

NATIONAL ASSEMBLY

OFFICIAL REPORT

Thursday, 6th September, 2012

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

PAPERS LAID

The following papers were laid on the Table:-

The Report of the Departmental Committee on Finance, Planning and Trade on the Vetting of the Nominees for Appointment as Board Members to the Competition Authority.

The Report of the Departmental Committee on Finance, Planning and Trade on the Vetting of the Nominees for Appointment as Board Members and Commissioners to the Privatization Commission.

(By Prof. Kaloki)

NOTICES OF MOTIONS

PROVISION OF EMERGENCY MEDICAL CARE BY HOSPITALS

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

THAT, aware that the medical facilities in the country decline to attend to patients who are in critical emergency conditions without admission deposits or payments leading to worsening of patients conditions and sometimes leading to loss of life; concerned that most Kenyans are poor and lack medical covers; noting that Article 43(2) of the Constitution of Kenya says and I quote:-

“A person shall not be denied emergency medical treatment.”

This House urges the Government to ensure that all health facilities provide emergency medical care to victims of accidents or those in emergency medical conditions without denying them the admissions on the grounds that they are not able to pay immediately.

Prof. Kaloki: Mr. Speaker, Sir, I beg to give two notices of Motions:-

ADOPTION OF REPORT ON APPOINTMENT OF COMPETITION AUTHORITY BOARD MEMBERS

THAT, this House adopts the Report of the Departmental Committee on Finance, Planning and Trade on the Vetting of the following Nominees for

Appointment as Board Members to the Competition Authority, laid on the Table of the House today, Thursday, 6th September, 2012:-

1. Ms. Judith Abrahams Guserwa
2. Ms. Susan Atieno Ayako
3. Mr. Canon Charles Komu Gikunju
4. Mr. Stephen Kipchumba Kiptinness
5. Ms. Eunice Moraa Maranya

ADOPTION OF REPORT ON APPOINTMENT OF PRIVATIZATION
COMMISSION BOARD MEMBERS/COMMISSIONERS

THAT, this House adopts the Report of the Departmental Committee on Finance, Planning and Trade on the Vetting of the following Nominees for Appointment as Board Members and Commissioners to the Privatization Commission as laid on the Table of the House today, 6th September, 2012:-

1. Ms. Miriam El-Maawy
2. Ms. Agnes Kaleche Murgor
3. Mr. Bernard Aruasi Nandieki
4. Mrs. Patricia Atieno Omondi Adala
5. Mr. Ngure Crispus Mwaniki
6. Mr. John Kiplangat Kenduiwo
7. Mr. Mugambi Nandi

Thank you, Mr. Speaker, Sir.

Mr. Speaker: Next Order.

QUESTIONS BY PRIVATE NOTICE

AWARD OF TENDER FOR AUTOMATION OF DPFB

Ms. Chepchumba: Mr. Speaker, sir, I beg to ask the Minister for Finance the following Question by Private Notice.

(a) Could the Minister provide the tender documents for the supply and installation of information systems to support the automation of Business Processing Protection Fund Board sponsored by the World Bank?

(b) Why were Ms Enterprise Information Management (EIM) and Ms Trans Business Machines (TBM) awarded the above tender despite being the highest bidders and tendered for Lot 1-Enterprise Resource Planning System Integrated to Document Management and Electronic Workflow System and left out the other three (3) Lots?

(c) Could the Minister confirm that the directors of the two companies colluded with officers from the Deposit Protection Fund (DPF) and defrauded the Government of over Kshs70 million in the whole process?

The Assistant Minister for Finance (Dr. Oburu): Mr. Temporary Deputy Speaker, Sir, I beg to reply.

(a) The evaluation of bids for the supply and installation of information systems to support the automation of Business Processes at the Deposit Protection Fund Board is ongoing.

Therefore, it will not be in order to provide the tender documents while the evaluation process is ongoing.

(b) Ms Trans Business Machines (TBM) Ltd. was awarded the tender, that is Lot No. V, i.e. the supply and installation of blade servers after emerging the highest technically evaluated and lowest bidder at a price of Kshs43,913,890.14.

I would wish to further state that the Ministry of Finance re-advertised the tender for software Lots No. I to IV in March, 2012, and 14 firms bought the bid documents. Out of the 14 bidders, only seven submitted their bids. Evaluation of bids for Lots No. I to IV is ongoing and M/s Enterprise Information Management (EIM) have, therefore, not been awarded the tender as alleged.

(c) I am not aware of any collusion between directors of Ms Trans Business Machines (TBM) Ltd. and M/s Enterprise Information Management (EIM) on one hand and officers of the Deposit Protection Fund (DPF) on the other hand to defraud the Government of over Kshs.70 million. I would, however, welcome any information to enable me undertake investigations of the alleged fraud.

Thank you, Mr. Speaker, Sir.

Ms. Chepchumba: Mr. Speaker, Sir, I want to thank the Assistant Minister for the answer he has given. I am satisfied and I do not, therefore, wish to interrogate it further.

Mr. Speaker: Fair enough! Let the matter then rest there.

(Mr. Chepkitony stood up in his place)

Hon. Chepkitony, the hon. Member for Eldoret South says that she is satisfied with the information given. I wonder what else you will be looking for. But carry on; let me hear you.

Hon. Members: We are also satisfied!

Mr. Speaker: Even hon. Members are satisfied. So, please?

Next Question, hon. Chepkitony?

MURDER OF MR. PATRICK K. KIPRONO BY KFS WARDEN

Mr. Chepkitony: Mr. Speaker, Sir, I beg to ask the Minister for Minister for Forestry and Wildlife the following Question by Private Notice:-

(a) Under what circumstances was Mr. Patrick Kibet Kiprono (ID No.9865647) killed by a Kenya Forest Service Warden while harvesting dry firewood at Kapchemutwa Forest near Chebiemit in Keiyo District on 12th August, 2012?

(b) Why has the concerned warden been released by the police before being taken to court?

(c) What compensation will the Government give to the deceased's next of kin?

The Assistant Minister for Minister for Forestry and Wildlife (Mr. Nanok): Mr. Speaker, Sir, I want to seek your indulgence to answer this Question on Tuesday, next week, since we are still verifying the answer that was provided by my officers. I have already spoken to the hon. Member and he is in agreement.

Mr. Speaker: Hon. Chepkitony, is that so?

Mr. Chepkitony: Yes, that is so, Mr. Speaker, Sir.

Mr. Speaker: So, the Question is deferred to Thursday, next week?

Mr. Chepkitony: No, Tuesday, next week, Mr. Speaker, Sir.

Mr. Speaker: Very well! It is so directed.

(Question deferred)

Next Question, hon. Sirat.

MEASURES TO RESOLVE BOUNDARY DISPUTES
IN WAJIR/GARISSA

Mr. Sirat: Mr. Speaker, Sir, I beg to ask the Minister of State for Provincial Administration and Internal Security the following Question by Private Notice.

(a) Could the Minister confirm that the current conflict being experienced in Wajir South Constituency emanates from the disputed boundary with Lagdera Constituency?

(b) Where does the boundary between Wajir and Garissa Counties fall and could the Minister table a map for those areas and the relevant Kenya Gazette notice?

(c) What steps is the Minister taking to ensure that the conflict over the boundary between the two constituencies is resolved expeditiously to avert recurrence of attacks?

Mr. Speaker: Hon. Members, we have notification from the Minister that he is not able to be in the House this afternoon because of the emergence of an emergency situation sometime earlier on today. Therefore, the Minister is not able to be here. Given the nature of his portfolio, I think this is understandable.

So, Member for Wajir South, we will have to defer this, as per the Minister's request, to Tuesday, 11th September, 2012 at 2.30 p.m. Is that good for you?

Mr. Sirat: That is fine with me, Mr. Speaker, Sir.

Mr. Speaker: Very well.

(Question deferred)

We will take Member for Yatta.

EXPIRY OF TERM OF TENTH PARLIAMENT

Mr. C. Kilonzo: Mr. Speaker, Sir, I beg to ask the Minister for Justice, National Cohesion and Constitutional Affairs the following Question by Private Notice.

When will the term of the current Members of Parliament end under the current Constitution?

The Assistant Minister for Justice, National Cohesion and Constitutional Affairs (Mr. Cheptumo): Mr. Speaker, Sir, I beg to reply.

The term of the current Members of Parliament expires on 14th January, 2013.

Thank you.

Mr. C. Kilonzo: Mr. Speaker, Sir, I have discussed with the Assistant Minister why I asked that Question. I sit in the Committee on Defence and Foreign Relations. This is a matter that came up purely because of Article 241 (3) (c) in regard to the deployment of our Defence Forces. For the benefit of Members, I wish to read. It says as follows:-

“The Defence Forces may be deployed to restore peace in any part of Kenya affected by unrest or instability only with the approval of the National Assembly”.

We are moving into an election year. This matter has been discussed with the Ministry of State for Defence. We are saying that, come January 14th, in case we have instability in the country, we cannot deploy the defence forces. As a Government, what are you doing to ensure that, that particular clause, even if it is for transition purposes, is not applicable even if it is through an amendment of the same Constitution? That will enable us to use the Defence Forces to restore peace as it was done in the year 2008.

Mr. Cheputumo: Mr. Speaker, Sir, what the hon. Member is raising is, indeed, a very pertinent issue. I have also shared with him and I wish to consult further on this issue. That is because the provisions of Article 241 are so express regarding the approval of this House if the situation obtains. The Question, as it is, has been fully answered.

On the supplementary question, I might need more time so that I can consult and see if the relevant Ministry of State for Defence would have had an issue on this because it is touching on the defence of our country.

Mr. Speaker: Member for Yatta, last question.

Mr. C. Kilonzo: Mr. Speaker, Sir, I agree with the Assistant Minister that he can be given more time to respond after consulting with the Ministry of State for Defence.

Mr. Speaker: Mr. Assistant Minister, for that purpose, I direct that as and when you are ready to respond to that supplementary question, you prepare and come to deliver to the House a Ministerial Statement. Otherwise, the Question is fully answered.

Member for Juja, please, proceed.

REPATRIATION OF MS. ROSEMARY W. NDUATI FROM SAUDI ARABIA

Mr. Kabogo: Mr. Speaker, Sir, I beg to ask the Minister for Foreign Affairs the following Question by Private Notice.

(a) Is the Minister aware that Ms Rosemary Wariera Nduati is missing and had earlier complained of detention and mistreatment by her employer of phone number +966551782526 in Jeddah, Saudi Arabia?

(b) What urgent measures is the Minister taking to ensure that she is traced, released from her exploitative employer's custody and repatriated?

(c) What is the Government doing to ensure that Kenyans living and working in the Middle East are safe from such dehumanizing occurrences?

Mr. Speaker: This is a Question to the Ministry of Foreign Affairs. Member for Juja, I have also received communication this late - just now as a matter of fact - after you asked the Question, to inform the House that both the Minister and Assistant Minister have travelled out of the country on urgent business. I have further information that they may, in fact, have travelled to Ethiopia. You know the situation around Ethiopia just now. So, maybe you will have to have some understanding so that we defer this Question until Tuesday, 11th at 2.30 p.m.

Mr. Kabogo: Mr. Speaker, Sir, I thank you but, probably, at the same time, request that, through you and the Deputy Leader of Government Business who is here - Mr. Amos Kimunya - take up the matter with the Ministry. It is a simple matter. They can start calling the embassy to see whether they can help that girl who is a captive in Saudi Arabia as we wait for Tuesday.

Mr. Speaker: Indeed, Mr. Amos Kimunya, you could take some action that will help to ameliorate the situation.

The Minister for Transport (Mr. Kimunya): Mr. Speaker, Sir, we will communicate to the Ministry of Foreign Affairs.

Mr. Speaker: Please, take some action not just communicate to the Ministry of Foreign Affairs. This is a Kenyan allegedly in captivity.

The Minister for Transport (Mr. Kimunya): Okay. We will do that.

Mr. Speaker: Very well. Next Question by the Member for Kilome.

ORAL ANSWERS TO QUESTIONS

Question No.1599

ACCESSING CONFIDENTIAL INFORMATION OF CORPORATE BANK ACCOUNTS BY CBK

Mr. Mwau asked the Minister for Finance:-

(a) if he could clarify whether holding multiple bank accounts in any one or more banks violates the Central Bank of Kenya Act or any other laws; and,

(b) whether the Central Bank of Kenya, in the performance of its statutory duties, is legally required to investigate tax evasion or is it in any way mandated to obtain information pertaining to various corporate bank accounts and to compare them and/or carry out analysis relating to taxes.

Mr. Speaker: Minister for Finance, please, proceed.

The Assistant Minister for Finance (Dr. Oburu): Mr. Speaker, Sir, I ask for your indulgence, Mr. Githae is coming to answer the Question. He is on the way. If you can give me a few minutes, I will call him. The Question has come faster than he thought.

Mr. Speaker: Fair enough. We will revisit the Question.

We will go to the next one by the Member for Naivasha.

Question No.1777

STALLING OF MAIELLA-NGONDI-KONGONI ROAD

Mr. Mututho asked the Minister for Roads:-

(a) whether he could confirm that the rehabilitation works on Maiella-Ngoni-Kongoni Road (D331/E445) have stalled thereby greatly affecting Maiella residents who cannot transport their agricultural produce to the market;

(b) whether he could state the names of the two firms that were awarded the contract and explain how the contract was awarded; and,

(c) when the works will resume and whether he could assure the House that sections that were shoddily done will be re-done and further state when the works to upgrade the road from Suswa to Elementaita (E445/D331/D322/E446) to bitumen standard will commence.

Mr. Speaker: Hon. Members, I am afraid this is one of those days and not very long ago, I have just received a letter which I have endeavored to read just now even as you stood to ask the Question, Member for Naivasha. The content of the letter is as follows:-

“The above Question is scheduled for Thursday, 6th September, 2012. However, the Minister for Roads hon. Franklin Bett and Assistant Minister Dr. Wilfred Machage are out of the country on official business. In addition, hon. Lee Kinyajui has travelled out of Nairobi and will not be in the House on 6th September, 2012. In view of the aforementioned circumstances, I request that you kindly arrange for the above Question to be scheduled to the following week.”

Hon. Members, as I have indicated, I have just received this letter. So, really, we cannot do very much about it. We cannot even impose sanctions. It is the kind of situation we are in. Maybe, Deputy Leader of Government Business, you want to take this up with your Ministers. Surely, going out of the country on Government business, which we respect, is not an abrupt event. It must be planned somehow.

So, maybe, you want to take it up with your colleagues. Can you confirm that you will do so?

The Minister for Transport (Mr. Kimunya): Yes, Mr. Speaker, Sir, I will do so.

Mr. Speaker: Very well. So, that Question is deferred to Wednesday, 12th of September at 9.00 a.m. Member for Naivasha, please, note.

(Question deferred)

We will take the next Question.

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

Mr. Speaker: Order, Member for Naivasha! If you are going to tell me you will be out of the country, I will accommodate you just like we have accommodated the Ministers. However, if it is anything else, we will not be using our time very well.

What is it?

Mr. Mututho: Mr. Speaker, Sir, am I in order to persuade the House again for the Question to appear as I asked it, particularly in part “b”? The last time this Question came, you ruled in favour but now, again, the Question misses one crucial ingredient. With your indulgence if I could read that part “b”---

Mr. Speaker: Order! Let us use our time well. Can you please take that up with the Clerks-at-the-Table immediately and we will have that situation remedied? Please, do so. Next Question by Member for Gichugu.

Question No.1731

SACKING OF MS. ALICE N. MARUI

Ms. Karua asked the Minister of State for Public Service:-

(a) whether he is aware that Ms Alice Njeri Marui (ID No. 24962166) was appointed as Adult Education Teacher II in July 2010 and terminated in September 2011 in unclear circumstances; and,

(b) what were the reasons for the termination and why her appeal has not been finalized.

The Minister of State for Public Service (Mr. Otieno): Mr. Speaker, Sir, I beg to reply.

(a) I am very aware.

(b) The reason for the termination was that Alice Njeri Marui did not have an interview number on her data sheets and was, therefore, categorized among 837 candidates who were

employed without undergoing due process. The services of all such persons were terminated as directed by the Public Service Commission (PSC) on 18th May 2011.

Mr. Speaker, Sir, this matter is in relation to the recruitment by the Ministry of Education after they advertised vacancies for 2,660 lower cadre staff and received more than 200,000 applications.

All appeal processes have been exhausted in this case, including interventions from my Ministry as far as the 837 candidates who were terminated by direction of the PSC are concerned.

The PSC by a letter dated 11th April, 2012 this year, directed that it had considered the issue of appeals submitted by unsuccessful candidates and those whose services were terminated and decided that since the matter concerning the recruitment of lower cadre staff has been finalized, the appellant should be advised to accept this reality and apply as and when vacancies are advertised in future.

Mr. Speaker, Sir, as per Article 249 (2) (a) and (b) of our Constitution, I have no powers this far to direct the Commission to reverse this decision or handle the matter differently.

Thank you.

Ms. Karua: Mr. Speaker, Sir, I am surprised by the answer that 837 persons were found to have been employed un-procedurally. In the case of that young lady, she attended the interview and was on the shortlisted list of candidates appearing in the newspapers on March 1st 2010. I am going to table a bundle of papers showing this. She also was among the selected candidates advertised and put on the papers by the Ministry on its letters heads. Indeed, the Minister may confirm that she was offered employment on 1st July, 2010. She worked up to and including September, 2011. The law is very clear that you cannot be temporary for more than six months. By operation of law, this lady was now permanent and pensionable. Could the Minister confirm this position of the law and, therefore, also confirm that PSC is acting outside its powers by purporting to sack people who had worked for more than six months and who had been properly employed?

I table these documents, Mr. Speaker, Sir.

(Ms. Karua laid the documents on the Table)

Mr. Otieno: Mr. Speaker, Sir, after the recruitment commenced, within three months when the confusion was detected in this recruitment process, all the 837 persons who appeared to have been irregularly employed were given notice in less than three months; that they will be allowed to continue as temporary employees while the investigations were going on. There was an attempt in April to terminate them. My Ministry still objected and they were given another three months renewal as temporary employees, while we investigated the matter. We have been insisting from the Ministry that the fact that they had been employed and some of them were qualified and they were not at fault in each of the cases, a total rescreening should be done so that those who are qualified and have been found to have been entitled to the employment should be absorbed. The Public Service Commission still refused and, finally, in September, they gave their final ruling. I have no powers beyond that.

The only review process now is either through a Departmental Committee of the House summoning the Public Service Commission to explain further than I have pushed them to do so, or a judicial review through the High Court.

Ms. Karua: Mr. Speaker, Sir, the Minister did not answer my question, which was quite direct. According to our labour laws, one cannot work beyond six months on temporary basis. I am, therefore, asking him to confirm to this House that, under the law, those workers were no longer temporary. They were permanent and pensionable and they could not be terminated in the manner the Public Service Commission purported to terminate them.

Mr. Otieno: Mr. Speaker, Sir, I think I have said clearly that every three months, the Public Service Commission was directing their termination. They were being terminated and we were insisting that temporary employment be renewed for every three months, until we are satisfied with the investigations. That is the process that was used until September when they said: "Enough is enough! We are reviewing this matter no further."

Mr. Bahari: Mr. Speaker, Sir, for over 800 Kenyans to be terminated is not a simple matter and, particularly so, for no reason of their making. What action has been taken against the officers responsible for that scandal?

Mr. Otieno: Mr. Speaker, Sir, we interdicted the officers responsible for that mess and they are in court charged under the Ethics and Anti Corruption Act.

Mrs. Odhiambo-Mabona: Mr. Speaker, Sir, could the Minister, please, clarify, because he has indicated from the synopsis that it is actually the Ministry which is at fault--- Indeed, this was an issue that was countrywide. In Mbita, there was a young man called Kennedy Odemba who gave me his case. If you look at the issue clearly from a legal perspective, it is the Ministry that is at fault. So, what corrective action can the Ministry undertake instead of asking people to go to court over actions where they are at fault?

Mr. Otieno: Mr. Speaker, Sir, that was my position in the Ministry, to which the Public Service Commission refused to accede. My position was that the Ministry of Education as agents under delegated authority of the Public Service Commission, was responsible for the confusion and some of the irregularities in the recruitment process. The employees should not be held responsible after verification that they were not at fault and that they were fully qualified and followed the procedures, particularly like this case of Alice. But the Public Service Commission refused to accede.

Mr. Mbadi: On a point of order, Mr. Speaker, Sir. Clearly, what we are witnessing in this House this afternoon is a case of a Minister saying he is helpless even though he agrees with the Questioner that the action that was taken against those employees was not correct.

Mr. Speaker, Sir, in view of this circumstances and the claim by the Minister that the Public Service Commission is independent--- Of course, it is independent. Then, could we request that this matter - instead of taking more time - be referred to the Committee on Equal Opportunities so that they can summon and invite the Public Service Commission because the Minister is telling us that he is helpless and cannot help. He cannot order the Public Service Commission to act.

Mr. Speaker: Mr. Minister, that would seem to be in agreement with your own position. I do not see your request, Minister.

Mr. Otieno: Mr. Speaker, Sir, I am in total agreement out of the frustrations I have gone through in ensuring justice to those recruits that became victims of a process over which they had no control.

Mr. Speaker, Sir, this situation arises because of the transition period, where a Minister still has to answer Questions on the Floor, yet the new Constitution already gives the independence to the Public Service Commission. So, that direction may be helpful in the circumstances and I am in agreement.

Mr. Speaker: Last Question, Member for Gichugu, before I give directions.

Ms. Karua: Mr. Speaker, Sir, it would appear that some independent Commissions mistake their independence for licence for impunity. A Constitutional Commission must obey the laws of the land. I believe Parliament has the final say, because Parliament can recommend and make directions in accordance with the laws of the land. So, since the Minister is agreeable, I seek your directions in the matter. We ought to come to the rescue of helpless Kenyans who are punished for no reason of their making.

Mr. Speaker: Very well. Given that I have the concurrence of the Minister to refer this matter to the relevant Parliamentary Committee, which is the Committee on Equal Opportunity, I shall do so, but be permitted to add the following: That the Speaker is normally reluctant to refer matters to Committees because Committees are expected to know and understand their mandate, as provided for in the Standing Orders. So, we expect Committees to investigate matters of their own motion, because otherwise, we will end up with a situation, where, for every Question that is not satisfactorily answered, there is then a request for reference to the Committee, which we are reluctant to do. But the circumstances surrounding this one are such that we do not have a choice but to refer the matter then to the Committee. I want to urge other Ministers to emulate the example given by the Minister of State for Public Service and, in future, own up! Be honest where you are unable to effect public policy or you have been frustrated by some Commission or public servant. Please, feel at ease, to come and say so in the House and we will come to your aid, as indeed, we are going to, in this case.

So, the matter will go to the Committee and the Committee must file its report within 21 days from today.

Member for Machakos Town!

Question No. 1737

NON-PROVISION OF FIRE FIGHTING EQUIPMENT
TO MACHAKOS TOWN

Dr. Munyaka asked the Minister for Local Government:-

(a) whether he is aware that there is no effective fire fighting engine in Machakos Town to handle the fires that have been occurring in and around the town causing enormous loss of life and property; and,

(b) When the Ministry will avail a bigger fire engine to fight such big fires.

The Assistant Minister for Local Government (Mr. Nguyai): Mr. Speaker, Sir, I beg to reply.

(a) Yes, I am aware that Machakos Town has limited capacity to fight fires. I wish to state that what the Municipal Council has is a rapid intervention vehicle KAB 361Q, which is, however, being boarded due to high maintenance costs. The town currently relies on Masaku County Council, which has one fire engine namely GK 367U provided by the Ministry of Nairobi Metropolitan Development.

(b) The Ministry is in the process of procuring a bigger fire engine for Machakos Town through the Kenya Municipal Reform Programme. This is a programme within the Ministry meant to address the capacity challenges in local authorities in partnership with development partners mainly the World Bank, SIDA and AFD. Tender bids for the purchase of fire engines

will be invited in the month of September, 2012 and the procuring process is meant to be completed by April, 2013.

Dr. Munyaka: Mr. Speaker, Sir, I want to thank the Assistant Minister for that answer. But I want to confirm that residents of Machakos have really suffered in the past because of fires. They watch helplessly as many people are killed and property destroyed. I want to thank you for saying that we are going to get a fire engine. Could you give a commitment that you are going to give Machakos the first priority when the tendering process is over?

Mr. Nguyai: Yes, Mr. Speaker, Sir. I do give a commitment that under the particular municipal reform programme, Machakos is in the priority list, as are a number of major former provincial headquarters, municipalities and cities. As such, he can be assured that there is going to be a fire engine for his municipality.

Mr. Mwangi: Mr. Speaker, Sir, listening to the Assistant Minister, he has mentioned in passing that other municipalities will get fire engines. In particular, I have in mind Muranga Municipality that has been handling many accidents along the Nyeri- Sagana Road. Could he confirm that Muranga Municipality will be among the ones that will be getting those fire engines?

Mr. Nguyai: Mr. Speaker, Sir, I cannot on the onset, confirm that Muranga is among the ones that will receive. That is because we have 175 local authorities. But I am certain that, under the Kenya Municipal Reform Programme, Muranga Municipality is not one of those that are receiving funding. However, we do have another initiative on disaster recovery which is being finalized through a public-private-partnership and I am certain that Muranga Municipality will come under that.

Prof. Kaloki: Mr. Speaker, Sir, as the Minister prepares to undertake the procurement process that may take even a year to deliver the fire engine to Machakos town, could he consider getting another fire engine on emergency basis from other local authorities on temporary basis and take it to Machakos Town as he procures a permanent one for that particular town?

Mr. Nguyai: Mr. Speaker, Sir, that is a consideration that can be put in place to ensure that, at least, there is some form of back up where there are no fire engines. However, over and above that, we have a full disaster recovery programme which will transcend from this particular Ministry to the county governments as we move forward.

Mr. Olago: Mr. Speaker, Sir, the problem that is experienced in Machakos Town is not just for that town alone; it has also been the problem in Kisumu as well, particularly at a place called Kibuye Market. The provision of fire engines will not solve the problem if there is no access by the fire engines to where the fires are. The problem we have experienced in Kisumu is that accesses to places where the engines ought to go are blocked either by encroachment or total blockage.

Mr. Speaker, Sir, what is the Ministry doing to ensure that in highly populated areas, access to these areas is made available so that fire engines can access fires?

Mr. Nguyai: Mr. Speaker, Sir, the Municipal Reform Programme is also in Kisumu. Kisumu is one of the cities that will benefit under the Disaster Management Chapter. It talks about access. So, it will not only deal with the provision of fire engines, but also ensuring that all areas that could be prone to fires are accessed. More importantly, it is concerned with the training of personnel to ensure that they are prepared to deal with this nature of disasters.

Dr. Munyaka: Mr. Speaker, Sir, I am satisfied with the answer.

Question No.1726

PROVISION OF ALLOWANCES TO BEACH
MANAGEMENT UNITS

Mrs. Odhiambo-Mabona asked the Minister for Fisheries Development:-

(a) What facilities or support the Government provides to officials of Beach Management Units (BMUs) in view of the role they play in supplementing Government services in the provision of security and maintenance of law and order; and

(b) If the Government could consider paying allowances to officials of BMUs to enable them discharge their roles effectively.

The Assistant Minister for Fisheries Development (Mr. A.C. Mohamed): Mr. Speaker, Sir, I beg to reply.

(a) The Ministry appreciates the work the community plays in ensuring the sustainability of the fisheries resources. Their participation is in line with Article 69(2) of the Constitution which obligates every person to co-operate with the State organ or any person to protect the environment and ensure ecological sustainable development and use of natural resources.

Beach Management Units (BMUs) are the grassroots institutions enabling communities to participate in fisheries management as outlined in the United Nations Food and Agriculture Organization Code of Conduct for Responsible Fisheries. They ensure that resources are sustainably utilized because they are the first casualties should the resources collapse. To ensure that they discharge their role effectively, the Ministry supported BMUs in the following ways:

(i) Provided for an enabling environment of their operation through legal notice, the Beach Management Unit, Regulation 2007.

(ii) Provided the BMU Operation Guidelines - These have since been harmonized in the three riparian East African partner States.

(iii) The Ministry has guided them for formulation and implementation of the by-laws governing each BMU.

(iv) Built their capacity through training in beach management orientation; fisheries management, fisheries financial management, data collection methods, and basic skills in fisheries patrol.

(v) Provided the border BMUs like Migori, Bondo, Busia, Lake Victoria, Shimoni and Lamu with a 75 Horsepower out-boat engine.

The BMUs are members of the Inter-Governmental Agencies Monitoring Control and Surveillance Unit. Currently, BMUs have a national network which enables them to link and learn from each other. They have a national official and I am glad to announce that Kenya is the current regional Chair of the East African Community BMU network.

(b) The Government has no intention of paying BMU allowances because they are core managers of the fisheries resources. However, the Government will continue supporting them in all other ways as stipulated in answer (a) above.

Mrs. Odhiambo-Mabona: Mr. Speaker, Sir, I thank the Assistant Minister for that comprehensive answer. I visited some beaches, including Lwanda Rombo, Kiumba, and Wayando in Rusinga Island, Ndhuru in Lambwe and Sena in Mfangano amongst others. Their concerns arise from part of the answer given by the Assistant Minister that they provided border BMUs to places including Migori, Bondo, Busia, Shimoni and Lamu in the Indian Ocean with 75 horsepower out-boat engines because they are border points. Most of these areas that I am

mentioning are actually border points. They border Uganda and Tanzania. Could the Assistant Minister consider them because they qualify? They are the same as these other areas, but he may give them the same out-boats engines for purposes of security. Could he consider that?

Mr. A.C. Mohamed: Mr. Speaker, Sir we appreciate the role of the BMU officials. They are not only protecting fisheries, but also controlling the damage to our environment. We will consider that when we have enough funds to give them allowances. I undertake to communicate with other relevant agencies where they render services so that they consider them.

Mr. Mbadi: Mr. Speaker, Sir the security in Lake Victoria, I am sure the Assistant Minister is aware, is not very good. If you have such a boat in Migori and the next one you have along that lake is Bondo – you actually pass seven or eight constituencies in between. Could the Assistant Minister, for a start, commit to provided at least one out-boat engine per constituency along the lake to be used to monitor and police the shores so that the insecurity in the lake is brought down?

Mr. A. C. Mohamed: Mr. Speaker, Sir, the Ministry at this time cannot commit itself to provide for each constituency because we do not have money. If Parliament allocates money and if the Treasury gives us money, we will be very happy to do that.

Mr. Olago: Mr. Speaker, Sir, you heard the Assistant Minister actually appreciate the role that BMU members play in conservation of resources in the lake and in the ocean. In Kisumu, Paga, Usoma, Ngenge and so on, they actually spend their nights with fish patrol officers or scouts. They spend nights out in the lake. Surely, under these circumstances can he not seriously consider making provision for paying them allowances?

Mr. A.C. Mohamed: Mr. Speaker, Sir BMU officials are actually fishermen. They are elected by other fishermen to represent their interests. They are co-managers of fisheries activities together with the fisheries officers of the department. Some allowances are paid to them although it is very little, but we do not have any other fund to allocate them.

Mrs.Odhiambo-Mabona: You have not responded to me!

Mr. Speaker: Order! Proceed, the hon. Member for Chepalungu. I have heard you hon. Odhiambo but look at your Standing Orders again.

Mr. Ruto: Mr. Speaker, Sir, she should look at Standing Order No.1.

Mr. Speaker: Carry on the Member for Chepalungu!

Question No.1691

NON-COMPLETION OF INDUSTRIAL CENTRE AT
OLBUTYO IN CHEPALUNGU

Mr. Ruto asked the Minister for Industrialization:-

- (a) why he had failed to send Authority to Incur Expenditure (AIE) to complete the Industrial Centre at Olbutyo in Chepalungu;
- (b) what measures he will take to ensure that the project is completed; and,
- (c) why he has failed to involve the Constituency Development Fund (CDF) as per the Economic Stimulus guidelines.

Mr. Ruto: Mr. Speaker, Sir, we recall that this Question was partly answered yesterday. The Minister has just given me a photocopy of the written answer to the Question he answered yesterday. However, I wish to provide him with a photograph of the Industrial Training Centre at Olbutyo so that he can tell the House where the lintel he is talking about in the HANSARD is. I

also hope that since yesterday, he must have got the minutes that indicate the meeting that he is referring to which I attended. Maybe he has more information as to why the Fund Manager signed the documents without reference to the Stimulus Project Management Committee (SPMC). We would also like to know why Kshs681,000 was paid without reference to this Committee. I would like to table a photograph which has just been e-mailed from the site of the technical institute at Olbutyo.

(Mr. Ruto laid the photograph on the Table)

The Minister for Industrialization (Mr. Kosgey): Mr. Speaker, Sir, I beg to reply. With your permission, let me deal with the Mathioya issue first because that is where we stopped. We will then go back to the supplementary questions.

Mr. Speaker: Carry on!

The Minister for Industrialization (Mr. Kosgey): Mr. Speaker, Sir, the Mathioya Industrial Development Centre (CIDC) was started in February, 2011. It is located on a three-acre land at Wanjohi Youth Polytechnic in Kiambuthia Centre. The construction of the CIDC was completed on 6th November, 2011 and handed over to the Ministry on 29th November, 2011 after issuance of certificate of completion by the Ministry of Public Works. The CIDC comprises of three sheds installed with three-phase electrical connection and a water tank. I have a beautiful photograph of the CIDC which I will lay on the Table. Relevant to that was the supplementary question to deal with the status of the 210 CIDCs. I have since done a thorough study and report and found that 116 of these CIDCs are complete. Being complete means that they are painted, water tanks have been done, water gutters installed and electrical wiring is done. Twenty CIDCs are 90 to 99 per cent complete. Under this category, the buildings are standing, have roofs, wiring has been done, they are plastered, windows and doors have been fitted and the remaining work is the water tanks and painting.

Under the 50 to 90 per cent categories – these are just rooms – are 31 and this means that the building is standing and roofing has been done. The remaining works are fixing of doors, windows, plastering, electrical wiring, water tank and painting. Below 50 per cent where the Chepalungu CIDC falls, construction is at the walling, ream beams – these may not have been done – partial roofing, doors and windows are not fixed. Along with that, I was supposed to provide a list of equipment or items. These are metal workshop machines and equipment, wood workshop machines and equipment, automotive workshop machines and equipment and building and construction equipment. I have a very long list of 92 items which I will also lay on the Table for Members to scrutinize and know what they are getting.

(Mr. Kosgey laid the document on the Table)

Mr. Speaker, Sir, going back to the Chepalungu CIDC, it is true that it would appear that this CIDC was started by the Ministry of Public Works and my Ministry together with an officer who is a CDF Fund Manager. They went ahead, adjudicated and awarded this tender to All Garden Building and General Contractors. It so happened that somebody called Mr. Rono---

Mr. C. Kilonzo: On a point of order, Mr. Speaker, Sir. I want to raise an issue which truly needs the guidance of the Chair. I know that we are in a new Chamber with new technology. When a Minister speaks from that seat, as the hon. Minister did and others, is he speaking on behalf of the Government or on behalf of his political party or as a Member of

Parliament? The practice in the UK is that, and there has been a ruling in the UK, is that when a Minister speaks from the position he is seated, he is speaking either on behalf of his political party or his constituency. However, when he speaks from the Dispatch Box, he is speaking on behalf of the Government. The truth of the matter is that the card you are given allows you to log in as a Member of Parliament. It is given to you as a Member of Parliament and not as a Minister. I thought that later on somebody could argue that the statement that was given by the Minister was given by the Minister on behalf of his political party or on behalf of his constituency. So, I am requesting that in future, with the guidance of the Chair, that Ministers speak from where the Government belongs and that is the Dispatch Box.

Mr. Speaker: Order! Hon. Members, there may be some substance in the concern by the Member for Yatta but we have addressed this matter. In fact, I did that personally. That was about three weeks ago. I think that was the second day after we came to occupy this Chamber. I directed that Ministers will speak from two places. First, the Dispatch Box but if they find that it suits them, they will also speak from the first row to the right hand of the Speaker. If you speak to this particular case, hon. Henry Kosgey who is also the Member for Tinderet has caught the Speaker's eye to answer a Question as the Minister for Industrialization. He speaks in that capacity for the purpose of this matter before the House. So, if that helps you, it is that clear.

Mr. C. Kilonzo: I need a clarification!

Mr. Speaker: Order, Member for Yatta! Some of these things must rest where they are! I think I am very clear.

Proceed, hon. Kosgey!

The Minister for Industrialization (Mr. Kosgey): Mr. Speaker, Sir, I was saying that it would appear that a section of the Stimulus Package Management Committee (SPMC) deliberated on the Chepalungu CIDC and awarded the tender without the full participation of the Members. However, there was one, Michael Kones, who is the Fund Manager and Mr. Rono whom I understand is a Personal Assistant to hon. Ruto who were present at some of the meetings.

At subsequent meetings after the contractor had died, the full Committee including the Member for the area met and tried to salvage the project by suggesting that it could be awarded to the second lowest bidder but it could not be so. This is because it could have been easier to continue with the contractor but it so happens that that company was a sole proprietorship which was owned by the person who died and probably the next of kin, the wife. The wife was called and requested if she could continue and finish but she was unable to do so. Hence, the best way to complete the project is to re-tender it.

Mr. Speaker, Sir, as to the payment of Kshs618,000 which the hon. Member says was paid without the sanction of the Constituency Development Committee, I have not been able to find any record. All I know is that the Ministry of Public Works officer certified the work done, forwarded the certificate and the Ministry paid.

Of importance now is how to complete this work. As I indicated yesterday there were no budgetary allocations subsequent to the 2009/2010 Financial Year. We have been looking at this matter as a Ministry because we are keen to finish this project because taxpayers' money has been spent. We have Kshs250 million which is supposed to be used by the Ministry and we are discussing with the Treasury to allow us to utilize that money to complete the 210 industrial centres.

It is important because we are going into a devolved system and the thinking now in the Government is that the CIDCs should be handed over to the county governments because we are

not in a position to run then as the Central Government or national Government. So, I want, as a matter of priority, to finish all the remaining CIDCs. The last 16 may not have land because one of the conditions was that there must be land. It is very unlikely that those that have not started and have no land will start.

Mr. Ruto: Mr. Speaker, Sir, I asked the Minister to tell the House this. In the certificate of the Public Works Officer, is it true that he said that the building was due for payment and that it had actually reached the lintel level? This is because I have tabled a picture about the exact site sent to me now by e-mail. I can confirm that it is true and it actually looks like this. How can the Ministry of Public Works certify such a building as having reached the lintel level?

Secondly, there is no toilet that has been dug contrary to what the Minister is saying in his answer. The answers given by the Minister are factual to a certain extent. It is true the award was done, but what we are questioning is, how did his Ministry pay Kshs618,000 purportedly from a certain certificate and yet the guidelines in the stimulus management process was that the committee sits to approve every payment? How was this amount paid? The Minister may be right to say it is important to complete the project, but we must also be right in what we are doing. So, how did he do this?

Mr. Kosgey: Mr. Speaker, Sir, I was following the status of this CIDC from yesterday afternoon and early this morning. Unfortunately, I did not get Mr. Rono because he was somewhere. He would have actually sent that picture to me because he is the one who has the details. Mr. Rono is the Personal Assistant to hon. Ruto.

The information I have is that this project was at the lintel level and that a bit for the toilet had been dug. Although I have not looked at that picture, it looks like the project is almost halfway through the walling. I undertake probably to visit this project and see for myself exactly to what extent the information which I have and that picture which has been tabled is true. It looks like the project is about six courses up but I cannot see a bit which must be somewhere. If there is none, I will also verify.

On payment---

Mr. Ruteere: On a point of order, Mr. Speaker, Sir. Is it in order for the Minister to answer a question without referring to the Question that he has been asked that the due process of making sure that this payment is done through the constituency committee is---

Mr. Speaker: Order! That point of order seems premature. The Minister was actually beginning to deal with payment. So, maybe you should rest until he completes his answer.

Proceed, Mr. Minister!

Mr. Kosgey: You are right, Mr. Speaker, Sir. I was coming to the payment of Kshs618,000 which seems not to have passed through the constituency committee. Apparently, the Works Officer together with the CDF Manager sitting with one of my officers, the District Industrial Development Officer certified that the certificate was authentic. The payment was made on the strength of the signature of the Public Works Officer because they were the ones who were supervising the project.

That is the information I have and the area Member is correct because there was no committee that sat. But subsequent to that, when the project stalled they held two meetings and they should have addressed this anomaly seriously.

Mr. Ruto: On a point of order, Mr. Speaker, Sir. I want to agree with the Minister that he will have to visit the site. I think that is reasonably satisfactory. However, I want to put it on record that my Personal Assistant was not part of the committee that was approving anything. He

would probably sit in but he was not an authority. The Minister's officer is the one who should be---

Mr. Speaker: Order, the Member for Chepalungu!

Mr. Ruto: Is the Minister in order to quote---

Mr. Speaker: Just adding the words "Is he in order" does not make it a valid point of order! I am afraid!

Yes, the Member for Laisamis!

Question No.1734

ACUTE SHORTAGE OF CLEAN DRINKING
WATER IN KARGI LOCATION

Mr. Speaker: Hon. Members, the Member for Laisamis has been reported to have gone to an urgent appointment I think with one of the professionals that looked after him but I do not know in what respect. So, I will not delve into the matter. But I will defer the Question to Thursday, next week at 2.30 p.m.

(Question deferred)

Question No.1662

LACK OF MEDICAL DOCTOR/EQUIPMENT IN
CHEPTERWAI SUB-DISTRICT HOSPITAL

Mr. Speaker: The Member for Mosop who should ask the next Question is reported to be held up in his constituency on a matter that he did not anticipate would hold him. So, he is not here. The Question is deferred generally.

(Question deferred)

Question No.1466

PROTECTION OF LAKE TURKANA
FROM EFFECTS OF GIBE III DAM

Mr. Speaker: Is the Member for Kisumu Town East not here? I have no account as to where that hon. Member is. So, I am afraid I will drop that Question!

(Question dropped)

Question No.1750

DELAY IN COMPENSATING FAMILY OF
LATE NKUMBUKU AUGOSTINO

Mr. Ruteere asked the Minister for Forestry and Wildlife:-

(a) whether he is aware that Mr. Nkumbuku Augustino (ID No.8883258) was attacked and killed by an elephant on 20th December, 2011, and that the matter was reported at the Meru Police Station; and,

(b) what arrangements the Government has made to compensate the family and when the next of kin will be compensated.

The Assistant Minister for Forestry and Wildlife (Mr. Nanok): Mr. Speaker, Sir, I seek your indulgence once again to answer this Question on Tuesday because the answer was not ready. There are a few details which I was cross-checking with the officers who were preparing it.

Mr. Speaker: Member for North Imenti, do I have your concurrence to defer the Question to Tuesday, next week, at 2.30 p.m.?

Mr. Ruteere: Mr. Speaker, Sir, the Assistant Minister approached me and said that if the Question is rescheduled for Tuesday, he will have true answers, and I agreed. The Question is straightforward. It should not take much time but I accept.

Mr. Speaker: It is so directed.

(Question deferred)

Mr. Speaker: Hon. Members, we will go back to page 1731 of the Order Paper and call the Member for Kilome.

Question No.1599

ACCESSING CONFIDENTIAL INFORMATION
OF CORPORATE BANK ACCOUNTS BY CBK

Mr. Mwau asked the Minister for Finance:-

(a) to clarify whether holding multiple bank accounts in any one or more banks violates the Central Bank of Kenya Act or any other laws; and,

(b) whether the Central Bank of Kenya, in the performance of its statutory duties, is legally required to investigate tax evasion or it is in any way mandated to obtain information pertaining to various corporate bank accounts and to compare them and/or carry out analysis relating to taxes.

Mr. Speaker, Sir, specifically, the Question was deferred for the Minister to come back and confirm when Charterhouse Bank would be re-opened, bring the Financial Statements for Charterhouse Bank from 2006 to-date and confirm whether we are under foreign direction or not.

Mr. Speaker: Minister, the reason as to why this Question was deferred is, obviously, fairly specific in those parts. So, you will just deal with those parts, and that will be it.

The Minister for Finance (Mr. Githae): Mr. Speaker, Sir, I would like to start with the latter part of the Question and confirm that Kenya is a sovereign country. We are independent. We do not act on behalf of, or for any foreign power, be it big or small.

On the second aspect, I have today written to the Governor of the Central Bank of Kenya (CBK) as follows---

Mr. Speaker: Order, Minister! There is a point of order by the Member for Yatta.

Mr. C. Kilonzo: Mr. Speaker, Sir, you will recall that I am the one who brought the petition on Charterhouse Bank, on behalf of the depositors whose money still lie there. The Minister says that they are not acting on behalf of certain foreign masters yet when these people appeared before the Committee, a letter was produced before it, which stated clearly as follows:-

“The US Government used this information to press the Government of Kenya to close the bank and as a result, the bank was closed---”

These are letters which the Minister has. So, is he in order to mislead the House? Secondly, his own Ministry has confirmed that, indeed, they are under influence of a certain foreign power. His own Permanent Secretary (PS) said as follows:-

“The purpose of this letter is to request you, following the laid down procedure, to move fast on the closure/liquidation of Charterhouse Bank without any further delay. This matter is of high interest to the Government of Kenya and our development partners.”

Mr. Speaker, Sir, those are the foreign powers we are talking about. So, is he in order to mislead the House that there is no pressure from outside this country on the Government to close the bank and have depositors’ money held indefinitely?

The Minister for Finance (Mr. Githae): Mr. Speaker, Sir, I wish to confirm to this august House that I am under no pressure from any foreign power or donor. What I am doing is what I think is right. Today, I wrote to the Governor of the CBK, on the matter. I would like to read out the letter, so that hon. Members can know exactly what I am saying. My letter to the Governor says:-

“Prof. Njuguna Ndung’u, CBS,
Governor of Central Bank of Kenya

Dear Mr. Governor,

RE: CHARTERHOUSE BANK LIMITED (UNDER STATUTORY MANAGEMENT)

As you are aware, Parliament, on 9th September, 2010, considered and adopted the Report of the Parliamentary Departmental Committee on Finance, Planning and Trade on the petition on Charterhouse Bank Limited. The Committee made the following recommendations:-

(a) Both the Central Bank and the Charterhouse Bank, having executed the restructuring agreement on 28th August, 2009 should, with immediate effect, take all necessary steps to implement the said agreement to its conclusion.

(b) The Central Bank should appoint a qualified person, under Section 33 of the Banking Act, to assist in carrying out the directions required to ensure full implementation of the executed restructuring agreement with Charterhouse Bank.

(c) The Central Bank should support the restructuring agreement with a view of ensuring that the interests of the depositors, the institution and other creditors are achieved, and re-open the bank with a new structured mandate.

(d) The Minister for Finance should support the Central Bank of Kenya and Charterhouse Bank in restructuring the process, including the granting of waivers, where necessary, to ensure that the purpose and intention of the restructuring agreement are fulfilled to protect the interests of the depositors, creditors, institution and the entire banking industry.

(e) The Banking Act should be amended to create a special tribunal for dispute resolution mechanism for:-

(i) banks verses the Central Bank;

(ii) banks verses customers; and,

(iii) banks verses other Government agencies like Kenya Revenue Authority (KRA) and Kenya Anti-Corruption Commission (KACC)

The purpose of this letter, therefore, is to formally bring to your attention the resolution of Parliament and request you to take the necessary action, taking into account the powers conferred on the Central Bank of Kenya by Article 23(1) of the Constitution and the Banking Act.

Attached herewith, please, find copies of the following documents for your ease of reference:

1. Report of the Departmental Committee on Finance, Planning and Trade on the petition on Charterhouse Bank Limited.

2. Extracts of the HANSARD Reports of 9th December, 2010 and 23rd August, 2012.”

Mr. Speaker, Sir, I have gone through this because the Constitution of Kenya, in Article 231(3), says:-

“The Central Bank of Kenya shall not be under the direction or control of any person or authority in exercise of its powers or in the performance of its functions.”

It was brought to my attention by the Attorney-General that I cannot give instructions to the CBK, but I can formerly request the CBK to implement the resolutions of this House.

Mr. Speaker, Sir, the CBK has also been requested to provide the management accounts for the years this bank has been under statutory management.

I would like to thank the Members of this House for listening to me and for bringing this matter to a close.

Mr. Speaker: Member for Yatta, are you on a point of order?

Mr. C. Kilonzo: Yes, Mr. Speaker, Sir. Are the Minister and the Attorney-General in order to read the Constitution selectively to suit their purpose? The Minister has referred to Section 231, which says that the CBK shall not be under the direction or control of any person or authority in the exercise of its powers or the performance of its functions. However, the same Constitution, in Article 95(5) says that the National Assembly shall exercise oversight over State organs? The CBK is a State organ.

Mr. Speaker, Sir, the bone of contention in this matter is that there is no law the Government has used to shut down this bank. That is why the previous Committee recommended the re-opening of the bank. That is why the Departmental Committee on Finance, Planning and Trade, after I brought the petition, insisted that the bank should be re-opened, because the Government has not used any law to deny depositors the right to access their money.

So, is the Minister in order to read the Constitution selectively and, of course, wrongly?

Mr. Githae: Mr. Speaker, Sir, this House will appreciate that I have no powers to order the CBK to reopen the bank. If I had such powers, today, I would have ordered or instructed the CBK to reopen Charterhouse Bank. As the hon. Member has rightly pointed out, the Constitution does not allow me to give directions to the CBK. However, it does not mean that Parliament is powerless. I have brought the resolutions of this House to the attention of the CBK. I do not

believe that Parliament is powerless. It must have powers under which to make sure that its resolutions are implemented.

As far as I am aware, Article 95(5) is one of the suspended articles of the Constitution. Therefore, it does not apply until after election.

Thank you, Mr. Speaker, Sir.

Mr. Kabogo: On a point of order, Mr. Speaker, Sir. You have heard the Minister say that he has no capacity to order or ask Central Bank of Kenya (CBK) how it operates, and you know the office of the Minister is not the Minister as a person but a Ministry. When this bank was closed, the then Minister for Finance, Mr. Amos Kimunya, told the House that he ordered the bank to go to statutory management to protect the interests of the depositors. So, how did the Ministry get powers then to really order the bank to go under statutory management, if they do not have powers to order the CBK? He now wants to hide under the situation where the Ministry cannot order the CBK, but the then Minister ordered the CBK to put the bank under statutory management. It is a ball they are playing. When will this game stop?

Mr. Speaker: Order! Minister, there is a claim there that you are misleading the House, and that the Ministry has acted in two contradictory positions, if we take your assertion this afternoon against actions previously taken by the Ministry.

Mr. Githae: Mr. Speaker, Sir, I wish to put it on record that my heart cries when I look at the plight of the depositors and all the other people concerned with the bank. My heart cries to them. I think it will be important to point out to hon. Kabogo that when my predecessor took whatever action he took, the new Constitution had not been enacted. So, under the old Constitution there was power but under the new Constitution there is no such power. Basically Article 231 in the new Constitution was actually to cure those defects. Now, under the new Constitution, the Minister for Finance has no authority to direct, instruct or even tell them what to do. I do not believe this House is powerless. I am sure it has some residual powers to make sure that resolutions are carried out; that is what we now need to find out. We need to find out what powers this House has in its oversight capacity. I agree with the resolutions of the Committee, and if I had those powers I would this minute do so. The other alternative is to amend Article 231 and give me those powers.

(Laughter)

Mr. Speaker: Order! Minister, in the light of what you have said, so that we bring this matter to an end, can you then confirm to the House - I am taking you by your word - that the CBK was wrong in defying the recommendations of the Finance Committee of Parliament?

Mr. Githae: Mr. Speaker, Sir, as I said, I have today written this letter to the CBK and it was under personal delivery. So, I have evidence that the Governor has received my letter, including the report of the Committee. So, I would say that as of now the Governor is aware of the resolutions of the House. I am not sure whether he was aware before, and that is why the Speaker ordered that these documents be actually sent from this House to the Governor, so that he cannot claim ignorance. So, I would say that now that he is aware we give him time; if he does not effect resolutions of the House, then the House can take the necessary action. As I said, I do not think this House is powerless.

Mr. Farah: On a point of order, Mr. Speaker, Sir. Whereas I appreciate the desire by the Minister to conform to the provisions of the Constitution, if you ask a question here about the CBK, it does not say the CBK Governor should be here in the House to take responsibility and

answer that question. The Government Minister responsible for the CBK at the moment is in, and the CBK Governor is in the Executive branch of the Government. Essentially, if he is of the opinion that this should be done, I think it is for the Minister himself to give that directive, or to state that position and say that the House expects the Governor to open the Charterhouse Bank, using the powers given to him under the current law. Can the Minister under the circumstances tell us how it is that we are going to deal with the CBK? If we have issues with the CBK, he cannot say that the CBK's independence is guaranteed in the Constitution, so that the CBK Governor can have a different opinion from his, and so he should come here and explain it to us. Because he is not able to do that, he should take his responsibility and find a mechanism for making sure that what he believes in is executed by the Government; the CBK is part of the Executive. Could the Minister shed some light on that?

Mr. Githae: Mr. Speaker, Sir, as I said, I intend to follow the rule of the law which, by Article 231, I have no mandate to instruct or direct the CBK. We must live within the new Constitution. These are some of the provisions that you find in almost all the independent constitutions; the aim was to insulate independent commissions from being directed or micro-managed by the Executive. That is the real reason. However, I am saying that I do not believe that this House is powerless. It is not powerless. This House has other mechanisms and I wish it enforces its resolutions. One of them is censure. The new Constitution allows censure of any member of the Executive. This can also be taken to the Powers and Privileges Committee to come up with a solution. As I said, I do not believe this House is powerless.

Mr. Ruto: On a point of order, Mr. Speaker, Sir. Yes, he has partly answered, but is it really true that these independent commissions can violate the law or act outside the law, and we just leave them alone? That the Executive in charge of that arm can come to Parliament and blatantly decline responsibility on a basis that is not clear? Is it possible, yet we know that the CBK has been under the immense influence of Transcentury, which tried to ensure that other banks are closed, so that they only retain a group of banks?

Mr. Speaker: Order, hon. Member for Chepalungu! You know you are on a point of order; on a point of order you do not just go haywire and say all manner of things. I am afraid I rule that to be out of order.

Mr. Mbadi: On a point of order, Mr. Speaker, Sir. Even though the Minister has quoted Article 231(3), Article 231(2) and (5) give this House powers to legislate. Before legislation is brought to repeal the former Act, the CBK Act is in place. Is it in order for the Minister to claim that there is nothing he can do, yet the Banking Act says under Section 5(9) that: "An aggrieved party may appeal to the Minister on a decision of the CBK to refuse to renew a license under sub-section (6) or (7)," and it goes on.

On 10th January, 2007 this Charterhouse Bank appealed to the Minister; why can the Minister not use powers conferred upon him by the Act since it has not been repealed by any other Act? Is it in order for the Minister to purport to tell this House that he has no powers, yet the statutes give him the power and they are not in conflict with the Constitution? The Constitution under Article 231(2) and (5) envisages legislation, but in this case you have to go by the Central Bank of Kenya Act.

Mr. Githae: Mr. Speaker, Sir, we are not talking about renewal, non-renewal or cancellation of licences. We are talking of re-opening of a bank. It has nothing to do with licences. If, for example, it is opened and because bank licences expire at the end of December, they apply and the CBK does not renew their licence, then, obviously, they can appeal to me and I will consider the appeal favourably. As I said, I agree with the recommendations of the

Department Committee. I agree with all those recommendations, but these are independent institutions. The purpose of the new Constitution is to insulate these bodies from being interfered with by the Executive. I am still of the strong belief that this House is not powerless. Now that the CBK Governor has formally been notified of the resolutions of this House, I would seek your guidance on what we do next.

Mr. Speaker: Fair enough, Minister. I will take the last question then I will give directions.

Mr. Mwau: Mr. Speaker, Sir, I really seriously thank the Minister for the efforts that he has put into this matter. I can really see that he is serious and he is concerned about the impunity which has affected the people who have deposits in the bank. However, he has read a letter which I have not seen him table, and I have not received a copy of it. So, I would expect that he will table it and I will get a copy.

Further, he has stated that the CBK will appoint a qualified person to assist in restructuring. He has not indicated for how long that person is supposed to assist; Charterhouse Bank was put under statutory management for a period of one year and now it is seven years down the line. He has also said that the bank should be opened immediately---

Mr. Speaker: Hon. Member for Kilome, can you find a way of putting all those matters under a question?

Mr. Mwau: Could the Minister then confirm to the House when the bank will be opened and how long the qualified person will take before exiting and when the bank will be reopened and handed over to its directors?

Mr. Githae: Mr. Speaker, Sir, I will table this letter. I was using it. As I said, if I had those powers, I would have today given instructions; but I have read out what the Constitution says. These matters have not been agreed upon. The restructuring agreement was agreed upon; it was a negotiated document between the CBK and the Charterhouse Bank. Under Section 3 of the Banking Act, the qualified person was there to assist the bank to give confidence to depositors and the public. How long he will last there depends on when the Charterhouse Bank officials themselves, or the directors, feel that they are in a position to take over completely. The expert then would cease to manage the bank. What I am saying - it is good that we are sitting here so that the CBK can hear - is that they need to implement this restructuring agreement, which they agreed upon in 2009. That is the solution.

Mr. Speaker: Very well. Hon. Members, I will then give the direction sought as follows:

Indeed, the Minister is right to assert that the House is not powerless, and that the House does not act in vain. There is a report of the Committee which this House, by a unanimous resolution, adopted. So, it is expected that the Governor of the CBK will comply with it and effect those recommendations. If he fails to do so, the House is at liberty to take further steps as it deems appropriate, and, indeed, as the law permits. So, I will urge hon. Members to move to the next step. The Minister has categorically said that he agrees with all the recommendations of the Committee. I do not see what better support you can expect from the Minister. That is as strong as he can be. So, the matter must rest there.

That brings us to the end of Order No.6. We want to take the next Order.

STATEMENTS

BUSINESS FOR THE WEEK COMMENCING 11TH TO 13TH SEPTEMBER, 2012

The Vice-President and Minister for Home Affairs (Mr. Musyoka): Mr. Speaker, Sir, I rise to make the following Statement in accordance with Standing Order No.36(4), it being Thursday afternoon.

Mr. Speaker, Sir, next week the House will consider debate on the following Bills at their Second Reading Stage:-

- (i) The Constitution of Kenya (Amendment) Bill, Bill No.51, 2011;
- (ii) The Central Bank of Kenya (Amendment) Bill, Bill No.23, 2012;
- (iii) The National Transport and Safety Authority Bill, Bill No.37, 2012;
- (iv) The Customs and Excise (Amendment) Bill, Bill No.15, 2011; and,
- (v) The Books and Newspapers (Amendment) Bill, Bill No.48, 2011.

Mr. Speaker, Sir, with regard to the Constitution of Kenya (Amendment) Bill, Bill No.51 of 2011, which is slotted for next Wednesday, I wish to draw the attention of all hon. Members that this is a constitutional amendment Bill. We, therefore, need to avail ourselves in the House to achieve a three phase majority threshold to be able to ensure passage of this Bill. This is an important matter on the two-thirds and one-third gender rule. I am sure that the women of this country will be looking to this House standing up yet again for all the women in order to make sure that we do comply with the requirements of the Constitution.

Also expected is the Committee of the whole House for the following Bills:-

- (i) The Ratification of Treaties Bill, No.28, 2011;
- (ii) The Coconut Bill, Bill No.58, 2011; and,
- (iii) The Finance Bill, Bill 26, 2012.

On Motions, the House will be called upon to debate the following two Motions:-

(a) Motion to adopt the report on the agreements between Kenya and international partners on combating piracy in the Indian Ocean laid on the Table of the House on Wednesday 23rd June, 2010;

(b) Motion to adopt the joint recommendations of the reports of the Local Authorities and Funds Accounts Committee and the Departmental Committee on Local Authorities on the purchase of land for cemetery by the City Council of Nairobi, laid on the Table of the House on Tuesday 2nd November, 2010.

Mr. Speaker, Sir, we shall also prioritize business that will not be concluded at the conclusion of today's business.

Finally, the House Business Committee, as usual, will meet on Tuesday, 11th September, 2012 at the rise of the House to be able to consider business for the following week.

Mr. Speaker: Hon. Members, we will take one more Statement. If I have clear indication that the Ministers who want to give Statements, namely, the Minister for Youth Affairs and Sports, Minister for Finance and finally, the Minister for Health can all do that in the next ten minutes, so that we finish not later than 4.25 p.m., then I will permit and we can take all those Statements. Otherwise, I am afraid I will have to defer some of them to another date.

Let us begin with the Minister for Youth Affairs and Sports. Can you indicate how long you are going to last?

The Minister for Youth Affairs and Sports (Dr. Otuoma): Mr. Speaker, Sir, maybe six minutes.

Mr. Speaker: Can you do five minutes?

MINISTERIAL STATEMENTS

STATUS OF MATHARE YOUTH SPORTS ASSOCIATION

The Minister for Youth Affairs and Sports (Dr. Otuoma): Mr. Speaker, Sir, I wish to make a Statement on the status of Mathare Youth Sports Association (MYSA). This Ministerial Statement was requested by hon. Shebesh.

Mr. Speaker, Sir, hon. Shebesh requested me to explain the current status of MYSA and specifically, whether the board is in office legitimately and has held any meetings. The current status of MYSA, which was established in 1987 in Nairobi----

(Mr. Musyoka started walking out of the Chamber)

Mr. Ethuro: On a point of order, Mr. Speaker, Sir. You have made a directive that we take more Statements before we intervene and I have just seen the Leader of Government Business walking out. Does that mean that we will not be able to interrogate his Statement?

Mr. Speaker: Order, Leader of Government! Before you really get out of the Chamber, there is a demand here. The hon. Members want to have some interventions on the Statement that you gave this afternoon. So, you might as well walk back.

(Mr. Musyoka walked back and resumed his seat)

Proceed, Minister!

The Minister for Youth Affairs and Sports (Dr. Otuoma): Mr. Speaker, Sir, as I was saying, the MYSA was established in 1987 in Mathare slums of Nairobi and is one of the largest self-help youth sports and community service organization in Africa. Its activities include sports, arts and culture, health, education, environmental conservation, photography and youth exchange programmes. So far, it has benefited 25,000 young people.

Mr. Speaker, Sir, despite the withdrawal of sponsorship by Stromme Foundation, MYSA continues to enjoy sponsorship from other donors, both foreign and local to support their initiatives. These include Comic Relief, Laureus Foundation, Bjorn Borg Foundation, GIZ – Germany Foundation, DSW-Germany Development for World Population, Football for Hope-Street Soccer, FIFA, UN for Sports Development and Peace, Sara Lee Limited and Kenya National Paralympics Association.

Mr. Speaker, Sir, MYSA has carried out various activities, like I have already mentioned. They have been engaged in sports and environmental activities as part of their development programmes. The MYSA has got more than 21,000 boys and around 4,700 girls who are participating there and form around 1,987 teams that are involved in various activities.

Mr. Speaker, Sir, the hon. Member also wanted to know the current board of trustees. I will read out their names. The founder who is also still the chairman is Bob Munro. The vice-chair is Mike Boit. The second vice-chair is John Githongo. The other members are Kibby Kariithi, Igrid Munro, Moses Mutuli, Gladwell Otieno, Lar Sevilhang, Martin Var Straaten, Atle Sundelin, David Thiru and Ruth wa Mutua. The last board meeting was held in December, 2011 and they expect to hold one again towards the end of this year. Those are some of the issues that were raised.

Mr. Speaker, Sir, as to what action my Ministry has taken about the negative publicity that was caused in the Norwegian media because of the allegations, my Ministry did not take any action regarding the purported negative publicity created in the media in Norway, following the

issue that there had been some sexual harassment in that organization. Already remedial measures had been taken by both the organization. The MYSA took correctional measures against the officers who were alleged to have molested the young people. Various officers were either dismissed or are no longer with the organization. Of course, the cases which were reported are still being investigated. I have a summary of all the individuals who were investigated, what charges they were charged with in terms whether they were cheating on age, misuse of funds, sexual abuse cases, I have got a whole list and what conclusion was carried out.

Thank you, Mr. Speaker, Sir.

Mr. Speaker: Very well! Hon. Shebesh, let us hear the Minister for Finance. Just keep your intervention.

Minister for Finance, your Statement is in which area and how long?

The Minister for Finance (Mr. Githae): Mr. Speaker, Sir, it is two pages long.

Mr. Speaker: Try and do it in three minutes.

POLITICAL PARTIES FUND

The Minister for Finance (Mr. Githae): Mr. Speaker, Sir, on 7th August, 2012, hon. Danson Mungatana sought a Ministerial Statement from the Minister for Finance on the Political Parties Fund.

Mr. Speaker, Sir, I wish to respond as follows: The Political Parties Fund has a budgetary allocation under the Office of the Registrar of Political Parties, Vote 168 in the Financial Year 2012/2013. In the draft Budget Estimates submitted to Parliament, Treasury had proposed an allocation of Kshs250 million to the Political Parties Fund. The Departmental Committee on Justice and Legal Affairs discussed and reviewed the estimates of the Office of the Registrar of Political Parties for the Budget Estimates, as per the requirement of the Constitution. The Committee recommended the need for Treasury to adhere to Section 24(1) (A) of the Political Parties Act, 2011. However, the Committee recommended that a sum not exceeding Kshs430 million be approved for net Recurrent Expenditure under the Office of the Registrar of Political Parties. The Budget Committee came up with further recommendations to nationalize the expenditure, which was adopted by the National Assembly on 6th June, 2012. Treasury was requested to implement the recommendations, which reduced the initial allocation from Kshs250 million to Kshs240 million, that is, five per cent cut across the board, as the Committee recommended, in the current grants to Government agencies. The Budget Committee recommendations also reduced the overall Vote allocation---

(Mr. Mbadi's phone rang and he answered the call)

Mr. Speaker: Member for Gwassi, you know what that amounts to. Maybe you want just to be very remorseful. If I get an appropriate apology I will let that pass. Otherwise, I am afraid I have to act.

Mr. Mbadi: Mr. Speaker, Sir, I sincerely apologize for the act.

Mr. Speaker: Do not ever try to do that.

Proceed, Mr. Minister!

The Minister for Finance (Mr. Githae): Mr. Speaker, Sir, as I said, the Budget Committee recommendations also reduced the overall vote allocation from Kshs430 million to

Kshs405 million. Treasury confirms that Kshs240 million has been allocated to the Political Parties Fund after Parliament's recommendations that were adopted and approved by Parliament.

Mr. Speaker, Sir, the Treasury is also aware that the section of the Political Parties Act requires that the political parties fund shall comprise of such funds not being less than 0.3 per cent of revenues collected by the national Government as may be provided by Parliament.

In view of Section 24(1) of the Act, the political parties fund should be allocated approximately Kshs2.4 billion. However, as you are aware, the Budget was formulated under very tight fiscal framework as specified in the Budget Policy Statement for the year 2012. The Treasury was unable to allocate the full amount to the fund due to the hard Budget constraints. It is noted that in finalizing the Budget Estimates for the Financial Year 2013, the Treasury was guided by the available limited resources and the need to provide for other national priorities.

The Treasury is also aware that the running costs of these branches require disbursement of funds from political parties fund provided that not less than 30 per cent of the monies allocated to a political party under Section 25 shall be used for the purposes referred to in Section 1(a).

To conclude, the Political Parties Act, 2011 became operational on November, 2011. However, notwithstanding its provisions, the transitional provisions, under Section 5(1) of the Act provide that Section 33 of the Political Parties Act, 2007 shall apply until after the first General Elections under the Constitution.

Thank you.

Mr. Speaker: Very well! Minister for Health, how long do you want to take?

The Assistant Minister for Medical Services (Mr. Kambi): Mr. Speaker, Sir, it is not long because the hon. Member who requested for this Ministerial Statement indicated that he wanted it deferred till Tuesday, next week, because he is not in the House now.

Mr. Speaker: Very well! So, I direct that that is deferred to Tuesday, next week at 2.30 p.m.

We will now take interventions beginning with those who want ask for clarifications from the Leader of Government Business.

Mr. Ethuro: Mr. Speaker, Sir, I would like to seek a couple of clarifications from the Leader of Government Business. I want also to apologize if I have inconvenienced him because this is extremely important. When he gave the programme for the week, I did not hear him mention the Internally Displaced People (IDP) Bill. This is fundamentally important given the kind of timelines we for discussion. I also want him to give an indication to this House on the seriousness that the Executive is putting to the legislative work given that only yesterday we had the issue of the IEBC and the timelines towards General Elections. We, as the House, felt that the Government is sleeping on the job. He needs to reassure this House that all the agencies and line Ministries will ensure that the timelines in the law are adhered to, so that this House can do a good job.

Finally, there was a public petition that I had put to the Minister for Energy which lapsed while we were on recess. We came back; you gave him another three weeks. Basically, I find it completely outrageous for the Minister for Energy not to take this House very seriously, especially talking about the issues that affect a poor community like the one of Turkana and the oil exploration.

The Standing Orders require that the Prime Minister addresses this House on every Wednesday. I want to know whether the Government has revised the Standing Orders without

our knowledge because the Prime Minister's Time now seems to be coming every fortnight and not every Wednesday.

Mr. Speaker: Leader of Government Business, I think those are the only interventions with respect to your Statement, so if you respond to those---

The Vice-President and Minister for Home Affairs (Mr. Musyoka): Mr. Speaker, Sir, I also appreciate the sentiments from my good friend, Mr. Ethuro. I really would like to inform him that we had prioritized debate on the IDP Bill for last Wednesday, but he was not in the country. In fact, I am surprised to see him because when I tried to enquire, I was told he will be in Uganda for the next two weeks. It is an usual thing because some hon. Members saw me, particularly the Minister for Agriculture, and she thought she was seeing a ghost because I was supposed to be in Uganda. But that is a reality.

All of us are taking this matter with the seriousness it deserves. Therefore, if I remember correctly, these colleagues were with me in the House Business Committee (HBC) on Tuesday and we decided to give this matter priority next week because it is a very important thing. I do not think the country can afford to go to the next general elections with Kenyans hurting out there. So we would want this matter brought up expeditiously.

With regard to the legislative programme, I think hon. Members will agree with me that this House has truly tried to meet the essential deadlines, particularly those of a constitutional nature. However, it is also important to note that Kenyans are now conscious of one thing: That there shall be full consultation, not just with the Commissions that have business that is relevant to the legislative programmes, but Kenyans themselves. Therefore, that consultation with the Kenyan people is a matter that we cannot escape. Sometimes, the deadlines will then look serious. When that happens, then the House will need to take the kind of action you, Mr. Speaker, led us through in a Kamukunji, when we all agreed that even the IEBC will not meet those targets.

I want, therefore, to thank Mr. Abdikadir's Committee because they have been very pragmatic and they are able to give these directions. I see that Mr. Mbadi possibly is a Member of that Committee. We should look at issues in the best interest of this nation because the next general elections are not a secret weapon for any individual or party. The next general elections are slated for 4th March, 2013. This is a hard fact. We need to adjust those programmes, so that the IEBC will have time to register voters and to allow for inspection of those registers.

I want to take this opportunity to say to the whole country whenever that exercise gets underway, let us have all our people turning up in large numbers and exercising their constitutional right to register as voters. It is clear that we will have to come up with a complete new register. I thank the Minister for Finance and the teams that are working on the Biometric Voter Registration (BVR). This is important.

With regard to the public petition and energy, we continue to thank the people of Turkana. My friend, Mr. Nanok, is not in the House, but when I last tried to talk about this situation, he almost became absolutely angry. This is a very important matter. There shall be equity and equality of opportunity. This is an important petition and I will prevail on the Minister for Energy with the seriousness it deserves.

Thank you.

Mr. Speaker: We will now take the Minister for Youth Affairs and Sports and taking interventions there beginning with Mrs. Shebesh.

Mrs. Shebesh: Mr. Speaker, Sir, I want to thank the Minister for his Statement although it has come three months later. However, in his statement, he omitted reading out the names of

the coaches of the MYSA who had sexually molested young girls under their care. He has the list. He has also admitted that coaches in MYSA have been engaged in age cheating and that the major donor withdrew. They have subsequently drawn a documentary that is airing in Norway continuously showing soccer in Kenya as a sport that is plagued by sexual exploitation and cheating. That was the gist of my request.

I am, therefore, asking what the Government has done, first, with the individuals who have sexually molested girls who he has enumerated in his statement. What we are doing about our diplomatic ties with the Norwegian Government, especially as a sporting nation in the eyes of the Norwegian people because this documentary continues to show in that country.

Mr. Speaker: Minister, please, take note because I can see that two other Members are interested.

Mr. Njuguna: Mr. Speaker, Sir, it came out from the Statement given by the Minister that a serious degree of embezzlement of donor funds has been realized. What is the Ministry doing to arrest that situation and make sure that those who are implicated are brought to book immediately?

Mr. Speaker: Member for Turkana Central, you have an interest in this or is it technology that is challenging you?

Mr. Ethuro: Mr. Speaker, Sir, it is me challenging the technology. It was on the earlier matter by the Deputy Leader of Government Business and not this one.

The Minister for Youth Affairs and Sports (Dr. Otuoma): Mr. Speaker, Sir, as I had said, I have a very elaborate answer on all the four offences. As I said, they are those who misuse the position, there is theft of funds, sexual abuse and age cheating categories. I have tabled the list showing which officer was involved in what. It is a long list and there are various names on it. It also shows the corrective measures that were taken. The MYSA Board of Trustees responded to these allegations and complaints.

They commissioned an independent research agency, under Prof. Fred Cotta to look at all the aspects of the organization and they did an evaluation and gave recommendations. This is available for perusal. On the issue of what the Government has done to those who have been implicated, if there are issues of criminal nature, the organization took the action that is required. This issue goes back all the way to 1991 when the first case was reported. As to whether there is expulsion, dismissal or deportation of those who resigned and they were sent back to their countries, I have tabled that list and it is available for the Member to peruse. Of course, as a Ministry, we are keeping a very keen eye on how these organizations behave. I am still going to beg this House that we hasten and fast-track the Sports Bill because it adequately creates the legal framework and even gives the Ministry the mandate to deal with some of these issues that have affected our sports organizations for a very long time.

The Bill went through the First Reading yesterday and I expect that we will fast-track it, so that we can conclude it before this House is either dissolved for the elections or adjourned for any other activity.

Mr. Speaker: Minister, the ball will still be in your court if you want the transaction of that Bill expedited. Just look at your Standing Orders. If you want help, then look for hon. Kimunya or Dr. Kosgei. They will assist you.

Mr. Ethuro: Mr. Speaker, Sir, in fact, I am seeking that quick help from hon. Kimunya following the commitment by the Leader of Government Business. I think the IDP Bill is clear. The one on public petition has a timeline, but the Leader of Government Business did not commit himself the way he committed himself on the IDP Bill.

Mr. Speaker: Order, Member for Turkana Central! That we will not do. You know I took interventions on the Statement by the Leader of Government Business. I finished and I said that we will now move on to interventions on the Statement by the Minister for Youth Affairs and Sports. That was just in a bid to be orderly, so that even the recording on the HANSARD is that systematic. So, I am afraid I will not go back there. It will be a bad mix.

Mr. Ethuro: Mr. Speaker, Sir, I hear you. It is only that you also acknowledge that I had raised an intervention. In fact, you were wondering whether I was technologically challenged and I told you that I had put an intervention before you moved on.

Mr. Speaker: I will not do that hotch potch, Member for Turkana Central.

Mr. Ethuro: Hotch potch, what is it, Mr. Speaker, Sir?

Mr. Speaker: At least, to that extent, then you are challenged. We will want to move on. Is there any Member with an interest on Order No.7?

Mr. Mbadi: Mr. Speaker, Sir, I am rising to seek your guidance and intervention. The integrity and credibility of this House is very important. It is on that basis and strength that we have an authority.

Mr. Speaker: Order, Member for Gwassi! I can see where you are going and I think that will be just before we close Order No.7.

POINTS OF ORDER

INSECURITY IN GATUNDU AND RUIRU

Mr. Kabogo: Mr. Speaker, Sir, I rise to seek the indulgence of the Chair. Last week on Thursday, 30th August, I sought a Ministerial Statement from the Minister of State for Provincial Administration and Internal Security regarding the disappearance of one Pius Kimani Karumba and because of the situation as it was then, I did not get a commitment from the Minister as to when the Statement would be brought to the House. I seek your indulgence, so that the Deputy Leader of Government Business may communicate to the relevant Minister when to issue this Statement on security in Gatundu and Ruiru.

Mr. Speaker: Deputy Leader of Government Business, since this matter was, in fact, due this week, I want to direct that that Statement is delivered on Wednesday next week in the morning. Will you, kindly, convey that information to the Minister?

The Minister for Transport (Mr. Kimunya): Mr. Speaker, Sir, indeed, I will convey the information. Just to show that we are conveying the information, even the earlier issue that hon. Kabogo had raised with the Ministry of Foreign Affairs, action is already being taken.

Mr. Speaker: Good. I am happy to hear that, at least, the Executive is immediately turning round and I hope the Governor of the Central Bank has also heard the House and he is taking action similarly.

Mr. Mbadi: Mr. Speaker, Sir, as I had started, the dignity of this House is very important for us to continue to exercise authority that we are given by the people of Kenya. We debated the report of the Public Accounts Account (PAC) and took a vote, but the report coming through is disturbing especially if it is directed to the entire House and even by extension to the Speaker. There is an allegation made by none other person than the Chairman of the PAC that this House was compromised. He has even cited cases and amounts that we purportedly received. He went ahead even to say that there was conspiracy to change the Chair during that debate. If there was

conspiracy to change the Chair during the debate, then that must be with the authority of the Speaker.

Therefore, given that the image of this House is tainted, I have no cue whether the allegations by hon. Khalwale are true or not. It is important to redeem the image of this House by ordering for an investigation to be conducted, so that hon. Khalwale has an opportunity to tell this House whether he has factual evidence to prove these allegations, so that we are not condemned in total. Wherever we walk, even some of us who probably have never taken any bribes in our lives, anybody who sees us, sees us as bribe takers. They see us as people who can take a bribe as little as Kshs20,000. This is a very serious matter and if it is going to be confirmed that hon. Khalwale has no facts and it is just a matter of nursing wounds, action should be taken. I actually supported the report of the Committee even with its deficiencies in terms of drafting. Investigations need to be conducted, so that if hon. Khalwale has made false allegations, the matter is referred to the Powers and Privileges Committee. If he has facts and it is proved that there are some Members who go to the extent of taking bribes to be compromised to vote in a particular way, then action needs to be taken. It is high time action is taken. This is not the first time that we have heard of these allegations and they are hurting some of us. We have children, families and constituents who believe in us and see us as role models. If we continue like this, this House will not have an image. So, I am seeking your guidance on how we proceed, so that this matter is settled, so that we redeem the image of this House and even that of the Speaker. As I mentioned, I am sure you must have read these allegations. Some of the media people are calling us to confirm the same even as late as today. So, this matter is not settled.

The Assistant Minister for Agriculture (Mr. Ndambuki): Mr. Speaker, Sir, it is true that I had given you a notice that I wanted to raise an issue on this matter.

This is not the first time for this House to be accused that we are being bribed and that we are killing reports because we have been given money. If you listened to the FM stations from last night to this morning, you must have realized that we have been called all manner of names you can think of. I did not see anybody give money. I was not given any money by anybody and I stayed here all through the debate.

Mr. Speaker, Sir, we need your guidance on this issue so that this behavior can stop once and for all. We cannot continue like this. Nobody thinks of us as honest people. We are seen as corrupt and we are accused *en masse*. Could you, please, give guidance on this matter so that it can rest once and for all?

Mr. Hassan: Mr. Speaker, Sir, as the newest Member of this House, I must say that I feel distressed by the perception, image, and the framing of Members of Parliament under the representation of this House in the public domain. This particular incident has raised it to a level in which I think we have become the laughing stock of our nation and yet I know I am spending my time and energy as an upright citizen working very hard for my constituency and doing my representation here. I know many others who are in a similar position in this House. They have committed themselves to work for a better Kenya.

It is, therefore, important that you take the necessary action to make sure that the allegations are investigated and if they are not true, necessary action be taken. Otherwise, if they are left out there in the public the assumption is that we are guilty of what has been said against us rightfully or wrongly.

Mr. Mwachugu: Bw. Spika, naomba nichukue nafasi hii kutoa msimamo wangu kuhusu jambo hili ambalo nimeliona katika mojawapo ya magazeti kuwa Wabunge walihongwa kwa kiasi cha fedha Ksh30,000 ili kuhakikisha kwamba wale waliotajwa, wakiwemo mhe. Kimunya

na kaka yetu wa Benki Kuu ya Kenya (CBK), wameachishwa nyadhifa zao. Inasemekana walitoka nje wakapeana fedha.

Katika miaka yangu yote nimefanya kazi ya uhasibu mambo ya rushwa sihusiani nayo. Ukweli ni kwamba kuna Wabunge wengi hapa ambao hawahusiki na mambo ya rushwa. Kwa hivyo, kuwekwa katika kapu moja la kundi la wapokeaji rushwa ni jambo linaloshusha hadhi ya Bunge, hadhi yako, hadhi ya Wabunge, na mimi kama Mbunge wa Wundanyi ni jambo linaloshusha hadhi ya watu wangu ambao ninawawakilisha.

Kwa hivyo, naomba ulichukulie jambo hili kwa mzigo. Ulichukulie hatua zinazofaa ili tupate kusafishwa maana hata ukienda mjini utasikia, “unawaona wale wachukuwa-rushwa?” Ukipeleka gari unaambiwa unaweka petroli na pesa za rushwa.

Bw. Spika tunaomba kwa hisani na heshima yako ukomboe hili Bunge katika hii hali imejikuta. Naomba uchukuwe ombi letu na uliweke maanani.

The Assistant Minister of State for Defence (Maj-Gen. Nkaiserry): Mr. Speaker, Sir, I also would like to add my voice to this very grave accusation made against this august House. What precedes my name is the title “honourable”. This House is referred to as an august House. It cannot be that the occupants of this House can stoop that low to be bribed in order to pass certain resolutions.

Mr. Speaker, Sir, it is shameful for anybody in this House to be involved in that action. In our laws in the Standing Orders--- I can quote three Standing Orders, that is, 79(4), 97(1)(d) and 82(1) and (2). I think appropriate action must be taken and we must find the truth about this matter. If the hon. Member who brought this shame to this House cannot substantiate, we leave that to your decision.

The Minister for Finance (Mr. Githae): Mr. Speaker, Sir, I also rise to condemn the utterances that were reported in the media. I could give this House a story. When my Finance Bill was passed, there were same accusations that money had passed hands. I confronted the person who was reported in the media to have said that. He said, “I heard”. I asked him if he knew who had been paid. He said, “No, I heard”. I asked him, “What did you hear?” He said, “I heard”. I asked again, “from whom?” He said, “from somewhere”. So, I concluded that this was simply rumor mongering which is dangerous to this House because it taints the reputation of this House.

Mr. Speaker, Sir, I think this is an African disease where if you lose an election you say that you were rigged. If you die you do not die of a natural disease rather you are bewitched. That was my conclusion of it. This is because when I confronted the person he could only tell me, “I heard”. And when I asked him from where, he answered, “From somewhere.” He then asked me, “Did you hear me say that or I was reported by the media to have said that?” When somebody says that, what do you conclude?

Mr. Speaker, Sir, when you warned us the other time that Members should go to the police and make statements, they never bothered over the same issue. So, I would say that we should ignore *mhe*. Bonny Khalwale and we proceed. It is simply rumor mongering.

Mr. Duale: Mr. Speaker, Sir, in this Tenth Parliament you have led by example in terms of reform. You have led this Parliament in terms of infrastructure change. This matter is of a grave nature. I am sure the HANSARD will bear me out that eight months ago a Member of this House called this House an auction House. It is in the HANSARD. There were a number of reports that were passed or rejected in this House and the allegations out there were that Members of Parliament were compromised.

Mr. Speaker, Sir, with regard to the current one, names of hon. Members have been mentioned. We will be very happy if you gave guidance and direction. The people who have made these allegations should come out very clearly to tell the nation how the Kshs200 million was used by hon. Kimunya to bribe Members. Out of the Kshs1.8 billion he squandered, they say that he has used Kshs200 million.

Mr. Speaker, Sir, the debate was rife. When a report is tabled in this House, it is the discretion of Members to look at that report in all aspects and vote with their conscience. The Member for Ikolomani and Chairman of the Public Accounts Committee owes this nation and this House an explanation and an apology.

The Minister of State for Public Service (Mr. Otieno): Mr. Speaker, Sir, this is a very serious matter and it is politics which has extended at a very low level but too far. It cannot be an excuse that an hon. Member of this House was just joking. Some of us are professionals who are handling very large amounts of money on behalf of clients. Some of us here are diligent debaters who take their time to prepare and convince their colleagues on issues before the House. The issue of rumour and Members being bribed has gone on for too long. If you travel to the constituencies of the Members of this House, that is when you will know why a person was elected because he is highly respected by very many people. He is highly regarded by very many people in his constituency for him to have about 30,000, 40,000, 50,000 or 100,000 votes. This cannot be trashed by colleagues joking after losing a Motion.

Mr. Speaker, Sir, action must be taken to an extent that we set the precedence that we will discipline ourselves henceforth to protect the image and name of this House to remain honourable and professional so that people can trust what we do and the decisions that we make. More so, when the next Parliament comes to exercise Oversight Authority over the Executive, we must not arrive there with tainted image like the manner that hon. Khalwale has been trying to do and portray before this House. It is also a challenge to all our Departmental Committees to do a thorough job so that their failure is not reflected by cheap propaganda that they were rejected for simple reasons as bribery and worse for amounts that every Member here knows that he cannot even survive with for a few hours in his constituency.

We cannot take this as a joking matter. We beseech you to take decisive action so that we discipline ourselves in future.

Mr. Odhiambo: Mr. Speaker, Sir, I also wish to express my feelings on this matter. As Members of Parliament, we are in this House so that we debate on matters of national interest and sometimes our local interests. When issues like the one we are discussing now comes up and yet I used my conscience to vote either for or against and the public is made to feel that every time we are voting on an issue to do with a Minister being vetted or discussed, we are accused of bribery--- I remember when we had the maize problem. When I went to my constituency, some people confronted me and asked me to give them money. I told them that I did not have money. They then told me; “why can you not steal maize like the rest so that you can also have money?” That really hurt me. I am in this House because I want to protect, not only the image of myself, but the image of my children and my constituents of Butula. So, when the people of Butula learn that we are here for sale and for hire like gangs that really diminishes the integrity of my person and that of the people who elected me. Some of us here have stood very firm and we have always voted in accordance with what we think is right. If there is anybody in this House who has ever been compromised by the use of money – we should investigate the matter – let us know them so that we can clear this House so that it can have a clear reputation out there. Otherwise, we will be seen as thieves and murderers – call it anything – but it really hurts for some of us who have held

very clean track records all our lives, only to come to this House to destroy those track records that we have had for as long as we have lived. That is bad. Let us take it seriously.

Mr. Speaker: Member for Bahati.

The Assistant Minister for Housing (Bishop Wanjiru): Mr. Speaker, Sir, I am the Member for Starehe.

Mr. Speaker: Sorry about that.

The Assistant Minister for Housing (Bishop Wanjiru): Mr. Speaker I join my colleagues in saying that whoever took this matter to the media, claiming that Members of Parliament were bribed with as little as Kshs30,000, whoever it is, it is a real joke. This is an insult to all of us as men and women of integrity and as people, for example, I am a Bishop and when somebody talks about bribing, unless one brings an offering to the church, I would not even accept your money for whatsoever reason. When you bring it to the church, you put it to the offering basket. You do not give it to me in the hands. So, for someone to go out there and claim that they distributed Kshs30,000 to my colleagues is an insult to Members of Parliament and it is unacceptable.

However, having said that, the question is; how do we draw the line between whoever said it and the media? Could we be dealing with a rumour or are we dealing with the reality? That much, I do not know. If the hon. Member called a Press Conference and said that, that means that we have evidence. However, if we do not have evidence, we will just treat it as a rumour. The media has a way of repeating something every day. There is an incident where I was cleared of something that an hon. Member of Parliament had said and thereafter, he realized that he was wrong in what he had said about me. He had given the wrong information. So, he struggled with the same media to withdraw what he had said. I know him and this is somebody that I respect. He managed to clear himself and told them what he had said about Bishop Margaret and the truth of the matter. However, up to today, the media still goes back to say what he had said in the beginning and what he said to clear himself later and then form their own story. What happened yesterday is that we cleared Prof. Ndung'u and *Mheshimiwa* Kimunya. We cleared them. Do we still want to drag their names in the media with the same issues every day? If we do not have evidence of what this Member did, let us ignore the matter. They will talk about it for one day and it will be over. We will remain men and women of integrity and hon. Members of Parliament. However, this particular Member knows that what he did was wrong. If we have evidence, let us pursue the matter. We cleared hon. Kimunya and Prof. Ndung'u. Let the matter rest.

Thank you.

The Assistant Minister of State for Defence (Mr. Musila): Thank you, Mr. Speaker, Sir. I join my colleagues in discussing this serious matter. It has become fashionable in this House that whenever a Motion is lost, the proposer of that Motion or other people go out to allege that hon. Members of this House have been bribed. These are very sweeping statements and allegations which are not substantiated. As hon. Members have said, the dignity of hon. Members of this House and the Speaker has been eroded.

As the Member for Butula has said, some of us have built our reputations over many years. In my over 45 years in public service, I have never taken a shilling of bribe. But now when I am coming to the end of my career, all of sudden, I am being alleged to be taking bribes.

Mr. Speaker, Sir, I noticed this morning as I was entering a bank, people were whispering: "Look at him".

(Laughter)

Obviously, this is all because every member of the public now believes that Members of this House are corrupt. As you pass, they say: “*Jambo, mheshimiwa*” but after you have passed, they say: “*Angalia yeye*”. This cannot be allowed. Therefore, I do not agree with my friend, the Minister for Finance, that this be ignored.

Dr. Khalwale is a very experienced Member of this House and he cannot this time round be allowed to get away with this serious allegation. Therefore, I plead with you to cause investigations on this matter so that we put to a stop those hon. Members who have this habit of making sweeping allegations against their colleagues.

Mr. Speaker, Sir, it is very bad for members of the public to bash hon. Members of Parliament, but it is worse for our own colleagues to be making these allegations against us. Therefore, it is upon you to put this matter to a stop by ordering an appropriate investigation to this matter, and if there is no truth about what Dr. Khalwale alleged, then I believe appropriate action should be taken.

Thank you.

Mr. Ethuro: Thank you, Mr. Speaker, Sir. You have a responsibility to this House in terms of maintaining its dignity and decorum. That is why we have Standing Orders. The Chair has been implicated in this matter; that the Chair was changed for purposes of determining the outcome. I would like you to find it offensive that, one, those of us who sit in the Speaker’s Panel, it is you who allocates those duties and we never do it because it is convenient to us.

Two, when it comes to voting, there is electronic voting. What the hon. Member said suggests that the reforms we have put in this House and the Kshs1 billion we spent for this beautiful Chamber with an electronic voting system is influenced by the Chair when as we go to vote, everybody all over can see on the screen is what the “Noes” and “Ayes” are about.

Mr. Speaker, Sir, I would also like you to make in your ruling or the ruling of the Powers and Privileges Committee that it is time that Members of Parliament know that any matter before the Floor of the House must be deliberated and voted upon. The outcome can either be positive or negative and we must take the outcome as the House has resolved. We really have no other way by imputing improper motives on other hon. Members by deciding that because I had wanted it to go this way, it must be that way. I do not think that is acceptable and I think you must enforce that.

Finally, I want to speak to the issue that Bishop Wanjiru has said on the role of the media. We have the House Broadcasting Committee and the Kenya Parliamentary Journalists Association. We have always said that the media must have a responsibility to the kind of information they are giving out. They cannot continue propagating the same information even when it is determined that it may not be extremely truthful. You know the case of Rwanda. This is not only for the utterances here because we are also going into a general election. If the media keeps on harping the things that are not correct and which affect the integrity of certain Members of this House including, Mr. Kimunya and the Governor of Central Bank of Kenya (CBK), not only is the integrity of Members of this House is being compromised but also other hon. Members who are working for this country. I would also like you to look at that particular matter.

I would want to pose the question. Who bribes us when we work up to midnight? Who bribes us when we support Government Procedural Motions to extend the sitting time? Nobody

is interested in the fact that the House rose to the occasion and debated something including forfeiting their own time; including on Valentine's Day when we were here up to midnight!

I submit my case, Mr. Speaker, Sir.

Mr. Speaker: Mrs. Shebesh and those of you who will be picked now, you will live within a minute or so!

Mrs. Shebesh: Thank you, Mr. Speaker, Sir. As Mr. Mbadi has said, I think it is me who said that we have been called by the media. I have had to be very controlled in my response to the media because I had actually thought that I would also bring this issue to the Floor of the House.

As people are being accused of receiving bribes of Kshs30,000, Dr. Khalwale's accusation against me is Ksh2 million because I moved the amendment. Apparently, I also in the same way helped Mr. Dalmas Otieno and Prof. Anyang-Nyong'o. Then he goes on to give all the issues that I have ever supported on the Floor of this House and, therefore, said that I have always done them for money.

Since I am one of the people who have been mentioned by Dr. Khalwale, I really urge that this matter be totally investigated because as Bishop Wanjiru has said, once your name has been mentioned, it takes a very long time to get it out of the minds of people. It is only through some mechanism that allows us also to show the other side of Dr. Khalwale, that Kenyans will know that this House has people---

Mr. Speaker: Order! There you are treading on dangerous ground. Standing Order No. 79 which Maj.-Gen. Nkaisserry rightly cited states that if you want to discuss Dr. Khalwale now away from the claims in the Press, I am afraid you have to bring a substantive Motion!

Mrs. Shebesh: I stand guided, Mr. Speaker, Sir. I do not want to discuss him. I just want to discuss the Press Conference he held yesterday where he mentioned our names and the money we received. It is for this reason that I am saying that I will be very glad to be thoroughly investigated by the Powers and Privileges Committee upto the point where I moved the amendment yesterday. That will not only clear the names of the Members of Parliament, but will also bring dignity back to this House.

Thank you.

Mr. Speaker: Hon. Members, I still have ten requests but I will strictly take two. I will begin with hon. Mungatana!

Mr. Mungatana: Thank you, Mr. Speaker, Sir. I wanted to plead with my colleagues this afternoon. Dr. Khalwale and I have served together in this House for two terms; that is, for the last 10 years or so. He has been the Chairman of a very important Committee in this House. He has also been an active Member of this House. He has moved very good and important Bills including the last one of the Opinion Polls Bills. He has done many good things in this House.

I only stood up to say that yesterday's Press conference was obviously out of turn and is inexcusable. There are many things that did not go right there but to err is human. When one of us has made a mistake, let us find a way of assisting him to get to the right path. Let us not also join in the same way he did because two wrongs do not make a right. When Jesus Christ said that you turn the other cheek, he meant that if all of us keep revenging, we will all be blind.

This is the first time hon. Khalwale has done something like this. I plead with my colleagues that we do not take a very hard stance against him, because it is the first time he has done such a thing.

Thank you, Mr. Speaker, Sir.

Mr. Speaker: Yes, hon. Peter Munya.

The Assistant Minister for East African Community (Mr. Munya): Mr. Speaker, Sir, this is an extremely grave matter. I have a lot of respect for hon. Khalwale. I know that the majority of the Members of this House also respect him as a very able debater and honourable Member of this House. However, that does not give him a licence to make deliberate generalised accusations against the Members of this House; that hurt their reputation.

Mr. Speaker, Sir, politicians survive on their reputation. There is nothing more important to a Member of Parliament than his good name. So, when a Member of this august House decides to disparage our names generally, without a specific mention of whoever he thinks he has evidence on; is very grave and needs to be investigated. Indeed, there is no need for investigation because it is the person who makes the allegations who has a responsibility to prove them. He does not have any right to make allegations that he cannot prove.

So, the issue of forgiving someone who has not even asked for forgiveness, or who has not even said he is sorry, does not arise. It is very serious, especially being a general trend that we have seen with many Members of Parliament who want to make political capital out of destroying other people's names. It is a trend we have seen in this House by senior Members of Parliament. Whenever they want to look good in the eyes of the public, the easiest way of doing so is by accusing other Members of Parliament. This trend has demeaned this House for a long time.

Mr. Speaker, Sir, therefore, time has come for you, as the one who carries the dignity of this House, to take action. If possible, the matter should be referred to the Powers and Privileges Committee for thorough investigation. I am not saying that it is not possible for a Member of Parliament to take bribe, but let us get evidence on that particular Member of Parliament. Let us stop making generalised accusations against Members of Parliament. So, the Committee should be given timelines within which to investigate this matter and report back to the House, so that action can be taken.

Thank you, Mr. Speaker, Sir.

Mr. Speaker: We will rest the matter by hearing the Member for Kipipiri.

The Minister for Transport (Mr. Kimunya): Mr. Speaker, Sir, having listened to the contributions by hon. Members, I would have been persuaded to endorse the route of forgiving them for they know not what they are doing and forgive hon. Khalwale, but this is not the first time the hon. Member has made such allegations. The House will recall that when the PAC went to Mombasa to write its Report on this matter, as the Chairman, he called the media and said that a Member of Parliament had been sent to them with Kshs10 million but that Member had given them only Kshs1 million and retained the Kshs9 million and, therefore, the Committee could not proceed with its work until they were told what happened to the Kshs9 million.

Dr. Khalwale repeated the same allegation yesterday and, further, alleged that I made Kshs1.8 billion from this "deal"; and that I gave Kshs200 million to Members of Parliament and retained Kshs1.6 billion. So, everyone is asking me for part of the Kshs1.6 billion. Hon. Dalmas Otieno put it simplistically on the Floor of this House that you cannot make money from an academically computed loss. Therefore, I want to confirm to Kenyans that there was no loss incurred.

Mr. Speaker, Sir, as you preside over this matter, you owe this House the duty of calling upon the Auditor-General to re-confirm his Report, which was never tabled in this House, and which was never submitted to Treasury, so that Treasury could comment on it. It was submitted directly to the Chairman of the PAC. It was solicited by the Chairman of the PAC to support his

allegations. If Treasury had an opportunity to see the Report, we would have responded to it to show that there was no loss incurred.

Kenyans have been told that there was Kshs1.8 billion that was made by the “Siemens twins”, who are enjoined at the hip, in reference to Governor Ndung’u and hon. Amos Kimunya. He added that we have Kshs1.6 billion, and that we are still waiting to buy Members of Parliament to support us.

Mr. Speaker, Sir, if you recall, this matter came up first in 2008. It was used on the Floor of this House to tarnish my name. It was said that I had made money. This House was misled into taking a very dramatic decision against me, which led my stepping aside as Minister. Subsequently, the President established a Commission of inquiry to investigate me. Dr. Khalwale was called to give evidence before the Justice Cockar-led Commission, but he declined because he did not have any evidence to produce. That incident is still being used against me. I cannot even attend any official function at the Laico Regency Hotel because of the mark that was put on my face, alleging that I sold out a Kenyan hotel. A similar thing was done on Safaricom Limited. The shares of Safaricom Limited collapsed from Kshs7 per share to what they are trading at right now because the same Dr. Khalwale came to this House and said that people were conned into buying shares in an IPO, and that there was corruption in the IPO.

Mr. Speaker, Sir, an initial public offer is in the open market. Who would bribe who to buy shares? It is because of Dr. Khalwale’s allegation that the international investors who had put their money in Safaricom Limited, quickly, withdrew. Kenyans have seen the drastic effect the careless remarks that were made by Dr. Khalwale on the Floor of this House have had on the Kenyan shilling.

Therefore, it is not a one-time event. It is a series of allegations that have dangerous implications on this country. The reputation of the 222 Members of this House is at stake. Worse still, he used the privileges of the House, in terms of using the facilities of this House, to give the Press Conference. So, in your ruling, because I am wounded by this allegation, I would like you to confirm whether the Press statement that he issued within Parliament Buildings is covered under the privileges of the House, because I intend to take legal action against him for the defamatory statements that he made about me during the Press Conference.

Mr. Speaker, Sir, it is very unfortunate that this happened. It is important that we cleanse the name of the House and the Members of this House. I wish to thank hon. Members for the decision they took based on thorough debate and arguments that were prosecuted on the Floor of this House. If for anything else, let us not belittle the efforts that were made in this House. In the mean time, I would also want you to consider whether the continued stay of Dr. Bony Khalwale as the Chairperson of the PAC has not been compromised by the lack of integrity that he has demonstrated.

Mr. Speaker: Order, Member for Kipipiri! That now steps out of the parameters that I permit in this intervention.

The Minister for Transport (Mr. Kimunya): Mr. Speaker, Sir, I am sorry that I raised that issue. I just thought that you might want to look into it and guide the House Business Committee in terms of what they need to do.

Mr. Speaker: Member for Kipipiri, with respect to what you are saying, the law is clear. The Standing Orders tell you what to do.

The Minister for Transport (Mr. Kimunya): Mr. Speaker, Sir, I thank you for your guidance. I got carried away and forgot some of those provisions.

Mr. Speaker, Sir, that tells you how much we are suffering. It is not just me who is suffering. It is my entire family. My wife cannot drive out without people imagining that the car she is driving was bought using part of the Kshs1.6 billion that was alleged I retained from the deal. My daughter cannot go out and socialise with her friends without her friends imagining that she is spending part of the Kshs1.6 billion.

My constituents are asking: Can you not share out some of this Kshs1.6 billion that you are keeping after paying Kshs200 million to the Members of Parliament? So, it is a weighty issue and unless Dr. Khalwale comes on the Floor of this House, apologises to the House and then subjects himself to investigations, then we need to figure out what we need to do in terms of accepting him as one of us.

Thank you, Mr. Speaker, Sir.

Mr. Speaker: Thank you, hon. Members. I still have 10 requests pending. That just demonstrates to you the interest that there is in this matter. But I take it seriously as raised first by the hon. Member for Gwassi, followed by the hon. Member for Kaiti, who had, in fact, approached me earlier that he wanted to raise this matter. It was then contributed to by the hon. Member for Kamukunji, hon. Member for Wundanyi, hon. Member for Kajiado Central, the hon. Member for Ndia, the hon. Member for Dujis, the hon. Member for Rongo, the hon. Member for Butula, the hon. Member for Starehe, previously known as Bahati, the hon. Member for Mwingi South, the hon. Member for Turkana Central, the hon. Rachel Shebesh, Nominated Member of Parliament; the hon. Member for Garsen, the hon. Member for Tigania East and finally, the hon. Member for Kipipiri.

I quite obviously take this matter very seriously. I see it, indeed, as a very grave matter. I will not understand why the hon. Member for Ikolomani will stray from the normal path into an area as murky as this. I want, for the moment, to give him the benefit of the doubt, and believe that the report at the back of the *Daily Nation*--- I have not had an opportunity to watch television. I want to believe that what the *Daily Nation* carried is not necessarily accurate, because our Standing Orders tell us that what is in the Press is not treated as an accurate position on any matter. But if he said these matters in front of camera, then, obviously, that will be hard evidence and we will want then to take action as appropriate.

So, because it is not clear whether or not he said this in front of cameras. I will want, obviously, then to immediately refer this matter to the Powers and Privileges Committee; I expect that the Powers and Privileges Committee will investigate this matter and take stern action. Indeed, we have precedents, not too many but, scattered apart. They are precedents of what the House Powers and Privileges Committee has done against errant Members of Parliament. Among other things, it has included the exclusion from parliamentary business and the stoppage of some of their remuneration benefits. So, that is possible. It can apply to the hon. Member for Ikolomani if there is evidence that he is guilty of this breach. Further, he can also, in invoking the provisions of the Powers and Privileges Act, Cap.6, be charged in court, if there is adequate evidence. I think we will want him to go all the way. We will go the full hog. If he is innocent, that will be fine. If he has evidence, again, that will be fine. If there is no evidence, then the hon. Member of Parliament for Ikolomani will actually have to take and live with the consequences.

With respect to whether or not the place at which he may have issued the Press Conference is covered by privilege, hon. Member for Kipipiri, there are precedents also on this. Members of Parliament have been sued for Press releases that they make away from the

Chamber. Maybe you want to study those cases. I am aware of, at least, two cases. You can study those cases and see what remedy is available to you.

With regard to members of the Speaker's Panel, the hon. Member for Turkana Central is right that members of the Speaker's Panel are six in total, beginning with I, elected by the whole House, and also the Deputy Speaker, also elected by the whole House. Then we have four Members who sit on the panel appointed on the basis of their gravitas. We have appointed these hon. Members because they merit that position. So, the six Members of the Speaker's Panel are taken to be competent and fully qualified to handle the business of the House, which entails presiding over parliamentary business, including debate in the plenary. We have confidence in them. So, really, as far as I am concerned as your Speaker, any Member of the panel can preside over the business of the House. So, there is no such thing as like that Prof. Phillip Kaloki may not have been the right person, or that he was partisan. I think that does not arise, and it is just unfortunate. At any rate, even if you were to take the curriculum vitae of Prof. Phillip Kaloki and put it besides that of Dr. Bonny Khalwale, I think the jury will be out to determine who is stronger.

(Laughter)

The jury will tell you who is stronger, even if hon. Members were to take a vote. I think it is unfair to cast aspersions on Prof. Phillip Kaloki to the effect that, perhaps, he was deliberately chosen, which is not true. As I have said, any Member of the Panel would have presided over that debate. So, we will leave the matter there. For the moment, if those allegations are true, as reported in the Press, they are unfortunate and I condemn the allegations as made by hon. Khalwale in the strongest terms; but we leave the final inquiry, decision and censure or sanctions to the Powers and Privileges Committee.

I thank you, hon. Members.

(Applause)

Mr. Speaker: Let us move to the next order.

BILL

Second Reading

THE SUGAR (AMENDMENT) BILL

(The Minister for Agriculture on 4.9.2012)

(Resumption of Debate interrupted on 4.9.2012)

Mr. Speaker: Minister, you had the Floor and you still have 56 minutes.

The Minister for Agriculture (Dr. Kosgey): Thank you, Mr. Speaker, Sir. As I was saying, we have brought this Bill because we want to change the style under which the sugar sector is managed in this country. One of the reasons that have brought this to our attention is that the sector has been mismanaged greatly in the past. The second reason for the dismal performance of this sector is that the regulatory regime has not been adequate to ensure fair play

by all stakeholders in the value chain and provide a competitive and progressive environment for business. The proposed amendments seek to remove the constraints by facilitating privatization of Government-owned sugar factories to ensure better management and creation of a more defined regime to regulate the industry.

Mr. Speaker, Sir, the sugar sector is governed by the Sugar Act No.10 of 2008. The Act establishes the Kenya Sugar Board (KSB) that regulates the industry and manages the Sugar Development Fund for research and development. The proposed amendments will fine tune the Sugar Act 2008 to tighten the regulatory regime as follows. One is to improve the Kenya Sugar Board surveillance powers to cover sugar imports by providing for appointment of sugar inspectors, who can inspect sugar imports. Two is to introduce more stringent eligibility criteria for stakeholders' representatives by providing for minimum qualifications for members of the board.

Thirdly, we also seek to reduce the size of the board by providing for only one representative of the Ministry of Agriculture instead of the two as the case is currently.

Fourth, is to ensure good governance in the industry, and in particular in the administration of the Sugar Development Fund by separating the administration of the Fund from the regulator; Kenya Sugar Board.

Fifth, we also seek to improve the management of the Sugar Development Fund by introducing a board of trustees and rationalizing the penalties for non-remittance of levies.

Sixth, we seek to remove inconsistencies in the Act by providing the guidelines on privatization. That is in Article 18.

Seventh, we seek to provide the enforcement of Sugar Tribunal decisions and appeals. We seek to strengthen this in particular because, currently, there are a lots of sugar cane wars. One of the reasons is that the tribunal is not strong enough to enforce its decisions. That is what we seek to do now.

Mr. Speaker, Sir, it is essential for us to pass this new Bill to strengthen the sector because Kenya is behind the Common Market for Eastern and Southern African Countries (COEMSA) in its development. We have had to seek the understanding of the COMESA partners for us not to move into the sector as we are required by the COMESA agreement. We have been given two more years and one has already elapsed. It will be remembered that we should have dealt with this matter a little earlier, but we did not have a Privatization Commission. There were some problems between a Parliamentary Committee and Treasury. I think that has now come to pass and we are ready to move forward to try and make this sector more responsive to the needs of farmers and Kenyans. There is absolutely no reason why Kenya should not be a major sugar exporter. As far as I know, we still have a quota within the European Union (EU) to export sugar, but *alas*, as a country, we are not even able to provide for ourselves. So, this is a beginning for us to try and get the sector moving by putting in place the enabling legislation to allow the sector to operate independently.

Mr. Speaker, Sir, I request and urge my colleagues, hon. Members, to support the Sugar (Amendment) Bill, 2011.

May I now request my able assistant, Mr. Ndambuki, to second.

I beg to move.

The Assistant Minister for Agriculture (Mr. Ndambuki): Mr. Speaker, Sir, allow me to second the Sugar (Amendment) Bill, 2011. Sugar cane is one of the most important cash crops in Kenya. It supports over 200,000 small-scale farmers, and an estimated six million Kenyans derive their livelihood directly and indirectly from the sugar industry. Despite massive

investment by the Government over the years, self-sufficiency in sugar production in this country has remained elusive as consumption continues to outstrip supply.

[Mr. Speaker left the Chair]

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

Mr. Temporary Deputy Speaker, Sir, in the year 2011, consumption of sugar was 783,000 metric tonnes against production of 487,000 metric tonnes. This Bill is going to do away with some inconsistencies in the current law. If you recall, many hon. Members from the sugar cane growing areas have been coming up with many Questions, especially on farm gate weighing and whether we should consider payment of cane against sucrose. This Bill is going to do away with those inconsistencies. In order to ensure that the sugar industry becomes competitive and survives beyond the safeguard period and responds to global demands, necessary strategic interventions that include formulation of sugar industry policy and review of the legal framework governing the sector needs to be undertaken.

The Government has really been looking for a way of initiating reforms in the industry. These reforms are supposed to make this industry competitive, especially by attracting investment to the sugar industry, strengthening corporate governance and lowering production costs. Our sugar is very expensive compared to the sugar from our neighbours. This is purely because of our costs. Most of the machines which are being used by the millers are old; so, they take a lot of energy and time to produce economic quantities of sugar.

The other thing is to empower growers. We have been having a lot of problems with stealing of cane. This law will ensure that farmers sign contracts with millers, so that you will not be able to deliver cane to any other miller if you have signed a contract with one. This Act will also make sure that contracts are registered with the Kenya Sugar Board, so that they can be enforced. Before, anybody could sign any agreement with any miller and did not honour it. Now the law will make sure that you deliver your cane to the miller you have signed a contract with.

This Bill is going to make sure that if an investor wants to invest, he should show the cane that he is going to crush immediately he opens his factory. This is a very good Bill. It is going to bring a lot of surveillance to the industry to make sure that all the sugar which comes through our boundaries is monitored. It is also going to modernize the sugar industry. This Bill is also going to take care of privatization. We have been waiting for the Privatization Commission to be put in place, so that it can bring a report here and we look at it. There are so many people who are saying that for privatization to go on, the farmer should own 51 per cent and the investor 49 per cent shares. A report has to be brought into this House to make sure that the matter is harmonized.

Mr. Temporary Deputy Speaker, Sir, since this Bill has undergone broad stakeholders' consultations, it is comprehensive and addresses the industry concerns more inclusively. Therefore, I urge the House to support the Bill because it will trigger the privatization process in the industry. The Government, through the Privatization Commission, has taken the lead in implementing comprehensive financial restructuring programme to prepare the industry before privatization. I know that the Privatization Commission has done its work and its report is with the Committee on Agriculture, Livestock and Co-operatives. This Bill will address the

inconsistencies in the subsector. The Minister has already talked about the inconsistencies which have been causing problems, especially to the farmers.

The Bill will also strengthen the body to collect levy and enforce compliance. At the moment, it is as if the board has no powers but this Bill will now give the board powers to collect levy and also take action against those millers who will not pay those levies in time.

With those few remarks, I beg to second.

(Question proposed)

Mr. Mungatana: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to make my small contribution to this Bill.

Mr. Temporary Deputy Speaker, Sir, I want to start by saying that if the Government will require this amendment to improve this sector, then I fully support The Sugar (Amendment) Bill of 2011. I would like to somewhat quote the hon. Assistant Minister. When he was seconding the Bill, he said that there is a shortage in terms of the production capacity in this country to satisfy local consumption. He gave an example of 2011 where the amount of sugar that was consumed within the country was something like 700,000 metric tonnes against a production of about 400,000 metric tonnes. This is where I want to mainly base my contribution. Why has the Government ignored or failed to see certain areas which have the potential to produce sugar not only for local consumption, but even for export; like the Tana River County? Why has the Government ignored or refused to see those areas and yet, we know that the climate is favourable and the capacity and land exist? Land is very available down in the Tana River County. Could it be because that is just Coast and it can be ignored and marginalized as usual? Why is it that we have just been left out? If you look at the thrust of this Bill and even the arguments which are being placed here, they are not looking forward. They are talking about satisfying the 200,000 farmers or so who are currently in existence as small-scale holder farmers. They are not looking at what those, in the mind of Government, “non-productive” marginalized areas can do. Why is it that the Government, for over 40 years since Independence, has chosen not to utilize these areas? Even the entire Sugar Act itself is not geared towards opening up new areas with potential, where sugar can be produced cheaply using economies of scale. Why is it that every Minister who has been appointed to this Ministry has failed to see this potential and take an active part to encourage investment in the Coast region? If you look at countries like Cuba which have great capacities to produce sugar cane, you will see that most of climatic conditions suit the Coast Province, and in particular the Tana Delta, yet the Government has not made any serious move. The Government is coming here today to tell us that we have a shortage of about 300,000 metric tonnes every year and, therefore, spending so much in terms of foreign currency that could have been otherwise utilized in a more productive manner, just to increase the import bill that the Government has.

Mr. Temporary Deputy Speaker, Sir, I take this opportunity to ask the Minister that as she strengthens this regulatory regime that she wants us to pass in this Bill, this Ministry must start looking outside the box. I agree with these amendments. The sugar levy must have its own trustees to run separate from the regulatory framework, but even as it comes, and even the Vote from the Government, why can you not start doing things down at the Tana Delta? Tana River County has capacity to produce good quality and cheap sugar that can help us even compete effectively. We would not have to be going back to COMESA if the Ministry, from the very beginning, had put effort. Tests have been done and other things have happened. The kind of

crop that could grow very well in the Tana Delta has been identified, but the Ministry has just left it to private players, who are just interested in profiteering. They are not interested in helping this country save, for example, on the foreign currency that we keep using for importing sugar.

Mr. Temporary Deputy Speaker, Sir, I suggest strongly to the Ministry, as we pass this Amendment Bill, to start looking at those new and potential areas. It is the only way that this country will go forward. This country will not develop the sugar sector through importation or increased importation of sugar. We also know that there is a lot of corruption in that whole sector when it comes to the whole joke about importation and those people who are involved. In previous Governments, the sugar barons were very powerful people and we know what they used to do. This would have been cut off if this Ministry could have gone out of its way to invest in new areas. The research that has been done in Tana River County, for example, shows that we are capable of producing two crops in one season or a year, when in the Western area, where sugar is grown extensively, they are only doing one crop in one year. When the coastal people say that they are being marginalized economically, these are the things. We have the climate and land, but we are just being left out. Nothing is being done. The other day I was talking about the Coconut Bill here and we raised the same things. Sugar is given prominence and there is a Sugar Act. Coffee is given prominence and there is a Coffee Act. The same applies to tea and pyrethrum. But then coconut is forgotten because it is Coast again and it must be marginalized. Coast is just like North Eastern. I am asking the Ministry to think about those new areas. There is no other area, except the Coast, that can be opened up and production be made cheap and hence, help this country meet its own requirement for sugar and even export the surplus.

Mr. Temporary Deputy Speaker, Sir, it is not only the Tana River County but even Kwale County. The President and Ministers have gone to the Kwale International Sugar Company (KISC) and every time, we are being told that it is going to start but, again, the same story goes; this and the other delays. We are asking the Ministry to make deliberate effort to open up potential areas at the six counties in the Coast. In the Coast, the Government has a lot of land which is governed by the Government Lands Act. This means that there are acres and acres of land which the Government, with the understanding of locals, can go into partnership for production of sugar, so that we can meet even the local consumption. I, therefore, support this Bill, but urge the Minister to look into new horizon. Do not just think of western Kenya and Nyanza every time you talk about sugar. Let us think of the Coast because these are the new frontiers that will increase sugar production. For example, when we talk of new frontiers in the Information Communication Technology (ICT) business, people are thinking differently and not at the traditional areas.

Mr. Temporary Deputy Speaker, Sir, when implementing the proposed amendments, the Minister should think about the new frontiers. For some of us, we welcome the Government to invest heavily in some of our counties to end the economic marginalization that has been around for a long time. We want to increase the capacity to produce this crop in our area.

I beg to support, but with that emphasis that the Ministry should think of the new frontiers, in particular sugar production in the Tana River County.

The Temporary Deputy Speaker (Mr. Ethuro): Mr. Washiali, you need to indicate whether you are holding brief for the Committee or you are just speaking for yourself.

Mr. Washiali: Mr. Temporary Deputy Speaker, Sir, I want to support the Minister for introducing this Bill. I am a Member of the Departmental Committee on Agriculture, Livestock and Co-operatives which had a similar amendment Bill. I thought at one point we will have this two Bills harmonized, so that our amendments would also have been co-opted in this proposed

Bill. It is unfortunate that from the time it was published, it has taken a whole ten months to be brought to the Floor. Nevertheless, this is something that we need to appreciate.

Mr. Temporary Deputy Speaker, Sir, we had suggested to the Minister that with the Ministries that are related, they should bring one Bill that will include all the agricultural activities. Nevertheless, from the outset, I want to start by saying that three quarters of the people I represent in this Parliament are sugar cane farmers. As you may know, this trade is the only other one that has barons. We have barons in drug trafficking. We also have barons in the oil sector, but in the agricultural sector, especially on sugar cane farming, it is one area that we also have barons. From the definition of a baron, it is one person who would want to control everything for his own interest. He would want to control the industry or whatever kind of trade he is engaged in, so that it benefits him.

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

*[The Temporary Deputy Speaker
(Dr. Laboso) took the Chair]*

Madam Temporary Deputy Speaker, when the Assistant Minister was seconding this Bill, he talked of a Privatization Commission which has to do some work that would give this industry to farmers, but I do not think he had gone through this Bill. This is because what is coming out clearly, quickly looking at this Bill, on page 1728 under Clause 18, is that the Bill has carefully removed Clause 30. In the original Bill, it is Clause 30 that was meant to give farmers a 51 per cent majority shareholding. But according to the Bill as currently drafted, it has clearly removed Clause 30 which had given farmers 51 per cent shareholding and given them more authority than other investors in the management of sugar factories.

I would like in the Committee of the Whole House to propose amendments so that we can, again, take back the sugar factories to farmers because what was missing in this clause was the representation of farmers on the board of these sugar factories. For example, when Mumias Sugar Company was being privatized, farmers were just given a few shares. Those shares were not even managed by a number of the board members who were supposed to have been on the board to manage the percentage of those shares on behalf of farmers. So, I would like to propose amendments because this is where we will see the hand of barons coming in. The biggest problem we have had in this sector, especially for Mumias Sugar Company, is the way the board members have managed this privatization exercise.

Madam Temporary Deputy Speaker, you will realize that we have had the issue of sugar cane pricing. This is an exercise that had been left to the management of the factory alone. From the way the top management of the factories is constituted; farmers will not receive a fair hearing. This is an area that we will need to amend, so that the 51 per cent of the ownership of the factory must be taken back to the farmers, so that they have a say in whatever happens in the running of the factory. If we left it the way it is now, this is a sure way of killing the sugar industry. It is a sure way of killing the sugar industry because the privatization aspect is only on the milling part of this industry, but the production of raw material is left to farmers. So, if we would not allow farmers to play a leading role in the management of the factory, we will surely lose this industry because whatever is happening today is that there are a lot of dictatorial tendencies from the management of the factory in terms of many aspects like sugar pricing.

Today, you will find a factory like Mumias Sugar Company, the most modern factory, which extracts a tonne of sugar in only nine tonnes or ten tonnes of sugar cane, charging Kshs150 less in comparison with other factories like West Kenya and others that have a less extraction ability. So, you will see a lot of dictatorial tendencies from the management and the boards of these factories, if they are left to make their own decisions.

Madam Temporary Deputy Speaker, another area that I would also like the Minister to look at is the way they dictate to farmers on who transports cane. You will find that the management of the Mumias Sugar Company, for example, is the one that appoints the transporters. The farmer has no say in who should transport his cane. When there is a problem on the way as the cane is being transported, then it is the farmer who pays for the problem. I would still want to insist that Clause 30 be re-introduced in the Bill, so that the farmer would have a say, for example, in the issue of appointments. Today, we have eight top managers of the Mumias Sugar Company and none of them is a son or a daughter of a sugar cane farmer. All of them come from outside the region. I am not saying that all of them must be locals, but we have never got any explanation why the sons and daughters of sugar cane farmers cannot manage the sugar factories. For example, the Head of Marketing and Sales Department comes from the same place with the Head of Computers. Again, they have appointed a finance director. This is a case of the Investment Secretary using Government shareholding. She has been dictating to the board as to who should hold a senior position in the factory. This is an area that I would want us to look at critically. It is important that we re-introduce this Clause 30 because it is the only clause that will guarantee farmers a right to the affairs of the sugar factory.

Madam Temporary Deputy Speaker, talking about the cane pricing Committee, the Minister was very careful because on one hand, she has removed the Kenya Sugarcane Growers Association (KSGA). The Kenya Sugarcane Growers Association is the body that was representing farmers on the Committee that was determining the formula of sugar cane prices. According to this amendment, the Kenya Sugarcane Growers Association has been removed under Clause 2(b). In Clause 22(c), she has put growers and millers to be part of the cane pricing committee. If the Kenya Sugarcane Growers Association has been removed, how does she want to deal with the growers? We are talking of hundreds of thousands of growers. How does she intend to include them if they do not have a particular body that will address the issue of pricing? There is the aspect of removing the Kenya Sugar Manufacturers Association. That is okay. I have no problem with that. I agree with putting the Sugar Development Fund under the Board of Trustee. Many times, this money has been misused, especially when it comes to money that goes to the sugar cane growing zones to improve on the road network.

Generally, I appreciate the fact that, eventually, this Bill has come to the Floor of the House, but I am afraid that the way this Sugar (Amendment) Bill has been drafted, if it went through the way it is, then the sugar cane farmers in this country stand to lose immensely because they have completely been cut out of what is happening in the sugar sector. I beg to end there, but during the Committee Stage, I intend to introduce some amendments that will take care of the sugar cane farmers.

The Minister for Finance (Mr. Githae): Madam Temporary Deputy Speaker, Sir, I rise to support the amendments proposed by the Minister. I wish to commend her and her staff for these amendments. They are long overdue. I am saying this because our sugar continues to be very expensive. It is shocking that sugar can come all the way from Brazil and it is cheaper when it lands at the Port of Mombasa. The main reason is inefficiency of our factories. Every year, we go to COMESA to ask for extension, so as to limit the number of tonnes of sugar that can be

imported into this country from COMESA. Now we have been given the last extension and we have been told that we should not even think of applying for an extension. This behooves that then, our factories must be made more efficient, so that they can crush cane and produce sugar at a price that is reasonable and cheap and that can be afforded by Kenyans. I commend the Minister to the extent that these amendments will go a long way in this.

The other issue is on privatization. Again, I am happy to report to this House that I have unlocked the deadlock that was there on the Privatization Commission and the names of the proposed members of the Commission are with the relevant Departmental Committee. It is my request that if the Committee could handle and finalize this issue, so that then I can gazette the members of the Privatization Commission, then we can start to privatize the factories and companies that are dealing with sugar, so that they can be more efficient and produce sugar at a much lower cost.

Again, the other issue with our local production of sugar is the number of disputes that have been there; one factory against the other, farmers against each other and our growers against each other. Really, it has been a plethora of court cases. The main problem has been the Tribunal. It has been weak, but I can see the Minister has suggested some amendments to strengthen it, so that it can then sort out some of these issues. They do not have to go to court.

Mr. Washiali: On a point of information, Madam Temporary Deputy Speaker.

The Temporary Deputy Speaker (Dr. Laboso): Does the Minister wish to be informed?

The Minister for Finance (Mr. Githae): Yes, Madam Temporary Deputy Speaker. I have no monopoly of knowledge and he is an expert in the sugar sector.

Mr. Washiali: Madam Temporary Deputy Speaker, I want to inform the Minister that the current dispute that we have in the sugar sector, especially in Western Kenya, arises from the sugar cane poaching. One factory is poaching cane because it is offering a high price than the other. I would request the Minister to take this opportunity to discuss the issue with the manufacturers, so that they can give fair prices. Farmers in Mumias, especially in Nambale where we have had problems, we have never understood why West Kenya has had an advantage over Mumias yet Mumias has five streams of getting income on the same cane. They have sugar, ethanol, coal generation, water and molasses. So, the dispute that we have in the sugar sector can be managed. It is nothing out of this world. It can be managed if everything is done in the right manner.

The Minister for Agriculture (Dr. Kosgey): On a point of information, Madam Temporary Deputy Speaker. The current wars are not as simple as that and that is why we want to strengthen the Tribunal. The Tribunal has ruled on a lot of these issues, but they have not been able to effect because of their weakness. That is why we want it in this legislation.

The Minister for Finance (Mr. Githae): Thank you for those two important pieces of information. As I said, there is no monopoly of knowledge.

Madam Temporary Deputy Speaker, this Tribunal is weak. It has to be given teeth now in order for it to implement its own decisions because that has been the problem. It makes decisions, but they are not implemented.

Concerning the poaching of sugar cane, our philosophy is *soko huru* meaning that we do our business in a liberalized economy. Let the sugar factories be allowed to compete on prices. If this sugar factory is giving you a better price, take your sugar cane there. You need to liberalize. That is the only way. If you do that, then all those wars will end. Some of those sugar companies have their own militia guarding sugar cane farms as if gold is being harvested there. This

Tribunal ought to be given teeth to be able to implement its decision. At the moment, they make decisions, but they are not implemented and, therefore, the wars still continue.

Madam Temporary Deputy Speaker, the other issue is on bad sugar cane. I am glad it has been addressed. Again, the current policy was that if sugar cane is bad, it should be given the first priority. So, what do farmers do? If your cane matures and the factory says that it is not ready to accept it, they burn the sugar cane. After it is burned, the factory will be forced to accept the sugar cane. I am glad that one of the amendments gives the factories the option to accept or decline the burnt sugar cane as opposed to the current situation where they are forced. By forcing factories to buy burnt sugar cane, that encourages farmers to burn their sugar cane.

We need to say it clearly that Kenya is one unitary country. You are allowed to do business anywhere in this part of the country; you are allowed to farm in any part of the country. A number of companies tried to put up sugar farms in Tana River, but because of local politics, this was not possible. I am glad that now these amendments are allowing you to farm sugar cane in any part of the country. I would like to request sugar companies to come to Kirinyaga County. We have land there that can be used for growing of sugar cane in addition to rice.

Lastly, there has been a lot of investment in Coast Province or *Pwani* as they call it and it is a misnomer to say that the Government has marginalized the people of Coast Province. On the contrary, it has not. Two months ago, I signed a financing agreement of more than Kshs30 billion and this whole amount is going to Dongo Kundu area. We want to open that area towards Kwale. This will be the highest investment. It is even higher than the investment in Thika Superhighway which cost Kshs28 billion. Surely, a Government investing Kshs30 billion in Dongo Kundu area, you call that marginalization?

I think the Government needs to be commended. We have encouraged Kwale Sugar Factory to put up their factory in the area which will employ more than 10,000 people and give farmers there an opportunity to grow sugar cane. Surely, this cannot be marginalization. So, we need to stop this generalization of medicine. Pwani has not been marginalized. This Government is intending to spend more than Kshs3trillion on the Lamu Port and Lamu-Southern Sudan-Ethiopia Transport Corridor (LAPSSET) project; that is, the Lamu Port and the road from Lamu all the way to Addis Ababa to Juba and a pipeline from Juba all the way to South Sudan. Surely, Kshs3 trillion is not marginalization. So, I wonder where this idea of marginalization comes from.

Lastly, I would like to commend the Minister for these wonderful amendments. I support.

Mr. Njuguna: Thank you, Madam Temporary Deputy Speaker. I will be very brief on my observations. Let me start by thanking the Minister for this crucial Bill. It is historic in the sense that it will now start to revitalize the dormant sector. This sector will now be given impetus to be vibrant and reliable. It will create a good number of jobs for the youth in this country. The Government ought to pay the same attention to other agricultural centres in this country. We have allowed the pyrethrum sector to die, a sector that was beneficial to my people in Lari and even in some parts of Rift Valley. The tea sector is also affected because tea hawking is rampant in this area. If adequate attention is not given, it will also die.

Lari Constituency is a *sukuma wiki* and cabbage growing area and the same attention we are giving to the sugar sector should also be directed to this area. It is sad that up to now, this country continues to import sugar from Argentina, Sudan, Egypt and other countries. This is denying the local sector job opportunities and even a chance to improve our economy. We have also allowed unaccustomed or illegal importation of sugar. This has continued to allow poverty to creep into this country. Therefore, this Bill calls for real revitalization of the sector by

allowing the sugar cane farmers, the growers and even institutions investing in this sector to get more resources. If they get more resources, the sector will expand and satisfy the local sugar consumption.

We have a potential local market for this commodity. The formation of the Sugar Board is very important because the new Board will be expected to give real services and motivation to farmers. We have seen boards crippling services by misappropriating or embezzling resources meant for the sugar cane growers. Therefore, it will be important for the new Board to be accountable and transparent. Once credit is released to the Board, these resources must be given to the farmers.

On Clause 12, where the Minister has been given the sole responsibility of appointing five members, I think it will be prudent if one-third of these appointees were women to give credit to gender balance.

On the appointment of the Managing Trustee, this responsibility must be carried out well so that the Minister does not appoint a relative, and ethnicity or tribalism will not be exhibited in the whole process. National diversity should be encouraged and all Kenyans must be allowed to participate in the whole process.

Madam Temporary Deputy Speaker, on the privatization process, which is on Article 18, this is a very welcome development. Time and again in this country, we have seen parastatals or companies that are privatized while on a very shaky ground. These sugar companies must be privatised when they are viable and solid so as to attract investor confidence.

It is, therefore, important that the disputes we have seen between sugar companies which are competing for sugar cane and where structures are almost burnt are settled immediately by the newly-created Tribunal. Therefore, it will be important that this sector is given the necessary support by the Government so that it will not die the way we have killed other parastatals or companies.

With those few remarks, I support this Bill.

The Minister of State for Development of Northern Kenya and other Arid Lands (Mr. I.E. Mohamed): Thank you, Madam Temporary Deputy Speaker. I also want to thank the Minister for bringing this Bill. I just want to say that the earlier our Kenyan sugar cane farmers know that we must be competitive as a country, the better because we cannot afford not to be competitive in sugar production.

The number of farmers that eke out their livelihoods from sugar cane as compared to the majority that use sugar is high. The whole of northern Kenya are net consumers of sugar and we cannot afford expensive sugar. Therefore, the prices must be in tandem with international prices. This will only happen if we do proper privatization so that we do not become over-protective. This is a business; people invest in it and eke a living from it. I would like to support that.

Finally, I would like to comment on the wars. We have a new Constitution. We need an Inspector-General. Anybody taking the law into his or her hands should be dealt with stringently.

Madam Temporary Deputy Speaker, because we want to end the debate on the Bill today, I endorse and support it.

Mr. Namwamba: Thank you, Madam Temporary Deputy Speaker. First of all, I would like to commend the effort to bring this Amendment Bill. In a sector which really forms part of the backbone of the economy of this country and a sector which nonetheless has remained an archiles heel in the agricultural sector--- If there is one sub-sector that really remains a national shame in the sense that all the farmers – there are hundreds or thousands of sugar cane farmers in this country - who toil and moil for hours on end in different parts of this country, talk of the

Coast region, Nyanza or western Kenya and yet at the end of the day, they also continue to be classified among the most poor and indigent Kenyans in this country--- It is also a known fact that one of the sub-sectors that generate the highest volumes of revenue; one of the most lucrative business areas in this country is trade in sugar. Therefore, it leaves one wondering how a lucrative sector such as this would at the same time leave those who produce the primary product, live at the very base of the food chain in terms of income and their existence.

Therefore, I really want to commend the Government for initiating the efforts to reboot, re-energize and reload this sector in a manner that will ultimately place the farmer in the rightful place in terms of benefitting from his toil and sweat.

It is, indeed, unacceptable that a country such as ours continues to import high volumes of sugar from all over the world. Indeed it is---

The Temporary Deputy Speaker (Dr. Laboso): Mr. Namwamba, you will have to stop there. You will have a balance of 17 minutes when the House resumes.

ADJOURNMENT

The Temporary Deputy Speaker (Dr. Laboso): Hon. Members, it is now time for interruption of business. The House, therefore, stands adjourned until Tuesday, 11th September, 2012, at 2.30 p.m.

The House rose at 6.30 p.m.