

NATIONAL ASSEMBLY

OFFICIAL REPORT

Thursday, 7th May, 2009

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

COMMUNICATION FROM THE CHAIR

DRESS CODE FOR MEMBERS

Mr. Speaker: Order, hon. Members! I have the following Communication to make. On Thursday, April 30, 2009, the Member for Gem, hon. Jakoyo Midiwo sought the guidance of the Chair on whether the Member for Kisumu Town West, the hon. Olago Aluoch was properly dressed in accordance with our rules. The said Member for Kisumu Town West was dressed in regalia commonly donned by officers of the court while attending court proceedings or when professionally engaged elsewhere in the practice of their trade. I undertook to give a ruling on this matter, which I am now pleased to deliver.

Hon. Waititu, you may walk in. We will take a little while.

(Hon. Waititu entered the Chamber)

Hon. Members, having listened to the debate that ensued on the matter, I deciphered or isolated the following issues as requiring my consideration:-

- (i) Whether or not it is proper for a Member to enter this Chamber while dressed in a professional outfit, inclusive of courtroom regalia;
- (ii) What is the acceptable dress code for the Chamber;
- (iii) Whether hon. Olago Aluoch was properly dressed during that particular Sitting; and more remotely,
- (iv) What is our national dress.

Hon. Members, before I deliver my communication on this matter, let me inform the House on the current requirements and practices obtaining in our National Assembly and even in other Parliaments. For the case of our National Assembly, the manner of dressing is provided for in Chapter 1 Rule 5 of the Speaker's Rules which provides, and I quote:-

“Members are required not to enter the Chamber, Lounge or Dining Room without being properly dressed.”

“Proper dressing” is defined as a coat, tie, long trousers, socks and shoes or service uniform, or decent national dress for men; and equivalent standard for women with hats optional.”

The Members at the Bar may walk in.

(Several hon. Members entered the Chamber)

Debates have arisen in this House from time to time as to what constitutes all or part of the proper dressing described by this rule. As a matter of fact, a Motion was moved in the House on 18th July, 1963 urging the Government to set up a dress committee to recommend the design and form of an official dress to be worn by Members of the House. I dare add, hon. Members, that from the record, the Mover of the Motion appears to have been wearing what could be described as a “traditional dress”.

Rulings have also been made to uphold what seems, in my opinion, to be the acceptable parliamentary dress code. For instance, on 16th April, 1968, the Chair, while responding to an objection on the dressing of a Member, ruled as follows:-

“Honourable Members, as I have said on other occasions, we have no Standing Orders concerning dress, which I can enforce. It rests on the collective opinion of the House as to what is or is not proper dress. If Mr. Mbogoh does not meet with the approval of Hon. Members, he will doubtless hear about it.”

Similarly, on 24th March, 1993, the Chair ruled as follows on the same subject, and I quote:-

“Honourable Members, this morning an issue arose as to whether hon. Shikuku, MP for Butere was properly dressed as per the Speaker’s Rules regulating the conduct of Members of the National Assembly. The Hon. Member was dressed in long trousers, shirt, bow tie and a sleeveless outer garment.”

Was hon. Shikuku properly dressed when he wore a sleeveless outer garment?

I looked up the definition of a “coat” in the dictionary and it is defined as “a long outer garment with sleeves buttoned at the front”. An outer garment without sleeves is not a coat and consequently, hon. Shikuku was not properly dressed within the meaning of the Speaker’s Rules.”

In digression, Erskine May, a source of authority in parliamentary practice and procedure states, and I quote:-

“It is traditional for men to dress formally in the Chamber. It is the custom for gentlemen Members to wear jackets and ties.”

In the UK House of Commons, the dress code is formal, with even requirements for neatness and tidiness. Men should wear a jacket, shirt, tie and long trousers in the Chamber as a mark of respect for both their colleagues and for the institution itself. Members are even not allowed to have their hands in their pockets. The Chair of the House of Commons is on record saying, and I quote:-

“It is not appropriate to address the House without being properly attired.” Similarly, in the Parliaments of New Zealand, Canada and Australia, dress code is also very formal.

Closer home in Uganda, the rules provide that:-

“All Members shall dress in a decent and dignified manner, that is to say:-

- (a) A pair of trousers with a jacket, shirt and tie, a *kanzu* or a jacket or Safari Suit for male members;
- (b) A jacket, blouse and skirt or dress or *Busuti* (traditional wear) for lady members; and
- (c) Military attire for members of the armed forces.”

The rules also provide that any Member intending to dress otherwise may do so with permission of Mr. Speaker. This is to provide for situations where circumstances such as medical requirements or one’s faith may dictate his or her manner of dressing.

Those at the Bar may walk in. I will take another minute to finish.

(Several hon. Members entered the Chamber)

Hon. Members, moving forward, there has been clamour in the recent times for us to relax our rules on dress code and also allow traditional wear in the House, its Committees, the Lounges and Dining areas. Indeed, you will recall that this matter was debated at length during the all-Members retreat on review of the Standing Orders in August last year. It was unanimously resolved that there has not been a commonly accepted traditional dress for all. From the foregoing, I uphold the provisions of Rule 5 of the Speakers Rules and hereby rule that:-

- (i) It is not proper for a Member to enter the Chamber dressed in attire meant for other jurisdictions such as the courts, hospitals, *et-cetera*. That is essentially why a Member of the House raised an objection due to what I referred to earlier as the collective opinion of the House.”
- (ii) The Hon. Olago Aluoch was, therefore, not properly dressed on that particular day.

Hon. Members, the essence of this communication is not restricted to the concept of proper dress code, but extends to capture a deep reflection on the need to uphold the dignity of the House, which we have jealously protected and defended over the years. Despite my spirited efforts, I have not been able to find an agreed position, codified or otherwise, as to what is our national dress. I, therefore, urge all hon. Members to uphold the dignity of the House and observe Rule 5 of the Speaker’s Rules on dress code, not only in this Chamber, but also in Committees, the Lounges and Dining areas. In the meantime, in line with the reforms being undertaken in the House, especially following the adoption of the new Standing Orders, I would request hon. Members with any suggestions on the mode of dressing in the Chamber to forward them to the Chair, so that the matter may be examined afresh in view of the concerns raised by the hon. Members. Thank you.

PAPER LAID

The following Paper was laid on the Table: -

The Report of the Departmental Committee on Energy, Communications and Public Works on the visit to the Port of Mombasa.

(By Eng. Rege)

Mr. Speaker: Next Order!

NOTICE OF MOTION

EXTENSION OF SELECT COMMITTEE'S MANDATE ON ACTIVITIES OF UNLAWFUL ORGANIZATIONS

Mr. Kioni: Mr. Speaker, Sir, I wish to give notice of the following Motion: -

THAT, this House extends the mandate of the Parliamentary Select Committee on the activities of unlawful organizations by three months to enable the Committee conclude its activities as per the terms of reference and as established.

QUESTIONS BY PRIVATE NOTICE

FATE OF FORMER ECK EMPLOYEES

Mr. Kioni: Mr. Speaker, Sir, I beg to ask the Minister of State for Public Service the following Question by Private Notice.

(a) Could the Minister explain the fate of all former employees of the disbanded Electoral Commission of Kenya (ECK) and provide a list showing the respective amounts paid as terminal dues to those that were retired?

(b) Could he table the list detailing the respective grades and salaries of all the redeployed employees (at ECK and at their current stations respectively)?

(c) Could he outline the steps being taken to ensure that the redeployed employees are not placed at grades and salaries that are disadvantageous to them?

Mr. Speaker, Sir, this Question was asked last week but it was deferred to today so that Members could be able to interrogate the Minister.

Mr. Speaker: Mr. Minister, are you prepared for interrogation?

The Minister of State for Public Service (Mr. Otieno): Mr. Speaker, Sir, I am prepared. I had concluded my answer and I am now waiting for further questions.

Mr. Speaker: I can recollect that, Mr. Minister!

Mr. Kioni, please, proceed!

Mr. Kioni: Mr. Speaker, Sir, one of the things that was not clear when this Question was answered by the Minister was the---

Mr. Speaker: Order, Mr. Kioni! Note that these would be supplementary questions!

Mr. Kioni: Mr. Speaker, Sir, what was the formula used in computing the dues that were meant to be paid to the former members of staff? Have they been paid and if not, when will they be paid?

Mr. Otieno: Mr. Speaker, Sir, all the former employees of ECK were given options to take a lump sum based on their remuneration at the ECK or to opt for redeployment into the Civil Service. The Question was on the deployment of those who were being absorbed in the Civil Service. I have said that they have all been redeployed as of now.

Mr. Affey: Mr. Speaker, Sir, I had asked the Minister for a Ministerial Statement regarding this matter. He said that the former ECK staff would be absorbed immediately. Why did they assume that these officers are entering the Civil Service afresh? Why did they disregard the number of years these officers worked at the ECK?

Mr. Otieno: Mr. Speaker, Sir, we have not disregarded the period they have worked. Each of the employees absorbed in the Civil Service have been absorbed in the Job Group for which they qualify in light of their experience and educational qualifications.

Mr. Konchella: Mr. Speaker, Sir, the Minister's answer is really not true because former members of staff of the ECK have been posted to other places, but they have not been deployed. They have not even been given jobs to do. They have not earned any salary for the last four months. Some have children and other dependants but they cannot pay medical bills.

Could the Minister tell this House if the Government intends to punish these members of staff of the former ECK? These are Kenyans like all other Kenyans. If they are not being deployed, why can the Interim Independent Electoral Commission (IIEC) not vet them and employ them so that they can earn their salaries?

Mr. Otieno: Mr. Speaker, Sir, I think the hon. Member has his information wrong. Every officer has taken all that was due to him or her in accordance with the terms of their employment at the ECK. Every officer has received a letter deploying him or her in the Civil Service. If there is any exception, I want to know that particular person.

Mr. Konchella: On a point of order, Mr. Speaker, Sir. I can give one example of a group that was sent to the Treasury. They are all hanging around the conference rooms. They have not been deployed.

Mr. Speaker: Order! That is adequate! You have given an example!

Mr. Minister, what is your reaction?

Mr. Otieno: Mr. Speaker, Sir, as I mentioned in my answer, my Ministry will continue to monitor each case. If there is a specific case, just give it to me and it will be dealt with.

Mr. Speaker: Last question, Mr. Kioni!

Mr. Kioni: Mr. Speaker, Sir, I think I have got two answers from the Minister. One, he said that all former ECK officers have either been re-deployed or paid their terminal dues. He has now said that he would take each case as it

comes. Those are two answers. It means that there is still a lot to be done. However, having said that, there was a Pension Fund that was due to these former members of staff. What became of this fund?

Mr. Otieno: Mr. Speaker, Sir, that pension fund will be closed in accordance with the Trust Deed of that Fund and the beneficiaries will be, accordingly, paid.

Mr. Speaker: Next Question!

PROVISION OF AFFORDABLE SEEDS/FERTILIZER
TO FARMERS IN LOWER EASTERN REGION

Dr. Munyaka: Mr. Speaker, Sir, I beg to ask the Minister for Agriculture the following Question by Private Notice.

What urgent steps is the Minister taking to provide affordable seeds and fertilizer to farmers in the Lower Eastern region, especially in view of the current rains and prevailing poverty and famine in the region?

The Assistant Minister for Agriculture (Mr. Mbiuki): Mr. Speaker, Sir, I would like to seek the indulgence of the House because the answer I have received is very unsatisfactory. I can answer this Question next week on Tuesday.

Mr. Speaker: Dr. Munyaka, what is your response to that? The Assistant Minister requires more time to bring a more comprehensive answer.

Dr. Munyaka: Mr. Speaker, Sir, it is okay but let the Assistant Minister understand that the rains are not there for long. Next week, Tuesday, I need the answer.

Mr. Speaker: The Question is deferred to Tuesday next week!

(Question deferred)

ALLOCATION OF FUNDS TO NCC FOR
PURCHASE OF CEMETERY LAND

(Mr. Linturi) to ask the Deputy Prime Minister and Minister for Local Government.

(a) Could the Minister confirm that Treasury, through his Ministry, allocated Kshs283,200,000 to the Nairobi City Council for the purchase of land for a cemetery in the last financial year?

(b) Could the Minister inform the House who was the vendor, the size, cost and location of the land?

(c) Could the Minister clarify whether procuring the said land, the relevant Government procurement procedures were followed and, if so, table the valuation report, sale agreement and information on which firm was involved in the conveyancing of the said land?

Mr. Speaker: Mr. Linturi is not here? Question is, therefore, dropped!

(Question dropped)

Next Question!

HUNTING DOWN OF *MUNGIKI*
BY ARMED GANGS

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

Under what circumstances did the police in Kirinyaga and Mathira allow a convoy of 1,000 motorcycles, each with three men wielding crude weapons such as pangas and axes, to drive through market centers in all the four districts of Kirinyaga and Mathira Division in Nyeri District on 19th April, 2009 under the pretext of hunting down "*Mungiki*"?

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Speaker, Sir, I beg to reply.

Mr. Speaker, Sir, I am aware that on 20th April, 2009, not on 19th, motorcycle riders from different parts of Kirinyaga District converged and rode towards Karatina Market with some carrying a number of passengers.

Mr. Speaker, Sir, the group was demonstrating against increased *Mungiki* activities in Kirinyaga District claiming that the sect operators originated from Karatina. They were, however, intercepted by the police at a roadblock between Kagumo and Karatina and ordered to go back home. However, some of the passengers alighted and proceeded on foot to Karatina where they held a demonstration against the sect but were later dispersed by the police.

Mr. Speaker, Sir, after the demonstration by the *boda boda* operators on the 20th April, 2009, the sect members regrouped and hatched a retaliatory attack to reassert themselves, which they executed the following day, 21st April, 2009 at a village called Gathaithi in Mathira District.

Mr. Speaker, Sir, during the incident, *Mungiki* adherents tricked the young men from the village to come out of their houses to keep vigil overnight not knowing that the callers were *Mungiki* followers planning to attack them. They then set up a trap for the young men and killed 18 of them while four died while undergoing treatment at Karatina hospital. Another Seven local youth were killed by *Mungiki* at Kiaruhiu Village. The young men who were used to luring the locals to the killing site went into hiding. This is a very sad story. That is why my voice is drowning. The names of those young men includes Jame Gichuru Murimi alias Rasta, Patrick Karanja alias Soldier, Jacob Muchira Jangu alias Kanu, John Gichuru, Samuel Njoroge, Muriithi Paleko, Muriithi W. Gathethu and Michael Michuki.

Thank you.

(*Ms. Karua and Eng. Maina
stood up in their places*)

Mr. Speaker: Hon. Karua is the owner of the Question!

Ms. Karua: Mr. Speaker, Sir, I thought it now belongs to the House!

Now that the Assistant Minister claims there were 200 and not 1,000 motorcycles, could he confirm that each was carrying three persons, that would make them 600? My information is that there were 3,000 young men and they were carrying crude weapons such as pangas and axes. They had paraded through all the four districts of Kirinyaga and that they entered Mathira carrying crude weapons and passing roadblocks as though it was a Presidential motorcade.

Mr. Ojode: Mr. Speaker, Sir, this is a very sad story. The information I have is that they were carrying two passengers each. Due to investigation that is going on, I would request hon. Members not to ask many questions in regard to this issue because it would jeopardize the police effort of bringing the culprits to book. I would also request the hon. Questioner who is also a good friend of mine, not to politicize this issue.

The police are investigating and I would---

Ms. Karua: On a point of order, Mr. Speaker, Sir. Is it in order for the Assistant Minister to start talking about politicization when all I have done is to ask a supplementary question and factual details?

Mr. Ojode: Mr. Speaker, Sir, I think I have answered her question that each motor rider was carrying two passengers. That is the information that I have.

Eng. Maina: Mr. Speaker, Sir, yesterday this incident was discussed at length by way of a Motion. The Government must come out clear. We are only asking for facts. We are not interested in linguistics or semantics to cover up this matter.

Mr. Speaker, Sir, I want to state that the Government has not come out clear because on that day these young men were not carrying passengers, but the vigilante group which was looking for *Mungiki* adherents. They were brandishing pangas, rungas and all kinds of weapons. They entered Karatina Town with intention of killing two young men. They robbed them of their mobile phones.

Mr. Speaker: Order, Eng. Maina! This is Question Time, not debate time. Could you, please, ask a question?

Eng. Maina: Could the Assistant Minister confirm or deny that the said group that he is saying was carrying passengers went to Karatina Town and brutally injured Zakaria Ndegwa and James Maina? They are admitted at Karatina Hospital. Their lives are in danger.

Mr. Ojode: Mr. Speaker, Sir, as I said, and I want to promise this House, the Government is doing all that it can to bring those people to book. So far, we have already arrested 73 suspects. Out of 73, 23 suspects have been charged with committing felony. Twenty have been charged with robbery with violence and 17 with murder. Other cases are being investigated.

Mr. Speaker, Sir, because this is a grave matter, I request the hon. Members to allow police officers to do their work. We will do all that is within our powers to arrest all those who were involved in this.

Mr. Mwangi: Mr. Speaker, Sir, the Assistant Minister has described the situation as it was. It has been observed that these motorcycle riders went through

roadblocks. The attacks done in Kirinyaga, Karatina and elsewhere, were very atrocious. Could he accept that in that particular situation, the Government was incapable of providing security to its citizens?

Mr. Ojode: Mr. Speaker, Sir, the Government is on high alert, not just in Karatina, but the whole country. Nothing will happen to the ordinary *wananchi* because of the presence of the security officers. As I speak, I have beefed up security by deploying more police officers in the area. As a matter of fact, I have deployed more than 150 Rapid Deployment Unit (RDU) officers together with a contingent of General Service Unit (GSU) officers. I think we are doing very well. We will arrest those who were involved in this heinous act.

Mr. Baiya: Mr. Speaker, Sir, the fact that this vigilante attack was actually followed by the massacre in Mathira clearly demonstrates that there was mismanagement of security situation by the police officers in that area. Why did they allow vigilante group to take charge? Could the Assistant Minister confirm that it is true that the police allowed the vigilante group to initiate the attack and that the attack in Mathira was retaliatory?

Mr. Ojode: Mr. Speaker, Sir, it is not true.

Mrs. Shabesh: Mr. Speaker, Sir, there were unfortunate remarks made by the Police Commissioner that these deaths occurred because hon. Members asked questions on extra-judicial killings and we were glorifying the work of the civil society. Could the Assistant Minister confirm that this is the position of the Police Commissioner that these killings were as a result of us asking about extra-judicial killings?

Mr. Ojode: Mr. Speaker, Sir, for an act of this nature, let us not base our arguments on rumours. The Police Commissioner has done good work. We need to congratulate him because he acted swiftly and we have contained the situation in Kirinyaga. Let us not vilify the Commissioner for no apparent reason.

Mr. Gabbow: Mr. Speaker, Sir, is the Assistant Minister telling us that the Government is using one illegal group to suppress another illegal group in the same community because that is what is happening? If that is true, then the Government is absconding its responsibility of providing security to its citizenry.

Mr. Ojode: Mr. Speaker, Sir, the Government cannot and will never use any illegal group. In fact, if he knows of any illegal group, I would like him to inform the police or me so that we can arrest members of that illegal group.

Mr. Konchella: Mr. Speaker, Sir, for the last one week, part of my constituency has been at war with their Luo neighbours. This is due to the lack of action by the security forces. They have failed to arrest those people who attack others at night. I know more than nine people who have been killed while walking home. Due to lack of action by the police, people have gone to war. In fact, this is happening in Ogwedhi, which borders Migori. What action is the Assistant Minister taking to ensure that the officers on the ground are able to do their job or arrest criminals instead of allowing people to kill others?

Mr. Ojode: Mr. Speaker, Sir, although that is a different Question, I want to say that Mr. Konchella is being investigated, as we speak, on incitement. If it is true that he incited his people against the other community, those who are residing on the other side of Migori, the law will take its own course.

Mr. Imanyara: On a point of order, Mr. Speaker, Sir. Is it in order for the Assistant Minister to stand and accuse an hon. Member of committing crime and getting away with it? Is it in order? This is intimidation of the worst kind!

Mr. Ojode: Mr. Speaker, Sir, I have said that the police are investigating those who incite members of one community against others. I said that one of the people being investigated is my friend, Mr. Konchella.

Mr. Konchella: On a point of order, Mr. Speaker, Sir. This is the height of irresponsibility, when you see an Assistant Minister who knows that it took Mr Pesa and I to make those two communities live together in peace. When some people were killed, I was here in Nairobi and I do not expect the Assistant Minister to say that about me. The Assistant Minister is talking about me!

Mr. Speaker: Order! Order! Mr. Konchella, point out where you believe that the Assistant Minister is out of order so that he can respond or the Chair can come to your aid. There is a provision for you to make a Personal Statement, in our Standing Orders, if you need to assert your position.

Mr. Konchella: Mr. Speaker, I would like to make a Personal Statement on this matter!

Mr. Speaker: In that case, you have to find appropriate time for it and not now.

Mr. Konchella: Thank you.

Mr. Nyamweya: On a point of order, Mr. Speaker, Sir. I believe that Mr. Imanyara has raised a very serious point of order. When the Assistant Minister decides to name one hon. Member, it is merely a form of intimidation, unless he names all of us who are under investigation! When he says the hon. Member is being investigated, it amounts to intimidation. I do not think that is in order!

Mr. Ojode: Mr. Speaker, Sir, it is good for us to say--- first. If a Member of this House is being investigated on account of incitement, I have to say it. I am a Christian and I do not know how to lie! We are asking our people to live harmoniously along the borders. My officers are investigating those who incited those people who are living in that area. I do not know if you are aware that Ogwedhi borders Mr. Konchella's constituency. When he attended a funeral, accompanied by other people, they incited people on the side of his constituency. We are investigating that. I have not said that he is a criminal. We are investigating whether he incited his people against the other community.

Ms. A. Abdalla: Mr. Speaker, Sir, is it in order for hon. Ojode to discuss the conduct of a Member of this House without bringing a substantive Motion? The matter he has raised should be expunged from the records.

Mr. Ojode: Mr. Speaker, Sir, I believe that I have not discussed the conduct of any Member of this House. I have only said that police officers are investigating those who incited the members of the communities that have lived together for a long time. I have never done that. I know the Standing Orders and I have been here longer than some of my colleagues.

Mr. Speaker: Order, hon. Members! I have given adequate time on the points of order raised on this matter. It is my considered opinion that for the Assistant Minister to charge against the hon. Member and claim that the hon. Member is under investigation, merely because the Member has been

interrogating an issue before the House, that amounts to intimidation. It will have to stop henceforth.

Ms. Karua: Mr. Speaker, Sir, now that the Assistant Minister has admitted that there were 200 motorcycles, although we insist that they were 1,000 with two passengers each, totalling to 600 people, could he tell us whether the law had been suspended in Kirinyaga for people carrying crude weapons to march through the district and cause terror and whether the same law had been suspended when 14 suspects were murdered under police watch by the vigilante thereby causing the reprisal?

Mr. Ojode: Mr. Speaker, Sir, the law had not been suspended. That is the reason why we managed to arrest 73 suspects. Investigations are still going on. I want to assure this House that those who were carrying crude weapons will be arrested wherever they are. We will investigate them thoroughly until we take them to court. I will also report to her what is happening on the ground on a weekly basis.

DETENTION OF MUCHOMBA THUO'S BODY BY KNH

Mr. Baiya: Mr. Speaker, Sir, I beg to ask the Minister for Medical Services the following Question by Private Notice.

(a) Is it a policy of the Kenyatta National Hospital to detain bodies of patients whose relatives are unable to raise outstanding hospital bills?

(b) Could the body of the late Stephen Muchomba Thuo who died on 19th April 2009, be released to Grace Ngina Thuo (the deceased's mother) for decent burial at a place of her choice?

(c) Could the Minister assure the family that the body will not be disposed of by the hospital administration within thirty days as threatened?

The Minister for Medical Services (Prof. Anyang'-Nyong'o): Mr. Speaker, Sir, I beg to answer.

(a) It is not the policy of the KNH to detain bodies of patients whose relatives are too poor to raise the outstanding hospital bills.

(b) The late Stephen Thuo was admitted at the critical care unit of the hospital on 2nd March 2009, and passed away on 19th April 2009 having incurred a bill of Kshs583, 125 as at May 2009. The mortuary bill had accumulated to Kshs4, 500 bringing the total amount payable by relatives of the deceased to Kshs587, 625. The relatives are free to collect the body for burial upon payment of this outstanding amount. However, should they not be in a position to pay part or the entire bill, the hospital has a credit facility, which they can utilize. If they wish to utilize it, they are requested to present themselves to the Chief Executive Officer, who will then initiate the credit assessment process.

Although the Public Health Act, Cap. 242 of the Laws of Kenya, obligates mortuaries to dispose of unclaimed bodies after ten days, Kenyatta National Hospital (KNH) does not dispose of bodies whose relatives have expressed a willingness to bury such bodies. The family of the late Stephen Thuo is advised to

contact the Chief Executive Officer (CEO) of the hospital so that a clearance process for the release of his body can be initiated. Meanwhile, the family is assured that the body will not be disposed.

Mr. Baiya: Mr. Speaker, Sir, I wish to thank the Minister for that comprehensive answer. Nonetheless, it is apparent that the body of the deceased has remained unburied since 19th April, 2009. That is more than three weeks and it is the case of the family that they have been denied the body on account of the outstanding hospital bill.

Could the Minister confirm that the body will be released and the credit facilities that he has talked about are there because that has not been made known to the family?

Prof. Anyang'-Nyong'o: Mr. Speaker, Sir, KNH is actually in a dilemma. On one hand it is a public institution that must accept Kenyans when they go for healthcare and on the other hand, it is an institution that must also meet the cost of delivering healthcare. That means that when people go there, they must do two things; they must have cash in hand to pay for the healthcare or let the insurance pay for it. Quite often, people like Mr. Stephen Thuo may not have insurance. In which case, they are compelled to pay their medical bills by cash. This is called out-of-pocket expenses.

However, the hospital does have a credit facility and provided the relatives can follow the procedure for getting that credit facility, they will definitely be given the credit facility and the body will be taken away by the relatives. The KNH will retain the body for 21 days, after which, because other bodies are also arriving at the same facility and they must get accommodation, the relatives will be required to make a decision whether to use the credit facility or the hospital be compelled to dispose of the body because it cannot be retained in the mortuary perpetually.

Mr. Abdirahman: Mr. Speaker, Sir, I heard the Minister say very clearly that it is not the policy of the hospital to retain bodies. But the truth of the matter is that, even those who are alive including mothers were kept for over one month, until a media house alerted Kenyans before good Samaritans came to their aid. Just by the Minister saying that it is not their policy is not enough. The CEO and the management say that they do not receive adequate funds from the Ministry of Health. It is important for the Ministry to develop a policy within which they can build up the resource base for KNH, so that they are able merit by merit---

Mr. Speaker: Order, Mr. Abdirahman! It is Question Time!

Mr. Abdirahman: Mr. Speaker, Sir, I will be very specific. What clear policy guidelines does the Ministry have to support poor Kenyans so that they do not undergo what they undergo?

Prof. Anyang'-Nyong'o: Mr. Speaker, Sir, just to make a clarification; the mothers that the hon. Member is referring to were not bodies. They were human beings who were alive. So, that is a different case. What we are talking about is somebody who has already been deceased for some time. That is a different category of analysis than human beings who are alive.

Nonetheless, I said that it is important that we have a policy that will help the poor receive healthcare. That involves health fund financing through

insurance. At the moment, we have developed a Cabinet Paper to enhance National Health Insurance Fund (NHIF) to cover both those who cannot contribute and the indigent or those who cannot. Once that Cabinet Paper is approved by the Cabinet and passed by this House in the amendment of the NHIF Act then we shall begin a new era of financing healthcare which will make it possible for the poor to access healthcare without being detained in hospital.

Mr. Speaker: Last Question, Mr. Baiya!

Mr. Baiya: Mr. Speaker, Sir, since the family is not able to pay the bill, could the Minister confirm that the family will not be dismissed?

Prof. Anyang'-Nyong'o: Mr. Speaker, Sir, I really empathize with the hon. Member and I also empathize with the hospital administration because we are caught between the rock and a hard place, whereby the hospital must meet its cost by recovering the expenses and at the same time the poor family must also get help by receiving the body. This is a case where somebody will have to come and guarantee the credit for the family and then arrangements be made to pay the bill over time so that the body can be released to the relatives. That is the only sane arrangement that the hon. Member may make to the family so that they can bury the dead with decency.

Mr. Waititu: On a point of order, Mr. Speaker, Sir. Before this Minister took over the Ministry, there was a policy at KNH whereby the chiefs could sign for those people who are poor and their bodies could be released. There was a very clear policy before this Minister took over. Is it in order for him to have abolished that policy which was helping Kenyans?

Mr. Speaker: Mr. Minister, are your policies at variance in a short span of time?

Prof. Anyang'-Nyong'o: Mr. Speaker, Sir, the hon. Member must be speaking of another Ministry of Medical Services which I do not head.

ORAL ANSWERS TO QUESTIONS

Question No.005

EXTENSION OF LAND LEASE TO MATT INTERNATIONAL COMPANY

Ms. S. Abdalla asked the Minister for Lands:-

(a) if he could explain to the House the criteria he uses to allocate land; and,

(b) whether the Government has extended the lease of land to the Matt International Company in Lamu District, and if so, give the justification for the extension.

Mr. Speaker: Hon. Members, the substantive Minister for Lands is occupied elsewhere and is not able to be here this afternoon. So, if the Assistant Minister is not there, then this Question has to be deferred to Wednesday, next week.

Ms. S. Abdalla: Mr. Speaker, Sir, I will not be around next week so we can defer it to the week after.

Mr. Speaker: It is so ordered!

(Question deferred)

Next Question!

Question No.020

CONSTRUCTION OF A FULLY-FLEDGED
DISTRICT HOSPITAL IN EMUHAYA

Dr. Otichilo asked the Minister for Medical Services:-

(a) when he plans to construct a fully-fledged district hospital to serve the needs of the population of over 300,000 residents in Emuhaya District; and,

(b) when he will post another doctor to assist the District Medical Officer of Health (MOH).

The Minister for Medical Services (Prof. Anyang'-Nyong'o): Mr. Speaker, Sir, I beg to reply.

Emuhaya District is among the more than 100 new districts created since 2007. All these new districts require district hospitals bearing in mind that a model district hospital costs above Kshs1 billion in buildings and equipment. It is not possible to build fully-fledged district hospitals in all new districts. Granted that the Ministry's infrastructure development and maintenance budget is about Kshs300 million annually, the Ministry's proposal is to progressively upgrade key facilities in limited health centres and dispensaries among those proposed to become district hospitals with due regard to demographic consideration and geographical distribution. Emuhaya District will be given consideration alongside other newly created districts within the framework starting from 2009/2010 Financial Year. I assure the hon. Member that we shall hold discussions from tomorrow to decide which districts will be prioritised to have the new district hospitals.

(b) The Ministry has no immediate plans to post another doctor to assist the District Medical Officer of Health. That is because the facility is still operating as a health centre where we do not require doctors.

Finally, Mr. Speaker, Sir, if, indeed, hon. Members could urge my good friend here, hon. Uhuru Kenyatta, the Deputy Prime Minister and Minister for Finance, to enhance the budgetary contribution to the health sector, the demands from hon. Members for equipping and building their hospitals will definitely be met. But that lies in the good grace of the Ministry of Finance.

Mr. Speaker: Dr. Otichilo!

Dr. Otichilo: Thank you very much, Mr. Minister, for that good answer. I am happy that you will give Emuhaya a special consideration during the 2009/2010 Financial Year. However, given that Emuhaya's Health Centre has no

basic facilities and all the people in Emuhaya, totaling to about 300,000 are referred to that hospital, which is actually a health centre, what specific programmes or activities will you provide to that health centre during the next financial year?

Prof. Anyang'-Nyong'o: Mr. Speaker, Sir, I have received the demographic statistics of Emuhaya as a district and I know that the nearest district hospital from Emuhaya is the Vihiga District Hospital, which is 15 kilometers away. It is rather far away as a referral centre from Emuhaya.

But, Mr. Speaker, Sir, the land required for building a district hospital is not there. At the moment, the health centre occupies three acres, which is not enough to build a district hospital. Therefore, one of the things that I would request from the hon. Member is that, through the local authorities and with the Constituencies Development Fund (CDF), to ensure that, first and foremost, there is enough space to build a district hospital. We shall then definitely ensure that, in considering hospitals for the new districts, given that Emuhaya is rather far from Vihiga, that we shall definitely prioritise that request.

Thank you, Mr. Speaker, Sir.

Mr. Bahari: Mr. Speaker, Sir, the life and health of every Kenyan is important. There are areas where land is not a problem. For example, in the district where I come from, Garbatula, land is not a problem at all! When the Minister will be allocating his resources, could he give priority to those areas which are vast in terms of land mass and where citizens are not able to access health facilities to the level of a district hospital?

Prof. Anyang'-Nyong'o: Mr. Speaker, Sir, the hon. Member is right. If you take a constituency like North Horr, it is almost the size of Nyanza Province. You cannot expect people to access health care based on one district hospital. The Ministry, therefore, has a challenge to provide alternative methods of providing health care, rather than physical stationery facilities which will, obviously, necessitate mobile facilities. These are possibilities that we are considering. They have financial and proper equipment implications. I will be coming before the House with policies that may help us meet those needs, given the concerns that the hon. Member has expressed today.

Thank you, Mr. Speaker, Sir.

Mr. Speaker: Last question, Dr. Otichilo!

Dr. Otichilo: Thank you, Mr. Speaker, Sir. Now, given that patients from all the dispensaries are referred to Emuhaya Health Centre, and given that we have only one medical officer of health who is mostly involved in administrative work, since you have indicated in your answer that you cannot post an extra doctor there, could you, please, consider posting at least two clinical officers to that health centre which is purported to be a district hospital, so that those people who come to that health centre can get the required treatment?

Prof. Anyang'-Nyong'o: Mr. Speaker, Sir, Emuhaya Health Centre, at the moment, has 20 beds, including a maternity ward. There are four clinical officers and nine nurses. Given the shortage of nurses and clinical officers that we have at the moment, I would plead with the hon. Member that we make do with the personnel available. Nonetheless, we have recruited 1,600 nurses and medical

personnel. We are in the process of posting them. Obviously, if there is a priority at Emuhaya, compared with other health facilities, we may enhance the four clinical officers to six. That will be under consideration.

Thank you, Mr. Speaker, Sir

Mr. Speaker: Next Order!

POINTS OF ORDER

MR. OJODE TO BE NAMED FOR
GROSS DISORDERLY CONDUCT

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

Mr. Speaker: What is it, Mr. Imanyara? We have moved to the next Order. So, unless your matter pertains to the next Order---

Mr. Imanyara: Mr. Speaker, Sir, I stood up before the Order was read out! I did! You can confirm from your Clerk!

(Mr. Speaker Consulted with the Clerk-at-the Table)

Mr. Speaker: All right. Proceed!

Mr. Imanyara: Mr. Speaker, Sir, I rise under stand under Standing Order No.98 which states as follows:-

“Any Member may at any time, on a point of order, invite the Speaker or the Chairperson of Committees to name another Member for gross disorderly conduct, but the decision whether or not to do so shall remain with the Speaker or Chairperson.”

Mr. Speaker, Sir, arising out of your own ruling that the conduct of hon. Ojode amounted to intimidation, I invite you to name him and send him out for the rest of the day.

(Applause)

Mr. Speaker: Order, hon. Members! Hon. Members, after hon. Orwa Ojode did assert, in respect of hon. Konchella, that there were investigations under process against the hon. Member for a possible offence of incitement, the Chair listened to a number of interventions by way of points of order, which expressed extreme displeasure with the assertion by the hon. Assistant Minister. Bearing in mind the seriousness and negative effect that such an assertion will have on the free conduct of parliamentary business, the Chair did rule that the assertion by the Assistant Minister against the hon. Member, because the hon. Member was interrogating an issue at hand, amounted to intimidation. In the considered opinion of the Chair, that reprimand suffices for purposes of putting the Assistant Minister on guard and avoiding repetition of that manner of conducting business, and the Assistant Minister, I believe, has noted. Indeed, the Assistant Minister approached the Chair subsequently and apologised.

(Applause)

Mr. Imanyara: Appreciating that the Assistant Minister did apologise to the Chair, could he also apologise to the House and to the hon. Member concerned?

Mr. Speaker: Order, Mr. Assistant Minister. You did intimate to me that you are sorry. Could you, please, apologise to the House as well?

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Speaker, Sir, I accept your ruling. If at all I have wronged any hon. Member of this House then I want to apologise.

Mr. Speaker: Order, Mr. Assistant Minister! I did rule that your assertion that the hon. Member was under investigation amounted to intimidation. You are seeking to encumber the hon. Member from interrogating the answers you had given merely because he is under investigation. So, it is not a matter of "if".

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Speaker, Sir, I apologise.

(Mr. Wamalwa stood up in his place)

Mr. Speaker: Order, Mr. Wamalwa. That is done! That matter must rest there. If it is on a different matter, I will allow you.

DEATHS IN BUNGOMA

Mr. Wamalwa: It is a different matter, Mr. Speaker, Sir. I had requested for a Ministerial Statement from the Ministry of Public Health and Sanitation relating to the deaths in Bungoma. You had directed that the Statement be issued today.

Mr. Speaker: Yes, that is fine. The Minister for Public Health and Sanitation is here and she has some indication to make.

The Minister for Public Health and Sanitation (Mrs. Mugo): Mr. Speaker, Sir, I want to ask this House and the hon. Member to indulge me and allow me to give this Statement on Tuesday, next week.

Mr. Speaker: The Minister requires further time to put together all the information that you require.

Mr. Wamalwa: Thank you, Mr. Speaker, Sir.

MINISTERIAL STATEMENT

FREQUENT POSTPONEMENT OF CABINET MEETINGS

The Vice-President and Minister for Home Affairs (Mr. Musyoka): Mr. Speaker, Sir, Mr. Mungatana asked for a Ministerial Statement on what was

termed as frequent postponement of Cabinet meetings. In response to that, I want to make the following Statement very briefly.

I wish to clarify to this House and the whole country that Cabinet meetings are usually held twice a month; that is, every other Thursday. Further, a special session of Cabinet may be called for any day, depending on the urgency of the business at hand. Tuesday mornings are normally reserved for Cabinet committees, which are normally chaired by the Prime Minister. Occasionally and under exceptional circumstances, a scheduled Cabinet meeting may be postponed. Such postponement can be caused by some practical reasons. For example, the meeting can coincide with a national event or the President may be engaged in an equally important Government business within or outside the country.

However, there appears to be a misconception that Cabinet meetings are held every Thursday. May I assure hon. Members that the Cabinet is working harmoniously and that party politics are normally kept out of Cabinet business. Indeed, we have just walked out of a Cabinet meeting today which His Excellency the President was able to chair.

I want to thank Mr. Mungatana for raising this concern because then we are able to assure this Nation that things are working normally.

Thank you, Mr. Speaker, Sir.

Mr. Mungatana: Mr. Speaker, Sir, I want to thank His Excellency the Vice-President for that Statement. It is a very serious issue that we are raising from the Floor of this House; that, there is definite need for reforms as they are happening within this House, to happen to the institution of the presidency.

Mr. Speaker, Sir, what we want to drive home, as a point, is that the institution of the presidency is not a personal institution. This country waited for four weeks without any form of Cabinet meetings. I would like to seek a specific clarification in terms of the Statement that the hon. Vice-President has given. When will we have clear and regular meetings of the Cabinet?

Secondly, we have seen a clear move towards reforms by this Parliament. We have introduced in this Parliament, the issue of live broadcast for the proceedings of this House. This has gone a long way towards, not only increasing the quality of debate, but also the transparency and quantity of the debate that comes here.

In terms of the reforms that need to happen to the Cabinet, I want to rely on the precedent of what is happening even today, in the State of Florida. We have clear live broadcasts because we are talking about an institution that is dealing with the people of Kenya. We want to know---

Mr. Speaker: Order, Mr. Mungatana. This is for you to seek clarification from the Statement issued by the Vice-President. We have allowed you room because you are the originator of this request for the Ministerial Statement. I have allowed you to seek clarification and you have had one. I want you to ask for just one more and that is as far as we can bend backwards to accommodate you.

Mr. Mungatana: Mr. Speaker, Sir, when will His Excellency the Vice-President and the Cabinet consider to have that institutionalised within the system, so that Kenyans can have a peek of what is happening.

Finally, there is no formal introduction into the Cabinet and even how they advise the President under Section 17 of the Constitution. For example, after the swearing-in of hon. Njeru Githae, will he undergo training, so that he can properly advise the President on matters of Cabinet? It is a very serious matter. We need to see proper reforms on the institution of the presidency.

Mr. Speaker, Sir, the Vice-President has said that sometimes because of State travels and other reasons, a Cabinet meeting is postponed. In South Africa, Chief Gatsha Mangosuthu Buthelezi acted as president 11 times since 1994. The cabinet kept on meeting. Is it possible for them to make sure that there is no postponement, so that this country can move with predictability?

Mr. Ruto: Mr. Speaker, Sir, so that the Vice-President can give us a comprehensive answer, in its schedule of meetings, I also wish to know whether the Cabinet has time in which they give notice to hon. Ministers to attend meetings. We have heard on a number of occasions that there will be no Cabinet meeting because one of the principals says the notice was too short and that he was engaged in other business. This is causing consternation to us. Does that mean that Cabinet meetings are called as an afterthought? Is it an ad hoc meeting? Is it scheduled? We need to understand this.

Further to that there is another clarification---

Mr. Speaker: Order, Mr. Ruto. You are supposed to seek one clarification. I did point out that we were accommodating Mr. Mungatana because he was the originator of the request for the Ministerial Statement. That means that the general rule must apply to everybody else. So, you have had your share.

Mr. Ruto: One more, Mr. Speaker, Sir. On the question of collective responsibility---

(Mr. Affey stood up in his place)

Mr. Speaker: What is it, Ambassador Affey?

Mr. Affey: Mr. Speaker, Sir, as the Vice-President and Minister for Home Affairs responds to these question, I would like to find out from him what the Government is going to do in the event that Cabinet Ministers continue to leak official secrets, even before a Cabinet meeting is over?

Mr. Speaker: Mr. Musyoka, you may proceed. We must close those clarifications now!

The Vice-President and Minister for Home Affairs (Mr. Musyoka): Mr. Speaker, Sir, I am sure, we would have loved to hear my learned friend, Mr. Ababu Namwamba, seek some clarification but thank you for shielding me from his intervention.

With regard to the point raised by Mr. Mungatana, I think I made it very clear. I want to make available a copy of this Ministerial Statement, so that he can acquaint himself with what I have just said on the matter of the fact that every other Thursday, there is normally scheduled a Cabinet meeting.

Mr. Speaker, Sir, in that connection, the hon. Member for Chepalungu would be happy to know that notice of these meetings is given, at least, one week

in advance, although it is assumed that there is a Cabinet meeting every other Thursday. That means the Cabinet should meet twice a month.

However, I can understand the concerns of the hon. Member for Garsen because, following the events of Kilaguni, there was a little bit of a stand-off. This, we have to accept. That is why there was that delay, but since then, the country has moved on. As I said, today there was a full Cabinet meeting.

Mr. Speaker, Sir, I also want to say, with regard to the point raised by Mr. Isaac Ruto, that the Chairperson of Cabinet meetings, clearly, in accordance with the Constitution, is His Excellency the President. A lot of other Members traveling out of the country, for instance, like those who are out of the country now, are to ask for permission or give notice of their absence. That is normally recorded.

I also want to say that because of the nature of the current Grand Coalition Government, sometimes His Excellency the President might wish to consult with the Prime Minister for his own convenience, but it is not mandatory that the Prime Minister must attend every Cabinet meeting if, in fact, he finds that he is not able to do so. After all, he also finds himself quite busy every Tuesday, chairing the Cabinet Sub-Committees.

Mr. Speaker, Sir, with regard to the inquiry on whether we should have live broadcast of Cabinet meetings, I find that one a little peculiar because, by their very nature, Cabinet meetings are actually secret. If Mr. Mungatana were to look at other definition of a Cabinet meeting anywhere, he will establish this position. I notice today---

(Mr. Mungatana stood up in his place)

Mr. Speaker: What is it, Mr. Mungatana?

Mr. Mungatana: On a point of order, Mr. Speaker, Sir. I want to inform His Excellency the Vice-President and Minister for Home Affairs that we need to move forward in terms of reforms. It is already happening in other jurisdictions, where there is live broadcast of Cabinet meetings. This is pointing out to the fact that these are not personalised institutions. This secrecy that even Parliament used to have, hiding things like Committee proceedings, have now been done away with. We have now moved on. Why is the Presidency not getting into the mood of reforms? This is what we are saying!

The Vice-President and Minister for Home Affairs (Mr. Musyoka): Mr. Speaker, Sir, I was actually coming to that, if the hon. Member had been a little patient. Knowing him, and given the capacities he has been able to display, I will not be surprised if in another 20 years' time, the hon. Member of Parliament for Garsen becomes the President of the Republic of Kenya. I wonder whether at that time, he would want, for instance, when he chairs---

(Mr. Mungatana stood up in his place)

Mr. Speaker: What is it, Mr. Mungatana?

Mr. Mungatana: Mr. Speaker, Sir, why is His Excellency the Vice-President and Minister for Home Affairs not wishing me well? Twenty years, surely?

(Laughter)

The Vice-President and Minister for Home Affairs (Mr. Musyoka): Mr. Speaker, Sir, he can always revise my timetable, but the point is this, on a very serious note: Imagine a situation where Cabinet meetings that have to deal with matters of national security have actually to be done in the full glare of television cameras. Is it not the case that, because of the nature of some of the business that comes before this House, sometimes we would want to have sittings of the National Assembly held in camera?

I do not think we have come to that stage yet. Certainly, there is going to be a lot of reforms. We have declared this year the reform year. Let us hear what Kenyans think, even as we look into the matter of the new constitution.

I want to assure this House and the country that His Excellency the President is fully in charge and that he is discharging his duties and responsibilities as the Head of State, and, may I add, Head of Government.

POINT OF ORDER

CLARIFICATION ON STATE PROTOCOL

Mr. Mungatana: On a point of order, Mr. Speaker, Sir. I stand on a point of order to seek a Ministerial Statement from the Minister in the Office of the President in charge of State Protocol.

The matter that involves State Protocol has been in the minds of Kenyans for a long time now. Time has come that a definite statement needs to come from this Parliament, authoritatively. It, first of all, started between His Excellency the Vice-President and Minister for Home Affairs, and the Right Hon. Prime Minister, upon their appointment, as to who was going to be sitting on which side of His Excellency the President.

Mr. Speaker, Sir, this thing proceeded and then we experienced a scuffle on a national holiday at Nyayo Stadium between the security of the Prime Minister and the security of His Excellency the President. Later on, this proceeded to issues like salaries. It then went to another level, where we are talking about issues like carpets and other matters.

On the day before yesterday, this matter moved much closer to this House, because it came to the attention of some of us in this House that the Prime Minister was denied the use of the gate that is normally reserved for His Excellency the President when he makes a visit to this House.

Mr. Speaker, Sir, the matter that comes to mind is: Where is the Vice-President and Minister for Home Affairs and his protocol supposed to be? Where is the President's protocol supposed to be? Where is the Prime Minister's protocol supposed to be?

I would want the Minister to clarify this, because these are some of the little things that cause unnecessary tension in this country. Is the Chief of Protocol not aware that since we had a change of the Constitution, there was need to put in black and white, the State Protocol outside this House, and inside this House? If this is not done, we will have a problem we would not want to anticipate.

Mr. Speaker, Sir, if the Minister has seen that this particular officer has not seen it fit to come out with the proper protocol, what disciplinary action has he taken against the officer to make sure that this is done so as to save the country from unnecessary drama?

Finally, the Minister should clarify when we are going to have a clear book on protocol that will accommodate His Excellency the President, His Excellency the Vice President and Minister for Home Affairs, the Right Hon. Prime Minister, the Ministers, Assistant Ministers and Members of Parliament.

This is important because the country needs to move on in certainty.

Thank you, Mr. Speaker, Sir.

(Applause)

Mr. Speaker: The Ministerial Statement is directed to the Office of the President. We have Ministers from the Office of the President.

The Minister of State for Public Service (Mr. Otieno): Mr. Otieno): Mr. Speaker, Sir, we should have the Ministerial Statement ready by Wednesday, next week.

Mr. Speaker: Very well! Next Order!

(Mr. Kenyatta stood up in his place)

Mr. Speaker: What is it, Mr. Deputy Prime Minister and Minister for Finance?

The Deputy Prime Minister and Minister for Finance (Mr. Kenyatta): On a point of order, Mr. Speaker, Sir. The Supplementary Estimates were laid on the Table of this House on 2nd April, 2009.

Mr. Speaker: Order, Mr. Deputy Prime Minister and Minister for Finance! I think you will have to hold you horses until that Order is called out.

PERFORMANCE OF NAIROBI STOCK EXCHANGE

Mr. Nyammo: On a point of order, Mr. Speaker, Sir. Sometime back, I sought a Ministerial Statement from the Deputy Prime Minister and Minister for Finance on the Nairobi Stock Exchange, Capital Markets, Nyaga Stock Brokers and Discount Securities. Yesterday, the Chair ordered that the Ministerial Statement be issued today. I have been waiting, but this appears to be in vain.

Mr. Speaker: Order, Mr. Nyammo! Could you just help us to recapitulate what the Ministerial Statement is about? What is the request for the Ministerial Statement about?

Mr. Nyammo: Mr. Speaker, Sir, I sought a Ministerial Statement on the performance of the Nairobi Stock Exchange, the performance of some stock brokers---

Mr. Speaker: When did you seek the Ministerial Statement?

Mr. Nyammo: Mr. Speaker, Sir, I sought it on 11th February, 2009.

Mr. Speaker: Mr. Nyammo, that session is gone! You will have to renew your request. The provision in the new Standing Orders may be different, but note that the new Standing Orders did not begin to apply until 21st April, 2009.

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

Mr. Speaker: What is it, Mr. Imanyara?

Mr. Imanyara: Mr. Speaker, Sir, the Member did, in fact, make that request under the new Standing Orders and a ruling was given by the Chair with regard to that Ministerial Statement.

Mr. Speaker: Order, Mr. Imanyara! Information we have from the hon. Member shows that he sought the Ministerial Statement in February, 2009. We were not in this Session at that time. So, Mr. Imanyara, you are out of order because you should have stood on a point of information. You should have checked if the hon. Member wanted you to inform him because he is the owner of the request. To that extent, you are out of order! Let us not play too much with that matter. I think it is clear.

Mr. Nyammo: Mr. Speaker, Sir---

Mr. Speaker: Mr. Nyammo, I have made directions on the basis of the information that you have supplied.

Mr. Nyammo: Mr. Speaker, Sir, yesterday was by way of a reminder.

Mr. Speaker: Mr. Nyammo, a reminder cannot apply to something which is spent!

The Deputy Prime Minister and Minister for Finance (Mr. Kenyatta): On a point of order, Mr. Speaker, Sir. I was saying that the Supplementary Estimates were laid before the House on 2nd April, 2009.

Hon. Members: That Order has not been read out yet!

Mr. Speaker: No, it is fine!

The Deputy Prime Minister and Minister for Finance (Mr. Kenyatta): Mr. Speaker, Sir, it is before the Order is called. I think I am in order.

Mr. Speaker: Yes, you are!

DEFERMENT OF SUPPLEMENTARY APPROPRIATION BILL

The Deputy Prime Minister and Minister for Finance (Mr. Kenyatta): Thank you, Mr. Speaker, Sir. The House approved the Supplementary Estimates on 29th April, 2009. The basis of the Appropriation Bill is to issue sums contained in the Supplementary Estimates and appropriating them for the purposes specified in the Supplementary Estimates.

On 5th May, 2009, hon. Gitabu Imanyara rose on a point of order to challenge the issuance of amounts contained in the approved Supplementary Estimates. Yesterday, having given the clarification on those Supplementary

Estimates, you ordered that the matter be investigated by the Departmental Committee on Finance, Planning and Trade in conjunction with the Fiscal Analysis and Appropriation Committee which should present their findings to the House on Tuesday, 12th May, 2009. The amounts contained in the Approved Estimates are in doubt. It, therefore, follows that the same amount contained in the Appropriation Bill is equally in question. The Appropriation Bill should, therefore, in good conscience, be deferred until amounts in question have been investigated and cleared to the satisfaction of the House. In keeping with good practice and good governance observed internationally, no dealing whatsoever, shall take place in any transaction that is under investigation and, indeed, not a single shilling shall be spent until the matter has been investigated.

Mr. Speaker, Sir, the Appropriation Bill should, therefore, not be moved until such time this matter has been concluded in all fairness to Kenyans and, indeed, to this House. Therefore, under Standing Order No.36 (2), I beg that you defer the business contained in Order No.8 to another day.

(Applause)

COMMUNICATION FROM THE CHAIR

DEFERMENT OF SUPPLEMENTARAY APPROPRIATION BILL

Mr. Speaker: Hon. Members, I have considered the matters canvassed by the Deputy Prime Minister and Minister for Finance. I have also noted that the Joint Committee which was directed to inquire into matters relevant to the issues raised by the Deputy Prime Minister and Minister for Finance commenced its inquiry today. The Chair has indicated that the Committee will file its Report timely as directed. Taking that into account, therefore, and applying Standing Order No.36 (2) to the facts as they have been narrated by the Deputy Prime Minister and Minister for Finance, it is my considered view that it will be in order to defer the business on Orders No.8, 9 and 10 until such time that the Joint Committee will file its Report, which is ordered and stands at Tuesday, next week. These Orders are, therefore, deferred!

BILL

First Reading

THE SUPPLEMENTARY APPROPRIATION BILL

(Bill deferred)

Mr. Mungatana: Mr. Speaker, Sir, I refer to your ruling. The hon. Deputy Prime Minister and Minister for Finance knows very well that a Supplementary Appropriation Bill is the only tool under which the Treasury and the Government will be given permission to spend money. As we are talking now, there is a

serious cash credit crunch within the economy. In fact, the Central Bank of Kenya (CBK)---

Mr. Speaker: Order, Mr. Mungatana! Applying the rules of the House to what you are now saying, I find that you are being repetitive. This is because the Deputy Prime Minister and Minister for Finance alluded to all these matters earlier in this Session. So, there is no need to repeat these matters. The Deputy Prime Minister and Minister for Finance is aware of the urgency and importance of the Supplementary Estimates and he has said so to this House. Please, bear with the process.

Mr. Mungatana: On a point of order, Mr. Speaker, Sir. I am only saying that if we leave it open without your direction that these Orders must appear on the Order Paper on Tuesday, next week--- I did not hear you direct that Orders No.8, 9 and 10 be on the Order Paper on Tuesday, next week. This is a serious matter. The economy will suffer!

Mr. Speaker: Order, Mr. Mungatana! Hon. Members and specifically, hon. Mungatana, the prevailing position is that the business under Orders No.8, 9 and 10 have already been allotted time. So, they will appear on the Order Paper on Tuesday next week, as a matter of course. They will only be deferred or treated otherwise, depending on the position of the Deputy Prime Minister and Minister for Finance at that time.

Next Order!

MOTION

APPROVAL OF PSC RECOMMENDATIONS ON CHAIR/MEMBERS OF IIBRC

Mr. Abdikadir: Mr. Speaker, Sir, I beg to move the following Motion:-

THAT, pursuant to Section 41B(2) of the Constitution of Kenya, this House approves the recommendations on the Chair and Members of the Interim Independent Boundaries Review Commission (IIBRC) contained in the Report of the Parliamentary Select Committee on the Review of the Constitution laid on the Table of the House on Thursday, 30th April, 2009.

Mr. Speaker, Sir, I have pleasure to move this Motion. The function of boundaries review was initially undertaken by the Electoral Commission of Kenya (ECK) until we disbanded that institution and set up the Independent Interim Electoral Commission (IIEC). Under Section 42 of the then Constitution, this function of boundaries was undertaken by the ECK. Following the 2007 elections fiasco and following the recommendations in the Kriegler Commission, this House moved the Constitution of Kenya (Amendment) Bill, No.10 2008 where the House amended the Constitution and created the IIBRC. Under Section 41B(2), the Constitution provides for the position of chair and up to a maximum of eight members of the Commission. Under Section 41B(3), the Constitution provides for the selection criteria for selecting that institution. Under Section 41C, the Constitution provides for the functions of that Commission.

[Mr. Speaker left the Chair]

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

Mr. Temporary Deputy Speaker, Sir, I will go ahead and enumerate the functions of that institution. I will read that from the Constitution.

Section 41C(A) is on making recommendations to Parliament on the delineation of constituencies and local authorities electoral units, especially the optimal number of constituencies on the basis of equality of votes but taking into consideration the following issues: -

(i) The density of population and in particular, the need to ensure adequate representation of urban and sparsely populated rural areas.

(ii) Population trends.

(iii) Means of communication.

(iv) Geographical features.

(v) Community interest.

(b) The function of the IIBRC is to make recommendations to Parliament – that is important – on administrative boundaries including the fixing, reviewing, variation of boundaries of districts and other administrative units.

(c) The performance of such other functions as may be prescribed by Parliament.

It is important to note that both Section (A) concerning constituencies and Section (B) concerning boundaries of administrative units, the function is to make recommendations to this House. Following the amendment and the setting up of the PSC, the PSC went ahead and advertised for the posts of Chair and commissioners of the IIBRC. The PSC received 106 applications for the position of Chair and 1,034 applications for the posts of commissioners. The PSC went ahead and shortlisted 21 applicants for interview for position of Chair and 50 applicants for interview of positions of commissioners. On 27th and 28th April, 2009, the PSC on Constitutional Review interviewed those applicants. It is important to note that the process was with assistance of a human resource firm. The decisions of the PSC on these matters were reached at, unanimously. It is important to note that these decisions were reached unanimously.

Mr. Temporary Deputy Speaker, Sir, may I also note that the PSC includes members from both sides of the divide and very many political parties. As far as quorum is concerned, while the practise is that Committees of this House usually have a quorum of three, the quorum requirement for the PSC set under the procedure set up by the PSC are 12 Members, with six Members coming from each side of the Grand Coalition divide. The need then is that these matters being very critical get the highest consideration and these decisions were taken by consensus. Following that, the following individuals were nominated for the posts outlined: -

Mr. Andrew Ligale	–	Chairperson
Ms. Jeddidah Ntoyai	-	Member
Ms. Irene Cherop Masit	-	Member

Mr. Mwenda Makathimo	-	Member
Mr. Joseph Kaguthi	-	Member
Dr. John Nkinyangi	-	Member
Mr. Murshid Abdalla	-	Member
Eng. Abdullahi Sharawe	-	Member
Ms. Rozaah Akinyi Buyu	-	Member

Mr. Temporary Deputy Speaker, Sir, this country is blessed with human resource of immense capacity. Out of these nine members, six hold Masters Degrees, one a PhD and the remaining two hold B.A. Three or four of them are specifically qualified in technical areas that are relevant to the issue under consideration. The Chairperson is a professional in the area that has been outlined. The Chairperson holds a Masters Degree in Urban and Regional Planning from Nottingham University in the UK. He holds a BA from Makerere University and went to the great Alliance High School. The gentleman is a corporate member of the Architectural Association of Kenya (AAK), Town Planning Chapter. He was the President of the AAK from 1972 to 1973. He was President of the Commonwealth Association of Planners (CAP) and he is an honorary member of the Royal Town Planning Institute of the UK. Those were the issues that attracted this individual to the Committee.

(Applause)

Mr. Temporary Deputy Speaker, Sir, Dr. Nkinyangi holds a PhD from Stanford University. He owns an MA from Columbia University and he is also a graduate in Journalism from the University of Nairobi. Eng. Sharawe is a practising engineer and Mr. Makathimo is currently the Chairman of the Institute of Surveyors of Kenya (ISK). Therefore, this panel is eminently qualified to carry out the functions set out under the Constitution as far as this particular institution is concerned. It is important to note that the lifespan of this institution is two years or three months after the promulgation of a new Constitution.

While considering these matters, we looked at the issues important for this function and we, in the PSC, present to the House this Report relating to the nomination of the Chairperson and members of the IIBRC for consideration and approval, pursuant to Section 47B(2) of the Constitution.

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

The Temporary Deputy Speaker (Mr. Imanyara): Who is seconding?

Mr. Abdikadir: Mr. Temporary Deputy Speaker, Sir, my very good Vice-Chairman will second.

Mr. Namwamba: Mr. Temporary Deputy Speaker, Sir, it gives me pleasure to second this Motion. Let me start by confirming and concurring with the Chairman of the PSC that the nominees, both for the Chairmanship and the membership of this important Commission, are the best that appeared before the PSC. In taking time to prepare this list of nominees, we considered numerous factors. We considered gender factors and made every possible effort to attain acceptable gender balance. We considered regional balance and also ensured that these nominees, indeed, reflect the interests that bestride the length and breadth of

our nation. We have one nominee representing each of the eight regions, except for the Rift Valley which is represented by two nominees because of the vast and populous nature of this region. As ably presented to this House by the Chairman, the process of selecting these nominees was highly professional and we are confident, as the PSC, that each of the nominees that we are requesting this House to give its stamp of approval to, is qualified to hold this important position.

Mr. Temporary Deputy Speaker, Sir, I want to urge this House, that as we consider these nominees, may we focus on the merits of each of the nominees. We should avoid any sideshows and unfounded allegations that may encompass the debate on this process.

In the process of considering these nominees, we received some allegations. I want to assure this House that we took time to deliberate on the issues that were presented before us and found them without basis. So, we present to you a list of nominees that enjoy the full confidence of the Parliamentary Select Committee.

Mr. Temporary Deputy Speaker, Sir, may I also add that in arriving at this list, the Committee was unanimous. We did not take a vote. We deliberated on this matter at length; deep into the evening and we arrived at unanimous consensus.

Let me just add that in settling on the nominee for chairmanship, we were persuaded by his solid credentials both in terms of technical and professional training and competence. As presented by the Chairman, his training, competence and professional path in matters directly relevant to this task, is unquestionable and impeachable.

(Applause)

Mr. Temporary Deputy Speaker, Sir, besides his professional and technical competence, the nominee for chairmanship will also bring to this process solid experience of years of service to this country in matters directly relevant to his task.

I want to add that besides the qualifications and the professional achievements that the Chairman articulated here, our nominee for chairman has also served this country as a Permanent Secretary for not less than 12 years in several Ministries, including the Ministry of Local Government which whose work is, as we know, very relevant to the issues at hand.

Mr. Temporary Deputy Speaker, Sir, I want to assure this House that the Parliamentary Select Committee undertook its mandate with seriousness and due consideration. I plead with this House that, may we give our stamp of approval to the nominees.

Let me conclude by reminding this House that the team we are debating today is an interim team. Therefore, it is titled "Interim Independent Boundaries Review Commission". It has a limited timeframe. During that timeframe, it will make certain important recommendations. Those recommendations will not pass without the final approval of this House. Therefore, I want to remind this House

that at the end of the day, this is a process whose facilitation will pretty much remain in its hands.

Mr. Temporary Deputy Speaker, Sir, I also want to remind this House that it is important that we expedite the process of concluding this matter because the work of this Commission is keenly and intricately tied to the work of the Constitution review and also the work of the recently constituted Interim Independent Electoral Commission (IIEC). So, it is important that we put this Commission in place so that all these processes can move together in tandem in symphonious harmony.

Mr. Temporary Deputy Speaker, Sir, I want to urge His Excellency the President, that should this House give its stamp of approval to these nominees, may he, together with the Rt. Hon. Prime Minister, move with haste to put this Commission in place so that it can commence its work.

May this Commission be reminded that the task that will be placed on its hands is heavy. It is important and critical. May they serve this task without considering their regional and party interests. They should remember that it is only by serving this country that they will be remembered as a body that took us to the next level.

With those few remarks, I second the Motion.

(Question proposed)

Mr. Midiwo: Mr. Temporary Deputy Speaker, Sir, I rise to support this Motion. I would want to begin by thanking the Parliamentary Select Committee that went through the tedious process of arriving at the list of the nine members.

Mr. Temporary Deputy Speaker, Sir, it is my understanding that this will be a reference Commission to the Constitutional review team. I would want to ask the President and the Rt. Hon. Prime Minister to expedite, if we so approve the names, so that this country can complete the processes of boundary review, Constitutional review and any other thing that is a problem. These are things that bring friction within the borders of our country and contradictions in the way our people live.

Mr. Temporary Deputy Speaker, Sir, I would like to urge this House that the wait has been long. I want to ask that we move and pass this list. I want to thank hon. Members because earlier on, there were people proposing that they would wish to amend certain names in the list. I want to thank my colleagues from both sides of the political parties that we have agreed and withdrawn the amendments.

(Applause)

I think it has been done in good faith by both sides. I think that is the maturity that the country needs.

Mr. Temporary Deputy Speaker, Sir, if this Commission is confirmed, I would like to tell them that we, as a Parliament and country, expect only good conduct. We do not want to see a Commission like the former Electoral

Commission of Kenya (ECK). We expect good conduct and remind them that the methods of demoting or doing away with them, is right now in law. It is easy and not as tedious as before. They are temporary and interim. We only expect them to do good work that will make this country a better place to live in. We expect them to be fair in whatever they do.

Mr. Temporary Deputy Speaker, Sir, there is one issue which I want to raise and I think it is important to do so from the Floor of this House. There is so much anxiety across the country when new districts are created. Kenyans are wondering that when this Commission is occasioned, are those constituencies with three districts automatically three constituencies? That lacuna must be cleared! This is because we want to be clear.

Mr. Temporary Deputy Speaker, Sir, at the beginning of 2007, the blanket attempt to amend Section 42 of the Constitution was attempted so that somebody could use it to increase constituencies in whichever areas they wanted. This House rejected that. We want to say that, that issue has to be cleared. All boundaries must be done according to laws; rules and regulations passed by this House. I do not think the anxiety is good for the country.

Mr. Temporary Deputy Speaker, Sir, I also want to ask the Office of the President that is talking about provincial boundary reviews to remember and follow the law. This Parliament has a role to play. We were at Bomas and decided on the number of regions. We deliberated for so many months and agreed on the way forward. If anybody would imagine that they would sit in the Office of the President and sub-divide provinces without consulting the House, personally as a Member of this House, I will work tirelessly to reject that.

Mr. Temporary Deputy Speaker, Sir, there is need for a clear guidance on creation of new districts. There is need to explain to this country why some constituencies have more districts. Even some people who already have two districts are looking for a third and fourth one. This country needs to come up with a criteria that would guide this Interim Independent Boundaries Review Commission (IIBRC) in away that is harmonious, that does not bring friction among our people.

With those few remarks, I wish to support.

The Minister for Nairobi Metropolitan Development (Mr. Githae): Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to also give my contributions.

Mr. Temporary Deputy Speaker, Sir, I stand to support this Motion. We should approve the Chairman and Members of the IIBRC. I say this because we, as a country, need to move forward. There is so much work ahead of us. Time is not on our side. Time is running out. I wish to take this very early opportunity to thank the Chairman and his team for the wonderful and marvelous work that they have done in interviewing more than 1,000 candidates that had applied. The reason why it has taken so long is because they wanted to be thorough. This is a question that this Parliament will have to answer. Who really should be doing the appointment and who should be doing the approving and disapproving? In the United States of America, the position is very clear. The Chief Executive of the country nominates and the Senate approves or disapproves. So, this is one issue

that this Parliament needs to make a decision to. Going by the time it is taking for a Parliament to agree on the names, we should reach a decision on who should do the appointment.

Secondly, this is a very important Commission because the Interim Independent Electoral Commission (IIEC) cannot start its work until this Commission has gone round the country and listen to the views and recommendation of the stakeholders who are wananchi of this country, so as to come up with a schedule of proposed constituencies for approval by Parliament.

It is clear that the failure or success of the 2012 elections will depend on the work that this Commission will do. If they come up with proper and responsible constituencies, we will have proper, fair and free elections in 2012. If you look at the present constituencies, you will find that it is the most ridiculous. You will find one constituency with over 200,000 registered voters and another one with 20,000 registered voters. Surely, there must be a way of rationalizing constituencies. There must be a way of coming up with reasonable constituencies, so that everybody feels that they are fair and support them. So, this is a very important Commission.

Do not forget one of the reasons we went into election chaos after the 2007 General election is that some constituencies took longer to report their results. We had a constituency with 200,000 registered voters and another with 20,000 registered voters. Surely, by logical mathematics, it shows that the one with 20,000 registered voters would give its results quicker than the other one. To me, that is only fair. So, I am saying that this Commission must come up with a proper criteria that Parliament approve as it begins its work. If it does so, we will support it.

With those few remarks, I beg to support.

Mr. Wamalwa: Thank you, Mr. Temporary Deputy Speaker, Sir.

I also rise to support this Motion. I wish to congratulate the Committee for doing a wonderful job. Interviewing over 1,000 people is not an easy task. Indeed, they have been burning the midnight oil to do so. We must congratulate them for a job well done. Apart from that, just looking at the names of those appearing on the list; starting with the Chairman, what you see is merit in actually selecting those nominees. What you see is regional and gender balance. Indeed, we must congratulate the Committee and approve these names, so that these very able Kenyans can get to work.

Mr. Temporary Deputy Speaker, Sir, I think we, as a nation, need to remove tribal blinkers that we have been wearing in many matters that have divided us, as a nation. Many at times, when you hear of things, perhaps, you look at them through tribal blinkers. There are those who look at the Migingo Island issue and say: "Those Luos and Migingo and fishermen". They hear of the Mathira killings and say: "Those Kikuyus are killing each other". They hear of the Pokots at a place called Kanyirus where beacons have been removed and say: "Those Pokots and their cattle. They are always crossing borders and raiding the Karamajong". They see these names and ask: What tribe is so and so? From what region? From what party? But the time has come when we must have faith in each other as Kenyans. We must look at each other as Kenyans. We must look at our

credentials and fight for merit, so that we can have a future of meritocracy. A future where a Kenyan qualifies to get a job, not because of whom he knows, tribe, party or region, but by his or her merit.

Mr. Temporary Deputy Speaker, Sir, looking at the work ahead of this Committee, it is an enormous task. There are many constituencies in this country that are so huge that the allocation of the CDF is so acute. There are constituencies that have over 300,000 people. There are constituencies that have over 100,000 registered voters, which are getting CDF funds that are limited. But constituencies with fewer people are enjoying. What we are asking is that this Committee should get to work. They should deal with those constituencies that are so bulky in registration of voters; that are so vast in territory, so that there is equity in distribution of resources.

Mr. Temporary Deputy Speaker, Sir, speaking of my own constituency, one day I listened to a Member from Lamu speak of his constituency that has 30,000 registered voters and they are getting about Kshs30 million as CDF funds. I have a constituency that has over 120,000 registered voters and we are getting about Kshs50 million. It is a constituency that has two in one. We believe that when this team goes round they will come to this reality. They should move with speed to ensure that these boundaries are reviewed and there is equity in representation and allocation of resources.

Mr. Temporary Deputy Speaker, Sir, I wish to commend the Committee and support this Motion.

The Minister for Public Works (Mr. Obure): Thank you very much, Mr. Temporary Deputy Speaker, Sir. I stand here to support this Motion. First of all, I want to express my appreciation to the Chairman and the Members of the Select Committee for a job well done. The Select Committee led by hon. Abdikadir and hon. Namwamba, respectively, has done us proud. These young Turks have done a very commendable job.

Mr. Temporary Deputy Speaker, Sir, the Parliamentary Select Committee on the Review of the Constitution has now enabled us, through its recommendations to this House, to put in place one important institution which is critical to the governance of this country. They also assisted us recently, to establish an Interim Independent Electoral Commission, which is critical to this nation. I must say that we are on the right track on our way forward.

I have looked at the various names, which have been recommended, right from the Chair and the other members, and I must say that they are achievers in their respective areas. These are people who have distinguished themselves in our society. It is a very well educated group of people. They know what this country expects of them. I have no doubt, in my mind, that they will do a good job for this country. These are people who inspire our confidence and we are sure they are equal to the task ahead of them. We were not looking for angels for this job. We were looking for the best from our society. If we were looking for angels, we would not find them in our country. They are in Heaven. I have known the Chairman for sometime, as a distinguished performer, a man who rose to the highest levels in the Civil Service and who has served this country with dedication. He has impeccable credentials. I, therefore, want to support the Select Committee for

their choice of Chair. I also know some of the other members of this Committee. They are people who are committed to the service of this country. Therefore, I want to say that this is a list of people who deserve our support and I request every hon. Member here to support the selection of these people so that they can embark on work straightaway. The challenges ahead of us are very huge and need them to be on track to perform what they are supposed to do.

There are other people who think that once a person has been elected and has served as a Member of Parliament, he has already developed biases and cannot be appointed to a position of responsibility in this country. However, I want to say that the people who are elected to this House are elected from the population of the communities of this nation. I would not want to see a situation where people find themselves disadvantaged after they leave this House and that they cannot be considered for selection to other positions in society. Members of Parliament have acquired considerable experience, people who have served this country as Members of Parliament or Ministers are also capable of assuming other positions. They should be given opportunities like other Kenyans to serve in this nation. I know that every Member of this House has the capacity to serve this nation. We may have developed our own bias in the course of our duty and we must put these aside and serve this nation with impartiality. That is really what is expected of this Committee. I have no doubt, whatsoever, that this Committee will do a good job, it will serve this nation impartially at the end of the day, we will be better off than we are today.

With those few remarks, I support.

The Assistant Minister, Ministry of State for Planning, National Development and Vision 2030 (Mr. Kenneth): Mr. Temporary Deputy Speaker, Sir, thank you for giving me an opportunity to speak on this very important issue. Let me, first, congratulate the Select Committee for coming up with respectable names of respectable Kenyans who have a job to do for this country. I want to appeal to the Committee responsible for the names that have been brought to this House, first and foremost, that they should review the gerrymandering that took place in the past, in the manner in which constituencies were divided. A lot of hue and cry that has arisen is because of the manner in which certain constituencies were carved to the disadvantage of other constituencies. Secondly, in reviewing boundaries, and in this Committee having that task, the most important thing is to ensure that there is fair representation in the criteria in which constituencies are supposed to be equal. If you look at some of the constituencies, especially now, in this era of CDF, you will find that some constituencies neighbour others and yet they are smaller, both in size and population to a constituency next to them. If you look at a constituency like Kiharu and compare it with Kangema and Mathioya, you will realize that Kiharu is actually bigger than Mathioya and Kangema both in size and population. It is this kind of unfairness which should be put in the past and in perspective by this new Commission that will look at the issue of boundaries.

I do not want to take a lot of time because hon. Members are in agreement about what we are talking about. I want to appeal to the Select Committee, through the Chair, that today, it has brought names before the House. However,

we do not want to see that Committee being in an office with no tables, chairs or any financial support the way the Select Committee on the Review of the Constitution operates. This does not augur well. We want to be assured by the Chairman of the Select Committee that once we approve these names today, they will start their job right away.

Mr. Gunda: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to make my contribution. From the start, I would like to say that I have no problem with the Chair and other members of the Committee except the nominee from the Coast Province.

I am objecting to the appointment of that nominee for the following reasons. First, he applied to the Committee of Experts and the PSC disqualified him because he was the Chairman of the Mvita CDF Committee. Subsequently, he applied to the Interim Independent Electoral Commission but he did not make it. He has now come as a member of the IIBRC. We are wondering, if he was disqualified, initially because he was holding a public office, what made him qualify to hold this position as a commissioner of IIBRC? Secondly, we, as Members of Parliament from the Coast, made a presentation to the PSC and we asked the PSC to review those names before they were tabled in Parliament. To back what I am saying, I have a letter with me, which was addressed to the Chairman of the Parliamentary Select Committee on the Review of the Constitution, signed by 18 Members of Parliament from the Coast Province out of the 23 and I will lay it on the Table.

(Mr. Gunda laid the document on the Table)

Mr. Temporary Deputy Speaker, Sir, if as regional leaders we are not supporting this nominee, why did the Parliamentary Select Committee (PSC) not consider our concern. Instead, a name is being shoved down our throats. As a region, we feel short-changed and I am asking this Parliament to consider our plight. We have other nominees who were interviewed and they qualify to be members of this Committee. We would prefer that one of them takes up that position and the one who has been listed here be removed from the list. I speak for the region and as Members from the region, we have no faith in this nominee.

With those few remarks, I beg to support.

The Assistant Minister for Higher Education, Science and Technology (Dr. Mwiria): Mr. Temporary Deputy Speaker, Sir, thank you for giving me the opportunity to contribute in support of this list. Let me begin by congratulating the team for that unity of purpose. This is very different from that of the Interim Independent Electoral Commission (IIEC) because in this case, there seems to have been no disagreement. Last time we were exposed to a situation whereby Members of the same Committee were disagreeing about nominees.

I also congratulate them for coming up with a very good team. We agree that they are qualified and very professional people. It is good that even issues about personality and Members not being accepted because they represent certain political parties or they come from certain ethnic groups were put on the backside. All of us belong to tribes and political parties. That is the reality of this country.

Sometimes, we are members of political parties by virtue of the party that is being supported in that community.

Mr. Temporary Deputy Speaker, Sir, I hope that this Committee will be fair. Issues about unfairness have already been expressed in terms of the way constituencies were drawn and the way the districts have been dished out politically and other inequalities at the ward, location and division levels. These are very important issues. When you go to a constituency you will find locations and sub-locations of very different sizes. As we look at the constituency boundaries, let us also address the issue of districts and any other boundary issues that may have been done out of politics as opposed to any rational way.

Mr. Temporary Deputy Speaker, Sir, the problem of inequality in districts has been mentioned. Often we create districts and leave it to the constituents to finance the building of office blocks. I think we need to look at that critically. We need to come up with districts that the Government can support and are rational in terms of facilities in those districts and in terms of the possibilities of benefitting from the already established institutions in the districts. You will find that there are new districts without good secondary schools, hospitals and district headquarters. It is not just a political battle. It is a question of creating an institution where members can be proud that it is providing services.

I do hope that we are going to monitor the time and expenses in terms of how much time this Committee takes to come up with recommendations. Sometimes we set up Committees and we do not monitor them. They work for a long time and it becomes very expensive and when we ask for a report, you do not get one. So, I hope that whoever is charged with that responsibility, will do regular monitoring to ensure that this business is done.

Mr. Temporary Deputy Speaker, Sir, my friend from the Coast Province said that the Coast Province nominee is not acceptable to the people of the Coast. I would like to remind him that this nominee is not going to work for the people of the Coast Province but for Kenya. There is no time where you can get a situation whereby we shall have one nominee who is going to be accepted by all Members of that region. I think we have to move ahead in that spirit and forget the fact that the man was the chairman of the Constituencies Development Committee (CDF). We should not hate or punish him for that. Maybe he is associated with a politician but all of are associated with one politician or the other. In the spirit in which we are approving the rest of the team, please, bear with Parliament so that we approve all of them.

The Minister of State for Special Programmes (Dr. Shaban): Bw. Naibu Spika wa Muda, asante sana kwa kunipa nafasi hii ili niweze kuzungumza juu ya mjadala huu. Mimi kama mmoja wa kutoka Pwani, naona ni makosa kwa sisi kila mara Mpwani yeyote akipewa kazi tunatumia Bunge hili ili kuwasagia wengine ili wakose kazi. Sio lazima kwamba atakaye pata kazi kila mahali awe ni mpenzi wetu, ndugu yetu, rafiki wetu ama ndugu wa kisiasa.

Ningependa kuunga mkono kazi iliyofanywa na Kamati hii ambayo imechukuwa muda wao kutafuta watu ambao wanafaa kufanya kazi. Tunaomba kuwa watu hao waweze kufanya kazi kikamilifu maanake mwaka 2007, matatizo tuliyokuwa nayo ni kwa sababu ya watu ambao hawakuweza kufanya kazi sawa

sawa na tukawa na wasiwasi nao. Kenya hii tumetoka mbali na naomba watu washikane na tufanye kazi pamoja, tuwache uzushi, tufanye kazi na wenzetu kwa upendo.

Kwa hayo machache, naunga mkono.

Prof. Kamar: Mr. Temporary Deputy Speaker, Sir, I rise to support the list as presented by the Committee. I would like to join the others in congratulating this Committee for coming to this House united. Previously we had a problem where the Committee came and the Members had not agreed at the Committee level. This time round, they have done us proud by being united. This Committee is very serious for this country. We do not want any dot of mistrust as far as the Committee is concerned. I would like to persuade our colleagues that we must come out unanimously so that we can give the Committee a clean bill of health because if we do not, suspicions will start from this Chamber and will spread out.

The issue of boundaries is going to be very sensitive. I would like to agree with one of the speakers that we must have clear criteria on what boundaries we want. We must agree on the criteria first. Those criteria must come to this House for approval. Whether we are going to use geographical terrain or population, we need to agree and approve it before we go out there. We want to reduce the debate on the ground and also reduce the acrimony. You will realize that whenever we are acrimonious in the House, it spills to the ground and nothing moves. I always remember the 2005 referendum. It is the acrimony that started in this House that spilled to the ground and the divisions were seen. I would like to persuade my colleagues that we must move together and agree over this Committee.

Mr. Temporary Deputy Speaker, Sir, as for the membership, I believe that this is a team of unquestionable qualifications. I was impressed that we have one PhDs, six Masters degrees and two others. That means that we are going to get quality reports and, more than anything, we shall get paid back for educating these people. When we talk of gender, we are talking of minimum. We do not mean that you must look for exactly three. There seems to be a tradition that whenever we say a minimum of three of either gender, people imagine that we are looking for 30 per cent of women. Sometimes, it could 30 per cent of men. It does not have to be women always. I am saying that because when I look at the master's degrees that we have, I imagine that there are women who have that qualification but have been left out. I hope that the Committee was not looking for three women, close that then fill the remaining position with men.

We must think uniformly when we are thinking of gender. Gender does not really mean women but either side. The other thing that needs to come up clearly in the criteria that we are going to give is where our development unit in this country is going to be. Is it going to be the district or the constituency? That is what is causing anxiety. When you are given more districts or constituencies, you do not know which one is the development unit. Currently, CDF goes to the constituency but the Roads Development Levy goes to the district. So, there is still confusion. A constituency that has two districts gets double the amount of money while the reverse is the case when you have two constituencies in one district. They get only a half the amount for roads while the CDF is double.

I think in the criteria, we need to come out very clearly where our development unit is concerned. I was part of the Bomas team and I know that we proposed several models of developing this country. At one point, we had gone all the way to the Ugandan system and we said: "Let us develop our country through the districts." That did not pass, of course. I am saying that because we must come up with a very clear criterion; a criterion that does not create more suspicions.

Mr. Temporary Deputy Speaker, Sir, the biggest problem that we have is suspicions, even when we are creating what is very good for this country. If we create suspicions because of the criteria that has not been agreed upon, we can have a lot of problems.

Mr. Temporary Deputy Speaker, Sir, I will not take much time. Since everybody wants to support, I beg to support.

Thank you, Mr. Temporary Deputy Speaker, Sir.

(Applause)

The Assistant Minister, Ministry of State for Public Service (Maj. Sugow): Thank you very much, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to support this Motion. I would like, first of all, to congratulate the Committee for doing a wonderful job.

Mr. Temporary Deputy Speaker, Sir, this is a very important Commission that is supposed to compliment---

Mr. Magerer: On a point of order, Mr. Temporary Deputy Speaker, Sir. In view of the mood in the House, would I be in order to request that the Mover be called upon to reply, so that we can rest this matter?

(Applause)

The Temporary Deputy Speaker (Mr. Imanyara): Order! Order! Order! Allow the hon. Member to finish. I have heard the mood!

(Laughter)

The Assistant Minister, Ministry of State for Public Service (Maj. Sugow): Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to continue.

Mr. Temporary Deputy Speaker, Sir, the Interim Independent Boundaries Review Commission is very important in supplementing the work of the Interim Independent Electoral Commission (IIEC). As earlier indicated by the Mover of this Motion, the Commission is supposed to carry out work that was earlier under the mandate of the Electoral Commission of Kenya (ECK). That is why it is very important that we move expeditiously to put it in place, so that it can start work together with the IIEC.

Mr. Temporary Deputy Speaker, Sir, boundaries are very controversial in this country. Many of us who come from areas with huge populations believe that the past has not been very kind to them. Many of us who come from sparsely

populated areas, but who have very huge constituencies, have a reason to worry when we look at our cousins from the more populated areas, biting their fingers waiting to get back what they feel was their fair share in the past. That is why I agree with the previous speaker here that we must develop fair criteria for that Commission, so that it can determine how boundaries should be demarcated.

Mr. Temporary Deputy Speaker, Sir, I would also like to appeal to my colleagues from the Coast Province. The reforms in this country are very much behind. Please, do not take us back again! We appeal that we continue in the interest of this nation. Those are people who will work for us. You are 23 Members from the Coast. The Select Committee has 27 Members. It is them who looked at the person from the Coast Province and determined that he is fit to be a member. You have not given us any technical reason, other than, at one time, being a chair for the Mvita CDF. There is no other reason given. For that reason, I appeal that you withdraw your objection so that we can move forward.

With that, Mr. Temporary Deputy Speaker, Sir, I beg to support.

(Applause)

The Temporary Deputy Speaker (Mr. Imanyara): Order! I think I get the mood of the House. I will put the Question.

(Applause)

If you are not in agreement with me, you can always vote. So, I am putting the Question, that the Mover be called upon to reply.

(Question, that the Mover be now called upon to reply, put and agreed to)

Mr. Abdikadir: Thank you, Mr. Temporary Deputy Speaker, Sir. May I thank hon. Members for the strong support for the Motion and for all the points that they have put across. I also thank hon. Members of the Select Committee for the hard work and members of staff of the Clerk's Office for the hard work that they have put in.

Mr. Temporary Deputy Speaker, Sir, to respond to the issues raised on who should ratify or approve--- Should it be Parliament? Should it be the Executive? I think that is the question for the new Constitution to determine.

Mr. Temporary Deputy Speaker, Sir, earlier on, it was the Executive which approved, appointed and nominated the individuals who served in those commissions without a competitive process and in a very opaque manner. I think it is, certainly, an important step forward. Those positions are filled by a very transparent process that is open to everyone. Advertisements are put up for every Kenyan to apply.

Mr. Temporary Deputy Speaker, Sir, having said that, I have come to the conclusion that there is merit for the Executive to nominate and for this House to ratify. I think that is for the Constitution, but those are my views.

Mr. Temporary Deputy Speaker, Sir, as far as equity and equality of votes are concerned, I think both have a point in our Constitution. The Constitution always starts with equality of votes – one man, one vote – as the cardinal principle. Then there is the delegation from that point.

Mr. Temporary Deputy Speaker, Sir, I notice the mood of the House and I beg to move the Motion.

(Applause)

(Question put and agreed to)

ADJOURNMENT

The Temporary Deputy Speaker (Mr. Imanyara): Order! Order! There being no other business, the House will now stand adjourned until Tuesday, 12th May, 2009, at 2.30 p.m.

The House rose at 5.05 p.m.