

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Tuesday, 17<sup>th</sup> November, 2009

The House met at 2.30 p.m.

*[Mr. Speaker in the Chair]*

### PRAYERS

### QUESTIONS BY PRIVATE NOTICE

#### ALLOCATION OF RELIEF FOOD TO SAMBURU DISTRICT

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

(a) Could the Minister state how much relief food has been allocated to Samburu District per month since April 2009 to date and what is the targeted population and the breakdown of food distribution per location during that period?

(b) Under what circumstances some locations like Ngare Narok, Ndongyo-Wasin, Uaso West and Engile Central missed out on relief food for up to four months?

(c) How many locations have not received the August 2009 allocation?

(d) Could the Minister also provide the membership of the District Food Distribution Committee and clarify whether or not it has been operationalised?

**Mr. Speaker:** Minister of State for Special Programmes! We will revisit that Question a little later. Member for Ikolomani Constituency!

#### LEGALITY/VIABILITY OF NEWLY CREATED DISTRICTS

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

What is the legality and viability of the newly created districts in view of the recent judgment by the Kisii Resident Judge declaring them illegal?

**Mr. Speaker:** Minister of State for Provincial Administration and Internal Security! Again, we will revisit that Question a little later. Let us move on to the next Question.

### ORAL ANSWERS TO QUESTIONS

*Question No.049*

#### DELAYED PAYMENT OF PENSION

## TO RETIRED TEACHERS

**Mr. Mwakulegwa** asked the Minister for Education:-

(a) why many retired teachers from Taita District experience long delays in payment of their pension; and,

(b) what the Ministry is doing to address this situation once and for all.

**Mr. Speaker:** Minister for Education! Yes, Professor Olweny! You are the Assistant Minister for Education, are you not?

**The Assistant Minister for Education** (Prof. Olweny): Mr. Speaker, Sir, Mr. Mwatela was to bring the answer to this Question. Let me rush out and get him!

**Mr. Speaker:** Order! Please, organize yourself! We will revisit the Question later.

**The Assistant Minister for Education** (Prof. Olweny): Mr. Speaker, Sir, the answer was to be brought in by Mr. Mwatela! I can go out and make sure it is available in the next few minutes.

**Mr. Speaker:** Make sure it is available in the next few minutes.

**The Assistant Minister for Education:** Yes, Mr. Speaker, Sir, I will do so.

**Mr. Speaker:** Yes, hon. Member for Uriri Constituency!

*Question No.411*PAYMENT OF FEES IN SPECIAL  
PRIMARY SCHOOLS

**Mr. Omollo** asked the Minister for Education:-

(a) if he could confirm that children with disabilities in Special Schools are paying for their primary school education, which is a hindrance to access to education;

(b) which special schools are run by the Government in each province and what plans have been put in place to ensure children with disabilities who are not in school are promptly enlisted; and,

(c) how many special schools have been put up countrywide in general, and Uriri constituency in particular in the last ten years.

**Mr. Speaker:** We will revisit that Question a little later. Member for Molo Constituency!

*Question No. 392*UNPAID DUES TO SUPPLIERS UNDER *OPERATION*  
*RUDINYUMBANI PROGRAMME*

**Mr. Kiuna** asked the Minister of State for Special Programmes what steps she will take to ensure that the suppliers of the materials used to reconstruct the housing units for the IDP returnees in Molo

Constituency under the *Operation Rudi Nyumbani Programme* are paid their dues by the NGOs contracted.

**Mr. Speaker:** Minister of State for Special Programmes! Still not here? Member for North Imenti!

*Question No.445*

UNACCOUNTED FUNDS FOR TIGANIA  
EAST CDF ACCOUNT

**Mr. Ruteere** asked the Minister for Lands:-

(a)whether he is aware that Mr. Muchiri, then a district Land Adjudication Officer for Meru North District, who was given Kshs500,000 by Tigania East CDF Committee, in August 2008, to buy equipment for use in Land Adjudication in the constituency was later transferred to another district, but is yet to account for the funds to the CDF committee; and

(b)what disciplinary action he has taken against the officer and to ensure that the money is returned to Tigania East CDF account.

**Mr. Speaker:** Minister for Lands!

**Mr. Linturi:** On a point of order.

**Mr. Speaker:** Order, Mr. Linturi! It would appear that the retreat at Mombasa has not been helpful!

*(Laughter)*

Member for Mumias!

*Question No.217*

DISMISSAL OF POLICE CORPORAL  
RICHARD OMBWAYO NERIMA

**Mr. Speaker:** We revisit that Question a little later. Yes, Amb. Affey!

*Question No.257*

REHABILITATION OF HABASWEIN AIRSTRIP

**Mr. Speaker:** We will revisit that Question a little later. Yes, Member for Mt. Elgon!

*Question No.272*

REVIEW OF HARDSHIP ALLOWANCE  
FOR CIVIL SERVANTS

**Mr. Kapondi** asked the Minister for of State for Public Service:-

(a) what plans he has to revise upwards the Kshs1,500 monthly hardship allowance paid to civil servants in the hardship areas; and;

(b) what steps are contemplated to ensure such reviews are undertaken periodically.

**The Assistant Minister, Ministry of State for Public Service** (Maj. Sugow):  
Mr. Speaker, Sir, I beg to reply.

(a) The government has harmonized the hardship areas through a study that was undertaken by my Ministry to rationalize and harmonized hardship allowance. The study recommendations were approved by the Cabinet and the monthly hardship allowance for moderate areas - we have specified areas into moderate and extreme - for moderate areas it has been raised to Kshs5,000 per month and extreme areas to Kshs10,000 per month. This applies to both civil servants and teachers with effect from 1<sup>st</sup> of July 2010. I emphasize both civil servants and teachers because currently they are different. Teachers serving in the same area are earning different amounts from the civil servants.

(b) The cabinet approved that regular reviews be undertaken to progressively phase out the hardship areas as and when the hardship features are addressed and the area becomes comparatively developed.

**Mr. Kapondi:** Mr. Speaker, Sir, while I thank the Assistant Minister for considering to raise the amount money to be paid to civil servants in different areas from Kshs5,000 to Kshs10,000, which is a very good gesture, I would like to know from him why they chose to consider implementation of this noble cause to 1<sup>st</sup> of July 2010 instead of considering it backwards because the civil servants continue to suffer particularly in marginal areas.

**Maj. Sugow:** Mr. Speaker, Sir, there are at least three reasons why they are implementing it in 2010. First of all, to raise hardship from what it was to Kshs5,000 and Kshs10,000, respectively, I am sure members will agree with me, will have significant impact on our budget. The time when this decision was made, already the budget for this financial year had gone through the House. Thirdly, during the review, there were areas that were considered as no longer needy to be considered for that status of being hardship and have since been recommended to be removed from that list. We are giving time for the public, civil servants, leaders to raise issues with the policy in that time frame, so that if there is need and sufficient numbers of complaints, we can then carry out another survey to see the legitimacy or the consideration made for any further additions to that list.

**Mr. Gunda:** Mr. Speaker, Sir, could the Assistant Minister tell the House which are moderate and severe hardship areas?

**Maj. Sugow:** Mr. Speaker, Sir, there is a criteria we use to determine which are moderate and extreme hardship areas. The list of the areas, per province and district, which I have is long. I can table it for the hon. Members to see them.

**An hon. Member:** Table it!

**Maj. Sugow:** Mr. Speaker, Sir, I will avail it.

**Mr. Mbadi:** Mr. Speaker, Sir, the Assistant Minister, in his submissions, did say that they are still giving room for public complaints. But I thought that this exercise was carried out methodologically and determined. Why are you again playing politics with it?

If a place has been found to be a hardship area, you do not have to still wait for people to complain because the whole country will complain. Why are you not implementing it immediately?

**Maj. Sugow:** Mr. Speaker, Sir, I agree with the sentiments raised by the hon. Member. But you will also agree with me that there are quite a number of Members of Parliament who have raised concerns. They are leaders and, therefore, have to be satisfied with the criteria that we have used. If they bring up concerns about their areas, I think it is only fair that we revisit the issue until they are satisfied that, really, the reasons for the removal of some areas are justified. In any cases, there are also other reasons for the delay of the implementation of the process. There are budgetary considerations that I have raised.

**Mr. Ochieng:** Mr. Speaker, Sir, I understand that Nyakach Constituency has actually been upgraded now to a better living place. I wonder how this came about because we still do not have good roads, clean water for drinking, health facilities and many other amenities. How did you arrive at excluding certain constituencies and including others?

**Maj. Sugow:** Mr. Speaker, Sir, we used about seven criteria. There is non-availability or limited accessibility to food, non-availability or limited access to portable water, non-availability or inadequate supply of transport and communication services, non-availability or limited access of social services and amenities, harsh climatic conditions, insecurity and high possibility of security threat and high poverty index. All the seven criteria have different marks totaling to about 100. Now, it is on the basis of that, that we have some cut-off point. That is how we classify those that fall under moderate and hardship areas.

**Mr. Olago:** Mr. Speaker, Sir, in fixing the quantum of hardship allowance payable, the Ministry is reported to have fixed the same amount for all grades of public servants. What is the rationale for fixing the sum of Kshs5,000 for an engineer and the same amount for his office messenger?

**Maj. Sugow:** Mr. Speaker, Sir, I think hardship is hardship. We are all human beings. I do not think the boss feels the hardship more than his junior.

**Mr. Speaker:** Last question, Member for Mt. Elgon!

**Mr. Kapondi:** Mr. Speaker, Sir, in the past, a lot of political considerations were put in place during this categorization. Could the Assistant Minister give us an assurance that the ways of categorizing hardship areas, particularly severe areas, will not be influenced by politics?

**Maj. Sugow:** Mr. Speaker, Sir, I would like to assure the hon. Member that one of the key issues we looked at clearly is non-interference of political feelings or affiliations when this study was being carried out. I would also like to add that, regarding any subsequent appeals, when being considered, no politics will play a role. However, I would like to point out one thing very clearly here to the hon. Members; that hardship is an index of the level of development in an area. When we started at Independence we had only 15 areas, but as at the time of this review they were 46. In other words, instead of Kenya developing and areas getting out of hardship, we are increasing them. So, what is the rationale? We are a developing country but in comparison to other developed countries, of course, our country maybe in hardship. But I think it is important that we also look at why some areas are categorized as hardship areas and probably also look at

developmental allocations to ensure that these areas get out of that hardship and come at par with the rest of the country, so that one day we can say that anyone can serve anywhere in this country and feel the same as anyone else.

**Mr. Speaker:** Question by Member for Vihiga!

*Question No.296*

IDENTITY OF CONTRACTORS ON  
KISUMU-KAKAMEGA ROAD

**Mr. Speaker:** Is the Member for Vihiga not here?

The Question is dropped!

*(Question dropped)*

Member for Githunguri!

*Question No.448*

ILLEGAL SALE OF MBOI KAMITI  
FARMERS COMPANY ASSETS

**Mr. Baiya** asked the Attorney-General:-

(a) whether he could confirm that a farm measuring 530 acres in Kiambu, owned by Mboi Kamiti Farmers Company Limited, was sold through the Court in Nairobi HCC 107 of 2005 for a debt of Ksh3.7 million and that some Directors of the company sued the company for emoluments and were paid by the court in the aforesaid suit from proceeds of the sale of the farm; and,

(b) what action he plans to take to curb the apparent conspiracies to illegally sell off the company assets at throw-away prices.

**Mr. Speaker:** Order, hon. Members! I have notice that the hon. Attorney-General has had to leave the country in the past one hour because he was required in Arusha to advise the Heads of States and, specifically, our President, as they go through serious business in Arusha, commencing tomorrow.

So, this Question will be deferred to Tuesday next week!

*(Question deferred)*

We will go back to the first Question by Private Notice by the Member for Samburu East.

**QUESTIONS BY PRIVATE NOTICE**

ALLOCATION OF RELIEF FOOD  
TO SAMBURU DISTRICT

**Mr. Letimalo:** Mr. Speaker, Sir, once again, I beg to ask the Minister of State for Special Programmes the following Question by Private Notice.

(a) Could the Minister state how much relief food has been allocated to Samburu district per month since April 2009 to date and the population targeted and provide the breakdown of food distribution per location during that period?

(b) Under which circumstances have some locations like Ngare Narok, Ndongyo-Wasin, Uaso West and Engile Central missed out on relief food for up to four months?

(c) How many locations have not received the August 2009 allocation?

(d) Could the Minister also provide the membership of the District Food Distribution Committee and clarify whether or not it has been operationalized?

**The Minister of State for Special Programmes (Dr. Shaban):** Mr. Speaker, Sir, first of all, I take this opportunity to apologize for not being here last week. We had sent a letter to the Clerk of the National Assembly, but for some reason it had not reached the destination. The letter was delivered to the Clerk's Office on 6<sup>th</sup> November, 2009. My Assistant Minister and I were away on official duty. Something cropped up and he had to leave the country urgently.

**Mr. Speaker:** That appears to be a sensible explanation as to why you were not present last week. But we have encouraged the practice where related or neighbouring Ministries assist each other. The Office of the President under which you work has at least, two other Ministers and several Assistant Ministers. Can you, please, embrace the practice of getting any of them to attend to your business while you are away?

So, that suffices for last week. This afternoon, there is no explanation or apology. What shall we do with this afternoon?

**The Minister for State for Special Programmes (Dr. Shaban):** Thank you, Mr. Speaker, Sir. This afternoon, I was just caught up in the jam as I was getting here. So, when I came in, you had already moved on. I wish to apologise.

**Mr. Speaker:** I accept the apology, but that is not a good reason for coming late. All these hon. Members work under the same conditions. So, just be careful that you improve on your punctuality next time.

Proceed!

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

(a) The following beneficiaries received relief food in Samburu East, through the Emergency Operation Programme (EOP); that is in Wamba Division, 20,413 and Wazo Division, 8,716. That is an average of 70 percent of the population. In addition, the Government provided relief food allocation through the District Commissioners (DCs). Samburu East District was given relief from April to October, 2009, as shown below.

Mr. Speaker, Sir, it makes a total of 10,980 bags of 90 kilograms of maize, 1,300 90 kilogram of beans, 1,400, 50 kilograms of rice and, 800 cartons of vegetable oil. The total amount of money which has been disbursed to date to that area for AIE for transportation is Kshs1,050,000. The grand value of the food that has been given in Samburu East through the general food distribution by the Government from April to October, 2009, is a total of Kshs42, 538,400.

(b) No location has missed out on food allocation for the last six months. Ngare Narok, Ndonyo-Wasin, Uaso West and Engile Central have all been receiving food every month and will also get more this month.

(c) As Indicated in the table above, no location is left out during food distribution, as all of them face similar conditions of drought and, therefore, deserve assistance. All locations received the August, 2009, allocation.

(d) The District Food Distribution Committee is chaired by the District Commissioner. The relevant heads of departments, chiefs and councilors are members of this Committee. The Committee has always been operational and is very useful in ensuring timely and fair distribution of food and proper targeting of beneficiaries.

**Mr. Letimalo:** Mr. Speaker, Sir, I appreciate that the Government assists various regions which are faced with deficiency in provision of food aid. But my concern to the Minister is the distribution of food in the district. What necessitates this irregular distribution of food in the district? What plans does she have to ensure that all the targeted population receive their allocations monthly and at the time expected?

**Dr. Shaban:** Mr. Speaker, Sir, I have repeated this before and I am repeating it today, that Members of Parliament are supposed to be members of the District Steering Group. Because we do not have people who are working at the grassroots from the Ministry of Special Programmes, we work through the provincial administrators. They should work closely with the provincial administrators to make sure that food is distributed on time.

**Mr. Speaker:** Any Member interested in this Question? Mr. Letimalo, ask your last Question!

**Mr. Letimalo:** Mr. Speaker, Sir, if you look at the membership of the food distribution committee and, particularly food that comes through the DC's office, you will find that membership is only composed of chiefs and the councilors. How about the representation of the local community? The local community must be represented in that committee and they should be provided with the minutes for the food distribution.

**Dr. Shaban:** Mr. Speaker, Sir, usually, the distribution is done at the DC's office, then after that, the food is taken on to the users, who are usually the stakeholders and the people at the village level. They are the ones who are at the sub-location level who have been given the liberty of deciding who sits in the committee for distribution of relief food at the sub-location level.

#### LEGALITY/VIABILITY OF NEWLY CREATED DISTRICTS

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

What is the legality and viability of the newly created districts, in view of the recent judgment by the Kisii Resident Judge declaring them illegal?

**Mr. Speaker:** Is the Minister of State for Provincial Administration and Internal Security not here? Prof. Ongeru, could you hold brief for your colleague?



**The Minister for Education** (Prof. Ogeri): Mr. Speaker, Sir, it has been a very dramatic day, but I will definitely be in a position to pass on the message to the Minister for Provincial Administration and Internal Security to respond by Thursday.

**Mr. Speaker:** Hon. Members, the Chair is aware that the Assistant Minister in charge of internal security, the hon. Orwa Ojode is away with the permission of the Chair, but that Ministry has the substantive Minister and one other Assistant Minister. So, hon. Prof. Ogeri, can you, please, let them know that the House does not take this kindly, because members of the public are talking constantly about their having to foot the bill for a bloated Cabinet? What purpose does it serve, if it cannot be present to answer Questions?

*(Applause)*

**The Minister for Education** (Prof. Ogeri): Mr. Speaker, Sir, I will definitely pass on the sentiments, and I am sure my own student, the Member for Ikolomani, will understand that.

**Mr. Speaker:** The Question is deferred to Thursday next week.

*(Question deferred)*

## ORAL ANSWERS TO QUESTIONS

*Question No.049*

### DELAYED PAYMENT OF PENSION TO RETIRED TEACHERS

**Mr. Mwakulegwa** asked the Minister for Education:-

- (a) why many retired teachers from Taita District experience long delays in payment of their pensions; and,
- (b) what the Ministry is doing to address this situation once and for all.

**The Assistant Minister for Education** (Mr. Mwatela): Mr. Speaker, Sir, I would like to start by apologizing for coming late. I am sorry I took the wrong---

**Mr. Speaker:** Proceed, Mr. Assistant Minister!

**The Assistant Minister for Education** (Mr. Mwatela): Mr. Speaker, Sir, I beg to reply:-

(a) One hundred and twenty three teachers from Taita District retired in the last three years; 2006, 2007 and 2008. The pension claims for 105 of them have been processed and forwarded to the Pensions Department for payment, while the remaining 18 cases are being processed. Payments of teachers' retirement benefits involve two Ministries; the Ministry of Education which processes pensions' claims and the Ministry of Finance, which issues the Income Tax clearance certificates and effects the payments. The delays experienced are caused by the following; slow processing due to the involvement of different Government agencies over which my Ministry has no control, some teachers take long to submit the documents required for processing pension claims

and some retirees who have tax liabilities fail to clear with the Kenya Revenue Authority (KRA) in time.

(b) My Ministry is in consultation with the Treasury and the KRA to hasten payment of teachers' retirement benefits. The Teachers Service Commission (TSC) has also commenced issuance of retirement notices to teachers two years before retirement to give them ample time to forward the necessary documents. In addition, the TSC is planning to automate the pension's process which is expected to drastically reduce the period taken to process the claims.

**Mr. Mwakulegwa:** Thank you, Mr. Speaker, Sir. From the answer given by the Assistant Minister, it reflects that the teachers who retired in the year 2006 and 2007 have not been paid their pension dues to date. What policy is place in the Ministry of Education to make sure that when the teachers retire, they are paid in time and what is the process?

**Mr. Mwatela:** Mr. Speaker, Sir, it is morally wrong for teachers and, indeed, for any public servant who has offered his service to retire and stay without his pension benefits. My Ministry would like to put this to an end. We are in consultation with the Ministry of Finance to ensure that a mechanism is put in place, so that there is a period within which retired teachers are guaranteed payment of their pension. It is not right for a teacher to retire and stay for years without his pension.

**Mr. Chepkitony:** Thank you, Mr. Speaker, Sir. The problem of delay in payment of pension is not only confined to Taita Taveta District. It is all over the country. In many cases, teachers fulfill all the requirements; they fill all the forms which are taken to the Teachers Service Commission (TSC). However, payment still takes very long. Teachers make several trips to Nairobi to push for the payment. The forms do not move unless the teachers have come back to Nairobi. What assurance are you giving this House that teachers will not have to come to Nairobi to push the forms? Could he tell us the period which it will take the Pensions Department to make payment as long as the forms have been filled in correctly?

**Mr. Mwatela:** Mr. Speaker, Sir, I have just said that my Ministry is in consultation with the Ministry of Finance to make sure that we bring to an end this kind of suffering by teachers. I beg to repeat that it is morally wrong for anyone to retire, after serving for very long, and not be paid his benefits. This has to come to an end. With the help of this House, we may need to bring here legislation to make sure that teachers are paid, not just in Taita Taveta, but everywhere in the Republic within a certain period after retirement.

**Mr. Yakub:** Thank you, Mr. Speaker, Sir. I would like to inform the Assistant Minister about another case of late payment of pension. A teacher who retired in 1<sup>st</sup> October, 2008, TSC No.620953, up to November 2009 has not received any payment. She is still the one who takes care of her whole family and she is jobless. How many months will the Ministry take to pay pension?

**Mr. Speaker:** Although you started off badly, finally you asked a question. Mr. Assistant Minister, could you respond?

**Mr. Mwatela:** Mr. Speaker, Sir, this is a very specific case, but it is not an isolated case. I am a retired teacher and I feel bad on behalf of my fellow teachers. This is not an isolated case and we have to bring to an end the long period which teachers have to wait. For this particular case, I would like the hon. Member to furnish us with

information so that we can assist the retired teacher. However, as a policy of the Ministry, we would like teachers to be paid their dues within a specific time.

**Mr. Chanzu:** Thank you, Mr. Speaker, Sir. As stated by my colleagues, this issue does not affect this constituency only. I have several cases in mine. If every hon. Member was to bring his own cases, I think you would have a question from every constituency. I would have liked to hear the Assistant Minister say--- The Ministry, along with the TSC, is a major employer, just as the Public Service is. What steps are you are taking as an employer to ensure that this is done? We cannot keep on hearing about Treasury, and that you are liaising with the Treasury. Tell us the steps you are taking since you pay from your own budget. Give us some tangible steps that you are taking to make sure that teachers are paid on time when they retire.

**Mr. Mwatela:** Mr. Speaker, Sir, as far as processing benefits is concerned, the period that is taken by the TSC to submit the documents to the Treasury has been substantially reduced. However, the time that is taken by the Treasury to pay pension is still lengthy. We would like to come to an agreement, so that the time is shortened to a reasonable period.

**Mr. Mwangi:** On a point of order, Mr. Speaker, Sir. Is the Assistant Minister in order to refer the issues of teachers to the Treasury when he knows that the employer of teachers is the TSC? Would it not be fair for him to sort out the issue with the Treasury instead of misleading us?

**Mr. Speaker:** Mr. Assistant Minister, respond if you can.

**Mr. Mwatela:** Mr. Speaker, Sir, I would like to ask the hon. Member to try and understand the workings of the Government; individual Ministries do not pay pension. Pensions are paid by the Treasury.

**Mr. Mwakulegwa:** Mr. Speaker, Sir, now that it is clear that the Ministry has no specific policy for paying retired teachers, is it possible for it to continue paying retired teachers until their pensions have been processed?

**Mr. Mwatela:** Mr. Speaker, Sir, the only problem that would arise from that is---- I know that has been done before. There was a policy to deal with that. However, it hit a snag because the amounts paid as salary would be deducted from the pension payable to the same teachers at the end of the whole process. I think you will agree with me that it is easier to put to an end this matter by ensuring that we pay teachers within a specific time after retirement.

**Mr. Bahari:** On a point of order, Mr. Speaker, Sir. Is the Assistant Minister in order to avoid the question? The question is very clear. Now that they have no specific policy and they can do nothing about the Treasury's delay, why can the Assistant Minister not pay the teachers until they are paid by the Treasury in accordance with the law? Why is the Assistant Minister avoiding what has been provided for in the law?

**Mr. Speaker:** Order! As a matter of fact, Mr. Assistant Minister, you were asked a very simple question. I thought you would deal with it easily. The hon. Member for Voi asked you if you are prepared to consider--- It is simple.

**Mr. Mwatela:** Mr. Speaker, Sir, the Ministry of Education sticks to the time of retirement. So, it would be difficult to consider that.

**Mr. Speaker:** That is fair enough!

Let us move on to the Question by the hon. Member for Uriri!

**Mr. Omollo:** Mr. Speaker, Sir, for the second time, I beg to ask Question No.411.

*Question No.411*PAYMENT OF FEES IN SPECIAL  
PRIMARY SCHOOLS

**Mr. Omollo** asked the Minister for Education:-

(a) whether he could confirm that children with disabilities in Special Schools are paying for their primary school education, which is a hindrance to access to education;

(b) whether he could tell the House the number of schools which are run by the Government in each province and what plans have been put in place to ensure children with disabilities who are not in school are promptly enlisted; and,

(c) how many special schools have been put up countrywide in general, and Uriri Constituency in particular, in the last 10 years.

**The Minister for Education** (Prof. Ongeru): Mr. Speaker, Sir, first of all, I apologise for not answering the Question when it was first called out. I was within the building but went to drink water hoping that the Questions before this Question will take a little longer only to find that they have been concluded too fast.

I beg to reply.

(a) I wish to confirm that children with disabilities in special primary schools are freely and equally accessing education like other children under the free primary education programme. In addition, special boarding schools also receive Kshs8,000 per child per year as food subsidy. However, since most of these schools are boarding due to the nature of disabilities, the children pay boarding levy to cater for food, medical and transport services which are not covered by the free primary education.

(b) The special schools run by the Government in each province are attached on table No.1. These schools are quite a number and the hon. Member can go through the list. On the other hand, the Ministry has funded and strengthened the educational assessment and resource centers based in every district to enable them identify, assist and appropriately place children with disabilities in schools. Further, the Ministry is planning to conduct a national survey and equipment inventory on special needs education this year. This exercise will, among others, guide the planning and implementation of special needs education programmes, provide a data base on the number of children with disabilities in and out of schools and ensure adequate facilities and equipment in schools. Further, a policy on special needs education that will address issues of special needs education, access, funding, resource mobilization and other stakeholders' participation is in the final stage.

(c) For the last 10 years, the Ministry has established 140 special primary schools, eight special secondary schools, four technical training institutes and 1,671 special units attached to regular primary schools. Out of this, 39 special primary schools and four special secondary schools have been built, expanded and rehabilitated. Similarly, in the same period four special units have been built in Uriri Constituency making a total of eight special units for children with disabilities. These include Oruba, Mukuyu, Kamsaki, Oyuth, Kisigunwa, Piny Owacho, Rapogi Mixed and Got Korwa.

**Mr. Omollo:** Mr. Speaker, Sir, while I thank the Minister for that answer, could he consider equipping the special schools that he has just mentioned? This is because as I speak, only one school, namely, Piny Owacho exists in that constituency. The Minister will be fair to me if he answers that question.

**Prof. Ongeri:** Mr. Speaker, Sir, indeed, it is my intention that every school with special needs children should be fully equipped to the extent that these children do not suffer any loss. We developed a policy document in July this year and we are now campaigning among our stakeholders to support it. It is the Ministry's intention to fully support the special needs children by paying their entire boarding fees. However, I have said that, that is in the final stage. For now, the money that we give through infrastructure development can cater for the hon. Member's schools because there are many schools in this category as he can see under Table No.1.

**Mr. Shakeel:** Mr. Speaker, Sir, could the Minister tell us whether he knows of a school in Chebrok, the only school in that area for the deaf and dumb which was closed down about six months ago? Why was it closed down?

**Prof. Ongeri:** Mr. Speaker, Sir, although the hon. Member has not brought that to my attention, I am not aware that the school has been closed down. If I am made aware and given the reasons why it has been closed down, I will re-open it.

**Mr. Baiya:** Mr. Speaker, Sir, considering the fact that there is need for special schools are all over the country, what policy or criteria does the Ministry use to determine where to build these schools? Could the Minister enlighten us on that?

**Prof. Ongeri:** Mr. Speaker, Sir, first, if children with special needs can cope with other children, we mainstream them in the normal primary institutions by paying an allowance of Kshs2,000 over and above the normal capitation of Kshs1,020 for the normal primary school children. We would like these children to learn alongside the normal children. Those whose condition require special attention and education are enrolled in special needs boarding institutions, for instance, primary and secondary schools, tertiary and vocational training centers so that they can access some skills so that they can lead a good life.

**Mr. Omollo:** Mr. Speaker, Sir, could the Minister consider introducing facilities in such learning institutions that are user-friendly to disabled children because---

**Mr. Speaker:** Order, Mr. Omollo! Ask your question. Do not explain why you are asking it. Could you ask the question again?

**Mr. Omollo:** Mr. Speaker, Sir, could the Minister consider introducing facilities which are user-friendly to disabled children?

**Prof. Ongeri:** Mr. Speaker, Sir, it is not a question of introducing these facilities because that is mandatory. There must be user-friendly facilities in any institution with special needs children to enable them learn. We normally take punitive action against institutions with special needs children which cannot cope with them.

*Question No.392*

UNPAID DUES TO SUPPLIERS UNDER  
OPERATION *RUDI NYUMBANI* PROGRAMME

**Mr. Kiuna** asked the Minister of State for Special Programmes:-

What steps she will take to ensure that the suppliers of the materials used to re-construct the housing units for the IDP returnees in Molo Constituency under the Operation *Rudi Nyumbani* Programme are paid their dues by the NGOs contracted.

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

I am not aware of any contract between my Ministry and NGOs on construction of houses for IDPs under the Operation *Rudi Nyumbani* Programme. Therefore, my Ministry does not have powers to force any NGO to comply with the agreements they entered into with their suppliers.

**Mr. Kiuna:** Mr. Speaker, Sir, I have a lot of respect for the Minister because we have been working very closely in resettling the IDPs in Molo Constituency. However, she has misled this House by disowning these NGOs assisting in resettling the IDPs. I was in a function with her where she commended an NGO by the name of Hope Africa Management Initiative. This NGO came to my constituency through her Ministry and requested the IDPs to contribute Kshs5,000 each towards construction of houses. The NGO collected the money and houses were constructed for them. I wonder why she says she is not aware of that NGO. She should tell this House exactly what went wrong because at that function she was with her officials. If not so, she ought to honourably resign to pave way for investigations, so that we can know the root cause---

**Mr. Speaker:** Order, Member for Molo! What is your question?

**Mr. Kiuna:** Mr. Speaker, Sir, could she confirm or deny that she was not involved with this NGO by the name Hope Africa Management Initiative?

**Dr. Shaban:** Mr. Speaker, Sir, I do not know why the hon. Member finds it difficult to understand what I said. I said there is no contract between our Ministry and any NGO constructing houses for the IDPs in this country. That is the truth. That is the fact.

I was in Molo Constituency to officially commission those houses because we have been working with so many NGOs who have been constructing houses all over the place. I had an invitation from the District Commissioner and area Member of Parliament. I went there in good faith. I did not know that they had entered into any contract with the NGOs for construction of houses. They had not paid because we, as a Ministry, were not part of that contract. All I am interested in is to see all IDPs settled in this country.

**Mr. Mbugua:** Mr. Speaker, Sir, could the Minister tell this House the progress of resettlement of IDPS, including buying land for them?

**Dr. Shaban:** Mr. Speaker, Sir, I prefer that the Member for Kamukunji brings a substantive Question on that one.

**Mr. Speaker:** Mr. Mbugua, could you rephrase your question?

**Mr. Mbugua:** Mr. Speaker, Sir, that is a very relevant question with regard to resettlement of IDPs.

**Mr. Speaker:** Order! Could you rephrase your question in summary?

**Mr. Mbugua:** Mr. Speaker, Sir, could the Minister tell us the progress of resettlement of IDPs, including buying them land?

**Mr. Speaker:** That is doing very well!

**Dr. Shaban:** Mr. Speaker, Sir, I prefer that the Member brings a substantive Question, so that I can bring a proper answer. Otherwise, giving an answer which is not complete will not be fair to him.

**Mr. Speaker:** Fair! That is an acceptable position to take.

**Eng. Gumbo:** Mr. Speaker, Sir, I have asked this question before and I want to ask it again. There are people from our areas who were settled in the Rift Valley who were also chased away during the post-election violence. What plans does she have to resettle those people who went back to their original homes?

**Dr. Shaban:** Mr. Speaker, Sir, we refer to those IDPs as integrated because they are living with their relatives. We have started rolling out programmes to give them the Government support. Some of them have already been paid, but others are still waiting for their payments. However, the process is taking rather long between our Ministry and Central Bank--- But we should be completing the exercise soon.

**Mr. Kigen:** Mr. Speaker, Sir, my constituency is one area where there were so many problems caused by the post-election violence and many people were actually displaced. There are people who resettled. A large number of them had their names written down for purposes of being compensated. However, up to now, there is no progress which has been made to assist them because the people who got Kshs10,000 in the first instance are the same people who were given Kshs25,000. Some had houses built for them. But those who were left out from the beginning have not got any compensation. What is the Ministry doing to compensate them?

**Dr. Shaban:** Mr. Speaker, Sir, those are the same IDPs I refer to as integrated. These are people who have been living with their relatives. We are rolling out a programme which will cater for them. The Ministry does not accept any new list from whatever source.

**Mr. Kiuna:** Mr. Speaker, Sir, although the Minister has tried to answer this Question, I am not fully convinced that her Ministry is not in charge or does not collaborate with NGOs which are constructing houses for the IDPs in the Rift Valley Province, particularly in my constituency. As I speak, there are over 10,000 IDPs waiting to be resettled. I would like the Minister to clarify the role of her Ministry and the NGOS in resettling these IDPs. These NGOs are exploiting the IDPs---

**Mr. Speaker:** Order, Member for Molo! What precisely is your question?

**Mr. Kiuna:** Mr. Speaker, Sir, what is the role of the Ministry of State for Special Programmes and that of NGOs in the resettlement of the IDPs.

**Dr. Shaban:** Mr. Speaker, Sir, I am now forced to talk about things which I did not intend to address myself to. Hope Africa Initiative is an NGO. Maybe, the hon. Member can tell us where it came from. I only heard of it from the hon. Member when I went to Molo Constituency. He told me that they were doing a very good job. So, I was not part and parcel of it. The only part I really enjoyed was to make sure that IDPs were able to enter into those 500 houses.

**Mr. Ruteere:** Mr. Speaker, Sir, for the second time, I beg to ask my Question on the Order Paper.

*Question No.445*

UNACCOUNTED FUNDS FOR TIGANIA

## EAST CDF ACCOUNT

**Ruteere** asked the Minister for Lands:-

(a) whether he is aware that Mr. Muchiri, then a District Land Adjudication Officer for Meru North District, who was given Kshs500,000 by Tigania East CDF Committee, in August 2008, to buy equipment for use in Land Adjudication in the constituency was later transferred to another district, but is yet to account for the funds to the CDF Committee; and,

(b) What disciplinary action he has taken against the officer and ensure that the money is returned to Tigania East CDF accounts?

**The Minister for Lands** (Mr. Orengo): Mr. Speaker, Sir, I wish to apologise. The last time this Question was called last week, I was not here. I arrived in the House late by about five minutes. I could not help it because of the traffic. I do not know whether it has been asked previously because the Member is asking for the second time. I do not know whether I got him right.

**Mr. Speaker:** Yes, indeed, he is, hon. Orengo. The House will want to hear your explanation as to why you were not here when the Question was called at 2.30 p.m. or thereabout.

**The Minister for Lands** (Mr. Orengo): I am really sorry. I had kind of worked it out that if I arrive 20 minutes after the commencement of the business of the House, I would be here in time. But I realise that that is not an excuse because business starts at 2.30 p.m. I wish to apologise. Next time, I will not try to give an excuse.

**Mr. Speaker:** Proceed. Since you are a first time offender, we will not punish you.

**The Minister for Lands** (Mr. Orengo): Thank you for listening to my mitigation. However, I beg to reply.

(a) Yes, I am aware that Mr. John Mathenge Muchiri, who was previously the District Lands Adjudication and Settlement Officer for Meru North District was given Kshs500,000 by Tigania East CDF Committee in August, 2008, to facilitate land adjudication in Tigania East Constituency.

(b) The officer was transferred to Mwingi District. He has given an account of how he utilised the funds which involved the following activities and payments:-

(i) Procured and paid for a hand held GPS Garmin ETrex Vista HCX at Kshs35,000. He repaired a GK Vehicle Registration Number A761D, a Land Rover, at a cost of Kshs167, 300; he procured and paid for fuel worth Kshs101, 700; he paid seven officers allowances totaling Kshs136,000. He proceeded to establish the external boundary of Gitu Adjudication Section and 350 control points; he had 1,000 plots demarcated and surveyed. The balance of Kshs60, 000 was handed over to the Tigania East Constituency Development Fund (CDF) Manager by Mr. Muchiri as previously advised by the MP for the area. The CDF Fund Account Manager has confirmed that he has documentary evidence of the utilization of Kshs440,000 and the cash refund of Kshs60,000. Documentary evidence is available with me for scrutiny and confirmation.

(b) In the circumstances, the question of taking disciplinary action against the officer does not arise.



But, Mr. Speaker, Sir, I must add that where the CDF Committees decide to utilize public funds, even if it is inter-Governmental, that particular committee must make sure that they abide by Government's financial regulations. It is important for the committees to follow those Government's financial regulations. We have advised our officers where the CDF wants to use their talents or skills, they should make sure that the money they are spending is sourced and spent in accordance with the Government's financial regulations. So, there may have been some irregularities to that extent, but a full account has been given, which was the basis of the Question.

**Mr. Ruteere:** Mr. Speaker, Sir, I am shocked by the Minister's answer. One, you realize that the Kshs500,000 was given for the purchase of equipment and in the account he has given, only Kshs35,000 was used to purchase the equipment. The balance was used for allowances, for other things, fuel and so on.

Mr. Speaker, Sir, as I speak today, Tigania East CDF does not have any documentary evidence that this money was used for the purposes for which it was intended and the officer should have accounted to the CDF in Tigania East. Why did he find it necessary to account to the Ministry and not to Tigania East, which must have the accounting documentary evidence?

**Mr. Orengo:** Mr. Speaker, Sir, probably, you may guide me. The Question that was asked was that this money was to facilitate land adjudication. Just read your Question; it was to facilitate land adjudication and not to buy equipment.

Secondly, Mr. Speaker, Sir, the documentary evidence is here with me for inspection. It is not quite right for me to go for each and every document, but I am prepared to lay the documents on the Table, which includes a letter from the account manager himself, saying that he has a full account and that he is satisfied with the manner in which the money was spent.

**Mr. Linturi:** Mr. Speaker, Sir, I believe it is not the wish of the Minister to defend notorious officers who are out there to really misuse public funds. I am saying this because Mr. Muchiri is a civil servant or the land adjudication officer who also served me in my district and he is also a beneficiary of Kshs500,000 from my CDF Committee. He was given that money to facilitate adjudication in my constituency. To date, he has not been able to really account for this money.

**Mr. Speaker:** Come to the point!

**Mr. Linturi:** Mr. Speaker, Sir, going by what the Minister has laid on the Table or explained before this House, was it fair for the land adjudication officer to have spent money in paying officer's allowances using CDF funds when the Ministry actually pays them a salary to carry out these duties?

**Mr. Orengo:** Mr. Speaker, Sir, there are certain categories of activities that officers are paid allowances, including Members of Parliament. Public officers are paid allowances depending on the nature of the work. If they do not fall in the normal line of duties, you are entitled to certain allowances. Now, in respect of the fact that the money was spent in the manner in which it was spent, part of the problem has been that the Government's financial regulations were not followed. It is for the CDF Committee and the fund account manager to ensure that before he engages a lands officer on the ground, that they abide strictly by the Government's financial regulations. We have advised our officers not to touch any CDF money unless they can see the authority to incur expenditure and other authority that is required before public money is spent. But this

was basically a local arrangement and we have advised our officers that before they enter into these kinds of local arrangements, they must check with the Permanent Secretary before accepting money.

**Mr. Linturi:** On a point of order, Mr. Speaker, Sir. We really experience such a very big problem when it comes to land adjudication, especially in Meru. When the hon. Members are going out to give money to facilitate land adjudication, it is because of the feeling that those areas were declared adjudication sections since 1960. From that particular period, adjudication has not taken place and especially with a lot of reference to my area when the Ministry does not have the facilities like vehicles and the money to facilitate adjudication; so, when we get out of our way to facilitate land adjudication, I think it is also very fair for the Minister to understand under what background we are coming from so that he can be able to assist us and our people so that we really have our land adjudicated.

**Mr. Speaker:** Order! Mr. Minister, you need not respond. We gave a lot of indulgence to the hon. Member. He told a long story, but he stood on a point of order. He did not indicate anything that was out of order and I find nothing out of order. I rule that point, therefore, out of order!

Proceed, Mr. Ruto!

**Mr. Ruto:** Mr. Speaker, Sir, I suggest that the Minister clearly tells us what exactly was due to this officer. Must he pay Kshs500,000---

*(Mr. Linturi consulted loudly)*

**Mr. Speaker:** Order, Mr. Linturi! This is not a market.

Proceed, Mr. Ruto!

**Mr. Ruto:** Mr. Speaker, Sir, officers keep asking for facilitation to such scaring tunes of Kshs500,000 and yet they are paid a salary. Could the Minister tell us what dues are payable to these officers other than money for transport and the one-quarter per diem – whatever they call it? Must we give them professional fees? How was this money accounted for? Does it pass---

**Mr. Speaker:** Order, Mr. Ruto! You are allowed one supplementary question.

**Mr. Orengo:** Mr. Speaker, Sir, if the hon. Member wants to know how the money was spent, I have full documentary evidence, including an admission by the Fund Manager that the money was spent. In fact, he has no complaints about it.

However, I would really want to encourage Members of Parliament to expedite land adjudication processes. I for one, have been encouraging Members of Parliament to do that. For you to do it properly, you must make sure that your Fund complies with the Government financial regulations. In places like Kisauni and Malindi, large sums of money are being spent from the CDF kitty. It is, however, spent on the basis that Government financial regulations have been complied with and that special accounts have been opened.

Mr. Speaker, Sir, according to the CDF Act, if you have a special project, you must have a special account for that project. You have no basis giving a Government officer Kshs500,000 and yet the Member of Parliament has not given evidence that such money was given out. He is putting us in a very embarrassing position. It is only because I have put this officer down to get an admission. Otherwise, even from his own

perspective, he will get a lot of problems with auditors when it comes to accounting for that money. So, this is what I am offering as free advice.

**Mr. Ruto:** Mr. Speaker, Sir, I specifically asked the Minister to tell the House how much money was appropriated by the officer on the various activities. What was it that was due to him? What is this that the Minister has accepted when he says that Kshs500,000 was spent properly by a single officer?

**Mr. Orenge:** In answering the Question, I read through what the money had been spent on. If it is on the issue of how the money was paid as allowances, I have an acknowledgement here and a schedule with cash receipts from various officers who were paid this money from the CDF account. The document I have here is certified as a true copy of the original. That is why I would like to encourage the hon. Member to look through these documents and then ask his questions. The answers lie in these documents.

**Mr. Speaker:** Mr. Silas Ruteere! We must close this matter now.

**Mr. Ruteere:** Mr. Speaker, Sir, in view of what the Minister has said that I read through the documents and then ask questions later, would I be in order to request you to defer this Question so that we can read through the documents and consult the hon. Member for Tigania East and the Chairman of CDF? This is a matter where an accounts manager did not consult the Chairman of the CDF Committee. The Chairman of CDF Committee, Tigania East, requested me to ask this Question because this money has never been accounted for. The equipment was never bought!

**Mr. Speaker:** We have given this Question the last 12 minutes. So, it is adequately ventilated. Mr. Ruteere, please, peruse the documents and if you will have any lingering issues, then the House will be prepared to accommodate you appropriately.

*Question No.257*

REHABILITATION OF HABASWEIN AIRSTRIP

**Mr. Affey** asked the Minister for Transport what plans he has to rehabilitate the Habaswein Airstrip, considering its current deplorable condition.

**The Assistant Minister for Transport (Mr. Mwau):** Mr. Speaker, Sir, I beg to reply. The Ministry of Transport has no plans to rehabilitate the Habaswein Airstrip at its present site because of the fine sandy soil of its ground. It is proposed that the local county council identifies another site where a new airstrip can be constructed.

**Mr. Affey:** Mr. Speaker, Sir, the Assistant Minister has answered this Question in a manner that is not quite satisfying. He is suggesting that the soil there is sandy. This means that it is dangerous for aircraft to land there. Habaswein Town has grown over time and the airstrip is becoming the centre of this town. Has the Ministry officially communicated to the council and advised the local officials on the ground about the possibility of shifting this airstrip from where it is to another site?

**Mr. Mwau:** Mr. Speaker, Sir, as far as I am concerned, the council must have been notified because the technical analysis indicated that the sand at the airstrip cannot sustain the reconstruction of the airstrip.

**Mr. Ogindo:** Mr. Speaker, Sir, what plans does the Assistant Minister have to rehabilitate other airstrips across the country, particularly Homa Bay Airstrip which is the largest in South Nyanza?

**Mr. Mwau:** Mr. Speaker, Sir, the Ministry has set up a team to re-evaluate all the airstrips in the country so that after the long rains, the Ministry will start rehabilitating them.

**Mr. Bahari:** Mr. Speaker, Sir, this is a very interesting scenario. The airstrip in Habaswein was constructed by this same Ministry. I believe soil investigations and other technical matters were done at that particular time. How come the Ministry is now saying that the place is not suitable any more for the construction of an airstrip?

**Mr. Mwau:** Mr. Speaker, Sir, that is the result of a technical analysis that was done by a team that deals with airstrips. It would be difficult for us to argue on that matter. Maybe, then it was okay, and maybe, now it is not.

*(Laughter)*

**Mr. Affey:** Mr. Speaker, Sir, clearly, the Assistant Minister is making a joke out of a very serious matter. The Government will, probably, move in when an unfortunate incident happens, say, when people lose their lives at the airstrip. The Government has not advised the council. It has not advised the Office of the President that this airstrip needs to be moved. How then do we expect that it will be moved without a formal advice from the Minister?

**Mr. Mwau:** Mr. Speaker, Sir, the Question was whether the Ministry has plans to rehabilitate the airstrip. I said that the Ministry has analyzed the airstrip and has found out that the sandy soils cannot sustain the rehabilitation that would be required. The council would be requested to---

**Mr. Chanzu:** On a point of order, Mr. Speaker, Sir. When I look at the Question, it does not ask whether the Ministry has got plans. In fact, it is asking what plans the Ministry has. That is exactly what the Question is looking for. I think the Assistant Minister is out of order.

**Mr. Mwau:** Mr. Speaker, Sir, if the Question is about what plans the Ministry has, then the answer is that there is no plan.

**Mr. Speaker:** Hon. Members, that brings us to the end of Question Time.  
Next Order!

## POINTS OF ORDER

### ALTERNATIVE LAND/HUMANITARIAN AID FOR MAU FOREST EVICTEES

**Mr. Ruto:** Mr. Speaker, Sir, I rise on a point of order to request for a Ministerial Statement from the Office of the Prime Minister.

You will recall that just before we broke for our recess, this House passed the Mau Task Force Report, subject to the caveat it provided; that human rights issues would be respected. I would, therefore, like the Office of the Prime Minister to clarify the following issues:-

(i) why the Government proceeded to ask people to move out of the Mau Forest to nowhere, against the spirit in which Parliament passed the Mau Task Force Report;

(ii) why the Government is not providing alternative land for the settlement of those people, as it had promised, and confirm whether it has reneged on its promise on relocation; and,

(iii) why the Government is not providing basic necessities to ensure that the humanitarian crisis that is developing there can be mitigated.

**Mr. Speaker:** Mr. Deputy Prime Minister and Minister for Finance, when will the Ministerial Statement be forthcoming?

**The Deputy Prime Minister and Minister for Finance** (Mr. Kenyatta): Mr. Speaker, Sir, it will be forthcoming on Wednesday next week, if it is okay with the hon. Member.

*(Mr. Ruto stood up in his place)*

**Mr. Speaker:** What is it, Mr. Ruto?

**Mr. Ruto:** Mr. Speaker, Sir, I believe that the Government is capable of issuing the Ministerial Statement tomorrow. I am fully aware that the Prime Minister will be addressing this tomorrow. So, I request that the Ministerial Statement be issued tomorrow, given the nature of the crisis that is developing out there.

**Mr. Speaker:** Mr. Deputy Prime Minister and Minister for Finance, do you have any reaction to Mr. Ruto's request?

**The Deputy Prime Minister and Minister for Finance** (Mr. Kenyatta): Mr. Speaker, Sir, with all due respect to the hon. Member, this is a very involving issue, and one day may not be enough. I suggested that we issue the Ministerial Statement on Wednesday next week, so that the Prime Minister can have adequate time to consult the respective Ministries.

**Mr. Speaker:** Taking into account all the circumstances, I order that the Ministerial Statement be issued on Wednesday next week. However, in the event that the Prime Minister will be ready to respond to the request tomorrow, he will be at liberty to do so.

Mr. Mungatana!

#### PROGRESS REPORT ON CONSTITUTIONAL REVIEW PROGRESS

**Mr. Mungatana:** Mr. Speaker, Sir, I rise on a point of order to seek a Ministerial Statement from the Minister for Justice, National Cohesion and Constitutional Affairs regarding progress on the Constitutional Review process. Today the Committee of Experts released the Draft Constitution. Emanating from this development, as Parliament, we would like the Minister to clarify the following:-

(i) provide the time-table showing the stage at which we are right now, in terms of the review process towards the release of a new Constitution, and confirmation as to when we should expect the new Constitution to be in place, specifying the months, all factors remaining constant;

(ii)state whether there is merit in the request to extend time from the current 30 days to more than 30 days for public debate, and how he intends to go about this, should it be necessary;

(iii)tell us whether there is merit in the campaign that we should have a Yes-Yes Vote during the Referendum, so that we can ensure that a new Constitution comes into force;

(iv)explain whether the concerns raised by the Chairperson of the Committee of Experts as to the sufficiency of the referendum law is merited, and whether he is satisfied that we have enough referendum law currently to cover the process; and,

(v)let the country know how much money has been spent so far in the process of reviewing the Constitution up to where we are, and how much money he expects to spend by the time of going to the referendum.

Thank you, Mr. Speaker, Sir.

**Mr. Speaker:** Minister for Justice, National Cohesion and Constitutional Affairs or, in his absence, somebody holding his brief!

**The Deputy Prime Minister and Minister for Finance** (Mr. Kenyatta): Mr. Speaker, Sir, can we put it for Tuesday next week?

**Mr. Speaker:** It is so ordered! Bring it on Tuesday next week!

Next Order!

## BILL

### *First Reading*

#### THE APPROPRIATION BILL

*(Order for the First Reading read – Read the First Time –  
Ordered to be read the Second Time today)*

## BILL

### *Second Reading*

#### THE APPROPRIATION BILL

**The Deputy Prime Minister and Minister for Finance** (Mr. Kenyatta): Mr. Speaker, Sir, I beg to move that the Appropriation Bill, 2009, be read a Second Time.

Mr. Speaker, Sir, His Excellency the President has signified his consent to this Bill.

The Appropriation Bill seeks statutory approval by Parliament of Government expenditures contained in the Annual Estimates of financial year 2009/2010. The Estimates for Recurrent and Development Expenditure were laid on the Table of this House on 11<sup>th</sup> June, 2009 and the House approved the Vote on Account on 24<sup>th</sup> June, 2009. The Government has been disbursing funds on the basis of this authority.

Mr. Speaker, Sir, upon being laid on the Table of this House, the Annual Estimates were committed to the respective Departmental Committees, according to their

mandates, for consideration and review. I believe that the Committees have submitted their reports to the House. May I take this opportunity to commend hon. Members of these Committees for their thorough review of the Annual Estimates?

The comments and proposals arising from these reviews have been noted and shall be taken into consideration by the Treasury and the respective line Ministries while implementing the Budget of the current financial year, and in preparation of Budget for subsequent financial year.

Mr. Speaker Sir, the Budget for 2009/2010 financial year is being implemented against the backdrop of severe drought and a global economic recession, which is likely to adversely impact on the well-being of our people. As a result of the persistent drought, the country is facing food insecurity, severe water shortages and inadequate power supply.

At the time of formulating this Budget, we foresaw these problems and, accordingly, worked with the relevant Ministries to come up with concrete programmes to deal with the energy and food issues. In this regard, this Budget has provided an allocation amounting to Kshs24.2 billion intended to finance the intervention programmes we have developed.

Mr. Speaker, Sir, the Government is committed to addressing poverty, inequality and creating jobs, in addition to dealing with the challenges that I have just mentioned. This will be achieved through revitalisation of the economy to achieve the desired economic growth.

Hon. Members will recall that the Budget for the current financial year is premised on a need to urgently overcome the immediate socio-economic challenges and cushion our people from the negative effects of the global economic recession.

Mr. Speaker, Sir, hon. Members are aware that this year, His Excellency the President and the Right Hon. Prime Minister launched the *Kazi kwa Vijana Programme*, which aims at creating gainful employment for our youth. The programme, which has received overwhelming support from the youth, is being implemented across the country, and the Government is committed to ensuring its successful implementation.

To further address inequality and unemployment, the Government is implementing an economic stimulus programme that is expected to stimulate economic growth at the constituency-level, reduce economic disparities in our society for national cohesion and stability and expand economic opportunities in the rural areas for employment creation.

Implementation of the programme commenced on 1<sup>st</sup> July, 2009 and was launched by His Excellency the President and the Right Prime Minister on 17<sup>th</sup> August, 2009. As mentioned earlier, this programme is being implemented at the constituency-level. I, therefore, urge all hon. Members to provide the overall guidance and oversight to ensure quick success in the implementation of this programme.

Mr. Speaker, Sir, following the review of the Ministerial Budgets by the Departmental Committees, despite the heavy schedule of discussing the specific Votes, this House managed to discuss 24 Votes during the Allotted Days. The rest of the Votes were approved through the Guillotine Procedure, in accordance with the provisions of Standing Order No.155 (8).

I fully appreciate the contributions of hon. Members during the debate in the Committee of Supply.

Mr. Speaker, Sir, we have debated these estimates and I now wish to present the Appropriation Bill (2009) which contains details for the supply of each Vote and the amounts to be applied as Appropriations-in-Aid.

Clause 2 of the Bill provides for the issue out of the Consolidated Fund of a sum of Kshs567, 719,780,247 and to appropriate the funds for the various services and purposes during the year ending 30<sup>th</sup> June 2010. This sum includes the amount authorized by the National Assembly on the 24<sup>th</sup> June 2009 by Vote on Account under Section 101 of the Constitution of Kenya.

Mr. Speaker, Sir, this sum takes into account the reduction of Kshs1 million that Parliament in its wisdom, reduced from the State Law Office – Vote R25. Clause 3 of the Bill makes provisions for sums to be applied as Appropriations-in-Aid for various services and purposes.

Finally, this Bill seeks to put into effect the result of the debate that took place in this House during the month of August 2009.

Mr. Speaker, Sir, allow me to thank all hon. Members for their full engagement on the issue of public expenditure management and indeed, the Treasury has benefited immensely from their constructive and informative contributions as we grapple with ensuring optimal utilization of available public financial resources and I look forward to their continued support.

Given the fact that we have already deliberated this Bill in great detail, it is my request to hon. Members that we speedily approve the appropriations in order for us to be able to release funds for the respective programmes as contained in the Budget.

With those few remarks, I beg to move.

**The Minister for Education** (Prof. Ongeru): Mr. Speaker, Sir, it is quite obvious that without the Appropriations Bill being passed here, the entire Government machinery will be grounded. I think this includes Parliament. Therefore, it behoves us all, as Members of Parliament having dutifully been involved in the departmental committees in scrutinizing the various budgets that had been moved before the Floor of this House and having been passed, it is only fair that we allow the Ministry of Finance to release fairly big amounts of money to enable various Government Ministries and departments to carry out the programmes that have been put in place.

Mr. Speaker, Sir, I have in mind the economic stimulus package that had been mooted out in this House which is an immensely popular package. For instance, putting centres of excellence in every constituency; one secondary school and two primary schools will to a large extent, help us cope with the issue of access to quality education in all areas of our country.

There is the issue of economic activities that have been coupled with the Constituencies Development Fund (CDF). This will energize our youth to be able to gain access to gainful employment and be involved in income generating activities apart from upgrading their skills in order to be able to participate fully in the economic activities of this nation. Therefore, I think this is one such Bill that needs to be passed very fast and quickly because the fact has been laid before the Floor of this House. Each Ministry has had an opportunity to present its report and budget here. Members of Parliament have had the opportunity to scrutinize these Votes very closely. We only request that as soon as this is done, in order to address the problem of delayed salaries, these resources should be channeled expeditiously from the Exchequer so that they are available for use by line



Ministries and departments in order to be able to ensure that the services to the people are timely.

With those few remarks, I beg to second.

*(Question proposed)*

**Mr. Ogindo:** Thank you Mr. Speaker, Sir, for this opportunity. I rise to support the Appropriation Bill.

*[Mr. Speaker left the Chair]*

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

I think this is coming at a time that this country is experiencing and witnessing tremendous transparency in the way things are being done. I want to thank this House for having passed the Fiscal Management Act. I also want to congratulate the Minister for Finance---

*(Loud consultations)*

Mr. Temporary Deputy Speaker, Sir, I cannot even hear myself.

**The Temporary Deputy Speaker** (Prof. Kaloki): Mr. Ogindo, please, proceed!

**Mr. Ogindo:** Mr. Temporary Deputy Speaker, Sir, I want to thank the Minister for Finance for his Budget. We support it. However, from now on, we want the Minister to strictly comply with the Fiscal Management Act as far as the various reporting of the goings on in the Ministry are concerned.

I also want to thank the Minister for having introduced the Economic Stimulus Programmes in his Budget. It is very popular; however, a few things stand out. One of them is that while we expect the Economic Stimulus to stimulate economic growth at the grassroots level, a few administrative challenges are posed there. For example, when we engage local stakeholders in meetings, there is no provision for administrative costs that plan the implementation of the economic stimulus. In the absence of that cost, we stand out to miss on the proper planning and implementation of the Economic Stimulus Programme. On that, we risk losing this opportunity. I want to ask the Minister for Finance and all the relevant Ministries to look into that issue so that administrative costs are factored in. This is in the same fashion that I normally say that once the Kenya Roads Board (KRB) money goes to the locals, there is a component on administrative cost. I want to persuade the Minister to consider that.

Mr. Temporary Deputy Speaker, Sir, we also look forward to an economic growth out of this implementation. I want to urge the Minister that when preparing these things, the need for grassroots involvement is very important. When we say we project an economic growth of 10 per cent, it is important to realize that the economic growth of this country is a summation of the individual productivity at the grassroots level.

It is important that we find a way of involving the grassroots into our economic programmes and plans, so that they appreciate and move with the Minister at the same

step. Otherwise, if we just display here in this House that there will be a growth without involving the people, then nothing happens.

I have also noticed that the Minister has introduced through Treasury and CBK a new payment system called the Electronic Funds Transfer (EFT). While it is my hope that this will improve the speed of transactions, I am slightly disappointed in the manner in which it has been implemented. It is, indeed, a new initiative. I think like any other new initiative, I expected to see a trial period of it before it was fully implemented.

*(Loud consultations)*

**The Temporary Deputy Speaker** (Prof. Kaloki): Order! Hon. Members!

**Mr. Ogindo:** Mr. Speaker, Sir, the new payment system is a good one because it is promising efficiency. However, the manner of implementation is so abrupt that it is disrupting business all over. Like any other new initiative, I expected it would have been test run parallel to the outgoing method, so that we appreciate its efficiency and efficacy before we fully implement it.

Mr. Speaker, Sir, I also want to express fear about this new system. It is important that there is transparency in the way transactions are done. The way I see it really involves very few people before a payment is done. Fears are that in the event that there is conspiracy to abuse this system, it will take too long to know whether money has been misappropriated. To that extent, I want to ask the Minister for Finance to go ahead and issue guidelines on how audit of this money will be done. We want to see a system where this money is audited internally. We do not want to see the post-humous audit that tells us how much money was misappropriated. We want a system of audit that will stop misappropriation of money. As it stands now, it is easy for any Ministry working in conspiracy with the Treasury and the CBK, to misappropriate funds through this system.

Mr. Speaker, Sir, the other issue I want to raise with the Minister is that along the economic stimulus programme, we agreed with the Minister for Finance that the roads money will come on a similar framework. As we stand now, very little has been heard about this. As I speak now, our roads are in very bad shape. We need this money and the guidelines to come up in good time, so that we can plan with the remaining six months of the financial year.

The other thing I want to say is on the Development Vote. We will recall that when we were discussing the Vote on Accounts, some of us, were on the forefront trying to reduce it to less than 60 per cent. As we are today, we have five months down the financial year. The way I see it, is that there are so many programmes and contracts going on in the Development Vote.

I have fears that most of these development projects might not be successfully implemented. I would want the Minister, in his response, to allay fears all these contracted projects will be completed. I want to give an example of Kendu-Bay-Homa Bay Road in my constituency. The contract sum is Kshs3.3billion. The contract period is 30 months. However, the allocation for this financial year was Kshs300 million. Going at that rate, one gets the impression that it will take 10 years to implement it. The fear of my constituents in Rangwe is that this project might not be completed in the contract period as stipulated. I would want the Minister to confirm that these projects will be completed.

With those few remarks, I beg to support.

**Mr. Bahari:** Mr. Temporary Deputy Speaker, Sir, I want to join my colleagues in supporting this Bill. I want to also to congratulate the Minister, particularly on his directive on vehicles to be used by Ministers and other Government officials. You know these are very difficult times. If this will help in reducing costs and transferring that money to development projects, that was a good idea.

I also want to congratulate the Ministers who have co-operated on this directive and ask those who have not to do so without wasting more time and ensure that this becomes a success.

I want to come to the issue of the management of drought. A lot has been said about *El Nino* rains. In parts of this country, in fact, northern Kenya, particularly up to now, we have not even had sufficient rains. The talk about *El Nino* as we speak is not there. Indeed, we are still doing water tankering. The Ministry did not do well in planning the management of drought this particular time during the budget. I think they did not do a good job. The Ministry needs to focus properly and ensure that in the event that *El Nino* rains do not come as it has been projected, then the Ministry should not be telling us that they did not know. I want them to know now that there is a possibility of rains failure in parts of this country and continued drought with all these consequences.

Mr. Temporary Deputy Speaker, Sir, perhaps, the effect of drought has not been properly pronounced. This Ministry, in conjunction with other relevant Ministries, needs to carry out a quick survey of the effects of drought in most parts of the pastoralist communities. Indeed, it is disastrous. Many people have now been reduced to abject poverty. They have nothing that they can resort to. The Government has not made any plans for them. Even if it had rained, it would not have impact on the lives of the majority of our population in northern Kenya. It is not a small matter. About 60 per cent of the people in my constituency have been reduced to beggars. It is a very serious matter. They have lost their cows, sheep, goats and other livestock. It is a pity that nobody is doing anything about it. I thank the Government for providing food, although it is not enough. That food is completely insufficient. I know the World Food Programme (WFP) has been appealing globally for more support. However, we need to do something about our own resources to ensure that no Kenyan dies out of starvation. I am happy the Chair comes from the area which is affected by this drought and I am sure he can confirm that this is what the situation is.

Mr. Temporary Deputy Speaker, Sir, the other issue is the one that was raised by hon. Ogindo, who spoke just before me. Countries now have moved in the direction of reading budgets three months before the end of the financial year, so that there is no money that is returned to the Treasury. What is going to get this country on the right course is how the Treasury is going to conduct its business. If it is going to conduct business as usual, then we will not get anywhere. They have to be innovative, including, perhaps, doing what other countries are doing; that is, reading the budget three months before the end of the financial year. By the time they come to the end of the financial year, they are already prepared and have put everything in place in terms of the implementation of the budget, so that no money goes back to the Treasury. This business of money going back to the Treasury – and we have decided that it is a normal thing – must stop. I want to urge the Deputy Prime Minister and Minister for Finance to be the first one to change that trend of money going back to the Treasury. Why should it go back? We have the capacity. If the devolution process is on, we should be able to move in

that direction. Indeed, the relevant Committee of the House should put that on its checklist; to see how much money has gone back this Financial Year. That should be one of the first things to check, because somebody came here to ask for that money.

Mr. Temporary Deputy Speaker, Sir, innovation in Treasury is the thing that is going to make a big difference. The Constituency Development Fund (CDF) Act changed the face of this country. In a span of four years, it has done more than all the things that have been done in terms of development for that last 40 years. It is that kind of innovation that will make a difference in this country. To add a rider, the CDF allocation was only 2.5 per cent of the budget. Indeed, one of the things that the Minister can do is to now improve that allocation, because it is already clear to him that, that is the way we can get development in this country. So, one of the easiest things that I can recommend to the Minister is to push that allocation up, from 2.5 per cent to 10 per cent. That way, there will be no money going back to the Treasury. Indeed, the total amount that goes back to the Treasury from Ministries should be sent to the CDF. The CDF will take up and ensure that, that money is utilized. There is no need any more to send money back to Treasury. The Minister can come up with a circular and tell all the Ministries that it is not acceptable for them to send money back to the Treasury. That money should be collected and sent to the CDF because it is ready to implement projects. It is this kind of thinking that will make a difference in this country and not the traditional way of doing things.

Mr. Temporary Deputy Speaker, Sir, we are also happy that the House Committees are scrutinizing policy issues, expenditures and so on. That is what the House is supposed to do and it should continuously do it. These are the reforms that Kenyans are looking for. Kenyans do not want to live in the past. We want to move into the future. It is this that will help us move into the future.

Mr. Temporary Deputy Speaker, Sir, with those few remarks, I beg to support.

**Mr. Mungatana:** Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me the opportunity to speak about this Bill.

From the outset, I want to say that I support this Bill for some reasons. First of all, the problem that resulted to the delay in the passing of the Appropriations Bill has more or less been resolved. Secondly, the Government has not been able to pay very many Kenyan businessmen out there, who have taken Government tenders and loans so that they supply it. This has resulted in very difficult situations for very many of our local businessmen. We need, as a Parliament, to take the leadership role that has been bestowed upon us and pass this Bill as soon as possible.

Mr. Temporary Deputy Speaker, Sir, having said that, I would also like to say from the Floor of this House that we are very disappointed by the Deputy Prime Minister and Minister for Finance in the manner in which Treasury has been run in the first quarter of the financial year. The Kenya Revenue Authority (KRA), in the first quarter of this year, reached a 97 per cent collection target. We need to congratulate Mr. Waweru and his team for doing a fantastic job at the KRA. We had hoped that the Deputy Prime Minister and Minister for Finance, with his team in Treasury, will reciprocate by making sure that the Budget is utilized in accordance with the Financial Statement that was passed in this House. Unfortunately, we have to express our disappointment regarding the 50 per cent Vote on Account. We have realized that some Ministries, like the Ministry of Planning, National Development and Vision 2030, have been allocated 100 per cent under the Recurrent Expenditure on the Vote on Account. Then, we have other Ministries

which have not even gotten 50 per cent of that amount. The Ministry of Agriculture also has been allocated over 70 per cent of the Vote on Account and yet, some Ministries have not been given even 20 per cent. So, there is a bit of indiscipline. What is happening in Treasury? Why is there discrepancy? Why is the Treasury allowing some Ministries to draw even 100 per cent on the Vote on Account when others are getting very little? Why is there this discrepancy? This House is not happy with the way the Budget is being managed.

Mr. Temporary Deputy Speaker, Sir, I could say the same thing about the Development Expenditure. Why is it that we have some departments, like the State House, which have been allocated zero in terms of Development Expenditure on the Vote on Account? Why is it that the Ministry of East African Community has also been allocated zero per cent, yet it presented its budget and development plan? Treasury is not giving money to the Ministries the way it is supposed to. Why is it that some Ministries are being given everything they want and yet, the others are not being given what they requested and we passed in this House?

Mr. Temporary Deputy Speaker, Sir, this is a reprimand from this House. We want to see a better managed budget. This House is not joking. With the passage of the Fiscal Management Act, so far, the Deputy Prime Minister and Minister for Finance has co-operated, but we expect more. We want the Budget to be managed properly. If we say that 50 per cent of each vote in each Ministry is going to be spent, then let us see that being done. Otherwise, we will be engaging in a futile exercise.

Mr. Temporary Deputy Speaker, Sir, the other issue that I would like to raise is the compliance report under the Fiscal Management Act. We expected that the Minister will be bringing those compliance reports so that he can show us that this is the budget that we passed and this is how they are complying with the wishes of Kenyans through this Parliament. This has not been done and we want the Minister to adhere so that we can see that, truly, he is doing what is supposed to be done.

Mr. Temporary Deputy Speaker, Sir, we want to state it, from the Floor of this House, that we expect the Budget to be followed in the manner that we agreed when the Minister made his proposals and we passed them. We want those days of roadside declarations to be gone and never to come back. We are very worried – and I have to state it from the Floor of this House again - about where money is being found, for example, to take the Cabinet to the Coast. Where do we account for that money?

Mr. Temporary Deputy Speaker, Sir, I am sure that when Mr. Waweru was raising these funds, he was not having in his pocket some money or small change where Ministers and Assistant Ministers could have a good time in Mombasa. The same could be achieved right here in Nairobi. Since the Ninth Parliament started, with the same President, and I served in that Government, we have never had to go outside to spend money in the manner it was been spent in this last Cabinet retreat. We expect the Minister to follow what we agreed we are going to do in this House. We want this time round things to be done properly. We are worried when we hear the Prime Minister saying that he is going to undertake a pilot project, to give money to urban dwellers in the informal sector settlement. Again, I do not remember at any one time when this Parliament passed this kind of money. If you are going to give money to people in informal settlements in Nairobi, what about Mombasa and Malindi? Why are we being left behind? Why is this pilot project being done in Nairobi alone and, did we pass that money in Parliament?

Mr. Temporary Deputy Speaker, Sir, I want to speak from the bottom of heart that, a day will come when we will scrutinize this Government. We do not want populist expenditures being done by the Executive at their whims; we want this House to be informed of the monies that are being spent. If we want to run a country and if we want the Treasury to run like an institution, I pray that we follow the budget strictly the way that we have discussed here.

Mr. Temporary Deputy Speaker, Sir, finally, I have looked at this Appropriations Bill, which I have said I am supporting, with the cautious remarks I have made, but I am worried again. I do not see clearly in the Ministry of Justice, National Cohesion and Constitutional Affairs where the money that we expect to spend for Agenda 4 Item is. I would want, when the Minister, will be responding to our concerns to explain for, example, where are we going to get money for referendum.

Mr. Temporary Deputy Speaker, Sir, the Draft Constitution was launched by the Committee of Experts. We expect that there should be heavy expenditure provision within this budget for money that will be used for civic education. I do not see it in the Ministry of Justice, National Cohesion and Constitutional Affairs. Could the Minister explain to us because we, as Kenyans, want to see this Constitution succeed, and we want to see these things in black and white? We do not want to be told that money will be found; money will be found where? We want to see that in black and white and to be told by the Minister that this money is here and Kenyans will have the new Constitution and this is where I have provided for it.

With those remarks, I would like to say, I support.

**The Assistant Minister for Youth Affairs and Sports** (Mr. Kabando wa Kabando): Thank you, Mr. Temporary Deputy Speaker, Sir. I would like to support this Bill because it is overdue and there is a very critical process of endorsing it by Parliament.

Mr. Temporary Deputy Speaker, Sir, perhaps, I should start by urging that we need to improve on the relationship between the Executive and Parliament so that all issues done by the Executive are well percolated within Parliament and that Members of Parliament also appreciate matters that are for the importance of the country and, therefore, give due consideration to the agenda that is tabled before the House. I say this in full appreciation of the fact that this should have been passed by this Parliament a long time ago were it not for the standoff that happened some time back and, therefore, the delay.

Mr. Temporary Deputy Speaker, Sir, this Government is doing a lot of work. The Office of the Deputy Prime Minister and Ministry of Finance is doing a lot of work, but there is need to improve on communication from all over. Even this House is usually condemned, sometimes unfairly, yet it has passed a lot of Bills and legislations that are bringing milestones and benefits to Kenyans on their welfare, their development and even on their pride. The Ministries of Roads, Youth Affairs and Sports, East African Community and others despite other issues that could be there, have achieved a lot of changes. What the Deputy Prime Minister and Minister for Finance did during this year's Budget; a lot of Kenyans and even friends of Kenya have, indeed, appreciated that it is a milestone towards devolution of resources and enabling every region in this country to have a touch on the national kitty. Long gone are the days when Members of Parliament or delegations from various parts of this country had to lodge in offices of Ministers

seeking assistance on very basic administrative resources or even infrastructural support for schools and other institutions.

It is only that, perhaps, even us as Members of Parliament are not members of this National Coalition because of special circumstance where only one Member of Parliament is in neither of the two partners of Parliamentary Group. Sometimes it is so adversarial we do not want to instill the confidence that we need to give the Kenyan community knowing very well that the country is replete with the potential for rejuvenation and to cause a lot of celebration. On Saturday, despite the loss of our national team; Harambee Stars to the Green Eagles of Nigeria, you could see *matatus*, trucks, lorries, bicycles and people walking on Thika Road all adorned in our national flag. All were celebrating that, yes, this is our team despite the hiccups and the hurdles that were potentially visible. Therefore, I urge all Members of Parliament, my colleagues, even when they are criticizing the Government, to take opportunity to appreciate that things have been done and they are happening.

Mr. Temporary Deputy Speaker, Sir, I also want to thank the Deputy Prime Minister and Minister for Finance. I know issues have been raised about the Volkswagen Passat vehicles. Every Member of Parliament was given Kshs3.3 million to buy a constituency vehicle duty free. Therefore, it does not make any logic. This morning when I was driving along Uhuru Highway, about ten vehicles stopped in the jam opening their windows to just wave at me because I was in my Passat. I went to my constituency last week, and one of the dailies chased me up to Karatina Market just to take a photograph of that Passat. It is not always just the question of exclusive efficiency or effectiveness, it is also a question of image. What image do you want to give Kenyans who are languishing in poverty and who can barely scratch a bare hand for basic minimum survival? We must be honest that in our pool as Ministers, we have vehicles that can take us to Narok. This Friday, I will be in Narok South and on Saturday, I will be in Kilgoris. I know the Ministry will facilitate me. Even on the ground, the District Youth Officers have Four-Wheel vehicles that can penetrate every village in the area you want to serve. Therefore, for the Ministers, my colleagues, who are giving very petty excuses that they are working in this Ministry, they cannot access remote areas; they are playing with the youth of this country. The youth are very patient with them today. Some of these Ministers are those who are hostages and captives of old thinking. They need to change and they need to move on, or those vehicles would be grabbed by the youth in the streets and be taken to the pavement of Treasury.

Mr. Temporary Deputy Speaker, Sir, this Bill is important in order to unlock the partnership between the people and the Government, and again I can---

**An hon. Member:** You are inciting the youth!

**The Assistant Minister for Youth Affairs and Sports** (Mr. Kabando wa Kabando): Mr. Temporary Deputy Speaker, Sir, protect me from those who are saying that I am inciting the youth. They are my parents and I respect them. I listen carefully.

Mr. Temporary Deputy Speaker, Sir, we must, as a nation, decide what we want to do. Today, we are saying that we are a very sovereign country. We know that Treasury is facilitated by development partners including International Finance Corporation (IFC) and other multilateral partners.

However, many times, we hear people saying that they do not want to listen to Dr. Kofi Anan, yet we know that the Coalition Government is a result of the mediation and

sanity that was injected in us, because we were temporarily insane to a point of killing ourselves. Parliament and Members of the Cabinet should celebrate when President Barack Obama comes to intervene. Even when Ocampo comes to intervene, we should not become captives of our ethnic regions or political parties.

Mr. Temporary Deputy Speaker, Sir, Dr. Anan is eminent. President Obama is our son because he is from a Kenyan gene; we are the only country in the world that set aside a whole day to celebrate when he was elected the President of the United States of America(USA); not even the USA itself did that. Recently, our President and our Prime Minister were among the first people to send congratulatory messages to President Obama when he won the Nobel Peace Prize.

Mr. Temporary Deputy Speaker, Sir, I will now move to my two last points. First, I will deal with the *Kazi Kwa Vijana* Programme. The Treasury must come up with rules. We do not want a Treasury that complains. We do not want to have a Minister who complains that certain departments of the Government have mismanaged the *Kazi Kwa Vijana* Programme monies. That is rightly so; I know I belong to the Government that should be streamlining all the monies that is going to the ground, which has the potential of causing a milestone that will impact on household incomes of Kenyans. Therefore, it is important that the Treasury declines to release any amount of money unless the rules are very clear, because we do not want anybody to play politics with the *Kazi Kwa Vijana* Programme, and claim that Kshs1 billion has been expended unprocedurally. This is money that should make an impact and bring about a big difference.

In the economy streamlining projects, the Treasury made major achievements. For those achievements, we appreciate the rules on the ground. We appreciate that there is also room for improvement, so that ownership on the ground is felt very well. The criteria of allocation of all the economic streamlining projects should be made very firm, so that we do not have a few constituencies going to camp at the Deputy Prime Ministers' Offices. I know that there are MPs who go there to ask why their areas were left out in this or that. The rules must be very clear, elaborate and firm. We do not want the Treasury to become benevolent when we are devolving funds. We want a Treasury that continues to be celebrated, as we are doing, under the Minister, who continues to be an icon of devolution of resources and improvement of governance.

Today coincides with a day which is historic. The day that the new Draft Constitution has been launched is the same day that the Deputy Prime Minister and the Minister for Finance has brought the Appropriations Bill here. That is a good coincidence, because we are focusing on the days ahead.

In conclusion, the USA has the New York Stock Exchange. However, perhaps, the most impacting trading programme in USA is the National Association of Securities Dealers Automated Quotation System (NASDAQ), the over the counter trading system. Many businesses in Kenya are collapsing because they are unable to have a regulation that can invite other people to expand their skills and knowledge that is required for such businesses. We have seen big families with very good businesses. However, those businesses come down when the founder has passed on, or when the offspring's of the founder do not agree. To date, we have many cases in court of children fighting over ownership of businesses, even when their parents are alive. It is important that the Deputy Prime Minister and Minister for Finance--- I am privy to the fact that we need to gazette rules for over the counter trading so that businesses in the rural areas and in towns can



harvest from the Mungatana's of this world and the Kabando's of the village, and so that they can improve, become firm, expand and be protected from the potential threats of collapse due to family squabbles, or hidden secrets when parents or older siblings do not give the accounts of the businesses.

If the Deputy Prime Minister and Minister for Finance were to do this, it would create a great impact in the way our domestic investments are done and in the way they can be rolled out to benefit our communities. This would also help in professionalization and commercialization of many businesses. We have many rich people in northern Kenya, keeping a lot of money under their mattresses. We still have old *wazees* in my village who fear putting their money in the Nairobi Stock Exchange. However, if they were given a system that is modern, it would make them invest in a way that would be enduring.

I beg to support.

**The Minister of State for Development of Northern Kenyan and Other Arid Lands** (Mr. I.E. Mohamed): On a point of order, Mr. Temporary Deputy Speaker, Sir. Considering that this Bill has been debated for over two weeks, would I be in order to move that the Mover be now called upon to reply?

**The Temporary Deputy Speaker** (Prof. Kaloki): Not now! Yes, Mr. Mbadi!

**Mr. Mbadi:** Thank you, Mr. Temporary Deputy Speaker, Sir for giving me this opportunity. I would like to inform the Minister that we have just started debating this Bill; he should allow us to debate. We have issues to raise. Therefore, let us debate the Bill.

This Bill should have been passed even before we went on recess, were it not for the standoff between the Executive and Parliament, which was for a good cause. I believe that this country needs the money. This House needs to give various Government Ministries and Departments money to function. If you had an opportunity, I am privileged because I sit in the Budget Committee, you would realize that some Ministries have already exhausted their Vote on account. Hon. Mungatana mentioned the Ministry of State for Planning, National Development and Vision 2030, which has exhausted its Vote on account on both Recurrent and Development Expenditure. So, for these Ministries to function in the rest of the year, we need to give it money to carry out its activities.

However, this raises one fundamental issue. There seems to be a problem in the management of the Budget in the entire Government. You will realize that there is a mismatch between the Recurrent Expenditure and the Development Expenditure. One would argue that we spend Development Expenditure so as to implement the development part of the Budget. However, there is a situation where you find a Ministry has spend up to 80 per cent of its Recurrent Expenditure, and only 10 per cent or less of the Development Expenditure. The question is, what are our officers there for? What are they doing for this country? Why should we pay them? Why should we spend Recurrent Expenditure if they are not developing this country? I have a case in point of the Ministry of Water and Irrigation, which has spent close to 70 per cent of its Recurrent Expenditure under the Vote on account. However, they have spent less than 30 per cent of the Development Expenditure. The question is, why can the Ministry not absorb the development budget?

This year's Budget was not only to spur economic growth, but was based on stimulation. It was based on economic stimulus. Failure to implement the economic stimulus package in time is impacting adversely on the economy of this country. The assumption was that we were going to implement the economic stimulus package to encourage expenditure and realize economic growth.

Mr. Temporary Deputy Speaker, Sir, unfortunately, as we speak, the economic stimulus package has not been implemented. It is being done in a haphazard way. The tendering is going on even before we identify the locations or the sites where the various projects need to be undertaken. If you are tendering for the construction of a market; which market is it and which area does it fall under?

There are certain provisions in the economic stimulus package like the money for buying IT buses. This is an allocation that I would like the Deputy Prime Minister and Minister for Finance to consider re-allocating because how do you buy TATA buses for Gwassi Constituency? I believe that Gwassi is an average constituency. There are constituencies with better infrastructure than Gwassi Constituency. So, you cannot drive the buses with computers in Gwassi Constituency even when it does not rain. If one insists on buying those buses then he or she is trying to make money at Treasury. This is a project that does not make sense to me.

We should transfer that money to the constituencies for buying computers. In any case, the Rural Electrification Programme has been rolled out and it is on-going. So, most schools will be connected with electricity. So, instead of putting those buses on the road which will breakdown, and we even do not know how we will fuel them, the money should be used to buy computers so that we do not lose the objective of enhancing Information and Communications Technology (ICT) in this country.

Mr. Temporary Deputy Speaker, Sir, there is an issue that I am sure the Deputy Prime Minister and Minister for Finance will take up when he presents the Finance Bill in this House. That is the money that was meant for roads. That is the money for the Fuel Levy Fund that is supposed to go to the constituencies. The Kshs18 million or Kshs19 million should go directly to the constituencies. We have had many issues with the District Roads Engineers and we do not want to have those problems any more. Let us be in control of that money.

I also want to talk about the Millennium Development Goals (MDGs). As a country, we committed ourselves that we will observe the deadline of 2015 to realise the MDGs. However, this is the first year that I have seen some attempts to address the various MDGs, some of which include poverty reduction and free primary education, but very little has been going on in terms of healthcare and provision of water. We should comply with the MDGs in our future budgets.

I also want to say that the Government of Kenya through the Consolidated Fund Services is paying money to the tune of Kshs1billion in repayment of loan and interest every year to the Central Bank of Kenya (CBK) for money that was printed in 1997.

In 1997, the CBK purportedly loaned the Government of Kenya Kshs38 billion and yet there was no loan. The whole thing was paper money. The CBK was asked to print paper money to fund Government activities because various donors had refused to give the Government money. Why should we continue to pay the CBK for a loan which was not there in the first place? If you look at the balance sheet of the CBK and its economic performance, you will find that it has been reflecting that it makes about Kshs1

billion in profits every year. It also pretends to pay bonuses to its staff and yet it does not make that profit. That is just money transferred from the Kenyan public to the CBK. That loan should be written-off.

Mr. Temporary Deputy Speaker, Sir, I also want to talk about some amount that appears on page 1022 of the Recurrent Expenditure Vote on the National Assembly Vote, Head 881 – Legislative Activities, Item 2640500. This is money that appears as other capital grants and transfers. This is an allocation of Kshs166 million. If you look at the last year's Budget, you will find that it was Kshs49 million but it has now increased to Kshs166 million. Why is this so? You will also realise that Parliament had asked for only Kshs66 million but was allocated Kshs100 million more. If you seek for an explanation, you will find that this money is supposed to be paid to nominated Members of Parliament. I have an issue with that because most of these Members are my friends. What is the rationale for making this allocation? Where is the law? I am told that there is a legal framework which is being developed. But why was the issue not brought before the House before the money was provided for in the Budget? I am told that this allocation has not been dropped although I can hear some Members murmuring that it has been dropped. If you look at the Bill, you will find that it is still intact. However, I have been told that there are some consultations and the money will be spent by the National Assembly to get offices for nominated Members of Parliament because the offices they are using have been donated to them by other hon. Members who are in the Cabinet. I would like to get an assurance from the Deputy Prime Minister and Minister for Finance that, that is what will happen. Or are we, as a House, agreeing to give the money to nominated hon. Members? If that is the thinking of the House, I have no problem. However, if you seek for my opinion, that is money that should not have been provided for in the first place.

Mr. Temporary Deputy Speaker, Sir, in conclusion, Mr. Mungatana has praised the Kenya Revenue Authority (KRA) for doing a good job but I think we are probably setting a low target. I cannot understand how the KRA hits or passes the target every year. Either we are setting unrealistic target, which is below what we can achieve or we need to think again. I do not think it is realistic for the KRA to consistently hit the target. That is not practical.

Again, if you look at the Treasury figures and those from the KRA, you will find that there is a mismatch. So, who is right? I am told that they are supposed to reconcile the figures. The reconciliation should be done consistently so that we know that whatever is being reported by the KRA is also what is being captured by the Treasury.

Mr. Temporary Deputy Speaker, Sir, my final remark is about what Mr. Mungatana has talked about. That is money for Agenda 4 and where it is. He has said that it is not under the Ministry of Justice, National Cohesion and Constitutional Affairs. That is true but when the Deputy Prime Minister and Minister for Finance read out the Budget, he said that some of the money that is in the Office of the Deputy Prime Minister and Ministry of Finance is meant for that purpose. Is that amount enough to carry out a referendum and registration of voters? This is because 208 constituencies do not have registered voters. Only two constituencies have registered voters. As I speak here, my constituency has no registered voter including myself. If that exercise will be carried out in order for the referendum to be realised then we need more allocation. I would like to warn those who have been in politics for long, please, give us a break. The continuous

comments about the Draft Constitution, which we have not even read--- Some people have already decided to sabotage it.

The young people of this country want a new Constitution because there will never be a perfect Constitution. Let us have a new Constitution. So, let the politicians stop commenting about this or that Executive. Each one of us has a preference for a particular Executive. We have 30 days to debate the draft Constitution. Let us start debating it rather than being emotional and trying to whip up tribal sentiments thinking that particular tribes stand to gain when a particular Executive is put in place. All of us stand to gain if we come up with a compromised Constitution. If it is the issue of boundaries, let us discuss it and separate it from the issue of devolution of resources. Let us discuss and debate as a country. I urge the Minister for Justice, National Cohesion and Constitutional Affairs to very quickly bring the necessary amendments to Parliament so that we pass them. As I speak here, I am aware that some people are preparing to take us to court if we go to the referendum because there is no referendum law. The schedule we have is so tight and the Minister should move with speed and present before this House various amendments that we require to pass a new Constitution so that this country can get back to its feet and move forward.

Thank, you Mr. Temporary Deputy Speaker, Sir.

**The Minister for Nairobi Metropolitan Development** (Mr. Githae): On a point of order, Mr. Temporary Deputy Speaker, Sir. I have been listening to the debate and not a single Member has had a contrary opinion. The Members are all supporting the Appropriations Bill, would I, therefore, be in order to request that the Mover be called upon to reply.

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

**The Deputy Prime Minister and Minister for Finance** (Mr. Kenyatta): Thank you very much, Mr. Temporary Deputy Speaker, Sir. I would like to take this opportunity, once again, to thank hon. Members for their contributions and assure them that their comments will be taken on board.

As I have stated before and I will restate it again, it is my intention and the Treasury's intention to ensure that we have a very close working relationship with this House. We have the comments that we receive from hon. Members. Where possible, we incorporate and take them on board.

A number of issues have been raised, especially on the utilization of vote on account. I think it is important that we also state that in some instances, there are priorities. For example, with the Ministry of State for Planning, National Development and Vision 2030, we must take on board the fact that we had a national census which required funding upfront. That had to be catered for. With regard to the Ministry of Agriculture, because of the unpredictability of our rains, we supported our farmers. We, as a Government, indicated that we would supply seeds and fertilizer around the country. So, there, again, we did need to prioritize some of those expenditures.

But, indeed, hon. Members are correct from the point of view that Ministry's also need to be able, as they develop their budget, to prepare their cash flows in accordance with their needs. That is a Ministry's function. Line Ministries are supposed to be able to

prepare their cash flows in accordance with needs. That is something that we also at the Treasury are emphasizing to line Ministries. We do see that at times funds are, indeed, released to line Ministries and they end up “sitting” in their respective Central Bank of Kenya accounts. That is, indeed an issue that we need to look at as we move forward.

Mr. Temporary Deputy Speaker, Sir, the issue of money for civic education, it is, indeed, my understanding that at least, there has been some provision. But more importantly, we know that there is a lot of money that has been given through various NGOs by development partners for the same purpose. We all want Kenyans to be informed on the Draft Constitution to be able to make informed comments on the draft that is before us, so that we can move together as a country and ensure that we give ourselves a new Constitution in the shortest possible time.

There was an issue raised on rules and regulations for the stimulus package. Again, it is not a question of us wanting to play favour to one Member or another. But this is the first time that we have developed a framework. Consequently, there has been a lot of debate between the Treasury and various Parliamentary Committees on that particular framework and changes have been made as we go along. So, the reason for the lack of clarity is that we were developing this process. At times, the communication is not clear, but we believe that we will develop and adopt a framework to be put into place. Once that is done, the rules and regulations will be clear. There will be no reason for any particular Member of Parliament to troop to the Treasury to ask questions.

There was also an issue raised with regard to money set aside for nominated hon. Members of Parliament. As the hon. Mbadi mentioned, there is, indeed, discussion with the National Assembly and the Speaker to see how that money can be reallocated to take into account the various programmes that the National Assembly has, including the provision of offices for Nominated Members of Parliament.

We have deliberated on this Budget for a long term. There was the question also raised about the pace of implementation and monies being returned to the Treasury. That, again, is an issue, but it will be important for us to also point out that if we move and work as a team, for example, if we had approved this Budget in August, we would have made an incredible leap forward in terms of implementation. So, we really need to be able to move together. As we go on, it is my hope that we will be able to set aside issues. Budgets belong to all of us. We need to divorce it from other issues, so that we do not interrupt the budgetary process and its implementation because, at the end of the day, that is what we are all here to do; to ensure that resources are taken to the people in the shortest possible time and managed in an efficient manner. So, I hope that we shall be able to divorce budgetary issues from other issues that may crop up.

With those few remarks, I want to thank hon. Members and beg to move.

*(Question put and agreed to)*

## **COMMITTEE OF THE WHOLE HOUSE**

*(Order for the Committee read)*

*[The Temporary Deputy Speaker  
(Prof. Kaloki) left the Chair]*

## IN THE COMMITTEE

*[The Temporary Deputy Chairman  
(Mr. Mungatana took the Chair)]*

## THE APPROPRIATION BILL

**The Temporary Deputy Chairman** (Mr. Mungatana): Hon. Members, we are now in the Committee Stage.

*(Clauses 2 and 3 agreed to)*

*(Schedule agreed to)*

*(Title agreed to)*

*(Clause 1 agreed to)*

**The Deputy Prime Minister and Minister for Finance** (Mr. Kenyatta): Mr. Temporary Deputy Chairman, Sir, I beg to move that the Committee doth report to the House its consideration of the Appropriation Bill, and its approval thereof without amendment.

*(Question proposed)*

*(Question put and agreed to)*

*(The House resumed)*

*[The Temporary Deputy Speaker  
(Prof. Kaloki) in the Chair]*

**REPORT AND THIRD READING**

## THE APPROPRIATION BILL

**Mr. Mungatana:** Mr. Temporary Deputy Speaker, Sir, I beg to report that a Committee of the whole House has considered The Appropriation Bill and approved the same without amendment.

**The Deputy Prime Minister and Minister for Finance** (Mr. Kenyatta): Mr. Temporary Deputy Speaker, Sir, I beg to move that the House doth agree with the Committee in the said Report.

**The Minister for Nairobi Metropolitan Development** (Mr. Githae) seconded.

*(Question proposed)*

*(Question put and agreed to)*

**The Deputy Prime Minister and Minister for Finance** (Mr. Kenyatta): Mr. Temporary Deputy Speaker, Sir, I beg to move that The Appropriation Bill, be now read the Third Time.

**The Minister for Nairobi Metropolitan Development** (Mr. Githae): Asante sana, Naibu Spika wa Muda, kwa kunipa nafasi hii. Nataka kumshukuru Naibu wa Waziri Mkuu na Waziri wa Fedha. Kwa sababu sasa tumempatia pesa, tunataka azipatie Wizara pesa ili tuanze kuwafanyia wananchi wa Kenya kazi.

Asante sana, Naibu Spika wa Muda.

*(Question proposed)*

*(Question put and agreed to)*

*(The Bill was accordingly read the Third Time and passed)*

## **BILL**

### *Second Reading*

#### THE COMPETITION BILL

**The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Finance** (Dr. Oburu): Mr. Temporary Deputy Speaker, Sir, I beg to move that The Competition Bill be read a Second Time.

Mr. Temporary Deputy Speaker, Sir, the Government started to embrace competition policy in the mid-1990s. Therefore, the role of the Government in the market *via* State-owned commercial enterprises started to diminish and also measures such as deregulation, decontrols and privatization were introduced. These measures were used by the Government to determine the overall conditions and levels of competition that were likely to be met in specific markets in the economy.

Mr. Temporary Deputy Speaker, Sir, competition is rivalry between businesses. This rivalry is supposed to engender business to allocate resources and prices according to the market forces. This is expected to lead to better equality and wider choice of goods and services at lower prices. This is, of course, when there is unfettered competition.

However, Mr. Temporary Deputy Speaker, Sir, as Adam Smith said in 1796:- "It is not from the benevolence of the butcher, the brewer or the baker that we expect our dinner, but from their regard to their own interest." He also says "People of the same trade seldom meet together, even for merriment and diversion, but conversation ends in a conspiracy against the public, or in some contrivance to raise prices."

Mr. Temporary Deputy Speaker, Sir, this quote from the Adam Smith of 1796 is true today. The import of this statement is that the free market cannot operate independently without some form of competition or regulation. This is amplified by the fact that the business community is like a continent full of warlike people trying to

outmaneuver each other; big versus small, local versus the international and that, indeed, markets cannot function effectively and efficiently without those regulations.

Mr. Temporary Deputy Speaker, Sir, as we endeavor to actualize Vision 2030, there is need to create capacity in terms of regulatory framework and institutional dispensation to encourage and regulate competition in the economy. This will effectively control restraints of trade such as concerted practices or unilateral conduct, which injure the welfare of the consumer.

Secondly, Mr. Temporary Deputy Speaker, Sir, as we continue with our privatization process, there is need to check that public monopolies are not being converted into private monopolies. Private monopolies would, definitely, be more detrimental to the welfare of the consumers than the public monopolies. Therefore, the ultimate aim of this Bill is to create positive effects of our market-oriented economic reforms by specifically enhancing competition in the economy and, therefore, increasing firm's efficiency and innovation, with the end result of enhanced consumer welfare and protection. Effective competition regulation will also be a catalyst of increased competitiveness of our firms in the international markets, of course, with the concomitant benefits.

Mr. Temporary Deputy Speaker, Sir, the object of this Bill is:-

(i) To repeal the Restrictive Trade Practices, Monopolies and Prices Control Act, Chapter 504, Laws of Kenya.

(ii) Provide for the establishment of an effective regulatory framework; that is, legal and institutional, premised on best international practices while respecting our own national needs for regulation of competition in a liberalized market.

(iii) The Bill also provides for consumer protection.

Currently, we do not have a comprehensive consumer protection regime. Various aspects of consumer protection are contained in disparate pieces of legislation hence the Bill seeks to create a one-stop-shop to deal with consumer welfare issues such as misleading advertisements, representations, unconscionable conduct, supply of unsafe or defective goods and so on and so forth.

As the Common Market for Eastern and Southern Africa (COMESA) and the East African Community (EAC) competition regimes subsume consumer protection, in accordance with the principle of subsidiarity, we will be called upon, whenever necessary, to aid in the handling of extra territorial consumer protection cases on behalf of these regional authorities. This obligation also gives a compelling rationale for consumer welfare positions under a national competition law.

Mr. Temporary Deputy Speaker, Sir, the Bill is divided into ten parts. I wish to highlight some of the parts. In the preliminary part of this Bill, the Objects of the Bills are highlighted. They are meant to enhance the welfare of Kenya by promoting and protecting effective competition in markets and preventing unfair and misleading conduct. This will, of course, lead to increased efficiency, innovation and maximization of the efficient allocation of resources. Distribution of profit gains will also be enhanced since monopolies will be checked effectively and, therefore, prices in the economy will be fixed competitively.

Clause 4 of this particular part defines competition and market competitors as "any two or more persons supplying or acquiring goods or services that are the same or substitutable".



Clause 5 recognizes that some State-owned enterprises can engage in anti-competitive practices. For example, they can discriminate against suppliers or they can issue exclusive rights to certain players. This clause also accords the proposed authority overall jurisdiction on all matters concerning competition and consumer welfare. It also provides for sharing of information and promotion of co-operation between the authority and the various sector regulators.

Mr. Temporary Deputy Speaker, Sir, in Part “C” of the Bill, we deal with the abuse of dominant position. Clause 23 provides for criteria for determination of dominant undertaking which is singlehandedly or collectively with not more than other undertaking suppliers, more than 50 per centum of goods or services in Kenya.

Clause 24 enumerates abuse of dominant position to include a position to impose unfair prices, limit or restrict entry, discriminate or impose or intellectual property rights abuse.

Clause 25 provides for the exemption of certain restrictive trade practices which can maintain or promote our exports, prevent decline in the production of goods and services, promote technical or economical progress or stability in any industry and also restrictive trade practices whose benefits would outweigh the effects of lessening of competition in the economy. This will, particularly, concern Small and Micro-Enterprises (SMEs). We need to protect them. This provides for the rule of reason and criteria in the analysis of the restrictive trade practices especially vertical restraints which may be aimed at enhancing efficiency in distribution.

In Part “E”, which deals with investigations into the prohibited practices, Clause 31 provides for the investigations into restrictive trade practices or AODs. Any person can complain and if the authority does not wish to investigate, it has to give reasons for not investigating.

Clause 32 provides for the Authority’s power to enter and search and copy records and data while conducting investigations. These powers are pertinent to any cartel---

## QUORUM

**Mr. Chanzu:** On a point of order, Mr. Temporary Deputy Speaker, Sir. When you look around, you will realize that we are less than 30 Members of Parliament and yet we are discussing a very important Bill. Is there a quorum in the House?

**The Temporary Deputy Speaker** (Prof. Kaloki): No, we do not have a quorum. Ring the Division Bell.

*(The Division Bell was rung)*

## ADJOURNMENT

**The Temporary Deputy Speaker** (Prof. Kaloki): Hon. Members, due to lack of quorum, I will now interrupt the business of the House. The House stands adjourned until tomorrow, Wednesday, 18<sup>th</sup> November, 2009 at 9.00 a.m.

The House rose at 5.35 p.m.