants here and nothing has happened.

The Temporary Speaker (Sen. (Dr.) Machage): Very well! Serjeant-at-Arms, make sure that there is enough ventilation and air in this Chamber.

Continue.

Sen. Kajwang: Thank you very much, Mr. Temporary Speaker, Sir. I am sorry to my leader. I thought that he wanted to interfere with my contribution.

Mr. Temporary Speaker, Sir, let me say something about ideology. Of course, there is no party that starts and becomes a serious party without some ideology. Ideology really is something that attracts you to that party. Of course, it could be that the leader comes from your tribe - that is the first ideology in this country, unfortunately - or from your religion. That is unfortunate also. But, really, there are two serious ideologies in this country. Communists of course died, but there is still something that remains, about whether you are social democrats and believe in growth and capitalism but, at least, with some social intervention to deal with poverty issues; the kind of problems that the Democrats are having with the Republicans in America. They are not sometimes very different when they debate, but when it comes to intervening on health on behalf of the poor, workers and taxing the rich, there are serious ideological differences. I think that those ideologies and differences are still there even in the British Parliament. When they say that education does not have to be supported by the Government or school fees must be raised, then you see a serious disagreement between the Lords and workers in that country, and their political parties are usually different. There are parties that are supported by workers, who are largely the poor and the owners of capital.

Even in this country, if we look at the parties, we will know which party is largely supported by the owners of the wealth and the people who work for them. They are usually in different parties. But there could not be too many variations, but maybe two or three variations, including liberal democrats and so on. But the bottom line is that the intention was not to have thousands of parties in this country. If we open this can of worms and allow this, then all of us will start political parties. I am sure that I will go and start a party that I will only sell in Homa Bay. I will persuade them that Homa Bay can only benefit as long as Sen. Kajwang becomes very strong and goes and bargains with Prof. Kindiki on some of these issues. They will elect me and then, of course, I will go to the taxman and say: "Now, give me my money for this year." It will not help this country. It may help me or that party of Homa Bay but, definitely, it goes against the spirit of the Act and the Constitution.

Mr. Temporary Speaker, Sir, for that reason, I do not think that this amendment is amenable. Just like the Senator for Nyeri has suggested, we need to go into a serious dialogue on this issue and say: Where do we want to take our political parties and what do we do with the funding issue? Probably, we could even increase the threshold, but we can also limit them. Maybe, we need to reduce the 5 per cent or increase it a little bit. But this is not a matter that can be settled in a debate like this. That makes me say that for the time being, I do not think that this Bill meets the threshold for which we created the Political Parties Act and Chapter in the new Constitution.

Mr. Temporary Speaker, Sir, I oppose.

Sen. Murkomen: Thank you, Mr. Temporary Speaker, Sir. I do not want to say whether I support or oppose. I might abstain at some point. So, I just want to contribute to the Bill.

Mr. Temporary Speaker, Sir, political parties are very important tools for democracy in this country. They must be moved from a one-man-shop to a corporate entity that is owned by Kenyans and the members. There are very serious issues related to the management of political parties in this country that led to the new Constitution, some of which Sen. Kajwang has mentioned. The history of this country shows very clearly that the political parties that were formed were strong. There are parties like the Democratic Party (DP) and we heard everywhere “*taa! taa!*” But as soon as the former President Mwai Kibaki, the then party leader, chairman or whatever position he held, wound up the party and joined a coalition that formed NARC, that party collapsed---

The Temporary Speaker (Sen. (Dr.) Machage): Order! I was the Chair of DP and it survived.

(Laughter)

Sen. Murkomen: Mr. Temporary Speaker, Sir, had I known that, maybe, that is not the example that I would have given. But the truth is that DP had grown in bounds and was even famous in my constituency. It almost got a Member of Parliament during those days. But if you ask anyone where DP is at the moment, except if you are driving along Lavington, where you will see the DP office on Othaya Road--- I do not know why they chose Othaya Road even in Lavington.

The Temporary Speaker (Sen. (Dr.) Machage): Actually, the truth is that it died after I left.

Sen. Murkomen: Mr. Temporary Speaker, Sir, I did not know that it died after the Chair left. But the point is that it is very sad history that such a party, which had received national outlook, collapsed just like that.

In the same manner FORD Kenya suffered immensely when Jaramogi was no longer living. There was a fight between Jaramogi’s son and Wamalwa. Wamalwa won in Thika and we all know that. He tried his best to also run this party and when he joined NARC, we did not know whether or not it was corporate. The party started dwindling down. The Senate Minority Leader is trying to keep it afloat and I think that it is one of the few parties which were formed during the multiparty era that are trying.

The Kenya African National Union (KANU) was a very strong political party that was part of the fight for the independence of this country. Ultimately, it merged with KADU and ran this country for so many years. But it collapsed spectacularly when the former President Moi retired and went home; but even then KANU had been marketed so much. It has a lot of property across the country. It is also represented in this House, but it is not in its initial form, except that it has its disciples in different parties and the opposite sides of this country.

Mr. Temporary Speaker, Sir, the question that Kenyans are asking is: When are we going to have political parties of the calibre of the Democrats and Republicans in the United States? It must be remembered that the United States has over 100 parties, but the ones that have ideological and policy-wise captured the memories and minds of the Americans are the Republicans and Democrats. To build such a party that outlives the leaders of the day, it is important, therefore, that we have structures in place that make the political party national in character and be owned by---

Sen. (Dr.) Khalwale: On a point of order, Mr. Temporary Speaker, Sir. Is the distinguished Senator for Elgeyo-Marakwet in order to mislead the House that the only dominant parties in the United States are the Democrats and Republicans, when it is a matter of record that the second President of the United States, John Adams, was elected on the Federal Party?

Sen. Murkomen: Mr. Temporary Speaker, Sir, the point is that in those initial days that Sen. (Dr.) Khalwale is talking about, if you look at Lincoln, they moved from the Republican, then to Democrats and so on. Those were the fluid days of the American democracy. Kenyans are now saying 50 years down the line, we are now maturing by giving ourselves a new Constitution that wants to create a greater foundation for political parties being owned by members.

I am saying this with immense respect knowing that I am a Member of one of the youngest political parties in this country, which is also the third largest political party in the country. When we formed the United Republican Party (URP), one of the questions we asked ourselves was whether we should give that party a particular identity. Should we have certain policies that we are pushing for? If you look at the character and the support of URP in Kenya, one of the key issues is family values. It is very clear in our minds that we do not advocate for certain behaviours. We support the family as the integral foundation for governance in the country. For the good social relations of Kenyans, we believe that a man must marry a woman and *vice-versa* and not man to man or woman to woman. Those are the foundations we have in URP. We have no apologies to say that our support is basically founded on that and we stand for those family values. One of the integral issues of URP is to fight for marginalized groups.

Sen. Muthama: On a point of order, Mr. Temporary Speaker, Sir. Am I in order to say that this Bill is supposed to unite this country but the Senator is praising one party, although he has tried to give it a different name but we know that it is known that “United Rift Valley Province Party”?

The Temporary Speaker (Sen. (Dr.) Machage): Order, Sen. Muthama. You will have your time to express your views on the unity so desired by Sen. (Dr.) Khalwale. Let Sen. Murkomen express his feelings. Whatever you may label it, it is his right.

Sen. (Dr.) Khalwale: On a point of order, Mr. Temporary Speaker, Sir. Again, the Senator for Elgeyo-Marakwet is misleading the House that their party has the character of respect for family values. Is he in order to say so when this party elected

several senior bachelors not only to Parliament but also to the Senate. Some of them have been doing weddings the other day; what family values are those?

The Temporary Speaker (Sen. (Dr.) Machage): Order! The definition of the term “family value” is subjective. You did not ask him what he meant by that.

Proceed.

Sen. Murkomen: Mr. Temporary Speaker, Sir, the fact that Sen. (Dr.) Khalwale has confessed that some of our members continue to marry and others got married the other day, is a continuation of those family values. That is why I made it very clear that it is about man-woman. We protect people like Sen. (Dr.) Khalwale, who is on the third or the fourth wife and we still believe that those are African cultural practices.

Before I continue, I want to respond to Sen. Muthama’s assertion that URP is a party of one region. Such an assertion should not come from a person of the calibre of Sen. Muthama because---

The Temporary Deputy Speaker (Sen. (Dr.) Machage): Order! Order, Sen. Murkomen. That is Sen. Muthama’s opinion and he is entitled to it.

Sen. Murkomen: I have not finished.

The Temporary Deputy Speaker (Sen. (Dr.) Machage): Just continue.

Sen. Murkomen: That should not come from Sen. Muthama. He should be the last person to say that because he belongs to a party that was called ODM-(K) the other day, then they painted it and put an umbrella on it and called it Wiper Party of Kenya but it wipes only from Kitui to Machakos and not the rest of the country. Be it as it may---

Sen. Hassan: On a point of order, Mr. Temporary Speaker, Sir. I just wanted to inform Sen. Murkomen---

The Temporary Deputy Speaker (Sen. (Dr.) Machage): Are you on a point of information or a point of order?

Sen. Hassan: It is a point of order. Is he in order to mislead this House because this Senator who is standing right here is a Wiper Senator? There is also a Wiper Member of Parliament from Jomvu and Nyali constituencies of Mombasa County. The Governor of Tana River and the Women Representative are from the Wiper Party. The Governor and Women Representative of Garissa County are from the Wiper Party. In Alego, there is a Wiper Member of Parliament. I can go on and on.

The Temporary Deputy Speaker (Sen. (Dr.) Machage): Are you in order? The point has been made.

Sen. Murkomen: Mr. Temporary Speaker, Sir, as I said earlier---

Sen. Sang: On a point of order, Mr. Temporary Speaker, Sir. Is Sen. Hassan in order to rise on a point of order when Sen. Murkomen described Wiper Party yet when Sen. Muthama described URP as “United Rift Valley Party” he did not rise? In Western and Nyanza Provinces, we have several Members of Parliament.

The Temporary Deputy Speaker (Sen. (Dr.) Machage): Order, Sen. Sang. I have not invited you to be the Speaker.

Proceed, Sen. Murkomen.

Sen. Murkomen: Mr. Temporary Speaker, Sir, of course, there are drops and traces like Sen. Hassan has said. Last time I saw, Sen. Hassan was operating as a director of elections of a different political party before it was bungled in Kasarani.

I want to put the record straight from what Sen. Muthama said. We, in URP just like many of other political parties, have secured ourselves to have a national character. That is why we have two Members of Parliament in Busia County, five Members of Parliament in Narok County, everybody in Mandera was elected in URP, almost everybody in Turkana was elected in URP and in Isiolo, everybody including the Senator, Governor, Members of Parliament and Members of the County Assembly (MCAs) are from URP. The same applies to Tana River and many other places. The point is this; we are among the youngest political parties which has the largest national support. We have only been in place for less than one-and-half years or two years.

The reason I am apprehensive a little bit about this Bill is because we want to ensure that such political parties get grounding, become firm and get owned by the rest of Kenyans. If you look at the United Democratic Front (UDF) party where the sponsor of this Bill is coming from, it has tried. The most important thing is to push that party to reach 5 per cent of the voters of the country. To do that, it is important the members of that political party propagate the ideologies of the party. Even the Mover of this Motion, to the best of my knowledge, has abandoned his political party except in terms of carrying its name.

The Temporary Speaker (Sen. (Dr.) Machage): Order! Can you withdraw that?

Sen. Murkomen: Let me finish.

The Temporary Deputy Speaker (Sen. (Dr.) Machage): No. Can you withdraw that?

Sen. Murkomen: I will substantiate.

The Temporary Deputy Speaker (Sen. (Dr.) Machage): Just withdraw that because the Chair is not privy to the fact that the Member has withdrawn from his party, otherwise he would cease to be a Member of this House. That is a very serious allegation.

Sen. Murkomen: Let me put it this way---

Sen. Muthama: On a point of order, Mr. Temporary Speaker, Sir. The Senator on the Floor has left the contents of the Bill and has gone on to discredit or praise certain parties trying to show how strong they are. We are not here to campaign but to contribute to this Bill just to unite Kenyans. Is it in order to continue doing that?

The Temporary Deputy Speaker (Sen. (Dr.) Machage): Sen. Muthama, which Standing Order are you quoting?

Sen. Muthama: I am just responding to what he is saying and where he is taking the House.

The Temporary Speaker (Sen. (Dr.) Machage): You have a very important point, but I suggest that you seek the guidance of the honorable lawyer and very expert Senator, Sen. Orengo, to guide you on the Standing Orders so that you can quote it next time.

(Several Senators stood up in their places)

Order! Let us give Sen. Murkomen time to articulate his points.

Sen. Murkomen, are you through?

Sen. Murkomen: Not yet, Mr. Temporary Speaker, Sir. I wanted to say that to grow these political parties, the members must start feeling the ownership. In fact, I was asking myself the other day; how come that the last time I wore the regalia of URP was the last day of elections and I have not worn it since then? We need to grow that culture where you can actually even come with a suit in this House which is well done, respecting the Standing Orders but which is propagating your political party. This is because we must be proud of the identities of those political parties. After all, it is the reason why we are in this House. That is why I want to encourage Senators in this House – Sen. (Dr.) Khalwale, myself and Sen. Kajwang – that we should deepen our commitment---

The Temporary Speaker (Sen. (Dr.) Machage): Yes, Sen. Kajwang?

Sen. Murkomen: Hold my time, please?

Sen. Kajwang: My point of order, Mr. Temporary Speaker, Sir, is on speeches made in this House. When a Senator stands here, he should not make a speech an attack on the character, credibility or personality of any Member in this House unless he has a substantive Motion. This will ensure that we do not become very angry against each other when you touch somebody and he has no chance to respond when he is not in this House. So, I wanted Sen. Murkomen to recognize that attacking people by saying that they have withdrawn from parties and that their party is from here to there, it does not quite help this House. I think we should restrict ourselves to the Motion and remove the irrelevance so that we---

The Temporary Speaker (Sen. (Dr.) Machage): Sen. Murkomen, you are so advised. Actually, you were a bit extreme and you may need a substantive Motion to go the way you want. But you are advised.

Sen. Murkomen: Thank you, Mr. Temporary Speaker, Sir. If you know how I ended up in that tangent, it was when URP was renamed by the Wiper Party person from what it is to something else. That was the only reason.

Mr. Temporary Speaker, Sir, it is important to also remember that the character and the membership of our political parties has been changing. It was just the other day when the Deputy President and the former Prime Minister were in the same political party---

The Temporary Speaker (Sen. (Dr.) Machage): What is it, Sen. (Dr.) Khalwale?

Sen. (Dr.) Khalwale: Mr. Temporary Speaker, Sir, now that the Senator has realized his mistake, could the Chair also direct him to withdraw and apologize? If he does not want to withdraw and apologize, since I am a Member of UDF, I challenge him

that he resigns as Senator, I resign as Senator and you choose any cosmopolitan county in this country and we vie against each other. I will beat you at 8.00 a.m. in the morning!

(Applause)

The Temporary Speaker (Sen. (Dr.) Machage): Sen. Murkomen, I am afraid you must withdraw.

Sen. Murkomen: Mr. Temporary Speaker, Sir, I think I am more than willing--- I had already withdrawn that issue; so, that was beyond us. You ordered it yourself *suo moto*; without it being moved by anyone. So, we had already gone beyond that---

The Temporary Speaker (Sen. (Dr.) Machage): Had you withdrawn?

Sen. Murkomen: A long time ago under your order.

The Temporary Speaker (Sen. (Dr.) Machage): Have you apologized?

Sen. Murkomen: Yes.

The Temporary Speaker (Sen. (Dr.) Machage): Good.

Sen. Murkomen: Mr. Temporary Speaker, Sir, I said that my only reading of the body language of the Senator for Kakamega, where actually UDF is domained more than anywhere else, which is a good thing and we must celebrate---

The Temporary Speaker (Sen. (Dr.) Machage): Order! Order, Sen. Murkomen! You have just apologized and withdrawn; if you revisit that line, I will rule you to be disorderly.

Sen. Murkomen: Yeah, that is why I am saying that we are moving to something else that he raised; that if it is a contest of popularity, I think I have seen my colleague doing some popularity contest with his Governor. I do not think he has completed that one to qualify to want to run with the bull of Elgeyo-Marakwet.

So, Mr. Temporary Speaker, Sir, the point is this; that as a country, you have seen that---

(Several Senators stood up in their places)

Mr. Temporary Speaker, Sir, will I make it---

The Temporary Speaker (Sen. (Dr.) Machage): Yes, what is it, Sen. Orengo?

Sen. Orengo: On a point of order, Mr. Temporary Speaker, Sir. There was reference to the word "bull of Elgeyo-Marakwet." I do not know what that means or whether there is a Member of Parliament (MP) with that name. But I know that from Elgeyo-Marakwet, there was the "bull of Oakland," who was the total man; and this one is not one!

(Laughter)

The Temporary Speaker (Sen. (Dr.) Machage): Proceed, Sen. Murkomen.

Sen. Murkomen: Mr. Temporary Speaker, Sir, I floored even that bull and I do not think Sen. (Dr.) Khalwale would have been able to do it.

The Temporary Speaker (Sen. (Dr.) Machage): Order! Let me remind you---

Sen. Murkomen: Do not be---

The Temporary Speaker (Sen. (Dr.) Machage): Let me remind you---

Sen. Murkomen: I oppose!

The Temporary Speaker (Sen. (Dr.) Machage): Let me remind you of Standing Order No.90(6):-

“A Senator shall refer to another Senator by the title ‘Senator’ and the name of the Senator.”

So, referring to each other as bulls and what I am hearing is not acceptable.

Sen. Murkomen: Mr. Temporary Speaker, Sir---

The Temporary Speaker (Sen. (Dr.) Machage): Order! Order! I have not allowed you to speak; neither have I seen your request.

Sen. Muthama Johnston Nduya, you supported and you finished; is it not?

(Sen. Murkomen consulted loudly)

Order! You are out of order now.

Sen. Muthama: Nakushukuru sana, Bw. Spika wa Muda kwa kunipa nafasi hii ili nichangie Hoja hii ambayo imeletwa na Sen. (Dkt.) Khalwale. Naamini kwamba madhumuni na makusudi ya Hoja hii ni kuweka adabu, heshima na vile vile kulinda mali ya umma.

Bw. Spika wa Muda, sisi wanasiasa katika taifa letu tumeshuhudia mambo ambayo yanaudhi sana; mojawapo ni kwamba vyama vimetengezwa kama kampuni za kibiashara. Vyama hivi vinatengezwa kulingana na ukabila. Nataka nikuhakikishie kwamba yale makabila madogo madogo katika nchi yetu hayana vyama kwa sababu viongozi katika makabila haya, wakijipima wanaona kwamba hata wakiunda vyama, hawawezi kufika mahali.

Jambo la kuudhi katika taifa letu ni kwamba vyama hivi vyote vimetoka katika yale makabila makubwa. Ukienda sehemu za Ukambani, Ukikuyuni ama hata zile sehemu za Wakalenjini, hapo ndipo utapata vyama vitano, kumi, ishirini na zaidi. Wananchi wamenyanyaswa na kugawanywa na hivi vyama. Ni kwa sababu gani wagawanywe? Hii ni kwa sababu madhumuni ya kwanza kabisa ya vyama hivi ni kuuza vyeti vya kuwania viti wakati wa uchaguzi na kufanya biashara.

Jambo la pili, Bw. Spika wa Muda, ni kwamba uchaguzi ukiisha, kuna pesa ambazo zinatolewa na Serikali kwa vyama hivi na kila chama kitakwenda kudai kigawiwe pesa hizo. Kwa hivyo, tusipochunga, nikisikiza vile ndugu yangu, Sen. Murkomen, alikuwa akiongea, sio chama hiki au kile. Hatuko hapa kuangalia ni chama gani ambacho kina watu wengi, na ni chama gani ambacho kina maadili ya kuwafaidi

Wakenya. Lakini tunatakiwa kujiuliza; je, tutaweza kufanya nini ili vyama vilivyo katika taifa letu viunganishe Wakenya pamoja?

Bw. Spika wa Muda, wewe ukiwa katika kaunti yako ya Migori, unajua kwamba unaongea sawasawa na Sen. Muthama akiwa katika Kaunti ya Machakos; na unaongea na Sen. Omar akiwa katika Kaunti ya Mombasa kwa sababu tumeungana kama Wakenya katika chama kimoja.

Kwa hivyo, Bw. Spika wa Muda, ninayokusudia kusema ni kwamba naunga mkono mjadala huu, lakini namtaka Sen. (Dkt.) Khalwale ajue kwamba tutapendekeza mabadiliko Fulani wakati wa kikao cha Kamati Kuu ya Seneti katika vipengele fulani. Kwa sababu gani? Ikiwa chama kitakuwa kinapokea pesa kwa sababu ya kuwa na Mbunge mmoja, Seneta mmoja ama mwakilishi wa wanawake mmoja, hesabu hiyo itakuwa ngumu. Tutakuwa tunatengeneza na kueneza vieneza na vyama vya kuwagawanya Wakenya. Tunataka kuenda sambamba na mapenzi ya Wakenya. Ni lazima sasa tufanye kazi bila kuangalia kabila zetu na pia bila kuangalia mtu anatoka wapi na chama chake kinaelekea wapi. Tunafaa kufanya kazi ambayo itawaleta Wakenya pamoja.

Kwa hivyo, kaunti zetu zote 47 zinafaa kuungana. Nakubaliana na mapendekezo kwamba kura za Rais zinafaa kuondolewa katika mbinu ya kugawa pesa za kisiasa katika taifa letu. Chama cha URP, kwa mfano, kiko katika mrengo mmoja na TNA. Chama cha URP hakikumweka Rais mamlakani. Kura ambazo wangeweka katika sanduku ya Urais ziliwekwa katika debe ya TNA. Kwa hivyo, kama kura hizo zitahesabiwa kupitia kwa Rais ambaye alichaguliwa na TNA na chama cha URP kiwe nje, hakutakuwa na usawa. Nakubaliana na hayo. Kura za Urais zinafaa kutoka kwa makadirio ya watu ambao walipiga kura na kufikiria vile pesa zitakavyogawanywa.

Tukiwa na chama ambacho kina Wabunge 60 kutoka sehemu ya kati, pia, hakifai kupewa hela. Chama ambacho kinawakilishwa katika kaunti 47 za taifa la Kenya kimewaleta wawaakilishi katika Seneti na pia katika Bunge la Kitaifa, kinafaa kupewa pesa. Chama ambacho kimewaleta Wabunge fulani kutoka Meru peke yake hakifai kupewa pesa. Chama ambacho kina Wabunge kutoka Ukambani peke yake kinapewa pesa za nini? Tunataka kupanua nchi ili tuwe na usawa. Watu wengine wako katika vyama ambayo havijasajiliwa. Watu hao wanafaa kuungana na Wakenya wengine katika vyama ambavyo vitapewa pesa.

Leo, nimeona watu ambao wako katika vyama ambavyo havijasajiliwa wakisema wanataka kujiunga na CORD ili wapate pesa. Wametupa ahadi kwamba baada ya kupewa pesa, wataungana nasi kupiga kura. Hiyo ni njia ya kuwagawanya Wakenya. Mimi nazingatia umoja wa Wakenya. Mkamba akiunda chama chake, nitasema hicho ni chama cha kuigawa nchi. Ikiwa Wamaasai wataunda chama chao, tutasema wanagawa nchi. Tunafaa kujua kwamba chama ambacho kinajulikana na ambacho kina Wabunge wawili, basi hakiendi mahali popote.

Ndugu zangu Sen. Sang na Sen. Murkomen hukaa na kuzungumza katika lugha yao nikiwa nimekaa karibu nao karibu kwa masaa mawili. Wao huzungumza katika lugha

yao hata kama mimi sielewe kitu. Hawana aibu. Mimi nikikaa na Sen. Mutula Kilonzo Jnr., pia tunazungumza hivyo hivyo. Sen. Orenge akiwa na Sen. Kajwang pia wanaongea vivyo hivyo. Sisi hatujakomaa katika mambo ya lugha ambayo itatulete pamoja. Bado tuko katika misingi ya ukabila.

Sen. Omar Hassan kutoka pwani ametoka jamii ya Wabajuni. Jamii hiyo haijulikani. Mtu kama huyu ataunda chama lini ambacho kinaweza kumfanya ajulikane kabisa katika taifa hili? Akitoka nje, watu watasema chama chake kina mtu mmoja na vyama vya Wakikuyu ndivyo vina watu wengi.

Bw. Spika, wewe huwezi kuwa hata na ndoto ya kuitawala taifa letu kwa sababu hauna jamii kubwa. Ukizungumza katika mkutano kwamba unataka uongozi wa nchi hii, utaulizwa maswali mawili. Kwanza, utaulizwa watu wako ni wangapi? Pili, hata ukitaka uongozi wa chama, swali la kwanza ni una watu wangapi? Baada ya swali hilo, pia utaulizwa una watu wangapi? Kenya imepiga hatua katika mambo ya ukabila. Mambo haya yanaanzia hapa.

Tulipokuwa na uchaguzi mkuu, chama cha UDF – Sen. Khalwale atanisamehe – kiliundwa ili kura kutoka sehemu za *Western* zisiende kwa chama kingine. Hata kama ungejipamba vipi na kujaribu kujiunga na chama cha watu wa *Western*, ili uwanie kiti cha Rais, haungeweza. Hata kama kungekuwa na nini, haungepewa kura hizo. Pesa zitapelekwa katika vyama vya jamii kubwa na hapo ndipo wizi wa pesa za umma utakuwepo. Chama kikiundwa, kitapewa pesa. Atakayekuwa akitoa pesa hizo, atakuwa amezitoa wapi? Hii ni mali ya umma ambayo imeibiwa.

The Temporary Speaker (Sen. (Dr.) Machage): Let me get this clear in my mind. Are you saying that the UDF was created, literally, to divide the votes of the major tribes in this country?

Sen. Muthama: Bw. Spika, nimefanya kupeana mfano tu.

Sen. (Dr.) Khalwale: On a point of order, Mr. Temporary Speaker, Sir. It is very exciting to listen to the information coming from my senior who is the Whip on our side, but is he really in order in the process of referring to the information he has about UDF, especially how it was created to divide votes and how it was given money? Is he in order to connect my name to it knowing very well that I had no idea where the party came from, whether it was meant to divide votes and whether it was given money? Could he, please, be gentle enough to say that he knows those things without reference to me because I have no idea?

The Temporary Speaker (Sen. (Dr.) Machage): Well, he is in order because nobody complained about it.

Proceed, Sen. Muthama.

Sen. Muthama: Bw. Spika wa Muda, hii ndio sababu nilisema kwamba ninamwomba msamaha kabla sijasema yale niliyoyasema. Tukienda njia hiyo, mimi ninahurumia makabila madogo nchini Kenya. Kwa hivyo, ili tuende mbele na kuwaweka Wakenya pamoja, ninasema kwamba asilimia 60 ya kura za kaunti katika Mswada huu liwe jambo la kwanza kurekebishwa. Hizo kura asilimia 60 za kaunti 47 zinatoka katika

nchi nzima, lakini yule atapata kura nyingi, na iwe imetoka katika jamii moja, yafaa aambiwe kwamba jambo hilo haliwezi kuidhinishwa. Jambo hilo litawafanya watoto wetu ambao tunawazaa hivi sasa, wakue wakijua ya kwamba wanaweza kuanzisha vyama na kuenda kule kwa Wakalenjini na kuuza sera zao kwa sababu tukishikana pamoja na kushinda uchaguzi, tutaweza kuweka akili zetu pamoja na kuzingatia umoja wa Wakenya.

Kwa hayo machache, ninaunga mkono.

Sen. Sang: Mr. Temporary Speaker Sir, I rise to make some contributions with regard to this Bill. From the outset, I would not want to commit myself to either supporting it or opposing it, because this is a very important amendment Bill in the sense that it is giving us an opportunity to evaluate the Political Parties Act after the Act came into operation following a General Election. I want to appreciate the intention and the wisdom behind the establishment of this Bill. Sen. Kajwang who was a Member of the Tenth Parliament and who obviously must have taken part in the passage and enactment of this Bill has shared the mind of Parliament, then and the wisdom that Parliament considered when passing this Bill. It is important to now evaluate and ask ourselves how realistic this Bill was because this was a Bill that was enacted in the previous Parliament but it came into force after the elections in the last General Elections. It is, therefore, important for us to evaluate.

Mr. Temporary Speaker, Sir, it worries me, looking at the performance of the various political parties in the General Elections and you have serious parties like Wiper, FORD-(K) and others but they could not fit into the mathematics of getting support based on the mathematical formula that we placed in this law. Therefore, it is important for us to relook at the law and ask ourselves whether we want to continue in this country to use taxpayers' money to fund only three or four political parties or not. When we enacted this Bill, the mind of Parliament then looked only at political parties. One of the emerging democratic phenomena in this country right now is coalitions. This Bill did not consider how parties working in a coalition would be able to even discuss and agree on how to share resources. I think the timing of this Bill is very crucial and we need to look at the Bill and ask ourselves the direction that we need to go. What was the wisdom, but how then do we merge the wisdom then and the realities based on the issues that this country has faced after the General Election?

As a Member of the Legal Affairs and Human Rights Committee of the Senate, we received the Bill, considered it and invited comments and participation of the various stakeholders within the political parties sector. We received submission from the Registrar of Political Parties and interestingly enough, she supported this amendment. Some of the issues that were raised by the Registrar of Political Parties was that this amendment would ensure that you are able to expand the political parties in this country that will be supported under the Political Parties Fund and, therefore, reduce the greater influence by individuals on parties that would miss from this Fund.

Some of us are now wondering how Wiper, for example, will fund their activities and how Sen. (Dr.) Khalwale's party, UDF, will support its activities. This also applies to FORD-(K) and all the others. I think it is important for us to look at how we can expand it to an extent that is reasonable without losing the intention of ensuring that we are able to create national parties in this country. Therefore, the debate we are having in this House is very healthy. Let us ask ourselves how far we can stretch and how narrow we can come in ensuring that we have political parties which are supported within the Political Parties Act.

The second issue that was raised by the Registrar of Political Parties which is important is the constitutional doctrine of equality of votes. The fact that once political parties have presented their candidates in the various elections, when people of this Republic vote for a particular political party, that may not get to the threshold of 5 per cent, but 3 per cent tells you that quite a good number of Kenyans subscribe to the ideology of that political party. Therefore, if you want to address the issue of equality of both, you may have to re-look at it and expand this threshold a bit so that you are able to cover a little more political parties. I know that in this country, we have over 51 registered political parties. The political parties that ended up having at least one Member of Parliament or one county Governor or a number of MCAs do not go beyond six or seven.

That means that even if we were to review the percentage, we are not just opening up this to any other individual political part. For a political party to be able to marshal the numbers and get one, two or three Members of Parliament or 25 MCAs, that means that that is already a serious political entity. We may need to ask ourselves whether or not they deserve to be funded.

It is important to look at the Bill. We are not just talking about supporting all political parties equally. There should be a formula for dividing the political parties fund into some categories. The first category should be equally across the political parties whether that percentage is 5 or 15 percent, it is important to note and then the greater percentage would be distributed based on the strength and the numbers that the political parties got. I think that is something that is fairly important.

The amendment ought to be expanded to include giving a legal basis on how coalitions are going to share their funds. I come from a political party that is in a coalition with another political party. The parties are the United Republican Party (URP) and The National Alliance (TNA), in the Jubilee Coalition. We had an agreement on how we would share resources on the basis of the fact that our presidential candidate was one, but under the TNA party. But that is only captured under the agreement between us and our coalition partners. I think that there is need for a legal basis for the same, so that it is not just left to the agreement of the coalition partners. The framework should be provided legally within the Political Parties Act.

Mr. Temporary Speaker, Sir, I know that the Elections Act provides for the management and running of coalitions. This should be reflected also in the Political

Parties Act. However, when we invited the Commission for the Implementation of the Constitution (CIC), they raised a lot of concerns with regard to this amendment. It is important for us to know what other institutions think. The CIC raised the issues that have been raised by the Members of this House who have opposed this amendment, in terms of the fact that we needed a Political Parties Act that would ensure that we have institutional parties that are not ethnic-based, individualistic or just regional. Article 91 (1) of our Constitution dictates or suggests that we should have political parties that are national in character. Therefore, we, as a House, need to be careful that we do not know what the threshold is, to the extent that we give room for ethnic political parties in this country. Therefore, we, as a House, have to ensure a balancing act, in terms of ensuring that the threshold is not too high. I seem to believe that the threshold of five per cent may be too high for the reach of most of the political parties. But it should not also be too low to allow any political party in this country to just find its way and be funded through resources from the taxpayers.

Mr. Temporary Speaker, Sir, the CIC was largely opposed to this Bill on the basis of Article 91 (1). When we invited the Centre for Multiparty Democracy (CMD), they raised similar issues as those raised by the CIC. But then, before you dismiss a political party, that they did not gather enough numbers whether in the National Assembly, county assemblies and Governors positions--- For a party to perform well in an election, you have to spend a lot of resources. Therefore, most of the political parties that succeeded in the last general elections spent a lot of resources coming from people's pockets, to ensure that they endeared themselves to Kenyans and got the number of votes that they got. Therefore, how do you nurture small parties to grow and ensure that they are able to succeed? I think that we may need to provide for a grace period. Even under our Constitution, we provided for the Equalization Fund that would last for a certain period – 20 years, for example – which is supposed to give an opportunity to ensure that we equalize counties in this country. Even for political parties, we need to provide for a transitional mechanism where we support even the smaller parties and give them a chance. Maybe over a period of five years or ten years, if a party does not perform or consistently grow and ensure that it has more Members of the National Assembly, Members of the County Assemblies and so on, then we should provide for mechanisms to pull them out of the support by the Political Parties Act. It is important that we give an opportunity to small parties that are still growing and nurture them.

Mr. Temporary Speaker, Sir, at the end of the day – and that is why we need to critically make the decisions as the Senate – there is logic and merit in ensuring that we have parties that are of national character and able to carry the ideals that are identified across this country. But more importantly, let us not lose the fact of the need to grow political parties and ensure that we have equality of votes.

I support this amendment to the extent that we need to relook at that threshold, so that we do not lower it beyond a certain level; that you give even an ethnic political party an opportunity to be funded through taxpayers' money. But we should not also raise it so

high that we will lock out legitimate Kenyans who have supported certain political parties, just because they did not get to that threshold.

Mr. Temporary Speaker, Sir, with those many remarks, I want to thank the Mover of this Bill for giving us an opportunity to rethink and relook at the Political Parties Act based on the realities other than the ideals and wisdom that we had initially, before we interacted with some of the realities under the general election.

Sen. Hassan: Thank you, Mr. Temporary Speaker, Sir, for this opportunity. I have heard many Senators who have spoken before me trying to say that they are not here to support or oppose this Bill. I just want to ventilate on the proposed amendment. I will take a similar line, but in my submission, I think that one will be able to tell whether or not I support this amendment.

One of things that have led to the formation or proliferation of political parties in Kenya is the lack of ideological discourse. I do not see why if you believe in a certain value system or ascribe to a certain brand of politics, you will need to form a party that will only get one MCA or fluke its way through the Senate or gubernatorial process. The reason we have continued to have the fractures in our democracy that deny us the opportunity to move away from ethnicization of the Kenyan politics, is the fact that we have had so many fiefdoms of parties that actually do not necessarily reflect the national character, but sometimes reflect the tyrannical elements of politics and an amalgamation of a few tribes coming together to get political power. That is why today we are in the position that we are in. Since the political process envisages reward, when you come together as two or three communities, then you tend to reward the communities that apparently ascribe to that political coalition.

I am still not persuaded that there is any wisdom in funding a political party that has one Member of the National Assembly or MCA. I think that, that person must look for an opportunity of joining a broader political coalition and benefit from it in terms of moving forward their agenda. This is because I think that a one man army in a political set up of this nature is often futile. We know a Senator here who comes from one political party and you will hardly know the political balance that he speaks on. I am not trying to be adverse, but I think that the nature of politics, particularly in terms of developing democracies is to ensure that parties ascribe to certain formats, value systems or views on how to run governments. That is why earlier I rose on a point of order when a Senator said that you cannot tell the difference between political parties. I think you can tell the difference between political parties in any country in terms of who constitute these political parties. The people who constitute these political parties often reflect the beliefs of these political parties. It is not possible to say that a certain Senator who, say, is on the extreme right, and I, think alike because the only thing that separates us is the fact that we have manifestos that call for building of roads and whatever else. That is mechanical and a very narrow view of governance and the Government. There is a broader concept.

Mr. Temporary Speaker, Sir, my colleague, Sen. Murkomen, spoke about what URP stands for. I can tell you what the CORD Coalition stands for. The CORD Coalition

is a pro-social democracy and justice kind of party. It appears to be the more pro-poor kind of a party, if you look at the composition. You do not have to ascribe to too much capital for you to win favour in terms of parties. It is the party that says: "You have to use the democratic standards." I remember one of the Senators here saying: "Let the Government do what it must do and let the human rights community not speak about it." That is not what we believe in. We say: "Do what the Government must do, but observe human rights." That is the kind of value system. So, it is wrong to imagine that we do not believe in something. We all believe in certain things; it is only that our political aspirations manifest themselves in ethnic arrangements. But you will find that even in these ethnic arrangements or whatever the arrangements that we have in our politics, there are manifest value systems. That is why when we tackle the issue of insecurity and fault our Jubilee colleagues, it is because they believe security must have all structures and we should allow security matters to take over rights provided for in the Constitution. That shows that there is a political party that believes in something. We have a political or belief system that the provisions of the Constitution must not be tampered with and that the rights of individuals are supreme.

Mr. Temporary Speaker, Sir, I wanted to oppose this Bill on account that we need to strengthen political parties and if we talk about that, some of us who find ourselves in minority communities, it gets the best out of us. How then can I, one day in the very near future, lead the CORD Coalition? It means you have to exercise extra-ordinary political tact. It improves the political character of people and political strategies of individuals. Sooner than later, this issue of big tribes thinking that they are the only ones who have a sway in politics will give way once ideological politics take route. That is why we want to discourage some small splinters that will only give advantage to those who have big tribes. You can imagine today if coast region, which is assumed to be a CORD strong hold, was to have little splinters? It means that it severs the capacity of the CORD Coalition to have a reasonable onslaught on power because the other coalitions consist of two or more major ethnic communities.

Sen. Sang: On a point of order, Mr. Temporary Speaker, Sir.

The Temporary Speaker (Sen. (Dr.) Machage): What is it, Sen. Sang?

Sen. Sang: Mr. Temporary Speaker, Sir, Sen. Hassan continues to use the word "coalition" with political parties as if they mean the same thing. We are talking about the Political Parties Act, he is talking about the CORD Coalition and what they stand for. That is not a political party. The amendment relates to political parties and not a coalition. So, it would make more sense if he gave examples of political parties rather than coalitions. If you look at the amendment, it talks of political parties.

The Temporary Speaker (Sen. (Dr.) Machage): I think you are quoting him out of context. You cannot take one verse of the Bible which says "take my cross and follow me" and you go curving wood to carry it. You have to look at the whole speech in context. Maybe you did not listen to the earlier contribution of Sen. Hassan but it is a valid observation. May be you have to be clearer in your approach.

Sen. Muthama: On a point of order, Mr. Temporary Speaker, Sir. Is Sen. Sang in order to point out that Sen. Hassan is quoting a coalition---

The Temporary Speaker (Sen. (Dr.) Machage): Order. I have already ruled on that. You are out of order.

Sen. Hassan: Mr. Temporary Speaker, Sir, just to respond to Sen. Sang, the coalition is not just a coalition of individuals but a coalition of parties which stand for something. There are certain definitive reasons or interests that got URP amalgamate itself into a coalition with the TNA; whether that is assumed or real. The coalition's major ingredient is talking about an atom and a molecule. It is the same thing. The atom has to come together to form a molecule. So, we are talking of the same thing, Sen. Sang.

I am persuaded that some of these parties came together because they believe in something. My argument is that you will be some kind of a village hero who is given the space of political party support, let yourself also show your heroism in a broader context where you bring your ideas forth. So, we are saying that we have an opportunity---

The Temporary Speaker (Sen. (Dr.) Machage): Sen. Sang, do you still have another point of order?

Sen. Sang: On a point of order, Mr. Temporary Speaker, Sir. I did not want to interrupt the Senator but I want to point out that the Senator gave an elaborate and fairly generous description of the ideals of his coalition but there is one aspect that he attributed to the entire coalition. In my opinion, it is only shared by one side of the coalition. The issue of democracy---

The Temporary Speaker (Sen. (Dr.) Machage): You know, Sen. Sang, whereas I accept you are learning some of these procedures, you are completely out of order to do it that way. You do not express your opinion through a point of order.

Sen. Hassan: I think your point is noted. I must also commend the fact that you gave a very powerful presentation.

I was trying to also agree with the point that Sen. Sang raised because that was one of my points that parties must reflect the national character. It is difficult when you have one elected Member of County Assembly (MCA) or one Member of the National Assembly to demonstrate how you reflect national character. I think it also goes *ultra-vires* to some articles or provisions of the Constitution in particular, Article 91(1) of the Constitution. In fact, if I was to be selfish, my party Wiper is point something per centage shy of being a beneficiary of the Political Parties Act. It is 0.8 per cent, which is hardly one Member of the National Assembly. This means then Wiper Party would have been a beneficiary of the Political Parties' Fund. Even as we are here today, we know that the monies that have been allocated to political parties fall short of the provisions of the Act itself. Therefore, we cannot on one hand say we want to use the kitty to fund so many other interests, yet we do not allocate sufficient resources. My point here being that if that little fund that is available right now was to be disbursed among so many interests that we have, the few parties that have the potential of being national, will also roll back some of their gains. It means less funding to some of those political parties which means less

capacity for them to continue to build a national outlook. It is important to have parties that have a national outlook but compete on the strength of ideas.

Mr. Temporary Speaker, Sir, future amendments must compel parties to demonstrate what kind of value system or ideals that they represent in politics. The ideals of value system that we represent in politics are not too many. There are those who are utopian in terms of their capitalism. They believe in development about showing us roads and forget the whole arena of governance that is a complete world view about development. Countries that have developed faster and better than Kenya are countries that have their governance right. They enjoy good governance, their judicial systems are working, their police systems are working and so on. So, development is a complete phenomenon and you cannot tell us that you are developed because you have built a road or a railway for us. Look at the Arab spring, the Arabs have done more in terms of infrastructure than any other African country, but that did not stop them from asking for freedom. We have very narrow views of development and even that is reflected in our political culture. That is why we say it is not enough to tell us “keep quiet” so that we can develop this country when you do everything in transgression and *ultra vires* to the Constitution of the Republic. The Constitution of the Republic must guide our development. It must guide our Governors in their day today’s operations. It must also guide our social and political conduct.

We need to have parties that can demonstrate what they believe in. Parties manifest themselves in various forms. It is not true to say that we do not believe in anything or that the parties are not dissimilar just because they rally around tribes. Parties also largely borrow from the value systems of the leadership of those parties. Look at what hon. Raila represents and you will find it manifest in the party; look at what the former Vice President, hon. Kalonzo Musyoka, represents, you will find it manifest in the party; look at what hon. Wetangula represents, you will find it manifest in the party and, likewise, look at what hon. Uhuru represents and you will find it manifest and dominant point of view in his party. Look at what hon. William Ruto represents and you will find that, that is the dominant point of view within the party. So, even if they do not believe in something, their ideas in terms of what governance is all about, is reflected within those parties. Therefore, that is why I believe that we are two separate and distinct visions of how to run this country.

Mr. Temporary Speaker, Sir, I hope that Sen. (Dr.) Khalwale will put some bit more thinking into this legislation or maybe we can also propose amendments as this House so that we can improve on this Bill.

Hon. Senators: Correct!

(Applause)

Sen. Hassan: Mr. Temporary Speaker, the way this Bill stands now, I have my hesitation to support it because then it will encourage me to go to form a small party, go

vie in my little Kibokoni or old town ward; and then hope to benefit from the Political Parties Fund. I do not know whether that will mean progress for the party or recession for democracy.

I beg that we follow the procedures provided by the Senate. But as it stands now, I have my reservations and hope that this Bill will be improved through amendments so that it meets our expectations.

(Applause)

The Temporary Speaker (Sen. (Dr.) Machage): Very well.
Proceed, Sen. Orengo.

(Sen. Orengo walked to the Dispatch Box)

Sen. Orengo: Thank you very much, Mr. Temporary Speaker, Sir, for giving me an opportunity---

The Temporary Speaker (Sen. (Dr.) Machage): Next time you should remember to carry your card. It is not procedural.

Sen. Orengo: Mr. Temporary Speaker, Sir, I will carry it. I am so sorry.

Mr. Temporary Speaker, Sir, I thank Sen. (Dr.) Khalwale for bringing this Bill because it is an important Bill. I want to point out from the outset that if you look at what the Constitution requires of political parties, so as to reflect the national character; and also if you look at the Political Parties Act in terms of what the Constitution requires in Section 7 of the Act, you will realize the importance of this Bill. It says that a political party is required to recruit fully registered members and that the number of recruited members should be no fewer than 1,000 registered voters from each of more than half of the counties. What does the Political Parties Act says here? It is says that in order to reflect the national character of a political party, you have to have more than 1,000 members from half the counties in the Republic. If you do so, then you will have fulfilled the requirement of Article 91 of the Constitution and the Political Parties Act.

Mr. Temporary Speaker, Sir, other than the question of the registration of members and their regional spread, because, again, it says in Section 7(2)(b) that the members referred to in paragraph (a) reflect regional and ethnic diversity; gender balance and representation of minorities and marginalized groups; so that any political party which is registered under the Political Parties Act is already a national party. Otherwise, if it does not fulfill that requirement, then it is not a national party because it does not fulfill the conditions required by the Constitution and the Political Parties Act. I think this is what Sen. (Dr.) Khalwale is trying to say here.

When it comes to the elections and in order for you to get funding from the fund established under the Political Parties Act, you must have a certain percentage or a certain threshold of the votes garnered in the elections. So, even if those votes came from

a particular region, then you are entitled to these funds. You may have a small political party which has votes from all over the country reflecting a national character, but it is disqualified on account of not meeting the threshold. In other words, a political party which is registered, but has members from one section of the country is then entitled to get money from the fund. So, the Political Parties Act, to that extent, is not consistent with what it is saying. There is conflict within the Act itself and there is conflict within the Constitution. Therefore, I want to agree with Sen. (Dr.) Khalwale that the Constitution and the law must say what it says. Therefore, what is implemented under that legislation must also be in accordance with the primary consideration of this legislation.

I am saying this in light of the fact that you may find a party that is interested in a single issue like, for example, the environment. It may not attract the following that the major political parties have because it may say that according to its blueprint, all that it is concerned about is the environment. This is not really an issue that you hear a lot of political parties talking about. Therefore, to the extent, it has this wonderful idea and it should get support from all over the country. But you may have a political party that is getting all the votes from all over the country merely because of its ethnic base and its financial might. But in terms of the ideas, it is a very empty party or coalition.

Mr. Temporary Speaker, Sir, to that extent and to the extent that the Constitution actually recognizes marginalized groups, for example, I know that the Ilchamus in Baringo have been fighting for a long time since Independence just to gain one seat in Parliament. They have never had a Member of Parliament (MP) from that community. They may register a party only to pursue that objective; that their community, under the Constitution, is not being properly recognized. They can go to the big political parties and major coalitions, but they cannot achieve that objective. For a group like the Ilchamus to address its grievances, they have had to go the African Court of Justice in order to deal with the issue to do with their land, which could not be addressed locally in Kenya. This is because the way we run our affairs, we do not have a lot of space for some communities.

Mr. Temporary Speaker, Sir, what am I trying to say? That if you have a political party that has got broad membership and it has got a wonderful idea, but because people are pushing in a different direction, it may not be good for the country yet you have a political party with a good idea and they cannot achieve the kind of numbers that you want to achieve in order to enjoy this privilege from the fund allocated to political parties. Examples of this can be seen in Britain, where there are parties represented in the House of Commons from Ireland and they have about 20 or so members. This is a small community. But they want to address that unique problem within that section of the United Kingdom.

I urge Sen. (Dr.) Khalwale that, probably, we need an amendment to the extent that we divide the Political Parties Fund into two; one where you can use the kind of formula found in the Political Parties Act as it exists now. Then a certain faction can be

shared for the sustenance of the small parties because sometimes you may find that the bigger parties may be pushing the country to the wrong direction. For example, Hitler's Nationalist Party was a huge party; it was a movement. You will find that in Germany, at that time, there were smaller parties which believed in something and yet they were smoked out. Therefore, they were not able to survive in that kind of environment.

Mr. Temporary Speaker, Sir, I have seen situations where you can find yourself in a Parliament like I was in; where Members made a decision that Kenya shall have one party. You would only find one lone voice saying that: "On a matter of principle, I cannot go that direction."

The problem with a majority of people is that they at times lose sense of direction. They sit in a caucus. When they come back, they become voting machines. They do not think of bigger ideas. When you look at the annals of our history, especially on the law of detention, you will see that the bigger section talks about detention being a good thing. It says that development of our country and those who want to sabotage and compromise our security should be detained. There were two or three lone voices in the House which did not represent the mainstream political parties at that time. Low and behold, the big guys in those political parties were the first to be taken into detention. I want to plead that we have some small space for small parties. They may be small in numbers, but very big in terms of ideas. I have seen that situation and witnessed it many times.

Mr. Temporary Speaker, Sir, take, for instance, the African National Congress (ANC) Party in South Africa. The leadership of that party, for a number of years has come from the Xhosas; Mandela, Sisulu, Mbeki and many more up to the time of Luthuli. We now have a Zulu for a President. Since this party believed in some idea and direction, it was possible to have leadership from a small community. With regard to Tanzania African National Union (TANU), now CCM, the leadership came from a very small community, Zanakis, in Tanzania, where Nyerere came from.

The Temporary Speaker (Sen. (Dr.) Machage): Why can you also talk about the Zanaki's of the Kuria Tribe?

Sen. Orengo: Yes, Mr. Temporary Speaker, Sir. We also have the Zanakis of the Kuria Tribe. Kenya is a bit far from that situation.

I want to support what Sen. Omar was saying that the strength of our democracy and parties will be shown one day when the bigger parties will have somebody from a minority leading them and stepping in State House. Probably then, we will say that we have dealt with the problem of ethnicity. If we require political parties to do what even a Government is not doing, with regard to inclusivity---

Sen. (DR.) Khalwale has been making this point time and again. I am about to make this point. The Jubilee Government today is not a Kenyan Government. This is hegemony of one or two communities. In fact, the truth of the matter is that it is not a hegemony of one or two communities, but of small cliques which is the legacy of the home guards in Central Province.

Sen. Kagwe: On a point of order, Mr. Speaker, Sir. I was enjoying the contribution by my friend, Sen. Orengo until he left the track of what he was saying and started talking about things that are completely untrue. Is the hon. Member in order to pursue a line and try to insinuate things that I know for a fact are not true?

If you look at the appointments and layouts within the Jubilee Government, you will see that they reflect the face, gender and substance of the people of this country. You have said, very often here, that opinions can be expressed. Indeed, we agree that opinions can be expressed. My friend, Sen. Jim Orengo, has an opinion of what is there. But could he, at least, be truthful? Is he in order to insinuate things that are not true?

Sen. (Dr.) Khalwale: On a point of order, Mr. Temporary Speaker, Sir. Thank you for allowing me. Is the Senator in order to say that when he has not conducted any efforts to see what Kenyans think? We have conducted such an effort and a resolution was reached on 7th July, 2014. As a resolution, *wananchi* told us that we should insist that the Government publishes the names, counties, geographical, ethnicity of every appointment in public service so as to explain the skewed appointments in the finance sector, security and at the State Law Office. All these appointments have not only locked all communities, but the URP side of the Jubilee.

This is not a laughing matter. We want a stable country. Is he in order to mislead the House?

Sen. Kagwe: On point of order, Mr. Temporary Speaker, Sir. Honestly, Sen. (Dr.) Khalwale has just said and everybody heard this that they have conducted a research that shows these things. Now that he has said that, would I be in order to ask the Senator to lay on the Table the report of the research that has been carried out?

The Temporary Speaker (Sen. (Dr.) Machage): I have to rule on this. One, Sen. (Dr.) Khalwale, you have been challenged. Could you table the documents?

Sen. (Dr.) Khalwale: Mr. Temporary Speaker, Sir, I did not call it a research. I said that we have taken the effort to find out what the public thinks. I said that we have carried out such an effort which culminated in the *Saba Saba* rally where we led the country in making those resolutions. Indeed, all our rallies were covered by the electronic media. The pronouncements we made are on record.

Sen. Kagwe: On a point of order, Mr. Temporary Speaker, Sir. Since when did political rallies assume the substance of information that can now be put on the Table of the House?

The Temporary Speaker (Sen. (Dr.) Machage): Order! You have just demanded for data to substantiate that allegation after which you turned and denied. This Chair is not preview to any statistics that have been printed by the Government to show the level of ethnicity or other political parties. I prefer if we leave it at that.

Sen. Orengo: Mr. Temporary Speaker, Sir, that is disabusing the question of ethnicity. Ethnicity exists in the minds of the ruling clique. The truth of the matter is that former President Moi's Government, in terms of inclusivity, did better than the current Government.

The Temporary Speaker (Sen. (Dr.) Machage): Order, Senator! You are walking on dangerous grounds. What capabilities are you trying to enact here? Why are you trying to make us see the cliques to see their ethnicity inclinations? You may not come up with anything. Probably, you need to rephrase that.

Sen. Orenge: Mr. Temporary Speaker, Sir, what I meant is that people thinking that the current Government is a coalition between the Kalenjins and the Kikuyus, this is further from the truth. The truth of the matter is that those who are in power today are pretending and posturing as if they are a Government of these two communities. If you go out there in the streets today, you will find people from those two communities making the same noises that other communities are making about living standards and security.

If you go to Mpeketoni, you will find very few Samburus making noise about security. However, you will find some people from Central Province who are not very happy with the issues of security. So, what am I trying to say? If we really want to push Kenya forward and to have parties that are truly national, then it begins with the Government of the day. They should give a good example to political parties because governments have resources and might. If they give a good example, the rest of the country can follow suit. Nyerere stated that in order to bring an ideology and a culture in Tanzania where everything that is done in the name of the Republic concerns and is for the benefit of all the people of Tanzania. In Kenya, for example, we will have to spend a little time and, probably, through the efforts that we are making, to make sure that Kenya is truly Kenyan.

The Temporary Speaker (Sen. (Dr.) Khalwale): I see no other interest and, therefore, call upon the Mover to reply.

Sen. (Dr.) Khalwale: Thank you, Mr. Temporary Speaker, Sir. I look at what has transpired during the debate of this Amendment Bill as a major triumph for the reason that it has gone beyond what I expected. Contributions have given me reason to realize that we must move this Bill to the Committee of the Whole so that we go beyond the narrow amendment on funding that I had looked at so as to include the great ideas that have come from this House, the Committee on Legal Affairs and Human Rights led by Sen. Wako, the Registrar of Political Parties and from all other people who were consulted, including the CMD. A decision during voting, to move the Bill to that stage, is a decision meant to either make or break. I would like that decision of voting to be guided by only one reason; that we are giving this Bill a chance so that *tui pige msasa*.

Hon. Senators, I want us to look beyond this Political Parties Act. There are many Acts in this county which were passed by the last Parliament. Some of us were Members of this Parliament, which we did hurriedly. In fact, some of them, you will recall, we used to do them up to midnight. Sometimes sitting here, only five of us could pass critical laws in the middle of the night. It is important that we look at all of them now that the heat of political campaign and fever is not pursuing us at the moment.

Today we are reflecting on the Elections Act. Do we want to keep quiet? Maybe we would have needed better qualified MCAs. So, when we lowered the bar in the last Parliament, we did not know what we were taking away from the democratic practice in our county governments. We know that we did not tighten the law sufficiently because a lot of people are today being challenged in court for having fake qualifications courtesy of a loose election law. I, therefore, would like to request colleagues that we allow this Bill to go to the Third Reading.

There is also danger if we do not look at this matter critically. There is the provision of the Constitution in Article 4 (2). If we are not very careful, one of these days you might get an extremely popular presidential candidate. What we have noticed is that the party with the most attractive presidential candidate tends to capture the imagination of the highest number of voters. To the extent that that presidential candidate who is overwhelmingly popular can win the presidential vote with such an overwhelming majority that the person who is forming the minority in both Houses does not garner enough votes to have any funding so that at that unfortunate moment, all the funds would 100 per cent be going to that one party. That will be a direct walk into the past where we lifted Kenya from monolithic politics to multiparty democracy. If this happened, we would, therefore, be going against the Constitution of Kenya which in Article 4(2) clearly says that Kenya is a multiparty democracy.

With regard to figures, when I thought about that amendment, I had not listened to the public. Persuaded by the public, they told our Committee that they prefer that out of the 95 per cent of the funds to be distributed, 25 per cent be reserved for distribution equally amongst political parties that are represented in the Houses while 70 per cent of the funds be proportionately distributed between political parties with at least two Members of Parliament or 25 Members of the County Assembly (MCAs). That is the improved thinking from Members of the Public. Every time I think about it, I think these people were right.

Mr. Temporary Speaker, Sir, I am also persuaded by the contribution of Sen. Kagwe. He would like us to go slightly further and introduce a clause with the provision of “may” so that we have an option. See a situation whereby, for example, NARC has got only one Senator and this Senator is merely living in this Senate on benevolence of the Jubilee Coalition. If we were to put in a proviso whereby we allow this Senator on a provision of “may” to have an opportunity of either continuing to pursue the agenda of NARC which sponsored him or choose to pursue the agenda of the party or coalition that is extending an olive branch. UDF is in the same mess and as a Member of UDF, because of my patriotism to UDF, you can see how hard I am fighting so that UDF can get some form of funding. These are very practical issues. Let us not kill this Bill. We should let it go ahead so that the great ideas that have been spoken to are considered.

As I talk about my party UDF---

Sen. Kagwe: On a point of order, Mr. Temporary Speaker, Sir. I just want to make a small correction to my brother, Sen. (Dr.) Khalwale and tell him that I am a card-carrying member of a party called NARC and I am a very patriotic member of that party.

Sen. (Dr.) Khalwale: Mr. Temporary Speaker, Sir, I do not know whether I pronounced something that gave that impression. If I did, forgive me my brother.

Mr. Temporary Speaker, Sir, so that people do not miss out on the weight of this matter of five per cent, this party that you call UDF, that is not getting five per cent, is not a small party at all. We have 97 Members of the County Assemblies (MCAs), 11 elected Members of the National Assembly in the Lower House and two Senators in the Upper House. In addition, we have a nominated Member of the National Assembly and a nominated Senator in the Upper House. Our Presidential candidate garnered 483,000 votes. That is a huge effort. So, when you leave us with this burden and we are supposed to carry it for five years, it simply means that for those people who love UDF, their party shall never grow. By the way, behind all these number ones in ODM and FORD Kenya, there were strong twos from UDF. We have a constituency like Lurambi Constituency in Kakamega, for example, where the sitting Member of the National Assembly beat the UDF candidate by 257 votes. The Member of the National Assembly for Shinyalu, who is in ODM, defeated the UDF candidate by 1,200 votes in a constituency of 65,000 registered voters. So, there is merit to this persuasion, and my senior colleague in the world of medicine, Prof. Lesan is here.

Mr. Temporary Speaker, Sir, my senior colleague in the world of Medicine, Prof. Lesan is here. I saw your reservations and they are well put. Let me come to them, as I persuade you to vote for this Bill. You are worried about the presidential results. According to the views of the public, they want us to cushion you, so that instead of relying on the agreement, memorandum of understanding, which has no force of law in getting the funding that you get within the Jubilee Coalition, they now want to introduce it into this Act, so that the Act speaks for you. This is important because politics is like two young teenagers when they get married. On the wedding day, none of them ever, looking into the beautiful faces of each other, contemplate the possibility of divorce. So, just like these young couples, a day might very well come, my dear brother, Professor--- If you ask Sen. (Dr.) Machage, who is in the Chair this afternoon, he will tell you that this is not theory. A time might very well come when you will break out from Jubilee before the end of the five years. Since your party leader did not run on URP, he ran on TNA. Therefore, he is not a member of URP. That is the law. So, he will be stuck there because to attempt to do otherwise, it means that he relinquishes his position as the Deputy President of Kenya. The TNA carrying the big whip, will whip you by simply closing the funding taps. These are the things that we want to bring in, so that we respect each other, even when we are in a coalition.

I would like you to take your mind back to the contribution by Sen. Orengo. Sen. Orengo is in the biggest party in the country, which is ODM. But he is remembering that things change. Even the Chair, if he will allow me to use his example, once upon a time

was the Chairman of the Democratic Party. But on the day of reckoning - of running – the Chair ended up running on an ODM ticket. So, things change. Once upon a time I was in FORD Kenya, but found myself running on a UDF ticket. So, let us strengthen democracy.

Finally, I thought the point raised by Sen. Sang was very persuasive; that even as you open this, it is not easy for many parties to win anything. With 47 parties at the office of the Registrar as we went to the elections, it is only six that managed to win something. So, that fear by Sen. Murkomen that you will need a lot of energy to calculate when you are dividing the money amongst the parties, is not a big deal. We should make this law better and carry the whole country along. My belief is that no law should be exclusive in its nature. I do not see any lawyer here today. All laws ideally should be inclusive. How can you have a law that excludes certain citizens of the land? Are you asking the people who would like to enjoy good governance by the rule of law to then move to another country so as to get those services that they seek?

I, therefore, want to move and request that this being a matter concerning counties, because the Political Parties Act speaks to the election of the Governor and the MCAs, I look around and the quorum required for voting is not there. I request that you postpone the voting.

Sen. Kagwe: On a point of order, Mr. Temporary Speaker, Sir. First, I am not sure that I agree with Sen. (Dr.) Khalwale that it is a matter that concerns counties. Secondly, even if it does or not, surely, it is the Speaker who determines whether a matter concerns counties or not?

The Temporary Speaker (Sen. (Dr.) Machage): Very well! I even wondered why you stood on that point of order. You are out of order because that is my area of jurisdiction. I will pick on the first prayer that we defer the voting under Standing Order No.54 to Tuesday, next week. It must be a day after today and, therefore, it will be on Tuesday, next week because we have a weekend. That prayer is accepted.

(Voting on Bill deferred)

We will also, under Standing Order No.30 (2) defer Order No.10 because I do not think we have enough time for the Mover to effectively present this Motion that is very important to this House.

ADOPTION OF REPORT OF STANDING COMMITTEE ON EDUCATION,
INFORMATION AND TECHNOLOGY ON RETREATS WITH COUNTY
EXECUTIVE MEMBERS IN CHARGE OF EDUCATION
AND ICT

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THAT, the Senate adopts the Reports of the Standing Committee on Education, Information and Technology on retreats with County Executive Members in charge of Education and Information Technology (ICT) held at the Great Rift Valley Lodge, Naivasha on 11th to 14th September, 2013, Serena Hotel, Mombasa on 17th – 20th October, 2013 and at Continental Resort, Mombasa on 19th-22nd December, 2013 laid on the Table of the Senate on Thursday, 3rd April, 2014.

(Motion deferred)

ADJOURNMENT

The Temporary Speaker (Sen. (Dr.) Machage): We have come to the end of today's deliberations. The House is, therefore, adjourned until Tuesday, 15th July, 2014 at 2.30 p.m.

The Senate rose at 6.20 p.m.