

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 19th September, 2012

The House met at 2.30 p.m.

[Mr. Deputy Speaker in the Chair]

PRAYERS

COMMUNICATION FROM THE CHAIR

SPEAKER'S KAMUKUNJI

Mr. Deputy Speaker: Order, hon. Members! The Chair wishes to announce that there is going to be a *kamukunji* tomorrow at the Old Chamber at 11.00 O'clock in the morning. The idea is to deliberate on issues that have a lot to do with the implementation of the Constitution itself both pre- and post-election, the gender rule and other matters that need to be put to rest before we go to elections.

Thank you.

Next order!

PAPERS LAID

The following Papers were laid on the Table:-

Annual Report and Financial Statements of Kenya Institute of Administration for the year ended on 30th June, 2011 and the certificate thereon by the Auditor-General.

*(By the Assistant Minister for Medical Services
(Mr. Kambi) on behalf of the
Minister of State for Public Service)*

Annual Report and Financial Statements for Kenya Re for the year ended 30th June, 2001 and the certificate thereon by the Auditor-General.

*(By the Assistant Minister for Medical Services
(Mr. Kambi) on behalf of the Minister for Finance)*

Financial Statements of the Kenya Literature Bureau for the year ended 30th June, 2011 and the certificate thereon by the Auditor-General.

Financial Statements of the Teachers Service Commission for the year ended 30th June, 2011 and the certificate thereon by the Auditor-General.

*(By the Assistant Minister for Medical Services
(Mr. Kambi) on behalf of the Minister for Education)*

Annual Report and Financial Statements of the National Communications Secretariat for the year ended 30th June, 2011 and the certificate thereon by the Auditor-General.

Annual Accounts of the Kenya Broadcasting Corporation for the period ended 30th June, 2009 and the certificate thereon by the Auditor-General.

*(By the Assistant Minister for Medical Services
(Mr. Kambi) on behalf of the Minister for Information
and Communications)*

Annual Report and the Financial Statements of the Energy Regulatory Commission for the year ended 30th June, 2010 and the certificate thereon by the Auditor-General.

Financial Statements of the Kenya Power and Lighting Company Ltd. Rural Electrification Scheme for the year ended 30th June, 2010/2011 and the certificate thereon by the Auditor-General.

*(By the Assistant Minister for Medical Services
(Mr. Kambi) on behalf of the Minister for Energy)*

Financial Statements of the National Housing Corporation for the year ended 30th June, 2011 and the certificate thereon by the Auditor-General.

*(By the Assistant Minister for Medical Services
(Mr. Kambi) on behalf of the Minister for Housing)*

Financial Statements of the Town Council of Sagana-Kagio for the year ended 30th June, 2010 and the certificate thereon by the Auditor-General.

Financial Statements of the County Council of Marsabit for the year ended 30th June, 2010 and the certificate thereon by the Auditor-General.

Financial Statements of the Town Council of Kajiado for the year ended 30th June, 2009 and the certificate thereon by the Auditor-General.

Financial Statements of the Municipal Council of Ruiru for the year ended 30th June, 2009 and the certificate thereon by the Auditor-General.

*(By the Assistant Minister for Medical Services (Mr. Kambi) on
behalf of the Minister for Local Government)*

Report of the joint-Committee of the Budget Committee and the Departmental Committee on Finance, Planning and Trade on inaccuracies, inconsistencies in Treasury Tax and Revenue Accounts for 2007/2008 (volumes 1 and 2).

(By Mr. Sambu)

Mr. Deputy Speaker: Next order.

NOTICE OF MOTION

ADOPTION OF THE REPORT ON INACCURACIES/INCONSISTENCIES IN TREASURY TAX AND REVENUE ACCOUNTS FOR 2007/2008

Mr. Sambu: Mr. Deputy Speaker, Sir, I beg to give Notice of the following Motion:-

THAT, this House adopts the Report of the Joint-Committee of the Budget Committee and the Departmental Committee on Finance, Planning and Trade on inaccuracies/inconsistencies in Treasury Tax and Revenue Accounts for 2007/2008 (Volumes 1 and 2) laid on the Table of the House on Wednesday, 19th September, 2012

Mr. Deputy Speaker: Next order!

QUESTIONS BY PRIVATE NOTICE

ILLEGAL ALLOCATION OF MUTHURWA SOCIAL HALL TO PRIVATE DEVELOPER

Mr. Hassan: Mr. Deputy Speaker, Sir, I beg to ask the Minister for Local Government the following Question by Private Notice.

(a) Is the Minister aware that Muthurwa Social Hall, also known as the Muthurwa Community Centre, has been irregularly allocated to private developer (s) by the Nairobi City Council?

(b) What action will the Minister take to ensure that this historic public building reverts to the public?

Mr. Deputy Speaker: The Minister for Local Government is not here? We will come back to this Question.

Next Question by Mr. Olago!

RECRUITMENT OF APS WITHOUT FOLLOWING LAID DOWN CRITERIA

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

(a) Under what circumstances were Administration Police constables recruited and enrolled at the Administration Police Training College (APTC) without basic academic qualifications certificates and without being given service numbers that resulted in 600 of them being given three days off on 28th May 2012 to present the documents to enable them proceed with training?

(b) How many of these officers have so far returned to the college with genuine documents, and could the Minister provide a list of the 600 officers who were affected?

(c) Why were the officers exempted from normal courses offered at the college and instead only taught "Field Craft" (Science of War)?

Mr. Deputy Speaker: This is to the Minister of State for Provincial Administration and Internal Security. I have communication from the Minister that he is not in a position to answer

this Question today. I think he has travelled. He has requested that this Question be listed on the Order Paper next week. I presume Tuesday next week will be fair with you.

Mr. Olago: Yes, it is.

Mr. Deputy Speaker: Fair enough. This Question is deferred to Tuesday next week.

(Question deferred)

Next Question by Mr. Kigen!

DELAYED COMPENSATION TO MAJ-GEN RONALD Y. CHELAGAT

(Mr. Kigen) to ask the Attorney-General:-

(a) Is the Attorney-General aware that Maj-Gen. (Rtd) Ronald Yatich Chelagat was hit and seriously injured by vehicle Reg. No. GK A268D on or about 16th December, 2004?

(b) Is he also aware that the victim is in urgent need of medical care which he cannot afford due to failure by the Government to pay him damages as awarded by the court on 11th May, 2009?

(c) When will he be paid his dues?

The Deputy Speaker: Mr. Kigen is not here? We will come back to the Question.

Next Question by Mr. Kiptanui!

STATE PREPAREDNESS FOR THE EXPECTED LONG RAINS

Mr. Kiptanui: Mr. Deputy Speaker, Sir, I beg to ask the Minister for Roads the following Question by Private Notice.

(a) Is the Minister aware that the Kenya Meteorological Department (KMD) has predicted that the country will experience heavy rains in the next three (3) months?

(b) What measures has the Minister taken to ensure that funds are released to constituencies for the repair and maintenance of constituency roads before the start of the expected heavy rains across the country?

The Assistant Minister for Roads (Dr. Machage): Mr. Deputy Speaker, Sir, I beg to reply.

(a) Yes, I am aware.

(b) I am going to release funds for the first quarter of this financial year to all Constituency Road Committees (CRCs) by the end of September this year.

Mr. Kiptanui: Mr. Deputy Speaker, Sir, if you heard the Assistant Minister well, he has said he is going to release all the money for the first quarter by the end of this month. Will the money take care of all the constituency roads plus the roads under the Kenya National Highways Authority (KeNHA), or will it be only for constituency roads?

Dr. Machage: Mr. Deputy Speaker, Sir, the money I will release will take care of constituency roads. For the KeNHA roads, we are monitoring and we have specific funds that will be used as needs may arise.

Mr. Mureithi: Mr. Deputy Speaker, Sir, I have heard the Assistant Minister say clearly that he is going to release funds at the end of September. Some areas have had rain since March this year and roads are in deplorable conditions. Will the Assistant Minister expect the Kshs7

million he is releasing to do all the repair work and also take care of the damage that is going to be done by *El Nino* rains that we expect to come soon?

Dr. Machage: Mr. Deputy Speaker, Sir, the information I have from the Meteorological Department is that we expect a little bit more than average rain especial the Western Kenya and Mt. Kenya regions. We have not been told that it will be an *El Nino* but we expect anything. It is true that some areas may have their roads already with problems because of the rains we have now. We are going to release Kshs7 million to every constituency and we expect this will arbitrate most of these problems, but if need arises that we have to consider more funding, we will consider those areas on individual basis.

Mr. Pesa: Mr. Deputy Speaker, Sir, the Assistant Minister seems to be very economical with his words. He is aware that part of the 10 per cent we ought to have received by the end of the last financial year has not yet been released and yet he is just talking about Kshs7 million. I hope the Assistant Minister also comes from a constituency. We have problems down there. Could he tell us when he is going to give us the balance that is outstanding from last year and what this Kshs7 million he is talking about constitutes?

Dr. Machage: Mr. Deputy Speaker, Sir, I said that maybe very few constituencies have received all their monies. I know there was a balance of about Kshs2 million and so if you have not yet received it in your constituency, expect it any time or check with the accounts; maybe it is already there. For now, it is true the Kshs7 million may not be available but what I have received today is Kshs1.47 billion from the Kenya Roads Board (KRB) and that is what I can only budget for. Let us expect that it will be of help.

Mr. Olago: On a point of order, Mr. Deputy Speaker, Sir. The fundamental part of this Question is how the rains affect the construction of our roads in our country. Many times the Assistant Minister has come to the House to say that roads are eroded faster than expected because of the rains even when the rains are not beyond normal. Is it in order for the Assistant Minister to tell the House only about the funds without disclosing to the House the type of designs the Ministry is taking to ensure that rains do not affect the roads?

Mr. Deputy Speaker: But the gist of the Question is: What measures has the Assistant Minister taken to ensure that the funds are released? He can only ask answer a question he has been asked. There is nothing about design; there is nothing about anything. It is how he intends to release these funds very fast.

Mr. Kiptanui: Mr. Deputy Speaker, Sir, the Assistant Minister is aware that the Ministry of Planning, National Development and Vision 2030 has already released over 50 per of the Constituencies Development Fund (CDF) monies to constituencies. Could he borrow a leaf from that Ministry so that by December, he can release the remaining 75 per cent of the money?

Dr. Machage: Mr. Deputy Speaker, Sir, indeed, I am not borrowing any leaf but telling you the truth that by December, you would have received those monies.

ORAL ANSWERS TO QUESTIONS

Question No.1529

IRREGULAR ALLOCATION OF LAND LR.NO.INOI/KIMONDO/
139 BY KIRINYAGA COUNTY COUNCIL

Mr. Deputy Speaker: Where is Mr. Gitari? We will come to this Question a little later.

(Dr. Nuh stood up in his place)

Dr. Nuh, you are on a point of order. Is that a new one or is it an old one?

Dr. Nuh: It is a point of information.

Mr. Deputy Speaker: To inform the Minister? You can look for an opportunity to inform him on your own. We will now go to the next Question by Mr. Mwau.

(Ms. Karua stood up in her place)

What is it, Ms. Karua?

Ms. Karua: Mr. Deputy Speaker, Sir, in accordance with Standing Order No.81, could the hon. Member declare his interest in the Question?

Mr. Deputy Speaker: Mr. Mwau, indeed, Standing Order No.---

Mr. Mwau: Mr. Deputy Speaker, Sir, I would like to declare that I am an account holder in the Charterhouse Bank.

Mr. Deputy Speaker: Proceed! What you should have done is to have asked the Question only then are we validly seized of the Question but nonetheless, you have made that point. Proceed and ask it.

Question No.1651

APPOINTMENT OF PRICEWATERHOUSECOOPERS TO INVESTIGATE
CRIMINAL OFFENCES IN CHARTERHOUSE BANK

Mr. Mwau asked the Minister for Finance:-

(a) whether he could confirm that the Central Bank of Kenya appointed a manager to Charterhouse Bank Ltd in 2006 and thereafter contracted M/s PriceWaterHouseCoopers Ltd, to ascertain commission of criminal offences and, if so, could the Minister provide a copy of the letter appointing PriceWaterHouseCoopers Ltd, the terms of reference, and their letter of acceptance;

(b) whether he could state the scope of the investigations and state whether the bank's customers and/or the directors of the bank were given an opportunity to comment or to respond to any allegations prior to the publication of the report and could he provide a copy of the final investigation report; and,

(c) whether he could also confirm whether the investigation report was discussed with the Minister for Finance, the Governor of the CBK, the Permanent Secretary, Treasury, and the manager appointed to Charterhouse Bank Ltd prior to its publication?

The only interest I have is not a conflict of interest. I am a bank customer.

Mr. Deputy Speaker: Where is the Minister for Finance? We will come back to that Question a little later.

Question No.1758

BEEFING UP SECURITY BETWEEN POKOT/
TURKANA BORDER AREAS

Ms. Karua asked the Minister of State for Provincial Administration and Internal Security what measures he is taking to improve Security in the country and especially on the borders between communities that have a history of recurrent hostilities such as the Pokot/Turkana border and in other areas with similar challenges.

Mr. Deputy Speaker: I have communication from the Minister of State for Provincial Administration and Internal Security. He has travelled. He will be in a position to answer this Question from next week. Let us defer this Question to Tuesday next week.

(Question deferred)

Question No.1733

DELAYED PAYMENTS TO FORMER EMPLOYEES OF
DEFUNCT EAST AFRICAN COMMUNITY

Mr. Yakub asked the Minister for Finance:-

(a) why the Government has not paid dues to the former employees of the defunct East African Community (EAC) for the last 35 years while other partner states have already paid their former employees in line with the Umbritch Mediation Agreement signed by the three Heads of State;

(b) when the Minister will pay the Ksh.14billion as recommended in the task force Report which was initiated by the Deputy Prime Minister and former Finance Minister on 25th September, 2010; and,

(c) whether he could indicate if he has consulted the State Law Office regarding the provident fund refunds and other terminal dues to employees of the defunct East African Airways.

The Minister for Finance (Mr. Githae): Mr. Deputy Speaker, Sir, I beg to reply.

(a) The Government received complaints from the former ex-EAC employees on this matter. For this reason, the Government constituted a joint taskforce to enquire into the issue. The taskforce noted the subject matter of the alleged accrued pensions of the employees had been determined and finalized by the High Court of Kenya. The taskforce further observed that the former ex-EAC employees suffered disturbances and disruption of career expectations occasioned by the sudden dissolution of the Community. On this basis, a discretionary *ex-gratia* compensation payment was recommended.

(b) Based on the joint taskforce recommendations and consultations with the Treasury, the Ministry will be seeking a Cabinet decision on the matter.

(c) The Office of the Attorney-General was consulted on the provident fund refunds and other terminal dues of employees of the East African Airways Corporation and the liquidators records availed indicate that they were duly paid.

Mr. Yakub: Mr. Deputy Speaker, Sir, the issue of staff of the defunct East African Community (EAC) has lasted for the last 35 years. The Minister has just mentioned that funds were recommended. He also mentioned that there is a taskforce report which also recommended

that payment be made to the staff of the defunct EAC. Could the Minister table the report of the taskforce and tell us when these poor Kenyans who have suffered for the last 35 years will get their dues at long last?

Mr. Githae: Mr. Deputy Speaker, Sir, I have no objection. I will table the report after I finish answering the Question. The report is here. It states that *ex-gratia* payment be made to the employees of the EAC. We are almost on the verge of preparing a Cabinet memorandum which we will take to the Cabinet. Once the Cabinet approves, then some funds will be allocated in the Budget for this purpose. That is the far we have gone. We sympathize with these employees. Our hearts go out to them. We know that some of them are sick and they are not feeling well. We are, however, trying as much as possible to finalize this matter so that they, at least, get something. I must emphasize that this is *ex-gratia*.

Mr. Deputy Speaker: Many of them must have passed on. We are talking about 35 years ago!

Mr. Olago: Mr. Deputy Speaker, Sir, I feel concerned about the term *ex-gratia* used by the Minister. That would imply that these former workers are not entitled as by law to these benefits. It is like a gift and the Government is under no obligation to pay it. The Question by hon. Sheikh Dor is that these are dues that the former workers are entitled to. Is the Minister in order to indicate on one hand that payments are being prepared and on the other hand say that these payments are *ex-gratia*?

Mr. Githae: Mr. Deputy Speaker, Sir, I repeat, that these payments will be *ex-gratia*. This is because as the taskforce report shows, as far as the legal dues are concerned, they were duly paid; those who opted to be paid were paid. Those who opted to join the central service joined. However, because of the career change and expectation, they were entitled to something which is the *ex-gratia*. The employees had gone to the High Court and it determined all the dues that were paid to them. Therefore, from a legal point of view, the dues had been determined. It is only that this Government is sympathetic to the plight of the employees. This Government feels for these employees and that is why we are going out of our way. We have no legal obligation, but because this is a Government of the people, we want to make sure that we are with the people and that we are sympathetic to the employees. That is why we are recommending *ex-gratia*.

Prof. Kaloki: Mr. Deputy Speaker, Sir, you heard the Minister say that he is very sympathetic to the plight of these Kenyans who were employees 35 years ago. Could he assure this House that he will develop that policy and hand it to the Cabinet so that we can deal with this matter? It is, indeed, the responsibility of the relevant Ministers to come up with Cabinet memoranda which they should take to the Cabinet for approval so that we can take care of these employees.

Mr. Githae: Mr. Deputy Speaker, Sir, I want to confirm that I have received the first zero draft of the Cabinet Memo. I will look at it and I promise this House that before the end of this month, the Cabinet Memo will be with the Cabinet. After that, I will stand guided by what the Cabinet decides.

Ms. Shakila Abdalla: Mr. Deputy Speaker, Sir, I wanted to know the timeframe which he has already given.

Mr. Ruto: Mr. Deputy Speaker, Sir, the Minister is, of course, today trying to paint his Government as a Government of the people. He keeps telling us that he is going to pay these Kenyans. However, it had to take the courts to order this Government to pay and yet it is supposedly the Government of the people. Could the Minister tell us whether or not he has actually set aside funds to pay these workers so that we can know that by December, they will go

home with a happy New Year gift from this Government otherwise his Cabinet Memo will just be yet another memo? You are very famous for all that. You have just discovered some flowery language of late and yet you do not act the same way.

Mr. Githae: Mr. Deputy Speaker, Sir, I wish to strongly object to the assertions by the hon. Member that a Cabinet Memo is just a piece of paper. I want to assure you that a Cabinet Memo is a very serious document. Before it goes to Cabinet, a lot of effort and input has been realized. Once the Cabinet makes a decision, Treasury has no alternative, but to provide for funds. So, once the Cabinet makes the decision, I want to assure this House that we will budget for those funds.

As of now, I cannot set aside anything because nothing has been approved. The moment it is done, whether through supplementary budget or the Budget, once the Cabinet indicates the timeline, say, immediately, then I will come to this House. This House is no longer a Budget ratification House; it is a Budget-making House. So, every payment must come to this House for approval.

Mr. Keynan: Mr. Deputy Speaker, Sir, is it in order for my good friend, hon. Githae, to mislead Kenyans and Parliament that Cabinet papers are very important documents when we know that under the current coalition, they are just pieces of paper which when discussed in the Cabinet find their way in the newspapers?

Mr. C. Kilonzo: On a point of order, Mr. Deputy Speaker, Sir. Is the Minister in order to refer to Cabinet documents as being of value when the same Government refers to titles as pieces of paper and it does not respect court orders? This is a character that we know of the Government and that is why the Government cannot respect its own agreement to pay teachers. Is he in order to mislead the House on the good character of the Government which we know does not exist?

Mr. Deputy Speaker: What is your point of order, Mr. Ruto?

Mr. Ruto: Mr. Deputy Speaker, Sir, the Minister has said that he will pay immediately, but he has no idea where the money is. I specifically asked him whether he has got a certain fund he intends to pay these particular workers, but the only thing he is telling us is that he is waiting for the Cabinet paper so that he can decide whether to go for supplementary budget or budget for the next allocation. This Government will not be inexistence next year. So, how will this so-called good Government pay when we know it will not be in existence after the Budget?

Mr. Deputy Speaker: Do you expect the Government to have money any time these things happen?

Mr. Githae: Mr. Deputy Speaker, Sir, first of all, I object to whatever they are saying. The Government of Kenya will be there whether elections come or go. Administrations may change, but Kenya will continue as a country. I can assure you of that. We will be here and we are going nowhere. So, whichever administration that will be there, will continue. That is why even up to date, we are still paying and meeting our obligations for the commitments that were done by the colonial Government and the administrations of the former Presidents, the late Mzee Jomo Kenyatta and Daniel Arap Moi. We are still paying them. As I said, this Government believes in the rule of law. We are going to follow all the court orders. Titles are very important documents. They are not pieces of paper. That is why we have not gone round even where we know that pieces of land have been grabbed. We have gone through the legal process because we know that titles are not pieces of toilet paper. We are going to follow court orders. As I have said, we do not have a survey as of now - I want to be sincere and frank - but the moment the Cabinet approves, it will give a timeline and state which financial year. We will follow the directive of the Cabinet.

Lastly, let me come to Cabinet Papers. Cabinet Papers are very important documents. They are rated top secret. If any person is found with a Cabinet Paper, it is an offence. So, I do not know whether my friend, hon. Ruto, is saying that he has Cabinet Papers or not because then he will be required to say where he got them from.

Mr. Olago: On a point of order, Mr. Deputy Speaker, Sir. Did you hear the Minister tell the House that to be found with a Cabinet Memo is an offence that can take somebody to jail? He also ought to know that the Constitution makes all public documents public. Here is nothing confidential anymore.

Mr. Yakub: Mr. Deputy Speaker, Sir, this is a very sad day for the 40,000 Kenyans and their families. It is a very sad day from the Minister's words that the Government is sympathetic and that they will consider paying them *ex-gratia*. Maybe he is not aware that there is a mediation agreement which was signed by the three Heads of State. Could he table both the mediation agreement signed by the three Heads of State and the taskforce report which he claims to have right now? I need to have time to go through the taskforce report, which he has promised to table now.

Mr. Githae: Mr. Deputy Speaker, Sir, as I said, I have the report of the taskforce and I am going to table it. About the mediation agreement signed by the three Heads of State, I do not have it, but I can find out whether it is there. However, Idi Amin is dead. They are all dead. I am told it was signed by Idi Amin, Nyerere and Jomo Kenyatta, but I will try to find out if there is such an agreement. I cannot promise because I do not know whether it is there. I need to find out whether there is such an agreement.

Again, I want to emphasize that we are sympathetic. I am doing all that is possible and I am going to make sure that the Cabinet Memo is fast-tracked on the queue. Spouses of two employees of this National Assembly were employees of the defunct EAC and every time I meet the employees on the corridors, they remind me. So, this House does not even have to remind me. I already have people who remind me every time I pass through these corridors.

Dr. Nuh: On a point of order, Mr. Deputy Speaker, Sir. This House does not seem to be missing the late hon. Ojode. It seems like the Minister for Finance has taken his position. More importantly, is the Minister in order to contradict his own statements by saying that the three gentlemen are dead as if the Governments are dead? A few minutes ago, he was saying that this Government is alive and it will be here next time - I do not whether with the TNA because they do not have a party. Is he in order?

Mr. Deputy Speaker: Order! He did not say that he is not taking any responsibility because the signatories are dead.

Dr. Nuh: He said that!

Mr. Deputy Speaker: Order! Unless you are looking for a light touch in these things or looking for a detailed comedy, the Minister made his position. Hon. Minister, indeed, you said that you will look into it and take the responsibility.

Mr. Githae: Mr. Deputy Speaker, Sir, I said that I have the report of the taskforce. Hon. Yakub has referred to a mediation agreement which was signed by the three East African Heads of State who are now dead, but the agreement remains. If they signed it, it is still there.

(Mr. Githae laid the document on the Table)

Question No.1657

POOR RECEPTION OF TELEVISION SIGNALS IN LODWAR

Mr. Deputy Speaker: Hon. Ethuro! Any reason why hon. Ethuro is not here with us today? We will come back to the Question.

Next Question by Mr. Washiali!

Question No. 1681

PROTECTION OF SUGAR-CANE FARMERS/MANUFACTURERS
FROM SMUGGLED SUGAR

Mr. Washiali asked the Minister for Agriculture:-

(a) whether she is aware of the infiltration of smuggled sugar into the Kenyan market from neighbouring countries; and,

(b) what measures she will take to protect local sugar manufacturers and sugar-cane farmers.

The Assistant Minister for Agriculture (Mr. Ndambuki): Mr. Deputy Speaker, Sir, I beg to reply.

(a) I am aware of the existence of sugar smuggling cases into Kenya from neighbouring countries. My Ministry, in collaboration with other relevant Government agencies among them the Kenya Revenue Authority (KRA), the Criminal Investigation Department (CID), the Kenya Sugar Board and the Kenya Bureau of Standards (KBS), has stepped up surveillance measures with officers assigned to man possible entry points. In cases where smuggled sugar has been intercepted, the culprits have been arraigned before the court of law and cases determined accordingly.

(b) My Ministry is implementing measures aimed at protecting local sugar manufacturers and the sugar-cane farmers. These are:-

(i) Negotiated successfully for an extended two year moratorium under the COMESA safeguard from March, 2012 to 28th February, 2014.

(ii) Enhanced funding for sugar development and research.

(iii) Encouragement of investment in the sugar industry to exploit untapped potential.

(iv) Maintaining close working relation with all the parties involved in the regulation of sugar importation, law enforcement and Customs control.

Mr. Washiali: Mr. Deputy Speaker, Sir, I thank the Assistant Minister for the answer. It is good, but not good enough. He has talked of having used some Government agencies. He went on to mention the KRA, CID, KSB and KEBS. All these agencies except the KSB are agencies that one has to report to. Since this is smuggling, you will not expect the KRA to act because the smuggled sugar does not come through the gazetted border points. This is similar to the CID and KBS. The only agency that the Ministry should have used is the KSB, but unfortunately, the surveillance department has only two officers. How do you expect two officers to monitor what is happening at all these entry points including Mombasa, Malaba and all the other gazetted border points?

Mr. Ndambuki: Mr. Deputy Speaker, Sir, I said apart from the Kenya Sugar Board (KSB), we are using other Government institutions such as the Criminal Investigation Department (CID) and the Kenya Revenue Authority (KRA) to monitor our borders. They have put their officers at the entry points.

Mr. Deputy Speaker, Sir, at Taveta border point, the KSB arrested people with 340 bags of sugar. They were taken to court and the sugar was sold through auction. At Taveta, again, some people were arrested with 400 bags of sugar. They were taken to court and the sugar was auctioned. At Loitokitok, a total of 109 bags of sugar were intercepted and the owners were taken to court. At Kisii, some people were arrested with 453 bags of sugar and the owners were taken to court. These arrests were made by the CID and KRA officers. So, many people have been arrested sneaking sugar through the *panya routes* and they have been taken to court.

Mr. Deputy Speaker: What is your point of order, hon. Kabogo?

Mr. Kabogo: Mr. Deputy Speaker, Sir, on a point of order, Mr. Deputy Speaker, Sir. I hate to interfere with the programme of the House, but the House is too hot. We spent a lot of money to renovate this place, but it is barely habitable right now. It is quite hot.

Mr. Deputy Speaker: The Serjeant-At-Arms is directed that the House should be at the right temperature. Indeed, even the Chair does feel that the House is a little bit warmer than normal.

Dr. Nuh: Mr. Deputy Speaker, Sir, on the same note because it is coming at a time, maybe, when I want to raise other issues; even the gadgets we are currently using have only two buttons; one for requesting for a position to speak and another one for intervention.

When we raise intervention points, the Chair cannot tell whether we want to raise a point of order, or a point of information, which will have, maybe, different privileges as to how he would want to accord time. So, I would request those people who designed these gadgets to also make these things a little bit clearer, so that when Members want to raise points of information and points of order, there is a different way in which it relates to the Speaker.

Mr. Deputy Speaker, Sir, more importantly, although the discretion lies with the Speaker, as to who he wants to give the microphone to speak, but it will add some more value if we would have screens relaying on the walls as to how many Members of Parliament are requesting to speak and how many Members are raising points of order.

Mr. Deputy Speaker: Order! You cannot manage the House on an activist kind of a line where you keep on questioning everything. That is the discretion of the Chair.

Now the thing that the Chair is conscious of, indeed, is that we do not have a differentiation or differences between a point of information and a point of order. The screen can only show a request to ask a question or contribute or when you want to rise on a point of order.

So, in the circumstances, should you wish to rise on a point of information, maybe, the Chair will give you an opportunity and say point of information. Use the old system. For now, the Chair will allow that until such time that we have a system that basically is able to delineate itself.

Mr. Olago, are you on a point of information? Who do you wish to inform?

Mr. Olago: Mr. Deputy Speaker, Sir, I wish to inform the Chair that the intervention button takes care of points of information and points of order very adequately.

Mr. Deputy Speaker: It does not show the differences. That is one thing that essentially I said.

Last supplementary question on the same hon. Washiali!

Mr. Washiali: Mr. Deputy Speaker, Sir, I had asked the Assistant Minister to tell the House what he is doing to improve the surveillance facilities he has in the Ministry, but he did not say much about it. In the course of late last year, when the price of sugar rose to Kshs230, they issued a Kenya Gazette notice to allow factories to import sugar. Up to now, we are yet to

be told whether that authority is still in place or he has stopped it because this imported sugar is what causes a lot of unstable prices of sugar-cane.

Mr. Njuguna: On a point of order, Mr. Deputy Speaker, Sir. Was the Assistant Minister in order not to inform the House the level of fines that was realized by our judicial courts from this illegal trade?

Mr. Deputy Speaker: Order! Hon. Njuguna, it is not that this is an open-ended thing that the Assistant Minister is expected to have information on everything that pertains to sugar. The Question itself is very specific, so you have to ask about smuggling of sugar.

Mr. Assistant Minister, could you proceed and answer the last question by the hon. Washiali.

Mr. Ndambuki: Mr. Deputy Speaker, Sir, the authority expired in February, 2012. So, it is no longer there.

Mr. Deputy Speaker: Next Question by hon. Ruto.

Mr. Ruto: Mr. Deputy Speaker, Sir, before I ask my Question, did you order that the temperatures be raised or lowered because it is getting hotter and hotter? Nevertheless, let me ask my Question.

Question No.1689

UPGRADING OF KYONGO-SIGOR-KIBOSON-CHEBUNYO-MOGOR ROAD

Mr. Ruto asked the Minister for Roads:-

- (a) whether he is aware that Kyogong-Sigor-Kiboson-Chebunyo-Mogor Road (C14) is in a bad state despite periodic repairs on the road,
- (b) when the road will be upgraded to bitumen standards; and,
- (c) why the Ministry has not tarmacked any road in Chepalungu despite promises by the Minister.

The Assistant Minister for Roads (Dr. Machage): Mr. Deputy Speaker, Sir, I beg to reply.

(a) Yes, I am very much aware. My Ministry through the Kenya National Highways Authority (KeNHA) has completed the design of the road for upgrading to bitumen standards and is now sourcing for funds to tarmac the same road.

(b) However, my Ministry has not been able to tarmac roads in Chepalungu, as a result of budgetary constraints.

Mr. Ruto: Mr. Deputy Speaker, Sir, it looks like we are back to cycle-styled answers. The answer he is giving me hardly means much because these designs had been on and on. About five years ago, His Excellency the President Mwai Kibaki promised he was going to do the tarmacking. For the last four years, I have gotten the same promise from the Minister, hon. Bett, that this road was actually being tarmacked.

Mr. Deputy Speaker, Sir, could we not get a definite answer as to when, at least, some road will commence? It is not enough for us to be told every day this road will be tarmacked when the money is sourced. Why is the money to tarmac roads in Thika, Nyeri, Kuria and Bondo coming from? Where are you getting the money and you cannot get a cent for Chepalungu?

Dr. Machage: Mr. Deputy Speaker, Sir, I am aware that there have been several promises to tarmac roads in Chepalungu, Kuria, Migori and other areas but somehow the money

is not enough to tarmac all of them. You have to start somewhere and end somewhere hence Thika Road had to be tarmacked first.

Hon. Members: How was the choice made?

Dr. Machage: Mr. Deputy Speaker, Sir, hon Members should not ask me how the choice was made. I may not be able to promise the hon. Member when I will commence the tarmacking of this road because of financial constraints.

Mr. Deputy Speaker: Mr. Ruto, could you ask the last supplementary question on the same?

Mr. Ruto: Mr. Deputy Speaker, Sir, this is why I do not like my Questions being answered by Assistant Ministers because they completely have no idea when the money will be available and they cannot tell us anything. Would I be in order to request that in future all my questions be answered by substantive Ministers?

(Laughter)

Mr. Deputy Speaker: For the benefit of the House, a Minister, in our Standing Orders, is the President, the Prime Minister, the Vice-President, a Minister and an Assistant Minister. So, a Minister is a Minister. There is nothing substantive, unsubstantive, first rate or second rate Ministers in this House. For the purpose of transacting this business, a Minister is a Minister. I think that puts that matter to rest.

On Question No.1783, hon Kabogo, you may proceed and ask the Question but I have a communication on the same too.

Question No.1783

EXTRADITION OF KENYANS ARRESTED IN
MOZAMBIQUE TO TANZANIA BY KENYAN POLICE

Mr. Kabogo asked the Attorney General:-

(a) under what circumstances 12 Kenyan businessmen Messrs. Peter Giruka Mburu, David Ngugi Mburu, Simon Gathinji Kariuki, Michael Mbanya Wathigo, Patrick Muthee Miriithi, Boniface Mwangi Mburu, John Odhiambo Odongo, Gabriel Kung'u Kariuki, Jim Maina Njoroge, Wilfred Onyango Nganyi, Simion Ndung'u Kambuthi and Peter Mahera Kariba were arrested in Mozambique, handed over to Tanzania Police by the Kenya Police delegation under the watch of J. Nyaga Reche (SSP) and former Nairobi Area PCIO, Sammy Githui on the 16th December, 2005;

(b) whether he is aware that two of the above mentioned persons; Messrs. John Odhiambo Odong and Peter Mahera Kariba, have since died in Karanga Prison in Moshi, Tanzania, as a result of injuries from torture; and,

(c) whether he could undertake to extradite the remaining 10 Kenyans who are languishing in a foreign jail, to face trial in Kenya, if there are any charges against them.

Mr. Deputy Speaker, Sir, I am waiting for the communication.

Mr. Deputy Speaker: Hon. Kabogo, I have a communication from the Attorney-General's Office that all the Questions that were supposed to be answered by the Attorney-

General be deferred by two weeks from now for the very simple reason that the Attorney-General does not have an Assistant Attorney-General or a Deputy Attorney-General and he is engaged right now in other equally very important business. I direct that this Question be listed on the Order Paper exactly----

(Question deferred)

Mr. Kabogo: Mr. Deputy Speaker, Sir, I thank you but as we await the Attorney-General, I request that you communicate to the Government which is represented here ably by the Finance Minister that they start looking at the case of these Kenyans who are languishing in prison in Tanzania. They were handed over to the Tanzanian authorities after being arrested in Mozambique by Kenyan policemen. As we wait, two of them have died in prison or in custody and yet they were handed over by our own policemen.

Mr. Deputy Speaker: Order!

Mr. Kabogo: Mr. Deputy Speaker, Sir, I am building my request to you. I am asking the Chair, if it is possible, to ask the Finance Minister to move with speed to make sure that something is done to save Kenyans who are languishing in prison in Tanzania.

Mr. Deputy Speaker: Hon. Minister, I am sure you have heard the concerns. While we wait until such a time that the Attorney-General will be in a position to answer this Question, there are Kenyans, as the hon. Questioner has put it, who are languishing in jails in other countries. Whatever the merits or demerits of their jail status are, the hon. Member seriously wants their welfare to be looked into.

Mr. Kabogo: On a point of order, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Are you still on another point of order? You are not quite satisfied with the much that the Chair has already done?

Mr. Kabogo: Mr. Deputy Speaker, Sir, I thank you because I am almost satisfied. However, with your indulgence, I would like to help the Minister with the information in my hands. This is because normally Ministers come here, you give them information and they say that they need time. So, I want to give him information in advance so that he has all the information that he may want to use. I would like to lay on the Table some documents.

(Mr. Kabogo laid the documents on the Table)

Mr. Deputy Speaker: Hon. Minister for Finance, I think you can make that undertaking on behalf of the Attorney-General. Can you, please, do that?

The Minister for Finance (Mr. Githae): Mr. Deputy Speaker, Sir, indeed, I sympathize with the plight of those Kenyans in the Tanzanian jail. I will pass the information to the Attorney-General so that a quick fix can be arranged.

Mr. Deputy Speaker: In the meantime, you can also take possession of the information that is with the hon. Questioner.

The Minister for Finance (Mr. Githae): Mr. Deputy Speaker, Sir, I will take copies and give them to the Attorney-General.

Mr. Olago: On a point of order, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: What is out of order, hon. Olago?

Mr. Olago: Mr. Deputy Speaker, Sir, this is about information given by Mr. Kabogo to the Minister. My understanding of the Standing Orders is that you do not ask a Question whose

answer you know. Hon. Kabogo seems to know the answer to this Question and that is why he is providing information to the Minister. Is that in order?

Mr. Deputy Speaker: Hon. Kabogo is very much in order. It is not the information that he is seeking but the situation that he wants to be addressed. The Standing Orders are very categorical that you do not ask a Question whose information you know but this is a situation or the plight of Kenyans. If the hon. Member is in a position to give information that will help the Minister, I think he is perfectly in order.

Mr. Ruto: On a point of order, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: What is your point of order, Mr. Kiprono Isaac Ruto? Is it on the temperature in the Chamber or what is it?

Mr. Ruto: Mr. Deputy Speaker, Sir, I think we need to break for about fifteen minutes for the temperatures to come back to normal. You should clarify whether we ordered the Serjeant-at-Arms to increase the temperature or reduce it? Can he take it back to where it was?

(Laughter)

Mr. Deputy Speaker: There is a serious effort on the part of the Serjeant-at-Arms to deal with the situation. The Chamber is a bit warmer than it is ordinarily but I think it is bearable. We can dispose of this business.

Mr. Kabogo: On a point of order, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Mr. Kabogo, is it on the temperature? We have disposed of your matter.

I am reliably informed that the Air Conditioner (AC) is now working. So, it will take a little more time and the room temperature will be okay.

Mr. Kabogo: On a point of order, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Hon. Kabogo, you have been in this House for more than one term now. When a Question is disposed of, it has been disposed of. I do not know why you insist on a point of order after all those points of order. What is the problem now?

Mr. Kabogo: Mr. Deputy Speaker, Sir, I have been here for two terms now and this is quite long to understand the system. However, when a Member mentions you in a manner that pushes you into a corner---

Mr. Deputy Speaker: Order!

Mr. Kabogo: Mr. Deputy Speaker, Sir, it is important that you give me time to clear myself.

Mr. Deputy Speaker: Order! That is the management of the House and the management of the House is the responsibility of the Chair. The Chair has dealt with that adequately and disposed it off.

Question No.1768

IMPLEMENTATION OF SESSIONAL
PAPER NO.1 OF 1969

Mr. Keynan asked the Minister for Agriculture:-

(a) what measures the Ministry has taken towards introduction of farming in arid and semi-arid areas in North Eastern Province and other pastoral areas as recommended in Sessional Paper No.1 of 1969; and,

(b) why the people of North Eastern and other arid areas suffer from recurrent famine yet there are several seasonal and permanent sources of water for irrigation.

The Assistant Minister for Agriculture (Mr. Ndambuki): Mr. Deputy Speaker, Sir, I beg to reply.

(a) The Ministry has undertaken numerous measures to upscale farming in arid and semi-arid areas in North Eastern Province and other pastoral areas which include:-

(i) distribution of 30 metric tonnes of free assorted high value traditional crop seed valued at Kshs4.69 million to 1,038 farmers during the long rain season for the establishment of 833 hectares of crop;

(ii) excavated 48 water pans capable of harvesting a total volume of 550,000 cubic meters of water at a cost of Kshs166 million, domestic and livestock dues and limited cropping in various districts of Northern Province;

(iii) supported construction of permanent canals and supplied water pumps and engines for irrigated agriculture in Garissa and Mandera counties;

(iv) improved extension service through various agricultural projects and programmes in all districts of North Eastern Province;

(v) introduction of conservation agriculture in areas where both adaphic and climatic conditions are permitting.

(b) The people of North Eastern Province and other similar areas suffer from recurrent famine because there is frequent drought and not adequate irrigation for crop production while there are a few rivers in the region, the irrigation potential has not been exploited because of lack of capital for the infrastructure.

Mr. Keynan: Mr. Deputy Speaker, Sir, while I appreciate the answer given by the Assistant Minister, on the face of it, the whole answer is generalized. In part "a" (ii) of his reply, he talks about "excavated 48 water pans". It does not talk about the names and where they are located because he was specific. In part "a" (iii) which are the permanent canals that they have built?

As you are aware, northern Kenya has been reduced to a permanent recipient of bad relief food since 1969 and that is almost close to 40 years. The Government has attempted to address the provisions of Sessional Paper No.1 of 1969 in all other parts of Kenya except North Eastern Province. So, I want the Assistant Minister to tell us which are these pans and where they are located and how much the Government has spent since 1969. Which are these permanent canals and why the Government has not implemented the major hydrological survey carried out on the Lorian Swamp in 1974 by an Israeli-based company which recommended that if irrigated, that area can provide us water to irrigate, not only in North Eastern Province but the whole of Kenya?

Mr. Ndambuki: Mr. Deputy Speaker, Sir, I do not have the list of the water pans but I can provide that information. I can also provide the information on the canals which were constructed. At the moment, I do not have that information but I can provide it to the hon. Member or to the House.

Mr. Keynan: Mr. Deputy Speaker, Sir, in essence, it means that this Assistant Minister was not prepared to answer this Question because you cannot just give a generalized statement to Parliament and expect to get away with it. The Assistant Minister says they excavated 48 pans

but he does not have the specifics, plus we are only given a figure. The same happens to the permanent canal. So, would I be right to request the Chair to have this Question answered tomorrow afternoon so that the Assistant Minister can provide a comprehensive answer?

Mr. Ethuro: Mr. Deputy Speaker, Sir, while supporting the request by Mr. Keynan to ask this Assistant Minister to come back with proper information, I would like to say that the problem of development in this country is the old conflict at the Garden of Eden between the agrarians and the herders. Every time we have a problem in northern Kenya, the agrarians, who are in leadership although they are minorities, come up with knee-jerk reactions of everything agricultural and farming. Northern Kenya is not suitable for farming. The agricultural eco-zones in this part of the country which we appreciate do not fall in the same category like those in the rest of the country.

What is the Assistant Minister doing to introduce pasture through irrigation so that our livestock herders can actually have grass for the animals to graze? That is what is called proper food security. It is not their grains.

Mr. Deputy Speaker: Mr. Assistant Minister, when you talk about agriculture, the import of an expert who is an agriculturalist himself, Mr. Ethuro, is that there is much more to it than just crop. So, how much information do you have on that?

Mr. Ndambuki: Mr. Deputy Speaker, Sir, on the livestock, the Ministry, through the National Agriculture and Livestock Extension Programme (NALEP), spent about Kshs14 million in the last financial year for livestock development in North Eastern Province.

On the question of providing the names, I do not just want to come here and answer a question and I do not satisfy the hon. Member. I am willing to go and bring the list of the canals and the pans so that the hon. Member can be satisfied.

Mr. Ochieng: On a point of order, Mr. Deputy Speaker, Sir. I want to support the sentiments of Mr. Keynan that the Assistant Minister actually goes back and prepares a proper answer for this particular Question. In addition, I would also request that the lower part of my constituency is semi-arid. We have a hydro-electricity project which has provided us with an irrigation component that is in Nyakach. We only require a few components that the Ministry should finance so that our people can have agriculture done through irrigation.

While the Assistant Minister is considering the northern part of this country to have that sort of irrigation system, let him also include my constituency in that particular arrangement.

Mr. Ndambuki: Mr. Deputy Speaker, Sir, I would like to advise that hon. Member to come up with a Question and I will deal with his case accordingly.

Regarding Mr. Keynan's question, I am ready to go and bring the list so that he can be satisfied.

Mr. Deputy Speaker: The issue is that this Assistant Minister is not ready with the answer comprehensively as it is sought by the hon. Member. It is only fair that we give him more time for him to come back here with a comprehensive answer.

Mr. Ruto: Mr. Deputy Speaker, Sir, along the same lines, of course, I know that, as an Assistant Minister, he does not have the information. But in the list of the programmes he has come up with, he can look for the information to tell us how many of these programmes which they have come up with have been successful. It is not enough for him to just tell us about the amount of money he has spent. He can spend the Kshs14 million in seminars and he is not doing anything.

There is also the issue he has mentioned about Kshs166 million being spent on water pans. How much of this Kshs166 million actually went into construction? How much of it was

actually stolen because most of the money that you use hardly actually produces any results? We want the output, not just mentioning Kshs166 million; we want to know in actual terms what was the success in the use of this money.

Mr. Deputy Speaker: Indeed, that is why the Chair is of the opinion that the Question should be deferred to another day because in agricultural potency terms, you have not mentioned---

Mr. Olago: On a point of order, Mr. Deputy Speaker, Sir. Since you have given a direction that the answer is not sufficient, when the Assistant Minister comes back to the House and knowing that he has visited the State of Israel and has travelled outside Jerusalem and Tel Aviv and he knows how agriculture is conducted in Israel, in a way that makes them become food sufficient; would it be in order for the Assistant Minister then while coming back with a better answer, to incorporate the lessons learnt from Israel as well?

Mr. Deputy Speaker: Mr. Deputy Speaker, Sir, the Chair is satisfied with your assertion that you need more time to be able to bring a comprehensive answer. The Chair would want to defer the Question to another day. How soon do you want this Question to appear on the Order Paper? Is next week on Tuesday okay?

Mr. Ndambuki: On a point of order, Mr. Deputy Speaker, Sir. Mr. Ruto said he knows that I do not have the answer. Then why is he asking me to go and look for an answer if he knows I cannot get a proper answer? Is he in order?

Mr. Deputy Speaker: Hon. Keynan, what is your point of order?

Mr. Keynan: Mr. Deputy Speaker, Sir, it will be unfair if we go by what the Assistant Minister has said. He said that he has the information but he did not come with it. Therefore, today and tomorrow morning should be enough for him to come up with an answer to be delivered to the House tomorrow afternoon. Tuesday will be too late. Would I be in order to ask him to come and answer the Question tomorrow afternoon since he has already alluded to the fact that he has the answer in his office?

Mr. Deputy Speaker: Assistant Minister, do you wish to give that undertaking?

Mr. Ruto: On a point of order, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Order, hon. Isaac Ruto! Hon. Olweny, do you intend to assist your colleague? What are you on? Are you on a point of order or a point of information?

The Assistant Minister for Education (Prof. Olweny): I am on a point of order, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: What is out of order?

The Assistant Minister for Education (Prof. Olweny): Mr. Deputy Speaker, Sir, my point of order is a follow up of what the Assistant Minister said about hon. Ruto's concerns about Assistant Ministers. This is not the first time the hon. Member has underrated Assistant Ministers in this House. Is it in order for him to continue doing so yet we answer Questions adequately?

Mr. Deputy Speaker: Indeed, the Chair has a lot of displeasure with that behaviour. There is no way hon. Ndambuki and hon. Olweny can be any lesser Ministers than any other Minister who would come here to answer Questions. So, hon. Isaac Ruto, you have to, as much as possible, respect our own Standing Orders.

Mr. Ruto: Mr. Deputy Speaker, Sir---

Mr. Deputy Speaker: Order! Order, hon. Isaac Ruto! I have not given you the Floor. Sit down, for God's sake.

Assistant Minister, are you in a position to give an answer tomorrow or do you still insist on being given more time? As a matter of fact, the Chair has noticed that our time is running out. By and large, the Assistant Ministers tend to do better than the substantive Ministers.

The Assistant Minister for Agriculture (Mr. Ndambuki): Mr. Deputy Speaker, Sir, I would still like to plead with my colleague that I answer the Question on Tuesday. I will not be available tomorrow, and I want to answer it personally.

Mr. Deputy Speaker: The Chair directs that this Question be listed on the Order on Tuesday, next week. Hon. Keynan, you need to give the Assistant Minister that extra day.

(Question deferred)

Mr. Deputy Speaker: Next Question, hon. Cheruiyot.

Question No.1740

ISSUANCE OF IDENTITY CARDS TO YOUTHS
IN KURESOI CONSTITUENCY

Mr. Cheruiyot asked the Minister of State for Immigration and Registration of Persons:-

(a) how many new national Identity Cards (IDs) have been issued by the Government in Kuresoi Constituency since 2011, and how many of these have been returned due to basic clerical errors;

(b) whether he is aware that youths are experiencing difficulties in getting national IDs in Kuresoi, especially in the new settlement areas of Kiptororo and Tinet; and,

(c) what urgent measures he will take to ensure that youth in Kuresoi acquire the document without these hurdles.

The Assistant Minister, Ministry of State for Immigration and Registration of Persons (Mr. Baya): Mr. Deputy Speaker, Sir, I beg to reply.

(a) The Ministry has issued 7,830 new national IDs in Kuresoi Constituency since 2011, while a total of 516 applications have been returned to District Registrars of Persons (DRPs) for correction and for various reasons that are not necessarily of a clerical nature.

(b) I am aware that the youth in Kuresoi are experiencing difficulties in getting national IDs, especially in the newly established settlement areas of Kiptororo and Tinet. We have, therefore, established two Registration Offices at Kuresoi and Kerenget to serve them. We complement these centres with mobile registration units.

(c) The Ministry has taken the following urgent measures to ensure that youth in Kuresoi acquire the document without hurdles:-

(i) the DRP is currently conducting well publicized mobile registration programmes in the constituency;

(ii) enough registration materials have been issued to the DRP;

(iii) the Ministry has waived fees for initial registration to encourage eligible citizens to register;

(iv) in the current financial year, the Ministry has budgeted for Kshs1,059,600, of which a total of Kshs529,800 has already been issued to the DRP to enable him carry out mobile registration programmes while a total of Kshs1,493,235 was issued in the last financial year; and,

(v) we are educating the youth on the importance of registration through public *barazas*.

Thank you, Mr. Deputy Speaker, Sir.

Mr. Cheruiyot: Mr. Deputy Speaker, Sir, whereas I applaud the Assistant Minister for preparing a good answer, he has not really addressed the issue of non-issuance of IDs to the youth. According to population statistics, as of now, there are over 20,000 youth who have not received IDs in Kuresoi. What exactly is he going to do apart from conducting publicity campaigns? The youth already know that they need national IDs.

Mr. Baya: Mr. Deputy Speaker, Sir, this is a district where we have opened four registration centres, namely, Keringet, Olongurueni, Kuresoi and Kamara. These centres operate five days in a week. They receive applications from the youth. As the hon. Member correctly said, the youth in that district are quite a number but, with four registration centres plus mobile registration units, we are doing our best. We will possibly clear the backlog before December.

Mr. Kiuna: Mr. Deputy Speaker, Sir, this problem does not affect only Kuresoi Constituency. There are many constituencies which are experiencing problems with issuance of IDs. What plans does the Minister have to make sure that all Kenyan citizens who need this important document get it? We are also experiencing the same problem in Molo Constituency.

Mr. Baya: Mr. Deputy Speaker, Sir, other than Kuresoi, we have addressed this issue countrywide. We have recruited 120 young graduates for posting to various registration centres to support the registration officers who are already on the ground. Those officers are currently undergoing initiation at the various District Headquarters, after which they will be posted. Apart from that, we have mobile units in all the districts. I am yet to learn of any district or constituency where there are no mobile registration units.

Mr. Deputy Speaker: Order, Assistant Minister! The Chair would not love to be in this debate but this is an issue which the Chair would not allow you to just gloss over. My Dadaab District has not seen a registration office for the last four years. I am sure that there are many other districts which are also suffering in the same way.

Hon. Ekwe Ethuro, what is your point of order?

Mr. Ethuro: Mr. Deputy Speaker, Sir, you seem to have read my mind. Is the Assistant Minister in order to mislead the House by saying that there are mobile registration centres all over the country? Only last weekend, I held *barazas* in Rengiti, Kaalita and Kaalemunyau, in my constituency, and one of the major issues that everybody asked about is that of issuance of IDs. Is he in order?

Mr. Baya: Mr. Deputy Speaker, Sir, I was informing the House on the efforts that the Ministry has made to address this issue. If there are specific areas where people do not get these services, separate Questions can be brought here, so that we can address each case individually. Alternatively, I share a lot of things with hon. Ekwe Ethuro. We could discuss this matter over a cup of tea. Otherwise, we have done our best.

Mr. Yakub: Mr. Deputy Speaker, Sir, I want to bring to the attention of the Assistant Minister that the issuance of national identity cards at the Coast is facing the same difficulties. However, could he do a favour to Muslim applicants who wish to go for Hajj which is an obligatory ritual? For all those who have a waiting card or a waiting receipt, but possess the rest of the documents that are required like birth certificates or parent's birth certificate--- If the

applicant does not have an identity card and wishes to go to haji--- Could the Assistant Minister assist us during those two months so that they can get the passports?

Mr. Deputy Speaker: I think that one is statutory. I do not think he has any powers. The Act itself says that one must have an identity card to be issued with a passport. But if he thinks that the Assistant Minister has an answer that is different from that, he can go ahead. Mr. Assistant Minister, do you have something to say on the same. Unless the law has changed, I do not see how.

Mr. Baya: Mr. Deputy Speaker, Sir, I think the best we can do as a Ministry is to enhance the process. Otherwise, it is a requirement. But if there are those who you fear will be late, you can let us know. We will enhance the process so that they do not get late.

Mr. Ethuro: Mr. Deputy Speaker, Sir, indeed, I can confirm that the Assistant Minister is a very good friend of Turkana. He was a former Provincial Commissioner (PC) of Rift Valley Province. But the issues we are asking are not a storm in a cup of tea; for us to be taking tea discussing the same issues. The question which I have to the Assistant Minister is this: Last month, none other than the Rt. Hon. Prime Minister promised to deliver a Land Rover to be used for registration and issuance of identity cards. That, to me, is part “c” of this Question on the urgent measures the Ministry is taking to register youths in Loima District in Turkana. That vehicle is yet to be delivered. When is he going to deliver the Land Rover as promised by his own Prime Minister?

Mr. Baya: Mr. Deputy Speaker, Sir, I am sure the Prime Minister must have communicated to our office and the Chief Executive Officer (CEO) could be preparing to deliver the vehicle. Otherwise, I will take it upon myself to follow it up with the Prime Minister’s Office and our Permanent Secretary (PS) to make sure that that Land Rover is delivered, possibly, before the end of next week.

Mr. Cheruiyot: Mr. Deputy Speaker, Sir, as an urgent measure to really sort out the situation in Kuresoi, could the Assistant Minister immediately deliver a 4WD vehicle to Kuresoi? He knows the area very well. The terrain is very rough and that is why we need a 4WD vehicle. That will help the staff. Could he send a vehicle that will deal with the issue?

Mr. Baya: Mr. Deputy Speaker, Sir, I cannot undertake to do that because I do not want to deceive this House. I need time to check whether the few Land Rovers that we bought have already been distributed. I know most of them were taken to vast areas in Northern Kenya.

Mr. Deputy Speaker: Do not forget the Chair’s area as you talk. The Chair cannot participate in the debate.

(Laughter)

Mr. Baya: For sure, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: What is your point of information, Mr. Shakeel Shabir? Maybe, all of you should now be campaigning for the Chair.

Mr. Shakeel: On a point of information, Mr. Deputy Speaker, Sir. My point of information is that there a number of 4WD vehicles languishing in a warehouse somewhere in Nairobi. Could the Assistant Minister take a couple of those 4WD vehicles and send them to the Deputy Speaker’s area and other areas that have none? That is because they are languishing in a warehouse?

Mr. Deputy Speaker: Hon. Assistant Minister, two districts – Dadaab and Lagdera. Proceed!

Mr. Baya: Mr. Deputy Speaker, Sir, I wanted to interject in a form of a point of order because before I was informed, my consensus was not sought. For sure, I did not need that information.

Mr. Deputy Speaker: Fair enough. Next Question by hon. Mwaita.

Question 1628

DELAYED COMPENSATION TO FAMILY OF
LATE CPL. WILLY KIPLAGAT

Mr. Mwaita asked the Minister of State for Defence:-

- (a) whether he is aware that death gratuity for the late Cpl. Willy Kiplagat (S/No.59142) has not been paid to the widow; and,
(b) when she will be paid.

The Assistant Minister, Ministry of State for Defence (Mr. Musila): Mr. Deputy Speaker, Sir, I beg to reply.

(a) I am not aware that the death gratuity for Corporal Willy Kipruto Kiplagat was not paid. However, I am aware that on 26th November, 2001, death gratuity was actually paid through the widow's Post Bank Account No.8923X, Kabarnet Branch. The widow, Mrs. Rebecca Tungo Kipruto, is also receiving a monthly widow's and children's pension on the same bank account, payable to the children until they attain their 24th birthday.

Mr. Deputy Speaker, Sir, what has not been paid to the widow is Group Personal Accident Insurance compensation by the United Insurance Company since the company was placed under statutory receivership in 2003 before the payment was made. However, efforts to pursue the matter have been hindered by the fact that the company was placed under moratorium by the High Court.

(b) So far, there has been no commitment from the United Insurance Company to pay its debts and, once payment is made to the Ministry, the late Corporal Willy Kipruto Kiplangat's widow will, in turn, be paid.

Mr. Mwaita: Mr. Deputy Speaker, Sir, I wish to thank the Assistant Minister for an honest answer that the widow was, indeed, paid. But in part "a" of the answer, he has mentioned about a moratorium that has been placed by the High Court. My question to him is: When was that moratorium placed on the company?

Mr. Musila: Mr. Deputy Speaker, Sir, the House is aware that the United Insurance Company went under sometimes ago and because of that, not only was that widow's compensation was not paid; as a matter of fact, the general members of public and many of our Defence staff were not paid. I cannot say exactly the date when that happened, but I think it is public knowledge that the United Insurance Company went under. It is under statutory management. But all is not lost because we are still pursuing the matter and once the company recovers and it can pay, we shall pursue it and collect the money not only for the widow, but for many other people who were covered under that policy.

Dr. Eseli: Thank you, Mr. Deputy Speaker, Sir. The Assistant Minister mentioned that this group life policy was under the United Insurance Company. Given that the armed forces is such a large organization, the group life policy is a very lucrative contract for any company to win. Was any due diligence done on this company before it was awarded the tender? Considering that United Insurance Company was not the most reputable company at the time, was due

diligence done before it won the tender?

Mr. Musila: Mr. Deputy Speaker, Sir, at that time, I can confirm that due diligence was done. However, insurance companies go under from time to time. This is one unfortunate situation where this company went under when so many policies were held by them. Not only for the Ministry of State for Defense, but even for many other companies or individuals. Yes, due diligence was done, but, unfortunately, the company went under just like any other company would.

Mr. Deputy Speaker: Hon. Mwaita, could you ask the last supplementary question on the same?

Mr. Mwaita: Thank you, Mr. Deputy Speaker, Sir. The Assistant Minister has said---

Mr. Kathuri: On a point of order, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: What is it, Mr. Kathuri?

Mr. Kathuri: Mr. Deputy Speaker, Sir, is it in order for the Assistant Minister to feign ignorance on the fact that when you buy a product from anywhere in the market, you must know the company that is selling that product to you? When the Ministry of State for Defence went and bought an insurance cover from a company that was not stable, who should be held responsible? It is the Ministry and the Government, for that matter. Is the Ministry in order to transfer the problem to the insurance company when we know that it is the employer who is supposed to vet the insurance company and pay if the insurance company is not able to pay?

Mr. Musila: Mr. Deputy Speaker, Sir, the hon. Member who is a very good friend of mine is fully aware that when you insure or when the Government takes an insurance cover and the insurance company goes under, it is not the Government that should pay. But rather the Government facilitates and pursues the insurance company to pay. This has been going on for a very long time; it is not a recent event. I want to assure the House that everything is being done to pursue United Insurance Company. Once funds are available, our members and even other Kenyans will be paid.

Mr. Kathuri: On a point of order, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: You have already been up on a point of order. What is your point of order again, Mr. Kathuri?

Mr. Kathuri: Thank you, Mr. Deputy Speaker, Sir. In this case, the Government is not here as the Government, but as the client. It should not play the double roles. Its primary role is that of a client. In this case, it is the insured. Why should the Assistant Minister push the angle of Government when it is actually the clients?

Mr. Deputy Speaker: Was the group accident insurance itself procured by the Ministry or was it individual?

Mr. Musila: Mr. Deputy Speaker, Sir, I want to confirm that the Government is obliged to pay death gratuity, dependant gratuity, widows and children's pension. This has already been paid to the widow. The insurance cover is a separate arrangement that the Government insures its entire staff. Indeed, it is not only done in the Ministry of State for Defence, but even in this House, hon. Members are insured under some insurance cover. Should the company that has insured us go under, it should not be the institution that pays. The responsibility of the Government is to pursue that insurance company to ensure that it pays. This is why it has been put under statutory management so that those funds are not lost.

Mr. Deputy Speaker, Sir, I want to confirm that everything is being done to make the insurance company pay.

Mr. Deputy Speaker: Hon. Mwaita, you were asking the last question or are you on a

point of order? What is your point of order?

Mr. Mwaita: Thank you, Mr. Deputy Speaker, Sir, I was asking the last question.

It is in the public domain that the statutory manager of United Insurance Company has been putting up adverts in the media to sell property. Has the Government contested that moratorium? Did they get the representation from the Attorney-General, so that the widows who have suffered for over 10 years can get reprieve?

Mr. Musila: Mr. Deputy Speaker, Sir, the process of selling property is one of the ways of raising funds to pay the commitments of the insurance company. So, it is quite in order for the insurance company to sell its assets, so that it can realize funds which will be used to pay. So, the insurance company is following the right way. The Government is watching so that all those proceeds from the assets will be put together to pay the policies to widows and other people.

Mr. Deputy Speaker: The Minister for Information and Communication is travelling out of the country. I will give an exception to this.

Hon. Ethuro, could you, please, ask your Question?

Question No.1657

POOR RECEPTION OF TELEVISION SIGNALS IN LODWAR

Mr. Ethuro asked the Minister for Information and Communications:-

(a) whether he is aware that Kenya Broadcasting Corporation (KBC) television signal has been poor to the extent that people in Turkana County have not been able to watch TV for the last two months

(b) what the causes of the poor KBC TV signals in Lodwar are; and,

(c) when the Ministry will ensure that Turkana region has good KBC TV, NTV, KTN and Citizen TV reception

Mr. Deputy Speaker: Where is the Minister for Information and Communications? Is the Minister for Information and Communications not here? He must have gone because he had a flight to catch. So, the Chair directs that this Question be listed on the Order Paper at a time when the Minister will be there.

Mr. Ethuro: On a point of order, Mr. Deputy Speaker, Sir. This Question is at the heart of the provision of the Constitution that no part of this Republic must be discriminated. So, when some areas in this day and age are not accessing television signals, including KBC, which is a state organ, then you will agree with me that when the Mombasa Republican Council (MRC) says that *Pwani si Kenya*, it is because of the neglect of this Government. So, the more you delay, the more we are discriminated against.

Mr. Deputy Speaker: The Chair directs that this Question be listed on the Order Paper the soonest time possible when the Minister is in a position to answer.

(Question deferred)

Question No.3 by Private Notice, hon. Kigen.

QUESTION BY PRIVATE NOTICE

DELAYED COMPENSATION TO MAJ-GEN RONALD Y. CHELAGAT

(Mr. Luka Kigen) to ask the Attorney General:-

(a) Is the Attorney General aware that Maj. Gen. (Rtd) Ronald Yatich Chelagat was hit and seriously injured by vehicle Reg. No. GK A 268D on or about 16th December, 2004?

(b) Is he also aware that the victim is in urgent need of medical care which he cannot afford due to failure by the Government to pay him damages as awarded by the court on 11th May, 2009?

(c) When will he be paid his dues?

Mr. Deputy Speaker: Where is hon. Luka Kigen? His Question is dropped.

(Question dropped)

Question No.1529 by hon. Gitari.

ORAL ANSWERS TO QUESTION

Mr. Gitari: Thank you, Mr. Deputy Speaker, Sir. My apologies for being late; I think my timing was wrong.

Question No.1529

IRREGULAR ALLOCATION OF LAND LR.NO.INOI/KIMONDO/
139 BY KIRINYAGA COUNTY COUNCIL

Mr. Gitari asked the Minister for Lands:-

(a) whether he is aware that land LR. No. Inoi/Kimondo/139 was set aside by the Kirinyaga County Council for a pig breeding project,

(b) under what circumstances the piece of land was transferred to the current owners who have now subdivided it into six plots; and,

(c) whether he could consider revoking the six titles and reverting the land to its intended use.

Mr. Gitari: Mr. Deputy Speaker, Sir, I was in consultations with the Minister and there are some emerging issues that he will react to.

The Assistant Minister for Lands (Mr. Rai): Mr. Deputy Speaker, Sir, although I was ready to answer the Question, the hon. Questioner has said he wants more time to furnish me with more information. But as it is, the matter is the subject of a court case. There are four cases filed in court. So, I do not know actually whether---

Mr. Deputy Speaker: When will you want to answer the Question?

The Assistant Minister for Lands (Mr. Rai): Mr. Deputy Speaker, Sir, on Tuesday, next week, if permitted. But I do not want to answer it because it is the subject of a court case. I want direction from the Deputy Speaker whether we should answer it on Tuesday or today, because the matter is in court.

Mr. Deputy Speaker: The Chair can only give a direction on whether it is *sub judice* or not, after the Minister is able to table his---

The Assistant Minister for Lands (Mr. Rai): Mr. Deputy Speaker, Sir, I have copies of the pleadings here.

Mr. Deputy Speaker: Fair enough! Could you table it?

The Assistant Minister for Lands (Mr. Rai): Yes, Mr. Deputy Speaker, Sir.

(Mr. Rai laid the documents on the Table)

Mr. Deputy Speaker: In the meantime, let the Question be listed on the Order Paper on Tuesday and the determination will be made then on whether it is *sub judice* or not. If, indeed, it is *sub judice*, it will not be listed on the Order Paper on Tuesday. But if it is not, in the opinion of the Chair, then it will be listed on the Order Paper on Tuesday, next week.

The Assistant Minister for Lands (Mr. Rai): Much obliged, Mr. Deputy Speaker, Sir. Even if it is ruled now that I proceed, I can proceed.

Thank you, Mr. Deputy Speaker, Sir.

(Question deferred)

Mr. Deputy Speaker: Question No.1651 by hon. John Harun Mwau!

Question No. 1651

APPOINTMENT OF PRICEWATERHOUSECOOPERS TO INVESTIGATE
CRIMINAL OFFENCES IN CHARTERHOUSE BANK

Mr. Mwau asked the Minister for Finance:-

(a) whether he could confirm that the Central Bank of Kenya appointed a manager to Charterhouse Bank Ltd in 2006 and thereafter contracted M/s PriceWaterHouseCoopers Ltd to ascertain commission of criminal offences and, if so, whether he could provide a copy of the letter appointing M/s PriceWaterHouseCoopers Ltd, the terms of reference, and their letter of acceptance;

(b) whether he could state the scope of the investigations and state whether the bank's customers and/or the Directors of the Bank were given an opportunity to comment or to respond to any allegations prior to the publication of the report, and whether he could provide a copy of the final investigations report; and,

(c) whether he could also confirm whether the investigations report was discussed with the Minister for Finance, the Governor of the CBK, the Permanent Secretary, Treasury, and the manager appointed to Charterhouse Bank Ltd prior to its publication.

The Minister for Finance (Mr. Githae): Mr. Deputy Speaker, Sir, I beg to reply.

(a) I confirm that the Central Bank of Kenya (CBK) appointed a statutory manager for Charterhouse Bank Limited on 23rd June, 2006 and thereafter engaged M/s PriceWaterHouseCoopers Limited to ascertain commission of criminal offences.

(b) The report by PriceWaterHouseCoopers has previously been presented to the House through the Departmental Committee on Finance and Trade. The report has information on the scope of investigations, findings and related information. I have no doubt that the auditors

carried out their work professionally and did all the necessary investigations and consultations in coming up with their report. The findings of the report were communicated to the directors of Charterhouse Bank for comments.

(c) I confirm that the report was shared with the Governor of the CBK and the Ministry of Finance.

Thank you, Mr. Deputy Speaker, Sir. I hereby table the report of M/s PriceWaterHouseCoopers.

(Mr. Githae laid the report on the Table)

Mr. Mwau: Mr. Deputy Speaker, Sir, I thank the Minister for his answer but the Chair will remember that when I said that I had not been served with the answer, the Chair ordered that I be provided with the same and it was provided. I am, therefore, surprised that the Minister has the report and he failed to supply me with it but he is now tabling it. That makes it very difficult for me to interrogate the answer as it is. However, is it in order for the Minister---

Mr. Deputy Speaker: Order! This is an ordinary Question and if you wish to have that report before you prosecute this Question, the Chair will gladly oblige because time and again the Chair has said that any time there is an ordinary question, the hon. Member must have the answer at least five days before the matter is on the Floor of the House. In that case it is up to you. Should you wish to have more time, the Chair will give you another chance to prosecute this Question.

Mr. Mwau: Mr. Deputy Speaker, Sir, even with that, I would want to know whether it is still in order because he has refused to answer the Question. My Question is whether the Minister could confirm that the Central Bank of Kenya appointed a manager to Charterhouse Bank in 2006 and that thereafter contracted PriceWaterHouseCoopers to ascertain commission of criminal offenses. If so, could he provide a copy of the letter appointing PriceWaterHouseCoopers? He has not provided that letter. That letter could contain the terms of reference, but he has not provided it. It will also show their acceptance of the terms of reference. Not having done that, he has not answered the Question.

His answer states as follows:-

“I confirm that the CBK appointed a statutory manager for Charterhouse Bank Limited on 23rd June, 2006 and thereafter engaged M/s PriceWaterHouseCoopers Limited to ascertain commission of criminal offense.”

Mr. Deputy Speaker, Sir, the power of appointing a statutory manager is statutory; it comes from the law. The manager appointed has the sole duty to assume management, control and conduct the affairs and business of the institution and to exercise all powers of the institution to the exclusion of its board of directors, including the use of its common seal. What is the source of the power for the manager to investigate criminal activities?

Mr. Deputy Speaker: Do you wish to proceed and prosecute this Question, or do you want it listed on the Order Paper on another day to give you ample time to go through the report, which you claim was never made available to you?

Mr. Mwau: Mr. Deputy Speaker, Sir, I would want the Question to be answered another day. I also believe that the answer he has given is not adequate. I would want him to come with the source of power for the manager to investigate criminal offenses.

Mr. Deputy Speaker: The Chair will certainly---

Mr. Shakeel: On a point of order, Mr. Deputy Speaker, Sir. The Committee on Finance, Trade and Planning did a comprehensive report which was laid on the Table of the House, debated and passed. The documents that the hon. Member is requesting are very much part and parcel of that report and can easily be obtained from Room 9 or Room 7.

Mr. Deputy Speaker: Is that the document that the hon. Minister is now volunteering to give?

Mr. Shakeel: The report is comprehensive; I am aware of that.

Mr. Ruto: On a point of order, Mr. Deputy Speaker, Sir. The responsibility remains with the Minister. He has to satisfy the hon. Member that he has answered the Question. The Minister should be directed to bring an answer that is concise and clear as per the Question and the documents requested should be tabled by the Minister, so that he can authenticate and own them; we will then be able to interrogate him on the legality of his action or lack of it.

Mr. Deputy Speaker: Fair enough; point taken. When will the Minister want to have this Question on the Order Paper? I presume that you have already tabled the report that you had said you had in your possession.

The Minister for Finance (Mr. Githae): Mr. Deputy Speaker, Sir, the issue is that Mr. Mwau needs some time to go through the report. I have no objection because the report is ready; but for him to say that I have not answered the Question is wrong. I have actually answered the Question and maybe he needs to look at this report. Even the terms of reference are all here. As I said, I am honest. I have no intention of hiding anything. I will table the report.

(Mr. Githae laid the report on the Table)

Mr. Kabogo: Mr. Deputy Speaker, Sir, you realize that this matter has been in the House for the last one month maybe six or seven times. The 9th Parliament and the 10th Parliament in their wisdom passed a resolution that asked the Ministry to open the bank. Could I seek the indulgence of the Chair that you order the Committee on Implementation to look into this matter and see what it is that is preventing the opening of the bank, and probably report to the House within seven days; if we will be on recess, it reports in the first week of our resumption of sittings. This is really impunity. The Minister sits here and tells the House he is helpless and cannot order the Governor to do anything because the Governor has security of tenure. I am seeking the indulgence of the Chair to order the Committee on Implementation to move with speed and come and tell the House the programme for opening the bank. When will it happen?

Mr. Deputy Speaker: Mr. Kabogo, point well taken. You do not have to belabor it.

Mr. Midiwo: Mr. Deputy Speaker, Sir, let me plead with the good Minister, whom we keep praising, to understand and accept the size and magnitude of this matter. The conclusion of this process will determine how we will in future deal with bank fraud or, otherwise, investigations. The Government is alleging that the Statutory Manager conducted criminal offences investigations in the bank. The law is very clear on what a Statutory Manager can do. Could the Minister guide this House and the nation on what is the role, so that there is no misunderstanding week after week as to why this bank remains closed? If the so-called criminal investigation was done, have the people who were at the bank – the directors – ever been investigated or told that they are being investigated or told of their offences? Was the Governor of Central Bank of Kenya and the Permanent Secretary aware of this report? What is the true position? All those are contained in the Question. So, the Minister needs to be clear because those are---

Mr. Deputy Speaker: You have made your point, hon. Midiwo.
Hon. Kathuri!

Mr. Kathuri: On a point of order, Mr. Deputy Speaker, Sir. Is the Minister in order to mislead this House that he has no powers, when we know that the Central Bank of Kenya is directly under his docket and the Banking Act states very clearly that the Statutory Manager should be somebody appointed with the knowledge of that specific sector? We expected the Manager either to collect the taxes which the directors had avoided to pay or bring in the names of the customers who were doing dubious business through the bank, or do all that is required to protect the interests of the depositors and general public. Is the Minister in order to give the impression that he has no powers, when we expect him to do all this and ensure that the bank is opened? In any case, seven years is not a short period for him to have acted on this.

Mrs. Shebesh: Mr. Deputy Speaker, Sir, I think that we are being very unfair to this House and Members of Committees of this House. We are also being very unfair to the rulings of the Chair in this House, if we can allow an issue, with all due respect to the Chair--- We keep asking the same Question to the same Minister who obviously does not seem to have an answer; when a House Committee has already ruled on this matter. Even the Chair itself has ruled on this matter. I do not think we are being fair if we do not move this process forward. Please, if you could now take this to the Committee on Implementation, so that this issue can be completed once and for all.

Mr. Deputy Speaker: I will take the final point of order from hon. Mwau and then give a direction on this.

Mr. Mwau: On a point of order, Mr. Deputy Speaker, Sir. I do not know whether the Minister is in order to mislead the House that he has actually answered my question, which is not the case. I have asked in part “a” that he provides me with a letter of appointment of PriceWaterHouseCoopers, copy of the terms of reference and the letter of acceptance, and they have not been provided. In part “b” I have asked him to confirm whether best practices were applied before the publication of the report and whether the people who were adversely mentioned were actually given an opportunity to respond or comment. Thirdly, I asked him whether the report, prior to its publication, was discussed by the Minister, the Permanent Secretary and the Governor of Central Bank. These are not answers from the Central Bank. These are things done by a Mr. Omino in Treasury and a Mr. Barack Amolo, who just sit down and write things. The Minister must be very careful. It is important that he understands these things. I am only asking if it is possible for the Speaker to actually ask the Committee on Finance, Planning and Trade to go to the bank and find out whether it is operating or actually closed.

Mr. Deputy Speaker: Hon. Githae, do you wish to say something before I give directions?

The Minister for Finance (Mr. Githae): Yes, Mr. Deputy Speaker, Sir. As I said, once the hon. Members have read that report, they will find that the terms of reference are there. The letter from PriceWaterHouseCoopers to the Statutory Manager is also there. The conclusions of the report are very clear. They said that they did not have the time to go and interview third parties. Therefore, for criminal offences they cannot give a certain answer; whether or not they were there. So, they did not interview third parties, but they gave the report to the bank. Again, as Treasury, a copy of the report was given to us, but it has never been discussed. So, I agree with you that once the hon. Members have read that report, then most of the points of order that they have raised will actually be answered.

Mr. Deputy Speaker: Order! The Chair has noted with a lot of disappointment over a period of time, the shenanigans on this particular issue. Indeed, it is understandable that there is a lacuna in which certain institutions or rather, heads of institutions, wield certain powers that, essentially, make the Minister for Finance, in a sense, not be able to exert certain regulatory powers. But, nonetheless, this country has to go forward. We have a duty to the country and Kenyans also who are either holders of accounts or shareholders in the bank itself. The Chair directs that the joint Committees on Finance, Planning and Trade and Implementation should move with speed. For God's sake, this time make sure that there is no stone unturned. Go to Treasury, Central Bank and Charterhouse Bank itself and bring us a conclusive report on exactly what the issue and situation is. It is very frustrating when the Minister comes in here and says that he has no powers to direct. This report should be with us, on the very outer limits, within two weeks, but if it can be done within a week, so much the better.

Next Order!

STATEMENTS

Mr. Ochieng: On a point of order, Mr. Deputy Speaker, Sir. I do expect a Statement from the Minister for Roads. This Statement was meant to be delivered yesterday, but, unfortunately, the Minister walked away without delivering it. I do not also see him here now. I do not know whether you could give direction on this matter. If the Government feels that they are too tied, then let Parliament disband and we go for election. Even the Leader of Government Business is no longer here anymore and we do not know what is happening. Could you give direction?

Mr. Deputy Speaker: Which Minister was supposed to deliver that Statement?

Mr. Ochieng: The Minister for Roads.

Mr. Keter: On a point of order, Mr. Deputy Speaker, Sir. I just heard the Clerk-at-the-Table reading Order No.8 and we are supposed to be in Order No.7. I needed that correction made.

Mr. Deputy Speaker: Order! We are still in Order No.7. Indeed, if the Clerk did have an oversight, the Chair corrects it now.

Yes, hon. Duale!

Mr. Duale: Mr. Deputy Speaker, Sir, I had a lot of interest in the Statement sought by hon. Ochieng. We need you to give direction. Kenyans can see both sides of the House. Look at the side of the Government, where the President and Prime Minister lead a Coalition. This Government cannot solve the teachers' strike, doctors' strike and it cannot give a Statement in this House. They have failed, unless they are also on strike. Could you give directions? There is no Government here.

Members of the Front Bench: We are here!

Mr. Deputy Speaker: The presence of the Government is not just demonstrated by the sheer presence in the sense that you have an individual in the name of Minister sitting on a chair on the Front Bench. Ministers are needed to come and respond to the Statements that were directed to be delivered today. The Chair has, time and again, seen the frustrations in the lackluster manner in which the Government side takes the Business of the House which is supposed to be the most important business. Unfortunately, there is nothing much that the Chair can do unless it is in the Standing Orders. The Chair cannot sack a Minister; he cannot tell a

Minister to step aside nor suspend a Minister. That is the work of the Executive. It is very frustrating but nonetheless, Eng. Rege, what is your issue?

Eng. Rege: Mr. Deputy Speaker, Sir, on 4th September, 2012, I sought a Ministerial Statement from the Minister for Environment and Mineral Resources. There was an undertaking that the Minister would get back to me on 11th September but until today, I still do not have a response from the Ministry. Could I be in order to ask why this is not forthcoming?

Mr. Deputy Speaker: The Leader of Government Business in the House as well as the Deputy Leader are both out of the Chambers today. There are only three other Cabinet Ministers but nonetheless I think the message is very loud and clear. Inform your colleagues to execute their responsibilities and demonstrate the fact that we have a Government; a Government is an authority that comes with responsibility.

Eng. Rege: On a point of order, Mr. Deputy Speaker, Sir. This morning I met the Minister and I indicated to him that I was going to ask for this Ministerial Statement today. I am very surprised that the Minister is not here. What does that indicate?

Mr. Deputy Speaker: What it means is that the Minister or the Government for that matter should have taken its work a bit more seriously than they have done. But like I have told you, my hands are tied; there is nothing much I can do.

Next Order!

COMMITTEE OF THE WHOLE HOUSE

(Mr. Keter stood up in his place)

Mr. Deputy Speaker: Mr. Keter, your point of order is rather belated. You will be heard next time.

(Order for Committee read)

[Mr. Deputy Speaker left the Chair]

IN THE COMMITTEE

*[The Temporary Deputy Chairman
(Prof. Kaloki) took the Chair]*

THE BREAST MILK SUBSTITUTES (REGULATION AND CONTROL) BILL

(Mr. Keter stood up in his place)

The Temporary Deputy Chairman (Prof. Kaloki): Just a minute, Mr. Keter. I will give you time. Hon. Members, we are now in the Committee of the Whole House to deliberate on The Breast Milk Substitutes (Regulation and Control) Bill, Bill No.38 of 2012. Mr. Keter, I think you had a request you wanted to make. Proceed!

Mr. Keter: Mr. Temporary Deputy Chairman, Sir, this is a very important Bill but I want to bring to your attention the fact that some of us have been waiting for these amendments until

4.00 p.m. In fact, I have just been served with them. They are very vital; if you see the amendments by the Minister, the Committee and hon. Members, some of them could have been harmonized. I even went to the Clerk's office at about 12.30 p.m. trying to get the amendments from the Committee because it is on that basis that some of us will make informed decisions concerning this very vital Bill. Will I be in order to request that, for us to study the amendments, we defer it to tomorrow?

The Temporary Deputy Chairman (Prof. Kaloki): Why? Let me hear Mr. C. Kilonzo!

Mr. C. Kilonzo: Mr. Temporary Deputy Chairman, Sir, I think I am in agreement. I presented an amendment in the morning at the Clerk's office, at 10.00 a.m. and to my surprise, the amendment is not in the list among the proposed ones. I approached the Chair and he said that he needed more time. So, if the Chair needs more time, then obviously the House needs more time. I would suggest that this matter be deferred.

(Prof. Kaloki consulted)

There is too much interaction and I am waiting for your ruling.

The Temporary Deputy Chairman (Prof. Kaloki): Mr. C. Kilonzo, I want you to be very brief.

Mr. C. Kilonzo: Mr. Temporary Deputy Chairman, Sir, I presented amendments to the office of the Clerk at 10.00 a.m. They are not among the listed proposed amendments. I approached Mr. Deputy Speaker who said he needed more time. So I am saying that I am in agreement with my colleague that this matter cannot be prosecuted by the Chair if some amendments---

The Temporary Deputy Chairman (Prof. Kaloki): Order! If you have any amendments, you can approach the Chair and we will look at them.

(Loud consultations)

Order! I want Mr. Farah to say something.

Mr. Farah: Order!

The Temporary Deputy Chairman (Prof. Kaloki): Order, Mr. Farah! Just make your submissions.

Mr. Farah: Mr. Temporary Deputy Chairman, Sir, indeed, Mr. C. Kilonzo brought to me an amendment when I was on the chair which is hardly half an hour ago and I immediately approved it. He can move it here; this business is to be disposed of, we have a lot of business to do in this House.

Hon. Members: No!

Mr. Farah: Order!

The Temporary Deputy Chairman (Prof. Kaloki): Order, Mr. Farah! You cannot order when you are sitting or standing there. Proceed and persuade the Chairman now.

Mr. Farah: Mr. Temporary Deputy Chairman, Sir, it is my fervent belief that we should not delay any business of the House. The Committee has spent its time and the amendments are there; they are so many of them, pretty much negotiated so let us proceed with the business of the House.

(Loud consultations)

(Mr. Outa stood up in his place)

The Temporary Deputy Chairman (Prof. Kaloki): Order, hon. Members. Order, Mr. Outa. Mr. C. Kilonzo, indeed, I have a document with me that has been circulated. This is notice that you have given saying you intend to move an amendment and it has been circulated; I have a copy here. So, we need to move. I am, therefore, going to go to the business.

Mr. Duale: Mr. Temporary Deputy Chairman, Sir, I want to go into the HANSARD and history. There is a procedure in this House under the Standing Orders that when going to the Committee of the Whole of House, amendments are always attached to the Order Paper early in the morning. The people in Room 8 and the Deputy Clerk will bear me out because from 11.00 a.m. until 3.00 p.m. I was upstairs looking for these amendments. These amendments came up at 4.00 p.m. It is your discretion to continue with the business of this House, but I want to go on record and on the HANSARD that what is being done is not procedural. Hon. Members are asking for time to study these amendments. We are not going on recess. We can do this business tomorrow.

The Temporary Deputy Chairman (Prof. Kaloki): You have made your point, Mr. Duale. You do not have to belabor it. The Chair is going to listen to all these.

Mr. Outa: Mr. Temporary Deputy Chairman, Sir, this is a very important Bill. First of all, I want to thank Dr. Monda, my Chairman, who has been working hard with all the stakeholders. Until this afternoon the Committee on Health has been trying to harmonize the views from all the stakeholders and here we are trying to pass a very important Bill with some of those clauses not harmonized. It is my request that we defer this Bill until---

The Temporary Deputy Chairman (Prof. Kaloki): Hon. Outa, you have made your point. I want to hear hon. Ruto.

Mr. Ruto: Mr. Temporary Deputy Chairman, Sir, I want to posit that you have no discretion but to follow the Standing Orders. Standing Order No.35(2) states: The Order Paper shall be placed in each Members' pigeon holes at least 12 hours before the House meets, but a Supplementary Order Paper shall be available at least one hour before the House meets."

Mr. Temporary Deputy Chairman, Sir, you are now circulating things on the Floor---

The Temporary Deputy Chairman (Prof. Kaloki): Order! It is not the Chair circulating things. You were doing very well, but you cannot say that the Chair is circulating documents. That is for another department. Just make your point.

Mr. Ruto: Mr. Temporary Deputy Chairman, Sir, we needed this Order Paper together with the amendments one hour before the commencement of business which means 1.00 p.m. So, whatever is before us is not in accordance with the Standing Orders.

Ms. Karua: Mr. Temporary Deputy Chairman, Sir, it is very interesting and great to see all our male colleagues very fired about this Bill. I want to believe they are genuinely fired because of their children. This Bill was published a while ago. It has been on the Order Paper and nothing is new. It is not unusual for amendments to come a little late and for them to be circulated. I am asking the Chair to make a ruling, but not to allow just a section of stakeholders, the commercial interests, to override the good of the majority. I urge you Mr. Temporary Deputy Chairman that we have a duty to protect our children. We are saying that commercial interests cannot override all other stakeholders. Give direction.

The Minister for Public Health and Sanitation (Mrs. Mugo): Mr. Temporary Deputy Chairman, Sir, I want to thank hon. Members for the interest they have taken in this Bill. It is,

indeed, a very important Bill. However, I would also like to inform them that this Bill has been pending for over ten years. Every time it was going to be moved, it was stopped by the industry. I want to appeal to you. I know what is happening, but even amendments are brought on the Floor; this will not be the first time. I want to appeal to hon. Members to think of that child who cannot be here to speak for himself or herself. We need to put profits behind us and put the welfare of our children ahead of us. I would think that these women here who have not talked are the ones who have breastfed. We have children and we know about complementary foods. So, we would really appreciate it if our male colleagues also appreciated the importance of children being well fed.

Kenya is among the last 25 countries to implement this Bill. Our Constitution says that the international laws and resolutions become part of our laws. This Bill, most of it, is about what has been decided at the UN level and there is nothing injurious to our children. We would be the last ones to bring anything that would injure the children. So, we can all read and follow this matter. For all those who are saying that they have brought amendments, I have seen them. I have seen those by Mr. C. Kilonzo and Mr. Keter. There is really absolutely nothing new to study unless the motive is to delay this Bill like it has been delayed over the last ten years. Once, it even disappeared from the Attorney-General's Office and it took long to be published. I want to really urge you. I want to plead with you that we go ahead and pass this Bill for the sake of our children. We will still discuss the amendments. I know you are all very brilliant legislators and this is a simple Bill which you can follow in a moment's notice. As hon. Karua has said, this Bill has been on the Order Paper for a long time. There is absolutely no reason to delay this Bill.

The Minister for Finance (Mr. Githae): Mr. Temporary Deputy Chairman, Sir, this Bill has been pending for a long time. It has even been on the Order Paper, but it has not been reached. For the first time now we have been able to reach it. Let us not lose this opportunity.

The amendments have been circulated. I can see the amendments by hon. Charles Keter and hon. Joshua Kuttuny. The Chair has confirmed that he has seen the amendments by hon. C. Kilonzo. We have made amendments on the Floor of this House before. Let us proceed with the amendments. We have a lot of other Bills that we need to handle this evening. We will give the people with amendments time to digest the amendments and then we proceed.

Mr. Temporary Deputy Chairman, Sir, you have the discretion under Standing Order No. 1 for the orderly conduct of business to make a ruling.

(Technical Hitch)

Dr. Eseli: On a point of order, Mr. Temporary Deputy Chairman, Sir. I am a Member of the Committee and we have put in a lot of work since Thursday. Yesterday I took off to sleep and I left the other Members working. We worked through the Bill this morning. My point of order is to request the Chair not to allow biases to the extent where there is a lot of male bashing, implications that perhaps men might not be interested in passing good laws. It is very unfortunate to lump together people and criticize them and in a way, intimidate them. We want to pass a clean law. We do not want anybody to be intimidated. We do not want the men to be intimidated or the women who are mothers, for that matter, to be intimidated. We just want to pass the law properly. We are all parents. You should have requested the people who are bashing the men to apologize.

The Temporary Deputy Chairman (Prof. Kaloki): The Members are just contributing.

Dr. Monda: Mr. Temporary Deputy Chairman, Sir, as alluded to by my colleague, Dr. Eseli, we have put a lot of time into having meetings with the stakeholders to ensure that we come up with amendments that are adding value to the Bill. We have done this until this afternoon. So, I have taken great exception on the male bashing by the speakers earlier. The Committee of Health is composed of male Members only. Indeed, we have done our part and we are looking forward to having this Bill become law to protect the interest of all of us as a nation. It will not be right, therefore, for Members here to take it as their duty to apportion responsibility as to who is doing better than the other. It is about Parliament and not about any gender.

Indeed, we have done our bit, but matters of procedure are matters of procedure. It is not about what we have done and what we have not done. As a Committee, we concluded looking at the amendments that we intend to bring to this House, which were completed and handed over to the Clerk's Department. If procedures require that we have two, ten or 24 hours, those are procedures. So, there should be no mix up between procedures and what the Committee of Health has not been able to do.

The Temporary Deputy Chairman (Prof. Kaloki): Dr. Monda, you have made your point.

The Minister for Higher Education, Science and Technology (Prof. Kamar): Mr. Temporary Deputy Chairman, Sir, I do not know why they are asking me to apologize, which I could very easily do, because I have no problem with that. The passion that we are seeing from our colleagues is not unique. Sometimes they have passion for any other topic. The only thing that I would like to correct is the fact that this is something that is God-given to women. We know exactly why we should breastfeed and the fact that breastfeeding is not a burden to a woman. Maybe the difference here is that most of our colleagues belong to a generation when we were not breastfeeding as much, but we have seen the calamities that have followed. I want to persuade my colleagues that we deal with this Bill now because it is very important. It is not impossible for our colleagues to change their views. It is a very simple Bill and if there is anything to do with language, we will be ready to explain. I beg that we continue.

The Temporary Deputy Chairman (Prof. Kaloki): Order, Members! We are still experiencing the same difficulties with our screen on the left, which controls the microphones that we are using. We are trying to see what the problem is. Our technician is working on the problem and we should back on in a minute and then we will proceed. So, just be patient.

(Technical Hitch)

The Temporary Deputy Chairman (Prof. Kaloki): Order! Order! Hon. Members, I understand that we are in the Committee of the whole House. The business before us, both sides really were able to argue that you needed more time.

The Chairman of the Departmental Committee on Health was able to convince the Chair that he needs more time to complete the amendments and bring them to this Chamber. Although most of your amendments were brought here before 3.00 p.m. the Chair is convinced through your request that you need additional time to consult to be able to put all the amendments together. This is an important Bill.

I will direct that we move this particular Bill to tomorrow, so that we can deal with this matter. So, those wishing to bring amendments, make sure you file your amendment with the Clerk by the end of the day. The Clerk will be able to have time to put all the amendments together in the Order Paper, so that we can move them tomorrow.

From that point, I need a Member who can move that we report progress. I want a Member to request that.

Hon. C. Kilonzo, could you approach the Chair and the bench and Members will be voting on this---

Hon. Members: Voting on what?

The Temporary Deputy Chairman (Prof. Kaloki): Whether we report progress and adjourn this matter until tomorrow.

If it is not carried, we will continue.

Mr. C. Kilonzo: Mr. Temporary Deputy Chairman, Sir, with your permission, I wish---

The Temporary Deputy Chairman (Prof. Kaloki): Order! I just want to be fair to the House.

Hon. C. Kilonzo move that we report progress, so that we can identify whether to continue or report progress tomorrow.

Proceed, hon. C. Kilonzo.

Mr. C. Kilonzo: Mr. Temporary Deputy Chairman, Sir, there is a lot of interruptions from----

The Temporary Deputy Chairman (Prof. Kaloki): You have the Floor.

(Mrs. Shebesh stood up in her place)

Mr. C. Kilonzo: Mr. Temporary Deputy Chairman, Sir, I just want to plead on her behalf because she is actually crying.

The Temporary Deputy Chairman (Prof. Kaloki): All right, hon. Shebesh, you are always reasonable and you---

Mrs. Shebesh: Mr. Temporary Deputy Chairman, Sir, we respect your ruling and we respect the Chair of the Departmental Committee on Health. We respect the views of any Member who wants to support or not support this Bill. But if you take this issue to a vote now, instead of just following the ruling from the Chair, you will bring us to a situation we do not need to reach. We need our male colleagues to support us. If there is going to be a decision to postpone it, please, let us not go to a vote---

The Temporary Deputy Chairman (Prof. Kaloki): Hon. Shebesh, just understand the procedures. The House is meeting to deliberate on an issue of the whole House. Just understand that.

For the Chair to get out of this, we must report progress. That is what we are doing. So, hon. Shebesh, I think we are saying the same thing.

Very well, hon. C. Kilonzo!

PROGRESS REPORTED

THE BREAST MILK SUBSTITUTES
(REGULATION AND CONTROL) BILL

Mr. C. Kilonzo: Mr. Temporary Deputy Chairman, Sir, the Committee of the whole House is considering The Breast Milk Substitutes (Regulation and Control) Bill and has instructed me to report progress and beg leave to sit another day.

Mrs. Shebesh seconded.

(Question proposed)

(Question put and agreed to)

(The House resumed)

[Mr. Deputy Speaker in the Chair]

Prof. Kaloki: Mr. Deputy Speaker, Sir, I beg to report that the Committee of the whole House is considering the Breast Milk Substitutes (Regulation and Control) Bill, Bill No.38 of 2012 and has instructed me to report progress and seek leave to sit again another day.

The Minister for Public Health and Sanitation (Mrs. Mugo): Mr. Deputy Speaker, Sir, I beg to move that the House doth agree with the Committee in the said resolution.

(Question proposed)

Mr. Keter: Mr. Deputy Speaker, Sir, just to put the record straight, this is a very vital Bill which all of us support. We were just talking about the procedure, on how things should be followed.

I want to say I support that move which the House has adopted.

Mrs. Shebesh: Mr. Deputy Speaker, Sir, as we prepare to come tomorrow, I would like to say that this, first of all, can never be a competition between men and women. At the end of the day, it involves children.

Mr. Deputy Speaker, Sir, if the procedure was followed correctly, then there was no procedure that was broken. What we do know though is that lobbying is a thing that is allowed. So, we will lobby our male colleagues because we know that we are looking for the best for the child. What we are passing here is what the Government should have done many years ago, so that they could protect children from getting opportunistic infections because they do not breastfeed.

Mr. Deputy Speaker, Sir, we will deal with this issue tomorrow. With all the goodwill of the House, I am a 100 per cent sure that we will pass the Bill, as has been brought by the Minister with the amendments from the Departmental Committee on Health. We do respect the work of the Committee.

Mr. M'Mithiaru: On a point of order, Mr. Deputy Speaker, Sir. The previous speaker has said that they will lobby the male Members of Parliament. But I think we all support this Bill. If there is anybody to be lobbied it is the women, who should be encouraged to breastfeed more and give more time.

Mr. Ruto: On a point of order, Mr. Deputy Speaker, Sir. According to me, it is not a question of support or opposition to this Bill. I had risen on a point of order to bring to the attention of the Chair the provisions of Standing Order No.35(2) which say:-

“The Order Paper shall be placed in each Member’s pigeon hole, at least twelve hours before the House meets, but a supplementary Order Paper shall be made available at least one hour before the House meets.”

This is a clear provision and there is no discretion on the part of the Speaker because Standing Order No.1 says:-

“(1) In all cases where matters are not expressly provided for---”

That is the only time that you are given that discretion but on matters that are clearly or expressly provided for, I do not see a situation where the Speaker will use Standing Order No.1 to overrule procedures that exist. What I was calling upon is the respect for the Standing Orders, unless your wisdom is such that---

Mr. Deputy Speaker: Order! Where is the Supplementary Order Paper that you are talking about?

Mr. Ruto: Mr. Deputy Speaker, Sir, I am saying that, indeed, some of the amendments that were sent to us are not on the Order Paper. So, why are we expected to debate what does not appear on the Order Paper?

Mr. Deputy Speaker: Order! Hon. Isaac Ruto, this is your third term in Parliament. This House has only one Order Paper. There has not been a Supplementary Order Paper for the business of today. This business matter was passed by the House Business Committee. The Speaker is an *ex-officio* Member of the House Business Committee and does not have a voting right.

Hon. Isaac Ruto, how many times have you moved amendments on the Floor of this House? You came to me here to approve your amendment, I approved it, you proceeded and moved it. Hon. Charles Kilonzo also came to me and sought the approval of the Chair on an amendment that he intended to move and here it is.

*(Mr. Deputy Speaker raised the document
for hon. Members to see)*

I immediately signed it and told him that he could proceed and move it on the Floor of the House. Not only that; I just wish I can be on the Chair sometimes and sometimes be out there to debate with you because some of the things you talk about---

Standing Order No.116 (2) says:-

“No amendment shall be moved to any part of a Bill by any Member, other than the Member in charge of the Bill, unless written notification thereof shall have been given to the Clerk before the commencement of the sitting at which that part of the Bill is considered in the Committee:

Provided that where an amendment has been moved---

Read the whole Standing Order. Do not look at it selectively. You see, more of the reason why people think you have an interest in this matter is because you---

Mr. Keter: But, Mr. Deputy Speaker, Sir---

Mr. Deputy Speaker: Order! Mr. Keter, one more time and you will see the wrath of the Chair!

(Laughter)

Standing Order No.116(2) further says:-

“...to any part of a Bill in accordance with this paragraph, any member may move an amendment to that amendment on delivering to the Chairperson the terms of his or her amendment in writing.”

That is exactly what Charles Kilonzo did. You go, write the amendment and bring it to the Speaker. If I am not here, you can deliver it to the Chair during the Committee of the whole House. So, for you to say that House Procedures have been flouted is not right. If you are so much bent on making sure that this is done another day, which indeed, you have got now, let us see what you will come with tomorrow. In any case---

(Laughter)

Order! The record has got to be set straight, and straight it will be set. When women talk about breast milk, they are a better authority and you should listen to them all. I will now put the Question.

The Minister for Public Health and Sanitation (Mrs. Mugo): On a point of order, Mr. Deputy Speaker, Sir.

Hon. Members: Apologise!

The Minister for Public Health and Sanitation (Mrs. Mugo): Thank you, Mr. Deputy Speaker, Sir. Certainly, I do not need to apologise. Maybe I spoke with a lot of passion and reason on this Bill. If anyone was annoyed, that was definitely not my intention but today, I just want to plead with you that we agree not to water down this Bill. This is because it will be a shell that will not mean anything even if we pass it.

I thank the Departmental Committee on Health because I know that it has really worked very hard. I was going to say this when I move the amendments.

Mrs. Noor: Mr. Deputy Speaker, Sir, this is a very important Bill to this nation and the children of this country. The Tenth Parliament has gone into history because of supporting issues of women, children and everything in this country.

I want to congratulate men because they have supported us in many ways. Thank you very much for that. This Bill is very important my dear brothers and sisters. Hon. Members, I plead with you that this Bill is important to the children of this country. I thank the Departmental Committee on Health for the work it has done. I have been in this Departmental Committee, and hon. Monda could go out of his way, sit in that Committee and do a lot of work. I want to congratulate the Health Committee.

Mr. Keter: *Na mimi?*

Mrs. Noor: *Na wewe Charles! Asante sana.*

(Laughter)

The Assistant Minister for Youth Affairs and Sports (Ms. Ndeti): Mr. Deputy Speaker, Sir, I would like to take this opportunity to thank our male colleagues. We know you are fathers and we respect that. We also know that when you are with your wife at night, when a child cries and is being breastfed, sometimes you wake up and sit beside your wife to try, at least, to be there for her even if you are not breastfeeding. So, we love you and respect you very much. We know that you have supported most women issues in this Parliament and we know the shortfalls of not breastfeeding. We kindly ask you, because we know you love your children and your wives not to water down this Bill. Support us tomorrow.

Thank you and may God bless you.

Mr. Kioni: Mr. Deputy Speaker, Sir, I would like to say that it is important that we remain consistent in what we have been doing in the past. As you have given directions, it is true that we have brought amendments on the Floor of the House many times. I also do not think that it is important for us to be sweet-talked. We were elected to come and do the proper thing and we do not need to be sweet-talked and be told that you love us or not.

(Laughter)

We have a responsibility and we owe it to Kenyans because this is a very important Bill. It cares for our kids and we have to do what it is that we need to do even without anybody---

Mr. Deputy Speaker: Are you sure the hon. Member is not worried that you might abandon your children?

Mr. Kioni: Mr. Deputy Speaker, Sir, it is our responsibility and I would have liked us to do it today but we have agreed that we do it tomorrow. We have a lot of Bills pending. I have a Bill pending for debate. Every minute we lose, I am not being of service to a number of people who grow pyrethrum in this country.

Mr. Mureithi: Mr. Deputy Speaker, Sir, while I appreciate the work done by the Departmental Committee on Health - I would like to appreciate because I have been a co-Member with the Chair in another committee - I feel it is a sad moment because whereas our female colleagues may say that men do not participate in breastfeeding, we probably do not participate directly but those of us who have had the experience of getting those children that need mothers' milk, know the value in terms of the brain development, alimentary canal development and the growth of a child.

Therefore, I would like to accept but I think when we come back to discuss this Bill, let us be level-headed and be able to cool down so that those elements that we feel are going to deprive our children the actual God-given product, we should not deal with them. We should really look at that child. Therefore, that is why I say I support it with a heavy heart because I have gone through the experience not once, twice, thrice but four times.

So, I support with a heavy heart.

The Assistant Minister for East African Community (Mr. Munya): Mr. Deputy Speaker, Sir, I am also strongly of the view that this is not a matter of men versus women. It is a matter that every human being must have an interest in. Everybody who has an interest in the well-being and health of our children must have an interest in this Bill. That is why I agree with the Minister that this Bill should not be watered down. We should not allow any vested interests or lobbyists from outside to influence the direction we take when an important matter like this one that is affecting the health of our children comes to the Floor of this House.

Therefore, I agree that we should get more time so that we can thoroughly and critically debate this Bill and pass it in the right form.

Mrs. Odhiambo-Mabona: Mr. Deputy Speaker, Sir, I want to say that because this is an important Bill that affects our children, we need to have ample time. I think until tomorrow is ample time for us to look at it. Let us put the best interests of the child first.

Mr. Kutuny: Mr. Deputy Speaker, Sir, this Bill is long overdue. It is very fundamental. It is coming at the right time when the women of the current generation avoid breastfeeding for only one reason; they want to maintain and keep round boobs which stand like those ones of Ms. Wavinya Ndeti, Mrs. Shebesh and Mrs. Odhiambo-Mabona.

(Laughter)

So, it is coming at the right time so that our---

Mrs. Shebesh: On a point of order, Mr. Deputy Speaker, Sir. Is it in order for Mr. Kutuny to discuss the size, shape and direction of our breasts which is an obscene thing to be talking about here when we are talking about children and breastfeeding? Young girls of this day and age, the “dot com”, the ones who you are thinking do not want to breastfeed, are actually the ones who have taught us that breastfeeding up to six months is important. This Bill is for the grassroots woman.

It is unfortunate that the work that is being done to try and dilute this Bill is only targeting people who can afford breast milk substitutes which most women cannot afford. This Bill is for the grassroots woman. It is for a woman whose breasts are facing upwards, downwards, sideways or front. But at the end of the day, it is to ensure that children are breastfed for six months. Is it in order for Mr. Kutuny to talk about my breasts?

Mr. Deputy Speaker: Mr. Kutuny you are out of order to talk about the breasts of hon. Shebesh and hon. Wavinya.

Proceed, Ms. Ndeti.

The Assistant Minister for Youth Affairs and Sports (Ms. Ndeti): On a point of order, Mr. Deputy Speaker, Sir. Is Mr. Kutuny really in order to talk about the size and shape of my breasts? We know breastfeeding can even make women’s tummies to go down. So, it also helps with the shape. So, the more you breastfeed, the more you get a good figure. Is he in order to really talk about the breasts?

Mr. Deputy Speaker: Mr. Kutuny is out of order.

Yes, Mrs. Odhiambo-Mabona.

Mrs. Odhiambo-Mabona: On a point of order, Mr. Deputy Speaker, Sir. Thank you for agreeing that Mr. Kutuny is out of order to talk about our breasts since he has no expert knowledge about them. He can only see them from a distance; he has no intimate knowledge about them.

(Laughter)

Be that as it may, could he therefore, withdraw because he cannot speak about something he has no expert knowledge on? He has expert knowledge on another one’s, not ours.

The Attorney-General (Prof. Muigai): Mr. Deputy Speaker, Sir, I was going to propose that hon. Members have expressed themselves very robustly on the subject and that the Chair should bring the debate to a close so that we may attend to other business.

Ms. Chepchumba: Mr. Deputy Speaker, Sir, is it in order for Mr. Kutuny to describe the size of women’s breasts? I think Mr. Kutuny is unfair to have only subjected this ridicule to non-Kalenjin women of Parliament? Is he in order?

Mr. Deputy Speaker: He is out of order, no doubt.

The Minister for Finance (Mr. Githae): Mr. Deputy Speaker Sir, I just want to confirm that we, the so-called male hon. Members of this House have even a greater interest in this issue. This is because we are talking about our children, spouses and breasts. So, we have an interest in the issue.

I intend to bring an amendment to make it compulsory for every child to be breastfed for three years.

Mrs. Noor: On a point of order, Mr. Deputy Speaker, Sir. Mrs. Odhiambo-Mabona has requested you to order Mr. Kutuny to withdraw his remarks. Would I be in order to request that Mr. Kutuny withdraws his remarks?

Mr. Deputy Speaker: Order. I have already ruled him out of order.

Dr. Eseli: Mr. Deputy Speaker, Sir, let us get back to our senses. This Bill has already passed Second Reading. We are past that stage; we cannot stop. We have to continue with it. It is good that we continue with it tomorrow. It is about breast milk substitutes; how to regulate them. It is not about breastfeeding. It is about breast milk substitutes and complementary feeds, how to regulate them. It is not about breastfeeding.

Secondly, whenever we make laws in this Parliament, a good law protects the weakest members of our society. In this case, the weakest members of our society are children. The weakest of the weak are those children whose mothers have either died at childbirth or do not have a mother to breastfeed them for that matter. So, a good law has to protect the weakest. That is what this law is aiming to do.

I realize as we talk that a number of hon. Members have not taken the opportunity to read this law. I plead with you, as you go home read it.

Thank you.

Mr. Midiwo: Mr. Deputy Speaker, Sir, I want to agree with my friend Dr. Eseli whom we had an opportunity to discuss this Bill all the way from last week and I respect his views on it. I want to plead that even as the issues of breasts are nice to talk about, let us talk about them with a view to taking care of our most vulnerable.

Let me say that even though the Bill has been put forward to tomorrow I want to urge hon. Members to take interest in this Bill. There is something which is important which maybe hon. Members are not saying which needs to be said, that we need to make it to protect not only the vulnerable but also everybody involved.

So, I am in support of this Bill. I supported it in the House Business Committee but I did not think it was about Rachael's breasts. I was supporting it for the children but now that it includes---

Mr. Deputy Speaker: Order! Order! Hon. Jakoyo Midiwo, you are out of order. You cannot talk about hon. Members in that manner. You must withdraw that remark immediately.

Mr. Midiwo: Mr. Deputy Speaker, Sir, I withdraw and apologise.

With those remarks, I support.

Mr. Deputy Speaker: What is your point of order, hon. Kapondi?

Mr. Kapondi: Mr. Deputy Speaker, Sir, as hon. Eseli said, this Bill has passed through the Second Reading. It is supposed to go to the Committee of the whole House. What is happening, basically, is like we are debating it again. So, would I be in order to request that you call the next Order?

Mr. Deputy Speaker: Hon. Kapondi, you are indeed right. This moment is just for hon. Members to make a few sentiments here and there, given the sensitivity of the matter and the interest they have exhibited on it. The Chair, as much as possible, exercises that discretion singularly. So, it is on the basis of that consideration that I have allowed a little bit of ventilation on the Bill.

Hon. Members, under the circumstances right now, except for hon. Shabesh who has been talked about in a manner that is not right and who is, right now, on a point of order, I will put the Question.

Hon. Shabesh, what is your point of order?

Mrs. Shabesh: Mr. Deputy Speaker, Sir, I just want to tell anybody who wants to talk about my breasts that, as long as he is in support of the Bill, he can do so until tomorrow. I have no problem.

(Laughter)

Secondly, as women Members of Parliament, we have read the Bill and understood it. We have discussed it with the Minister and the technical staff in the Ministry of Health. So, we understand it very well. Therefore, hon. Jakoyo Midiwo can talk about my breasts, but he does not have to tell me to go and read the Bill because I have already read it and I am ready to debate.

Mr. Deputy Speaker: Charles, you made your point.

Mr. C. Kilonzo: Mr. Deputy Speaker, Sir, give me half a minute.

Mr. Deputy Speaker: What is half a minute?

Mr. C. Kilonzo: Mr. Deputy Speaker, Sir, for the record, we support the Bill, but I plead with the Minister that even if we have differences in this House, let us not become genders. It does not auger very well; more so when we are fighting to bring more ladies to Parliament. Women are currently only 10 per cent in this House, and the Minister can come here and attack mankind. We find it very offensive.

(Loud consultations)

Mr. Deputy Speaker: Order! Order! You are out of order, hon. Charles Kilonzo. The Minister did not attack anybody. By the way, “mankind” includes womankind as well.

(Question put and agreed to)

Mr. Deputy Speaker: Hon. Members, the Chair directs that this business be listed on the Order Paper tomorrow, to have priority over other businesses. It is going to be Order No.8 in tomorrow’s afternoon proceedings.

(Loud consultations)

Order! Order! What has excited you so much, hon. Keter? Hon. Members, the Chair directs that any hon. Member who may want to file any amendments, in addition to the amendments that have already been proposed, please, do so in good time. If you can do so today and, latest, tomorrow morning, the Clerks will have had the ample time they need to list them on the Order Paper.

Next Order!

BILL

Second Reading

THE PROCEEDS OF CRIME AND ANTI-MONEY
LAUNDERING (AMENDMENT) BILL

The Minister for Finance (Mr. Githae): Mr. Deputy Speaker, Sir, I beg to move that The Proceeds of Crime and Anti-Money Laundering (Amendment) Bill, Bill No.25 of 2012, be now read a Second Time.

Mr. Deputy Speaker, Sir, I will be very quick, because I want us to finish with this Bill and proceed to the next one.

Hon. Members are aware that this august House passed the Proceeds of Crime and Anti-Money Laundering Bill on 10th December, 2009. The Act seeks to achieve the following:-

(i) criminalise money laundering and provide for criminal and civil restraint, seizure and forfeiture;

(ii) establish the Anti-Money Laundering Advisory Board (AMLAB), the Financial Reporting Centre (FRC), which is the equivalent of the Kenya Financial Intelligence Unit (KFIU); the Assets Recovery Agency (ARA) and the Assets Recovery Fund (ARF);

(iii) place an obligation on reporting institutions to file suspicious transactions reports and cast transactions reports to the FRC; and,

(iv) provide for international co-operation on matters relating to the investigation and prosecution of money laundering cases.

Mr. Deputy Speaker, Sir, whereas the implementation of the Act is in progress, a number of deficiencies have been identified and, therefore, need to be addressed as a matter of urgency, so as to facilitate a smooth implementation of the Act and as part of the wider financial sector reforms, to which I alluded in my Budget Statement for the current financial year.

The measures proposed in the Proceeds of Crime and Anti-Money Laundering (Amendment) Bill, 2012 are, therefore, aimed at ceiling some of the loopholes that have been identified in the Crime of Proceeds and Anti-Money Laundering Act, 2009. These deficiencies form part of those which have been highlighted in the Mutual Evaluation Report on Kenya's anti-money laundering and combating the financing of terrorism regimes.

Mr. Deputy Speaker, Sir, the mutual evaluation was carried out by the Eastern and Southern Africa Anti-Money Laundering Group, and the Report was adopted by the Council of Ministers in September, 2011. As a country, we have committed ourselves to addressing the deficiencies identified in the Report. Kenya is one of the founding members of the institute, which was established in 1999, and which is committed to the full implementation of international standards on anti-money laundering and combating of financing of terrorism.

The FRC was established in April, 2012 and is headed by an interim Director. It is now operational with seconded staff from both the Treasury and the Central Bank of Kenya (CBK). I am now glad to give information to the House that it has moved to its own premises. Strategic direction and guidance to the FRC is provided by the AMLAB. The board, which has been very active, is cognizant of the need to maintain the operational independence of the FRC, and will not interfere with its day-to-day operations.

Mr. Deputy Speaker, Sir, the FRC has extensive functions and powers, including the following:-

(i) receiving of reports of an issue or suspicious transactions and casting transaction reports made by reporting entities as well as casting declaration forms received from border points;

(ii) analysing reports received under the Act and as applicable, disseminating financial intelligence information and reports to the applicable law enforcement authorities and other supervisory bodies for further handling;

(iii) undertaking inspection and supervision of reporting institutions to ensure compliance with the anti-money laundering reporting obligations as prescribed in the Act;

(iv) developing regulations to provide guidance to support implementation of the Act;

(v) developing training programmes for reporting institutions; and,

(vi) facilitating the exchange of information on money laundering activities with all financial intelligence units in other countries.

Mr. Deputy Speaker, Sir, the FRC is rolling out regulations to, among other things, enable it to receive suspicious transaction reports from all reporting institutions. The regulations are undergoing a very crucial process and are envisaged to come into effect in October, 2012. The FRC is set to receive suspicious transaction reports and cast transaction reports from reporting institutions, which already have reporting arrangements with their respective supervisory authorities. Thereafter, the FRC will bring on board, other reporting institutions specified in the Act. Another key institution in the regime is already being set up under the Office of the Attorney-General. This is the Assets Recovery Agency. That agency will play an important role in identifying and recovering assets traced under the Act.

Mr. Deputy Speaker, Sir, allow me to give highlights of the amendments which I am proposing. Clause 2 seeks to expand the definition of “monetary instruments” to include other forms of monetary instruments such as cheques and other negotiable instruments. The current definition of “monetary instruments” in the Act has been found to be deficient. It does not include other forms of monetary instruments other than coins and paper money. The proposed definition is, therefore, more comprehensive.

Mr. Deputy Speaker, Sir, Clause 3 seeks to extend the application of the offence of money laundering to persons who commit predicate offences that is self money laundering. Clause 4 seeks to ensure that the tipping provision is in line with international best practices. The Act makes it an offence for a person to tip off or disclose to a person who is subject of an investigation of possible offence of money laundering.

Mr. Deputy Speaker, Sir, Clause 5 seeks to introduce a provision to enable the designated competent authorities to obtain further information from the carrier of monetary instruments with regard to the origin of the currency or bearer of negotiable instruments and their intended use upon discovery of a false declaration or disclosure of currency or bearer of negotiable instruments or a failure to declare or disclose them. It hopes to introduce a requirement for information on the amount of currency or bearer of negotiable instruments declared under Section 2 of the Act or otherwise detected and the identification data of the bearer to be retained for use by the competent authorities. Currently, the Act does not specify what should happen in case a false declaration is discovered by an authorized officer at the entry or exit points in our airports or borders. The proposed amendment, therefore, provides for action to be taken after the self declaration is discovered to be false.

Mr. Deputy Speaker, Sir, Clause 6 seeks to streamline the law by placing the violations of reporting obligations under Sections 44, 45 and 46 in the proper place. This is basically a cleanup exercise.

Clause 7 makes it clear that the provisions of the Act shall only override any obligation as to secrecy or other decisions or disclosure of information with regard to money laundering and not for any other matter. This is to ensure that nobody takes advantage of the provisions of the Act to seek for information which is not related to money laundering. We must protect our privacy as much as possible.

Mr. Deputy Speaker, Sir, Clause 8 seeks to provide the financial reporting centre with adequate power to compel production or access to records, documents or information relevant to the monetary compliance outside the scope of onsite inspection. Currently, the financial reporting centre does not have the power to call for such information.

Clause 9 seeks to separate the obligations for financial institutions to pay special attention to complex, large and unusual transactions and to report suspicious transaction obligations under Section 44 of the Act, and to create specific separate sections for each. This will assist both the authorities and the reporting institutions to effectively implement the specific provision of the Act in a manner consistent with the international best practice.

Mr. Deputy Speaker, Sir, lastly, Clause 10 seeks to empower the financial reporting centre to require the retention of records by a reporting institution for a longer period than what is specified.

I intend to propose a few other amendments to the Act at the Committee Stage and this had been agreed upon by the Committee. The additional amendments required are going to complement these amendments. I have dealt extensively with the Bill so that we can move forward.

I beg to move and request the hon. Attorney-General to second the Bill.

The Attorney-General (Prof. Muigai): Mr. Deputy Speaker, Sir, I rise to second this Bill. As hon. Members are aware, Kenya is committed to fulfilling its international obligations. In particular, Kenya is committed to playing its part in combating international criminal activity. We have already enacted the Proceeds of Crime and Anti-Money Laundering Act and this Bill further strengthens our resolve to strengthen the legal regime in which we are assisting the rest of the world to carry out this most necessary activity. Kenya's economic leadership of our region demands that we be at the forefront of addressing these problems, and I commend the Minister for bringing these further amendments which make it quite clear that we intend to deal seriously and effectively with the scourge of money laundering.

Mr. Deputy Speaker, Sir, hon. Members would be aware that Section 53(1) of the main Act establishes the Assets Recovery Agency as a semi-autonomous body under the Office of the Attorney-General. I would like to confirm to hon. Members that we are at a very advanced stage of setting up that agency and appointing a director. Within the next two weeks or so, the World Bank will be sending a team to Kenya to assess our needs in this regard and we are very privileged to have received that support. I would like to urge hon. Members to support this Bill for the reasons that I have advanced above.

Thank you, Mr. Deputy Speaker, Sir.

(Question proposed)

Prof. Kaloki: Mr. Deputy Speaker, Sir, I rise, first of all, to support this particular Bill. We are debating an Act of Parliament which is going to deal with the proceeds of crime and money laundering. We are strengthening the Act which is already there. The Act was enacted in 2009.

Mr. Deputy Speaker, Sir, money laundering is a crime that must be punished because it destroys the economy. It waters down the investments to our country and to the region. The region cannot move forward and become competitive. You cannot be able to measure real employment because you cannot measure the inflow. The Central Bank of Kenya (CBK) cannot control the money flow into the economy. So, what we have is inflation that we cannot be able to control and that punishes the consumers.

Mr. Deputy Speaker, Sir, this particular law will strengthen and tighten our economy. It will make sure that real investments are coming into our country. We will be able to deal with the inflation in the country. This particular law also prescribes punishment to people who deal with money laundering. They will be forced to do it elsewhere and not in Kenya. Otherwise, this is a good Bill and we should support it so that we can strengthen our micro and macro-economic activities.

Thank you, Mr. Deputy Speaker, Sir.

Mrs. Odhiambo-Mabona: Thank you, Mr. Deputy Speaker, Sir. I also stand to support this Bill and I will be very brief. In so doing, I want to request the Minister to be very clear on Section 2(c). What does “monetary instruments” mean?

“2 (c) any other negotiable instrument which is in bearer form, or other form through which title passes upon delivery.”

That is very wide. If you look at the intent and even the legislative history of that Bill, the primary purpose was not to extend it to this degree.

Again, Mr. Deputy Speaker, Sir, one other thing that I would want the Minister to speak to is where we are limiting rights under these proposed amendments. We should ask ourselves whether we have taken into account the constitutional standards for limiting rights. Indeed, when we were passing the primary Act, we had not already passed the Constitution. Therefore, the standards were not required. But when we are passing the Bill right now, the current Constitution is applicable. Therefore, whether we are bringing issues of seizure or searches, they must be done as per the standards as provided by the Constitution.

Mr. Deputy Speaker, Sir, I beg to support.

Mr. Kapondi: Mr. Deputy Speaker, Sir, I also wish to rise to support this very crucial Bill. The issue of money laundering and criminal activity has become more complex internationally. Without very strong laws to bar this, our country can end up being a haven for these international criminals who are looking for safe havens to keep their money.

So, Mr. Deputy Speaker, Sir, this Bill should have been passed like yesterday as it is. Therefore, it is important that we should not spend a lot of time debating it, because it is a good piece of legislation for this country.

Mr. Deputy Speaker, Sir, I wish to emphasize that we should pass it as it is without wasting a lot of time.

With those brief remarks, I beg to support.

The Minister for Finance (Mr. Githae): Mr. Deputy Speaker, Sir, I would really like to sincerely thank hon. Members of this House for those very, very kind words and for the support of this Bill.

Mr. Deputy Speaker, Sir, I beg to move.

(Question put and agreed to)

(The Bill was read a Second Time and committed)

to a Committee of the Whole House tomorrow)

THE PREVENTION OF TERRORISM BILL

Second Reading

Mr. Deputy Speaker: The Minister is not here to move this Bill. Apparently, he wants all the---

The Minister for Finance (Mr. Githae): Mr. Deputy Speaker, Sir, I am moving this Bill.

Mr. Deputy Speaker: On his behalf?

The Minister for Finance (Mr. Githae): Yes, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Okay, proceed.

The Minister for Finance (Mr. Githae): Thank you, Mr. Deputy Speaker, Sir.

I beg to move that The Prevention of Terrorism Bill be now read a Second Time.

Mr. Deputy Speaker, Sir, I will be very quick again because we all have faced terrorism. We know what it means. So, it is no longer a theory and it is something practical. Kenya continues to face the threat posed by terrorist groups. The recent attacks targeting innocent citizens in places of entertainment, bus stops and places of worship is a vivid reminder that terrorists are here with us and we can no longer wish the threat posed by terrorism away. Indeed, if some of the planned attacks, including last week's one which saw the recovery of deadly explosives and other arsenals, had not been intercepted by our security forces, we would, probably, be talking a different story. We have evidence that, that terrorist group was targeting Parliament and hon. Members. It is only by good luck that their car broke down on their way to this august House. So, we cannot wish terrorism away.

Mr. Deputy Speaker, Sir, Kenya has been a victim of major terrorist attacks on four occasions. The first attack was in 1980 when the Norfolk Hotel was bombed on the eve of the New Year. That attack left 16 people dead and several others injured.

The second major attack was in August, 1998, when the US Embassy was bombed and over 250 people killed and thousands injured.

The third major attack was in 2002 when Paradise Hotel in Kikambala was bombed and the attempted downing of an Israeli airline which was leaving Moi International Airport.

The fourth major terrorist attack occurred in June, this year, when gunmen opened fire on worshippers in churches in Garissa, killing 18 innocent worshippers. Apart from the foresaid attacks, we have had several attacks of a smaller magnitude such as the Ambassador Hotel attack, the Uhuru Park attack and the Kampala-bound bus attack. In all these attacks, the people who suffered are Kenyans

Mr. Deputy Speaker, Sir, the Government has come under close scrutiny over the ease with which suspected terrorists are able to come into this country and the failure to criminalize terrorism and terrorism financing. Due to lack of legislation to criminalize terrorism and terrorist financing, the country faces imminent threat of being blacklisted by the Financial Action Task Force, by the international community. I must speak to the hon. Members of this august House because we have been given up to the end of this month to enact the relevant legislation or face counter measures. By "counter measures", they mean that we will be blacklisted. If Kenya is blacklisted, we will not be able to receive any coin or even a single cent from outside the country. We will not be able to send a single cent outside the country. So, you can see the seriousness under which we must pass this Bill, so that we are not blacklisted.

Mr. Deputy Speaker, Sir, if we are blacklisted, it will place the country in the same category as Iran and North Korea which will have an adverse effect on the country's economy, especially the financial sector. If that were to happen, the country's reputation in the international community will be tarnished as it will be viewed as a money laundering haven or transactions emanating from the country will be treated with suspicion and subjected to extra vigilance. Even payments such as school fees for students studying abroad will not be spared. Even payments for medical services abroad will not be spared. Correspondent banking relations and growth of Kenyan banks in other regions will also be severely curtailed.

On foreign investments, the country will be eroded, thus hampering the Government's plan to attain Vision 2030 objectives.

Mr. Deputy Speaker, Sir, while the law enforcement agencies have and continue to put in place concerted efforts to combat the vice, the existing laws are inadequate to assist in preferring appropriate charges and meting out deterrent penalties against the offenders.

Currently, terrorism is not mentioned in any of our legislation and the Prevention of Terrorism Bill, 2012, is an effort to criminalize all stages of terrorism and terrorism financing.

Mr. Deputy Speaker, Sir, you will also realize that whenever we get these guys, the only offence we charge them with is being in the country illegally because we have no specific terrorism Act to deal with it. So, we only charge them with being in Kenya illegally and then they are escorted out of the country.

Mr. Deputy Speaker, Sir, this is the second time that legislation that seeks to outlaw terrorism and terrorism financing is being brought before this august House. In 2003, the Suppression of Terrorism Bill, 2003, was published and tabled before Parliament. However, the 2003 Bill attracted widespread condemnation from civil and religious organizations which saw it as draconian and unconstitutional.

The Government initiated consultations with various stakeholders to address concerns that had been raised regarding the Suppression of Terrorism Bill, 2003. The Prevention of Terrorism Bill, 2012 is, therefore, a product of very wide consultations and it has addressed all the concerns that had been raised by stakeholders. It has addressed the concerns from the civil society, religious society and any faith-based organization. Therefore, I assure this House that this is a good Bill; it balances privacy, fundamental human rights against the need to combat terrorism.

Mr. Deputy Speaker, Sir, the title of the Bill has also been changed from "Suppression of Terrorism" to "Prevention of Terrorism". Again, we want to emphasize about prevention of terrorism. Also, the definition of "terrorism" has been reviewed to exclude "acts committed in pursuance of protests". So, protests are not covered under this Bill, demonstrations are not covered under this Bill, stoppage of work is not covered under this Bill and clauses on religious profiling have also been deleted. This is a good Bill.

The provisions relating to arrests, detention and prosecution of suspects have been reviewed to be in conformity with the Bill of Rights as stated in the new Constitution. Therefore, I am confirming that the provisions in this Bill are constitutional. Of importance to note is that in all offences, positive knowledge of the support or facilitation of offences under this Bill, as opposed to inferred knowledge, is a mandatory ingredient and the burden of proof is on the prosecution. The Bill has also built administrative and judicial mechanisms to ensure that they enhance investigative powers of the police, and the power to designate an entity as a specified entity are not exercised in a capricious and oppressive manner. The power of seizure and

confiscation of suspect's property are also subject to the due process as actions and enforcement agencies must be supported by judicial orders. No arrests at night.

The Bill provides recourse for innocent people who may be affected by the provisions of this Act such as seizure of property and declarations as specified by an entity or terrorist organization. In other words, there are enough safe guards to protect those who are innocent. As opposed to the case in most legislation where emphasis is on the criminal, this Bill makes a deliberate effort towards addressing the plight of victims of terrorism by creating a Victims Compensation Fund. We did not have this fund before. If we had this fund, the Kenyans who suffered in the American Embassy bomb-blast would have been compensated. As it is, the American Government compensated its citizens but Kenyans were left out.

Mr. Deputy Speaker, Sir, let me assure hon. Members that contrary to the views expressed by some groups, the Bill does not target any religious, ethnic or racial group. The Bill has been drafted by Kenyans, it is homegrown and complies with the Constitution and targets only criminals.

With those few words, I beg to move and request the Chief Whip, Mr. Midiwo to second.

Mr. Midiwo: Mr. Deputy Speaker, Sir, I rise to second this Bill. Let me thank the Minister for moving the Bill well. I will be brief.

We understand our predicament and that we can be blacklisted in the international markets for financial transactions, but as a country, or a Government, we could avoid this. Why we are between a rock and a hard place as a country is because we are facing terrorist activities. We have been arresting suspected terrorists, but we have always released them because there is no proper procedure. Our greatest fear is that we do not want a law that shall victimize Kenyans. We want to have a law and be a lawful society, issues of victimization, that you look like a terrorist and, therefore, you are a terrorist--- We are saying that we hope our security forces will not use the created law to victimize sections of our society. These are real fears. I am happy that the Minister has alluded to several sections which were offensive but have been deleted, so that we can have a consensus document. I still want to urge that if there is anything we can do to improve but continue to live peacefully with one another, I would want us to look at it even as we move forward with this Bill.

With those few remarks, I beg to second.

(Question proposed)

Mrs. Shebesh: On a point of order, Mr. Deputy Speaker, Sir. I want to seek your ruling or indulgence. We have been in this House for a long time. The issue of terrorism is very close to our hearts now as a country, especially now that our country has gone to Somalia to fight the *Al Shabaab*. I am asking if the Chair could consider allowing this debate, which I want to participate in and I know very many hon. Members want to participate in, to come to the Floor when this House has the hon. Members who will ensure that its passage is not contentious. We want to be very clear. I know the Minister or the Attorney-General will not be happy with me. There are Members of Parliament in this House who have even been accused in the media, and it is public knowledge; some hon. Members have spoken very passionately about this Bill from the opposite side. This is not the kind of discussion we want to finish with the kind of membership we have in the House if we want to be serious about terrorism, and if we want to have a clear debate. I am asking the Chair if we could adjourn debate on this Bill, so that we can debate it when we will be able to bring all the voices on board.

Mr. Deputy Speaker: You are seeking an adjournment of debate on this Bill under Standing Order No.25? Could you be clear?

Mrs. Shebesh: Yes, Mr. Deputy Speaker, Sir. I am looking for an adjournment of debate on the Bill, so that we can accommodate all the voices on the Bill in this particular debate.

Mr. Deputy Speaker: Hon. Members, yes indeed, Standing Order No.25 is very categorical. It says:-

“A Member who wishes to postpone to some future occasion the further discussion of a question which has been proposed from the Chair may claim to move “That, the debate be now adjourned”.

Then of course the Chair will give direction. Mrs. Shebesh, you are not listening. You have to use the words verbatim “That, the debate be now adjourned.”

Mrs. Shebesh: Mr. Deputy Speaker, Sir, I stand guided. Under Standing Order No.25, I move that the debate be now adjourned.

*(Question, that the Debate be now adjourned,
put and agreed to)*

(Debate on the Bill adjourned)

We now proceed on to the next Order.

MOTIONS

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

Prof. Kaloki: Mr. Deputy Speaker, Sir, I beg to move the following Motion:-

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/Commissioners to the Privatization Commission, laid on the Table of the House on Thursday, 6th September, 2012:-

1. Ms. Miriamu 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

Mr. Deputy Speaker, Sir, the Committee was able to deliberate on this particular matter. It is also good to know the Members of the Committee who were working on this particular Report. They were:-

- Hon. Chris Okemo, Chairman;
- Hon. (Prof.) Kaloki, Vice-Chairman;
- Hon. J.W. Midiwo;
- Hon. Musikari Kombo;
- Hon. K.L. Chepkitony;

Hon. K.S. Mwaita;
Hon. M.L Kivuti;
Hon. R.N. Gaichuhie;
Hon. N. M³Mithiaru;
Hon. A.A.S. Shakeel; and,
Hon. ole Lankas

Mr. Deputy Speaker, Sir, I would like to go to the recommendations of this Report. The seven nominees before the Committee were vetted and we were able to look at regional balance and educational qualifications of these particular candidates. The Committee was satisfied that these particular nominees are able to serve as members of the Privatization Commission. These particular candidates will be able to serve this Commission, because they have been able to demonstrate that they have capacity to do so. I urge the House to support these nominees.

Mr. Deputy Speaker, Sir, I beg to move and ask hon. Midiwo to second.

Mr. Midiwo: Mr. Deputy Speaker, Sir, I second.

(Question proposed)

The Minister for Finance (Mr. Githae): Mr. Deputy Speaker, Sir, I rise to support the adoption of these names.

Mr. Deputy Speaker, Sir, I would like to assure this House that this was through advertisement and they were shortlisted. The other day I told the Treasury bureaucrats that they must reflect the face of Kenya. You will agree with me that they actually do.

Mr. Deputy Speaker, Sir, I support.

Mr. Mwachugu: Mr. Deputy Speaker, Sir, in as much as I wish to support these names, I beg to differ with the Minister that this list represents the face of Kenya.

Mr. Deputy Speaker, Sir, all the same, I support.

Mr. Chanzu: Mr. Deputy Speaker, Sir, I also want to support.

Mr. Deputy Speaker, Sir, this is one way that we, as a country, are showing that we are actually adhering to the reforms that we set to achieve. So, we are able to get names of people through adverts and involve various institutions of Government. At least, Parliament is having a chance to have a look at the names, Report and the recommendations. This will ensure that we get rid of what happened in the past, like in the area of privatization, where things were done in an *ad hoc* manner and some assets of Government were just disposed of at will. There was nobody to take responsibility. It is going to improve service delivery to Kenyans.

Mr. Deputy Speaker, Sir, I support the nominations.

Mrs. Odhiambo-Mabona: Mr. Deputy Speaker, Sir, I support. I will be very brief.

Mr. Deputy Speaker, Sir, I would want to encourage that in future, when we have such lists, so that we are sure that we are conforming with the Constitution, we need to find the ethnic representation, because it is a Constitutional requirement. We also need to find out the regional and age representation and also whether we have included persons with disability. I can only guess from the abbreviations that, perhaps, we have one-third representation of women. I am presuming so, because these names could really be anyone or mean anything. I would want to encourage that, that should be provided whenever these lists are provided.

Mr. Deputy Speaker, Sir, finally, let us always remember that the one-third is not always a woman. Let us also have a list where the men are one-third.

Mr. Mututho: Mr. Deputy Speaker, Sir, I rise to support these names.

Mr. Deputy Speaker, Sir, of course, as usual, it is not possible to have anybody from Nakuru. But having said that, the face of Kenya will one day include Nakuru, where the flamingoes and 1.6 million of us live. There is one very serious point that I must make, though supporting. I am looking forward to the Committee on Finance, Planning and Trade to ensure that among other things, this privatization is not rushing through to go and steal all those sugar factories from Nyanza and western Kenya, like what happened in Ramisi and other places. I hope that it is not meant to go and take pyrethrum from the pyrethrum growers and other places. They must observe, at least, that presentation. Those assets, like sugar factories---

(Prof. Kaloki consulted loudly)

My friend is telling me “*tosha*,” but I want to say that also the sand in Machakos should not be privatized, such that they do not own 51 per cent.

Thank you, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Does the Mover wish to reply?

Prof. Kaloki: Mr. Deputy Speaker, Sir, the Committee is really happy that this Report is going to be adopted. We will make sure that all the recommendations are carried out. The Minister is here and has been listening. That is his mandate to make sure that the concerns have been implemented.

Mr. Deputy Speaker, Sir, I beg to move.

(Question put and agreed to)

ADOPTION OF REPORT ON APPOINTMENT OF BOARD MEMBERS OF
PUBLIC PROCUREMENT OVERSIGHT BOARD

Prof. Kaloki: Mr. Deputy Speaker, Sir, I beg to move the following Motion:-

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 Public Procurement Oversight Advisory Board, laid on the Table of the House, on Thursday 13th September, 2012:-

1. Eng. Reuben Kiplangat Kosgei
2. Ms. Ruth Theddesia Ngobi
3. Mrs. Faith Njeri Kimani
4. Mr. Patrick Mahonga Mtange
5. Ms. Joyce Muthoni Njogu
6. Mr. Humphrey Kimani Njuguna
7. Mrs. Martha Karwitha Mugambi
8. Mr. Fred Abednego Odhiambo

I would like to add that in moving this Motion, the Committee was able to vet these nominees based on various attributes such as education, ethnic balancing and of course gender. I would like to ask Mr. Midiwo to second.

Mr. Midiwo: I second, Mr. Deputy Speaker, Sir.

(Question proposed)

Mr. Mwadeghu: Mr. Deputy Speaker, Sir, it is of paramount importance that when we are making such appointments, we are careful. When the Mover comes up with an assertion that these names take into account ethnic balance and he knows very well that they are so skewed in favour of people from certain regions, it is not fair that we continue to allow such remarks by the Mover in the House. In as much as I was tempted to oppose because of those remarks, nonetheless, I support.

(Laughter)

Mr. Chanzu: Mr. Deputy Speaker, Sir, this one is highly gender representative because I can see four women and four men. Based on the openness in which it was done and the qualifications of these people, I beg to support.

Mrs. Odhiambo-Mabona: Mr. Deputy Speaker, Sir, I know that the Minister is busy telling me that these people are from institutions but we must find a way of dealing with the issue of regional balancing and gender balancing even when people are sent from institutions. Therefore, I oppose because this is unconstitutional.

Mr. Yakub: Mr. Deputy Speaker, Sir, with all due respect, it seems every now and then marginalization is always with us. I stand here to oppose the names due to regional balancing which I do not see among these eight names. I beg to oppose.

Mr. Kaino: Mr. Deputy Speaker, Sir, I stand here to support. My supporting is because I see that women are more than men. Women are very sincere and so this procurement issue is very important and if women would be three quarters, I would have clapped very much but I support.

ADJOURNMENT

Mr. Deputy Speaker: Hon. Members, it is now time to adjourn the proceedings of the House. Therefore, the House stands adjourned until tomorrow Thursday, 20th September, 2012 at 2.30 p.m.

The House rose at 6.30 p.m.