

NATIONAL ASSEMBLY

OFFICIAL REPORT

Thursday, 25th June, 2009

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

COMMUNICATION FROM THE CHAIR

ZAMBIAN PARLIAMENTARY DELEGATION IN SPEAKER'S ROW

Mr. Speaker: Hon. Members, I wish to introduce to you, and welcome this afternoon, a delegation from the Parliament of Zambia, who are seated at the Speaker's Row. They are:-

Hon. Kali G. Kombo – Leader of the delegation,
Hon. Josphine Limata, MP,
Hon. Passy Chada, MP,
Hon. Paul Zichamba, MP,
Hon. Vincent Mwale, MP.

They are accompanied by Ms. Dolly Mkunga, Clerk of the Committee.

They are Members of the Committee on Energy, Environment and Tourism and have been in the country since Sunday 21st June, 2009, on a study visit on how our Parliament works, particularly the Departmental Committee on Energy, Communications and Information. During their stay, they are scheduled to interact with our Committees, meet with officials from the Ministries of Energy, Tourism and Forestry and Wildlife as well as visit the Olkaria Geothermal Project in the country. The delegation leaves the country on Saturday, 27th June, 2009.

On behalf of the House, and on my own behalf, I wish the delegation a fruitful and happy stay in Kenya. Thank you.

QUESTIONS BY PRIVATE NOTICE

NUMBER OF BODIES DETAINED AT KNH MORTUARY

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

(a) How many bodies are detained at Kenyatta National Hospital mortuary as a consequence of inability to settle hospital bills?

(b) Could the Minister explain why the hospital bill waiver policy was scrapped in February, 2009?

(c) Could he also state the number of patients who have been discharged, but continue to be detained due to inability to settle bills and indicate the cost being incurred by the hospital as a result of this detention?

(d) What urgent measures is the Government taking to de-congest the hospital facility and reinstate the waiver policy?

Mr. Speaker: The Minister for Medical Services! He is not here! We shall revert to the Question a little later on. Maybe, the Minister is held up somewhere.

FATAL SHOOTING OF MESSRS. J.O. OCHOL
AND C. GATHOGO

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

(a) What are the circumstances surrounding the fatal shooting of Messrs. Jeremiah Otieno Ochol and Christopher Gathogo on 13th June, 2009?

(b) Could the Minister confirm that the two were removed from a Mombasa-bound minibus and shot at point blank range by police officers at Konza in Machakos?

(c) What action has the Government taken to apprehend the suspects?

(d) When will the bodies of the victims be released to their next of kin for burial?

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Speaker, Sir, I would like to request that I answer this Question next week, if we do not go on recess. We received the Question yesterday, and we need to get information from the ground. I do not want to give an unsatisfactory answer to this Question because of its nature. The Question involves killing of some people. So, if you can give me more time, I will get a satisfactory answer.

Mr. Speaker: Hon. Olago, what is your reaction to the Assistant Minister's position?

Mr. Olago: Mr. Speaker, Sir, this Question relates to killings by the police. The bodies are lying at a mortuary and the relatives would wish to have them removed for burial after this Question has been answered. So, the Assistant Minister may be in a predicament in the event that the House is adjourned.

Mr. Speaker: Hon. Assistant Minister, what is your response to that?

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Speaker, Sir, the answer which I have is quite unsatisfactory. But if he wants me to read it for the sake of it, I have no choice. However, I have said that I want to have more time to investigate this matter. I understand that these people were removed from a bus.

The answer which I have states that these people were criminals. So, I want to establish the truth of the matter. So, it is not good to just give an unsatisfactory answer. I am seeking the indulgence of the Chair to give me more time to get the truth of the matter.

Mr. Speaker: Hon. Olago, I am sure you are interested in an answer that is satisfactory. The Assistant Minister is pleading for time. I think you should accommodate him.

Mr. Olago: Mr. Speaker, Sir, in the circumstances, I will leave it to the Chair's discretion.

Mr. Speaker: Yes, it is directed that this Question shall be answered on Wednesday next week.

(Question deferred)

CLOSURE OF NZAUI DISTRICT TREASURY

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

(a) What informed the Government's decision to close Nzau District Treasury in September, 2008?

(b) When will the Government re-establish the Treasury to ensure that accounting and procurement services are brought closer to the area residents?

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

(a) Nzau District Treasury is operational. However, due to acute shortage of accounting staff, the operations of the office are supervised by the District Accountant at Kibwezi. The District Treasury is operational, as I speak.

(b) It will be fully staffed immediately after July, 2009, when the Public Service Commission is expected to complete the interviews and the placing of 320 accountants.

Mr. Kiilu: Mr. Speaker, Sir, the Assistant Minister has tried to answer this Question. However, this is a simple Question which he has avoided to answer. Why did the Government close the District Treasury in Nzau? The creation of districts is a demand by the wananchi, so that services are brought closer to them. Why did the District Commissioner close the District Treasury?

Mr. Ojode: Mr. Speaker, Sir, I have mentioned that we were have a shortage of personnel in the district, especially accountants and accounts clerks. That is why we transferred some of the services to Kibwezi. As I speak, there are interviews going on at the PSC and by July, 2009, we will post these officers, so the people of Nzau can have services closer to them. July is just two weeks away. If the hon. Member can bear with us, we will definitely give him the personnel.

Mr. Kiilu: Mr. Speaker, Sir, I do not think I should thank the Assistant Minister, because the facts are straightforward. This District Treasury was closed for reasons other than the shortage of staff. There was a District Accountant whose office was closed by the District Commissioner, and he was chased away. Why has the Government not found it fit to post there another District Accountant?

Mr. Ojode: Mr. Speaker, Sir, I am not aware that the office was closed by the DC. As the Government, we are aware that we have a shortage of personnel. I have promised this House that by July, two weeks from now, the hon. Member will be a happy man; he will have all the experts in his district.

ORAL ANSWERS TO QUESTIONS

Question No.116

GOVERNMENT EXPENDITURE ON SUBSIDIZED FERTILIZER

Ms. Karua asked the Minister for Agriculture:-

(a) how much money the Government has spent on subsidized fertilizer and/or free fertilizer in the last one year as well as the quality, size and brands procured; and,

(b) the respective recipients of the subsidized/free fertilizer, by name(s) and location(s).

Mr. Speaker: Order, hon. Members! The Chair has received notification that the Minister is still not available to answer this Question. So, hon. Karua, you will have to be prepared to indulge the Minister until next week.

Ms. Karua: Mr. Speaker, Sir, with your permission, Parliament should not have to function at the whims of the Executive. Yesterday, the House, and you, did indulge the Minister to today. Right now, not even the Assistant Minister is in the House to give indication as to what has happened. I am prepared to go with your direction, so long as it is ordered that the date you give next will be the final date, and if the Minister does not avail himself, he will be named as per the normal procedure. The Standing Orders should take effect. I do not know whether they are dodging answering the Question.

Mr. Imanyara: Mr. Speaker, Sir, this problem was envisaged by your Committee when we were making recommendations on the amendment of the Standing Orders. That is why we created positions for acting leaders so that they can answer Questions or lead Parliament in situations when the substantive Ministers are not there. That is both for Government and the Opposition. Have these provisions in the new Standing Orders been complied with so that we can know who is on duty today so that he or she can answer the Question and tell us where the Minister is?

Mr. Speaker: Order, hon. Members! Do the Chief Whips who are jointly discharging the duties of Leader of Government Business have any reactions to this matter? Mr. Midiwo, you are under challenge to offer an explanation as to why the Minister responsible for this portfolio is not present.

Mr. Midiwo: Mr. Speaker, Sir, I undertake to rein him in . I think that will be the right thing to do.

(Laughter)

Mr. Speaker: Mr. Deputy Prime Minister and Minister for Local Government, this is a matter that appears to recur too often. By the Constitution, the Office of the Prime Minister is supposed to supervise and co-ordinate Government affairs. "Government" includes performance of Ministers. Do you have any explanation for the House as to why your Ministers are not here?

The Deputy Prime Minister and Minister for Local Government (Mr. Mudavadi): Mr. Speaker, Sir, we had a Cabinet Session today. I do not know why some Ministers have not arrived here because personally I have arrived. Definitely, I take into account the fact that there is a serious breach here.

Mr. Speaker: Mr. Deputy Prime Minister and Minister for Local Government, we want you to understand the import of it. The Office of the Prime Minister is

constitutionally bound to ensure that it supervises and co-ordinates Government affairs. This is not just supposed to be in words. You have to act or perform!

The Deputy Prime Minister and Minister for Local Government (Mr. Mudavadi): Mr. Speaker, Sir, I will endeavour to ensure that in future Cabinet meetings, and when Parliament is in Session, the meetings end much earlier. This request will be put across to the Chairman of the Cabinet so that the Cabinet meetings can end much earlier to allow Ministers to be available in the House on time to answer Questions.

Dr. Khalwale: On a point of order, Mr. Speaker, Sir. This is a very serious matter. Because this calls for somebody whom we can hold responsible, as a House, when there is obvious lack of co-ordination, could I request that the Chair directs that the Government immediately names the Leader of Government Business?

Mr. Speaker: Order, Dr. Khalwale! From the directions that I have so far given, there is actually no vacuum. The Office of the Prime Minister is, by the provisions of the Constitution, bound to supervise and co-ordinate Government affairs. They must live up to the spirit and the expectations of the Constitution. This House expects them to do so. If they do not do so, this House has residual authority to ensure that they are compelled to discharge their constitutional responsibilities. So, the ball is back to you, Dr. Khalwale!

Ms. Karua: Mr. Speaker, Sir, I am just pleading with the Chair to give direction so that this Question is probably answered the next Wednesday that Parliament will be in session. That way, we will have a definite date.

Mr. Speaker: It is so ordered! The Question will be answered on Wednesday, next week!

Ms. Karua: Much obliged, Mr. Speaker, Sir.

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

Mr. Speaker: That matter should rest there, Mr. Imanyara.

Mr. Imanyara: Mr. Speaker, Sir, I am just bringing to your attention the provisions of Standing Order No.11(3) regarding the nomination of the Government Panel. It states that the Members nominated in accordance with paragraph (2) shall constitute the Government Panel. You will recall that when we were amending the Standing Orders, this provision was to take care of a situation such as this. This provides that if Ministers and Assistant Ministers are not in the House, there shall always be two people on the Government side in the House, whenever the House is sitting, who have directions on how to handle Questions that cannot be handled because Ministers are away. This applies to the Government side and the Opposition side. I seek your ruling as to whether this provision will abide by the decision to appoint the Leader of Government Business or whether, in fact, the two Chief Whips can constitute the Government Panel.

Mr. Speaker: Hon. Members, Standing Order No.11 (2), which I shall read in part states:-

“---the Leader of Government Business, with the approval of the Government, shall nominate two Members (being Ministers)---“

Given the fact that the Government has not yet appointed the Leader of Government Business, that Leader is, therefore, not available to nominate the two Members who can be approved by the House. So, this will have to await appointment of the Leader of Government Business in the House by the Executive.

Mr. Konchella, you can now ask your Question!

*Question No.175*INVESTIGATION OF FRAUD IN MARA
CONSERVANCY/OLOOLO GAME RANCH

Mr. Konchella asked the Deputy Prime Minister and Minister for Local Government:-

(a) whether he could invite the Kenya Anti-Corruption Commission (KACC) to investigate the fraud by the Mara Conservancy and the Directors of Oloolo Game Ranch who have prevented the County Council of Trans Mara from conducting any business for over a year;

(b) whether he could also order an independent audit of the books of accounts for the Mara Conservancy, while ensuring that the county council gets a competent Clerk; and,

(c) whether he could give an undertaking to prosecute persons who have defrauded the county council and recover all monies due to the council.

The Deputy Prime Minister and Minister for Local Government (Mr. Mudavadi): Mr. Speaker, Sir, I beg to reply.

(a) Trans Mara County Council was unable to conduct its business for one year because of the numerous court injunctions. However, I assure this House that the courts have canvassed the issues in dispute and have cleared the Council to transact business. It should be noted that elections of office bearers in all civic authorities have been set for the period between 30th June, 2009 and 15th August, 2009. This will present a window to this Council to put in place office office-bearers who will transact business for the remaining period.

With regard to the KACC, I would like to state that this is an independent body and it does not take instructions from anybody, but can on its own instance or request from others, investigate incidences of corruption in public institutions. I do not have any authority to invite the KACC to investigate private entities like the Mara Conservancy or the Oloolo Game Ranch. It should be noted that the Mara Conservancy and the County Council of Trans Mara entered into an agreement to manage a section of the Mara Game Reserve. Disputes have arisen between the two parties that have led to court cases one of which is Case No.30 of 2007 filed at the Kisii High Court. In view of this, it will be prejudicial for me to discuss this matter beyond what I have said.

(b) Mr. Speaker, Sir, I would like to inform hon. Members that Mara Conservancy is a private entity over which I cannot order an independent audit as requested by the Member of Parliament. However, we carry out routine audits and inspections in all local authorities. Where a malfeasance is detected, appropriate action is taken. Trans Mara County Council has a record of a high turnover of County Council Clerks at the instance of the locals.

In December, 2008, my Ministry posted a competent and experienced Clerk to the council, at Salary Scale 3, who was recruited by the Public Service Commission (PSC) of Kenya. The Clerk has held similar positions in different councils for over ten years, and I hope that he will be able to assist the Trans Mara County Council

(c) I wish to state that if investigations during the audit and inspection of the Ministry of Local Government reveal fraudulent activities, appropriate action will be taken accordingly, so that those responsible can face the law.

Mr. Konchella: Mr. Speaker, Sir, this Question has been hanging for a long time. This is about fraud at a county council. It is about corruption. It is about requesting the Minister to audit, recover the monies stolen and punish those involved. The Minister has attempted to give some answer but I believe that he is totally misled by his staff for some reasons. The Trans Mara County Council has not worked for one year because of court injunctions. No single case was heard by any court of law until the matter went to the High Court and the Court of Appeal, where those who obtained the court injunctions were thrown out. That is why the Minister is saying that the county council is now operational.

They have now started another process of obtaining injunctions to stop the council from implementing resolutions made by it to address the issues that have caused the problem in the first place. This is a Deputy Prime Minister and Minister for Local Government with executive powers to undo what is wrong and do what is right for the poor people. Mara Conservancy takes 54 per cent---

Mr. Speaker: Order! Order! Mr. Konchella, can you come to the Question? This is Question Time, and not debate time.

Mr. Konchella: Mr. Speaker, Sir, can the Deputy Prime Minister and Minister for Local Government, knowing that the county council has passed a resolution to prevent Mara Conservancy from taking 54 per cent of revenue collected, money they cannot account for because the Ministry does not want to audit their accounts--- It is public money, because it is not a private entity.

Mr. Speaker: Order, Mr. Konchella! Ask the question!

Mr. Konchella: Mr. Speaker, Sir, can the Deputy Prime Minister and Minister for Local Government use his powers, in accordance with the request of the council, to get rid of the conservancy and pave the way for the Kenya Wildlife Service (KWS) to take over the management of the Maasai Mara Game Reserve, so that the people can receive what is due to them?

Mr. Mudavadi: Mr. Speaker, Sir, as I stated, the agreement was between the Mara Conservancy and the Trans Mara County Council. They signed the contract. We have told the county council that if they feel there is a breach by the Mara Conservancy of the agreement that they signed – the Ministry was not party to that agreement – they have provisions within their agreement, which they can use, so that they terminate that agreement. That is the position we have advised Trans Mara County Council to adopt.

Mr. Ruto: Mr. Speaker, Sir, the Deputy Prime Minister and Minister for Local Government is not taking his responsibility seriously. If a contract is manifestly unfair to the people – if it is meant to fleece a county council – do you not have oversight powers to say “no” on behalf of the greater interests of the Republic? How can you tell us that you cannot do anything when a county council enters into a contract with a private company to take away 54 per cent of the revenue generated through a property that belongs to the public?

Mr. Deputy Prime Minister and Minister for Local Government, I believe---

Mr. Speaker: Order! You have asked two questions already!

Mr. Ruto: Mr. Speaker, Sir, can he confirm that he is, really, powerless? Can he take his job more seriously?

Mr. Speaker: Fair! Fair enough!

Mr. Ruto: And---

Mr. Speaker: Order, Mr. Ruto! You have asked a question already!

Mr. Mudavadi, can you, please, respond?

Mr. Mudavadi: Mr. Speaker, Sir, I take my job seriously. The position still remains the same: That we have advised Trans Mara County Council. There is a provision they can use to get out of this agreement. We have advised them: "You executed the agreement. Get out of it, if it is unfair to you."

Mr. Imanyara: Mr. Speaker, Sir, this is one of the only two Ministries that have executive roles in Government. As the Minister for Local Government, it is within the Minister's powers to actually call for that contract and cancel it, particularly where it reveals commission of criminal offences. Is it in order for the Deputy Prime Minister and Minister for Local Government to tell us that there is nothing he can do, because it is an agreement between two parties, when the agreement shows the commission of criminal offences? Can he not, himself, resolve this matter if, as he has been informed, there is criminal activity that has resulted in the loss of hundreds of millions of shillings belonging to a public entity?

Mr. Mudavadi: Mr. Speaker, Sir, we, in the Ministry, are very clear. We have advised Trans Mara County Council. They can move to court with speed and have this agreement cancelled. As a Ministry, we are strangers to this agreement. There is a liability issue here, and the persons who executed the contract have to move to court, in accordance with the provisions of the contract that they signed, so that they can get out of it.

Mr. Mungatana: Mr. Speaker, Sir, the facts that are within our knowledge are that Mara Conservancy is making so much money from Trans Mara County Council, but it is not paying anything that one can talk about. In fact, the Chief Executive Officer of Mara Conservancy earns Kshs1million per month. That tells you, roughly, what kind of revenues are being generated there. The Deputy Prime Minister and Minister for Local Government now says that he does not want to interfere with the contract. He has told us in his answer that from time to time, they carry audits on councils. Now, if Mara Conservancy is an agency of Trans Mara County Council, and he can carry out an audit on Trans Mara County Council, why can he not carry out an audit, find out how much money the people of Kenya are losing and then take appropriate action?

Mr. Mudavadi: Mr. Speaker, Sir, the second aspect of the point that the hon. Member has made is legitimate. Indeed, I have admitted in my answer that the Ministry of Local Government can carry out routine investigations and audits into local authorities. The Ministry will, indeed, audit Trans Mara County Council. On the basis of that audit, appropriate action can be taken.

Mr. James Maina Kamau: Mr. Speaker, Sir, I would like to ask the Deputy Prime Minister and Minister for Local Government whether he is aware of Cap.265, Laws of Kenya, which gives him a lot of powers. He can even dissolve the council at any time. He can even sack the Town Clerk at any time. This is a very small issue. I do not know why he is not telling us the whole truth.

Mr. Mudavadi: Mr. Speaker, Sir, I know that Cap.265 has got provisions, but whether I have the power or not, it should not be exercised recklessly. I cannot dissolve Trans Mara County Council without bringing a Motion for such action to this House for approval. That is the law that exists. I want to state again that, may be, it is important that it goes on record as to who the directors and founders Mara Conservancy are. It is important that I now read out, on record, as to who are the directors of this organisation are.

There is a Mr. Martin Foster as the Chairman, Mr. Brian Hill, Mr. Samuel Tunai, Mr. Kajabe, Mr. Nagil Parvit, James Robertson, John Konchella and, of course, the Town Clerk of that particular council.

Mr. Ruto: On a point of Order, Mr. Speaker, Sir. This Minister is fond of bringing to the House side issues. The issue is that there is loss of public resources. He is reluctant to use his immense powers to provide oversight. Would I be in order to request that this matter be referred to the relevant departmental Committee because he is playing around with issues? It has got nothing to do with the individuals who are directors. Why should they take 54 per cent of resources of the Trans Mara County Council, while the public is actually reeling under serious poverty? He is just prevaricating about threatening the Member of Parliament about the list. I did not even---

Mr. Speaker: Order, Mr. Ruto. You have made your point. I will bear it in mind as we take further supplementary questions on this. You will note that you have had an opportunity to ask a Question. So allow other hon. Members to ask questions.

The Assistant Minister for Roads (Dr. Machage): Mr. Speaker, Sir, Mr. Konchella is listed as one of the directors.

Hon. Members: No!

Mr. Speaker: Order! Dr. Machage, the name mentioned was John Konchella and not Gideon Konchella. It may be very coincidental that he shares a surname with hon. Konchella. Let that matter rest. John Konchella is not Gideon Konchella.

Mr. ole Lankas: Mr. Speaker, Sir, arising from the Minister's response to this Question, he says this council was not operational for one year. One year is a very long time for a Government entity like a council not to operate. I wish also to state that before this council entered into an MOU with this conservancy, it got 95 per cent of its revenue from this park. However, when they entered into this MOU, the figure changed. Could he tell this House how much revenue was collected for the last one financial year by the conservancy and how much of that revenue went to the council?

Mr. Mudavadi: Mr. Speaker, Sir, that is a completely different question because it will require me to produce different documentation here.

Ms. Karua: Mr. Speaker, Sir, I heard the Minister talk about contracts. We all know that contracts are not sacred when they are fraudulent. We know this Government cancelled the Anglo Leasing Contract. This is a mini Anglo Leasing that is fleecing a county council. Could he, on the basis of fraud, cancel the contract and help the council to fight the consequences or will he sit and abet fraud?

Mr. Mudavadi: Mr. Speaker, Sir, as I have stated here, there was a contract between the Trans Mara County Council and the Mara Conservancy. I have stated here that within the context of the Ministry of Local Government, we will do our inspection. If fraud is found to be there, then action will be taken. I have stated this in part "c" of the answer that I have given to this House.

Mr. Speaker: Mr. Minister, before I make the final decision on the fate of this Question, the kind of answers you have given, do not indicate to the House how long you are prepared to tolerate a local authority that does not follow your advice.

Mr. Mudavadi: Mr. Speaker, Sir, all local authorities must follow the advice we give them. If a local authority does not follow the advice, the first call of action is to take disciplinary action on the officers. The clerk of the Trans Mara County Council has been changed. There is a new one who has moved in. We expect the new clerk to follow the instructions, so that he can help that county council.

Mr. Linturi: On a point of order, Mr. Speaker, Sir. I feel the Minister is misleading the House. He says that local authorities must follow instructions. I have a letter from him dated 28th April, 2009, instructing the clerk of Maua Municipal Council to cancel the allocation of kiosks in my constituency. Up to now, the clerk and the management of that local authority have not complied with his directive. Is he in order, when his own officers are not taking orders from him?

Mr. Speaker: Order, hon. Members. That can be a genuine concern, but it is certainly a question relating to a different matter altogether. It would be unfair to ask the Minister to react to the fate of those instructions in respect of that other county council or local authority.

Mr. Minister, I will direct that you furnish this House with a report on whether or not the local authority will have complied with the advice that you have given to it within the next 60 days from today. You must file that report in the House.

Mr. Mudavadi: Mr. Speaker, Sir, I am most obliged and I will respond accordingly.

Question No.019

MEASURES TO CONTROL JUNK MAIL
IN E-COMMUNICATION

Mr. Lekuton asked the Minister for Information and Communications what measures he is taking to control junk mail or “spam” which is causing congestion and thereby inhibiting effective e-communication.

The Minister for Information and Communications (Mr. Poghio): Mr. Speaker, Sir, I beg to reply.

Kenyans, just like other citizens of the world, are concerned about proliferation of unwanted commercial solicitations and other junk mail. The Government is implementing a raft of internationally-accepted best practices and multi-jurisdictional approaches in dealing with the problem. This includes, but not limited to the following: legislation and regulation – the Government will ensure that the privacy rights are protected through the passage of the Data Protection Bill that will lay down penalties for misuse of personal information collected in Kenya.

Secondly, the Kenya Communications (Amendment) Act of 2008 mandates the Ministry of Information and Communications to promote secure e-communications. One of the measures is to facilitate the setting up of a Computer Emergency Response Team

(CRET) to co-ordinate internet wide response to computer security and privacy threats, including junk mail and spam.

Technology has enabled blocking or filtering of a large part of unwanted e-solicitations. The Government will, therefore, continue to promote development and utilization of software that performs this blocking or filtering function.

Finally and more important, is public awareness campaigns. The Government, through spartial centres and digital centres to be initiated at district level through the Kenya ICT board, will educate and create consumer awareness among Kenyans on the risks associated with unwanted e-solicitations and the opt-out options available to them.

Mr. Lekuton: Mr. Speaker, Sir, spam now makes up majority of email traffic. We have millions of unwarranted SMSs and even emails that continue to disrupt the internet flow in this country. It reduces the delivery capacity, productivity and even irritates users. We all get emails that are very dangerous to us. We receive letters where you are told that you have received US\$15 million and that you should apply. Kenyans have been fleeced as a result of that.

Has the Minister been able to communicate with *wananchi* to tell them that this is dangerous and you will be tackling it?

Mr. Poghio: Mr. Speaker, Sir, most *wananchi* do to not get these threats because a good number of them do not use the internet and are not exposed to spam. To get this, you must have an e-mail address. Only those who have e-mail addresses are subject to this. If you know how to use a computer, you can actually block them. You can say “no” and avoid them.

However, I have outlined that the Government is going to do something by bringing legislation and we are also going to use our digital centres all over the country to bring the information to *wananchi*. That is the only way we are going to educate them. Also, as soon as we begin to use more computers and internet lines, we will be able to communicate online to most *wananchi*.

Mr. Olago: Mr. Speaker, Sir, the Minister has conceded that the Kenya Communications (Amendment) Act of 2008 mandates the Ministry to promote secure e-communication. He has said that, that is why they are in the process of setting up a Computer Emergency Response Team. What has the Ministry done in actual terms since the Act was put in place, to secure communication?

Mr. Poghio: Mr. Speaker, Sir, I have just said that the Bill of 2008 mandates us---

Mr. Olago: On a point of order, Mr. Speaker, Sir. The Minister seems to be confused about what I am asking. He is talking about a Bill and I am talking about an Act of Parliament. The two are very different.

Mr. Poghio: Mr. Speaker, Sir, I think some points of order should just be overruled. This is because before there was an Act, there was a Bill. These things are, therefore, interchangeable.

(Applause)

Mr. Speaker: Last question, Mr. Lekuton!

(Mr. Mungatana stood up in his place)

Order, Mr. Mungatana! We are running short of time.

Mr. Lekuton: Mr. Speaker, Sir, I disagree with the Minister. We have many competent Kenyans who own computers. They are more than two million. I think our country has reached a stage where we are at the threshold of being extremely computer literate. People continue to get fleeced and you are asking us to block the spam. Some of these people do not know how to block them as much as they want to have e-mail addresses. With the fibre optic that you launched with the President about two weeks ago, how is it going to ease---

Mr. Speaker: Order, Mr. Lekuton! What is your question? You have so far given an opinion, you have argued with the Minister, so what is the question?

Mr. Lekuton: Mr. Speaker, Sir, how is the fibre optic that the President and the Minister launched two weeks ago in Mombasa going to help us solve some of these issues?

Mr. Poghio: Mr. Speaker, Sir, thank you for protecting me. Questions are supposed to be used to get information not to argue. However, I will still answer my friend.

Mr. Speaker, Sir, the fibre optic cable is going to translate into a bulk of capacity for internet users; something called broadband. It is going to have a bigger capacity. You will have more lines. You will be able to have faster communication and eventually it is going to be cheaper. It is beautiful for this country to know that this is the first time in this country that we will now have access. In fact, we will have so much capacity to do what we want to do online; business process outsourcing and to bring computers and internet to our primary schools and villages. There will be no issue of saying there is a shortage of capacity. That is what this fibre optic cable is going to do for us. I would like to encourage Members of Parliament that now computers can go to villages and our schools and connections to the internet will be easier. We can then talk about how to avoid the junk mail that the hon. Member is asking about.

Mr. Speaker: Next Question!

Question No.207

TARMACKING OF EJINJA-BUMULA ROAD

Mr. Odhiambo, on behalf of **Mr. Were**, asked the Minister for Roads when he will tarmack Ejinja-Bumula Road (C30) which is in a poor state.

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

I would like to inform the hon. Member for Matungu that it may not be possible to ascertain when this tarmacking of the road will be done. Nevertheless, the Ministry is in the process of identifying a consultant to undertake a feasibility study and the design of the road. Once these are complete, we will source for funds for tarmacking of the road. Meanwhile, this financial year, my Ministry has issued Kshs1.2 million for the maintenance of this road. An additional Kshs400,000 has been issued to the District Roads Engineer, Mumias, to undertake off carriageway works on the road through *Kazi Kwa Vijana* Programme.

Thank you.

Mr. Odhiambo: Mr. Speaker, Sir, is the Assistant Minister aware that last year, Mr. Were asked the same Question and in the reply he was told that this financial year this road would be factored in? Why has that not been done yet the Ministry promised that it would be done this financial year?

Dr. Machage: Mr. Speaker, Sir, I am very much aware of that suggestion last year. Indeed, I did make that promise. However, the decision on which projects get money is a prerogative of the Minister for Finance, depending on how much he has in the Exchequer. Unfortunately, that is the situation. We have to accept it. However, I am thinking about it and as I have mentioned, I will do something about it.

Mr. Yakub: Mr. Speaker, Sir, three weeks ago, I informed the Minister for Roads that along Mombasa – Nairobi Road at Mariakani, four people were killed. On Wednesday last week, a student was killed at the same place. Yesterday and today, two innocent Kenyans lost their lives at Mariakani as a result of the same road. Could the Assistant Minister arrange to construct bumps and rumble strips to reduce the deaths of innocent Kenyans at this black spot?

Dr. Machage: Mr. Speaker, Sir, whereas that is a completely different question, may I pass my condolences to the family and friends of the people who lost their lives on the road. I have taken the sentiments of the hon. Member and I will see what I can do in that area of Mariakani.

Mr. Washiali: Mr. Speaker, Sir, when the Head of State visited Western Province in March, he himself promised that this road was going to be tarmacked. Is the Assistant Minister saying that he is flouting the directives of the Head of State?

Dr. Machage: Mr. Speaker, Sir, of course not. That is why a consultant has been hired to do a feasibility study and give the proper information on the building of this road to bitumen standard.

Mr. Speaker: Last question, Mr. Odhiambo!

Mr. Odhiambo: Mr. Speaker, Sir, is the Assistant Minister aware that this road (C30) runs from Ejinja to Ruambwa? Why is it that it has been tarmacked half-way from Bumula to Ruambwa and left the upper part yet it is the same road? I also believe that a feasibility study has already been done.

Dr. Machage: Mr. Speaker, Sir, I am not only aware that this road runs from Ejinja to Bumula but also that it is classified as C30. I am also aware that it is nine kilometers long. It is due to lack of funds that we did what we did. I have promised that we are thinking about redoing the whole road. Let the hon. Member be patient.

QUESTIONS BY PRIVATE NOTICE

NUMBER OF BODIES DETAINED AT THE KNH MORTUARY

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

(a) How many bodies are detained at the Kenyatta National Hospital (KNH) mortuary as a consequence of inability to settle bills?

(b) Could the Minister explain why the hospital bill waiver policy was scrapped in February, 2009?

(c) Could he also state the number of patients who have been discharged but continue to be detained due to inability to settle bills and indicate the cost being incurred by the hospital as a result of this detention?

(d) What urgent measures is the Government taking to decongest the hospital facility and to reinstate the waiver policy?

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

(a) Currently, there are no bodies detained at the KNH mortuary as a consequence of inability to pay hospital bills. Nonetheless, there is an accumulation of 501 bodies in both the private and general wings. Twenty one bodies are classified as unclaimed and will be disposed off in accordance with the Public Health Act in liaison with the Nairobi City Council. The Public Health Act, Cap 242, obligates mortuaries to dispose of unclaimed bodies after 10 days. However, KNH normally preserves the bodies for 21 days, after which they are passed on to the Nairobi City Council for disposal. This is an attempt to avoid public health hazards.

(b) The hospital waiver policy was not scrapped in February 2009 as claimed but its use was limited to cater for abandoned patients, destitutes, orphans, aged persons, the mentally challenged and street families.

However, since the KNH provides terms of subsidized specialized care, both waiver and credit facilities are managed to ensure sufficient revenue is generated to meet the hospital's operating expenses.

(c) There are no patients detained by the KNH due to inability to pay their bills. Moreover, 599 patients have declined to pay cost-shared bills without proper justification or to negotiate for credit facilities. It should be noted that the hospital charges Kshs450 per day per patient to cater for food accommodation, which translates to Kshs269, 550 per day for the same. The patients have been assessed by the hospital's social workers and found to be in a position to cost-share for medical bills, as provided for in the Government policy on cost-sharing which is highly subsidized.

(d) My Ministry is currently fast-tracking hospital reforms which include revitalizing the referral system. The KNH is programmed to benefit from these reforms with a view to ensuring that only referred patients and emergency cases are treated at the hospital.

Mr. Jamleck Kamau: Mr. Speaker, Sir, I have a lot of respect for the Minister for Medical Services. However, the answer he has given is grossly misleading. The Minister claimed that there are 501 bodies, out of which 21 are unclassified, leaving a total of 480. He is not saying where exactly these bodies are.

There is one body of a deceased person from my constituency, Mr. Daniel Karanja Maina, who passed away on 26th May, 2009. Up to now, the hospital has refused to release this body because of a bill of Kshs267,700. As I speak to you, the wife of the deceased is at the Kenyatta National Hospital still pleading for the body to be released. For how long are poor people going to suffer at the expense of the Government's inability to take care of them? I want the Minister to deny or accept that the body of the late Daniel Karanja Maina from my constituency is at the mortuary as we speak now and the hospital has refused to release that body.

Prof. Anyang'-Nyong'o: Mr. Speaker, Sir, the hon. Member is right. The body of the late Daniel Karanja Maina, who passed on, on 26th May, 2009 is still at the mortuary. The bill is Kshs267,700. The hon. Member has already written to the KNH seeking a waiver. The KNH's response is, yes, we can waive this bill provided you come and make arrangements for credit as to how the bill will be paid because KNH must meet its cost. Unfortunately, the Government, this year gave the Minister for Medical Services, as you saw yesterday, only about Kshs1 billion to run the whole Ministry, which includes KNH. That is not good enough to enable us give all the services required at the KNH as well as waive the bills that should come from cost-sharing.

What is the answer to this? One, the nation should have a social health insurance scheme which will cover the poor. We have drafted such a Cabinet Memo and I hope that hon. Members will support the passing of that memo. Two, the Republic of the Government of Kenya should give sufficient funds to the Ministry of Medical Services to cover its cost because from nothing comes nothing.

Mr. Kigen: Mr. Speaker, Sir, how long will it take the Minister to bring the Social Health Insurance Fund Bill to this House to be deliberated and passed for the purpose of helping the needy Kenyans?

Prof. Anyang'-Nyong'o: Mr. Speaker, Sir remember that this Bill was brought to this House in 2005. The House passed it but it was not signed into law by the President then for good reasons because there were certain loopholes that needed to have been plugged. These loopholes include, among other things, the indices or how the poor can be covered using Exchequer resources.

Secondly, it also means identifying who the poor are and at what source. This requires a lot of analysis. That is what we are doing at the moment. We want the indices for identifying the poor to be established at the constituency level. The poor should have their records kept at the nearest health facility so that they can be tracked easily so that when money is allocated for covering the poor, it will actually cover the poor.

We have done a Cabinet Memo and we are at the point of checking those indices to make sure that when the Bill finally comes to this House, it will pass and the President will sign it into law because the loopholes would have been plugged.

Mr. C. Kilonzo: Mr. Speaker, Sir, a while ago, there were mothers who had delivered and had also been detained at the KNH. Some of them had been there for over three months. A small child, eight years old, from my constituency who underwent a heart surgery was detained at the hospital for three months. Is it the policy of KNH that if you cannot afford to pay the medical bills, then you should not take your patients there?

Prof. Anyang'-Nyong'o: Mr. Speaker, Sir, all doctors are bound by the Hippocratic Oath; that is, they must look after human life and make sure that those who are sick receive medical attention. There is, however, somebody called "The Controller and Auditor-General" who, after you have finished a financial year, will come and look at your books and ask you why certain bills have not been covered and why you have spent more than your means. The Kenyatta National Hospital (KNH), therefore, is caught in a bind. One, they cannot turn away any patient who comes to the hospital for medical attention. Secondly, they need resources to look after these patients. It is after looking after the patients and they are ready to leave that the management of the KNH realises that they do not have money.

Mr. Baiya: On a point of order, Mr. Speaker, Sir. If you look at the initial answer the Minister gave, you will find that he denied that anybody was detained for non-payment of hospital bills. He also denied that bodies had been detained. Is it in order for him to come here and justify that he has actually detained patients because of unpaid bills? Could he own up and tell this House that he is holding bodies and also detaining patients? We want to know under what powers he has done that.

Prof. Anyang'-Nyong'o: Mr. Speaker, Sir, I have absolutely no powers either on earth or in Heaven to detain any body anywhere in the Republic of Kenya. Nonetheless, I need to explain to the House why those bodies are lying at the hospital mortuary.

The explanation given by the KNH, which is very rational, is that money is owed somewhere and it must be paid. The KNH has stated very clearly that in order to pay that money, there are two ways of doing it. One is a waiver and, two, is getting credit. So, we request hon. Members of Parliament who are in a position, therefore, to write to the Director of the KNH either to seek waivers or credits and the needful shall be done.

Mr. C. Kilonzo: On a point of order, Mr. Speaker, Sir. I do not know whether you have heard the Minister request Members of Parliament to write letters to the management of the hospital to get waivers. As I speak here today, that is not acceptable in the hospital. Again, we are talking about the Government policy. We do not want people to be looking for Members of Parliament to facilitate them get waivers. We are only asking a simple question: Does the hospital intend to use those bodies as security to charge them in a bank?

Mr. Speaker: Mr. Minister, try and bring this matter to rest!

Prof. Anyang'-Nyong'o: Mr. Speaker, Sir, the hospital would be rather ingenious to do so. However, I am just stating the position as it is. The hon. Member knows pretty well that the hospital must cover its costs. It is also a fact that Members of Parliament do write to the Director of the KNH to seek waivers, just like any other citizen. The policy of the hospital is that when you cannot pay your bill, whether you have passed on or still alive, the best thing to do is to apply for either a waiver or credit and you shall be released.

Mr. Speaker: Ask the last question, Mr. J.I. Kamau!

Mr. Jamleck Kamau: Mr. Speaker, Sir, the Minister has told us that there are 599 patients at the hospital, who are not detained, but have not been released because of inability to pay their hospital bills. To me, that is being detained. The 599 patients who are detained at the hospital are incurring a cost of Kshs269,550 on a daily basis. That is the cost that the Government is incurring to keep them there. This translates to Kshs7.5 million in one month. Why can the Minister not see the sense and realise that the Kshs7.5 million can be used to offset the bills at the hospital?

Prof. Anyang'-Nyong'o: Mr. Speaker, Sir, I share the ideas of the hon. Member. I wish the law was on my side to do so. I plead with the Members of Parliament to give me that power and I will do it. Unfortunately, at the moment, the hospital is a parastatal which has rules and regulations to manage its affairs. Those rules and regulations should be changed to cater for the proposal given by the hon. Member. I have given you the facts so that all of us can see the gravity and rationality of the situation.

Mr. Jamleck Kamau: On a point of order, Mr. Speaker, Sir. The Minister has just said that if you, as a Member of Parliament, apply for a waiver at the hospital you will get it and the patient will go home or they will release the body. I have done this in

respect to the body of Daniel Karanja Maina. Could the Minister give an undertaking to this House that, that body will be released without any further delay?

Mr. Speaker: Order! That is not a valid point of order! That, in fact, is a question that you should have incorporated in your earlier supplementary question. Mr. Minister, you need not respond!

Let us move on to the next Order!

POINT OF ORDER

TABLING OF REPORTS OF COMMISSIONS OF INQUIRY

Ms. Karua: On a point of order, Mr. Speaker, Sir. You will recall that three weeks ago, I had asked a Question relating to security and the Minister for Provincial Administration and Internal Security – and I can see Mr. Ojode here – was ordered and promised this House that he will table four reports of previous commissions of inquiry that have not been made public. One of them is the Kiruki Commission on the Artur Brothers. The others are the Cockar Commission on the Sale of the Grand Regency Hotel, the Sharawe Commission on the Somalis of Kenya and finally, the Task Force on the Police Reforms of 2004. Maybe you could give us directions as to whether these reports which have not been tabled to date could be tabled next Wednesday.

Mr. Speaker: Mr. Assistant Minister!

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Speaker, Sir, indeed, I said that I will only table reports which have been publicly received by the appointing authority. I would like to say that I will not table a report which has not been publicly received and released by the appointing authority.

Mr. Speaker: Order, Mr. Assistant Minister! Even taking that to be so, you gave an undertaking to this House. Why have you not complied with that undertaking?

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Speaker, Sir, I undertake to do it next Wednesday.

Mr. Speaker: It is so ordered! Table those reports without fail next Wednesday!

Mr. Affey: On a point of order, Mr. Speaker, Sir. One of the reports that concern this House is the one on Muslims which the hon. Member has alluded to. The Minister had given an undertaking, following instructions from the Chair, that this Report would be delivered to the President and thereafter submitted to the House. Is the Assistant Minister in order, therefore, to mislead the Chair and House?

Mr. Speaker: Order! Mr. Assistant Minister, you are already ordered to table those documents as per your undertaking, next Wednesday. I understand that you had received similar orders previously which you have flouted recklessly, if not callously!

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Speaker, Sir, my substantive Minister said that he will see to it that the President receives and makes the Sharawe Report public. To date, I am not aware of the appointing authority receiving that Report. However, let me be on record that I will table any report which is needed in Parliament and has been publicly received and released by the appointing authority.

Mr. Speaker: Mr. Assistant Minister, you have given an undertaking to this House. The House is seeking compliance!

Ms. Karua, do you want to raise a point of order on this matter before I make the final ruling?

Ms. Karua: On a point of order, Mr. Speaker, Sir. I just want to clarify and the HANSARD will bear me correct; the Chair did not allow the Assistant Minister any qualifications. All the reports were funded by public funds and publicly received by the President. Whether he releases them or not, they are due to this House.

(Several hon. Members stood up in the places)

Mr. Speaker: Order, hon. Members! The Chair will acquaint itself with the records as captured in the HANSARD.

Mr. Assistant Minister, you will have to discharge your undertaking as made to the House without fail next Wednesday. Before that happens, your Minister, who includes the Assistant Minister, will not transact any business in the House.

(Applause)

(Mr. Affey stood up in his place)

Order, Amb. Affey! We have already addressed this matter.
Next Order!

MINISTERIAL STATEMENTS

Mr. Speaker: That is where we are now. We will take the first Ministerial Statement by the Minister for Medical Services. Please, try and give it within seven minutes.

INTERCEPTION OF COUNTERFEIT DRUGS AT KILINDINI PORT

The Minister for Medical Services (Prof. Anyang' Nyong'o): Mr. Speaker, Sir, I will be very brief.

Mr. Speaker, Sir, the House remembers that this week there has been in the media a story regarding some drug consignment for Dawa Limited which was intercepted by the Pharmacy and Poisons Board at the Kilindini Port. This story has caused a lot of anxiety, especially with regard to counterfeit drugs in this Republic. I would like to make a statement on it and what steps we are taking to deal with this issue.

[Mr. Speaker left the Chair]

[Mr. Deputy Speaker took the Chair]

A consignment of assorted pharmaceuticals destined for Dawa Limited was intercepted at the Mombasa Port by our drugs inspectors. This was brought to the

attention of the Chief Pharmacist after his officers called him from Mombasa. I further requested him for samples and photocopies of the documents which were submitted to my office. On examination, the following issues were noted. One, the consignment of drug contained Dawa Limited products which were declared as coming from China. Two, the import permit were issued last year, 2008, and had since expired. There appears to have been some alterations on the Permit No.1/66906/08. The consignment consisted of two 40-foot containers said to contain 3,732 and 524 cartons, respectively of various medicines. The importer is Dawa Limited and the exporter is Shangai Schangen Trading Corporation. The origin is declared as Shangai China.

The medicines were sampled at the port and the samples received have been sent for analysis at the National Quality Control Laboratory. An additional set of samples were sent to the Mission for Essential Drugs Supply Laboratory. A verification of the contents of the two containers was done on 16th June, 2009 at the Port side CFS where the goods are being kept. The verification team comprised of pharmaceutical inspectors, the police, customs officers and the importer's agent. Upon verification, it was found to contain a total of 4260 cartons of medicines whose details I have put in this report which I will table for brevity of time. Visual inspection was conducted and all the available documents have been reviewed.

Mr. Deputy Speaker, Sir, after verifying the documents, whereas it is true that the drugs were meant for Kenya Medical Supplies Agency (KEMSA) tender and whereas the medicines have been shipped from China as contract from manufactured products, one, the manufacturer has not been declared on the labels. Two, the contract acceptor is not the actual manufacturer. The manufacturer is another company called Yansu Zwe Kantai Pharmaceutical Company Limited in China. Three, guidelines to submissions of application for registration of drugs provide for tabling of requirements which were contravened.

Whereas the samples are still undergoing analysis in the laboratory and the quality and nature of the products cannot yet be stated authoritatively, it has been decided that irrespective of the analysis report, these are deemed to be counterfeit because the company has deliberately hidden the source. The goods should be forfeited to the State for destruction as provided for by the law. Necessary action will be taken on Dawa Limited and prosecution will be done and all that is commensurate with disciplinary action to be taken as appropriate.

Mr. Deputy Speaker, Sir, we shall even take steps to bar completely Dawa Limited from tendering in future to supply drugs to KEMSA. Further, Dawa Limited was one of the participants for Dispensary Kit III and Health Centre III advertised by the KEMSA in July 2008. Since it is in response to this tender that they seem to have contravened the law, we shall not allow them to supply any drug for that tender. Dawa Limited submitted the following documents as required; manufacturing license, GMP certificate, whole sale dealers license, drug regulation certificate for the drugs bided for and samples of drugs bided for. All these documents were valid since they were issued by the Pharmacy and Poisons Board and therefore being the lowest responsive bidders, they qualified for the award of Dispensary Kit III and Health Centre Kit III. But as I have said, they have now flouted the law and cannot, therefore, qualify to supply these drugs.

Mr. Deputy Speaker, Sir, finally, the expected date of delivery for this drug by Dawa Limited was 28th of May. To date, Dawa Limited has not delivered KEMSA kits.

In the light of the irregularities that have been uncovered, it has been decided that KEMSA should not receive the said drug or any other drug from Dawa Limited.

Thank you.

Dr. Eseli: Thank you, Mr. Deputy Speaker, Sir. First, I want to congratulate the Minister for that good work done. Somebody needs to strike a blow for the poor people of this country.

One of the reasons why there is such a big problem with drugs procurement in this country in the public service is because it is centralised at KEMSA. Is it possible to decentralise procurement of these drugs because it is leading to a lot of leakage of funds and the Government is actually losing a lot of money?

Mr. Imanyara: Mr. Deputy Speaker, Sir, I too wish to thank the Minister for the concerns that he has addressed. Given that the directors of Dawa Limited, may be directors in other companies because they operate in cartels, could he check and find out that the directors of Dawa Limited will not be allowed to transact any business under any other name? That disqualification should extend to the shareholders and directors of this company.

Mr. Deputy Speaker: Minister, would you like to react to those two clarifications sought and then take some more?

The Minister for Medical Services (Prof. Anyang' Nyongo): Mr. Deputy Speaker, Sir, I very much agree with my friend Dr. Eseli regarding decentralisation of KEMSA. As you know, last year, we had a taskforce which looked into the operations of KEMSA. Among the things that were recommended was decentralisation. However, we cannot decentralise until a proper information and Communication system, for example, ICT management, is operational in KEMSA. So, when it is decentralised, there can be a good supply chain mechanism where the centre and the other satellite parts of KEMSA, which exist in almost all the provincial headquarters, will properly manage the supplies. At the moment, we are in the process of putting into place a supply chain system properly managed by an ICT process which will then lead us to decentralisation subsequently. I hope we can accomplish this in quick time.

Secondly, regarding directors of Dawa Limited; yes, hon. Imanyara is right. Dawa Limited has another satellite company called Medisale. We shall look into both companies. We want to trace the tentacles of Dawa Limited, so that it does not appear like a hydra in another company.

Thank you.

Mr. Shakeel: Mr. Deputy Speaker, Sir, I thank the Minister for that Ministerial Statement. This is reflective of the drug industry in this country. The suppliers of medicine in Kenya are about eight of which only two or three have the right requirements like those in the United Kingdom (UK). I would like to urge the Minister that this is the time to set certain standards for companies which produce drugs. Those standards must---

Mr. Deputy Speaker: Order, Mr. Shakeel! The very nature of a Ministerial Statement is that you seek a clarification on the content of the Ministerial Statement. There is no adding, debating or asking questions.

Mr. Shakeel: I am so sorry, Mr. Chairman, Sir---

(Laughter)

I beg your pardon, Mr. Deputy Speaker, Sir.

The clarification that I would like to seek is whether he is convinced that he is doing the right thing to set up a new set of standards where people do not just come in different ways and how is the Ministry going to give classifications on those standards? Like the way we have five-star hotels, can we have five-star or three-star producers of medicines?

Mr. Nyamai: Mr. Deputy Speaker, Sir, first, I would like to thank the Minister for the action he has taken on Dawa Pharmaceuticals. However, there are other companies that have committed worse crimes to us than Dawa Pharmaceuticals. The management had recommended for them to be stopped from supplying drugs to the Kenya Medical Supply Agencies (KEMSA). However, quite a number have sprung up and are now supplying drugs to KEMSA after the Minister took over the Ministry. In fact, three of them are handling supply contracts of about Kshs150 million. What are you going to do to take the same action that you have taken on Dawa Pharmaceuticals, if you are not being discriminative?

Mr. Deputy Speaker: The Minister will respond and that will be enough.

The Minister for Medical Services (Prof. Anyang'-Nyong'o): Mr. Deputy Speaker, Sir, I thank Mr. Shakeel for that question. The steps we are taking under the reform process in KEMSA to ensure that we have both local producers of pharmaceuticals and pharmaceuticals imported from abroad, is that the Pharmacy and Poisons Board is now working with an internationally reputable company to introduce bar-coding for our drugs. Also, we insist that those who supply us should be World Health Organization (WHO) qualified. We do believe that if we use the bar-coding for drugs acceptable by KEMSA and WHO qualification, we shall deal effectively with the issue of counterfeits. That process is going on and within this year, we should be able to put it into operation.

Secondly, we are also thinking of doing contract manufacturing with reputable firms, both local and international so that we stop this rather *ad hoc* behaviour of short-term tendering whereby even briefcase tenderers come in and pose as manufacturers when they are actually third parties in a long chain of supply which quite often is very dangerous. These are the steps that we are intending to take and we hope they will be effective.

Regarding Mr. Nyamai's point, he is right. But the rules of natural justice require that you only deal with somebody if you caught him or her in the act. What has happened in the past, there is no way I can deal with those issues retroactively. But now that we are putting measures to ensure that our suppliers are bonafide and do not overcharge or give us fake drugs. We shall make sure that the measures stipulated in the task force report of KEMSA including the bar-coding and the WHO qualification prevent us from dealing with dubious dealers.

Mr. Deputy Speaker: As far as the clarifications on that Ministerial Statement from the Minister for Medical Services are concerned, I think we are done.

Mr. Affey: Mr. Deputy Speaker, Sir, the Minister for Medical Services was expected to issue another Ministerial Statement that I had asked. Today is the day that the Chair had ruled that it be issued. I thought that he could go ahead and issue it.

Mr. Deputy Speaker: Incidentally, no. If you look at your Order Paper, there is a lot more business of the House that should be disposed off. Under the circumstances, the

Chair directs that other than the Ministerial Statement that will be issued by Mr. Poghiso---

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

Mr. Deputy Speaker: Order! You do not rise on a point of order when the Chair is communicating.

Other than that Ministerial Statement, we will not be able to take another Ministerial Statement.

POINTS OF ORDER

UPSURGE OF SEXUAL VIOLENCE AGAINST CHILDREN

Mrs. Odhiambo-Mabona: On a point of order, Mr. Deputy Speaker, Sir. Whereas I agree with your ruling, I had requested for a Ministerial Statement on the rising cases of sexual violence against children in this country and I was promised by the Minister that he will issue it today. He has even said that it is available. Since last week, we have seen several other cases of sexual abuse where the police are totally not taking action. My fear is that if we wait until the next time Parliament sits, we may not have any children in this country.

PROFESSIONAL NEGLIGENCE BY MEDICAL PERSONNEL IN EMBU HOSPITAL

Mr. Affey: On a point of order, Mr. Deputy Speaker, Sir. The matter I raised is a matter of life and death. It involves a seven-year-old kid, who due to professional negligence on the part of the personnel in the Ministry is now facing a serious medical condition in Embu and the Chair, in its own wisdom understood and ruled that this matter be discussed today.

Mr. Deputy Speaker: Yes, indeed it has been brought to my attention that the Chair intended to allow the Ministerial Statement involving this young man given today. So, could the Minister for Medical Services proceed and issue the Ministerial Statement. It is supposed to be issued today.

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

Mr. Deputy Speaker: Order! Could you allow one business to be disposed of then you can rise on a point of order. The House is only able to dispose off one business at a time.

Mr. Minister, could you proceed and issue the Ministerial Statement that you undertook to issue?

Mrs. Odhiambo-Mabona: On a point of order, Mr. Deputy Speaker, Sir. Could I be in order to request that since the Minister is not ready, could we get the one in relation to Fr. Kizito's case?

Mr. Deputy Speaker: Order, Mrs. Odhiambo-Mabona! The Minister has not communicated that he is not in a position to issue the Ministerial Statement.

Proceed, Mr. Minister!

The Minister for Medical Services (Prof. Anyang'-Nyong'o): Mr. Deputy Speaker, Sir, I was ready with that Ministerial Statement yesterday but time was cut short. Right now, I do not have it here.

Mr. Deputy Speaker: Mr. Minister, according to the records here, you are supposed to issue it today, 25th June, 2009.

The Minister for Medical Services (Prof. Anyang'-Nyong'o): Mr. Deputy Speaker, Sir, I apologize because I do not have the Ministerial Statement with me.

Mr. Deputy Speaker: Under the circumstances and based on the gravity which has been communicated to me by the Clerks Department and indeed by the sentiments that were expressed by the Chair that this issue should be dealt with, how do you want us to proceed on this, Mr. Minister?

The Minister for Medical Services (Prof. Anyang'-Nyong'o): Mr. Deputy Speaker, Sir, I will issue the Ministerial Statement at the next sitting of the House.

Mr. Affey: On a point of order, Mr. Deputy Speaker, Sir. The next sitting of the House is in a month's time. Anything can happen to this kid. All that I want is for the Minister to undertake to make sure that this kid is given urgent medical attention. Secondly, could he consider to waive all the medical charges that these poor parents have already incurred and also consider compensation? This is a seven year old child whose hand was tied by a nurse but she forgot to untie. So, the in process the blood system refused to work and his hand is to be amputated. Therefore, I would like the Minister to move fast and save the life of this child.

Mr. Deputy Speaker: Mr. Minister, whereas the Chair appreciates that you do not have the Ministerial Statement but the hon. Questioner is pleading for an issue that essentially needs an urgent humanitarian intervention on your part. I think it would suffice for you to undertake that you will deal with this in your own way.

Please, proceed!

The Minister for Medical Services (Prof. Anyang'-Nyong'o): Mr. Deputy Speaker, Sir, the request by the hon. Member was contained in the Statement that I was reading but I can summarize it. One, we shall not only take action to make sure that the fees are waived and that the patient is properly treated but we shall also proceed to take disciplinary action on the medical personnel who committed that travesty. It is a very serious matter. It is an issue of negligence and I have talked to the Director of Medical Services and we have taken it very seriously. I undertake to the hon. Member that I will do the needful in that regard.

(Applause)

Mr. Deputy Speaker: I think that is dignified and it is fair. So, that should be fair with you, Mr. Affey.

(Several hon. Members stood up in their places)

HUMAN/WILDLIFE CONFLICT STATUS IN THE COUNTRY

Dr. Nuh: Mr. Deputy Speaker, Sir, last week, I had requested for a Ministerial Statement on the human/wildlife conflict status in this country. As we speak, I have about

40 families who were displaced by the Kenya Wildlife Service (KWS) just because of the current drought situation. If this situation goes on, we might even lose lives because we have already lost one lady who was in labour because of the KWS brutality. I would plead and seek your indulgence that that Ministerial Statement be given today.

Mr. Deputy Speaker: That Ministerial Statement is, indeed, from the Ministry of Forestry and Wildlife. Do we have a Minister from the Ministry of Forestry and Wildlife here?

(Mr. Nanok stood up in his place)

Do you wish to make an undertaking on behalf of your own Ministry that you will deal with this issue the same way the Minister for Medical Services has done in this own dignified way?

The Assistant Minister for Forestry and Wildlife (Mr. Nanok): Mr. Deputy Speaker, Sir, indeed, we received the request from the hon. Member for a Ministerial Statement but I seek your indulgence because it is not ready. However, as an interim measure, I invite the hon. Member to meet me early next week where we can sit down with all the respective officers and look for a solution to this issue.

Dr. Nuh: On a point of order, Mr. Deputy Speaker, Sir, I have just explained part of the problem now. Whereas I would not want to anticipate debate of Adjournment, if the impending Recess of one month was to come, I fear that many citizens of this country would be pushed to the abyss of poverty because of the KWS brutality. The Assistant Minister was in this House just a few hours ago and they had one week to deal with this Ministerial Statement and they have not been forthcoming. Would I be in order to demand that they cease all brutality and inhumane treatment of pastoralists by the KWS? They should call off all the brutality by the KWS and I urge that the Minister in charge visits Kamaguru Location and apologizes for the actions of the KWS officers who are his officers because of mistreating my people. I also urge that the KWS---

(Applause)

Mr. Deputy Speaker: You have made your point, Dr. Nuh! Mr. Assistant Minister, based on the gravity of the issue itself, are you prepared to take a dignified undertaking on this? I am not saying next week!

The Assistant Minister for Forestry and Wildlife (Mr. Nanok): Mr. Deputy Speaker, Sir, as I have just said, the Ministerial Statement was not ready but I would like the hon. Member to come and meet us, we sit down and discuss this issue so that, at least, he is satisfied and we can get a solution that satisfies the people of Bura.

Mr. Deputy Speaker: When?

The Assistant Minister for Forestry and Wildlife (Mr. Nanok): Tomorrow!

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

Mr. Deputy Speaker: He has given an undertaking for tomorrow.

(Dr. Nuh stood up in his place)

Order, Dr. Nuh! Indeed, if you want to take care of the problems---

Dr. Nuh: On a point of order, Mr. Deputy Speaker, Sir. I called the Minister in charge five times yesterday and I called the Permanent Secretary twice. They promised to get back to me and give me the information as to what they are doing on the ground. For the Assistant Minister to demand that I go to his office to explain issues again is not in order.

Mr. Deputy Speaker: This undertaking right now is in the House. The undertaking itself is a collective undertaking for all hon. Members in this House and the Kenya National Assembly (KNA). So, under those circumstances, he is duty bound to see you and to discuss that matter and give it the urgency that it deserves.

Mr. Assistant Minister, is that the position?

The Assistant Minister for Forestry and Wildlife (Mr. Nanok): Mr. Deputy Speaker, Sir, we will bring the Statement on the next sitting of the House. The hon. Member can meet us on Wednesday, at 11.00 a.m., in our office so that we can discuss this matter.

(Several hon. Members stood up in their places)

Mr. Deputy Speaker: Order, hon. Members!

(Dr. Eseli and Mrs. Odhiambo-Mabona stood up in their places)

Order, Dr. Eseli! We have serious substantial business of this House to transact. As I had indicated to you earlier on, the position is that we will only take one Ministerial Statement.

Mrs. Odhiambo-Mabona, I can understand the seriousness of the matter you are addressing. Do we have the Minister concerned here in the House now?

Mrs. Odhiambo-Mabona: Mr. Deputy Speaker, Sir, the Minister was here. He has just gone to the bathroom, he is coming back.

(Laughter)

I have been given information and videos that *prima facie* show involvement of Father Kizito in the abuse of children in this country. Ordinarily, if it was an ordinary man, the police would move swiftly, arrest and charge. Is there a criterion that the police are using?

Mr. Deputy Speaker: Order, Mrs. Odhiambo-Mabona! There are no provisions in the authority—

Mrs. Odhiambo-Mabona: There is the Minister! He has come back, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Order! The Chair has ordered that that particular Minister cannot transact any business until Wednesday next week, if I am right. Am I right?

Hon. Members: Yes!

Mr. Deputy Speaker: In any case, transaction or no transaction, there is no time for that. We are going to take one final Statement from Mr. Poghio.

Mr. Poghio, proceed and give your Ministerial Statement and that is it!

MINISTERIAL STATEMENT

RADIO/TELEVISION TRANSMISSION INTERFERENCE

The Minister for Information and Communications (Mr. Poghio): Mr. Deputy Speaker, Sir, Mr. Mbadi, hon. Member for Gwassu Constituency, while seeking a Ministerial Statement from my Ministry, complained that the people of the Greater South Nyanza region have not been able to access Radio Maendeleo, Radio Lake Victoria and Radio Namlolwe in some areas and in some cases television signals other than those of Royal Media Services. He attributed the problem to the erection of boosters in Homa Bay, Siaya and a transmitter in Migori. Mr. Mbadi sought the following clarifications:-

(i) If the installation of those gadgets was approved by the Communications Commission of Kenya (CCK);

(ii) the CCK policy on frequency interference by industry players;

(iii) why one company is allowed to own more frequencies than the Kenya Broadcasting Company (KBC), which is State owned; and,

(iv) What is the CCK policy on response in the event that such interference is reported and what is the response time?

Mr. Deputy Speaker, Sir, I wish to confirm the following:- That the CCK has assigned Royal Media Services Limited RMS 98.4 megahertz FM frequencies for use in Siaya and 97 megahertz and 105.2 megahertz frequencies for use in Homa Bay. I also wish to confirm that the CCK has not assigned Royal Media Services any FM frequencies for use in Migori and that the CCK has not assigned Royal Media Services any TV frequencies for use in Siaya, Migori or Homa Bay.

In view of the reported cases of radio and television frequencies in South Nyanza region, the CCK is carrying out inspections with a view to ensuring that no unauthorized installations have been set up in the said areas.

The CCK's policy on the frequency interference by industry players as contained in its service charter stipulates that it responds to customers who report cases of harmful interference within two working days following receipt of written complaint and, thereafter, endeavors to resolve the interference within ten working days. In view of the above, I wish to state that the CCK has received written complaints from Osianala Radio Lake Victoria and Radio Namlolwe on interference of frequencies in South Nyanza. It is currently investigating the matter.

Mr. Mbadi: On a point of order, Mr. Deputy Speaker, Sir. The Minister has just confirmed that Radio Lake Victoria had written to the Communications Commission of Kenya (CCK). He has also said that the CCK has started investigating the matter after I had raised this issue in Parliament.

Mr. Deputy Speaker, Sir, would I be in order to seek for your indulgence – because now I have lost faith in the CCK – to direct this issue to be investigated by the relevant Departmental Committee because the same CCK cannot pretend that they were not aware of the interference of the frequencies in that region by the Royal Media Services.

The Minister for Information and Communications (Mr. Poghio): Mr. Deputy Speaker, Sir, if I may, I will remind the hon. Member that this is not Question Time. He is supposed to be seeking clarifications on my Statement. The only people qualified to investigate this issue will be the CCK. This is the only regulator we have for this kind of thing. They have the equipment.

Mr. Mbadi: On a point of order, Mr. Deputy Speaker, Sir. With all due respect to the Minister, I also believe he did not get me clearly why I am seeking for your indulgence to direct this issue to the relevant Departmental Committee. There were two letters which were written to the CCK and they did not act on those letters until this matter was raised in this House. Then, it means that the CCK was already negligent. In that case, I have lost faith in whatever investigation they are going to carry out.

The Minister for Information and Communications (Mr. Poghio): Mr. Deputy Speaker, Sir, I am not even allowed to lose faith in the hon. Member. As much as he is really asking Questions that I cannot deal with, I cannot afford to lose faith in him! How can he lose faith in the only regulator we have in the country?

Maybe now, Mr. Deputy Speaker, Sir, at this point, the hon. Members should declare their interest in this matter because I have said that the CCK has taken up the matter.

(Mr. Mbadi stood up in his place)

Mr. Deputy Speaker, Sir, let me explain what the CCK has to do---

Mr. Deputy Speaker: Order! Order, hon. Mbadi!

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

Mr. Deputy Speaker: Order, hon. Mbadi! Are you sure it is a point of order?

Mr. Mbadi: Yes, it is a point of order, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: What is not in order?

Mr. Mbadi: Mr. Deputy Speaker, Sir, the Minister is trying to imply that the Questioner or the person who asked for the Ministerial Statement, who is myself, has an interest in this matter. I have absolutely no interest in this matter. I have never owned any radio or television station and I have no capacity to invest in such stations!

(Laughter)

The Minister for Information and Communications (Mr. Poghio): Mr. Deputy Speaker, Sir, that is subject to the same Statement. I have not lost faith in the hon. Member. I believe him when he says that he has no interest, but he has to believe me as well when I say that there is no other person who can investigate this matter except the CCK. We cannot afford to lose faith in the CCK. It is like losing faith in Kenyatta National Hospital or the institution of Parliament!

So, Mr. Deputy Speaker, Sir, I would like to say that the CCK has undertaken, in ten working days from now, to bring a response. I was just beginning to explain that the CCK has to physically travel there to each of those areas because they have the equipment that is going to determine what the interference is about.

So, Mr. Deputy Speaker, Sir, may I seek your indulgence on the matter to assure the hon. Member that it is in his best interest and the best interests of the people of South Nyanza that we are doing this, so that nobody can ever seek to cause interferences that are harmful because everybody is entitled to communication.

Mrs. Odhiambo-Mabona: Mr. Deputy Speaker, Sir---

Mr. Deputy Speaker: Are you seeking a clarification?

Mrs. Odhiambo-Mabona: Yes, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Proceed!

Mrs. Odhiambo-Mabona: Thank you, Mr. Deputy Speaker, Sir. I would like the Minister to clarify whether the CCK has any powers to mete out punitive action against people who violate the regulations. Even as I am seeking that clarification, I am saddened that we are speaking about radio when children are being sexually abused.

The Minister for Information and Communications (Mr. Poghio): Mr. Deputy Speaker, Sir, I do not know which part of that clarification I am going to respond to; at least not the last part, because the question that I was asked is about radio. But that question about sexual abuse that she is raising must go to somebody else. I can make it known on---

Mrs. Odhiambo-Mabona: (inaudible)

The Minister for Information and Communications (Mr. Poghio): Mr. Deputy Speaker, Sir, I do not know what is the matter with my dear sister here. The best I can do is to put it on media, but it is a criminal matter and I think she can handle it with the right Ministry.

Mr. Deputy Speaker, Sir, I believe that she is asking about the CCK having powers. Yes, those powers are given by this House under the CCK Act. This House has given the CCK the powers to discipline and, in fact, you will see action being taken if somebody is found to be in the wrong.

Mr. Deputy Speaker: Okay, that is fair enough! I think that issue is disposed off adequately.

(Several hon. Members stood up in their places)

Order! Order! Order!

Mr. Chanzu, you are seeking a Ministerial Statement. Can you proceed and seek your Ministerial Statement?

INTEGRITY/ CREDIBILITY OF THE HOUSE

Mr. Chanzu: Thank you, Mr. Deputy Speaker, Sir. I rise on a point of order on a matter I consider grave as regards the integrity and credibility of this august House.

Mr. Deputy Speaker, Sir, this House has been under constant attack from certain quarters about self-conceitedness, egocentrism and corruption impacting negatively on the credibility and integrity of hon. Members, and yet this has not been justified or substantiated reasonably.

Mr. Deputy Speaker, Sir, Ms. Esther Murugi Mathenge, the Member for Nyeri Town and the Minister for Gender and Children Affairs, at a public meeting over the weekend in Nanyuki, stated that in the new constitutional dispensation, we should have a Prime Minister elected by 37 million Kenyans and not 222 hon. Members, because the 222 hon. Members of this House could be compromised. And I quote briefly in Kiswahili what she said:- *“Tunataka Prime Minister ambaye atachaguliwa na Wakenya Milioni thelathini na saba, hapana watu mia mbili ishirini na mbili, kwa maana tunaweza kununuliwa”*, and then she asked *“Si mnajua?”*

Mr. Deputy Speaker, Sir, in her speech, the Minister imputed that the hon. Members of this House are unduly manipulated when transacting the Business of the

House. It is because of the foregoing and your recent undertaking in this House that I seek your ruling, direction and/or guidance on this matter.

Thank you, Mr. Deputy Speaker, Sir.

(Applause)

[Mr. Deputy Speaker left the Chair]

[Mr. Speaker took the Chair]

Mr. Speaker: Order, hon. Members! I will give directions on that matter next Thursday.

(Dr. Eseli stood up in his place)

USAGE OF LEAD IN MANUFACTURE OF PLASTICS

What is it, Dr. Eseli?

Dr. Eseli: Thank you, Mr. Speaker, Sir. The Minister for Public Health and Sanitation, Mrs. Mugo, has been in this House for two weeks continuously and I have been faithfully waiting for her to give a Ministerial Statement on an issue that I had raised some time back. Unfortunately, she has not got that chance at all, and this is really a very important issue; it deals with yellow plastics that we fear are causing cancer to everybody in this country---

Mr. Speaker: Your point is made, Dr. Eseli!

Dr. Eseli: Thank you, Mr. Speaker, Sir.

Mr. Speaker: Mr. Minister, how long do you require to issue that Statement? The Chair is aware that you have wanted to issue it for quite some time. Madam Minister, how will you take to issue that Statement? Could you do that in seven minutes so that you finish at 4.30 p.m.?

The Minister for Public Health and Sanitation (Mrs. Mugo): Yes, Mr. Speaker, Sir. Dr. Eseli sought clarification on a matter raised in a Ministerial Statement. It is about the use of lead and cadmium as colouring in plastic containers. He also wanted the Minister to tell the House the manufacturers who use lead and cadmium to manufacture plastics.

The Assistant Minister for Public Health and Sanitation (Dr. Gesami): On a point of order, Mr. Speaker, Sir. I remember I am the one who made the substantive Statement in this House. Dr. Eseli sought three clarifications. Last week, I indicated to Dr. Eseli that I will be away this week and that I will respond to the clarifications next week. I wonder why the matter has again been brought to the attention of the Minister for Public Health and Sanitation.

Mr. Speaker: Dr. Eseli, that appears to be genuine!

Dr. Eseli: Mr. Speaker, Sir, I looked at the collective responsibility issue. I thought that since the substantive Minister is around and ready to respond to the clarifications sought, we better put this matter to rest.

Mr. Speaker: It appears as if the substantive Minister is not aware that the Assistant Minister had partially responded to this matter and that a response for the

clarifications was outstanding. It will be proper for this matter to be left to the Assistant Minister to complete the answer that he had brought. It makes good sense. We will have to rest that matter there, Madam Minister!

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

Mr. Speaker: Dr. Khalwale, that matter on the request by Dr. Eseli is settled with the directives that I have given. If you require any further information on it, in the meantime, before next Wednesday, you could get in touch with the Assistant Minister.

Dr. Khalwale: Mr. Speaker, Sir, it is something different.

Mr. Speaker: Then you can proceed!

MOLESTING OF YOUNG BOYS BY PRIEST

Dr. Khalwale: Mr. Speaker, Sir, I am pained that this House cannot protect the children of this country. Ms. Odhiambo requested for a Ministerial Statement here. The Minister has been here with the Statement. I have talked to him and he has deliberately decided not to issue it. Therefore, I rise on a point of order because these children were not listened to when they went to the Commissioner of Police through the usual process. If we do not listen to these children, as Parliament, where will they go?

As I say this, I have with me actual evidence that the country director of this organization and one of the trustees where these children were being molested went and recorded a statement with the police over three weeks ago. That has been ignored. They have gone ahead and approached Khaminwa and Khaminwa Advocates. A copy of that letter is here. They wrote to the Commissioner of Police stating that they would like to be invited to give evidence that could lead to the arrest of this priest.

Mr. Speaker, Sir, I request the House to take this into consideration. If it is lack of evidence that is making it difficult for this priest to be arrested, again, this morning I found this Visual Compact Disc (VCD) in my pigeon hole. When I looked at it on my computer, I found an orgy of what goes on in this institution. The VCD shows the suspect actually molesting little boys. These are children of poor people. I would like to table this VCD so that the Commissioner of Police can use it to act on this case.

Mr. Speaker: Very well. Dr. Khalwale, you may table both the letter and the VCD. I would like to verify their authenticity and admissibility. Is the Minister concerned still here?

(Dr. Khalwale laid the VCD and the letter on the Table)

Ms. Odhiambo: Mr. Speaker, Sir, he has just walked out!

Mr. Speaker: Order, Ms. Odhiambo!

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. M. Kilonzo): Mr. Speaker, Sir, I am listening and I undertake to pass the message to whoever you direct me.

Mr. Speaker: The Clerks-at-the-Table, could I look at the letter? Dr. Khalwale, could you indicate to the House who recorded this VCD?

Dr. Khalwale: Mr. Speaker, Sir, I cannot recall who recorded it because of the scare that gripped me when I looked at it. However, it was handed to me by the Country

Director, Mr. Ochieng and Mr. Owiso, who is the trustee. They have undertaken, through their lawyer, to present themselves to the Commissioner of Police to own the VCD. If you read that letter, you will realise that the priest has admitted that he was the one who was experimenting with those children and made those recordings which have now leaked to the public.

Mr. Speaker: Dr. Khalwale, is the authorship of this VCD available?

Dr. Khalwale: Yes, Mr. Speaker, Sir.

Mr. Speaker: Can it be accessed by Parliament?

Dr. Khalwale: Yes, it can be accessed, Mr. Speaker, Sir. I had an opportunity to look at it.

Mr. Speaker: Mr. M. Kilonzo, that being the case, this obviously relates to a matter that is of a grave nature with a very weighty public component in terms of interest. I want you to undertake, on behalf of the Minister, to follow up this matter forthwith and ensure that action is taken by the police or the investigative arm of the Government.

I am glad the Attorney-General is here. You will also have to ensure that this matter is followed up immediately. "Immediately" means, "beginning from now". So, Mr. M. Kilonzo, I want your undertaking on this matter. I also want the Attorney-General to assure this House that this matter will be investigated fully and properly.

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. M. Kilonzo): Mr. Speaker, Sir, I undertake to alert the Minister. I request that after you finish looking at the material that you have been given, that is, the letter and the VCD, they be made available to us so that we can also look at them for purposes of informing the Minister.

Mr. Speaker: What about the Attorney-General? I can see the letter is admissible and authentic. It is signed by an officer of the court.

The Attorney-General (Mr. Wako): Mr. Speaker, Sir, I wish to give that undertaking. My Office takes very seriously these type of offences. The Sexual Offences Prosecution Unit has been set up under the Department of Public Prosecutions. We want to co-operate with the police to ensure that these matters are properly investigated and the culprits brought to book.

Mr. Speaker: Hon. Members, these documents are, therefore, duly tabled. I take the undertakings by the Minister for Justice, National Cohesion, and Constitutional Affairs as well as the Attorney-General seriously and the House will expect results. Further, the Minister concerned is directed to issue a Ministerial Statement on this matter within the next four weeks from today!

The Minister for Nairobi Metropolitan Development (Mr. Githae): On a point of order, Mr. Speaker, Sir. I am just wondering how you will verify what is contained in those videos without looking at them. Dr. Khalwale who has watched them says they are full of sexual orgies. I am wondering how you will verify them without looking at the sexual orgies that Dr. Khalwale has talked about. We do not want our Speaker to go through that experience.

(Laughter)

Mr. Speaker: Order, Mr. Githae! Just like Dr. Khalwale looked at them being professionally as a doctor, I will look at them being professionally as a lawyer!

(Applause)

PROSECUTION OF SOMALIA PIRATES IN KENYAN COURTS

Mr. Baiya: On a point of order, Mr. Speaker, Sir. There is also an outstanding Statement from the Minister for Foreign Affairs on the issue of Somalia pirates. It has been outstanding for so long. Could the Minister give it now?

Mr. Speaker: Hon. Members, the state of time at which we are is such that, at best, we can take just one Ministerial Statement. So, I am afraid that Mr. Baiya and the Minister concerned will have to wait until next Thursday. We have desperately run out of time.

The Assistant Minister, Ministry of State for Defence (Maj-Gen. Nkaisserry): On a point of order, Mr. Speaker, Sir. On Tuesday last week, Mr. Lekuton demanded a Ministerial Statement from the Ministry of State for Defence. I undertook to deliver the same, and you directed that I deliver the Ministerial Statement today. I have been here from the beginning. I thought the procedure was that Ministerial Statements should be issued before other Ministerial Statements are sought. I am ready to issue that Ministerial Statement. The Ministry of State for Defence is very efficient. I would like you to allow me to deliver the Ministerial Statement.

Mr. Speaker: Maj-General Nkaisserry, what is the Ministerial Statement about?

The Assistant Minister, Ministry of State for Defence (Maj-Gen. Nkaisserry): Mr. Speaker, Sir, the Ministerial Statement is about the training areas by the military in Samburu East District. The hon. Member wanted to know the extent of the training areas, because there have been very many bomb explosions within that particular area. He wanted to know whether the military have been training outside the gazetted training area.

Mr. Speaker: Maj-Gen. Nkaisserry, have you taken steps to contain the situation to ensure that there are no further explosives?

The Assistant Minister, Ministry of State for Defence (Maj-Gen. Nkaisserry): Yes, Mr. Speaker, Sir. In my Ministerial Statement, I just wanted to allay the fear---

Mr. Speaker: If you have, then the urgency in that Ministerial Statement is taken care of, given that the situation has been contained, and you are saying so to the House.

The Assistant Minister, Ministry of State for Defence (Maj-Gen. Nkaisserry): Mr. Speaker, Sir, we have undertaken measures to ensure safety of the people.

Mr. Speaker: Very well! Then I direct that the Ministerial Statement be issued next Thursday.

Mr. Letimalo: On a point of order, Mr. Speaker, Sir. Even though the Ministerial Statement was requested by Mr. Lekuton, I am particularly interested because we have had lots of bomb explosions in my constituency---

Mr. Speaker: Order, Mr. Letimalo! The whole House is interested. That request is the property of the House. So, the directions I have given suffice. The Assistant Minister has given his word to the House. He has given his word to Kenyans. We take it that the Assistant Minister's word is a word of honour. So, we must rest the matter where it is.

POINTS OF ORDER

STATUS OF DONOR FUNDING TO GJLOS PROGRAMME

Mr. Olago: On a point of order, Mr. Speaker, Sir. I am seeking a Ministerial Statement from the Minister for Justice, National Cohesion and Constitutional Affairs, to which I have given notice.

Mr. Speaker: What is it about?

Mr. Olago: Mr. Speaker, Sir, this is about the state of donor funding to the Kenya Government's Governance, Justice, Law and Order Sector (GJLOS) Reform Programme. It has been reported that donor funding to this Ministry for the reform of the Judiciary, the Attorney-General's (AG's) Chambers and the police, amounting to a sum of Kshs4.8 billion, has not been utilised, and that a balance of Kshs2 billion runs the risk of being returned to the donors for lack of use. In the circumstances, this request seeks a Ministerial Statement to address the following issues:-

(1) whether the Minister is aware of that state of affairs and the fact that the Government has not been able to utilise these funds timely;

(2) what urgent steps the Ministry is taking to ensure that the donors do not recall these funds, and that officers in his Ministry, who are tasked with prudent expenditure of these funds, are disciplined for failure to meet performance targets; and,

(3) apart from the donor-funded GJLOS Reform Programme, what are the direct actions that the Minister is taking in the sector by utilising Government of Kenya funds before the completion of the proposed constitutional review process?

Mr. Speaker: Mr. Minister, when will the Ministerial Statement be available?

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. M. Kilonzo): Mr. Speaker, Sir, I have been painfully aware of this situation since 17th June, 2009. I undertake to issue a detailed Ministerial Statement. I am very much on top of this matter.

Mr. Speaker, as you may be aware, I actually called a meeting of the Ministers responsible only Tuesday, this week, although you did not attend. So, I undertake to issue a very detailed Ministerial Statement in the course of the next ten days, if you allow me, so that I can complete the process of consultation and above all, so that I can finalise the consultations I am doing to make sure that the money does not leave the country.

TABLING OF NATIONAL EXTERNAL DEBTS REGISTER

Mr. Imanyara: On a point of order, Mr. Speaker, Sir. You will recall that before the Budget was read, I sought an undertaking from the Ministry of Finance, and an undertaking was given that they would table the National External Debts Register for financial years 2008/2009 and 2009/2010. That undertaking was given, but, given the situation that the Minister faced at the time of the Budget, we agreed that he would do this week. I am wondering when that Debt Register will be tabled.

The Minister for Nairobi Metropolitan Development (Mr. Githae): Mr. Speaker, Sir, we shall table it in the next sitting of Parliament.

Mr. Speaker: Mr. Githae, I direct that those documents be tabled next Tuesday.

Hon. Members, before we move to the next Order, I have two Communications to make.

COMMUNICATIONS FROM THE CHAIR

ANONYMOUS LETTER TO MR. IMANYARA

Hon. Members, on Thursday, 18th June, 2009, the Hon. Gitobu Imanyara, Member of Parliament for Imenti Central, rose on a point of order, seeking the indulgence of the Chair. Mr. Imanyara narrated that he had officially received a letter in his Parliamentary pigeon hole whose contents, he said, talked of Members of Parliament who are to be eliminated.

Mr. Imanyara stated that he, along with five other Members of Parliament, were on the list. He read from the letter allegations purportedly directed at certain prominent members of our society, and concluded by seeking the direction of the Chair on how to proceed, given “the serious implications of the letter.” He then laid the letter on the Table.

Hon. Members, you will recall that the Chair went through the contents of the letter and undertook to give directions on the matter. In making this brief Communication, the Chair has been guided by the need to adhere to two broad principles: First, the safety of the Members of this House is a matter that goes to the heart of the independence and supremacy of the Legislature. It is a question that forms the very foundation upon which the privileges and immunities accruing to the House and its Members is predicated.

Unless hon. Members of this House are free from fear of unlawful harm, the provisions of our Constitution and laws, and all the guarantees stated therein, count for naught. The Chair, therefore, attaches utmost concern and seriousness to any threats, or alleged threats, to the personal safety of hon. Members of this House.

Hon. Members, it cannot be gainsaid that the duty to assure the security of all persons in Kenya, whether Members of Parliament or otherwise, falls on the Government, and more particularly on the Executive. The second broad principle, therefore, which is a reasonable corollary of the duty of the Government to assure the safety and security of all persons in Kenya, is that it is the Executive rather than this House that is best suited to the task of preventing, investigating or detecting the commission, or attempted commission, of criminal offences. These functions legitimately belong to the Executive arm of the Government.

Hon. Members, applying the two principles I have alluded to herein above, and having perused the letter tabled by Mr. Imanyara and the grave allegations contained in it, and their implications if established, for this House and for the country as a whole, the Chair directs the Minister responsible for matters relating to internal security to make a statement on this matter in this House.

Without anticipating the Minister, it is the earnest hope of the Chair that the Minister will also use this opportunity to assure all members of this House and, indeed, the country at large of the Government’s commitment to safeguarding their safety and security.

In the meantime, beginning forthwith, if the Minister had not already done so, I urge that he puts in place tangible and noticeable measures to underwrite the security of the hon. Members mentioned in the letter and generally for all other Members of Parliament and Kenyans at large.

I would like the Minister for Justice, National Cohesion and Constitutional Affairs together with the Attorney-General to give undertakings to this House that hon. Members' security will be assured, and particularly, for those who were mentioned in the letter.

Thank you.

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. M. Kilonzo): Mr. Speaker, Sir, nothing gives me as much concern as threats of this nature to Members of Parliament. Therefore, I give the undertaking that I will pass the information to the relevant Minister. I will also join in ensuring the carrying out of the instructions you have given.

Mr. Speaker: Hon. Attorney-General, investigation is in your portfolio.

The Attorney-General (Mr. Wako): Mr. Speaker, Sir, I took these allegations in the letter very seriously and brought it to the attention of the Commissioner of Police to do a thorough investigation. This is because the life of any Kenyan, and even more so, that of MPs, is a very serious matter. If it continues, it can destabilize the country. I was assured that investigations are being undertaken in that regard.

Let me also state that if the investigations are complete and there is sufficient evidence, I will undertake prosecutions.

Mr. Speaker: Fair enough! Hon. Members, there are two hon. Members present in the House who were mentioned in that letter and they have concerns.

Yes, Ms. Karua.

Ms. Karua: Thank you, Mr. Speaker, Sir. I have reservations about the undertakings given. I want to state that I take seriously the contents of that letter due to the details in it. I do believe that my life is under threat. However, I am not at all intimidated. One will only die once; nobody will die twice. The death of the plotter could be earlier than mine if the Maker so wishes.

I want it on record that I have already written a letter dated 24th June, 2009, to the Minister of State for Provincial Administration and Internal Security asking him to treat it as the official complaint because I have no intention of presenting myself to any police station while the police have the current leadership.

I am posing three questions: whether in the police force there is a Mr. Njiru, Senior Assistant Commissioner of Police; a Mr. Richard Katola, SSP; a Mr. Njoroge, SSP; and whether PC James Wachira Kamonja P/No.64078 of Kayole was murdered. If, indeed, that is so, this letter cannot be dismissed. It requires serious investigations. I fully accept your direction that security should, not just be for Members of Parliament, but is for all Kenyans. The Government must stop dithering with police reforms.

Mr. Speaker, Sir, this House adopted the Waki Report. We, as Parliament, need to take on the Implementation Committee to compel the Government to undertake police reforms. With your permission, I wish to table this letter.

(Ms. Karua laid the document on the Table)

Mr. Imanyara: Mr. Speaker, Sir, I wish to echo what my sister, Ms. Karua, has said regarding my concerns that your direction is to the Minister of State for Provincial Administration and Internal Security. My concern is that the Minister for Provincial Administration and Internal Security is a Minister in the Office of the President. The President resides at State House.

After this event happened, the State House, through the Presidential Press Service (PPS) issued a very virulent dismissive and highly defamatory statement in which it outrightly rejected the existence of the letter saying that it was a figment of my imagination. Being the residence of the Commander-in-Chief of the Armed Forces, to expect that the Minister of State for Provincial Administration and Internal Security who is a Minister in that office can conduct investigations or that the Commissioner of Police can be entrusted with these investigations, is to suggest the impossible.

My suggestion because I will never appear before the Commissioner of Police or any organ of the Kenya Police that will purport to do any investigations on this letter--- We have contacted them and they confirmed that, indeed, these events have happened and that the details set out in that letter actually happened and that 1,869 Kenyans have been killed without due process; more than 970 have been taken to court as robbers as a means of silencing them under the---

Mr. Speaker: Order, Mr. Imanyara! Do I hear you saying that you have contacted the Commissioner of Police or any other police officer, for that matter, and that they have confirmed to you that 169 Kenyans have been killed extra-judicially?

Mr. Imanyara: Mr. Speaker, Sir, it is 1,869 and not 169. The author of this document is a police officer who is alive and well and whom the Minister himself, Prof. Saitoti, confirmed exists. He purported that they have been looking for him for the last 15 years. What kind of investigation could take 15 years to discover a person they described as a psychopath?

Mr. Speaker: Order, Mr. Imanyara! Do I also hear you to be saying that the Minister in charge of internal security confirmed that this officer exists and that he is still serving in the police force?

Mr. Imanyara: Mr. Speaker, Sir, what I am saying is that the Minister has confirmed the existence of the letter and that the contents of that letter are a factual basis. If he has come to that conclusion, there must be a basis for arriving at that conclusion.

I am suggesting that rather than having police investigations, this matter be investigated by a committee of this House that can summon Prof. Saitoti, the author of the statement from State House and each one of us and the relatives of those 1,869 people whom the police will never investigate so that we can come to the bottom of this issue.

Mr. Speaker, Sir, you will remember the former MP for Kilome complained in this House that his life was in danger and people laughed. Some members of the media like Philip Ochieng of the Nation Media Group, dismissed it; but that person was killed. We cannot take these things for granted. We cannot dismiss these allegations. I would urge, with utmost respect, that the Chair orders the sitting of the House Powers and Privileges Committee to immediately start investigating this matter. That is the only way we can come to the bottom of this issue.

Unlike Ms. Karua who has written to Prof. Saitoti, I will not write to Prof. Saitoti! This is because he even promised that he would give extra security but as I talk to you

now, there has not been one extra police officer entrusted to any of us. So, Prof. Saitoti lied to Kenyans that he has ordered further protection to those named in that letter.

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. M. Kilonzo): On a point of order, Mr. Speaker, Sir. With utmost respect because my two learned friends are people I respect a great deal and take whatever they say seriously, is it in order that once you have given directions, which I have undertaken to pass to the Minister and which the Attorney-General has also confirmed, for the hon. Member to continue to make these statements that seem to suggest that you are being asked to amend your direction to the Minister? I seek your guidance so that I know exactly what I am going to tell the Minister in this situation.

Mr. Imanyara: Mr. Speaker, Sir, may I make my position---

Mr. Speaker: Order, Mr. Imanyara! I would like you to complete your concerns and I want you to do so in the next two minutes! Not longer than two minutes!

Mr. Imanyara: Mr. Speaker, Sir, I am making a specific request to you, as the head of this institution, that we do not have any confidence that the Minister of State for Provincial Administration and Internal Security can carry out any investigation nor the Commissioner of Police. This is particularly because the orders are coming from State House. I am, therefore, requesting that you direct that the investigation be carried out by the Powers and Privileges Committee---

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

Mr. Speaker: Order, Mr. Imanyara! There is a point of order which the Speaker is allowing.

Mr. Muthama: Mr. Speaker, Sir, is it in order for the hon. Member to continue saying that those who are planning to murder are based in State House? The author---

Mr. Speaker: Order, Mr. Muthama! You are now saying so! Mr. Imanyara has not said that.

Mr. Imanyara, please, be conscious of the provisions of the Standing Orders. You are not allowed to cite, if perhaps you want to go that direction, the name of the President as your authority for any matters that you are canvassing.

Mr. Imanyara: Mr. Speaker, Sir, I stand guided. I have not mentioned the name of the President. I said a statement was issued within hours after I had tabled the letter. That statement was from the Presidential Press Service (PPS). That is a fact that cannot be denied by anybody!

Mr. Speaker: Proceed then! Keep the President out of it and conclude your submission in one minute.

Mr. Imanyara: Mr. Speaker, Sir, I conclude my submission here by requesting you to direct that investigations be carried out by the Powers and Privileges Committee. That is the only way we can get to the bottom of this matter.

(Applause)

Mr. C. Kilonzo: On a point of order, Mr. Speaker, Sir. In the last Parliament, I had the opportunity to serve in the Committee that was investigating the murder of the late Tony Ndilinge who was the Member of Parliament for Kilome. The late Ndilinge stood on the Floor of this House, at that time, and charged that there was somebody in Government then who was plotting to have him assassinated. That report was tabled here.

I am appealing that you allow the House to have a committee investigate this matter before and not after, as the case was for the late Tony Ndilinge!

Mr. Speaker: Fair enough! You have been heard.

Member for Embakasi, please, proceed!

Mr. Waititu: Mr. Speaker, Sir, the issue of this letter is not politics. Therefore, some Members here should not take it lightly. If somebody says that he wants to murder you, you do not know what to do next. This is especially where cases of murder are evident. The letter talks of about 1,868 people. I can authoritatively say that most of these people are from my constituency.

A Mr. Wachira Kamonja who is mentioned in that letter who is a police officer was actually murdered. I, therefore, have no reason to doubt that the letter has substance.

Mr. Speaker, Sir, you are the only person who is now left who can issue a directive that this matter be investigated by a Parliamentary Select Committee. We cannot trust the Minister of State for Provincial Administration and Internal Security. The letter specifically says that those people have been operating yet the Minister is not aware. The Permanent Secretary is also not aware. This means they have been keeping them from all the information that they have.

Mr. Speaker, Sir, in the last two months, in Embakasi we buried a senior politician who was a Parliamentary candidate in the last General Elections. We also buried a civic candidate during the last elections. We have also---

Mr. Speaker: Order, Member for Embakasi! These matters that you are now canvassing have already been addressed adequately. Even that emphasis is now recorded.

Mr. Waititu: Mr. Speaker, Sir, there is some information I want to tell this House. I think I am being targeted because I have the information. The beneficiaries of extortion monies, illegal quarry money and land racketeering money in Embakasi are some security people. They are beneficiaries and that is why they are hiding under the cover of *Mungiki*. They claim that they are eliminating *Mungiki* while they are the real beneficiaries of the money that comes from there. The young boys who operate there are paid daily allowances. They are actually employed to do that. The real beneficiaries of this money are people who are in the security network in Embakasi.

Mr. Speaker: Member for Embakasi, you have been heard!

Hon. Members, as a matter of fact, in the directions that I gave as had been sought by the hon. Imanyara and very ably supplemented by the hon. Martha Karua, I did emphasize that I have noted the gravity of this matter and that the House takes it very seriously and does not, by any level of imagination, believe that these claims are superfluous. Indeed, Mr. C. Kilonzo has recollected the case of the late Tony Ndilinge who served, I believe in the Seventh or Eighth Parliament. Such threats were made, the House moved slowly and Mr. Ndilinge lost his life.

Nothing will be taken lightly. In this Communication, I have said and I want to repeat that while we await the Minister to make a Statement on this matter in the House, in the meantime, beginning forthwith, if the Minister has not already done so, I urge that he puts in place tangible and noticeable measures to underwrite the security of the hon. Members mentioned in the letter and generally for all other Members of Parliament and Kenyans at large.

After I gave this direction that the Minister puts in place tangible and noticeable measures to underwrite the security of the Members concerned and other Members

generally, no lesser persons than the Attorney-General and the Minister for Justice, National Cohesion and Constitutional Affairs have given their undertaking to this House and indeed, to Kenyans that they will put in place these measures. I want to take them by their word. I want to believe that they are men of honour. I want to believe that they have the interest of this country at heart. I want to believe that both the Attorney-General and the Minister want to make a positive difference in this country in terms of service delivery. I want to give them an opportunity to do so.

The Ministry will be expected to bring this Statement to the House not later than next Tuesday and further that---

Sorry, hon. Members.

The Standing Orders, as they are today, provide that Committees which have under their portfolio certain mandate commence investigation under their own volition without even the Chair directing them to do so. I will expect, if that is possible, that the relevant Departmental Committee is taking this matter seriously as it ought to, that it has heard the concerns of the House and the concerns of the specific hon. Members concerned and will begin to undertake investigations immediately as it is their duty to do.

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

Mr. Speaker: This matter has to rest, Mr. K. Kilonzo. Please! The next Communication is on the following matter.

MISREPORTINGN BY THE STANDARD

Mr. Speaker: Hon. Members, you will recall that on Thursday, 18th June, 2009, hon. Mungatana, Member for Garsen, rose on a point of order stating that he was rising under Standing Order No.34, paragraph 2 and specifically Rule 6(3) of the Broadcasting Regulations which states that;

“A media house that receives a broadcast feed from the Parliamentary Broadcasting Unit shall broadcast it without any manipulation or distortion ”

Mr. Mungatana then proceeded to complain about a newspaper headline by *The Standard* newspaper of that day which, in his words, had “boldly and bravely pronounced that the ODM had conducted a coup in Parliament by taking up key positions in Committees.”

Mr. Mungatana stated that no other media house had that report and this was an indication that the story as carried by *The Standard* was distorted and manipulated. Mr. Mungatana sought an appropriate apology from the said newspaper because to him, as far as the proceedings of the House were concerned, all the names of the Committee Members were laid on the Table of the House. It was unfair, wrong and a great abuse to report that one of the political parties had taken control of the House when no elections had, in fact, taken place.

Hon. Members, the Chair undertook to make a Communication.

Those who are at the bar may walk in.

(Some hon. Members entered the Chamber)

Hon. Members, the Chair has read the headline story complained of and has considered the relevant provisions of the Standing Orders. From the outset, it is the

considered position of the Chair that Standing Order No.34 paragraph 2 Rule 6(3) of the First Schedule of our Standing Orders, in so far as they relate to broadcasting media rather than print media, have no application to the present matter. The report complained of was not broadcast. It is, therefore, not governed by the broadcasting regulations in the Standing Orders. The relevant Standing Order is No.215 which has provisions on Press representatives infringing on Standing Orders or the Speakers' Rules.

(Loud consultations)

Hon. Members, you will have to hear the Speaker in silence.

Order hon. Members!

Standing Order No.215 provides that:-

“Any media institution whose representative infringes these Standing Orders or any rules made by the Speaker for the regulation of the admittance of strangers or persistently misreports the proceedings of the House, or neglects or refuses on request from the Clerk to correct any wrong report thereof to the satisfaction of the Speaker, may be excluded from representation in the Press Gallery for such term as the House shall direct.”

Hon. Members, the question that the Chair has to determine is whether the report complained of infringes on the proceedings of this House so as to invite sanctions under Standing Order No.215. It has severally been pronounced from this Chair, and I wish to repeat it that this House has no intention of muzzling the Fourth Estate. Further, this House considers the Fourth Estate to be a foremost partner in the governance of this country.

However, it must also be understood that journalism like any other profession, perhaps, more than any other profession carries with it enormous responsibility. We share a common destiny. We stand or fall as a nation together. To this end, the media must always consider the consequences of the tone and slant of every story or report. The Chair will not hesitate to invoke appropriate sanctions where the Standing Orders are contravened. The media is on permanent notice from this House to refrain from reckless or callous breach of the aforesaid Standing Orders and that any breach will be dealt with instantly and firmly.

In the present matter, hon. Members, the Chair has carefully examined the report complained of. It is a report of the varying fortunes of the various political parties in the sharing of the membership of the Committees of the House. It purports that a particular political party obtained control of what it describes as “key House Committees” and also that the party secured majority representation in seven Committees. The report lists the Committees and their membership by parties. The conclusion made in the report on the effects of the membership of the various Committees on the fortunes of the various political parties is a subjective matter and is arguable. Some might say that the headline promised more than it delivered. Others might argue with the choice of words for the headlines. However, all that is neither here nor there. It is a matter of opinion. While Mr. Mungatana is entitled to hold the view that the report was sensational or flamboyant, the Chair does not find support that the report is a distortion or a manipulation. In particular, the Chair does not find any evidence of misreporting by *The Standard* newspaper report within the meaning of Standing Order No.215. Standing Order No.215 is a shield and not

a sword. The provisions of that Standing Order will be invoked without hesitation by the Chair to safeguard the integrity of this House and its proceedings from abuse and misrepresentation. However, the Chair will not invoke the Standing Orders to arbitrate in cases of differences of opinion on the effect of the events that take place in the House. Thank you.

[Mr. Speaker left the Chair]

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

PROCEDURAL MOTION

EXTENSION OF SITTING TIME

Mr. Thuo: Mr. Temporary Deputy Speaker, Sir, I beg to move the following Procedural Motion:-

THAT, notwithstanding the provision of Standing Order No.20(2), this House orders that the sitting time of the House today be extended from 6.30 p.m. until the conclusion of the business appearing in the Order Paper.

The Minister for Nairobi Metropolitan Development (Mr. Githae): Mr. Temporary Deputy Speaker, Sir, this is purely a Procedural Motion enabling the House to conduct business until it finishes it.

I beg to second.

(Question proposed)

(Question put and agreed to)

COMMITTEE OF THE WHOLE HOUSE

(Order for Committee read)

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

IN THE COMMITTEE

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

THE STATUTES LAW (MISCELLANEOUS AMENDMENTS) BILL

(Clause 2 agreed to)

Schedule

Mr. Abdikadir: Mr. Temporary Deputy Chairman, Sir, I beg to move:-
THAT, the proposed new Section 3A of the Schedule concerning the Interpretation and General Provisions Act be deleted.

(Question of the amendment proposed)

The Attorney-General (Mr. Wako): Mr. Temporary Deputy Chairman, Sir, I oppose the deletion. I explained when I was moving this Bill that the new Clause is necessary particularly now when we have the Coalition Government. The problem has come to the fore with the splitting of some Ministries. Under the various provisions under the Act, some of those departments in those Ministries are supposed to be administered by officers in other Ministries. I believe I gave the example of the Ministry of Medical Services and the Ministry of Public Health and Sanitation where the Director of Medical Services still oversees the Public Health Act, which has a Director of Public Health now. This is not the only provision. We also have a similar problem under the Ministry of Trade and the Ministry of Industrialization. Consequently, we need this provision so that we do not have to amend over 100 legislations whenever there is a change in the organization of the Government, and in particular, affecting the departments in Ministries which are changed from one Ministry to another.

I oppose the deletion of this provision.

Ms. Karua: Mr. Temporary Deputy Chairman, Sir, I would like to support the deletion and state that where the Government moves the functions to another Ministry, let Parliament specifically be requested for that by moving an amendment in a Bill like this. It is, otherwise, dangerous to give an omnibus clause. Tomorrow, prosecutions can move from the Attorney-General's Department to the Ministry of Forestry and Wildlife without Parliament knowing. This omnibus clause, in a dysfunctional Government like this one, can cause chaos. One would think that it would be used intelligently, but what about if it is not? Let us learn to rely on systems and not on the goodwill of man or woman.

I beg to support the deletion.

The Minister for Nairobi Metropolitan Development (Mr. Githae): Mr. Temporary Deputy Chairman, Sir, I rise to oppose the deletion. We should not try to legislate administrative matters. Very soon, we will have an Act of Parliament that deals with the Ministries and the various portfolios. We have not reached there. If everytime there is change in the administration, an administrative matter is brought to Parliament, this House will be too busy trying to amend various administrative notices. This is the purpose of this Bill. Let us leave it to the Head of the Government to decide which portfolio, Ministry or officer should be dealing with the matter.

I, therefore, oppose the deletion.

The Minister for Public Health and Sanitation (Mrs. Mugo): Mr. Temporary Deputy Chairman, Sir, I also want to oppose the deletion.

We all know that these decisions were made when this country was going through a difficult time and the Principals sat down to agree on the composition of the Government. The House was not sitting at the time these changes were made. I do not

think that, that is a precedence that we should worry about. We hope that with the constitutional change, next time we will have a proper Government which is constituted orderly. However, difficult times call for difficult decisions. I think that is what the Principals did. They agreed on the composition of the Ministries since Parliament was not sitting at that time. If we delete this provision, we will complicate the work of Ministries and thus hamper service delivery to the people.

Mr. Baiya: Thank you, Mr. Temporary Deputy Chairman, Sir. I stand to support the deletion.

As has been explained, the immediate circumstances warranting these amendments are the changes that were done after the current Government came in place. The actions taken by the Government were purely administrative, allocation of departments here and there. It would be wrong thing to enact a law to fit the current Government. So, at the Committee level when we considered this, we concluded that this kind of legislation would be bad because it is meant to suit a temporary situation. The law should be made for all governments and situations. It is the Government to organise itself according to the law, but not for the law to be enacted to fit a particular Government or circumstances.

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. M. Kilonzo): Mr. Temporary Deputy Chairman, Sir, I beg to oppose the deletion for a slightly different reason. This law being amended here is the Interpretations and General Provisions Act. I would like to persuade my colleagues, particularly my immediate predecessor hon. Karua. She knows very well what this means. It is purely a definition law. It actually confers no responsibility or power beyond that which already exists. It is a definition for clarity. A good law requires clarity. I would urge, with utmost respect to my colleagues, to bear in mind that this is our Interpretation and General Provisions Act.

I sat with hon. Karua in Serena mediating peace for this country. We drafted the Constitutional (Amendment) Bill.

Ms. Karua: The Government is dysfunctional!

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. M. Kilonzo): Mr. Temporary Deputy Speaker, Sir, the Government is not dysfunctional. I would like to persuade her that it is not. If it is not, this law is merely making it Grand Coalition compliant.

I beg to oppose the deletion.

Mrs. Odhiambo-Mabona: Thank you, Mr. Temporary Deputy Chairman, Sir. I wish to support the deletion. Difficult times do not call for dangerous decisions. What we are doing is actually calling for dangerous decisions. If you actually look at the Accord, the decisions or legislations made under it, have a timeline because we are in a unique time. Therefore, if we are making a decision where we are legislating on administrative role, it can actually result in ridiculous situations where we can move a department of a Ministry like that of justice to Ministry of Roads or Information and Communications.

To me, this is utterly not in order and I support the deletion.

The Attorney-General (Mr. Wako): Mr. Temporary Deputy Chairman, Sir, I would really plead with the hon. Members to be a bit more understanding on this particular issue. What it will mean is that after general election, and the Cabinet is being constituted with different units going everywhere, that Parliament will, first of all, to come to this House to get the approval of 200 legislations before we can proceed. I think

this amendment is okay. It cannot be abused. We are not saying now that prosecution powers be moved away from the Attorney-General' office because that is a matter for the Constitution. This amendment is not dealing with constitutional issues. It is merely dealing with the interpretation of the laws.

So, I appeal to hon. Members to support the amendment.

The Temporary Deputy Chairman (Mr. Imanyara): The effect of carrying this would be to delete Section 3A.

*(Question, that the words to be left out be left out,
put and agreed to)*

(Section 3A deleted)

The Minister for Nairobi Metropolitan Development (Mr. Githae): Mr. Temporary Deputy Chairman, Sir, it was not very clear because there was a lot of loud consultations. I am seeking that you put the Question again. It was not clear.

The Temporary Deputy Chairman (Mr. Imanyara): Order! I actually explained before I put the Question.

*(The Interpretation and General Provisions Act (Cap. 2)
as amended agreed to)*

(The Appellate Jurisdiction Ac, (Cap.9) agreed to)

The Advocates Act, Cap.(16)

Mr. Abdikadir: Mr. Temporary Deputy Chairman, Sir, I beg to move that:-

The Advocates Act (Cap.16)	Proposed section 17(3)	Delete the word "upon" and substitute therefor the words "not later than sixty days upon"
	Proposed Section 18(4)	Delete the word "Attorney General" and substitute therefor the word "Chief Justice"

This is essentially to put a time limit on which this action must be taken. As far as proposed Section 18(4) is concerned, delete the word "Attorney-General" and substitute therefor the word "Chief Justice".

Mr. Temporary Deputy Chairman, Sir, I accept that the Attorney-General is, indeed, the titular head of the advocates. However, since the Judiciary is an independent arm and the Attorney-General essentially is in the Executive, we should really let this function be undertaken by the Chief Justice.

(Question of the amendment proposed)

The Attorney-General (Mr. Wako): Mr. Temporary Deputy Chairman, Sir, I agree with the proposed amendments, but not because of the reasons given. I agree with the proposed amendments because it is the Chief Justice who keeps the register or what we call the Roll of Advocates. It is also the Chief Justice who will keep the Roll of the Senior Counsel. So, in that capacity, it is the Chief Justice who should publish the names in the *Kenya Gazette*. So, it is only for that reason that I am accepting these amendments, not because of the reasons that have been advanced by my learned friend.

*(Question, that the words to be left out be left,
put and agreed to)*

*(Question, that the words to be inserted in place thereof be inserted,
put and agreed to)*

(The Advocates Act (Cap.16) as amended agreed to)

The Civil Procedure Act,(Cap.21)

The Temporary Deputy Chairman (Mr. Imanyara): I notice that there are amendments proposed.

Mr. Abdikadir: Mr. Temporary Deputy Chairman, Sir, we did agree with the Attorney General that on technical reasons---

The Temporary Deputy Chairman (Mr. Imanyara): Could you just clarify for me how many amendments are there? Are they two or three?

The Attorney-General (Mr. Wako): I think the amendments to the Civil Procedure Act are many particularly as is indicated on the Supplementary Order Paper. So, we are suggesting that any amendment in the Civil Procedure Act as appears on the Supplementary Paper be deleted. As was explained, this is a matter that we have consulted on. There are some technical difficulties on this, so both of us understood the technical problems and we agreed that we shall delete any amendments referring to Civil Procedure Code. We also agreed, and I want it to go on record, that because of the importance of the mediation procedure in the civil process in this country, we shall all work together with the Judiciary to ensure that we have a proper legislation policy before the end of this year. We agreed on that and I would want my learned friend to confirm that.

Mr. Abdikadir: Mr. Temporary Deputy Chairman, Sir, I indeed confirm that we agreed that, due to technical reasons, all references to amendments in the Civil Procedure Act be withdrawn and that we in the Committee will work with the Attorney-General and the Judiciary on proposals for fresh legislation as far as that issue is concerned.

The Temporary Deputy Chairman (Mr. Imanyara): Which are they? Could you just clarify?

The Attorney-General (Mr. Wako): Mr. Temporary Deputy Chairman, Sir, the best thing is to look at the Supplementary Order Paper which is more encompassing. There are amendments from page 179 to page 184 of the Supplementary Order Paper.

Mr. Abdikadir: Mr. Temporary Deputy Chairman, Sir, is it possible to confirm that all references to the amendments to the Civil Procedure Act be withdrawn?

The Temporary Deputy Chairman (Mr. Imanyara): Could you just confirm because the Supplementary Order Paper has up to Section 59(d)?

The Attorney-General (Mr. Wako): Mr. Temporary Deputy Chairman, Sir, up to Section 59(d) but you must include paragraph (e).

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. M. Kilonzo): Mr. Temporary Deputy Chairman, Sir, I just want to record serious reservations because, as the Minister for Justice, National Cohesion and Constitutional Affairs, I was not consulted. It must be observed that the policy now is to modernize the Judiciary. So, by withdrawing these amendments at this time, the country is going to continue suffering the backlog of cases that are there because we are removing mediation.

It must be noted that there will also be conflict. You will realize that we have not removed the amendment to Appellate Jurisdiction Act which under paragraph (e), offers that court the use of suitable technology. The moment we remove that from the High Court, it means that the Court of Appeal will have the use of the technology. Part of the donor funds that are now engaging the country, are dealing with automation of the courts. I accept what the Attorney-General is saying, that as long as this law is going to be brought within the year, the country is watching. We need to modernize the Judicial system.

Mr. Abdikadir: Mr. Temporary Deputy Chairman, Sir, we are dealing with mediation. The amendment deals with mediation. What we agreed on was that the references to mediation should be withdrawn. Essentially, it was to be covered under Section 81 in the Bill. It was proposed that it should be Section 59 as proposed by the Attorney-General. Following discussions, we did agree to withdraw any reference to mediation which essentially was covered under the Civil Procedure Act, whether as amendment under Section 81 or under Section 49. So, we are dealing with mediation here.

The Temporary Deputy Chairman (Mr. Imanyara): Mr. M. Kilonzo, are you now satisfied?

The Attorney-General (Mr. Wako): Mr. Temporary Deputy Chairman, Sir, I just want to explain that the issue of technology and all other issues have already been endorsed, when we endorsed the Appellate Jurisdiction Act. We also endorsed that appropriate technology must be used in the proceedings. So, it is not covered in this. What is covered is the chapter on the setting up of a mediation and accreditation committee and the procedures thereunder. That is what we agreed. It was agreed in this House because this is a very important procedure and all hon. Members who contributed agreed on that issue. We agreed that we must work together to ensure that we have an appropriate legislation before the end of the year.

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. M. Kilonzo): Mr. Temporary Deputy Chairman, Sir, I still believe that my very good and respectable learned friends should have consulted me. Legal policy falls under my Ministry and we would probably have found a solution, but I will accept the explanation for the time being and urge this House that we should bring in mediation to remove backlog.

*(Proposed amendments as indicated from pages 179 to 184
on the Order Paper relating to “a”, “b”, “c” and New Sections
59A, 59B, 59C and 59D withdrawn)*

The Temporary Deputy Chairman (Mr. Imanyara): Mr. C. Kilonzo, in view of that withdrawal you will have to withdraw the proposed amendments to Section 81A , 81B and 81C on the Order Paper on mediation!

Mr. C. Kilonzo: Yes, Mr. Temporary Deputy Chairman, Sir.

(Question, that Part XA be deleted put and agreed to)

(Part XA- Mediation Disputes deleted)

(The Civil Procedure Act (Cap.21) agreed to)

(The Films and Stage Plays Act (Cap.222) agreed to)

The Pest Control Act Cap. 346)

The Attorney-General (Mr. Wako): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, the provisions relating to the Pest Control Act be amended by inserting the following provisions in proper numerical sequence –

S.2 Insert the following definitions in proper alphabetical sequence-

“adulteration” means addition of any substance or thing to a pest control product so as to change or alter its character, value, quality, composition, merit, efficacy and safety;

“counterfeiting” means manufacturing, formulating, producing or making of any pest control products, labels or packages that are identical or substantially indistinguishable from those legally authorized under this Act and are likely to cause confusion, mistake or to deceive or pass off as being genuine pest control products,

labels or packages of the registrant of that particular product and “counterfeit goods” shall be construed accordingly.

New Insert the following new section immediately after section 4 –

Control **4A.** Any person who of adulterates or counterfeits, counters or is found in possession of adulterated or counterfeit pest control products, labels or packages, shall be guilty of an offence and shall, on conviction, be liable to a fine of not less than two hundred and fifty thousand shillings, and not exceeding one million shillings, or to imprisonment for a term not exceeding two years, or to both.

(Question of the amendment proposed)

(Question, that the words to be inserted be inserted, put and agreed to)

(The Pest Control Products Act, (Cap. 346) as amended agreed to)

The Constitutional Offices (Remuneration) Act, (Cap.423)

Mr. Abdikadir: Mr. Temporary Deputy Chairman, Sir, I beg to move:-
THAT, the Constitutional Offices (Remuneration) Act, Cap.423, be amended by deleting the Proposed New Schedule.

Indeed, the Committee discussed this matter---

The Temporary Deputy Chairman (Mr. Imanyara): On what page of the Order Paper are they?

Mr. Abdikadir: They are on page 194!

The Temporary Deputy Chairman (Mr. Imanyara): Hon. Members, look at page 194 and I believe 197 of the Order Paper.

Mr. Abdikadir: Mr. Temporary Deputy Chairman, Sir, indeed, the Committee proposed the amendment on the Order Paper that the Schedule be deleted for the reason that the ECK that was being referred to was not really an institution that was in existence. I noticed that the Attorney-General has since proposed an amendment to that fact.

The other issue was that time was not right for these amendments. I have had extensive discussion with the Attorney-General since and I am personally persuaded that the amendments are, indeed, necessary. The Committee, unfortunately, did not have a sitting after my discussion with Attorney-General. Therefore, I will still propose, as Chair of the Committee, that the amendments be deleted.

(Question of the amendment proposed)

The Attorney-General (Mr. Wako): Mr. Temporary Deputy Chairman, Sir, I wish to oppose this proposal to delete this Schedule very strongly because the fact of the matter is that constitutional office holders have not had any increment since 1991 when this Parliament enacted the Statutes Law (Miscellaneous Amendments) Bill which incorporated the Schedule at that time. Since that time, all the institutions have had their salaries reviewed at least twice, some even three times; all institutions. Since that time even the remuneration of hon. Members has been reviewed and is currently being reviewed by the Akiwumi Tribunal. Even today, I read in the newspapers that the teachers' remuneration has been doubled. I think what is being approved today was part of a wider approval involving higher officials of Government. In fact, it was part of the harmonization exercise by the Permanent Review Board (PRB). It was part of that exercise. The salaries of non-constitutional officers, Permanent Secretaries, Provincial Commissioners and so on, as soon as the Cabinet approved, they were implemented immediately. Ours, on my advice, we have waited for the approval of Parliament. So, consequently, we are now facing a situation where constitutional office holders, as of now, their salaries have not been reviewed. The fact of the matter is they are at a disadvantage *vis-à-vis* the other senior officials of Government.

It will be unjust and unfair to the constitutional office holders to hold their salaries and not endorse these proposed salaries. I, therefore, wish merely to be on record and oppose this.

Ms. Karua: Mr. Temporary Deputy Chairman, Sir, I beg to support the deletion. If one listened to hon. Members during the debate, they were unanimous that the timing of this increment is wrong at a time Kenyans are losing jobs. It is also not correct to say that constitutional office holders have not had an increment. They had an increment in 2001. If it is the judges, they got an increment but the magistrates did not. There is also displeasure about performance of constitutional office holders, from the Attorney-General's Office to the Judges and the Public Service Commission (PSC) officers. We thought that it would be better if they tightened their belts like other Kenyans, wait for the Permanent Pay Review Board and especially the one that is going to be created in the new Constitution.

I beg to support the entire deletion of the proposed schedule.

The Assistant Minister, Ministry of State for Defence (Mr. Musila): Mr. Temporary Deputy Chairman, Sir, I oppose the deletion. If you listened to the Chair of the Departmental Committee on Administration of Justice and Legal Affairs, he said that he is very much persuaded and, as a matter of fact, after discussing with the Attorney-General after the meeting of his Committee, he was of a different opinion. He is simply putting this matter as it is so as not to contradict what the Committee had discussed earlier.

I submit that increasing salaries of Judges and other constitutional office holders will not make a single Kenyan lose his job. Therefore, it is timely and advisable that we give additional remuneration to constitutional office holders.

Therefore, I very strongly oppose this deletion.

The Minister for Nairobi Metropolitan Development (Mr. Githae): Mr. Temporary Deputy Chairman, Sir, I stand here to plead, beseech and pray that we be fair. These constitutional office holders have not had a salary increment since 2001 to the extent that some of their juniors are now earning higher salaries than them because others have had their salary increments. Even us, hon. Members, our salaries have been reviewed. I think it is only fair and reasonable that we also allow the constitutional office holders to get their salary increment. And from a practical point of view, I am sure that if we increase the salaries of judges, the salaries of magistrates will also be reviewed and go up. So, if we do this, it will bring a stronger case for salaries of magistrates and executive officers to be increased.

Lastly, we should not look at the holders of those offices. Let us look at those offices. We are not increasing the salary of Mr. Amos Wako, we are increasing the salary of the Attorney-General and Judges. It is the office and not the person!

Thank you, Mr. Temporary Deputy Chairman, Sir.

Mrs. Odhiambo-Mabona: Mr. Temporary Deputy Chairman, Sir, I think I had said this earlier and I would like to repeat that I am not opposed to the increase of salaries but the timing is just wrong. The country is crying! That is why my understanding is that the Tribunal that was formed to review the salaries of hon. Members can even review them downwards! They are not only going to review our salaries upwards! That is why they are seeking views from the public. I would hope and urge my senior, the Attorney-General – I am not opposed because I know he deserves a pay rise and so do the judges who are working tirelessly, but the timing is just absolutely wrong!

Mr. C. Kilonzo: Mr. Temporary Deputy Chairman, Sir, I wish to plead with my colleagues because, at the outset, I want to oppose the deletion.

(Applause)

Mr. Temporary Deputy Chairman, Sir, we need to offer a good package to the Judiciary in order to encourage people in the private sector to join it. Times might be hard, but anybody doing business in this town with court cases is stuck because we do not have enough judges and magistrates. People have refused to join the Judiciary. It would only be fair this time. Times might be hard, but on the other side of the coin, let us encourage people to join the Judiciary.

I wish to oppose the deletion.

(Applause)

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Temporary Deputy Chairman, Sir, let me also add my voice. When a task force was constituted, it came up with proposals. In order for us to have good work from the Judiciary, it is important to raise the salaries in the institution.

We are not raising this for the person in the name of Amos Wako. No! It is for the institution and I would support it without any amendments.

An hon. Member: So, do you support or oppose?

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

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. Kilonzo): Mr. Temporary Deputy Chairman, Sir, I beg to oppose the deletion for different reasons. One of the reasons is this; that the reason they are called “Constitutional Officers” is that they rely on this House to determine their terms and conditions of services. That is why they are constitutional officers, unlike all other people working in the Public Service. These are the only people who, automatically, must come here for this House to consider their cases.

Mr. Temporary Deputy Chairman, Sir, I would like to suggest that we be magnanimous, because I am aware that in the course of the day, if you will remember, some hon. Members of this honourable House were subjected to very, very, very bad circumstances; they were accused of having accepted money from the Parliamentary Service Commission in circumstances where it was their dues. By the end of the day, a request is going to be made to amend some of the provisions to accommodate those things. Let us be consistent; these constitutional officers are very few and they rely on this House. They have no other recourse. Let us tell them that, even as we consider our Ministers, Assistant Ministers and all other people, we should also bear them in mind, which also includes hon. Members of this honourable House who serve in the Parliamentary Service Commission.

I beg to oppose the deletion.

(Question, that the words to be left out be left out, put and negatived)

The Temporary Deputy Chairman (Mr. Imanyara): Hon. Attorney-General, you have a proposed further amendment on page 186.

The Constitutional Offices (Remuneration) Act, (Cap 423)

The Attorney-General (Mr. Wako): Mr. Temporary Deputy Chairman, Sir, I thank hon. Members for that vote.

Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, the provisions relating to the Constitutional Offices (Remuneration) Act be amended, in the proposed Schedule, by deleting the words “Electoral Commission” wherever they occur and substituting therefor the words “Interim Independent Electoral Commission”.

This appears at the top of page 186.

(Question of the amendment proposed)

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(The Constitutional Offices (Remuneration) Act (Cap. 423) as amended agreed to)

The Temporary Deputy Chairman (Mr. Imanyara): Mr. Mungatana, did you have a proposal?

Mr. Mungatana: I have dropped it, Sir!

The Temporary Deputy Chairman (Mr. Imanyara): You dropped it? Okay.
(Mr Mungatana's amendments withdrawn)

Proceed to the next amendment on Stamp Duty.

(The Stamp Duty Act, Cap. 480 agreed to)

Hon. Members, there are no amendments which have been proposed to the Kenya Information and Communications Act, 1998, and, therefore, I will put the question.

(The Kenya Information and Communications Act, 1998, agreed to)

The Sexual Offences Act, 2006

The Temporary Deputy Chairman (Mr. Imanyara): Mr. Attorney-General, you have proposed an amendment on page 192?

The Attorney-General (Mr. Wako): Mr. Temporary Deputy Chairman, Sir, there is a proposal for deletion which, maybe, should come first.

The Temporary Deputy Chairman (Mr. Imanyara): Okay, let us start with the Chairman of the Committee!

Mr. Abdikadir: Thank you, Mr. Temporary Deputy Chairman, Sir.

I beg to move:-

THAT, Section 2 of the Sexual Offences Act, 2006, be amended by deleting the proposed new definition of "indecent act".

THAT, Section 10 of the Sexual Offences Act, 2006, be amended by deleting the proposed amendment.

THAT, Section 12 of the Sexual Offences Act, 2006, be amended by deleting the proposed amendment.

The Temporary Deputy Chairman (Mr. Imanyara): Mr. Attorney-General, you can now move yours!

The Attorney-General (Mr. Wako): Mr. Temporary Deputy Chairman, Sir, I do agree with the deletion proposed to Section 10 and Section 12. As to Section 2, I have got my own amendment which clears the problem that was there.

Mr. Abdikadir: Mr. Temporary Deputy Chairman, Sir. I agree with the deletion for Sections 10 and 12. The proposal for amendment to Section 2 with respect to the definition of "indecent assault" meets our requirements. So, we do concede that we replace the definition as now proposed by the amendments from the Attorney-General.

The Temporary Deputy Chairman (Mr. Imanyara): Wait a moment! I did not get that clearly. Are you deleting and replacing? Of course, you need to withdraw that so that you can enable the Attorney-General to move the amendment. Is that so? Do I take it that you have withdrawn that? Correct it now, Mr. Attorney-General so that we can move as proposed in the---

The Attorney-General (Mr. Wako): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, the provisions relating to the Sexual Offences Act, 2006 be amended –

- (a) by deleting the proposed definition of “indecent act” and substituting therefor the following new definition –

“indecent act” means an unlawful intentional act which causes -

- (a) any contact between any part of the body of a person with the genital organs, breasts or buttocks of another, but does not include an act that causes penetration;
- (b) exposure or display of any pornographic material to any person against his or her will;

The Temporary Deputy Chairman (Mr. Imanyara): As defined in the section?

The Attorney-General (Mr. Wako): As defined in Section 2 under the definitions.

The Temporary Deputy Chairman (Mr. Imanyara): Yes, I am guided by the Clerk. We will first deal with Section 2, and then we can come to Sections 10 and 12. So, I will put the question.

(Question of the amendment proposed)

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

The Attorney-General (Mr. Wako): Mr. Temporary Deputy Chairman, Sir, I agree with the deletion of Sections 10 and 12 as proposed.

(Question, that the words to be left out be left out, put and agreed to)

(The Sexual Offences Act 2006, as amended agreed to)

(The Energy Act 2006, agreed to)

The HIV and AIDS Prevention and Control Act, 2006

Mr. Abdikadir: Mr. Temporary Deputy Chairman, Sir, I beg to move:-
THAT, Section 24(7) of the HIV and AIDS prevention and Control Act, 2006, be amended by deleting the proposed amendment.

Mr. Temporary Deputy Chairman, Sir, we think that it is an affront to the privacy of the patient and it is contrary to the doctor-patient relationship.

The Attorney-General (Mr. Wako): Mr. Temporary Deputy Chairman, Sir, I agree with the deletion because of the reasons stated.

(Question of the amendment proposed)

*(Question, that the words to be left out be left out,
put and agreed to)*

*(The HIV and AIDS Prevention and Control Act, 2006,
as amended agreed to)*

(The Media Act, 2007, agreed to)

(The Tobacco Control Act, 2007, agreed to)

(The Supplies Practitioners Management Act, 2007 agreed to)

(The Truth, Justice and Reconciliation Act 2008, agreed to)

(Ms. Karua consulted loudly)

The Temporary Deputy Chairman (Mr. Imanyara): Order, Ms. Karua! Allow the Chair to transact the business of this House!

THE CONSTITUTION OF KENYA REVIEW ACT, 2008

The Temporary Deputy Chairman (Mr. Imanyara): Hon. Members, there are suggestions for amendments by both Mr. Abdikadir and the Attorney-General.

Mr. Abdikadir, we will start with yours.

Mr. Abdikadir: Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, the Constitution of Kenya Review Act, 2008 (Act No.10 of 2008) be amended-

(b)by inserting a new item in the written law specified in the first column in the Schedule thereto, in the provision specified in the second column thereof, in the manner respectively specified in the third column-

SCHEDULE

<i>Written Law</i>	<i>Provision</i>	<i>Amendmeent</i>
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The Constitution of Kenya Review Act (No.10 of 2008) Section 23 Insert the words “throughout the review process” immediately after the words “civic education” appearing in paragraph (i).

(Question of the amendment proposed)

(Question, that the words to be inserted be inserted, put and agreed to)

The Temporary Deputy Chairman (Mr. Imanyara): Mr. Attorney-General!

The Attorney-General (Mr. Wako): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, the provisions relating to the Constitution of Kenya Review Act, 2008, be amended by adding the following new amendment –

S.33(4) (i) Delete the words “the Committee of Experts for consultation and redrafting” appearing in paragraph (b) and substitute therefor the words “the Attorney-General, who shall, within seven days, submit them to the Committee of Experts for consultation and redrafting.”

(ii) Insert the following new subsection immediately after subsection (5) –

(5A) The National Assembly shall consider the draft Constitution submitted under subsection (5) in accordance with the provisions of section 47A(2)(b) of the Constitution.

Mr. Temporary Deputy Chairman, Sir, the purpose of the way it was drafted, I believe, the core function of the Committee of Experts was to come up with a draft. That is why they have been given 30 days after the draft to conduct civic education on that draft, because their core function is actually the drafting. The civic education will be continued, nevertheless, by other organisations. But, as far as the Committee of Experts is concerned, we are now focussed on coming up with a draft. Once we know the contents of that draft, they can carry out civic education. For that purpose, that time has to be limited, because a new constitution will be endorsed through a referendum very soon.

I am explaining this so that--- Maybe, you may feel that, because of that, you may wish to withdraw or whatever.

(Question of the amendment proposed)

Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

*(The Constitution of Kenya Review Act, 2008
(Act No.10 of 2008) as amended agreed to)*

(The Environmental Management and Co-ordination

Act, 1999 – New Regulations – agreed to)

The National Assembly Remuneration (Amendment Act), Cap.5

Ms. Karua: On a point of order, Mr. Temporary Deputy Chairman, Sir. I have been going through the Statute Law (Miscellaneous Amendments) Bill, which is now at the Committee Stage. I am looking, particularly, at pages 238-241 but nowhere is the National Assembly Remunerations Act, enumerated in the laws being amended.

An amendment at the Committee Stage cannot possibly be brought to a Bill that was not in the originally published Bill. Attempting to bring an amendment may not only be seen to be fraudulent but may actually be fraudulent. The reason that Bills are published is to give Members of Parliament and the public notice of the intention to move those parts of legislation.

During the debate we were not aware that anything to do with the remuneration or emoluments of Members of Parliament would be discussed. This is pure ambush. In the whole of the Commonwealth tradition, such a thing cannot occur. I am very alarmed that the Government can, indeed, attempt to do such a thing.

Mr. Temporary Deputy Chairman, Sir, I am urging you to go through the Standing Orders. Standing Orders cannot cure this. It is clear that Bills are to be published. Where is the publication period? The only thing we do is add new clauses to an already published law. I am urging the Chair to reject the moving of these amendments as fraudulent.

The Attorney-General (Mr. Wako): Mr. Temporary Deputy Chairman, Sir, I think even with the new Standing Orders, the Speaker has inherent powers to allow the moving of this Motion. I was aware of what was brought to the attention of this House. This Chair is allowing this to be moved subject to the approval of the Deputy Prime Minister and the Minister for Finance who has approved. So, with that approval, I can move this Motion.

Mr. Baiya: Mr. Temporary Deputy Chairman, Sir, the Attorney-General is really not responding to the issue that has been raised. Among the Acts that are being amended in the Statute Law (Miscellaneous Amendment) Bill, the National Assembly Remuneration Act was not one of them. At this stage, an amendment is not an amendment to any legislation that is before this House. So, this is really an attempt to ambush this House by sneaking in amendments within the main law that was being amended. The procedure is very clear. There is the initial reading of the Bill, Second Reading and then the Committee Stage at this level. So, looking at the general substance of this amendment, it is substantial that this House should not be subject to inherent power, even that of the Speaker.

The Standing Orders do not actually confer on the Speaker powers to allow this kind of amendment. I stand to be corrected because I have not really seen it anywhere within the precedent of this House.

The Temporary Deputy Chairman (Mr. Imanyara): You have made your point. Yes, Ms. Odhiambo.

Ms. Odhiambo: Mr. Temporary Deputy Chairman, Sir, I know that the Standing Order No.1 gives Mr. Speaker inherent powers. However, those inherent powers must follow the law. We know how we legislate in this country. That is why when a piece of

legislation is introduced; it must be referred to the relevant committee. We cannot have a substantive amendment, especially introducing remuneration upwards for MPs without it having gone through the Committee on Administration of Justice and Legal Affairs. It would look like we are actually in cahoots with the hon. Attorney-General to increase the salaries of constitutional office bearers because ours is being increased.

This matter should not even go to the debate because it is not procedural before this House. We do not support any salary increment today for MPs, save as per the taskforce that has been established.

Mr. C. Kilonzo: Mr. Temporary Deputy Chairman, Sir, I want to bring it to your attention that some time back in one of the Bills such an amendment was brought to the House and Mr. Musila stood and objected. The Speaker's ruling was very clear that any substantial amendment--- This Bill, under Standing Order No.107 has to go for publication and therefore, any amendment cannot be allowed.

When we came here in the afternoon, there were two Order Papers and one of them was a Supplementary Order Paper. To sneak a page behind the Order Paper amounts to fraud. I wish to beg that you rule whether it is in order for the Attorney-General to bring such an amendment through the back door? He knows very well there is a tribunal in place that is already handling this. I wish that you rule on the same.

The Minister for Nairobi Metropolitan Development (Mr. Githae): Mr. Temporary Chairman, Sir, I can remember when this issue came on the Floor of this House, the Chair ruled that it is only the Attorney-General who can bring amendments. So I think it is in order for the Attorney-General to bring the amendments. The Speaker and Minister for Finance approved this. Therefore, we should proceed and listen to the amendment the Attorney-General is moving.

The Attorney-General (Mr. Wako): Mr. Temporary Deputy Chairman, Sir, when I use the word "inherent" I use it very---

The Temporary Deputy Chairman (Mr. Imanyara): Sorry Mr. Attorney-General, I wanted to hear Mr. Ethuro so that you can be the last to contribute.

Mr. Ethuro, please, proceed!

Mr. Ethuro: Mr. Temporary Deputy Chairman, Sir, I think we should contribute so that the Attorney-General can clarify later.

I want to support the proposal by the Attorney-General and to oppose in the strongest terms possible the contribution by Ms. Karua. Some of us have been taken to court by the Kenya Anti-Corruption Commission (KACC) claiming that we were making false mileage claims.

Mr. Temporary Deputy Chairman, Sir, Ms. Karua needs to tell us her interest in this matter. When this matter came in the last Statute Law (Miscellaneous Amendments) Bill in 2007, she withdrew it. It has caused many of us a lot of suffering and agony. Kenyans are thinking that we claim illegal allowances when we hold public offices.

(Applause)

Mr. Temporary Deputy Chairman, Sir, you recall that amendments for these kind of Bills can only be brought by the Attorney-General. Nobody else should bring it. I think it is only proper and appropriate that the Attorney-General of the Republic has deemed it fit to correct an anomaly. As I speak now, Ministers and Assistant Ministers continue

drawing allowances yet they have not been reflected in the National Assembly Remuneration Act. As I speak now, they are drawing those allowances and they could be considered illegal. We are trying to rectify and legalise an existing procedure.

(Several hon. Members stood up in their places)

The Temporary Deputy Chairman (Mr. Imanyara): Order, hon. Members! If you have a point of order, you rise up and when I see you, you speak. You do not force yourself!

Ms. Karua: On a point of order, Mr. Temporary Deputy Chairman, Sir. Mr. Ethuro has mentioned me. Yes, I was coming here to propose a Bill on behalf of the Attorney-General and again, fraudulent figures were added in the afternoon. I did not want to take responsibility and withdrew the Bill in 2007 to wait for the Attorney-General to come and handle his mess.

May I be understood that I am opposed to any proposals being made. My point of order is that, yes, the Attorney-General can move an amendment but he can only do so to a Bill that is already published. The National Assembly Remuneration Bill is not among the Bills that have been published.

Standing Order No.107 and our tradition---

The Temporary Deputy Chairman (Mr. Imanyara): Order, Ms. Karua! I will allow you to address the issue raised by Mr. Ethuro but not to revisit matters for which you have already made your contribution.

Ms. Karua: Mr. Temporary Deputy Chairman, Sir, that is the issue I was talking about. I have no interest in the matter unlike him who has an interest to absolve himself from the case. My interest is not even for Members not to be paid. It is only for things to be done in the proper manner.

Mr. Ethuro: On a point of order, Mr. Temporary Deputy Chairman, Sir. Is it in order for the former Minister, who was withdrawing a responsibility allowance illegally, to come and claim that I have an interest which she does not have?

The Temporary Deputy Chairman (Mr. Imanyara): Order! Order, hon. Members! Yes, Mr. Attorney-General!

The Attorney-General (Mr. Wako): Mr. Temporary Deputy Chairman, Sir, I just want to assure you that the correct reading of the procedure in Committee of the Whole House on a Bill and here is a Bill called The Statute Law (Miscellaneous Amendments) Bill comes under Standing Orders 116 and in particular sub paragraph 2. That has not been breached. I just want to assure you that, that has not been breached. What they are quoting is some ruling that was made by the Speaker as far as the Statutes Law (Miscellaneous Amendments) Bill, is concerned which ruling was by way of guidance. He had to make that ruling because that issue is not properly covered under the Standing Orders. He made that ruling under his inherent powers. Therefore, the same Speaker can quite properly, where circumstances permit, allow the Motion using the same powers. I was aware of that ruling. I was also aware of the inherent powers and that is why I wanted the Speaker to approve. The Speaker, in the proper exercise of his powers, I must say so, approved subject, again, quite properly the approval by the Deputy Prime Minister and Minister for Finance. That was approved properly because this is a matter that can involve finances.

With the Speaker approving, subject to the approval of the Deputy Prime Minister and Minister for Finance, the Attorney-General is quite right to move this Motion. It is not fraudulent. It is a case that is within the knowledge of Members of Parliament as to what has happened.

(Several Members stood up in their places)

The Temporary Deputy Chairman (Mr. Imanyara): Order! Order! I will hear the Chair of the Departmental Committee on Administration of Justice and Legal Affairs.

Mr. Abdikadir: Mr. Temporary Deputy Chairman, Sir, in terms of the process of Bills in the House, the Committee's work is very critical. The reason for this is that it allows Kenyans to interface with the process so that people can give their views on issues which are being debated in the National Assembly. It also allows the House to benefit from expertise and allows the House to very adequately scrutinize matters by the time we pass the laws. The new Standing Orders make that function more critical. The issue before you is not just critical with regard to whether it has been appropriately placed but the process in which it has been done. The issues which are being touched on are very critical. The Committee on Administration of Justice and Legal Affairs was tasked by the Standing Orders. When this Bill was moved, it was automatically committed to the Committee. This House then had given that responsibility and duty to this Committee to look into it and come back to give a report on whether they had looked at the Bill in detail, what they agree or disagree on so that the House can benefit from two sides; from the Attorney-General, who is the publisher and from the Committee who essentially should have a different view and give that benefit to the House. The Committee did not have the benefit of looking at this proposal. Nothing stopped the Attorney-General from publishing these proposals. Nothing stops him from publishing them tomorrow as amendments.

The Temporary Deputy Chairman (Mr. Imanyara): Order! My role is very limited. First, is to see whether there is any basis for the procedure adopted by the Attorney-General. He has cited Standing Order 116(7), which I will read out to the advantage of Members. It reads:

“On any Motion being made for the addition of a new clause, the clause shall be deemed to have been read a First Time and the question shall then be proposed “That the clause be read a Second Time” and if this is agreed, amendments may then be proposed to the new clause and the final question be proposed shall be “That, the clause (as amended) be added to the Bill.”

Again, Standing Order 116(2) reads:-

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

Given that background, I have taken the trouble to find out whether, in fact, such notification was given and whether, indeed, there have been any conditions attached to it by the Speaker. What I have is that, indeed, the amendments were submitted to the Clerk,

duly acknowledged, signed by the Attorney-General and the Chief Whip and sent to the Speaker. The Speaker, in exercise of the powers under the Standing Orders has stated:-

“Approved subject to two Ministers namely, the Attorney-General and the Deputy Prime Minister and Minister for Finance agreeing.”

All I need to be satisfied is to find out whether the two Ministers are in agreement. With regard to the Attorney-General, I have his written notification of agreement. I do not have a notification from the Deputy Prime Minister and Minister for Finance, unless it can be shown to me, so that we can be in compliance with the Standing Orders.

Mr. Attorney-General, do we have the approval of the Deputy Prime Minister and Minister for Finance in accordance with the ruling of the Speaker that the two Ministers’ approval is necessary?

Yes, Mr. Thuo!

Mr. Thuo: Mr. Temporary Deputy Chairman, Sir, that issue was brought to my attention and the condition given. I called the Deputy Prime Minister and Minister for Finance in the presence of a couple of Members. I can give an undertaking that he gave me the approval to confirm that he gives his consent.

The Temporary Deputy Chairman (Mr. Imanyara): Hon. Members, in that case, I rule that the points of order are out of order. The Bill can be moved. You have the right to vote as you indicated.

Proceed, Mr. Attorney-General!

The Attorney-General (Mr. Wako): Mr. Temporary Deputy Speaker, Sir, I beg to move:-

THAT, the Bill be amended under the National Assembly Remuneration Act, by inserting the following new amendments:-

Second Schedule

Insert the following new items and corresponding entries immediately after the MPs, relating to:-

(v) the Vice-President, Prime Minister, other Ministers and Assistant Ministers, a Ministerial responsibility allowance at the rate of-

(a) Kshs300,000 per month for the Vice-President and the Prime Minister.

(b) Kshs200,000 per month for Ministers, and;

(c) Kshs100,000 for Assistant Ministers.

vi) The Speaker - an allowance equal to the Ministerial responsibility allowance payable to the Vice-President per month.

vii) Deputy Speaker, Leader of Official Opposition, the Vice-Chairman, Parliamentary Service Commission, the Government Chief Whip - an allowance equal to the Ministerial responsibility allowance payable to Ministers per month.

viii)Parliamentary Service Commissioners, Members of the Speakers Panel, Deputy Government Chief Whips, Opposition Whips and other recognised whips - an allowance equal to the Ministerial responsibility allowance payable to Assistant Ministers per month

ix)Every Member of the National Assembly, including the Speaker, Deputy Speaker, Vice-President, Minister and Assistant Minister - a severance allowance equal to 12.5 per cent of the Members emoluments for every year in service, payable to a Member at the end of the parliamentary term.

x)The Deputy Speaker, Parliamentary Service Commissioner - I have deleted the Attorney-General, Members of the Chairmen panel, Government Chief Whip, Deputy Government Chief Whip, Opposition Whip and other recognised whips, a gratuity at the rate of 20 per cent of their salary, payable at the end of parliamentary term with effect from 9th January, 2003, or the date of appointment of the person concerned, whichever is later.

Mr. Temporary Deputy Chairman, Sir, I beg to move. It is self explanatory. This is a matter that has been going on for some time. I believe it follows the Cockar Commission Report.

(Question of the amendment proposed)

The Minister for Nairobi Metropolitan Development (Mr. Githae): Mr. Temporary Deputy Chairman, Sir, there is nothing new which is being done. Ministers are already receiving their ministerial allowances. They have been receiving it for the last four or five years. Assistant Ministers have also been receiving their Ministerial allowances. Even members of the Parliamentary Service Commission have been receiving these allowances. We must remove the embarrassment we have caused the Parliamentary Service Commissioners. They have been taken to court because Parliament did not do its job of rectifying and legalising this. As I speak, hon. David Musila, Dr. Ali, J.J. Kamotho, Norman Nyagah, Daniel Khamasi, Sambu, Samuel and Samuel Poghisio have been taken to court because they were doing their job; the job that this Parliament gave them. This has been embarrassing. Half of them lost their seats. They are being threatened with their houses being auctioned on the basis that they received some allowances which Parliament never legalised.

Mr. Temporary Deputy Chairman, Sir, I beseech, ask and request this House to legalize and rectify this, so as to stop embarrassing our Commissioners.

Ms. Karua: Mr. Temporary Deputy Chairman, Sir, I beg to oppose. Since it is being read for the Second Time, allow me time to ventilate. No Bill can be published before it is discussed in this House. The Memorandum of Objects and Reasons in the Statutes Law (Miscellaneous Amendments) Bill---

The Temporary Deputy Chairman (Mr. Imanyara): Order! I will not allow debate to revisit a ruling that I have made.

Ms. Karua: Mr. Temporary Deputy Chairman, Sir, allow me to read the Standing Orders. It is important that those dissenting be allowed to ventilate without challenging your ruling. I am bound by your ruling but I have my views which will not become different. Therefore, I am saying that the proposals moved are illegal as they are and these are my reasons: I will rely on Standing Order 107 which states:-

“No Bill shall be introduced unless such Bill together with the Memorandum referred to in Standing Order 106 (Memorandum of Objects and Reasons), has been published in the Gazette (as a Bill to be originated in the House) and unless, in the case of a Consolidated Fund Bill---“

That is the relevant part. As to a Clause, it refers not in the abstract but to a Bill that is already before the House. Valid reasons can be given about regularizing remuneration that is already being received. Nobody has a quarrel with that.

Mr. Jamleck I. Kamau: On a point of order, Mr. Temporary Deputy Chairman, Sir. Is it in order for the hon. Member to engage in a debate which the Chair has already ruled on?

Ms. Karua: Mr. Temporary Deputy Chairman, Sir, I am not able to understand the point of order; so, I will proceed. It needs interpretation.

What I am saying is that a Clause would refer to a Clause of a Bill already published. There is nothing wrong with the Government regularizing allowances that are already being received but there is something very sneaky and wrong with trying to circumscribe procedure and without notice, bring those matters before the House. This is how the advice in Anglo Leasing and Goldenberg was given. That is fraudulent legal advice that then becomes a scandal. I am urging hon. Members that whatever good proposals are before us today, let the steps be retraced and let them be brought in an orderly manner. Short-cuts are what leads to fraud in the Government. One does not want to go the wrong way because he or she wants a short-cut. It is a sad day that when we are already on the spotlight on other matters, we start sneaking legislation in this manner.

Mr. Temporary Deputy Chairman, Sir, finally, we have been told that nothing new is coming in. It is not true. We are regularizing and going beyond. If you look at Section 9 where a severance allowance equals to 12.5 per cent, which translates to Kshs6 million per Member and which is four times above the 1.5 per cent that was already accepted in the last Parliament, why on earth did the House and the Speaker promulgate the Akiwuni Tribunal to check on our remuneration and taxation? Why do we sneak in to give ourselves money at a time that we are being asked about taxation? Like all hon. Members, I would not mind some money but not this way.

I beg to oppose and I plead with hon. Members; let us for once, show some decency and agree to do it the right way.

Mr. C. Kilonzo: Mr. Temporary Deputy Chairman, Sir, I want to be understood very clearly. Just like any human being, I like money but today, when we know very well that there is the Akiwumi Tribunal and the sentiments of the common man, we cannot purport to give ourselves more powers and make the same mistakes which we have made from time to time. As much as we want money, the timing is totally wrong. When there is a world recession, who can you convince outside this Parliament that you should earn more? Nobody! You might pass it here today but tomorrow, you might be seeing a riot in this city. I do not think I will say a lot on this. It is wrong and immoral.

Ms. Odhiambo: Mr. Temporary Deputy Chairman, Sir, I oppose. I think the issue is not whether there has been a mistake in the past in the way we have paid people. If there has been a mistake, we cannot correct a mistake with another mistake. We need to correct it by bringing this matter procedurally and properly before this House. We cannot be sneaking in procedures, so that we look like we are partners in crime; that

constitutional office holders are adding themselves money, we are partners in adding money to ourselves.

I vehemently oppose.

Mr. Ruteere: Mr. Temporary Deputy Chairman, Sir, as has been said, everybody wants money but money rightfully earned is money that gives you peace. You cannot earn money that has been brought to you the wrong way.

(Applause)

It is not right when the public is looking at us; when the public is talking about how much hon. Members earn, that we sneak in something that has not been debated by the public. Why is there the Akiwumi Tribunal? Why is it that we are talking about 2012 today and there are several years? When will the Akiwumi Tribunal finish its work? I propose that if there is need for this to come, let them follow the system that will not be debatable; a system that will be supported; a transparent system and it will be supported by hon. Members. But as it is now, it has been brought through the wrong way. It is not correct. It is the wrong way!

I beg to oppose!

The Assistant Minister, Ministry of State for Defence (Maj-Gen.Nkaisserry): Thank you, Mr. Temporary Deputy Chairman, Sir, for giving me this opportunity. It is immoral for us to sneak in an illegality!

(Applause)

Even if we are in need of money, we should follow the legal route. This country is looking upon this august House to provide leadership; leadership in the management of financial resources and other resources. If we increase the emoluments of constitutional office holders, we cannot sneak our own. We have to find a way in future if we need this money to do so in the most legal way.

Therefore, I stand to oppose.

(Applause)

Mr. Njuguna: Thank you, Mr. Temporary Deputy Chairman, Sir. Looking at the issue at hand, the origin and the contributions already made in this House, there is one thing that comes into my mind, which is that this House needs to stand in front of the Kenyan people and qualify for integrity and dignity.

(Applause)

I do not know what the Kenya church and the youth of this nation will say today if we pass this amendment. The nation is in the process of healing! The passage of this Bill will not facilitate that healing process.

I, therefore, oppose this Motion.

The Assistant Minister for East African Community (Mr. Munya): Mr. Temporary Deputy Chairman, Sir, I also want to add my voice to oppose this amendment.

(Applause)

It is completely in bad taste. There are procedures that we follow when we want to look into remuneration for Members of Parliament and other office holders. So, coming up with un-thought out amendments at this very inappropriate economic period in this country when our economy is struggling, people are unhappy because they cannot earn enough, it is totally wrong and it should be rejected.

(Applause)

Mr. Baiya: Mr. Temporary Deputy Chairman, Sir, I also stand to oppose this amendment. I would like to ask Members of this august House to remember that Kenyans are there, they are watching us and we have heard their sentiments about the remuneration. In fact, the reason why we have the remuneration review is because of the issue of taxation by this House. So, to actually present this kind of remuneration to the Kenyan people, bearing in mind the economic situation that they are facing, I can only say this: It is no wonder it is being sneaked in the last minute to deny public scrutiny. If we sincerely believe that, really, we deserve what we are proposing, let us follow the right procedures. Let Kenyans give their views about what we want to do and we should do it openly. But the way we are doing it is morally wrong.

I beg to oppose.

(Applause)

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Temporary Deputy Chairman, Sir, we need a clarification from you. If, indeed, it is true that this amendment has been sneaked in, it would be in bad taste.

There is no hurry. If an illegality was not followed, I want to oppose the same.

(Applause)

Mr. Temporary Deputy Chairman, Sir, let the Attorney-General go back with the whole Bill in order for us to follow the legalities which are required. If, at all, it was not followed, I beg the Attorney-General to withdraw the Bill and follow the right, legal channels.

As it stands, I beg to oppose.

(Applause)

Mr. Abdikadir: Mr. Temporary Deputy Chairman, Sir, the Statute Law Miscellaneous Amendments Bill is not a typical Bill. It is made up of very many Bills,

essentially. Indeed, it is an archaic way of passing legislation. As the Departmental Committee on Justice and Legal Affairs, we did, indeed, propose in our Report on this matter that the Attorney-General, henceforth provides amendments to the law in specific Bills.

(Applause)

This is because this method of amending Bills has a very big problem in terms of transparency. There are so many Bills, that are being amended under one Bill that it is very difficult to actually scrutinize each one of them appropriately. That is why when we say, amendment to a section, when we are talking about that amendment being the amendment to an entire law, I do not think it is appropriate to say that we are amending a section.

Mr. Temporary Deputy Chairman, Sir, it is, therefore, very critical that for even the wrong we are intending to correct, to be properly corrected, this matter should be taken back, it should be properly published and come to the House when it is properly published. It should come to the Departmental Committee and then we debate it.

I beg to oppose.

(Applause)

(Question, that the words to be inserted be inserted, put and negatived)

(Schedule as amended agreed to)

(Title agreed to)

(Clause 1 agreed to)

The Attorney-General (Mr. Wako): Mr. Temporary Deputy Chairman, Sir, I beg to move that the Committee doth report to the House its consideration of the Statute Law (Miscellaneous Amendments) Bill and its approval thereof with amendments.

(Question proposed)

(Question put and agreed)

(The House resumed)

[Mr. Deputy Speaker in the Chair]

REPORT, CONSIDERATION OF REPORT AND THIRD READING

Mr. Imanyara: Mr. Deputy Speaker, Sir, I beg to report that a Committee of the Whole House has considered the Statute Law (Miscellaneous Amendments) Bill and approved the same with amendments.

The Attorney-General (Mr. Wako): Mr. 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 Attorney-General (Mr. Wako): Mr. Speaker, Sir, I beg to move that the Statute Law (Miscellaneous Amendments) Bill be now read the Third Time.

The Minister for Health (Mrs. Mugo) seconded.

(Question proposed)

(Question put and agreed to)

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

MOTION

ADOPTION OF REPORT ON NOMINATION OF COMMISSIONERS TO THE TRUTH, JUSTICE AND RECONCILIATION COMMISSION

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

THAT, this House adopts the Report of the Departmental Committee on Justice and Legal Affairs on the Nomination of Commissioners to the Truth, Justice and Reconciliation Commission laid on the Table of the House on Thursday, May, 28, 2009.

Mr. Deputy Speaker, Sir, the Truth, Justice and Reconciliation Act, 2008 is an Act of Parliament to provide for the establishment of the Truth, Justice and Reconciliation Commission and for connected purposes. Vide Part II of the Act, the establishment, powers and functions of the Commission are set out. The membership of the Commission is stipulated in the provisions of Section 10.

The mandate of the Committee was to nominate nine persons for appointment to the Commission pursuant to the provisions of the Act. The Act, indeed, provides for a selection panel made up of nine members, including those listed in the Report. The Committee received the Report from the Selection Panel which they did after advertising and interviewing numerous people who intended to serve in this Commission. The Committee observed that in accordance with the Truth, Justice and Reconciliation Commission Act, the Selection Panel had invited applications from persons to be nominated as Commissioners. It considered the applications, ranked them and provided comments regarding each of the finalists to the Kenya National Assembly.

In accordance with the law, the Selection Panel sent a list of 15 qualified Kenyans. In keeping with the provisions of the law, the Committee selected nine persons for nomination, taking into consideration the requirements as set out under the provisions.

My Committee thereafter, resolved to nominate the following for appointment as Commissioners:-

- (1) Amb. Bethuel Kiplagat, MBS,
- (2) Mr. Thomas Letangule,
- (3) Miss Margaret Chava,
- (4) Mr. Tom Ojienda,
- (5) Rev. Dr. Timothy Njoya,
- (6) Miss Betty Murungi,
- (7) Mr. Abubakar Zein,
- (8) Miss Tekla Namachanja,
- (9) Maj-Gen. (Rtd.) Ahmed Sheikh.

Mr. Deputy Speaker., Sir, the Committee further noted the names in the minutes forwarded by the Eminent African Personalities as follows:-

- (1) Miss Gertrude Chawatama from Zambia,
- (2) Mr. Berhanu Dinka from Ethiopia,
- (3) Mr. Ronald Sly from the United States of America (USA).

It is, therefore, the recommendation of the Committee that the people mentioned above be, indeed, nominated to be Commissioners to the Truth, Justice and Reconciliation Commission (TJRC). The law requires that the names, once approved, be sent to the President, and the President will pick six out of the nine nominees, if approved by this House.

Mr. Deputy Speaker, Sir, on behalf of the Members of the Departmental Committee on Administration of Justice and Legal Affairs, I wish to present to the House the Report of the Committee and the names of the nine qualified candidates, and the names of the three nominees nominated by the Panel of Eminent African Personalities for further consideration and subsequent adoption by the House.

With those remarks, I beg to move and ask Mr. Njoroge Baiya to second the Motion.

Mr. Baiya: Thank you, Mr. Speaker, Sir. I can confirm that this Report has received full deliberation of the Departmental Committee on Administration of Justice and Legal Affairs, and that the whole process was as explained by the Chairman. We are very clear that if this team receives the approval of the House, and also the approval of the President, it will deliver to the expectations of Kenyans.

Mr. Deputy Speaker, Sir, with those remarks, I beg to second.

(Question proposed)

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. M. Kilonzo): Mr. Deputy Speaker, Sir, I would like to take this opportunity to thank you for giving me this chance to, first of all, congratulate the Committee and all its Members. I would also like to take this opportunity to congratulate the Selection Panel and the Serena Team as well as the National Accord Implementation Committee for the work that has been put into this process of national healing.

These proposed Commissioners are very important. I want to assure the House that my Ministry will go out of its way to ensure that we make it possible for them to do

the work that they are expected to do as expeditiously as possible, for purposes of national healing.

Mr. Deputy Speaker, Sir, this is a very special year for this country, when we are grappling with very many issues, including Agenda Four, and above all, a new constitutional order. I beg to support this Motion and urge hon. Members to support it because it will go a long way towards the realization of this country of the nationhood that it so desperately needs.

I beg to support.

The Minister for Nairobi Metropolitan Development (Mr. Githae): Thank you, Mr. Deputy Speaker, Sir, for this opportunity. I stand here to support this Motion that we should approve these names. I wish to take this opportunity to thank the committee for a job well done. I wish to thank the selection panel which was composed of various stakeholders; that is, FCI Kenya National Commission on Human Rights (KNHCI), Law Society of Kenya (LSK), Kenya Private Sector Alliance (KEPSA), SUPKEM, Hindu Council of Kenya, COTU and Kenya Medical Association, for a job well done.

I have looked at the names of the proposed commissioners. I have no doubt that Amb. Bethwel Kiplagat, Mr. Thomas, Letangule, Margaret Shava, Tom Ojienda, Rev. Timothy Njoya, Ms. Betty Murungi, Abubakar Zein, Ms. Tekla Namachanja and Maj-Gen. Rtd Ahmed Sheikh, will do a good job. Even the people appointed by the panel of eminent persons, these are: Getrude Chawatamu from Zambia, Mr. Berhanu Dinka from Ethiopia and Mr. Ronald Sly from the United States of America, will do a good job.

This Commission should have been appointed yesterday, so that it can go into all these causes like what happened after the elections, who brought about the chaos--- Where people confess to the crimes they did, then there should be a provision for giving them some kind of immunity.

With those words, I support.

Mr. Ruteere: Mr. Deputy Speaker, Sir, since there is consensus that we accept these names, am I in order to request that the Mover be called upon to reply?

Mr. Deputy Speaker: If that is the mood of the House, let the Mover reply.

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

(Question put and agreed to)

MOTION FOR ADJOURNMENT

ADJOURNMENT TO A DAY OTHER THAN
THE NEXT NORMAL SITTING DAY

Mr. Thuo: Mr. Deputy Speaker, Sir, I beg to move:-

THAT, this House do now adjourn until Tuesday, 21st July, 2009.

Mr. Deputy Speaker, Sir, since this Session of the 10th Parliament commenced business on Tuesday 21st of March, a lot has been achieved. A number of Bills were introduced and are currently at various stages. This includes the Supplementary Appropriations Bill, the Arbitration Amendment Bill, Constitution Bill, the Statute (Miscellaneous Amendments) Bill which we have just passed, the Mutual Legal

Assistance Bill awaiting Committee Stage, the National Youth Council Bill which was read for the First Time on 23rd June and the Finance Bill 2009, which has been published and awaits the First Reading.

A total of 45 Motions were introduced during this period. Forty three of them were passed while one was negatived. Ten of them were Private Members Motions, 13 were Procedural Motions, five were Government Bills while 15 were to adopt departmental committee reports.

Mr. Deputy Speaker, Sir, we have also committed to the various departmental committees, the Estimates, in accordance with the Standing Orders.

The biggest purpose for which we seek this adjournment is to allow these committees to execute their mandate in accordance with the Standing Orders. This is basically to consider, discuss and review the Estimates committed to each of these committees and to submit the reports to the House within 21 days after they were first laid before this House. Therefore, the adjournment we are seeking tonight will allow the Members to participate in this very crucial exercise.

Mr. Deputy Speaker, Sir, it is important that the public is made aware that the adjournment is not a holiday. Members will be working extremely hard because they will be fulfilling their oversight role by looking into this Budget in great detail. They will also ensure that what was dubbed the best Budget of our country is actually capable of being implemented and giving us the results that we seek from the Estimates.

With those very many remarks, I beg to move and ask Mr. Musila to second.

The Assistant Minister, Ministry of State for Defence (Mr. Musila): Thank you Mr. Deputy Speaker, Sir, for this opportunity.

I think it is appropriate that this House goes on recess. This is a very difficult time. As hon. Members are aware, the President declared the drought prevailing in this country a national disaster. I want to put it here that drought is reaching unmanageable proportions. Along with that, famine is striking our people and therefore, it is appropriate that we go home and address the issue of drought.

Mr. Deputy Speaker, Sir, as I speak here, water shortage in some districts, particularly, in Ukambani is so severe that dams have dried up. The borehole waters are diminishing. We expect rains in November 2009, therefore, unless something is done urgently, we risk the closure of all schools. It is not only that; the likes of livestock are endangered because they do not have drinking water. School children are also not going to school because the School Feeding Programme has been stopped in some areas. Therefore, as we go on recess, I call on the Government to ensure that adequate measures are taken to avert this very serious situation which is just around the corner.

I want to talk about the Constituencies Development Fund (CDF). This House passed an Act of Parliament and created the CDF. This Fund has been instrumental in developing our constituencies. Lately, however, there have been people talking against the role of Members of Parliament in CDF. I want to say that it is only through the CDF that Members of Parliament will be able to realize development in their constituencies. Therefore, the Minister of State for Planning, National Development and Vision 2030, Mr. Oparanya, who appears to be buying the thought from Non-Governmental Organisations (NGOs) that Members of Parliament should limit their roles in management of CDF, is misguided.

Mr. Deputy Speaker, Sir, as you are aware, the other day the Minister appointed a task force to look into this matter. I want to remind the Minister that we have a House committee on matters of CDF. It is only the House committee, appointed by this House that should propose amendments to the CDF Act. I, therefore, put it to the Minister that he is wasting public money. He is spending Kshs200 million for a task force which is useless and unnecessary.

This House will not accept any attempts by the Minister of State for Planning, National Development and Vision 2030 to interfere with the running of the CDF. I would like to urge the Minister to withdraw this taskforce immediately and refer any matter that he may have to the relevant Departmental Committee on CDF.

I beg to second.

(Question proposed)

Mr. Abdirahman: Mr. Deputy Speaker, Sir, I stand to support this Motion of Adjournment this evening. I would like to make a few comments, starting off with the performance of the Grand Coalition Government. We all know that forming a coalition is a very difficult exercise. I think we have wasted a lot of valuable time of Kenyans with regard to service delivery because of lots of squabbling at the beginning of the year. I hope that over time, those who represent the Government will learn the ropes well and help us deliver to Kenyans. Time and again, we hear of collective responsibility. However, looking at it critically in terms of Government performance, you find that the various Ministries do not co-ordinate, especially in the area of service delivery.

Mr. Deputy Speaker, Sir, the Budget, which was read in this House, in terms of principles of service delivery to Kenyans was a very good move. I personally applaud the Deputy Prime Minister and Minister for Finance for the very good route he took in terms of considering devolution of funds to constituencies or local level. This is something we have missed for a long time in this country. Money has been centrally allocated and we were not able to get what we wanted. So, I thank the Deputy Prime Minister and Minister for Finance in particular, for the good effort he made in terms of trying to make sure that we get resources channelled to constituencies. Even if some of that money will not come directly through the CDF kitty, we are very happy that the money has been earmarked for the development of the constituencies.

Currently, we are facing a very severe drought in this country, particularly in the northern part of this country. Unfortunately, the response has been very poor. Even in instances where the President himself declared famine a national disaster in this country, the responses have been very poor. They have not been very timely. There has been very poor co-ordination, especially from the Ministry of Livestock Development and Ministry of Water and Irrigation. The Ministry of Development of Northern Kenya and other Arid Lands should go an extra mile in terms of coordinating these Ministries. Drought is not an easy task for people to respond to, unless they know when they should respond to emergencies. We cannot go on talking about emergencies in our areas. The Government should think forward and look at long-term development programmes for people in our areas.

Of late, we have been reading many reports from the Ministry of Education, for instance, with regard to the management of bursary funds. Unfortunately, the Ministry

has not been giving us these funds equitably. For instance, in my constituency, I got only Kshs180,000 instead Kshs500,000 which we used to get. The PS went on and said that MPs should step aside as patrons. It is us who know the people and their problems. We will not want technocrats from the Ministries to decide one evening that MPs should stay away from those funds.

On the drought response with regard to livestock out-take, the Ministry of Livestock Development had channelled Kshs500 million to the Kenya Meat Commission (KMC). I, at one time, read an advertisement that said that money would be channelled to the AFC. We are not happy with that. We want those funds channelled to the Arid Lands Resource Management Projects because it can buy livestock from our livestock traders in our areas.

Mr. Deputy Speaker, Sir, finally, on the task force which Mr. Musila has mentioned, one thing they should do if they have to is to document the best practices with regard to the Constituencies Development Fund (CDF). They should learn from the constituencies that have used this money well so that this can be replicated in other areas. I support what Mr. Musila has said. The Committee on the CDF should propose the kind of laws that should be changed.

Mr. Deputy Speaker, Sir, thank you for giving me this opportunity to contribute to this Motion.

Mr. K. Kilonzo: Thank you, Mr. Deputy Speaker, Sir, for giving me an opportunity to contribute to the Motion for Adjournment. It is very difficult for Members of Parliament, especially those of us who come from the Arid and Semi-Arid Lands (ASALs) as the House goes on recess. This is because for the last one or so years, no rains have been experienced in those areas. The crops have failed and no harvest is expected there. We will be confronted by people who even stay a whole day without a meal when we go home. I urge the Government to make sure that an area like Mutitu in Ukambani, where I come from, and other areas in this country where there are no harvests and Kenyans do not have anything to eat, it steps up the distribution of food. This is because as much as we are looking at the long-term measures of making this country self-sufficient in terms of food production, we should address the issue of Kenyans who are dying due to lack of food. There is a big problem of lack of water in my constituency, most parts of Ukambani, North Eastern Province and Turkana. I appeal to the Government, through the Ministry of Water and Irrigation, to focus on taking water bowsers to schools, so that education is not disrupted. As I speak here now, schools in my constituency and other areas are being closed because students do not have food and water.

Mr. Deputy Speaker, Sir, I do not want the Government to go on a sleep mode because Parliament is adjourning. The Government should focus more on insecurity. Over the last month or so, the City of Nairobi has become one of the unsafe cities in this continent. Everytime hardworking Kenyans leave their offices for their homes and vice-versa, they do not know whether they will get there. I remind the Government that the very cardinal responsibility of the Government is to provide security to its citizenry. Kenyans are asking: "What is going on? When did the rains start beating us as far as security is concerned?" I urge the Government, as we go on recess, not only to focus on Members of Parliament and other dignitaries, but to also ensure that it provides security to the common *mwananchi* in this country.

Without exaggerating, cases of kidnapping have become the order of the day. It appears as if there is a conspiracy of silence between the police, the security agents and the people who now face these kidnapers. The victims are asked to pay ransom money which they do quietly for fear of losing their loved ones.

We want to ask the Government to step up security.

The other issue is about unemployment in this country. It is sad that 80 per cent of our young people are unemployed.

With those few remarks, I beg to support this Motion.

The Minister of State for Special Programmes (Dr. Shaban): Asante Sana, mhe. Naibu Spika, kwa kunipa nafasi hii, ili nizungumze juu ya Hoja hii. Wakati huu ni muhimu kwetu sisi kwenda kujiunga na kufanya kazi pamoja na watu wetu.

Mhe. Naibu Spika, Wakenya wana matatizo mengi. Mhe. Kaimu Waziri Mkuu na Waziri wa Fedha, aliposoma Bajeti yake hivi majuzi, alisema pesa nyingi zipelekwe mashinani. Ninaunga mkono Hoja hii, ili tuweze kwenda kuungana na watu wetu. Itakuwa vyema kama tutawaelimisha jinsi ya kutumia pesa hizo huko mashinani. Kuna pesa nyingi ambazo zimetolewa na Serikali kupitia kwa mpango wa Kazi kwa Vijana. Wakati huu utatufaa sisi sana kama tutashirikiana na wafanyakazi wa Serikali, ili tutumie pesa hizi vizuri. Pesa hizi zimetolewa kwa kupitia Wizara nyingi kama vile Wizara inayohusika na maswala ya vijana, Maji, Barabara na Wizara ya Misitu na Wanyama wa Porini. Ningewasihi waheshimiwa Wabunge wezangu kutumia wiki hizi tatu kuwaelimisha vijana wetu. Huu ni wakati mzuri wa kuwahimiza vijana wetu kujiunga na mpango huu, ili wapate riziki zao.

Bw. Naibu Spika, kuna matatizo mengi hapa nchini. Kwa mfano, tumekuwa na upungufu mkuuwa wa mvua hapa nchini. Mimea mingi mashambani imeharibika ingali mibichi. Kwa hivyo, ni vizuri waheshimiwa Wabunge watumie pesa za maeneo Bungeni (CDF) kwa njia ambazo zitawasaidia wananchi wetu. Itakuwa heri ikiwa tutatumia pesa hizo tukishirikiana na Serikali kuanzisha miradi ya kunyunyunyizia mashamba yetu maji. Jambo hili si rahisi kwa Serikali. Ni lazima sisi Wabunge na Serikali kufanya kazi pamoja, ili tuwawezeshe wananchi wetu kupata chakula. Tunaweza pia kutengeneza madimbwi madogo madogo ya maji ili wakulima waweze kupata maji.

Tatizo lingine ni kuhusu ugonjwa wa kipindupindu kwa sababu watu wengi hawana maji safi ya kunywa. Ni wakati kama huu tutawaelimisha watu wetu kutumia maji safi.

Kwa hayo machache, ninaunga mkono Hoja hii. Ninawatakia kila kheri waheshimiwa Wabunge wiki hizo tatu.

Mr. Lessonet: Mr. Deputy Speaker, Sir, thank you for giving me this opportunity to contribute and support the Motion of Adjournment. This is the time that hon. Members are heading back to their constituencies and focus on service delivery to *wananchi*. As we go home, I just wanted to inform the Government side, and I appreciate that out of the 42 Ministers in this Government, at least two are in the House as we contribute to this Motion. I wanted to inform the Deputy Prime Minister and Minister for Finance that as we go home, we are yet to receive 50 per cent of the Constituencies Development Fund (CDF) to every constituency for the financial year, 2008/2009.

Without the Deputy Prime Minister and Minister for Finance ensuring that constituency accounts have been fully funded and all the constituencies have received their 100 per cent allocation, there is nothing that this hon. Members are going to focus

on. As we come to the end of the financial year which is ending next week on 30th June, 2009, he is yet to remit an amount of Kshs5 billion to the CDF kitty for 2008/2009 financial year. You will note that in the year that just passed, 2007/2008, the Deputy Prime and Minister for Finance failed to remit an amount of Kshs1 billion to the CDF kitty. Now this year, the Deputy Prime Minister and Minister for Finance shall not have remitted an amount of Kshs5 billion to the CDF kitty. I just wanted to let the Government know that these hon. Members are anxious to go and spend that money.

Mr. Temporary Deputy Speaker, Sir, I am a Member of the CDF Committee and I want to urge hon. Members that as they go to budget the Kshs60 million which every constituency is going to receive in 2009/2010, they should focus on the whole constituency. I want to urge them that as they do their projects, they should not do it in such away to show how the constituents voted for them. As a Member of the CDF Committee, I have seen instances where hon. Members focus on their strongholds. That means that if an hon. Member has been in this House for the last ten years and he has been focusing on his or her stronghold, it basically means that there is a section of his or her constituency which has not been adequately funded in that period. I want to beg hon. Members that as they go home, they should make sure that there is equity and that development does not reflect the voting pattern.

Mr. Temporary Deputy Speaker, Sir, hon. Members have talked about a task force which is being formed. Yes, the CDF Board is going to spend about Kshs200 million towards that task force because it will go around the country. I want to let you know that it is going to recommend amendments to the CDF Act, but it still remains a matter for this House to see whether such amendments should be passed or not. So, we should not be scared because at the end of the day, they will have something of value. They will have the best practice for us to follow. We know that certain constituencies are doing very well and we want all of them to do extremely well.

The Assistant Minister , Ministry of State for Defence (Maj-Gen. Nkaisserry):
Mr. Temporary Deputy Speaker, Sir, thank you for giving me this opportunity to contribute to this very important Motion. It is very fitting for this House to go on recess. It is the time of the year where in our country today, we have several problems. One of the major problems is the issue of drought.

I would like to urge the Government, and especially the Ministry of Forestry and Wildlife, to consider holding a consultative meeting with the pastoralists, so that we explore ways of sharing the resources in the national parks because the livestock of pastoralists are having problems at the moment.

The other issue relates to the Ministry of Agriculture and the Ministry of State for Special Programmes. It is high time these two Ministries sat down together and consider how they are going to feed Kenyans. At the moment, a majority of Kenyans are facing severe hunger. During this recess, the two Ministers should get out of Nairobi and visit the affected areas to have first hand information on how these Kenyans are suffering.

(Applause)

Mr. Deputy Speaker, Sir, the other very important issue which I would like to talk about is the Constituencies Development Fund (CDF). It is incumbent upon the hon. Members to ensure that the devolved funds reach the grassroots. This particular time,

hon. Members should participate in all line Ministries. Hon. Members should be involved in the prioritization of CDF projects in their constituencies. We are the people's representatives and we must be in charge of the devolved funds which are being disbursed to the constituencies.

Mr. Deputy Speaker, Sir, I would like to comment very briefly on the issue of national security. We would like to commend our national security organs; the police and the Armed Forces, for doing a good job. But it is very important for hon. Members to know that we can only intervene and help our neighbouring countries which are experiencing problems through a resolution of the United Nations Security Council. Therefore, it would not be prudent for Kenya to get involved internally in the issues of Somalia but we have the cardinal responsibility to secure our borders.

With those very few remarks, I beg to support.

Mr. Muthama: Nakushukuru, Bw. Naibu Spika, kwa kunipa nafasi hii, ili niweze kuchangia Hoja hii muhimu sana. Tunajitayarisha kwenda likizo ili kukutana na wananchi na kufanya kazi ya nchi.

Wakati wa kipindi hiki, kumekuwa na masuala magumu sana ambayo yameturudisha nyuma kwa maendeleo fulani kwa sababu ya mivutano katika Serikali ya Muungano. Lakini ni maombi yangu na matumaini kwamba vile siku zinaenda, tutaelewa kwamba tuko hapa kwa maslahi ya nchi nzima.

Naomba wenzangu hapa kwamba tutakapoenda nyumbani na kukutana na wananchi, tutumie nafasi hii kujenga nchi yetu ya Kenya kwa kuifanya nchi moja. Tuzungumzie zaidi juu ya maovu ya ukabila, ili amani ipatikane katika nchi yetu. Tunaongea mambo ya usalama wa nchi. Kuna ndugu zangu hapa ambao wanatoka sehemu mbali mbali katika nchi yetu na sehemu nyingi sana ambapo wananchi hawana usalama. Ninataka kutoa mwito kwa wenzangu, hasa wale ambao wanatoka sehemu zilizoathiriwa waweze kwenda na kutua ujumbe.

Inatishia na kushangaza kwamba ukiona sehemu zinazosemekana kuna vikundi ambavyo vinahatarisha usalama wa nchi. Wakati nchi nzima inazungumza, wale ambao wanahusika, haswa viongozi, hawazungumzii mambo haya; wananyamaza. Halafu, tukija hapa Bungeni, tunamkashifu Waziri wa Mkoa na Usalama wa Nchi.

Bw. Naibu Spika, ni jambo la maana sana kuelewa kwamba ili usalama upatikane, lazima sisi sote tutii sheria. Na kama hatutii sheria, itakuwa vigumu sana kudumisha usalama. Kwa hivyo, tunawaomba wananchi, pahali popote walipo, mbali na kuwalaumu polisi – hawa ni watu wetu na ni vijana wetu; hao ni watoto wetu tuliowazaa na mtu habadiliki kuwa Mkenya kwa sababu amejiumba na kikosi cha polisi. Mtu habadiliki kuwa Mkenya kwa sababu amekuwa askari, lakini anabaki kuwa mwananchi wa Kenya. Ndio sababu tunasema kwamba ili usalama upatikane, lazima sisi, kama wananchi, tutii sheria.

Bw. Naibu Spika, hakuna mtu anastahili kwenda kuchukua kodi ya haramu kutoka kwa mwengine kwa sababu amekosa kazi. Kuhusisha ukosefu wa kazi ni shida ya nchi na hakuna mtu hata mmoja anaweza kulaumiwa. Ni lazima tujitoe mhanga kama wananchi, tufanye mambo ambayo yanaweza kuleta kazi katika nchi yetu na kuendeleza uchumi wetu katika pembe zote. Lakini hakuna mtu hata mmoja anayestahili kumuua mwingine au kunyakua mali ya mtu mwingine kwa kisingizio kwamba hana kazi! Sio Kenya peke yake ambayo ina ukosefu wa kazi. Tumesikia kwamba Marekani na nchi zote zingine katika ulimwengu mzima ziko na matatizo kama haya.

Jambo lingine ambalo ninataka kuzungumzia, Bw. Naibu Spika, ni kuhusu ukame ambao umekumba nchi hii. Sote tuna shida kwa sababu nchi hii imekumbwa na matatizo haya. Serikali imejaribu kusaidia, lakini mbali na kuwa Naibu wa Waziri Mkuu na Waziri wa Fedha amesoma Bajeti ambayo sote tuliisifu sana na kusema kuwa ni Bajeti ya mwananchi, ningeomba Serikali kufikiria sana namna ya kuwapatia wananchi maji katika nchi hii, ili tuweze kunyunyizia mashamba yetu na kulima vyakula ambavyo vitatufaa. Hela tunazotumia kwa mambo mengine ambayo hayamhusu mwananchi wa kawaida, tunatakiwa tuyapunguze, tuyaangalie na tuone kwamba maslahi tunayoshika ni ya wananchi.

Bw. Naibu Spika, nataka kugusia pesa hizi za miradi ya *Constituencies Development Fund* (CDF) kwa kusema kwamba imekuwa ni mlolongo wa mambo marefu sana; ukitoka ofisi hii ukienda ofisi ile, unaambiwa hii ni ofisi ya *District Development Officer*, hii ni ofisi ya *District Accounts Officer*, unaambiwa hii ni ofisi ya mchora ramani, huyu lazima aweke hii--- Tunajua kwamba watu wengine wamefanya haya makusudi kugandamiza hali ya utumishi.

Kwa hayo machache, Bw. Naibu Spika, naomba kuunga mkono.

Mr. Koech: Thank you, Mr. Deputy Speaker, Sir, for giving me this opportunity to support this Motion. We are going for recess when we can say that we have done a good job as a Parliament.

Mr. Deputy Speaker, Sir, as the Mover mentioned, we were able to pass many Bills and the latest is on the Truth, Justice and Reconciliation Commission (TJRC), where today we have been able to approve the list of the Commissioners. If there is something that we need to do and we must do as a country is to unite this country. We cannot unite this country by sitting in the House. It is time for us to go out there and preach unity and peace to our people.

Mr. Deputy Speaker, Sir, within this Session, we have been able to form new Committees and we have put in place the necessary requirements for every Committee to operate. Therefore, as a Parliament, we have actually shown that we lead by example; that this country requires reforms and the reforms have started with us. That is the message that we are passing out there.

Mr. Deputy Speaker, Sir, according to the new Standing Orders, we, as hon. Members, are expected to scrutinize the Budget and interrogate the same. So, this is a special adjournment, whereby the hon. Members of various Departmental Committees will move into Committees so that they are able to find enough time to discuss and deliberate on this.

This, therefore, means that Ministers and Assistant Ministers will be relatively free to visit other parts of the country. I encourage our Ministers in this Government to move out and inspect the projects that fall under their Ministries. We have been talking about the CDF. Most of the projects out there are funded by the CDF. We pass Budgets in this House but many a times, you will discover that the money does not trickle down to the grassroot. I encourage Ministers to make a follow up of the approved projects in their Ministries to find out whether they are being implemented. I have in mind the Ministry of Roads which disburses a lot of money to the districts and yet, we do not see much on the ground. The same applies to the Ministry of Water and Irrigation. A lot of money is allocated to our constituencies in the Budget, but at the end of it, we do not see much. It

is, therefore, important that Ministers make a follow up off these projects at the grassroots level. This is the time to act.

Mr. Deputy Speaker, Sir, allow me to applaud the Deputy Prime Minister and Minister for Finance for the work that he did. The Budget that he read could be considered as an education Budget. I would like to remind him that we have passed 50 per cent of the Budget funds for him to utilise.

Since the inception of the Free Primary Education (FPE) and Free Secondary Education (FSE) kitties, it has not been possible for the Government to release the money on time. We want to see a change this time round. The Deputy Prime Minister and Minister for Finance, together with the Minister for Education should ensure that the money meant for third-term in our schools reaches our institutions before 1st September, 2009. If this is done, it will ensure the smooth running of our institutions.

Within the same kitty, the Deputy Prime Minister and Minister for Finance proposed Kshs30 million for the establishment of centres of excellence within this country. Almost every part of this country other than big urban centres, have been suffering. This money should be released on time so that some of the constituencies can benefit from the newly constructed schools next year.

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

Mr. Affey: Thank you, Mr. Deputy Speaker, Sir, for giving me this opportunity to also support this important Motion. As we go on recess, it is very critical that we reflect on the challenges that we face. One of them is our desire to see a functional Government. The ruling that was made by the Speaker with regard to the Leader of Government Business, a matter which is essentially unresolved up to now, is, indeed, a matter of concern. We hope that during the few weeks that we will be in recess, the Government will reconcile itself and appoint the Leader of Government Business so that we can hold it accountable.

One of the challenges that we are facing in this country today is insecurity. We have cases of carjackings being on the increase. There have also been killings in the city. So, this aspect is of great importance to most of us.

However, a matter that has gained currency over the last few days is the situation in Somalia. This situation disturbs all of us. This is because peace in Somalia, as we all know, is peace in this country. We have a continued flow of refugees and small arms into this country because of the situation in Somalia. Therefore, as a Government, we must play a very proactive role. I propose that the Kenya Government should not deploy its troops to Somalia. Not a single officer of our Armed Forces should cross over the border to Somalia. However, let us take care of our internal borders so that we can forestall any risk.

Mr. Deputy Speaker, Sir, the United Nations (UN) is the biggest culprit in the conflict in Somalia. There has been no desire or activity at all by the UN to resolve this conflict. This is not a Kenyan, East African, or the Inter-Governmental Authority on Development (IGAD) problem. In fact, it is a global problem. The UN has a global mandate, as much as it works in Chad, Rwanda, Burundi and Mozambique to restore peace in Somalia.

I think Somalia requires intervention. As we all know, the United Nations (UN) office in Nairobi has failed to deliver the required humanitarian assistance. Today, we have 500,000 tons of food in this country that is meant to support humanitarian activities

in Somalia. The Kenya Government has facilitated the exit of these humanitarian supplies. The border is, at least, not closed for this food aid to find its way to Somalia, but for one reason or another, the food continues to rot in this country. It is not meant for us. It is meant for Somalia but it is not finding its way there. It is important that the UN moves with speed to prevent the situation from becoming more catastrophic.

Mr. Deputy Speaker, Sir, doing this will also reduce the large inflow of refugees into the country daily. The United Nations Commission for Refugees (UNHCR) tells us that at Dadaab Refugee Camp, over 200,000 refugees move in daily. I suggest that in order to reduce the pressure on the camps, sufficient Internally Displaced Persons (IDPs) Camps be set up on the Somalia side of the border with Kenya. The UN can move in there and provide relief food supplies to those people in that country, instead of allowing the constant flow of refugees into our country and stretch even further, the resources that we have.

Regarding the issue of national census, I think there is a conspiracy within Government to deny pastoral communities an opportunity to be counted. Why must the census be done in August after every ten years? We know the situation now. All the pastoral communities have moved to areas they can find pasture. They are in Ukambani and the Rift Valley. As we know, the Maasai have left. They have even gone as far as into the game parks in search of pastures. Our people have moved. Some of them have crossed the border into Ethiopia. Others have gone to Tanzania. Why has the Government decided to do the census in August?

This is an important national activity, because the Government allocates resources on the basis of the outcome of the national census. Our people do not get the opportunity to participate in the national census and, therefore, we are denied the resources that we require, as a region. Therefore, I want the Government to reconsider our situation and do the national census in our region in December. The rest of the country can have it even in August, but for us, the pastoral communities, the census must be re-scheduled to December.

With those few remarks, I support the Motion.

Mr. Chachu: Thank you, Mr. Deputy Speaker, Sir, for giving me the opportunity to contribute to this debate. I support the Motion for adjournment.

As I support the Motion, I would like to say that it is very important for our Government to realise that 10 million Kenyans are suffering. The drought in northern Kenya is really devastating. Our people are losing their livelihood. If something is not done, livestock will start dying in large numbers. We are talking about billions of shillings, in terms of resources, that will go to waste.

Mr. Deputy Speaker, Sir, it is very important for us to realise that drought is not an emergency. Drought recurs after every five or six years. It has always been with us. It is just a reflection of poor planning on the part of our Government. It is a reflection of poor preparedness as far as our planning goes. It is time we seriously considered putting institutions and mechanisms in place to manage drought. It can be managed.

The people of northern Kenya are tired of being fed on relief food. It is not their wish. If they are given an opportunity to develop like any other part of this nation, there are enough resources in that region. The region has enough livestock. Maybe, the region has more livestock than the livestock in Botswana and other South African countries that are making so much revenue from the sale of livestock.

Mr. Deputy Speaker, Sir, it is critical for us to plan for drought, because it can be managed. After every five years, it is with us. So, why do we not have strategies or preparedness? We should put up strategic water points, where necessary. We should invest in food, in terms of the National Strategic Grain Reserve. In terms of preparedness, we can easily grow enough hay. Through irrigation or other measures, this can be done.

If this is done, the 10 million Kenyans who keep on suffering after every five years, when the drought recurs, will, for sure, have their livelihood secured. The interventions that we are going to undertake are very important. It should not just be a matter of saving livestock lives, but also about securing the livelihoods of pastoralists.

Mr. Deputy Speaker, Sir, pastoralists want to live a dignified lifestyle, whereby they are able to support themselves and their families and to live a dignified life like any other Kenyan. This can only be done if the measures that we will undertake will be geared towards saving livelihoods. This can be done by saving the livestock which are the resources for the pastoralists. When the rains come, they are able to pick up from where they left and live without depending on food aid or handouts, year in, year out.

Mr. Deputy Speaker, Sir, I really want to address the issue of census; it is very important for this nation to consider a situation where pastoralists are, at the moment. Due to the drought, pastoralists have dispersed in large numbers. Some of them are in foreign countries like Ethiopia, Uganda and, Tanzania. Due to this, they will not be enumerated. Realizing the significance of these findings and how they will be used for the national development of Kenya and realizing that this data will also be used when this country is being allocated resources for development, it is so important that this Government considers the situation of pastoralists and consider if possible, postponing this census until the situation normalizes.

It is possible to do it in December or even January, once we have the rains. If we go ahead and do the census in the month of August as has been planned, for sure, the pastoralists will not be enumerated. This census will even further marginalize the pastoralists because they will not be able to get their fair share of the national cake, simply because their data will not be available. We cannot fight nature. We have to live by the state of nature as it is. We have to adjust our planning. That can only be done if census is done in December, at a time when pastoralists will be in a position to be counted.

I really hope the Government will consider this. If not, this census will go further to marginalize the pastoralists even more than before.

Mr. Deputy Speaker, Sir, if they have to do the census, then a special stand must be established to see to it that they are counted, wherever they are. As it is, due to lack of roads, even the few pastoralists who are in northern Kenya will not be reached anyway, simply because they are in areas where there are no roads and which the enumerators will not be able to access.

I enumerated pastoralists in 1998 when I was in High School and I know we were not able to reach 30 per cent of the population, simply because the days were very few and we were walking from place to place.

With those few remarks, I support the Motion.

Mr. C. Kilonzo: Thank you, Mr. Deputy Speaker, Sir, for the opportunity. First and foremost, I must thank the House Business Committee because for very many years,

Parliament never used to know when they would go for recess. This time round, we were given early notice and a programme. That is the way to go.

Allow me to thank the Deputy Prime Minister and Minister for Finance for giving this country a very nice Budget and more so, because it was a devolved Budget. Giving out that money in a devolved system is one thing; implementing is another. Should this money be managed through the CDF or the line Ministries?

Mr. Deputy Speaker, Sir, when I listened to the Minister for Planning, National Development and Vision 2030 and the Deputy Prime Minister and Minister for Finance, I think they are leaning towards the line Ministries. If they go that way, we will not go anywhere. The impact of that money will not be felt.

The other day, the media decided to have a call out session to find out whether people wanted this money to be under the CDF where MPs are patrons or through the line Ministries. I was able to pick five reasons by the members of the public. Ninety nine per cent were in agreement that this money should be channeled through the Constituencies Development Fund (CDF). They were very clear. They had very good reasons too.

Mr. Deputy Speaker, Sir, one reason was that if this money is channeled through the CDF, there is somebody you can follow up; that is the Member of Parliament, and question him or her. The other reason was that if the Member of Parliament is not accountable and does not utilize those Funds in the proper way, they can actually sack him. The third reason was that if they are totally fed up with him and he has stolen their money, they can punish him. They can even burn his house. The fourth reason is that they fear the Government. In the rural areas, the Government is represented by the District Officers (DCs) and chiefs. They were saying that the DCs have people called Administration Police (APs). So if they go there to demand for money from the DC, they would be shot.

Mr. Deputy Speaker, Sir, they even went further and said after all, and of course, we do not encourage that, if the Member of Parliament misappropriates the money, he is still their son and they know how to deal with him. My appeal to the Ministry of Finance is to rethink and let this money come through the CDF. Let it come with guidelines and give the right personnel for support.

Mr. Deputy Speaker, Sir, today we have a problem. In the last Parliament, I was the one who was insisting that the District Development Officers (DDOs) and District Accountants (DAs) should be in charge of CDF at the district level. That time--- You know, mankind has evolved for many years. If my memory serves me right, the first man was called *Astropheticus*; he evolved to *Zinjanthropas*; he moved on to *Home Erectus* who was the first man to walk; he then came to *Homo Habilis*, the first man to think and to the current man, *Homo Sapiens*; the man who can read and write. It appears that the DDOs are evolving backwards to *zinjanthropas* and *Homo erectus*. I say so because to run the CDF today has become virtually impossible.

In my constituency, the membership of the CDF Committee are people of respect. When an old man who is the chairman of the CDF or the secretary who is an elderly educated mother, goes to talk to the DDO who is a young man and the DDO lectures that old man who could even be his grandfather or father in a very un-courteous manner--- Time has come when we must remove civil servants from the CDF.

Mr. Deputy Speaker, Sir, it is very clear. If you look at local authorities, which have more money than the CDF; it has Kshs17 billion, they do not have DDOs and DAs.

What I am saying is very simple; if we are going to move and do implementation, we must ensure it is the account manager who becomes the Authority to Incur Expenditure (AIE) holder. We should move very fast and get rid of the civil servants. Let them control the other monies and hope we will be able to deliver.

Mr. Deputy Speaker, Sir, the other day, the Ministry of Education said they were going to remove Members of Parliament from being patrons of the CDF---

With those few remarks, I beg to support.

Mr. Njuguna: Thank you, Mr. Deputy Speaker, Sir, for the opportunity to support this very important Motion. I want to thank the Speaker of the National Assembly because when this House was faced by a crisis of choosing a Leader of Government Business, the Speaker came up with a fantastic ruling that bailed out this House from that predicament.

Secondly, I want to take this opportunity to thank the two principals for the way they have committed themselves in making sure that the Grand Coalition Government continues to run the affairs of this country. It is, therefore, important, as we proceed on recess, that we urge the two principals to continue displaying to the Kenyan people, real commitment and real dedication to the service of our people.

I want to comment on the issue of relief food. The whole nation is now faced with a very serious situation of food shortage. I am glad that the Minister of State for Special Programmes is here. It is important that food is made available to all the areas of this country because the rains have been very scarce and our people are starving. We want the delivery of this food to be constant and direct, particularly in the newly created districts where systems have not been very good. The Provincial Administration, who are responsible for the distribution of relief food should guard against any theft, so that the food can reach the hungry people in our rural areas.

With regard to fire outbreaks in this country, we have seen it happening in Nairobi and in the Coast Province. This is likely to affect tourism in our country and the investment that has already been done by our people. We should encourage local tourism by our own people. We should also encourage our own people to invest in different sectors of our economy. We have seen people doing well in the banking sector such as the Equity Bank and the Family Finance Bank. They are doing well because when they invest, they create employment for all the sons of this nation. That is the direction that local investors should take. When we hear that the Equity Bank has been awarded the best award in the whole world, that gives our country a better image and respect.

We have also seen our people invest in the media sector such as the Royal Media Services and others. We should not look at these investors from an ethnical point of view because they are creating employment and giving proper information to our people.

With regard to security, we are now faced with external aggression and I am happy to hear that the top leadership of our nation, recently met and discussed on how to defend our borders. Our borders must be protected, even as we continue to welcome people who are affected by conflicts in their country. It is important that, as we go on recess, we get fully engaged in the *Kazi kwa Vijana* programmes in our areas. The youth are already engaged in taking illicit brews but when they are given employment in the road sector and the water sector, they will earn a decent livelihood for their families. We should not allow corruption to penetrate the *Kazi kwa Vijana Programmes*. The Government should take a keener interest by releasing adequate funds to this sector.

As we go on recess, it is also important that the Government puts more effort in utilizing the Kshs2.2 billion which was allocated for the IDPs. The IDPs must be resettled and given water.

With those few remarks, I support.

Dr. Nuh: Thank you, Mr. Deputy Speaker, Sir. While I support this Motion, I would like once again to thank the Deputy Prime Minister and Minister for Finance for a well-done Budget. However, the fear of many Kenyans and most Members of this House is whether the Budget will be implemented as it was read.

I would like to inform the Deputy Prime Minister for Finance Finance and Minister of State for Planning, National Development and Vision 2030 because they must have had something in common in the Budget that was read, including the implementation that was put to the Constituencies Development Fund (CDF) framework, was a bit vague. That is why most Members are still concerned and confused whether these monies will be challenged to the individual CDF accounts or through the Ministerial dockets that we already have. Either way, I would like to say that this is the time the Minister for Finance should hold a *kamukunji* for the Ministers and their respective officers and tell them how this money would be used, so that people at the grassroots would benefit. The Deputy Prime Minister and Minister for Finance should ensure that the Budget proposals are implemented.

Mr. Deputy Speaker, Sir, having said that, I would like to comment about the drought situation that has been raised by most hon. Members. It is not a secret that we have a serious drought that has far reaching implications when it comes to the farming and livestock keeping communities. It is also not a secret that 80 per cent of the national game parks and reserves fall under the Arid and Semi Arid Lands (ASALs). The reserves border pastoralists. However, it is amusing that the Ministry of Wildlife and Forestry operates within a Constitution that values wildlife more than the citizens of this country.

It is just the other day when we had choppers, Land Cruisers and a group of wildlife officers chasing livestock in Tsavo West and Tsavo East and yet this is the livelihood of Kenyans who are now at the mercy of seeking to know when the rains will come. We have sought for a Ministerial Statement here but the Ministry does not seem to care.

Yesterday, the same Ministry went on an operation in Kora National Park. Forty families including women and children were ransacked, put in a lorry and ferried to Maua Police Station where they spent a night. The victims who did not know where to go were only released this morning.

Mr. Deputy Speaker, Sir, there are many officers out there who are doing this country a great service. I thank and recognise the effort of the District Commissioner, Tana River District, a Mr. Wanyama and the Red Cross Society for urgently responding to those people who were shocked, troubled and traumatised by the very people who are supposed to safeguard wildlife in their interest.

Because I know that many hon. Members would like to contribute to this Motion, I would like to say that a lady who was in labour passed away just because of the brutality and insensitiveness of the Kenya Wildlife Service (KWS) officials. They ransacked and whisked away the midwives who were supposed to assist that Kenyan. She passed away because the KWS values hyenas, lions, foxes and snakes more than the citizens of this nation. I urge the Ministry concerned to have a human heart. The KWS

officials should know that they are mandated to look after the wildlife for the benefit of Kenyans and not at the detriment of the citizens they are supposed to serve.

Mr. Deputy Speaker, Sir, with those remarks, I beg to support the Motion.

Mr. Ruteere: Thank you, Mr. Deputy Speaker, Sir, for giving this opportunity to support the Motion.

Countries such as Egypt and Sudan do not have sufficient rains, but they feed their own populations and other countries. These countries have food security for their citizens and depend on the River Nile which partly comes from Kenya. In Kenya, we have many rivers and plenty of rain. We also have many fresh water lakes such Lake Victoria and Lake Naivasha. However, the whole country is faced with famine because of poor planning. We must tell our planners to run away from the conventional planning. They must learn from people living in desert countries such as Israel and, Egypt, among other countries. We cannot continue any longer to rely on rain-fed agriculture to feed our people. So, the Ministry of Planning, National Development and Vision 2030 should be more concerned with these issues than forming a taskforce which will spend over Kshs200 million to go round the country to propose amendments on the CDF Act. If this money was meant to look for ways of feeding Kenyans, it would do a better job than what it will do now.

Mr. Deputy Speaker, Sir, we have schools without teachers. We have already allocated half our budgetary allocation to education sector. The Government should hire more teachers because many classrooms are without teachers. We have pupils, but there are not enough teachers.

We also have the newly created districts which have no infrastructure and personnel. We have District Commissioners (DCs), but they are not able to run those districts. It is time that the Ministry of Finance gave the Ministry of State for Provincial Administration and Internal Security funds to hasten the process of creating infrastructure and giving those new districts personnel.

I agree with other hon. Members who have spoken that there are hurdles that make it impossible to run CDF, smoothly even when you have a very credible committee. It takes quite a lot of time between when funds are disbursed to the projects and when implementation is done. I would appeal that the CDF Boards bring amendments, so that like any other parastatal, the account managers become AIE holders. That is the only way we can move out of this bureaucracy.

We are here claiming how much we have done. But we need to thank our Speaker of this National Assembly who got us out of a dilemma when there was a tag of war between the two parties and principals. His historic ruling made it possible for this House to transact its business. It is now time for the principals to take time while we are in Recess to agree on how to run the Government, both its representation in and outside Parliament. They should learn from Members of Parliament. When committees were formed by Members, we upheld the spirit of reconciliation from different political parties. But when they went to elect their chairmen, they did not look at parties, but they elected persons who could lead those committees. That is the way it should be even outside parliament. We should forget about political parties and concentrate on who can move the country forward.

I would not forget to add my voice on insecurity. Countries that are serious on investments are also serious on security issues. They man their streets, business centres and hotels. It is time Kenya did the same.

Mr. Deputy Speaker, Sir, since we have said that we are going for irrigation, then we need to remove the eucalyptus tree from the wetlands. If we did that, then the diminishing water resources will be increased in volume and therefore, have the waters to irrigate the land with. Since there are other hon. Members who want to contribute, I wish to end there.

I support the Motion.

Mr. Chepkitony: Mr. Deputy Speaker, Sir, thank you for allowing me to contribute and support this Motion of Adjournment. This adjournment is going to give hon. Members an opportunity to be at their constituencies and participate in the development programmes. In fact, I feel we should have been given more time. Four weeks is not enough but somehow, we are grateful because we shall be in the constituencies to participate with *wananchi* in all the activities which are waiting for us.

Mr. Deputy Speaker, Sir, I would like to talk about the Constituencies Development Fund (CDF). This is the only Fund which has performed in our constituencies. In my constituency, there is no any other Government development programme other than CDF. The only projects which are seen from the Government are through the CDF. Therefore, CDF is very important to my people. I would have liked to see it functioning better than it is doing at the moment. As it is at the moment, we only have 50 per cent of the funds. The remaining has not been disbursed and we have not been told why. I think there is somebody frustrating CDF. We need to address that issue. The Committee concerned should address it. If the amendment we made to the CDF Act in the last Parliament, 2007 has not made the functioning of CDF better, then we should amend it again, so that it can function properly.

Mr. Deputy Speaker, Sir, the Budget presented by the Deputy Prime Minister and Minister for Finance was applauded by many people but somehow, he did not increase the CDF to more than 5 per cent. The CDF allocation is 2.5 per cent which is the minimum required by the law. I wish that he had increased the allocation of CDF to even 4 per cent. This is something that we need to pursue because we have been talking of doubling the allocation.

I would like to comment on the report about CDF because, I think there is a plan to destroy CDF. There was a plan by a Non-Governmental Organization (NGO) on the study of 23 constituencies and they made a conclusion that CDF is not performing well. They picked the 23 which were known not be performing well. It was known in the last Parliament that the 23 constituencies were having problems but they picked on them and made their report. This was just to damage the other constituencies doing very well. I think that report should be challenged. They should select representatives from CDF committees. I hope that the task force which is being formed is being formed with good intentions. I do support the leader of the task force. They have proposed to give the leadership to Eng. Karue who is the person who started CDF and I think he will do a good job. This is the second year running that this country has experienced drought and even areas that were not badly affected last year have been affected more than last year. The whole of north rift, my constituency and the highland areas, the long rains failed and the Government needs to plan ahead so that we have adequate food. If it does not rain in

the next one or two weeks, I think we will not harvest anything this year. Already, the yields are affected by the poor rains and I think we are definitely not going to have enough food. So the Ministry of Agriculture and the Ministry of State for Special Programmes should plan ahead so that we have adequate food for the country.

Mr. Deputy Speaker, Sir, I want to comment on security. There appears to be insecurity in Nairobi; hijackings and kidnappings. I think the Ministry of State for Provincial Administration and Internal Security needs to address this issue because it is going to affect investment and economic recovery. So, I think it is an issue which should be addressed.

I would not like to waste more time; I would like to end there.

I support this Motion.

Mr. Gaichuhie: Mr. Deputy Speaker, Sir, I support this Motion of Adjournment. Since we have been here for some time, I think it is high time we take a break and go and join our people.

Just to mention about the Constituencies Development Fund (CDF), we want to say that it is something that has been going on very well but the Government should take it seriously, so that we do not limit our resources. We plan for our projects at the beginning of the financial year but as you know right now, we only have 50 per cent. In some other constituencies like in my own, we do not even CDF managers although we are saying that they should be the AIE holders. The CDF board should be serious on recruiting the funds managers so that we can have them in place all the time. We also want to go and prepare our people about the coming Census, so that they can know about the seriousness of the Census so that they can be out there to be counted. This will ensure that when we are doing the planning, we have a good plan and we involve everybody.

We also want to go and preach peace although the country is now stable. We want to reunite the people who are still internally displaced, so that we can have peace and continue existing as we were before. We also want to go out there and talk about farming because unless we change our farming methods, I think we will be having consistent famine.

It is also time we took a break because we have so much Committee work pending and our Committees have just been constituted. So, we want to also venture into Committee business and I hope this time, we shall clear the backlog.

With those few remarks, I beg to support.

Mr. Deputy Speaker: Hon. Members, it looks like there is no more hon. Member who is desirous of contributing to this Motion, so I will have to put the Question.

(Question put and agreed to)

ADJOURNMENT

Mr. Deputy Speaker: Hon. Members, it is now time for interruption of business. The House is, therefore, adjourned until Tuesday, 21st July, 2009 at 2.30 p.m.

The House rose at 8.25 p.m.