

NATIONAL ASSEMBLY

OFFICIAL REPORT

Tuesday, 5th August, 2008

The House met at 2.30 p.m.

[Mr. Deputy Speaker in the Chair]

PRAYERS

(Mr. Bett stood up in his place)

Mr. Deputy Speaker: Mr. Bett, can you get closer to the microphone?

Mr. Bett: On a point of order, Mr. Deputy Speaker, Sir. When the Clerk-at-the-Table called out Order No.4, I stood up but, unfortunately, you did not notice me. Then the Clerk-at-the-Table moved on yet I was still standing!

Mr. Deputy Speaker: You had a Paper to lay?

Mr. Bett: Yes, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Can you do that tomorrow morning?

Mr. Bett: Thank you, Mr. Deputy Speaker, Sir. On June 8th---

Mr. Deputy Speaker: Order! The Clerk-at-the-Table has already moved on to Notices of Motions. You will lay your Paper on the Table tomorrow morning.

QUESTIONS BY PRIVATE NOTICE

ALCOHOL CONTENT IN ALVARO DRINK

Mrs. Shabesh: Mr. Speaker, Sir, I beg to ask the Minister for Industrialization the following Question by Private Notice.

(a) Could the Minister confirm whether there is any alcohol content in Alvaro, a drink sold as a non-alcoholic drink by East African Breweries Limited?

(b) Could the Minister table evidence from the Kenya Bureau of Standards (KEBS) on the contents of the drink?

(c) Could the Minister stop the sale of this drink pending the establishment of its actual contents?

Mr. Deputy Speaker, Sir, I would like to table the results that I was asked to lay on the Table by the Chair last week. This is the report of the laboratory analysis confirming that Alvaro does contain some alcohol.

(Mrs. Shabesh laid the document on the Table)

The Minister for Industrialization (Mr. Kosgey): Mr. Deputy Speaker, Sir, I wish that this document could be read because it says here: "Chemical used; acidified potassium permanganate and acidified potassium dichromate." Potassium permanganate is a reagent. It is dark red in colour. When you add or reduce---

(Several hon. Members stood up in their places)

The Minister for Industrialization (Mr. Kosgey): Let me explain! I have to explain this because this issue cannot continue!

Mr. K. Kilonzo: On a point of order, Mr. Deputy Speaker, Sir. This Minister is on record as having said that Alvaro does not contain any alcohol. We know he is not a scientist or chemical

engineer. Is he in order to start analyzing this report yet we know that he has already taken a position on this matter?

The Minister for Industrialization (Mr. Kosgey): Mr. Deputy Speaker, Sir, I beg you to give me sufficient time because Alvaro has no alcohol content.

(Loud consultations)

The Minister for Industrialization (Mr. Kosgey): Let me finish! I am on a point of order!

Mr. Deputy Speaker: Order, hon. Members! Let the Minister answer the Question and then you can rise on your supplementary questions or points of order.

The Minister for Industrialization (Mr. Kosgey): Mr. Deputy Speaker, Sir, detection of alcohol in any liquid substance is not rocket science. It is a simple chemical process. For the information of Mr. K. Kilonzo, I have a degree in Chemistry. This is my field. When you reduce the dichromate, you get a simple CR3 iron which is green in colour. That is exactly what happens when you add the dichromate or permanganate into Alvaro because there are reducing sugars there. The reducing sugars---

Dr. Khalwale: On a point of order, Mr. Deputy Speaker, Sir. This is a very important Question because we want to save our youth and protect enterprise be it by the East African Breweries Limited or Coca Cola. We are doing a good job as Parliament.

Is this Minister in order to intimidate the House simply because he got a degree in chemistry when we know that our students who get a straight "A" in chemistry at Form Four have the capacity to understand a simple question?

Mr. Deputy Speaker, Sir, I would kindly request the House that this matter be left for a process that will invite the players from the school to do a joint test between the school and the East African Breweries, so that Parliament be a witness for us to come to a logical conclusion of this issue.

Mr. Deputy Speaker: Order, Dr. Khalwale! Allow the Minister to conclude his answer first.

Proceed, Mr. Minister!

The Minister for Industrialization (Mr. Kosgey): Mr. Deputy Speaker, Sir, I was saying that when you add Alvaro or any liquid that contains reducing sugar to the permanganate, it is reduced to Chromium Iron which is cream. This is exactly what the laboratory---

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

The Minister for Industrialization (Mr. Kosgey): Please!

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

Mr. Imanyara: Mr. Deputy Speaker, Sir, I had the advantage of being in the Chair when this matter came up. The Question was fully answered.

An allegation was made by Mrs. Shabesh that Alvaro does contain alcoholic content and she undertook to table the document. The question that arises out of that is not re-opening of the

Question but for the Minister to say whether or not he misled the House when he said it contains no alcohol.

Mr. Deputy Speaker: Order! Order!

*(Mr. Deputy Speaker consulted with
the Clerk-at-the-Table)*

Hon. Members, I do understand that this matter came up when I was not in the country and that the Question is again re-appearing today on the Order Paper. The normal procedure of the House is that when a Question appears on the Order Paper, it is asked by the Questioner and answered by the Minister. It is now upon the House to delineate between the answers given by the Minister and what essentially he was to bring today.

Could you just give him a moment so that he completes the answer then you can rise on those points of order or on supplementary questions and then you prosecute the Question?

Proceed, Mr. Minister!

The Minister for Industrialization (Mr. Kosgey): Mr. Deputy Speaker, Sir, Mrs. Shabesh has tabled a document which is not even signed from any laboratory.

Mr. Deputy Speaker, Sir, so, we do not even know where it has come from. The document she has tabled says - and I wish everybody could read it---

The Assistant Minister for Water and Irrigation (Mr. Kiunjuri): On a point of order, Mr. Deputy Speaker, Sir.

The Minister for Industrialization (Mr. Kosgey): Please! We do not want this issue to hang on!

Mr. Deputy Speaker: Order! You are an Assistant Minister! The Minister is answering a Question. Another Minister cannot rise on a point of order.

The Assistant Minister for Water and Irrigation (Mr. Kiunjuri): Mr. Deputy Speaker, Sir, it is an issue of procedure.

Mr. Deputy Speaker: Order! Proceed Mr. Minister!

The Minister for Industrialization (Mr. Kosgey): What I am trying to say is that what has been tabled, although it is not signed---

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

The Minister for Industrialization (Mr. Kosgey): Let me finish! Ooh my!

Mr. Deputy Speaker: Order, Mr. Keter! The Minister shall answer the Question without any interruption.

Proceed, Mr. Minister.

The Minister for Industrialization (Mr. Kosgey): Mr. Deputy Speaker, Sir, this document which has been tabled by Mrs. Shabesh says that if you add Alvaro to dichromate, it turns from orange-red to cream. The turning of the dichromate from---

The Assistant Minister for Water and Irrigation (Mr. Kiunjuri): On a point of order, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: You are out of order, Mr. Kiunjuri!

Mr. Minister, proceed and conclude your answer!

The Minister for Industrialization (Mr. Kosgey): Mr. Deputy Speaker, Sir, the turning of dichromate from orange-red to green is not an indication of the presence of alcohol. It is an indication of the presence of reducing sugar. This is science and science does not lie! It is true that if you add Alvaro to the dichromate, it turns green. It does not mean that there is no alcohol!

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

The Minister for Industrialization (Mr. Kosgey): Let me finish!

Mr. Affey: Mr. Deputy Speaker, Sir, I have a procedural problem!

Mr. Deputy Speaker: What is your procedural problem, Mr. Affey?

Mr. Affey: On a point of order, Mr. Deputy Speaker, Sir. You will realise that hon. Shabesh has submitted a document before the House.

The procedure is that the Chair determines whether that document is authentic or not. It is not for the Minister to tell us whether it is authentic or not. So, we need you to rule on this matter.

Mr. Deputy Speaker: Order, hon. Member! Hon. Shabesh has tabled a document in relation to a Question that is on the Order Paper. The Question is on the Order Paper as Question No.1 by Private Notice.

If the Minister chooses to answer the Question, in his own wisdom and in the jurisdiction of his mandate, none of you, in this House, can dispute his right to do so. Unless he raises that as an issue, it is not for you to raise it!

Proceed! As far as you are concerned, it has been tabled!

The Minister for Industrialization (Mr. Kosgey): Mr. Deputy Speaker, Sir, why do Members want this issue to be left hanging? It must be conclusively explained here that the turning of dichromate from red to green is not a test for alcohol.

*(Several hon. Members stood up
in their places)*

Mr. Deputy Speaker, Sir, I think I should be allowed to conclude this issue. The people who are standing on points of order want this issue to be left hanging. It should not be left hanging. Any liquid that contains reducing sugars or aldehyde, for that matter, will turn green when they are in contact with the dichromate. This is a known fact. Any scientist knows. Any Form One student knows this. This can be proved in any laboratory in Kenya. It is not an indication of alcohol. If you add alcohol to dichromate, first, it is reduced to an aldehyde. The aldehyde will reduce the dichromate. So, we are dealing with simple chemistry here.

The only way of establishing whether a substance has alcohol is by distilling it and then using gas chromatography to determine whether the liquid you have distilled is alcohol or not. We have done this and I can confirm here that Alvaro contains no alcohol. This is simple science. It is not rocket science.

Mr. Deputy Speaker: Hon. Minister, when documents are tabled, they are supposed to be with the Clerks and the Chair. Since you took possession of this and limited it to yourself, then I will proceed and have the supplementary questions.

The Minister for Information and Communications (Mr. Poghio): On a point of order, Mr. Deputy Speaker, Sir. Actually, we began without a Question. If you remember---

Mr. Deputy Speaker: Order, hon. Minister! You are out of order! The Question has been asked by the Questioner and it has been answered by the Minister. If you have a supplementary question or any other point of order, you can rise on that.

Proceed, Mr. C. Kilonzo!

*(Messrs. Kiunjuri and Poghio
stood up in their places)*

Mr. C. Kilonzo: Mr. Deputy Speaker, Sir, could you protect me from the Government?

Mr. Deputy Speaker: Order! Messrs. Poghio and Kiunjuri, you are out of order! You should allow the Question to be adequately interrogated by both sides!

Proceed, hon. C. Kilonzo!

Mr. C. Kilonzo: Mr. Deputy Speaker, Sir, this issue came to Parliament---

The Assistant Minister for Water and Irrigation (Mr. Kiunjuri): On a point of order, Mr. Deputy Speaker, Sir. With all due respect---

Mr. Deputy Speaker: Mr. Kiunjuri, what is not in order?

The Assistant Minister for Water and Irrigation (Mr. Kiunjuri): On a point of order, Mr. Deputy Speaker, Sir. The business of this House is conducted through traditions and procedures. At any given time, when a document is tabled before the House, it becomes the property of the House.

Mr. Deputy Speaker: Indeed, it does!

The Assistant Minister for Water and Irrigation (Mr. Kiunjuri): Mr. Deputy Speaker, Sir, already a document has been laid here and it is no longer the property of the Ministry. It is a property of this House now and it opens itself to the scrutiny of the House. The tradition of this House is that we must, first of all, establish the authenticity of that document.

Mr. Deputy Speaker: Order, hon. Assistant Minister! That issue was tackled by the Chair and it has been disposed of. If you want to question the authenticity of the document which has been laid on the Table, you are at liberty to do so! You do not revisit what has already been disposed of!

Proceed, Mr. C. Kilonzo!

Mr. C. Kilonzo: Mr. Deputy Speaker, Sir, indeed, hon. Kiunjuri looks tipsy. He must have taken several bottles of Alvaro!

(Laughter)

Mr. Deputy Speaker: What is your question?

The Assistant Minister for Water and Irrigation (Mr. Kiunjuri): On a point of order, Mr. Deputy Speaker, Sir. Did you hear what hon. C. Kilonzo said? He said that I must have taken a lot of Alvaro. Is the issue now not taking another dimension that the hon. Members might be having some self-interests and are fighting the Kenya Breweries Limited because of the Coca Cola Company?

Mr. Deputy Speaker: Hon. Members, I think it is very sad for us to reduce the importance of a Question like this one, which touches both on the lives of our children as well as our corporate affairs in the country. The issue needs to get a judicious and a fair prosecution. We are treating it like a triviality and making it personal. Hon. Members, the Chair will not take with kindness the way some Members are trying to conduct the business of the House with no decorum and dignity as it is appearing right now. Under the circumstances, let us give this Question the attention it deserves.

Hon. C. Kilonzo, can you ask your supplementary Question without worrying about who consumes Alvaro and who does not consume it in this House?

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

Mr. Deputy Speaker: Order, hon. Khalwale! You are out of order!

Mr. C. Kilonzo: Mr. Deputy Speaker, Sir, this is a serious issue. It came to the Floor of the House because certain schools raised the issue and said that in their laboratories, Alvaro has tested positive for alcohol.

When the Minister says that Alvaro cannot test positive for alcohol, does it mean that our children are being taught the wrong techniques of testing alcohol in the laboratories?

The Minister for Industrialization (Mr. Kosgey): Mr. Deputy Speaker, Sir, this is a very

important Question, as you have rightly put it. If Alvaro contains alcohol, even the Government would like to tax it. Quite a number of Members, including Dr. Khalwale, who happens to be a doctor, and I know that he understands some science, know very well that the reduction of dichloride into chromium ions turns green. This is not a test for the presence of alcohol.

I want to say, for the last time, that Alvaro does not contain any alcohol. It contains some reducing sugars, which are not alcoholic. We add dichromate to many other soft drinks. For example, when you add fruit sugars to dichromate, it turns green.

Alvaro does not contain alcohol. The people who are advocating that Alvaro is alcoholic should tell us if they have any interests. I have stated very clearly that Alvaro does not contain any alcohol. Any laboratory in the world can prove this.

Mr. Deputy Speaker: Order! Hon. Members, the document that is laid on the Table of the House now cannot be assumed to be authentic by the House because it does not indicate who did it. So, we will proceed with the Question and have the supplementary questions, conscious of the fact that this has not been properly laid on the Table of the House today.

The Assistant Minister for Energy (Mr. Keter): On a point of order, Mr. Deputy Speaker, Sir. Now that you have made that ruling, is it in order to continue the debate? The issue is that the results should be laid on the Table of the House and subsequently, questions be asked. Does it mean that we still have to postpone the Question, so that we can get an answer later or do away with it?

Mr. Deputy Speaker: Order! The Question has been asked! Proceed, hon. Bett! Are you on a supplementary question?

Mr. Bett: Yes, Mr. Deputy Speaker, Sir. I agree with what hon. Keter has said, that this document now seems invalid. Is it possible for them to go back and get it signed? They should also indicate to us the number of people who have been certified to have been drunk after drinking Alvaro?

Dr. Khalwale: Mr. Deputy Speaker, Sir, we have no reason to believe the results from the school laboratories or the results of the producer or not. The Minister should tell us what tests he has subjected this drink to, to determine whether, indeed, when Alvaro is exposed for some time, it has the capacity to undergo fermentation, so as to turn into alcohol. I happen to come from a history of traditional alcohol and I know that when you leave sugar in a container for some time, it actually transforms into real alcohol. That is exactly what happens to *busaa*. Could he clarify that this particular drink does not behave in the same manner like *busaa*?

Mr. Deputy Speaker: Hon. Minister, could you clarify that this cannot be abused by our children?

The Minister for Industrialization (Mr. Kosgey): Mr. Deputy Speaker, Sir, this is the second time this Question is being raised. Last week, I tabled here reports from the Kenya Bureau of Standards and the Government of Kenya laboratories showing very clearly that Alvaro has no alcohol. We have also done a microbiological test. Dr. Khalwale should be listening because he is the one who asked the question. This product is pasteurized and there are no microbiological organisms in it. In other words, it has no yeast in it. Therefore, it cannot ferment. If you open it, it will get some yeast from the air.

Mr. Deputy Speaker, Sir, if you open any fruit juice today, you will introduce yeast in it and it will ferment. This is because it has some sugars in it. So, Alvaro, when it is intact, has no yeast and it is not alcoholic. I do not understand this! It is simple science! I want to repeat that Alvaro has no alcohol. If you leave it under the sun, it will not ferment. No matter how long you leave it under the sun, it will not ferment. It is not *busaa*!

Dr. Kones: Mr. Deputy Speaker, Sir, this Question has now taken two dimensions. There is a kind of war between the East African Breweries and Coca Cola. Then there is a debate on

whose tests we can believe in.

Mr. Deputy Speaker, Sir, could you refer this Question to the relevant Departmental Committee, so that we can get results from a professor of chemistry, whose results we can believe in?

CONSIDERED RULING

RELEVANT DEPARTMENTAL COMMITTEE TO LOOK INTO CONTROVERSY SURROUNDING CONTENTS OF ALVARO DRINK

Mr. Deputy Speaker: Order! Order, hon. Minister! In view of the fact that this issue is generating a lot of questions and interest, I believe both inside and outside the House, it is the Chair's considered opinion that this matter, as hon. Dr. Kones said, be referred to the Departmental Committee on Health, Housing, Labour and Social Welfare to do a conclusive job.

Mr. Deputy Speaker, Sir, this House is there, to transact business and handle matters as weighty as this, in order to leave no doubt in the minds of Kenyans that what is being said here or what will be tabled before this House, is essentially the truth and nothing but the truth.

Under the circumstances, the Chair directs that the said Departmental Committee proceeds and carries out an exhaustive test on these allegations with the assistance of the relevant Government departments. It should come back to the House and inform it exactly what is the position.

*(The Chair consulted with the
Clerk-at-the-Table)*

Order! Since the mandate is cross-cutting, it is the Chair's opinion that this issue can be adequately handled by the Committee on Health, Housing, Labour and Social Welfare. It can also be handled by the departmental Committee on Finance, Planning and Trade. However, the Chair rules that the Committee on Health, Housing, Labour and Social Welfare be the necessary investigating body into this matter and report back to the House in exactly two weeks.

Dr. Khalwale: Thank you, Mr. Deputy Speaker, Sir, for that ruling. But can I request the indulgence of the Chair that you rule further that since the Minister has admitted that this drink has the capacity to undergo fermentation when it is left open, that, in the meantime, it should not be sold to the public and in supermarkets, so as to prevent our children from consuming it when it is fermented?

*(Mr. Kosgey stood up his place
and walked towards the Chair)*

Mr. Deputy Speaker: Order! Hon. Members, it looks like you are making the House too hot for the Minister and he is running away!

Hon. Members, the Chair does not have the mandate or even the authority to rule on the stoppage of the further sale of this beverage.

But, nonetheless, the Chair does state that this relevant Committee of the House, using the relevant institutions in and outside the Government proceed and bring a conclusive report to the Floor of the House, on this Alvaro in two weeks time.

Mr. K. Kilonzo: On a point of order, Mr. Deputy Speaker, Sir. While appreciating your ruling - and in any way, not to be seen contradicting or challenging it - you have an obligation as a

parent and Chair of this honourable House to caution parents in the next two weeks, while this exercise will be going on, not to buy this drink for their children.

The Minister for Industrialization (Mr. Kosgey): On a point of order, Mr. Deputy Speaker, Sir. Dr. Khalwale has made an allegation. I did not say that Alvaro, when exposed to the sun, will ferment to produce alcohol.

I said that any sugar liquid can ferment. Let me say for the last time - and I really do not have any interest - that those of us who are scientists know for sure that Alvaro has no alcohol. It will not ferment because microbiologically, it has no yeast. Therefore, those people who are agitating for its ban have certain particular interests which they will, probably, tell us when all these things are done. Alvaro has no alcohol!

(Mrs. Shabesh stood up in her place)

Hon. Shabesh, please, sit down!

Mrs. Shabesh: On a point of order, Mr. Deputy Speaker, Sir. Very many doubts are being cast on my integrity. I really want to say that my conscience is so clear. I have no apologies to make for bringing this Question to the House. I want to thank the Minister because he has clarified two issues.

Mr. Deputy Speaker, Sir, first, he has clarified that there is possibility that when exposed this drink can ferment. Secondly, he has also clarified that our tests in school laboratories - which is what our children are being told how to test for alcohol - could be faulty. That is exactly why I brought this Question to this House.

Finally, I thank you for ruling that this issue be investigated further because what we are looking for is the safety of our children.

Mr. Ethuro: On a point of order, Mr. Deputy Speaker, Sir. Is it in order for the Minister to impute improper motive on a Member when she is bringing a legitimate Question? Kenyans want to know the alcohol content of this drink. Particularly so, the Minister himself has not disclosed his interest, that he is a former employee of Kenya Breweries Company Limited.

Hon. Members: Oooh!

Mr. Deputy Speaker: Order! Hon. Ethuro, you are grossly out of order! Hon. Kosgey has been a Member of Parliament and in the Cabinet for a very long time. If he was an employee of Kenya Breweries Company Limited that must have been a very long time ago. I think the matter has been disposed of!

The Minister for Information and Communications (Mr. Poghio): On a point of order, Mr. Deputy Speaker, Sir. When we all get back to refer this Question to a Committee of this House, I would like to ask the indulgence of the Chair, to clearly look at our Standing Orders in terms of what interest the House has on this particular matter and also know that the onus is on the Questioner, if she is not satisfied with the answer, to bring a Motion to the House. I just seek the indulgence of the Chair to look at it again.

Mr. Abdirahman: On a point of order, Mr. Deputy Speaker, Sir. I think that you have already made a ruling on this matter, yet the Minister keeps on moving to and fro to explain further. The Chair has referred this matter to the Departmental Committee on Health, Housing, Labour and Social Welfare. Will it be in order for us to continue or for the Minister to keep on responding to a ruling which you made?

Mr. Deputy Speaker: Order, hon. Minister! Hon. Members, this Question has been referred to the relevant Departmental Committee. The matter has for now been disposed of!

Next Question!

(Mr. Kosgey stood up in his place)

Order, Mr. Minister! You are out of order!
Next Question!

(Resumption of Questions by Private Notice)

NON-DELIVERY OF RELIEF FOOD
TO FLOOD VICTIMS IN TESO
SOUTH DISTRICT

Mr. Chanzu: Mr. Deputy Speaker, Sir, I beg to ask the Minister of State for Special Programmes the following Question by Private Notice.

(a) Is the Minister aware that 1,000 bags of maize, 300 bags of beans and large quantities of cooking oil donated by the Government to people displaced as a result of flooding of rivers Malakisi and Malaba in Teso South District on June 23, 2007 has not been delivered to the intended beneficiaries?

(b) Could the Minister state who was charged with distributing the foodstuff and indicate what action has been taken against those responsible for the delay?

(c) Considering that the flooding of rivers Malakisi and Malaba is recurrent, what measures is the Ministry putting in place to cushion the victims when such floods occur in future?

The Minister of State for Special Programmes (Dr. Shaban): Mr. Deputy Speaker, Sir, I beg to reply.

(a) I am not aware of any relief food given to Teso District on 23rd June, 2007. However, I am aware that on 23rd June, 2008, the district was given 100 90-kilogramme bags of maize, 300 50-kilogramme bags of beans, 150 cartons of 6x3 litres of cooking oil. The food is meant for people displaced by floods. The beans and cooking oil were delivered by our contracted transporter to the district. Our records indicate that the foodstuff was received by the District Officer, Amagoro Division on 3rd July, 2008. Copies of find-way bills are available.

The maize is to be collected by the District Commissioner from the nearest National Cereals and Produce Board (NCPB) depot. In the case of Teso, this can be either Malaba or Bungoma depending on which one has adequate stock. I also wish to confirm that although there was some initial delay in distributing the food due to logistical challenges, the District Commissioner in collaboration with the Kenya Red Cross has now started distributing the commodities.

(b) The District Commissioner Teso with the assistance of the Kenya Red Cross Society and the District Relief Committee are in charge of distributing the relief food. No action has been taken against any officer since no food has been diverted or misappropriated. The delay in distributing it to the beneficiaries was caused by circumstances beyond the control of the officers.

(c) As for the need to put in place measures that can cushion the people of this area from perennial floods, my Ministry is not in a position to address the long term measures required. The Western Kenya Community Driven Development and Flood Mitigation Project under my Ministry does not address the flood problem in Teso District but focuses on community driven development components that entail funding of micro-projects in the area.

In Western Province the flood component of the project only covers Budalangi District. The Question should, therefore, be directed to the relevant Ministry of Water and Irrigation. My Ministry, will nevertheless, continue to give support to victims of flood or any other disaster in the district whenever there is need.

Mr. Chanzu: Mr. Deputy Speaker, Sir, I would like to thank the Minister for that answer. However, the first sentence of the answer is redundant because it is not part of the Question.

The concern I have is the amount of time it takes for the food supplies to get to the end users. For a place like Teso, which has a lot of floods, I would like the Minister to assure this House that before the Ministry gets into contracting transporters, they will make use of available transport so that it can shorten the period within which these deliveries are made.

Dr. Shaban: Mr. Deputy Speaker, Sir, while I agree with the hon. Member, he is also a Member of the DSG. They are the ones who make the decision on who should transport the food to the users. I cannot make a decision for Teso District. I know that the lead agency who sits in the DSG plus the Member of Parliament--- Of course you are not the Member for Parliament for this area. That is what I have noticed.

Mr. Deputy Speaker, Sir, since all hon. Members are Members of the DSGs we should be sitting with our District Commissioners and making the decision on who does the transportation. When sending the food, we usually do so with an Authority to Incur Expenditure (AIE) for transportation.

The Assistant Minister for Labour (Mr. Ojaamong): On a point of order, Mr. Deputy Speaker, Sir. Even though I am a Member of the Cabinet, it would not be very good for my fellow colleague to come and mislead the House. Even though I am supposed to be a member for the DSG, it is not in order because the victims are just a kilometre from the NCPB depot---

Mr. Deputy Speaker: Order, Mr. Ojaamong! Mr. Ojaamong, have you resigned from the Government since this morning?

(Laughter)

If you have not resigned from the Government and you are on the Government side with a collective responsibility, I hope you understand the consequences of an Assistant Minister standing and questioning his own Government.

The Assistant Minister for Labour (Mr. Ojaamong): Mr. Deputy Speaker, Sir, I am not questioning her. I am a Member of the DSG but what I am saying is that, it is common sense that the victims are just a kilometre away from the NCPB. So we do not need any logistical support to distribute this food. Is she in---

Mr. Deputy Speaker: Order! Order! Under normal circumstances, in parliamentary democracy, when a Minister questions his own Government he gets sacked the same day. I hope you do understand the consequences of a matter in the manner right now you are interrogating. I think, if you are not aware of that and you are not ready to leave the Government, you are totally out of order! Allow somebody from the Backbench to proceed with this Question.

Dr. Shaban: On a point of order, Mr. Deputy Speaker, Sir. I am wondering whether the hon. Member expects us to give them food and then go the DSG to make a decision on how it is supposed to be delivered. I am rather concerned about the attitude the Member is taking.

Mr. C. Kilonzo: On a point of order, Mr. Deputy Speaker, Sir!

Mr. Deputy Speaker: Order! You are out of order Mr. C. Kilonzo!

Last question, Mr. Chanzu!

Mr. Chanzu: Mr. Deputy Speaker, Sir, this---

Mr. Deputy Speaker: Ask your supplementary question!

Mr. Chanzu: Mr. Deputy Speaker, Sir, I want to say this before I ask the question because---

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Mr. Deputy Speaker: No! Do not say anything else, just ask the question!

Mr. Chanzu: Mr. Deputy Speaker, Sir, the last part of the Question has not been answered

satisfactorily. That is why I wanted to make a statement.

These supplies were prompted by the flooding. So she has attended to the other parts of the Question but not this one. It is a matter of collective responsibility. Could the Minister get this issue sorted out?

Dr. Shaban: Mr. Deputy Speaker, Sir, I think I clearly said that the issue of flood mitigation in that area--- Flood mitigation is handled in two ways in this country; as an emergency or a long-term issue.

The issue of flood mitigation in Teso should be handled by the Ministry of Water and Irrigation. The programme in my Ministry is referred to as one of the special programmes. This is because it is a specific programme for a specific area.

Mr. Deputy Speaker: Next Question, Mr. C. Kilonzo!

RESCINDING OF DECISION TO SELL
GOVERNMENT HOUSES TO
CIVIL SERVANTS

Mr. C. Kilonzo: Mr. Deputy Speaker, Sir, I beg to ask the Minister for Housing the following Question by Private Notice.

(a) Is the Minister aware that many junior civil servants paid up to 10 per cent deposit, some of which was borrowed from banks and other lending institutions, with a view to buying Government houses offered for sale?

(b) What informed the Government's decision to rescind the offer to sell the houses?

(c) Considering that other Government houses were already sold to senior civil servants, what steps has the Government taken to cushion the junior civil servants from the economic effects of this decision?

Mr. Deputy Speaker, Sir, there was a Ministerial Statement sought by Dr. Khalwale on the same issue. We have discussed with the Minister and agreed that it be answered in the Ministerial Statement.

Mr. Deputy Speaker: Hon. Members, we have a Ministerial Statement to be delivered by the same Minister on the same matter. Therefore, let us move to the next Question!

The Minister of State for Defence (Mr. Y. Haji): On a point of order, Mr. Deputy Speaker, Sir, let us hear from the Minister!

Mr. Deputy Speaker: Next Question!

(Mr. Shitanda moved to the Dispatch Box)

Mr. Deputy Speaker: Hon. Minister, since you have a Ministerial Statement on a matter that touches on the same, we will spare the House the duplication of roles. So, you will handle the same thing when you will be issuing the Ministerial Statement.

The Minister of State for Housing (Mr. Shitanda): Thank you, Mr. Deputy Speaker, Sir.

ORAL ANSWERS TO QUESTIONS

Question No.178

IMPLEMENTATION OF REPORT OF
PRESIDENTIAL ACTION COMMITTEE
ON MUSLIM CONCERNS

Ms. A. Abdalla asked the Minister of State for Provincial Administration and Internal Security:-

- (a) if he could confirm that the Presidential Action Committee on Specific Concerns of Muslims established in November, 2007 has presented its report to the appointing authority;
- (b) if he could table the Report of the Committee; and,
- (c) what administrative and policy measures he is taking to implement the Report.

The Minister of State for Provincial Administration and Internal Security (Prof. Saitoti): Mr. Deputy Speaker, Sir, I beg to reply.

(a) The Committee has not yet presented its Report to the appointing authority.

(b) The Minister, therefore, is not in a position to table the Report.

(c) Since the Report has not been presented, there are no administrative and policy measures in place for its implementation.

Ms. A. Abdalla: Mr. Deputy Speaker, Sir, this Question was on the Floor last week and it was deferred because the Minister provided an answer that was not satisfactory. We have information that the Report has already arrived in his Ministry and the technocrats there are asking members of the Committee to change the contents of the Report. Could the Minister confirm that the Report has already arrived in his Ministry?

Prof. Saitoti: Mr. Deputy Speaker, Sir, I have just explained that the Report has not been presented to the appointing authority. I would like to enlighten the hon. Member that there are, indeed, procedures to be followed once a Committee has been appointed by an authority. The Committee embarks on its deliberations, completes its findings, prepares the Report and then presents it properly to the appointing authority.

Mr. Affey: Mr. Deputy Speaker, Sir, I actually sought a Ministerial Statement on this matter three months ago. I am glad the matter has come back in form of a Question.

Mr. Deputy Speaker, Sir, according to the Terms of Reference of this Committee, which was constituted three months before the General Elections - you can understand why the Committee was constituted three months before the General Elections - the Committee shall provide an interim Report one month after it is constituted. It is now nearly eight months. Could the Minister confirm that the interim

Report which is envisaged in the Terms of Reference has been brought before the Government?

Secondly, the concerns raised by Muslims in the country at this particular time regarded the deportation of 19 Kenyans. They were taken outside the Kenyan territory to Ethiopia for trial while we could try them here in our own country. Could the Minister, therefore, confirm that those Kenyans have since been brought back?

Prof. Saitoti: Mr. Deputy Speaker, Sir, I think there are two matters here. First of all, with regard to what the hon. Members has stated, he has referred to the contents of a Report which has not been presented. It is difficult on my part to comment on a Report which has not yet been presented!

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

Prof. Saitoti: I am responding to a point of order!

Mr. Deputy Speaker: Proceed, Mr. Minister!

Prof. Saitoti: Mr. Deputy Speaker, Sir, the other bit of it, which I believe is more relevant is the fact that if, indeed, this Report has been completed and is ready for implementation, then the Chairman of this particular Committee should seek the necessary opportunity to present the Report.

Mr. Joho: Mr. Deputy Speaker, Sir, given the fact that the Committee actually used taxpayers money, for us to sit here and wait for a Report indefinitely--- Could the Minister tell us specifically when the Report will be tabled because it is very fundamental to the Muslim

community in this country?

Prof. Saitoti: Mr. Deputy Speaker, Sir, it is important that I inform the hon. Member that I am not in a position to say when the Report is going to be laid on the Table for deliberation yet it has not been presented!

The Assistant Minister for Information and Communications (Mr. Godhana): On a point of order, Mr. Deputy Speaker, Sir. Could I be in order to say that it was a political gimmick to appoint this Committee? It is now redundant because it has served its General Election purpose.

Prof. Saitoti: Mr. Deputy Speaker, Sir, my only retort to that one is that, that presentation is speculative.

Mr. Imanyara: Mr. Deputy Speaker, Sir, I am aware that many promises were made not only to Muslims, but also to women, the youth and many others just before the elections. The intention was to deceive Kenyans so that they could vote for a particular candidate. Did this Committee have a time limit within which to make its presentation?

(Applause)

Prof. Saitoti: Mr. Deputy Speaker, Sir, I believe that this Committee operated within a time limit. Definitely, it was not supposed to operate indefinitely. However, the key thing here is that this Committee has not presented its Report.

One clearly understands that there are a number of points of great interest to the Muslim Community which we would want to address. As a matter of fact, I would wish that the Chairman of this Committee makes an appointment to present this Report. As a Government, we are very much interested to know what the contents of the Report are.

Ms. A. Abdalla: Mr. Deputy Speaker, Sir, I have a letter---

(Mr. Keynan stood up in his place)

Mr. Deputy Speaker: Order, Ms. A. Abdalla! Mr. Keynan is on the Floor.

Mr. Keynan: Mr. Deputy Speaker, Sir, thank you for giving me this opportunity. First of all, for purposes of informing the House, I have a copy of the Report here with me.

(Applause)

I do not want to agree with hon. Hussein. We did not want the Muslim Community to be used as a gimmick for election purposes. We know that over the years, since this country got Independence, we have had sets of laws that were meant for the Muslims.

You remember that we had the Indemnity Act which was to apply to the Muslims living in northern Kenya. We had the District Contentious Act, the Emergency Laws and derogatory terms like "Mohamedans" in the Judicature. It is because of this that the Muslim Community felt that it was being regarded as second class citizens of this country.

Mr. Deputy Speaker: What is your question?

Mr. Keynan: Mr. Deputy Speaker, Sir, the Committee made 72 recommendations. The Report is dated 31st, August, 2008. Is it in order for the Minister to mislead Kenyans when we know that this Committee is being pressurised to change the contents of the Report because times have changed. I want, for the purpose of informing this House, to table---

(Loud consultations)

Mr Deputy Speaker: Order, hon. Members! Order, Mr. Keynan! You cannot table that

Report. It can only be there for the Minister---

(Loud consultations)

Order, hon. Members! Parliament is not the appointing authority for the gathering of the information in that Report. The House can only note the sentiments inside or outside the House.

Nonetheless, Mr. Minister, could you, please, answer that question?

(Mr. Affey stood up in his place)

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

Mr. Affey: I had asked a legitimate question which the Minister has conveniently refused to answer. According to the Terms of Reference that appointed this Committee, one month after the appointment, an interim Report shall be given to the Minister himself. He has that already in his custody.

Could the Minister table that interim Report?

Mr. Deputy Speaker: Mr. Minister, does your Ministry, indeed, have an interim report? Please, answer that question!

Prof. Saitoti: Mr. Deputy Speaker, Sir, I believe what the hon. Member has said that within a certain period of time, the Report was supposed to have been presented to the Minister. I have been in that Ministry since mid-January and I have not been presented with the interim report.

*(Several hon. Members stood up
in their places)*

Mr. K. Kilonzo: On a point of order, Mr. Deputy Speaker, Sir!

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

Mr. K. Kilonzo: Mr. Deputy Speaker, Sir, we are setting a very dangerous precedent. Is it in order---

Ms. A. Abdalla: Mr. Deputy Speaker, Sir, I am on a point of order!

Mr. Deputy Speaker: Ms. A. Abdalla, I thought you were on supplementary question. Proceed with your point of order then!

Ms. A. Abdalla: Mr. Deputy Speaker, Sir, we have a letter signed by no other than the Attorney-General and all the other members of that Committee, forwarding that Report to the Minister. So, is it in order for the Minister to mislead this House?

Mr. Deputy Speaker: Are you tabling the letter, Ms. A. Abdalla?

Ms. A. Abdalla: Mr. Deputy Speaker, Sir, Mr. Keynan has a copy of that letter. He can table it.

Mr. Deputy Speaker: Very well! Table it, Mr. Keynan!

(Mr. Keynan laid the letter on the Table)

Mr. K. Kilonzo: On a point of order, Mr. Deputy Speaker, Sir. We are setting a very bad precedent. Kenya is a secular state. Is it in order for the Minister to bring a Committee here to discuss concerns of Muslims, and yet there are Christians, Hindus and others in this House?

Mr. Deputy Speaker: Order! Order! Mr. K. Kilonzo, you are grossly out of order! It is the business of this House to discuss matters that touch on Muslims, Christians, Hindus and members of all other faiths in this country!

Mr. Minister, you have a question to answer. Please, proceed.

Prof. Saitoti: Mr. Deputy Speaker, Sir, I would like to state categorically that I had not received the interim Report referred to by Ms. A. Abdalla. I have not received it in my office.

Mr. Bahari: Mr. Deputy Speaker, Sir, in view of the evidence that has been adduced by Ms. A. Abdalla, would I be in order to request the Chair to defer this Question in order for the Minister to look at that forwarding letter, so that he can check with his office and come back to the House with an appropriate answer? The objective is to serve Kenyans. This is not a religious matter, but rather a matter of serving Kenyans.

(Mr. Abdirahman stood up in his place)

Mr. Abdirahman: Mr. Deputy Speaker, Sir, mine is not a point of order. It is a supplementary question. The appointing authority of the Committee is His Excellency the President, Mwai Kibaki. The arm that implements his decisions is the relevant Ministry. The Ministry of State for Internal Security is particularly charged with the responsibility of ensuring that it hands over the Report, or it plans. Could I ask the Minister to explain what his Ministry intends to do, or what it has done from the time the Committee completed its work at the end of March, 2008? If the Ministry has not done anything, could he tell us? The Committee cannot, on its own, book an appointment with the President. It has to go through a certain Ministry. So, could he, very explicitly say, what he intends to do, because we cannot leave this matter hanging?

Mr. Deputy Speaker: Order! Order! Mr. Minister, I have with me here a copy of a letter which was sent to his Excellency the President, about the initial progress report of the Special Action Committee to Address Specific Concerns of the Muslim Community with regard to alleged harassment and/or discrimination in the application and enforcement of the law. The letter is dated 15th November, 2007. You have said categorically that you have not seen an interim report. The letter is forwarded with the signature of the Permanent Secretary (PS) of the then Ministry of State for Provincial Administration and Internal Security, which is currently your docket, and the signature of the PS of the then Ministry of Justice and Constitutional Affairs.

Are you sure that you are not misleading the House in your assertion that you have not seen this letter? Because of the principle of collective responsibility, it is assumed that this letter must have been in your office. Could you shed light on this matter? In the meantime, I am asking the Clerks-at-the Table to give you this copy of the letter.

(Applause)

Prof. Saitoti: Mr. Deputy Speaker, Sir, I have no reason whatsoever to mislead this House. I have been in this House for a very long time. I cannot admit that I have received a report which I have not received. I have stated categorically that I have not received a copy of that report.

Mr. Chanzu: On a point of order, Mr. Deputy Speaker, Sir. Arising from what the Minister has said and the allegations that have been made here, is it not in order for us now to say that the Minister has got no role in that Ministry?

Mr. Abdirahman: On a point of order, Mr. Deputy Speaker, Sir. The Minister has evaded my question. As far as we are concerned, the Ministry which is charged with the responsibility of ensuring that we get the report is his Ministry. Could he confirm to the House that it is, indeed, his responsibility to avail that report to the House and tell us what action he now intends to take even if he did not take any action in the past?

Prof. Saitoti: Mr. Deputy Speaker, Sir, I have just perused this letter. It is dated 15th November, 2007. It is clear. Because of the institutional memory, it does not matter when a

Minister comes into office, he is supposed to understand what goes on in that Ministry. However, I have stated again that I have not seen the report. The best I can do is to promise this House that, on the basis of this letter, which purports to state that the report was forward on 15th November, 2007, I will seek to ascertain its whereabouts and come back to this House to report.

Mr. C. Kilonzo: On a point of order, Mr. Deputy Speaker, Sir. The Question clearly asks whether the Minister can confirm that the report was presented to the appointing authority of the Committee. The Minister keeps on referring to himself. We are talking about the appointing authority. The appointing authority is not the Minister!

Prof. Saitoti: Mr. Deputy Speaker, Sir, it is, indeed, very clear that the Committee was not appointed by the Minister. Of course, the appointing authority was His Excellency the President. I did make it clear at the very beginning that when a report is prepared, it has to be presented to the appointing authority. I stand by what I have said, which is that, so far, that report has not been handed over to the appointing authority.

Mr. Imanyara: Mr. Deputy Speaker, Sir, from the quotation you have given from that letter, is clear that the Minister is deliberately misleading this House. Under the circumstances, I invite you to invoke the provisions of Standing Order No.88(3) and have this Minister named.

(Applause)

Mr. Deputy Speaker: Order, hon. Members! We only have a letter that forwarded the report, but the House is not in possession of that initial report. So, until such time that report will be laid in the House, the Chair's hands are tied.

Mr. Keynan: Mr. Deputy Speaker, Sir, there is a copy of that interim report and it is here. I want to table it.

*(Mr. Keynan laid the document
on the Table)*

Mr. Deputy Speaker: Order! Any hon. Member or Minister has an absolute right to come and consult with the Chair but, under the circumstances, Mr. Minister, I must tell you that you are treading on a very dangerous ground. It is the ruling of the Chair that you consult with your Ministry and bring the answer and the report to the House at the earliest opportunity tomorrow morning and table the report.

Consequently, in the absence of that, the Chair will have no option but to invoke the rules of Standing Order No.88 and No.89, which essentially means that you can be named. The Chair will not hasten on that. The Chair expects you to come tomorrow morning and present your case to the House.

Next Question!

Prof. Saitoti: Mr. Deputy Speaker, Sir, I just want to reaffirm what I said. I said that the letter which is dated 15th November, 2007--- I had stated earlier before your ruling that I will go to ascertain where such a report is. I had already given that undertaking. So, the question of saying that I should be named--- That is because you are named if you are telling a lie. I have not done that. I will not be worried if I am named!

Mr. Deputy Speaker: Order, Mr. Minister! The HANSARD is going to bear us witness. You told the House that the report has not been presented to the appointing authority. The appointing authority is the President of the Government of Kenya. You are a Minister in the Office of the President. The assumption is that what is in the Office of the President must be in your knowledge. In any case, you were very categorical on that. Nonetheless, the Chair deserves the

truth and nothing but the truth. You should exercise due diligence in the performance of your own functions as a Minister in that Ministry. You will have an opportunity to present your case tomorrow morning.

Next Question!

*(Several hon. Members stood
up in their places)*

Order! You are all out of order! All of you! Mr. Linturi and Mrs. Shabesh, for the last time, you are out of order!

Next Question by Mrs. Odhiambo!

Mrs. Odhiambo: Mr. Deputy Speaker, I think many of us have taken a lot of Alvaro this afternoon. I am bringing us back to water.

Question No.227

CONTROLLING OF FLOODS FROM
MALABA AND MALAKISI RIVERS

Mrs. Odhiambo asked the Minister for Water and Irrigation:-

- (a) whether she is aware that flooding by Malaba and Malakisi rivers has displaced thousands of people in Teso District; and,
- (b) what measures the Ministry is taking to control the flooding and alleviate the suffering of the people displaced by floods during the rainy seasons.

The Assistant Minister for Water and Irrigation (Mr. Kiunjuri): Mr. Deputy Speaker, Sir, I beg to reply.

(a) I am aware that Malaba and Malakisi rivers run along the border between Kenya and Uganda and drain into Lake Victoria as one river on the Ugandan side. On rare occasions, flash-floods occur on the lower ridges of the Malaba and Malakisi river basin that normally displaces people living within a hundred metres, which is the variance of the rivers.

(b) In this respect, we are going to initiate design and feasibility studies.

Mr. Deputy Speaker, Sir, are you listening to the answer?

(Loud consultations)

Mrs. Odhiambo: On a point of order, Mr. Deputy Speaker, Sir. Hon. Members are consulting too loudly! I cannot hear the answer.

Mr. Deputy Speaker: Order, hon. Members!

Proceed, Mr. Assistant Minister!

The Assistant Minister for Water and Irrigation (Mr. Kiunjuri): Mr. Deputy Speaker, Sir, that was also my concern because the consultations were very loud.

(b) In this respect, we are going to initiate design and feasibility studies with the aim of ascertaining the actual cost of constructing check dams in those rivers. That will enable us to take advantage of the rivers to benefit the region.

Mrs. Odhiambo: Mr. Deputy Speaker, Sir, I am glad that the Assistant Minister has acknowledged that the rivers do exist. I would only like to get one clarification; if the Kshs300 million mentioned in the response is in the current Budget.

I would also like to know--- The Assistant Minister has said that they are making attempts

to give early warning signs. We all know that rains come in April. Other than giving us the early warning signs that we already know, what other things is he doing?

Mr. Kiunjuri: Mr. Deputy Speaker, Sir, we are concerned. We have set up a committee comprising of Ugandan authorities which is called the Sio-Malakisi-Malaba River Basin. It is an initiative that is already going on. We hope that it will take care of the floods. Both countries are really concerned.

Mrs. Odhiambo: Mr. Deputy Speaker, Sir, I am satisfied with the answer.

Mr. Shakeel: On a point of order, Mr. Deputy Speaker, Sir. Mr. K. Kilonzo, who is my brother, said that there is a Hindu in this House. I am not aware of any Kenyan of Hindu origin in this House. I want to correct that. I think he referred to me!

Mr. Deputy Speaker: Order, Mr. Shakeel!

Mr. K. Kilonzo: Mr. Deputy Speaker, Sir, since I had the microphone and that has gone into the HANSARD--- I never referred to any Hindu. I understand that my friend has stayed in Kisumu for too long and, maybe, he understands Dholuo more than English. But let me ask my Question.

Question No.158

EQUIPPING OF CDF YOUTH POLYTECHNICS

Mr. K. Kilonzo asked the Minister for Youth Affairs and Sports:-

- (a) whether she is aware that most of the youth polytechnics constructed using the Constituencies Development Fund (CDF) have no instructors and lack equipment; and,
- (b) what steps she has taken to post the instructors and provide equipment to those institutions.

The Assistant Minister for Youth Affairs and Sports (Mr. Kabando wa Kabando): Mr. Deputy Speaker, Sir, I beg to reply.

(a) I am aware that some youth polytechnics do not have sufficient public service instructors and equipment.

(b) During the 2006/2007 Financial Year, the Government recruited and posted 600 instructors in 273 youth polytechnics and National Youth Service (NYS) units across the country. In the Ministry's strategic plan, we have proposed to recruit 1,000 instructors every year, beginning with this financial year. In that way, the Ministry will be able to continuous post qualified instructors to all public youth polytechnics across the country. The recruitment will commence since the funds have now been availed in the budget.

With regard to the equipping of youth polytechnics, each hon. Member of the Ninth Parliament was requested to nominate one youth polytechnic in his or her constituency, to be a model youth polytechnic ear-marked for improvement and support by the Ministry. Consequently, in the Financial Year 2007/2008, the Ministry supplied tools and equipment to each of the nominated youth polytechnics. In the Financial Year 2008/2009, the Ministry will provide tools and equipment to a further 77 youth polytechnics because the funds have been allocated. It is the Ministry's intention to partner with the hon. Members of Parliament and CDF Committees to ensure that there is one properly equipped and staffed youth polytechnic in each of the constituencies.

Mr. K. Kilonzo: Mr. Deputy Speaker, Sir, I wish to thank the fantastic Minister, hon. Prof. Sambili, who took her time to come and discuss this issue with me and also the "half" Minister, Mr. Kabando wa Kabando, for this good answer. Keep it up!

(Applause)

Mr. Kabando wa Kabando: On a point of order, Mr. Deputy Speaker, Sir. Is it in order for the hon. Member of Parliament to seek to be cheap by degrading my status as a Minister of the Government by calling me a "half" Minister? That is irresponsible of him!

Mr. Deputy Speaker: Order! Hon. K. Kilonzo, there are no "half" Ministers in this House. They are all Ministers, Assistant Ministers, the Prime Minister, the Deputy Prime Ministers and the President. If you look at the Standing Orders, all of them are Ministers. Under the circumstances, apologise and withdraw that statement!

Mr. K. Kilonzo: Mr. Deputy Speaker, Sir, I want to apologise and withdraw. Actually, I was trying to differentiate between the Minister and the Assistant Minister and so I just substituted--

Mr. Deputy Speaker: Order, Mr. K. Kilonzo! There is no differentiation. For the purpose of this House, they are Ministers!

Proceed!

Mr. K. Kilonzo: Mr. Deputy Speaker, Sir, he is a good Assistant Minister for that matter.

(Laughter)

Mr. Ruteere: Mr. Deputy Speaker, Sir, could the Assistant Minister inform this House what criteria is used to consider one polytechnic in a constituency while there are very many others? Secondly, could he also inform the House why it is necessary to give resources to just one polytechnic when all the students in all the polytechnics in a constituency are supposed to get the necessary tools, training and skills? How is it that you target only one polytechnic in a constituency?

Mr. Kabando wa Kabando: Mr. Deputy Speaker, Sir, from the beginning, the committee identified the need to equip and enhance the capacity of the youth polytechnics by providing tools for each of them which were worth Kshs500,000. The intention was to focus on that area and to ensure that we have a model youth polytechnic in each of the 210 constituencies. Therefore, the respective Members of Parliament in the last Parliament, as local leaders were given the responsibility to consult their committees in their constituencies and come up with one polytechnic which will be modelled and, thereafter, there will be enhancement of the other youth polytechnics.

Mr. Deputy Speaker: Next Question by hon. Dr. Monda!

Question No.255

MEASURES TO REGULATE INSTITUTIONS
OFFERING PHARMACY COURSES

Mr. Deputy Speaker: Hon. Dr. Monda, I am meant to understand that you do not have a written answer. Hon. Minister, under the rules, you have to furnish the Questioner with an answer. Under the circumstances, you will now have to furnish him with a written answer and this Question will be put on the Order Paper for tomorrow in the afternoon.

(Question deferred)

The Assistant Minister for Higher Education, Science and Technology (Dr. Mwiria):

Mr. Deputy Speaker, Sir, I did not realise that he had not been furnished with a written answer. We shall plan to do so but I have an extra copy which I could give him.

Mr. Deputy Speaker: Order! You will do so even if it means tomorrow but not now!

The Assistant Minister for Higher Education, Science and Technology (Dr. Mwiria);

All right, Mr. Deputy Speaker, Sir. I have no choice but to oblige.

Mr. Deputy Speaker: Next Question by Mr. Yinda!

Question No.207

MEASURES TO CANCEL CONCESSION OF
KRC TO RIFT VALLEY RAILWAYS

Mr. Yinda asked the Minister for Transport:-

(a) whether he could confirm that the Kenya Railways Corporation (KRC) was concessioned to the Rift Valley Railways (RVR) and that no agreement exists for assigning management responsibility to other persons not party to the concession agreement;

(b) whether he could provide a list of all the expatriates with work permits, employed by the RVR/Sheltham, stating their respective expertise, academic qualifications and the monthly remuneration;

(c) whether he could table the capital investment made by RVR in the rail system and further confirm that they are in accordance with its contractual obligations; and,

(d) whether he could explain the specific steps he intends to take in correcting the above situation, including cancellation of the contract.

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

(a) I confirm that operational structural developments, maintenance and core management roles relating to the railway system hitherto executed by the KRC were concessioned to the RVR. The management responsibility of the concession is therefore vested on the concessionaire.

(b) The RVR and Sheltham have not been able to give us information on the number of expatriates with work permits, their expertise, academic qualifications and monthly remuneration because over the last one month, they have been reorganising their management structure which will incorporate local and other experts.

(c) The RVR has so far failed to make any significant capital investment on the railways system. This situation is not in conformity with the concession agreement and so a default notice has been issued to RVR in accordance with the concession agreement.

(d) I am pleased to inform Mr. Yinda and the House that corrective measures and actions which could lead to the cancellation of the concession have been instituted in accordance with the articles of the concession agreement.

Mr. Yinda: Mr. Deputy Speaker, Sir, I would like to thank the Minister for the response but as we sit here in the House and continue to talk about RVR, we know that the economies of this country and of regional countries continue to suffer. We also know that RVR entered into a management agreement with Sheltham PSI which is owned by one person who is actually the same one in RVR and Sheltham, that is Mr. Roy Puffet. Could the Minister confirm that he is moving with speed to ensure that the concession is cancelled and the railways is transferred to KRC for proper management?

Mr. Mwakwere: Mr. Speaker, Sir, this concession agreement is not just by Kenya alone as a country but it is a joint concession agreement with Uganda. Yes, we will move ahead and cancel the concession if and only if certain provisions that appear in the concession agreement are followed to the letter. Otherwise, there will be serious punitive measures that will be taken against

Kenya and Uganda if that is not followed.

Dr. Khalwale: Mr. Deputy Speaker, Sir, I have a copy of the concession agreement and in it, there is a pre-condition that before these people were allowed to go ahead, they should have paid a down payment of US\$3 billion but there is no evidence whatsoever that these people paid this money which was a pre-condition. Why did the Minister go ahead and allow them to take over our company?

Mr. Mwakwere: Mr. Deputy Speaker, Sir, I am not aware of a pre-condition of a down payment of US\$3 billion.

Mr. Deputy Speaker: Order, Mr. Minister!

Mr. K. Kilonzo: On a point of order, Mr. Deputy Speaker, Sir. The Minister should take the Business of the House very seriously. Just a while ago, a Minister stood here and said that he is not aware of a report which, indeed, was laid on the Table. Here is a situation where we are talking of a pre-condition of US\$3 billion---

Hon. Members: US\$3 billion.

Mr. K. Kilonzo: If the hon. Member is able to lay that evidence on the Table here, will I be in order to name the Minister if he is denying the obvious?

Mr. Mwakwere: Mr. Deputy Speaker, Sir, hon. K. Kilonzo must be statistically confused. The word used was "US\$3 billion". But if it is corrected---

Mr. Deputy Speaker: It is US\$3 billion now!

Mr. Mwakwere: If it is corrected, yes, Mr. Deputy Speaker, Sir, I can make a response to that. That is because the record has to be right and proper.

Mr. Deputy Speaker, Sir, that condition was fulfilled 45 days after the commencement of the operations, and that was in accordance with the signed agreement that was signed with the concessionaire.

Dr. Khalwale: On a point of order, Mr. Deputy Speaker, Sir. I said that I have a copy of the agreement. Allow me to lay it on the Table and refer the Minister to page 49 which set the US\$3 billion down payment as a pre-condition! Could he, please, after confirming that it is there - which I lay on the Table - give us evidence that the down payment of US\$3 billion was actually paid?

*(Dr. Khalwale laid the document
on the Table)*

Hon. Members: Before! Before!

Dr. Khalwale: Before they took over!

Mr. Mwakwere: Mr. Deputy Speaker, Sir, there are three agreements that were signed in accordance with the provisions of the concession. It was done jointly. The first one was done between Kenya and Uganda. The other one was done between Kenya and Rift Valley Railways (RVR). The third one related to what the hon. Member has said. It was done jointly with the Ugandan Government. Yes, payment was made 45 days after the commencement of the operations. That is carried as a provision in the third agreement and it is within the law.

Mr. Namwamba: Mr. Deputy Speaker, Sir, is the Minister aware--- Could he confirm to this House that, indeed, the reason why the Government issued a default notice to RVR is because of the fact that it is a phoney company linked to high-ranking State officials which was cheekily misrepresented to the public as a foreign investor when, in fact, it is a phantom that has been deliberately crafted to defraud the people of Kenya of a premium State asset in the form of Kenya Railways? Could the Minister confirm or deny the fact that the Government threw away a premium State asset to a phoney entity that did not have any capacity, whatsoever, to manage that premium

State asset?

Mr. Mwakwere: Mr. Deputy Speaker, Sir, that is a statement that carries very serious considerations. If the hon. Member has any information or evidence to prove that it is a phoney company - and that it is a phantom and all the words that he used - I will be very pleased to get evidence on the same and take action.

(Applause)

Mr. Namwamba: Mr. Deputy Speaker, Sir, I wish to lay two documents on the Table which, perhaps, time allowing, you will allow me to share with this House. But if time does not allow, I wish to lay on the Table the particulars of the directors, secretaries and the entire process that brought into existence RVR, and which might be of interest to this House and the people of this country.

Mr. Deputy Speaker, Sir, at the time when the Government handed over that premium asset to that phoney company - and I continue to call it a "phoney company" until proven otherwise - it was only 95 days old and it had a share capital of only Kshs100,000!

Hon. Members: No! Shame! Shame!

Mr. Namwamba: Mr. Deputy Speaker, Sir, that company had gone through a somersault of a process in 95 days from some queer entity called Cuba Investments up to the time it came to be called RVR. Allow me to lay these documents on the Table which also proves that, that company is linked to high ranking State officials, one of who sits at the State Law Office and, therefore, is in a vintage position to influence the irregular registration and incorporation of RVR as part of that grand fraud!

Hon. Members: No! Shame! Shame!

*(Mr. Namwamba laid the documents
on the Table)*

Hon. Members: Name them! Name them!

Mr. Mwakwere: Mr. Deputy Speaker, Sir, that sounds extremely interesting and I would like to look at the documents. However, there is a very important clarification that I want to make here; that the decision to concession the Kenya-Uganda railway line, as I said earlier, was a joint decision at a time when privatisation was the order of the day for purposes of creating efficiency in public institutions.

Now, when that happened, everything was done above board. The two countries advertised for concessionaires internationally and there were several companies that applied, both local and foreign. Due diligence was done and whatever was not discovered, it would be interesting even to me to have a look at, so that I may make constructive comments and make sure that there are corrective measures, if any, or take the necessary action that would be acceptable to all of us, as Kenyans.

Mr. Namwamba: Mr. Deputy Speaker, Sir, I just wish to lay on the Table a further document. I have with me here a ruling of the High Court of England and Wales dated the 21st day of April, 2008. This ruling arises out of an arbitration dispute between Sheltham Rail Company, that is at the heart of this matter, and two other companies: Mirambo Holdings of Tanzania and Prime Fuels Kenya Limited. That dispute is at the heart of the concession that handed Kenya Railways to RVR. This ruling, from the High Court of England and Wales, confirms two principal issues.

(i) That RVR is not only phoney but, indeed, it qualifies to be called insolvent! If we are waiting for it to invest any capital in the Kenya Railways, then we shall wait until kingdom comes!

That is because that company could not even afford to pay the legal fees of its counsel appearing in court in London!

Hon. Members: No! Shame! Shame!

Mr. Namwamba: Mr. Deputy Speaker, Sir, I wish to lay this document on the Table for the benefit of the Minister.

*(Mr. Namwamba laid the document
on the Table)*

Dr. Khalwale: On a point of order, Mr. Deputy Speaker, Sir. Revelations by Mr. Namwamba confirm only one thing, that there is corruption in this issue at the highest office in this country.

Could I request the Chair to compel my colleague on the Opposition Bench to actually name the high ranking Minister who actually abetted this process of corruption that took away from the poor people of Kenya such a State valued corporation?

Mr. Deputy Speaker: Order! Order, Dr. Khalwale! You understand the provisions of the relevant Standing Order which states that you cannot discuss the conduct of a Member of Parliament here without bringing a substantive Motion. If the high ranking officer is a Member of this House, then you cannot discuss him without a substantive Motion.

Mr. C. Kilonzo: Mr. Deputy Speaker, Sir, it pains most of us to see what has happened to the Kenya Railways Corporation. The documents which have been tabled here, apart from the railway line having been stolen with the help of the Government from Kenyans, it has been given to members of only one community.

The document is there! Today, the section of the railway line from Magadi to Konza has a speed limit of 80 kilometres per hour. From Konza to Mombasa is 30 kilometres per hour---

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

Mr. Deputy Speaker: Order, Mr. Linturi! Let him finish.

Mr. C. Kilonzo: Mr. Deputy Speaker, Sir, from Konza to Mombasa, the speed limit is between 20 and 30 kilometres per hour.

Mr. Deputy Speaker: What is your supplementary question?

Mr. C. Kilonzo: Mr. Deputy Speaker, Sir, my question is very simple: When will the Government repossess the railway line?

Mr. Linturi: On a point of order, Mr. Deputy Speaker, Sir. However much I support the fight against grand corruption, is it in order for the hon. Member to imply that the Rift Valley Railways (RVR) was corruptly or fraudulently given to members of a particular community when it was given to individuals?

Mr. C. Kilonzo: Mr. Deputy Speaker, Sir, I have a document. If you allow me, I can state my case. These are the owners of the RVR today:-

1. James Kahihu
2. James Muigai
3. Ephraim Njogu
4. Jimmy Mbaru

Mr. Deputy Speaker Sir, all these names include Kamotho, Magari and Kamau. It goes all the way to 29 members of one community. I have nothing against the community.

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

Mr. C. Kilonzo: I am standing on a point of order, Mr. Deputy Speaker, Sir. If you allow me, I will read up to number 24 just to prove that there is nobody else.

An hon. Member: Read up to number 24

Mr. C. Kilonzo: Mr. Deputy Speaker, Sir, No.9---

Mr. Deputy Speaker: Order! Order! You have made your point, Mr. C. Kilonzo.

Mr. C. Kilonzo: Mr. Deputy Speaker, Sir, I hereby table the document.

*(Mr. C. Kilonzo laid the document
on the Table)*

The Assistant Minister for Youth Affairs and Sports (Mr. Kabando wa Kabando): On a point of order, Mr. Deputy Speaker, Sir. This is a very esteemed House. It is the august House of this Republic. The moment we allow hon. Members to start using the Floor of the House to degrade communities in the name of individuals, we will have stemmed patriotism that is supposed to harvest the Republic's integrity. Is it in order for the hon. Member to read names of citizens of the Republic of Kenya and put them in watertight compartments which brings cheapness in the leadership of this country?

Mr. Mbadi: On a point of order, Mr. Deputy Speaker, Sir. Much as we want to be patriotic, it is also unacceptable to allow assets which belong to the whole country to be taken by members of one community---

Mr. Deputy Speaker: Order! Order! Hon. Members, the names on that list are names. They are not names of communities. You cannot use the privilege of the House to disparage Kenyans on account of their community, religion, race or region they come from. Under the circumstances, the issue is bigger than calling community. It is an issue of a national asset. I think that should be the overriding factor. This should be the last moment any Member can allude or rather refer to a community.

Proceed!

The Assistant Minister for Water and Irrigation (Mr. Kiunjuri): On a point of order, Mr. Deputy Speaker, Sir. This House should not destroy the integrity of companies or individuals who cannot defend themselves here. Now that the Minister is here, I want to know whether the hon. Member can be named for gross misconduct? I will prove it. Secondly, could this issue be referred to the House Powers and Privileges Committee under Standing Order No.88(3)? There is prove that RVR is not owned by only one company, as the Member has tried to convince Kenyans. The companies that own RVR are among others: Sheltham of South Africa, Mirambo of Tanzania, Prime Fuels, the Tou of Australia and Trans Century, which is a Kenyan Company. Could the Member be referred to the relevant Committee, if it is proved that he has misled this House?

Mr. Deputy Speaker: Order! Order!

Mr. Namwamba: On point of order, Mr. Deputy Speaker, Sir. Is the hon. Member in order to deliberately mislead this House when we have tabled facts, evidence and even a ruling from a superior court of a Commonwealth state? It is clear that the ownership of this company-- Why do you not permit us to ventilate further on this matter and lift the veil on the true owners of this company? In fact, I have perused the answer presented by the Minister. This answer does not even start to answer the Question. Would I be in order to plead with the Chair to defer this matter and let the Minister go back and come with a proper answer that responds to the substantive issues at the heart of this matter including the ownership of the RVR so that we can further ventilate and find answers to this matter?

Mr. Mwakwere: Mr. Deputy Speaker, Sir, I have been very attentive. I took note of all the points of order and general contribution made by hon. Members. I respect their observations and views, but my answer is comprehensive. It is so comprehensive that if the Questioner could read each part of the Question and then read my answer, he will, definitely, agree with me that my

answer is comprehensive and exhaustive. I believe the hon. Member did his studies in the university in English. So, he should really understand and appreciate that it is covered properly.

Mr. Deputy Speaker, Sir, there was a question of a high court ruling in England two months ago. I am fully aware of that. This was just a problem between the member companies. It has nothing to do with the Government of Kenya or the Government of Uganda. The ruling related to the dispute that was on between themselves. For the information of the hon. members, the said companies that took each other to court in England are actually working together and are shareholders of the RVR. Those were Mirambo of Tanzania and Prime Fuels. They are still working together with RVR and Sheltham of South Africa. That was an internal problem and probably it will be going too far to bring it to the House as a reason why we should cancel the concession.

There may be other reasons which are valid. Yes, the speed restriction between Mombasa and Malaba is not just 80 kilometres per hours. It is worse than that. The speed restriction is at 20 miles per hour. That is very low. The reason is that they have not invested in the infrastructure and that contravenes a section of the concession agreement. That is why I authorized the Kenya Railways Corporation, which was the oversight authority to issue a default notice. Once a default notice is issued in relation to the sections of the concession that have not been honoured, the Rift Valley Railways (RVR) has 30 days to put things right or face another notice that would give them a notice to terminate their activities in Kenya. We are handling everything in accordance with the concession.

Now, when it comes to individuals being named, as far as I am concerned, we concession to a company. If you want to have the names of those who belong to Sheltham, then all of them are South Africans, whether they are from the same family or clan may not be the issue here. If you look for Mirambo and you want to know the shareholders and directors, then they are Tanzanians. Whether they come from the same tribe, family or clan is not, again, the issue. If you come to another company registered in Kenya and all the members or shareholders are Kenyans, it does not take me by surprise, because that is expected to be so. Maybe if you have your own company and you want to join RVR, then feel free; apply and you will be considered by those who have been concessioned to do this.

Mr. Deputy Speaker, Sir, there was also an issue raised on the competence of Kenya and Uganda to have gone ahead with the concession. I explained much earlier that it was a collective decision. The order of the day was to give the private sector a chance to manage public enterprises, and there were merits to that. I do not want to blame those who were involved earlier on. As far as I am concerned, when I took over from those who were there before me, who initiated this activity, everything was done overboard. There was competition and according to those who managed the competition, the best company won at that time. They may be failing. If that is the case, then the provisions to the concession will be used to either terminate or allow them to continue.

Mr. Deputy Speaker: Hon. Minister, can you table the answer? You said that the answer is lengthy and you, of course, cannot go through it. But for the benefit of the hon. Members, they might be satisfied with the answer. So, why do you not table it?

Mr. Mwakwere: Mr. Deputy Speaker, Sir, this answer was circulated. A copy was sent to the Questioner and another one to the Clerk. But I am ready to give a copy to my friends who are raising points of order. I will do that just right away.

*(Mr. Mwakwere laid the document
on the Table)*

Mr. K. Kilonzo: On a point of order, Mr. Deputy Speaker, Sir. This scam is bigger than

Goldenberg and Anglo Leasing scams. It is something which needs hon. Members to have more time to scrutinize. I wish to table this document which shows the directors who incorporated this company. They were only two directors; Mr. King'ai and Mr. Ng'ang'a to whom the Kenya Railways Corporation had to be transferred without paying a dime. If you look at the changes which are on this document, which I wish to table for further scrutiny, they are signed by the same lawyer. There is no single signature of the directors. Because this is a weighty matter, would I be in order to ask for more time for the Chair, Ministers and Members of Parliament to scrutinize the documents which have been tabled here?

*(Mr. K. Kilonzo laid the document
on the Table)*

The Assistant Minister for Water and Irrigation (Mr. Kiunjuri): Mr. Deputy Speaker, Sir. Standing Order No.76 says:-

"A Member shall be responsible for the accuracy of any facts which he alleges to be true and may be required to substantiate any such facts or to withdraw his allegation (with suitable apology, if Mr. Speaker so requires).

Mr. Deputy Speaker, Sir, very serious allegations have been made here against people who cannot defend themselves in this House, and to an extent, a community by hon. C. Kilonzo. He alleged that these are owners of RVR; a statement that he has not withdrawn or substantiated. Is it in order---

Mr. Deputy Speaker: Order, hon. Kiunjuri! The Chair has already made a ruling on that. It is the Chair to ask the Member to withdraw and apologise! But under the circumstances, the matter has already been disposed of!

Mr. Ethuro: Mr. Deputy Speaker, Sir, in view of the issues around this Question and given the limitations, would I be in order to borrow from your earlier decision, that this matter should also be subjected to the relevant Committee for further interrogation?

Eng. Rege: Thank you, Mr. Deputy Speaker, Sir, for giving me a chance to contribute to this issue. The sale of the Kenya Railways Corporation to a private company is just a tip of the iceberg. The railway system has gone down. I think this country must consider some factors when we are selling public property. For example---

Mr. Deputy Speaker: What is your question?

Eng. Rege: Mr. Deputy Speaker, Sir, I am contributing. I am the Chairman of the Committee on Energy, Communications and Public Works.

Mr. Deputy Speaker: Can you ask your question?

Eng. Rege: Mr. Deputy Speaker, Sir, this is leading to a question.

Right now, the railway line is prohibiting the transport of goods from Mombasa. My question to the hon. Minister who was my mathematics teacher is: Has he used the correct mathematical algorithm to see that goods at the Port of Mombasa are accumulating exponentially and they are not being transported because the railway system is down? I believe that this House will say one day that unless the Kenya Railways Corporation takes over Rift Valley Railways, we should consider it dead.

Mr. Namwamba: On a point of order, Mr. Deputy Speaker, Sir. I think---

Mr. Deputy Speaker: Order, Mr. Namwamba! Just ask a supplementary question!

Mr. Namwamba: Mr. Deputy Speaker, Sir, is the Minister in order to mislead this House by purporting to indicate that this whole matter was above board and that the company that was handed this premium State asset was a company with a pedigree that qualified it to take control of this asset when facts have been tabled here and are within the knowledge of this Minister who also

happens to be the State official responsible for executing this concession agreement?

Is he in order to mislead this House when it is clear that the Rift Valley Railways (RVR) is a company that cannot even hawk firewood? This is a company that has absolutely no capacity even to pay legal fees for its own counsel in court.

Mr. Deputy Speaker, Sir, allow me to plead for the indulgence of the Chair to defer this matter to a day when the Minister can take time to appraise himself fully and respond to these issues and even give us more time to amplify these issues because this is not kids' play that deserves to be treated with the arrogance and petulance that the Minister has displayed.

(Applause)

The Prime Minister (Mr. Raila): Mr. Deputy Speaker, Sir, this, indeed, is a very serious matter. Members are raising some pertinent issues---

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

Mr. Deputy Speaker: Order, Mr. K. Kilonzo!

Mr. K. Kilonzo: It is a matter of procedure, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker, Sir, the Prime Minister has just interjected on a matter which was being answered by the Minister for Transport---

Mr. Deputy Speaker: Order! Order!

Mr. K. Kilonzo: Mr. Deputy Speaker, Sir, I am seeking your guidance on matters of procedure.

Mr. Deputy Speaker: When the Chair is on its feet you--- The Chair has recognised the Prime Minister! We will listen to the Prime Minister. We will have to listen to the Prime Minister. Please, proceed, Mr. Prime Minister!

(Applause)

The Prime Minister (Mr. Raila): Mr. Deputy Speaker, Sir, I want to acknowledge that the documents that have been laid on the Table of this House are known to this Government. We have had meetings with the Minister and the top leadership of the RVR, Kenya Railways Corporation and even officials from the Ugandan Government. This matter is receiving attention. I know that there are some issues which the Minister may not, at this moment, be in a position to reveal here.

However, there is a meeting which I have convened on this issue and it is going to take place tomorrow. The Minister from Uganda is going to come here, the officials of RVR are also going to be present. We are going to go deep into the issue of this matter.

The Government is very concerned that the railway services are almost coming to a standstill. By the admission of RVR, on a monthly basis, they are losing US\$1 million. There are also issues to do with the financiers; the International Finance Corporation (AFC) and KFW. This matter is far more complicated. I would, therefore, like to plead with the House to give a little time so that the Government can deal with this matter. We will then come here and issue a much more comprehensive Statement on this matter.

Thank you.

Mr. Imanyara: On a point of order, Mr. Deputy Speaker, Sir. We appreciate that the intervention of the Prime Minister has given some light to this rather sad and complicated chapter. But is it in order for the Prime Minister to tell us that there are some matters that the Minister cannot reveal to this House when he addresses this House as a Minister in this Government? Is it in order for the Prime Minister to say that he has information which the Minister cannot reveal to the House?

The Prime Minister (Mr. Raila): Mr. Deputy Speaker, Sir, yes, we are dealing with businesses. I know that the House is entitled to a lot of information. However, there is certain information which may jeopardise business. This may not be disclosed at this particular time. That is why I am asking for time to be able to go much more comprehensively on this issue so that the questions being raised by Members can be more comprehensively answered by the Government.

Dr. Khalwale: On a point of order, Mr. Deputy Speaker, Sir, as a follow up to what Mr. Imanyara has said, the wisdom of having put Standing Orders No.88 and No.89; which stipulate that if a Minister does not give an answer which is sufficient, lies to the House or misleads the House, he or she is grossly out of order, is to make sure that Ministers come to the House when prepared and give us the true reflection of the answers to the Questions raised. So, for the Prime Minister to suggest that this House can only be treated to second hand information which is not classified means that the Executive treats the Legislative arm of the Government with contempt.

Mr. Deputy Speaker, Sir, it is my submission that the Prime Minister is out of order to suggest that we do not have the right to know some issues. If Members of Parliament do not have the right to know, then how does the ordinary Kenyan get access to information?

Mr. Deputy Speaker: Hon. Members, indeed, the Government side is supposed to give information that is relevant to the Question. Under Standing Order No.11, the Government is given the leeway to treat certain information as secret. Standing Order No.37(11) says:-

"A Question shall not seek information which in its nature is secret".

I do understand that on the face value, the Question is general, pertinent and all information you want to seek should be a matter for common knowledge. However, again, in businesses if a Government is involved in certain matters of secret nature, then the House or Members cannot force a Government Minister to divulge the information.

Nonetheless, the role of Parliament is to hold the Government accountable. The Prime Minister is part of that Government and the Minister is also part of that Government. Backbenchers have relevant departmental committees to interrogate Government actions and inactions and effectively bring out matters that will help in change of policy.

There are relevant committees which do not need the ruling of the Chair to constitute themselves and summon the Minister or directors of the relevant companies, in this case RVR. I besiege Members of the Backbench, who are the chairs and Members of these committees, to use the provisions of the Standing Orders and the authority they have to interrogate these issues outside the plenary. We also, nonetheless, appreciate the fact that the Government has said that it is working on this thing. We can only ask the Prime Minister to tell us how soon the House can have information on those resolutions.

The Prime Minister (Mr. Raila): Mr. Deputy Speaker, Sir, given the kind of talks that we are going to enter into tomorrow, I think that within the next two weeks, we shall be in a position to give a more comprehensive Statement to the House.

Mr. Deputy Speaker: Hon. Members, under the circumstances, the Government, through none other than the Prime Minister himself or an appointed Minister, will report to the House in two weeks time.

(Eng. Rege stood up in his place)

Eng. Rege, being the Chairman of the relevant Departmental Committee, I can see you are restless and you want to say something. I will give you one final moment before we proceed to the next thing.

Eng. Rege: Mr. Deputy Speaker, Sir, my Committee has summoned the Minister to shed light on the RVR in relation to the congestion at the Kenya Ports Authority.

(Mr. Yinda stood up in his place)

Mr. Deputy Speaker: What is it Mr. Yinda? You were the Questioner. The matter has been disposed of. It is not only a Question now. It has been disposed of because the Government has given an undertaking here that it is going to report back to the House in two weeks time. So, the matter has been disposed of.

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

Mr. Deputy Speaker: Not on the same issue.

Mr. Ethuro: Mr. Deputy Speaker, Sir, procedurally!

Mr. Deputy Speaker: What is it?

Mr. Ethuro: Mr. Deputy Speaker, Sir, this House is entitled to some integrity. While appreciating the intervention by the right honourable Prime Minister, it is on record that two months ago, the right honourable Prime Minister, Mr. Raila Odinga, declined to answer a question by hon. C. Kilonzo on the School Feeding Programme (SFP), a matter that is completely important, on the basis that the Prime Minister cannot be reduced to specific interventions by the relevant line Ministries. The Prime Minister and this Government owe this country consistency in the manner in which they answer Questions. We really appreciate his intervention because he has given us guidance. Is it now possible in future, if this House feels that a Question is very pertinent to the concerns of Kenyans, then the Prime Minister will rise to the occasion?

The Prime Minister (Mr. Raila): Indeed, Mr. Deputy Speaker, Sir, I said that the Prime Minister would like to come and answer questions from hon. Members. I even requested that they introduce the Prime Minister's Question Time in the Standing Orders so that the Prime Minister can come and ventilate on key policy issues here. Hon. Members can then interrogate him. I am told by the Speaker, that this matter has already been considered in the revised Standing Orders.

Mr. Deputy Speaker, Sir, the hon. Member may also wish to know that Standing Orders also provide that if there are matters which are fairly secret, even the galleries can sometimes be emptied so that such issues could be discussed here.

As a Government, we are not deliberately trying to withhold any information from the House. The House is completely entitled to full disclosure of information that the Government has.

The Minister for Transport (Mr. Mwakwere): On a point of order, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Order, Mr. Minister! Mr. Ombui will have his Question on the Order Paper tomorrow in the morning. Mr. ole Lankas is on official Parliamentary business outside Nairobi. We will put his Question at an appropriate moment when he will be around. With regard to Mr. Nguyai's Question, the Vice-President and Minister for Home Affairs is also held up in other important functions today. That Question will be put on the Order Paper at an appropriate moment when he will be available. I am told he will be travelling outside the country on official duty, shortly.

Question No.260

REHABILITATION OF DARAJA MOJA
ON KISII-KEROKA ROAD

(Question deferred)

Question No.253

MEASURES TO DECONGEST PUBLIC
PRIMARY SCHOOLS

(Question deferred)

Question No.183

MEASURES TO REGULATE LOTTERY FIRMS

(Question deferred)

The Minister for Transport (Mr. Mwakwere): On a point of order, Mr. Deputy Speaker, Sir. Is it in order for Mr. Namwamba to refer to me as being arrogant and petulant when he knows very well that he is the one who is more arrogant and more petulant? Is it in order for---

(Laughter)

Mr. Deputy Speaker: Order, Mr. Mwakwere! Order, hon. Members! Whereas it is out of order for Mr. Namwamba to refer to Mr. Mwakwere as arrogant and petulant, you should have risen on that point of order to seek apologies from him. You ought to have done that at an appropriate moment. That has been overtaken by the disposition of that business.

Let us go to the Ministerial Statements.

POINTS OF ORDER

CONFLICTING FUNCTIONS BETWEEN
MINISTRIES OF PUBLIC HEALTH AND
SANITATION AND MEDICAL SERVICES

Mr. Chanzu: Mr. Deputy Speaker, Sir, I rise to seek a Ministerial Statement from the right honourable Prime Minister on the prevailing serious conflict of roles and duties between the Minister for Public Health and Sanitation and the Minister for Medical Services.

In the Statement, I would like the Prime Minister to clarify the following, among other things:-

(a) That there are hierarchical problems in administering the two Ministries right from dispensaries, the rural health centres up to the provincial level.

(b) That dispensaries and rural health centres which have traditionally been offering curative services are now under the Ministry of Public Health and Sanitation which is supposed to offer preventive medical care.

(c) That the Kenya Medical Research Institute (KEMRI) which deals with research in common diseases and curative cases has been removed from the Ministry of Medical Services which is in charge of curative medicine.

(d) That the Radiation Protection Board under whose authority X-rays and curative investigative equipment fall has also been put under the Ministry of Public Health and Sanitation.

Finally, Mr. Deputy Speaker, Sir---

Mr. Deputy Speaker: Be precise and concise!

Mr. Chanzu: Finally, Mr. Deputy Speaker, Sir, the Prime Minister should include in the Statement the steps he intends to take to rectify this situation.

FATAL BOMB EXPLOSION IN
SAMBURU EAST

Mr. Bahari: Mr. Deputy Speaker, Sir, I rise to seek a Ministerial Statement from the Minister of State for Defence regarding an incident that occurred on 4th August, 2008, at Lerasoro area of Samburu East in which two persons were injured by an explosive bomb. One of them later died on the way to hospital.

This incident happened as the men were grazing their livestock. You may be aware that there was a Question on this same issue last week. I would, therefore, like the Minister, in his Statement, to tell the House whether this area is safe any more for grazing livestock. This is because the military carries out its exercises there. I would like the Minister to also tell the House what preventive measures the Government will take to stop further deaths as a result of similar incidents.

The Minister of State for Defence (Mr. Haji): Mr. Deputy Speaker, Sir, we will give a Ministerial Statement next week on Thursday.

PERSONAL STATEMENT

APOLOGY TO THE CHAIR AND THE HOUSE

Mr. Kimunya: Mr. Deputy Speaker, Sir, I rise on a point of order to issue a Personal Statement on remarks that were attributed to me at a public rally in Kinangop, and on which Mr. Speaker made a ruling last Thursday. I have utmost respect for the Chair and the Members of this House. I am also a Member, and would not deliberately, wish to do or say anything that casts aspersions on the Chair or the House. Accordingly, I wish to apologise to the Chair and the House for any offence caused by the said remarks.

Thank you, Mr. Deputy Speaker, Sir.

(Applause)

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

Mr. Deputy Speaker: Order! Order! Mr. Ethuro, Standing Order No.20, indicates that you can move a Motion for the adjournment to discuss a matter of national importance on the same day. However, the Chair has to have a notice of such a Motion, at least, two hours before it is moved.

Mr. Deputy Speaker, Sir, under that Standing Order, you cannot seek to move such a Motion now and have it debated right away. You can raise the issue tomorrow morning. Make sure that you forward to the Chair the relevant notice in time.

POINT OF ORDER

MEASURES TO SAFEGUARD KENYANS
FROM TERRORISM

Mr. Imanyara: Mr. Deputy Speaker, Sir, I rise to seek a Ministerial Statement from the Minister of State for Provincial Administration and Internal Security. There appears to be a terrorist on the loose in this country. Acknowledging that the month of August is a month we associate with

terrorist attacks in this country, could the Minister issue a Ministerial Statement, assuring Kenyans of their safety, and that, particularly, no Kenyans will be arrested and locked up on the basis of giving refuge to terrorists?

Mr. Deputy Speaker, Sir, could he explain the circumstances under which so many Kenyans are being arrested over an alleged terrorist, who has been operating in this country for a number of months in the full knowledge of the security arms of the Government?

Mr. Deputy Speaker: Is the Minister of State for Provincial Administration and Internal Security here?

An hon. Member: No!

Mr. Deputy Speaker: Mr. Prime Minister, would you like to give an undertaking on behalf of the Minister?

The Prime Minister (Mr. Raila): Mr. Deputy Speaker, Sir, we will convey the information to the relevant Minister and see that he issues the Ministerial Statement next week.

Mr. Deputy Speaker: Very well!

Hon. Members, we will now have Ministerial Statements from Messrs. Mungatana and Shitanda.

MINISTERIAL STATEMENT

STATE OF BABY ROSE MWAKA'S MANAGEMENT AT COAST GENERAL HOSPITAL

The Assistant Minister for Medical Services (Mr. Mungatana): Mr. Deputy Speaker, Sir, on Thursday, 31st July, 2007, [**The Assistant Minister for Medical Services**] Mr. Gitobu Imanyara demanded a Ministerial Statement on the state of baby Rose Mwaka's Management at the Coast General Hospital. I beg to state as follows.

Baby Rose Mwaka, aged eight months, was admitted to Coast General Hospital on 12th July, 2008 after presenting with fever, diarrhoea and vomiting. A working diagnosis of gastroenteritis malaria with pneumonia was made and an appropriate treatment commenced. Initial care was provided by a Medical Officer Intern and nursing staff in the Paediatrics Observation Ward (POW).

As part of management, an IV drip line was put on the dorsum of the child's left foot to enable administration of a drip of the anti-malarial drug, quinine, and the anti-pneumonia drugs Chrystapen and Gentamycin. Veins in the feet are the third option for administration of intravenous medication if a site cannot be found on the arms or the scalp in that order. For baby Rose, the first two options had failed.

The drip was fixed twice on the left foot of the baby. The first one stopped flowing due a technical problem called "tissuing". This necessitated reinsertion of a second drip line which worked. As a result, the child's condition improved. The fever abated and the diarrhoea stopped.

On 14th July, 2008, baby Rose's mother alerted the ward staff of the swelling and change of colour of the left limb. Immediately, the IV line was removed and the baby's mother was advised to elevate the limb. She was also dully placed under the care of a consultant paediatrician. With time, the child's general condition improved, but the left limb was noticed to have become gangrenous, starting from the little toe.

Mr. Deputy Speaker, Sir, on 15th July, 2008, the surgical team in the hospital was consulted. They reviewed the child on 16th July, 2008 and advised treatment and close observation. However, the gangrene progressed upwards. On 18th July, the surgical team decided on amputation, and the father signed the consent to amputate on the same day. Unfortunately, he

later changed his mind and refused to have the child amputated. The situation remained the same, with the gangrene getting higher.

On 25th July, 2008, the hospital obtained a court order to compel the father to consent to the amputation. However, he refused to sign and acknowledge the court order. Therefore, the amputation could not go on.

On 29th July, 2008, a second opinion was obtained from Dr. L.G. Gathua, a leading consultant surgeon in private practice. Dr. Gathua recommended amputation to be followed by grafting, but the parents refused and remained reluctant to carry out the amputation. On 31st July, the father opted for a discharge of baby Rose. He was allowed by the hospital management to take away the child, but after signing a Discharge Against Medical Advice note.

Mr. Deputy Speaker, Sir, we, as a Ministry, directed the Medical Practitioners and Dentists Board (MPDB), upon receiving the information on the controversy, to exercise its mandate, under Cap.253, Laws of Kenya, to carry out investigation and find out if any malpractice was occasioned in the management of baby Rose. The second thing that we did was to require a preliminary opinion from the MPDB. I wish to report to Parliament that the preliminary report, so far, indicates that a proper diagnosis of baby Rose was carried out and correct medical procedures followed.

We, as a Ministry, are of the opinion that the parents should adhere to the experts' opinion in order to avoid further wastage of the foot and the gangrenous development of the foot which could ultimately lead to death. We, as a Ministry, are advising that the parents take the child to the Coast General Hospital for the procedure to be carried out. If they are not comfortable there, we are ready, as soon as they report to the Provincial Medical Officer at the Coast General Hospital, to airlift the child to Kenyatta National Hospital, so that the necessary procedures can be carried out to ensure that the life of the child is protected.

Mr. Deputy Speaker, Sir, the examination and investigation of professional malpractice is a process which takes time. I have directed that before the end of August, 2008, we should receive a report from the MPDB, as to whether any malpractice was carried out, including recommendations on any disciplinary action to be effected upon receipt of the report.

Mr. Deputy Speaker, Sir, may I take this opportunity to request the public to remember that a few years ago, the Ministry gave direction that there should be suggestion boxes in all public hospitals for any public complaints. We also directed that hospital advisory committees should be set up. Those are already in place. We suggest that, if the public has any complaints, they should forward them for immediate action before things deteriorate, as it was in that particular case.

Thank you.

Mr. Imanyara: Mr. Deputy Speaker, Sir, I rise to seek a clarification on that issue because I am the one who sought for it. I do appreciate that the Assistant Minister has taken a fairly urgent action to get a comprehensive answer and report to this House. You notice that he talked about a technical fault that led to the start of the gangrene. What was the nature of that technical fault? Was it proper to allow the parent to take a child whose life was in danger under those circumstances, when the law has provisions for the hospital to take charge of the responsibility of that child to ensure that the necessary steps are taken to protect the child's life? Specifically, what was the technical fault and what action has been taken to rectify that fault that could recur to other children other than baby Rose?

The Assistant Minister for Medical Services (Mr. Mungatana): Mr. Deputy Speaker, Sir, as I have stated, in that particular case, the diagnosis that was given was correct. That is because the laboratory results showed the presence of malarial parasites. Also, the physical condition was that the child was oscillating at between 28 and 31 degrees centigrade. The fever was very high and she was diarrhoeating. So, they put the intravenous solution to administer the drugs into the child's vein. When there was a difficulty in the penetration of the drug into the child's body through the

right leg, it was changed to the left leg.

It is in very rare occasions that, that kind of problem develops, but it could happen. Immediately after that problem was noticed by the parents, we did a preliminary management of the condition. What you do in that case is to lift the leg or the place that can be gangrenous to be exposed to proper blood circulation. Gangrene develops as a result of lack of blood circulation at the correct tissue area affected. Ordinarily, if a little complication like that happens and your leg or hand is lifted up, the circulation goes on and takes care of the gangrene. In that particular case, it was unfortunate that it refused to revert to the ordinary condition. That is one out of 20,000 cases. That is why we advised that the amputation should take place.

In terms of the future preparations, I want to assure this House that our doctors are properly trained and we make sure that they follow the correct procedures. However, we cannot rule out medical complications taking place as far as gangrene is concerned. If there was deliberate malpractice, then we will punish the medical personnel that were involved.

Mr. Deputy Speaker: Next Ministerial Statement is by the Minister for Finance! Is the Minister for Finance not here?

Mr. Okemo: Mr. Deputy Speaker, Sir, if you recall, this Ministerial Statement has been postponed three times against the ruling of the Chair. I do not know whether there are any special circumstances surrounding that indefinite postponement! The issue is so important that it touches on the issues that have already been here. For example, the issue of the railways, refinery, the Safaricom Initial Public Offer (IPO) and so on. They all revolve around the Privatisation Commission. It is, therefore, important that the Minister should issue that Ministerial Statement. If he is unable to do so against your ruling, then you must give a much firmer ruling today.

Mr. Deputy Speaker: Hon. Members, the Chair has reiterated on a number of occasions that Ministers need to take their jobs seriously. They have a responsibility to this House. Under the circumstances, the Minister should be available with the Ministerial Statement tomorrow morning after Question Time, failure to which the Chair and the House will be left with no option but to do the appropriate thing. There are tools and instruments that are available to the Chair and the House to deal with such conduct and behaviour on the part of the Ministers.

The Leader of Government Business and the Prime Minister are not here. Where is the Deputy Leader of Government Business? The ruling of the Chair is that the Ministerial Statement from the Minister for Finance on the Privatisation Commission should be here tomorrow. It has been postponed three times now.

The Minister for Justice, National Cohesion and Constitutional Affairs (Ms. Karua): Mr. Deputy Speaker, Sir, I will convey the message.

Mr. Imanyara: On a point of order, Mr. Deputy Speaker, Sir. Mr. Okemo, as the Chair of the Committee on Finance, Planning, Trade and Tourism was given a deadline regarding the investigations into the Grand Regency Hotel saga. The deadline has passed and we have not been given any report. In the same vein, may I ask that you give the same reprimand and ensure that we get the compliance to the Speaker's ruling on the report on the Grand Regency Hotel saga.

Mr. Okemo: Mr. Deputy Speaker, Sir, the Speaker was very clear on the last time he made a statement on the Grand Regency Hotel. It was accepted or decided that the report will be ready to be presented to this House on Thursday this week. So, Mr. Imanyara should withdraw the insinuation that we have not kept the deadline.

Mr. Deputy Speaker: Order, Mr. Okemo! There is a very important Standing Order that the moment the Chair stands on its feet, you freeze! Under the circumstances, the Committee on Finance, Planning and Trade and Tourism will present its report on Thursday afternoon.

Mr. Namwamba: On a point of order, Mr. Deputy Speaker, Sir, I just need your guidance. I sought a Ministerial Statement from the Minister for Local Government regarding the irregular

nomination of councillors. I have been out of the country for the last couple of weeks, but I am aware that, that Ministerial Statement has not been presented to this House. May I receive some guidance as to when that Ministerial Statement can be presented here because it is long overdue.

Mr. Deputy Speaker: Order! Mrs. Ngilu and Mr. Shitanda, you will issue your Ministerial Statements tomorrow morning after Question Time. We now have to go to the next Order.

*(Several hon. Members stood up
in their places)*

Mr. Deputy Speaker: Order, hon. Members! We have exhausted the business of the House as concerns Ministerial Statements. We intended to do that by 5 p.m. and we are already late by 10 minutes. With your kind indulgence, could we please have your Ministerial Statements tomorrow morning after Question Time.

Dr. Khalwale: On a point of order, Mr. Deputy Speaker, Sir. I request that you also rule that my Ministerial Statement which was on the *status quo* at the military headquarters be answered the same time tomorrow because I have talked to the Minister and he is also ready.

Mr. Deputy Speaker: Order!

The Minister of State for Defence (Mr. Haji): Mr. Deputy Speaker, Sir, with your indulgence, the Ministerial Statement requested by the hon. Member is weighty and touching on the entire spectrum of the military establishment. It touches on the security of this country. Is it in order for the hon. Member to take our Ministry to the firing line?

Mr. Deputy Speaker: Order! I think it is imperative by all other democracies that we do understand, that we have certain matters that are weighty and of national security. Phenomenal matters that have something to do with our security forces, intelligence organs and financial institutions of our country should, by and large, be handled at the committee stage or if does demand beyond that, it must be done with the consultation of the Chair when the House will be in camera. We have done that in the past. Matters that touch on the national security of this country including discussions on our armed forces can only be discussed either in camera by the House or be dealt with at the committee level.

(Applause)

Dr. Khalwale: Mr. Deputy Speaker, Sir, I thank you for that ruling but allow me to bring it to your notice that the hon. Minister should not attempt through the back door to cast aspersions on my intentions. It must be understood that when I raised this issue, I sought clearance from the Chair. Had I done so by ambushing the Chair, then I would have been seen to have been in a serious condition.

However, as I sit down, this issue of great national importance that I raised has now been overtaken by the veil of secrecy because it has flushed into the public domain. All media houses, both print and electronic, have taken it up. You would have done very well for this House to deal with it outside camera so that the public can know that there is nothing that is amiss.

The Minister of State for Defence (Mr. Haji): Mr. Deputy Speaker, Sir, I did not intend to cast any aspersions on the hon. Member and I will never do that. But the fact remains that what he is referring to in the public domain was reported in the press and they have never been substantiated. It is just reporting by the press. We will not go by the press. I think this honourable House should take into consideration the role of the army versus the allegations that are being made. It is not in order.

Mr. Deputy Speaker: Order, hon. Minister! There are tools available to you to discuss

matters that are of secret nature and you can do that at the committee level. You can also seek an Adjournment Motion when the House sits in camera. Those are the two avenues that are open to Members of Parliament to ventilate on such issues and the Chair will not rule otherwise.

Our national security, intelligence organs or financial institutions are areas which any country and sovereign State protects at all levels including at the legislative level. So, you can use those tools that are open to you. You have a relevant Departmental Committee on Defence and Foreign Relations. Use that committee to summon the Minister and anybody else. You can use that provision. Should you decide to go beyond that and hold a full plenary, it has to be done also with the right Adjournment Motion and in camera.

Mr. Namwamba: On a point of order, Mr. Deputy Speaker, Sir. Would I be in order, therefore, to kindly request the Chair to direct that this matter be referred to the Departmental Committee on Defence and Foreign Relations?

(Applause)

Mr. Deputy Speaker: Order, hon. Members! The Chair has said time and again that we do not have to have it's direction for those committees to work. The committees have the tools without the Chair's direction. Use the tools! It does not make any difference whether the Chair has the authority or the discretion to direct but the committee is there! Proceed on and summon the Minister or any other relevant officer in that relevant Ministry or department.

Next Order!

BILL

First Reading

THE KENYA COMMUNICATIONS (AMENDMENT) BILL

*(Order for First Reading read - Read the
First Time and ordered to be referred to
the relevant Departmental Committee)*

Mr. Deputy Speaker: Next Order!

COMMUNICATION FROM THE CHAIR

DEFERMENT OF COMMITTEE STAGE: THE NATIONAL ETHNIC AND RACE RELATIONS COMMISSION BILL

Mr. Deputy Speaker: Order, hon. Members! We cannot go to the Committee of the Whole House because the amendments are not ready. So, we will go to the next Order.

Next Order!

BILL

Second Reading

THE CONSTITUTION OF KENYA REVIEW BILL

The Minister for Justice, National Cohesion and Constitutional Affairs (Ms. Karua):
Mr. Deputy Speaker, Sir, I beg to move that The Constitution of Kenya Review Bill, 2008, Bill No.14, be now read a Second Time.

The Bill is a result of deliberations of the National Accord and Reconciliation Committee formed after the political crisis early this year. In the National Accord and Reconciliation Act, reference was made to the need to embark on a comprehensive review of the Constitution and to look for a lasting solution to the underlying problems that brought about the political crisis.

The National Dialogue and Reconciliation Committee resolved to complete the comprehensive review of the Constitution within a period of 12 months from the date the framework of review is made into law. This Bill, therefore, seeks to give effect to the completion of the constitutional review process by giving the legal framework.

Mr. Deputy Speaker, Sir, Part I of this Bill provides for preliminary matters and the objectives of the constitutional review. With the indulgence of the House, I would like to elaborate on that. Clause 3 proposes that:-

"The object and purpose and of the review is to secure therein:-

(a) Guaranteed peace, national unity and integrity of the Republic of Kenya in order to safeguard the well-being of the people of Kenya.

(b) Establishing a free and democratic system of Government that guarantees good governance, constitutionalism, the rule of law, human rights, gender equity, gender equality and affirmative action".

Mr. Deputy Speaker, Sir, if you recall that following the events of early this year, Kenyans or a section of Kenyans have come to question our democratic institutions. In order to renew them and to have the democratic institutions that Kenyans will have faith in, it is necessary to comprehensively review our Constitution to pave way for new institution building.

The review also seeks to recognise and demarcate divisions of responsibility among the various state organs including the Executive, Legislature and the Judiciary, so as to create checks and balances between them and to ensure accountability of the Government and its officers to the people of Kenya.

[Mr. Deputy Speaker left the Chair]

*[The Temporary Deputy Speaker
(Prof. Kamar) took the Chair]*

Madam Temporary Deputy Speaker, it will be recalled that as we passed the Constitution Amendment Bill together with the National Accord and Reconciliation Act earlier this year, we did indicate that a comprehensive review of the Constitution will be necessary in order to demarcate divisions of responsibility within the Executive as well as within the Legislature.

It is to be recalled that some of the difficulties in interpretation that we experience today is because we introduce new sections without amending the entire chapter or section that deals with devolution of power. It is, therefore, for the smooth running of our country, necessary to complete the comprehensive review in order to create offices and institutions that are in harmony with the entire Constitution.

Madam Temporary Deputy Speaker, it is also the object of this Bill that we promote the peoples' participation in governance of the country through democratic, free and fair elections and the devolution and exercise of power. It is to be remembered that the crisis came about as a result of issues related to the election and the perception about the fairness, or otherwise, of the elections.

Madam Temporary Deputy Speaker, the other object is respecting ethnic, regional diversity and communal rights, including the right of communities to organise and participate in cultural activities and the expression of their identities. Also, ensuring the provision of basic needs of all Kenyans through the establishment of equitable framework for economic growth and equitable access to national resources. Also, promoting and facilitating regional and international co-operation to ensure economic development, peace, stability, and to support democracy and human rights. Finally, it is also committing Kenyans to peaceful resolution of national issues through dialogue and consensus.

So, Madam Temporary Deputy Speaker, what are the organs of the review? Clause 4 gives the organs of review as the Committee of Experts, the Parliamentary Select Committee, the National Assembly and the Referendum.

Why the Committee of Experts? This is an incremental process. We have gone through the constitutional review process, but without a successful conclusion. We will, therefore, not be reinventing the wheel. There will be no collection of views from the people because those are already there. They were collected by the Constitution of Kenya Review Commission (CKRC). We already know what Kenyans want and we already have two basic documents - the document that was subjected to the Referendum and defeated and the Bomas Draft. Therefore, it is an incremental process and it was the view of the team that, what we need at this stage is expert advice to resolve the various models suggested by Kenyans of resolving the contentious issues.

Madam Temporary Deputy Speaker, we also need a Parliamentary Select Committee that will help to liaise with the Committee of Experts, the public and the various stakeholders to gather suggestions on how to resolve the outstanding issues and also to agree on a draft Constitution. A lot of representations, so far, have been made by the civil society, including the religious sector, about a window of opportunity and a role to play in resolving those issues. It is very likely that, at the Committee Stage, we will be looking to enrich this Bill by opening a window of opportunity for participation.

Madam Temporary Deputy Speaker, the third organ of review is the National Assembly. It is mandated to pass the draft before it is subjected to a Referendum. The guiding principles that will govern the functions conferred by this Act on the review organs will be to ensure that the national interest prevails over regional or sectoral interest. Also, to be accountable to the people of Kenya, to ensure that the review process accommodates diversity of the people of Kenya, including the socio-economic status, race, ethnicity, gender, religious faith, age, occupation, learning, persons with disability as well as the disadvantaged people. In other words, to ensure full participation by all shades of opinion and by all the peoples of Kenya.

Madam Temporary Deputy Speaker, the organs of review are also to ensure that the review process provides the people of Kenya with an opportunity to actively, freely and meaningfully participate in generating and debating proposals to review and replace the Constitution.

Finally, the organs of review are to ensure that the outcome of the review process faithfully reflects the wishes of the people of Kenya.

Madam Temporary Deputy Speaker, if you go to Part III of Clause 21, the functions and powers of the first organ of review, which is the Committee of Experts, will be to identify the issues which have already been agreed upon in the existing draft Constitution, which I have already referred to. To identify the issues which are contentious or not agreed upon in the existing draft Constitution. To solicit and receive from the public written memoranda and presentations on the contentious issues. In other words, to receive views on how to resolve the contentious issues from the public.

Madam Temporary Deputy Speaker, the Committee of Experts will also have powers to undertake thematic consultations with caucuses, interest groups and other experts. That will afford

an opportunity to people around their areas of interest---

QUORUM

Mr. Nyamweya: On a point of order, Madam Temporary Deputy Speaker. We are here discussing the most important Bill that we could possibly discuss in the Republic. But, certainly, we do not have a quorum to proceed to discuss such an important document!

The Temporary Deputy Speaker (Prof. Kamar): Okay, Clerk-at-the-Table, can you ascertain that?

Yes, hon. Members, there is no quorum. Ring the Division Bell?

(The Division Bell was rung)

ADJOURNMENT

The Temporary Deputy Speaker (Prof. Kamar): Hon. Members, unfortunately, we have not realised the quorum. The House, is, therefore, adjourned until tomorrow, Wednesday, 6th August, 2008 at 9.00 a.m

The House rose at 5.35 p.m.