



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT NAIROBI**

**MISCELLANEOUS CIVIL APPLICATION N0.82 OF 2004**

**REVEREND DR. TIMOTHY M. NJOYA**

**AND 6 OTHERS.....APPLICANTS**

**VERSUS**

**HONOURABLE ATTORNEY GENERAL**

**AND ANOTHER ..... RESPONDENTS**

**RULING**

Mr. Kibe Mungai, applicants' counsel sought to rely on the Report of the Kenya Constitutional Conference, 1962 in aid of his clients' case. He produced it from the Bar in the course of his submissions. Mr. John Ougo, counsel for the 2nd Respondent objected to the manner in which the Report was being introduced. He submitted that if the applicants counsel wished to rely on the Report, he should have produced it by affidavit in the normal way and availed it in advance to give the counsel for the 2nd Respondent an opportunity to determine how to react to it.

We share the concern of the 2nd Respondents' counsel that the fact that the Report was going to be put in or introduced should have been made known in advance. However, we note that the Report bears what appears to be an official emblem and that it is from Her Majesty's Stationery Office, London. We shall in the interests of expedition allow applicants' counsel to introduce it. However, in the interests of fairness, he should in future do everything possible to notify the opposing party or parties in advance of his intention to introduce such documents and avail copies thereof in advance. Subject of this caution, the applicant's counsel may introduce and use the Report.

**Delivered at Nairobi this 5th day of March, 2004.**

**A. G. RINGERA B.P. KUBO M. KASANGO**

**JUDGE JUDGE Ag. JUDGE**