

NATIONAL ASSEMBLY

OFFICIAL REPORT

Tuesday, 8th June, 2010

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

PAPER LAID

The following Paper was laid on the Table:-
Economic Survey, 2010

*(By the Assistant Minister, Ministry of State for Planning,
National Development and Vision 2030 (Mr. Kenneth))*

QUESTIONS BY PRIVATE NOTICE

NON-FUNCTIONAL LIFTS AT KENYATTA
NATIONAL HOSPITAL

(Dr. Robert Monda) to ask the Minister for Medical Services:-

- (a) Is the Minister aware that the lifts (elevators) at the Kenyatta National Hospital (KNH) are old and have often broken down and stalled with users inside?
- (b) How old are the lifts and why has the Minister not replaced them?
- (c) What is the cost of replacement and when will the Minister install functional lifts at the hospital?

Mr. Speaker: The Member for Nyaribari Chache is not present. Question dropped!

(Question dropped)

LACK OF WATER SUPPLY IN
VIHIGA DISTRICT HOSPITAL

Mr. Chanzu: Mr. Speaker, Sir, I beg to ask the Minister for Water and Irrigation the following Question by Private Notice.

(a) Is the Minister aware that water supply system to Vihiga District Hospital has failed totally?

(b) What immediate steps is the Minister taking to correct the situation in view of the suffering and inconvenience being experienced by patients and the hospital in general?

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

(a) Yes, I am aware that the water supply at Mbale Water Works, which supplies water to Vihiga District Hospital was disconnected by the Kenya Power and Lighting Company Limited on 18th February, 2010, over an outstanding electricity bill of Kshs717,198. The power cut-off has seriously affected water services in the entire supply area of Mbale Municipality.

(b) My Ministry has settled the outstanding electricity bill and the water supply is operational as at 14th April, 2010, and the situation is back to normal. I am also in the process of revitalizing Amstar Water Company so that water services can be provided reliably in this area. I wish to request the hon. Member to appeal to his constituents to pay for water services promptly to enable the water service provider pay for electricity to avoid disruption of services.

Mr. Chanzu: Mr. Speaker, Sir, although I do not have a written answer, I want to thank the Assistant Minister for that response. It is not only the problem of electricity, but also the problem of insufficient water from the source. Secondly, because of the mismanagement of the funds that are paid by the customers, the company could not pay the electricity bill promptly. Could he assure this House that he will put in place more measures to ensure there is adequate water for that facility? He should also streamline the management of the project around the township.

Mr. Kiunjuri: Mr. Speaker, Sir, you will agree with me that the Member has raised a very serious allegation of mismanagement which requires to be investigated either through a Member's Motion or the Ministry's Motion. That will be done. With regard to the issue of whether there is enough water supplies or not, it also needs to be investigated because he has brought it to my attention.

Mr. Njuguna: Mr. Speaker, Sir, while I thank the Assistant Minister for ably responding to that Question, I would like him to indicate what measures the Ministry is taking to make sure that this hospital has adequate water storage capacity at all times?

Mr. Kiunjuri: Mr. Speaker, Sir, the problem that is being addressed here is about the supply of water because of power disconnection by the KPLC. It is not about the storage capacity, which we have enough. Through the Drought Mitigation Programme that we undertook last year and early this year, we have provided enough water storage to Government facilities and other institutions.

Mr. James Maina Kamau: Mr. Speaker, Sir, in view of the seriousness of lack of water in district hospitals, has the Assistant Minister considered putting up boreholes? In some dry areas, water is a big problem.

Mr. Kiunjuri: Mr. Speaker, Sir, there is a relevant Question that has been asked by the Member for Laisamis which I will be answering in the next few minutes, which will address the concern raised by the hon. Member.

Mr. Mututho: Mr. Speaker, Sir, the Assistant Minister should assure the people of Vihiga that they will get a water boozer because the sick people are not party to this complication. Could he assure the people that he can send a boozer in his capacity even if he cannot supply power or provide a stand by generator, so that they can have a small well?

Mr. Kiunjuri: Mr. Speaker, Sir, our work is to provide water and adequate water is there for the hospital. It is the KPLC that supplies energy. That can only be sorted out

by the company concerned because it must pay electricity bills for the KPLC also to function. On our part, we are prompt. We only want to hear whether there is any complaint on shortage of water and we will deal with it immediately.

Mr. Chanzu: Mr. Speaker, Sir, the Assistant Minister has tried to put up bits and pieces of answers to this Question, but I do not think he is fully informed on what is happening. There was a company called Amatsi. It was a local water management company, but the services have transferred to Lake Victoria North Water Company. That is why there is water. So, there is still that problem which needs to be sorted out. Secondly, thereafter, the Ministry assured us that they were going to dig a borehole, so that we could have a constant supply of water.

Could he assure this House that he is going to make sure that there is no dispute? Is he going to streamline the management of the water company? Could he also assure us that we will get a borehole, so that we can have a constant supply of water? This is a large hospital which can serve as a referral hospital as well.

Mr. Kiunjuri: Mr. Speaker, Sir, the Question that the Member asked was whether the Minister is aware that the water supply system of Vihiga District Hospital has totally failed. I have answered him that the shortage of water was as a result of non-payment of electricity bills. If he is claiming that there is a shortage of water, that is a different Question, which I am ready to address. I have committed myself that I will investigate whether there is mismanagement or there is enough supply of water. Secondly, Lake Victoria North is a water service board and not a water service provider. The provider is Amatsi, which is a company formed and operating under the license given by the Lake Victoria Water Service Board.

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

(Loud consultations)

(Mr. C. Kilonzo pointed a finger at Mr. Kiunjuri)

Mr. Speaker: Order! What is it, the hon. Member for Yatta? Please, remember your decorum even if this is a new session. You do not start by pointing a finger at the Assistant Minister.

Mr. C. Kilonzo: Mr. Speaker, Sir, apparently it is not because of him that I rise on a point of order. The hon. Members, particularly in the last Bench are consulting too loudly and we can barely hear what the Assistant Minister is saying.

Mr. Speaker: You know where the remedy lies. Order, hon. Members! Will you please lower the level of your consultations so that we can hear those who ask or answer Questions?

Mr. Kiunjuri: Mr. Speaker, Sir, it is also important that you rule that you do not want the campaign for “NO” and “YES” in the Chambers. Maybe, that is what is causing the loud consultations.

I have undertaken to investigate the two allegations that the hon. Member made now that he has brought them to my attention.

Mr. Speaker: Fair enough!

Let us move on to the next Question by the Member for Konoin!

Dr. Kones: Mr. Speaker, Sir, I request the Minister to give me a copy of the written answer.

APPOINTMENT OF DIRECTORS TO LAKE VICTORIA
SOUTH WATER SERVICES BOARD

Dr. Kones: Mr. Speaker, Sir, I beg to ask the Minister for Water and Irrigation the following Question by Private Notice.

(a) Could the Minister provide the names and districts of origin of the directors of the Lake Victoria South Water Services Board, appointed on 9th April, 2010?

(b) Why has the Minister ignored the Government's directive on equitable regional distribution in appointments to public institutions in the appointments by excluding people from the Mau catchment area?

(c) Could the Minister tabulate all projects undertaken by the Board in the Mau catchment area and also indicate when the formation of Kericho Water Services Board will be finalized?

Mr. Speaker: Mr. Assistant Minister, do you have a copy of the written answer?

The Assistant Minister for Water and Irrigation (Mr. Kiunjuri): Mr. Speaker, Sir, I beg the indulgence of this House that we received this Question yesterday in the evening. We are required to do a lot of consultation. Therefore, I beg to answer this Question tomorrow afternoon or on Thursday.

Mr. Speaker: Dr. Kones, what is your position on tomorrow afternoon?

Dr. Kones: Mr. Speaker, Sir, I really wonder why the Assistant Minister has said that they got the Question yesterday when it was forwarded just before we went on recess. Nevertheless, since he does not have the response now, I can wait until tomorrow afternoon.

Mr. Speaker: It is so ordered! That Question is deferred to tomorrow afternoon!

(Question deferred)

The next Question is by the Member for Laisamis who is unable to be here on time because of an emergency that developed on his way to Nairobi that I have become aware of. So, I will defer this Question to Tuesday, next week.

ORAL ANSWERS TO QUESTIONS

Question 010

NUMBER OF DAMS/RIVERS/LAKES
DRYING UP IN KENYA

(Question deferred)

Question No.127

CESS OWED TO NAIVASHA MUNICIPAL COUNCIL BY

LAKE NAIVASHA GROWERS ASSOCIATION

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

(a) how much money the Lake Naivasha Growers Association owes as Cess after the recent remittance of Kshs10 million to the Naivasha Municipal Council after many years of default; and,

(b) whether he could order immediate audit and state accrued Cess from all the growers, KenGen and all other companies around Lake Naivasha.

The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Local Government (Mr. Nguyai): Mr. Speaker, Sir, I beg to reply.

(a) The amount of Kshs1.4 million is owed by the Lake Naivasha Growers Association as Cess after the recent remittance of Kshs10 million to the Municipal Council of Naivasha.

(b) The Ministry has directed the immediate audit of accrued Cess from all growers, KenGen and all others.

Mr. Speaker, Sir, this Question had come before and you gave us a period of two months and we still have three weeks to finalise the matter. So, I ask for the audited report to come out within three weeks.

Mr. Mututho: Mr. Speaker, Sir, it is indeed true that you had ordered the Question be brought back after two months and we still have three weeks to go. I am comfortable to wait for three weeks to have the audited report.

Mr. Speaker: That is fine. This Question is, therefore, ordered to be deferred to appear on the Order Paper three weeks here after. Clerks-at-the-Table, please, note that.

(Question deferred)

The next Question is by the Member for Gichugu. If she has not given her brief to another hon. Member, I am aware that she is away on Parliamentary business in Zambia. So, I defer this Question to Thursday, next week.

Question No.104

LEGAL NOTICE PROHIBITING
EXPORTATION OF RAW NUTS

(Question deferred)

Mr. Speaker: Let us move on to the hon. Member for Isiolo South's Question!

Question No.017

UPGRADING OF ISIOLO-MODOGASHE ROAD

Mr. Bahari asked the Minister for Roads when the Government will upgrade Isiolo/Modogashe Road to bitumen standards.

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

My Ministry has finalized the designs for the upgrading of Isiolo-Modogashe Road to bitumen standards. Due to the financial requirements of upgrading this road, it has not been factored in the current medium-term expenditure framework budget. The Isiolo-Modogashe Road, B9, is located in Meru North and Isiolo Districts of Eastern Province. The surface condition of the road is partly graveled and partly earth with a total length of 195 kilometres.

Mr. Bahari: Mr. Speaker, Sir, I am very perturbed with the answer that has been given by the Assistant Minister. In the last Budget Speech made in this House, none other than the Deputy Prime Minister and Minister for Finance, in part 52 of the Speech, made it very clear that this road has been funded during the 2009/2010 Financial Year. With your permission, I wish to read what it says. It says:-

“With regard to the development of Northern Kenya and other arid lands, we plan to undertake numerous interventions in the region. Key projects include the Isiolo-Modogashe-Garissa-Wajir Road at a cost of Kshs1.2 billion.”

I am just reading part of that Speech and yet we are now being given a misleading answer. I need your guidance since this is a record of the House and it has gone public. I also need your guidance in connection with the answer given by the Ministry. This is a Class B road.

Mr. Kinyanjui: Mr. Speaker, Sir, I am aware of the position stated by the hon. Member, but I wish to state that the design work that was carried out in 2008 indicated that the cost of doing that road would be a minimum of Kshs5 billion. Since we had a budget of about Kshs70 billion this financial year and most of the projects were incomplete, it therefore, became impossible for us to be able to factor it here. However, I confirm that my Ministry has prioritized this road and will ensure that it is allocated funds as soon as they are available.

Mr. Abdirahman: Mr. Speaker, Sir, at any given time when Questions are asked in relation to roads in northern Kenya, the very first thing we hear from the Ministry is that they are in the design stage. I do not know at what point we would hear that they have moved to the implementation stage. Could the Assistant Minister provide us with the list of roads they have failed to do in the last financial year and how soon they expect to do them? This is because by now they should know them. Could he confirm that they have factored this particular road in the coming financial years and any other road like that one of Wajir-Garissa?

Mr. Kiunjuri: Mr. Speaker, Sir, as to whether I would be able to lay on the table the list of roads, I think that is definitely a different Question. For now, my Ministry has given priority to specific roads that it would like factored in. All this would be to the extent that Treasury would be able to fund them. At this particular point I would not be able to know how much will be factored in Budget and where it will go in particular. However, I will be able to answer the Question once the Budget has been read and my Ministry is aware of the allocations.

Mr. Chachu: Mr. Speaker, Sir, the response given by the Assistant Minister is very disturbing. The Deputy Prime Minister and Minister for Finance who made that commitment to this House to reach the public mentioned the road Isiolo-Modogashe Road by name, but we are now being told that it will be done only when funds are

available. We need guidance from the Chair. The Government made a commitment and Kenyans want the service. Could he assure this House that the road will be tarmacked?

Mr. Kinyanjui: Mr. Speaker, Sir, I agree with the hon. Member and indeed my Ministry recognises the importance of this road and indeed, roads in general North Eastern Province. But as I have already indicated, last year, we got about Kshs70 billion while our request this year is almost double that. So depending on what we are able to get, only then can we be able to give an undertaking to what the hon. Member has requested. However, I want to assure him that the design work that was done was completed in 2008 and from last year, we actually have the exact cost. So once the funds are available we will not be going to design but to tendering. I want to assure you that we will prioritise that road as soon as the funds are available.

Dr. Eseli: Thank you, Mr. Speaker, Sir. There is something going on at the Ministry of Roads which is not quite right, in the sense that they are marginalising two provinces vis-a-vis infrastructure; the North Eastern and Western provinces. When the Deputy Prime Minister and Minister for Finance said there is Kshs1.2 billion for that road, it must have been there. Could the Assistant Minister tell us where this Kshs1.2 billion went?

Mr. Kinyanjui: Mr. Speaker, Sir, I may not be able to directly answer that question because I work for the Ministry of Roads and I speak for the Ministry of Roads. As to where Treasury would have taken the money, I would not be able to answer.

Mr. Bahari: On a point of order Mr. Speaker, Sir. You heard the Assistant Minister say that he will not be able to answer that question and the Member asked a very valid question. The money was allocated by the Ministry of Finance and read in the budget. If he is not able to answer this question, could we defer this question so that we can get an appropriate answer to tell us where the Kshs1.2 billion went? Where did you divert it?

Mr. Speaker: Mr. Assistant Minister, that is genuine. What is your reaction to it?

Mr. Kinyanjui: Mr. Speaker, Sir, I would require time to confirm whether the money was allocated and indeed where the money went.

Mr. Speaker: In those circumstances, I will defer the Question without any hesitation to Tuesday afternoon next week. Please, come with all the answers including responding to further supplementary questions.

(Question deferred)

Question No. 189

TABLING OF INSPECTION REPORTS
FOR NJIIRIS HIGH SCHOOL

Mr. Speaker: The Member for Maragua is not here? The Question is dropped.

(Question dropped)

Question No. 044

FAILURE TO USE OFFICIAL POVERTY INDEX
IN CDF DISBURSEMENT

Mr. Chachu asked the Minister of State for Planning, National Development and Vision 2030:

- (a) why the Ministry did not use the current official poverty index in allocating CDF to constituencies in the country;
- (b) to state the amount of money the ten poorest constituencies would have been allocated had the Ministry used the current official National Poverty Index in allocating CDF for the 2009/2010 financial year; and,
- (c) when the Ministry will effectively utilize the current official poverty index in allocating CDF in the country.

The Assistant Minister, Ministry of State for Planning, National Development and Vision 2030 (Mr. Peter Kenneth): Mr. Speaker, Sir, I beg to reply.

- (a) We had agreed with the CDFC Parliamentary Committee that, one, we are await the actual population size of the constituencies based on the 2009 Population and Housing census, and secondly, on an updated poverty index based on the welfare monitoring survey scheduled in the next financial year. This decision was prompted by the need to consider movement of the people due to certain events like the 2008 post-election crisis as well as the need to have an accurate and actual poverty index.
- (b) It has not been valid to compute the amount of money of ten poorest constituencies in 2009/2010 on basis of the current official national poverty index due to the above explanations.
- (c) As earlier indicated, a new official poverty index would be computed after the release of the census data. This will allow us to use a new official poverty index in the financial year 2010/2011.

Mr. Chachu: Mr. Speaker, Sir, this Government released a survey called Kenya Integrated Household Based Survey in the year 2008. All the 210 constituencies in Kenya were ranked. My own constituency, North Horr, was third poorest in this Republic. This survey is being used by the Government for all other functions but when it comes to CDF allocations, the Government has shied away from it. Could the Assistant Minister tell us why the Government is not using this particular survey, which it officially released, in allocating CDF funds?

Mr. Kenneth: Mr. Speaker, Sir, the Kenya Integrated Household Based Survey released in 2008 was actually for 2007 before the post-election crisis. We have agreed with the CDF committee that it would be important to await the results of the census to be released. It will be important to have the poverty index based on the welfare monitoring so that we can revise the allocations. We think we should be able to do it in the next financial year.

Dr. Nuh: Mr. Speaker, Sir, it is close to a year since the census was conducted and the Assistant Minister has said that he will use the poverty index together with the yet to be released census figures. Could he convince this House that in the next one month when he is supposed to table the poverty index levels, he will release the same figures before one month is over?

Mr. Kenneth: Mr. Speaker, Sir, the reason for the delay was that we decided to put entirely the 12 million forms that were availed for census so that we can have an accurate

census report rather than release preliminary results. We are scheduled to release the census results at the end of August. So we will be able to integrate those figures for purposes of CDF allocation.

Dr. Kones: Mr. Speaker, Sir, may I know exactly from the Assistant Minister what challenges they have faced in processing the data which they did not anticipate before? The information we have is that they were going to release the information by last December.

Mr. Kenneth: Mr. Speaker, Sir, what was to be released was the preliminary census data and not the actual data. We have had to actually input all the 12 million forms so that we do not have duplication or errors in order to have a complete census, so that if anybody wants to check on the methodology, he is in a position to do it. It has taken time but we are on schedule and we have set it in the Ministry for release in late August.

Mr. Chachu: Mr. Speaker, Sir, when determining the amount of funds allocated for CDF, the Committee considers population and poverty levels of a particular area. In northern Kenya, household based surveys have never been done. The Ministry has been using proxies. When will this Ministry undertake the necessary survey to ensure that the poverty levels of those constituencies are determined before the CDF money is allocated?

Mr. Kenneth: Mr. Speaker, Sir, for the sake of my friend, the Member for North Horr, last year's census was the first one to include household integrated census which means by the time we release the actual population census, we will also be able to release the household integrated census. When we add with the welfare monitoring survey for poverty index, we will have perfect and better statistics for Kenya.

Question No.154

GOVERNMENT BORROWING OF ESF FUNDS

Mr. Ochieng' asked the Deputy Prime Minister and Minister for Finance-

- (a) to clarify whether the Ministry has borrowed funds from the Exogenous Shocks Facility (ESF) and, if so, explain the terms of the ESF programme, its similarity and differences to the Structural Adjustment Programme; and,
- (b) to explain the likely negative effects of the programme to Kenyans and the economy at large.

The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Local Government (Mr. Nguyai): Mr. Speaker Sir, I beg to reply.

- (a) I confirm that the Kenya Government borrowed funds from the Exogenous Shocks Facility known as ESF of the International Monetary Fund (IMF) in May 2009 through the Central Bank and the terms of the loans were as follows: Interest rate - 0.5 percent per annum, grace period – five-and-half years, repayment - semi annually ending ten years after the first disbursement in 2019.

The Structural Adjustment Programmes (SAPs) were introduced by the IMF and the World Bank in the 1980s. They entail a set of economic policies aimed at restoring a sustainable balance of payment and fiscal positions, reducing inflation and making the economy more market oriented in order to establish conditions for sustainable growth and poverty reduction. Such measures include rationalisation of the Government expenditure,

public sector reforms, privatization, divesture of Government owned public entities, liberalization of key sectors of the economy, amongst others.

The ESF was on the other hand first established in 2005 by the IMF to provide financing support to low income countries facing balance of payments difficulties as a result of sudden and exogenous and or external shock.

[Mr. Speaker left the Chair]

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

The ESF was modified in 2008 to make it more flexible and accessible by introducing rapid access components known as Rapid Access Component (RAC), which can be accessed equally quickly as a single disbursement with no conditionality. There are also higher access components which are in multiple disbursements with a set of quality conditions. In those cases, the country---

(Loud consultations)

Mr. Ochieng: On a point of order, Madam Temporary Deputy Speaker. Hon. Members are consulting very loudly. We cannot follow the answer from the Assistant Minister.

The Temporary Deputy Speaker (Prof. Kamar): Order, hon. Members! Can you lower your voices, so that we can hear the Assistant Minister?

Proceed, Mr. Nguyai!

The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Local Government (Mr. Nguyai): Thank you, Madam Temporary Deputy Speaker.

In both cases, the country must demonstrate that, indeed, it needs the balance of payments support.

(b) in the case of Kenya, we benefitted from the RAC and, so there was no conditionality. Considering the concessionality of the loan, therefore, there is no likely negative effects of the ESF to Kenyans and the economy at large. Indeed, our recent position has strengthened and the shilling has remained fairly stable.

Mr. Outa: On a point of order, Madam Temporary Deputy Speaker. I was just a little bit confused as to whether the Assistant Minister is doing collective responsibility duty, or whether he is the new Minister for Finance.

(Applause)

The Temporary Deputy Speaker (Prof. Kamar): Hon. Outa, we allow the Executive to undertake their joint responsibility.

Proceed and finish, Mr. Nguyai!

The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Local Government (Mr. Nguyai): I had finished, Madam Temporary Deputy Speaker. But you are aware that this is not the first time I have been here representing the Minister for Finance. The hon. Member should be more observant next time.

(Laughter)

The Temporary Deputy Speaker (Prof. Kamar): Proceed, Mr. Ochieng!

Mr. Ochieng: Madam Temporary Deputy Speaker, what I would want the Assistant Minister to tell this House is: How much did the Government borrow under this facility, and how has this money been channeled into our economy?

Mr. Nguyai: Thank you, Madam Temporary Deputy Speaker. On 29th May, 2009, the Kenya Government, through the Central Bank of Kenya, received US\$209 million, which is equivalent to Kshs16 billion, and this loan was used to enhance the foreign exchange reserve, which has stabilized the shilling.

Thank you, Madam Temporary Deputy Speaker.

Mr. Mungatana: Madam Temporary Deputy Speaker, I want to thank the Assistant Minister for stepping in; it is a very important Question. But we are very concerned about the level of public debt in this country. You will recall that when the Minister wanted to extend the level of public borrowing, he came with a Sessional Paper here and we passed it. The issue that is bothering us is: Why did the Minister not find it necessary to bring a simple request seeking for authority from Parliament, so that we can know when the country is accumulating more debts and to what purpose was the money going to be applied? Why did the Minister not find it necessary to inform Parliament when he was going into this extra borrowing?

Mr. Nguyai: Madam Temporary Deputy Speaker, as you recall, when the Minister for Finance brought the paper, it was, obviously, after this particular incident, or this particular loan. This particular loan came at a time when the level of public debt was below the threshold that had been provided for; so, there was no real need for the approval of the House for the debt to have been sought.

Thank you, Madam Temporary Deputy Speaker.

The Temporary Deputy Speaker (Prof. Kamar): Proceed and ask your last question, Mr. Ochieng!

Mr. Ochieng: Madam Temporary Deputy Speaker, actually the reason why I also asked this Question was because I wanted to know from the Assistant Minister whether this kind of borrowing would make Kenyans to lose their jobs the way it happened in the early 1990s, when a similar borrowing was also undertaken by the Government.

Mr. Nguyai: Madam Temporary Deputy Speaker, first and foremost, this particular loan was on soft terms. As you realize, it was at 0.5 per cent and it had a grace period. After the grace period of five years, payment was to be made after every half year. If you look at the debt sustainability, the public debt level is within sustainable levels; we are at 15 per cent and the critical threshold is at 25 per cent. so, I think it will not have adverse effect on the economy.

Question No. 166

MEMBERS OF UNITO CO-OPERATIVE
SOCIETY DECLARED REDUNDANT

Mr. Yakub asked the Minister for Co-operative Development and Marketing:-

(a) to provide the list of all members of Unito Co-operative Society formed by staff members of United Touring Company, who have since been declared redundant with effect from 31st July, 2003, indicating how much each has contributed since it was formed; and,

(b) when the Ministry will ensure refund of the share contributions, considering that the former members are now out of jobs.

The Assistant Minister for Co-operative Development and Marketing (Mrs. Kilimo): Madam Temporary Deputy Speaker, I beg to reply.

(a) Unito Savings and Credit Co-operative Society was formed by staff members of United Touring Company. The Co-operative society became dormant in 2003 following the closure of the mother organization, United Touring Company. The Ministry does not have a list of shareholders of Unito Savings and Credit Co-operative Society. However, the Ministry has appointed a liquidator in accordance with the Co-operative Societies Act, who will, in the process of liquidation, identify the shareholders and loanees of Unito Savings and Credit Co-operative Society.

(b) It is expected that the liquidator will complete the liquidation process by the end of December, 2010. The share refunds, if any, will be dependent on the financial status of the co-operative society at the closure of the liquidation process, but not later than 31st December, 2010.

Mr. Yakub: Madam Temporary Deputy Speaker, the Assistant Minister has agreed that the company became dormant in 2003. Up to now, it is more than seven years. Members of co-operative unions are people who contribute money from their own salaries, hoping that at their time of retiring, they would get their money. The Assistant Minister has also said, in answer to part “a” of the Question, that she has appointed a liquidator. When did the Ministry appoint the liquidator? When was this done and why did it take seven years for the Ministry to appoint a liquidator?

Mrs. Kilimo: The liquidator was appointed at around March this year. Members contribute money from their salaries to a co-operative society, and at the same time they borrow loans. So, by the time it went down, definitely what you had saved, somebody else who was a member of the co-operative had borrowed. It was around this time that members did complain and that was when the issues were brought to the Ministry and we appointed a liquidator.

The Temporary Deputy Speaker (Prof. Kamar): Yes, Amb. Affey?

Mr. Affey: Madam Temporary Deputy Speaker, part “a” of the Question requires the Assistant Minister to provide a list of all the members of Unito Co-operative Society. It is apparent that she does not have the list. Is it, therefore, in order for her to continue answering the Question?

The Temporary Deputy Speaker (Prof. Kamar): The Assistant Minister conceded that she does not have the list in her answer. Maybe, Mrs. Kilimo, you could explain why you do not have the list.

Mr. Affey: Madam Temporary Deputy Speaker, it appears that it will take this Ministry over ten years. Is there no monitoring mechanism established in the Ministry to ensure that Kenyans do not continue to lose their money? What monitoring mechanism do they have in the Ministry to monitor the co-operative societies?

Mrs. Kilimo: Madam Temporary Deputy Speaker, once more, may I explain that the Ministry does not maintain a list of shareholders of co-operative societies in this

country? However, I did say that once the liquidator who has been appointed to check into the issues of the Unito Co-operative Society finishes that process, he will give us a list of the shareholders of the society.

On the last concern raised by the hon. Member, we now have an authority that will be able to regulate the activities of societies. We did not have it before. Previously, the Ministry would just wait for co-operative society members to come up with complaints. Unfortunately, it has also taken them seven years to complain. I want to thank the hon. Member for bringing up the matter, on behalf of Unito Co-operative Society.

The Temporary Deputy Speaker (Prof. Kamar): Madam Assistant Minister, maybe, what you needed to clarify is that not all Ministers have lists when they are demanded in this House, but they look for them. If a Question arises in this House, requiring a Minister to look for a list, the Minister can get the list from anywhere. Now that there is even a liquidator on the ground, I think the question they are raising is: Why would you wait for the liquidator to give you a list when the hon. Member needs it now? Probably, they want it so that they can ask more questions. Is it a secret list with the society? Is it possible to get it or not?

Mrs. Kilimo: Madam Temporary Deputy Speaker, this is a co-operative society that went under. It does not exist anymore. However, the liquidator will peruse the records that were held by the society. When they finish the liquidation process, they will give us the list. We will be interfering with the liquidation process if we ask for the list of the members at this juncture.

Prof. Kamar: That is well done! Sheikh Dor!

Mr. Yakub: Madam Temporary Deputy Speaker, the Assistant Minister, in her reply to part "b" of the Question, says that the conclusion of the liquidation process will not be later than 31st December, 2010. Is she aware that by November, 2009, the mother company, United Touring Company (UTC), was bought by Kenas Holdings Limited? So, which company are they dealing with? Is it the mother company, which was already liquidated, or the new company?

Mrs. Kilimo: Madam Temporary Deputy Speaker, Sir, the Question was on the old company. The contributors to Unito Co-operative Society also contributed in the name of the old company.

The Temporary Deputy Speaker (Prof. Kamar): Next Question, Mr. Charles Kilonzo!

Question No.178

STATUS OF CBA BETWEEN UNION OF KENYA
CIVIL SERVANTS/GOVERNMENT

Mr. C. Kilonzo asked the Minister of State for Public Service:-

(a) whether he could update the House on the status of the Collective Bargaining Agreement (CBA) between the Union of Kenya Civil Servants and the Government of Kenya (UKCS);

(b) whether he could explain the arrangements the Government has made to pay civil servants the overdue harmonised house allowance and commuter allowance; and,

(c) given that it was a Cabinet decision to pay commuter allowance in phases, and that the pilot phase was to commence in July, 2006, whether he could explain why the Government has deviated from that decision, effectively discriminating against officers in Job Groups “M” to “Q”, who were in the pilot phase.

The Minister of State for Public Service (Mr. Otieno): Madam Temporary Deputy Speaker, I beg to reply.

(a) The Government has not signed the CBA with the UKCS because there are issues in the draft CBA where consensus has not been reached. However, negotiations are continuing between the two sides on the various human resource issues. The outstanding issues include basic salary/wages, medical scheme, risk allowance, overtime allowance, hardship allowance, uniform allowance, schemes of service, subsistence/accommodation allowance, the superannuation scheme, and disciplinary cases.

To avoid the answer being too long, I attach a detailed schedule, indicating to the Questioner item by item, the current union’s demands and the status of consultations and discussions in that respect.

(b) The housing policy in the Public Service was implemented with effect from 1st July, 2001. The policy covers the Civil Service, the Teachers Service Commission, the Parliamentary Service Commission, the Judicial Service, State Corporations and Statutory Boards, semi-autonomous Government agencies, local authorities and all public universities.

In the first phase, 2001, the Government was guided by the prevailing market rates as provided by the Kenya National Bureau of Statistics. The Government divested from the policy of providing housing for its employees and implemented a market-based house allowance to all public servants with exception of the security services. The house allowance rates were graduated to approximate market rates for the respective regions. As a result, the regions were categorised as Nairobi, the major municipalities of Mombasa, Kisumu, Nakuru, Nyeri, Kakamega, Eldoret, Kisii, Thika, Kitale and Malindi, and the other small municipalities and all the other areas. The market rates indicated that an officer based in, for example, Lokitong, required a lower rate of house allowance as compared with one based in either Nairobi or one of the major municipalities.

In order to ensure that public servants can still access reasonable housing accommodation, the Ministry requested the Kenya National Bureau of Statistics to conduct a new housing survey and provide statistics on the current housing rents for all the regions in the country. We expect the report to be given to us by the end of July, 2010. The findings of that survey will assist the Ministry in deciding what factors to consider in payment of house allowances for civil servants and will, therefore, be the basis of negotiations with the union on the basis of facts collected from the field.

The Government commenced payment of commuter allowance for officers in Job “R”, “S” and “T” in July, 2006. Arising from negotiations between the union officials and the Government to extend payment of commuter allowances to employees in Job Groups “A” to “L”, the Ministry has as of now requested Treasury to make budgetary provisions of Kshs5.6 billion with effect from the next financial year.

(c) The Government also developed a new transport policy in 2006. Upon implementation of the policy, the Government approved payment of commuter allowances to officers in Job Groups “R” and “T”. The allowance was in lieu of official

transport hitherto available to these officers. The allowance was, therefore, meant to cater for the house-office-house transport, for which they were provided vehicles before.

It should be noted that officers in Job Groups “M” to “Q” were not in the category of those who were provided with official transport. Therefore, commuter allowances were then not commenced for them in that category. However, as I have mentioned earlier, we have forwarded to the Treasury a budgetary request for Kshs5.6 billion, so that all officers shall be paid commuter allowance from 1st July, 2010, subject to Treasury approval.

Thank you, Madam Temporary Deputy Speaker.

Mr. C. Kilonzo: Madam Temporary Deputy Speaker, I wish to refer the Minister to the first item and this is on the basic wages or salaries. The salaries for civil servants particularly in Job Group L and below are very low. According to the Minister, between 2004 and 2009, despite having been asked for a 45 per cent increase, they have only managed 28 per cent increase. What plans does the Government have to ensure that the civil servants in Job Group L and below are considered for salary increment, taking into account the current inflation rate?

Mr. Otieno: Madam Temporary Deputy Speaker, already, the Government is doing very well in the lower cadre compared to the private sector. It was at the higher level that the discrepancies between the Government pay and private sector was much wider. Nevertheless, we have already commenced payment for the lower categories in accordance with the harmonization scheme in force as of now.

Mr. Olago: Madam Temporary Deputy Speaker, it is a pity that civil servants, particularly junior civil servants have to suffer in the hands of the Government for failure to have representation. They are a very worried lot. What proactive step is the Minister taking to reassure civil servants that the worries they have will be adequately addressed by the Draft Constitution if passed?

Mr. Otieno: Madam Temporary Deputy Speaker, I am a very fair employer. In fact, I am ahead of the union in reforms in this area.

Mr. Bahari: Madam Temporary Deputy Speaker, now that the Minister is carrying out a housing survey to determine what the market provides in terms of housing rents, could he undertake to pay exactly or better than what is provided for in his survey so that civil servants do not subsidise the Government?

Mr. Otieno: Madam Temporary Deputy Speaker, I look at the issue of remuneration as the entire package. In fact, at the policy level, I am thinking in terms of the very permanent allowances being consolidated with salaries so that I can easily compare between the public service and the private sector. It is just not a matter of meeting the rental requirements in town by town basis or employment category basis but a more comprehensive approach in ensuring that we are a competitive employer as a Government. In return, we will be demanding service delivery commensurate with the higher levels of pay.

Mr. Mungatana: Madam Temporary Deputy Speaker, when the Minister was answering part “a” of the Question, he said that the collective bargaining agreement has not been signed because of outstanding issues. He went on to give us some details. Unfortunately, he is not telling us when are the next meetings and what is the programme so that this can be concluded. This is because we would like to see the Civil Service

working happily. We do not want to risk a strike as it were. Reasonably, when should we expect a conclusion of the CBA negotiations?

Mr. Otieno: Madam Temporary Deputy Speaker, the issues are wide ranging and in each case, some research is necessary. The negotiations are actually ongoing on an issue by issue basis. We proceed when we have enough facts to make a decision. In all this, we are also looking at the overall reform process in remuneration. You may have also noticed that the new Commission will handle salaries and remuneration across the entire public service. As of now, civil servants are in one group, teachers in another, the military in another and other Government sectors. We will be able to bring all these together to enable us do a more comprehensive job. Some of these issues will be tackled at that time.

Mr. Ochieng': Madam Temporary Deputy Speaker, could the Minister confirm or deny that the Government has a bloated Civil Service and that is why they are not able to remunerate them well?

Mr. Otieno: Madam Temporary Deputy Speaker, there may be excess staffing in some areas but generally, the staff levels are lower now than the establishment which we have approved. Nobody should feel threatened that they would be sacked, except for failing to perform.

Mr. Mututho: Madam Temporary Deputy Speaker, I want to commend the Minister, first and foremost, as a former civil servant for improving the general performance of the civil servants, their attitudes and argument(?). Having said that, could the Minister tell us why it cannot take less than two months to come up with something workable so that all the civil servants, even if they earn something small, they have a time line so that they do not continue to move to the private sector? Some of them are performing very badly and---

The Temporary Deputy Speaker (Prof. Kamar): Hon. Member, your point is made!

Proceed, Mr. Minister!

Mr. Otieno: Madam Temporary Deputy Speaker, there are several dimensions I have to take into account, one of which is productivity. The other one is the ability of the Treasury to pay. That is why we implement most of these reforms in phases. When it comes to actual payment, my job is done in terms of recommendation and the Treasury has to avail the funds to commence payments.

The Temporary Deputy Speaker (Prof. Kamar): Last question, Mr. C. Kilonzo!

Mr. C. Kilonzo: Madam Temporary Deputy Speaker, if you look at part "c" of the answer, you will realise that this is a Government by the rich for the rich. The Government developed a new transport policy in 2006. After developing the policy, they approved payment of commuter allowance for offices in Job Groups R to T. These are the big men in the Ministries. They are Permanent Secretaries and officers in that calibre. Down there, the Government never approved any payments for Job Groups A to L. This is what has been negotiated. These are the messengers, cleaners and the clerks. If the Government had the money to pay the senior staff, why has it ignored the lower calibre to the level that it has to go to the union?

Mr. Otieno: Madam Temporary Deputy Speaker, I was well aware of that interpretation from the beginning. It is one thing I reversed as soon as I got to the Ministry. The higher levels were initially paid the allowance because they had the

vehicles. When the vehicles were withdrawn, the commuter allowance was substituted. The negotiations with the union led to an agreement that everybody should get commuter allowance. Payment started with fewer numbers but I have indicated in the answer that I have requested for everybody to be paid across the board. The Kshs5.6 billion will be paid commencing July.

Mr. C. Kilonzo: On a point of order, Madam Temporary Deputy Speaker. As much as I appreciate the good work the Minister is doing, is he giving an undertaking that come July, this group will be eligible for commuter allowance or is he trying to say if funds are available?

Mr. Otieno: Madam Temporary Deputy Speaker, I appeal to the hon. Member to help if the figure does not appear in the Budget. He should get the entire House to rise up and make sure it is inserted.

The Temporary Deputy Speaker (Prof. Kamar): That is good!
Let us move on to the Member for Kuresoi!

Question No.184

ISSUANCE OF IDENTITY CARDS IN
KURESOI DISTRICT

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

(a) how many people have applied for and been issued with national identity cards in Kuresoi District from January, 2010 to date; and,

(b) what measures he will adopt to speed up the registration of persons and issuance of national identity cards in the district.

The Temporary Deputy Speaker (Prof. Kamar): Where is the Minister of State for Immigration and Registrations of Persons? Is there any Minister who is ready to undertake on this Question?

The Minister of State for Public Service (Mr. Otieno): Madam Temporary Deputy Speaker, I give an undertaking: I will draw the attention of the Ministry.

The Temporary Deputy Speaker (Prof. Kamar): We are going to defer this Question to Tuesday next week. So, Mr. Otieno can you forward that information to the Minister of State for Immigration and Registration of Persons? That is going to be on the Order Paper on Tuesday next week.

(Question deferred)

STATEMENTS

AFLATOXIN CONTAMINATED MAIZE

Mr. K. Kilonzo: Madam Temporary Deputy Speaker, I stand to seek a Ministerial Statement from the Minister for Agriculture on the matter of national importance regarding maize which is alleged to be contaminated with aflatoxins. I would like the Minister to address the following issues:

- (i) How many deaths have been occasioned from eating the contaminated maize and which districts have recorded these deaths?
- (ii) I would like the Minister to explain to the nation why the Government asked farmers not to sell the maize crop to middle men proceeding to delays in purchasing and later declining to buy the alleged maize on the price which was set there before of Kshs2,300 to a price of Kshs1,500 and Kshs1,000, respectively.
- (iii) I would like the Minister to tell the House and the nation at large what action the Ministry is taking to compensate farmers and victims of the poisoned maize who some are in hospital and others have died?
- (iv) I would also like the Minister to tell us what measures is the Government going to institute to address issues of post-harvest handling in order to mitigate loses?
- (v) I would like the Minister to tell the House what the Government is going to do to cushion farmers who, as evident, have incurred a lot of losses given that they had to pay for seeds, fertilizer and labour to produce these maize taking into account that they have reduced the price and yet the initial price was Kshs2,300?

We would like the Ministry and the Government to consider reinstating these prices so as to cushion the farmers.

Thank you.

The Temporary Deputy Speaker (Prof. Kamar): I can see that Mr. Otieno is taking notes on that.

The Minister of State for Public Service (Mr. Otieno): Madam Temporary Deputy Speaker, I will pass the information if you indicate the date by which the Statement would be made or at the discretion of the Minister.

Mr. K. Kilonzo: On a point of order, Madam Temporary Deputy Speaker. Given the urgency of this matter and given that farmers are holding their maize, I would request that the answer is given as soon as possible so that Kenyan farmers can know which direction to take with their produce.

Mr. C. Kilonzo: On a point of order, Madam Temporary Deputy Speaker. I wish to seek direction and ruling from your Chair concerning inconveniences of the House; inconveniences of the citizens of this country by State guests. If you have noticed, Parliament has been sealed off for the most part of the day, making it very hard for us to access Parliament and making it very hard for citizens to access their places of work. What I am asking the Chair to do is unusual but practicable!

The Temporary Deputy Speaker (Prof. Kamar): Mr. C. Kilonzo, what are you talking about? Are you talking about something different from what has been raised?

Mr. C. Kilonzo: Totally different, Madam Temporary Deputy Speaker.

The Temporary Deputy Speaker (Prof. Kamar): Can we rule on that first? Mr. Otieno you are undertaking to pass the word to the Minister for Agriculture. I want to rule that it is as soon as possible, so Thursday.

The Assistant Minister for Agriculture (Mr. Mbiuki): Madam Temporary Deputy Speaker, I am here. I want to give an undertaking that we shall bring a very comprehensive Statement on Tuesday afternoon.

The Temporary Deputy Speaker (Prof. Kamar): Okay, Tuesday, afternoon!

Mr. C. Kilonzo: Madam Temporary Deputy Speaker, back to my issue. On many occasions when there are State guests, we find hon. Members---

The Temporary Deputy Speaker (Prof. Kamar): Mr. C. Kilonzo, are you giving us a Statement or what?

Mr. C. Kilonzo: Madam Temporary Deputy Speaker, I am asking for the Speaker's Ruling. I am trying to build the case so that you can make a decision.

The Temporary Deputy Speaker (Prof. Kamar): On what? Under Statements? This is a time when we are requesting for Ministerial Statements, so you are out of order!

BILLS

Second Readings

THE PREVENTION OF ORGANIZED CRIMES BILL

The Temporary Deputy Speaker (Prof. Kamar): Hon. Members, I want to make a statement on the following Orders: Order No.8, the Minister concerned has sent word that they are not prepared today, so we will defer it!

(Bill deferred)

THE COUNTER-TRAFFICKING IN PERSONS BILL

For Order No.9, Ms. Odhiambo is out of the country on official duty and so, we will also defer it!

(Bill deferred)

THE ANIMAL TECHNICIANS BILL

For Order No.10, we have received information that Mr. Lekuton is still away and so, we will defer it!

(Bill deferred)

THE COMMISSIONS OF INQUIRY (AMENDMENT) BILL

Mr. Olago: Madam Temporary Deputy Speaker, I beg to move that the Commissions of Inquiry (Amendment) Bill be now read a Second Time.

Currently, we have the Commissions of Inquiry Act, Cap.102 of the Laws of Kenya that was enacted and came into force on 12th June, 1962 and as preamble to that Act states, it is an Act of Parliament to provide for the appointment of commissioners to inquire into and report on matters of a public nature, referred to them by the President to prescribe their powers, privileges and duties and to provide for other matters relating thereto. Since 1962, Kenya has had successive sets of commissions of inquiry, some of the notable ones being the Kenya Maize Commission, the Commission on the Law of Marriage and Divorce, the Commission of Inquiry on the Law of Insurance, Judicial Commission to Inquire into the Allegations Involving Charles Mugane Njonjo, the Ouko

Commission of Inquiry, the Akiwumi Commission into Ethnic Violence, Judicial Commission of Inquiry into the Goldenberg Affairs, the Commission on Higher Education, Commission of Inquiry into the Land Law Systems of Kenya, the Commission of Inquiry on Post-Election Violence, commonly known as the Waki Commission and the Insurance Law Commission. The amendment to this Act in the Bill that I am moving this afternoon is very minimal in size but very fundamental in its effect on what the law says. I seek to amend Section 7 of the Commissions of Inquiry Act. The Section that I seek to amend reads:

“Section 7 - Duties of Commissioners. It shall be the duty of a commissioner after making and subscribing to the prescribed oath to make a full, faithful and impartial inquiry into the matter in which he is commissioned to inquire; to conduct the inquiry in accordance with the directions contained in the Commission and in due course, to report to the President in writing the results of the inquiry and reasons for the conclusion arrived at and also, if so required by the President, to furnish to the President a full record of the proceedings of the Commission.”

Madam Temporary Deputy Speaker, the net effect of this Section is that commissions of inquiry are appointed at the sole discretion of the President and their reports are kept by the President at his own sole discretion. Many of the Commissions of Inquiry reports have had to be received by the President and shelved. The Kenyan public has never had a chance to debate these reports or make any useful input out of these reports. Parliament does not have the right to debate the reports and use them in amending the laws, so that what they come up with may be enacted into law. To that extent, I intend to have Section 7 amended in such a way that the reports can be more useful to this country.

Madam Temporary Deputy Speaker, the principle object of this Bill is to amend the Commissions of Inquiry Act, Cap.102, in order to require a Commissioner to report the results of the inquiry to the National Assembly. In the history of our country, numerous inquiries have been commissioned by the President in exercise of the powers vested by Section 3 of that Act. The reports of such inquiries have, in terms of Section 7 of the Act, been submitted to the President and in a good number of cases, the results of such inquiries have remained unknown to the public and Parliament. This is so despite the fact that the inquiries are constituted to interrogate matters that are of a public nature and which directly affect the public. The public is usually active participants in the proceedings and deliberations of such inquiries. Additionally, the inquiries are funded by the public. It is, therefore, an anomaly that the public would remain clueless as to the results of the large number of inquiries that have been commissioned by the President.

Madam Temporary Deputy Speaker, to address this anomaly, this Bill that I am introducing this afternoon proposes an amendment to Section 7. The proposed amendment would require a commission of inquiry to report the findings of an inquiry to both the National Assembly and the President. Submission of a report of an inquiry to the National Assembly would afford the public, through their elected representatives, an opportunity to deliberate and transparency and accountability in the functioning of the inquiry system. This Bill will not occasion additional expenditure of public funds.

Madam Temporary Deputy Speaker, the amendment that I intend to introduce to Section 7(1) will read as follows:

“Section 7 – Duties of Commissioners. It shall be the duty of a Commissioner after making and subscribing to the prescribed oath, to make a full, faithful and impartial inquiry into the matter in which he is commissioned to inquire; to conduct the inquiry in accordance with the directions contained in the Commission and on completion of the inquiry, to report to the President and the National Assembly in writing the results of the inquiry and reasons for the conclusion arrived at.”

Madam Temporary Deputy Speaker, I introduce Section 7(1)A to read as follows:

“The Report of a Commissioner under Subsection 1 shall include a report of the proceedings of the Commission.”

The fundamental amendment that I intend to introduce is “report to the National Assembly, in addition to the President.” If this amendment is passed by the House, then the House will have a chance to deliberate on these reports and assist in amending laws, so that these reports become useful in moving Kenya forward. The Bill speaks for itself and so, I do not want to spend more time on it.

Madam Temporary Deputy Speaker, Sir, I beg to move and ask hon. Wamalwa to second the Bill.

Mr. Wamalwa: Thank you, Madam Temporary Deputy Speaker. I wish to second this Bill and congratulate my learned senior, hon. Olago, for bringing this proposed amendment to the Commissions of Inquiry Act, Cap.102.

Madam Temporary Deputy Speaker, indeed, the Commissions of Inquiry in this country have a history that it is time that, as a House, we need to now inquire into the inquiries held by these Commissions, and really assess whether public funds that have been applied in paying many people in many commissions to carry out what has, in certain cases, not been known by the public in terms of output and effectiveness in addressing the cause of why we had these commissions appointed in the first place.

Madam Temporary Deputy Speaker, indeed, our country has been like a pressure cooker where when the pressure builds up and the Government of the day wishes to release this pressure, the release valve for this pressure has always been commissions of inquiry. I do remember when the body of the late Dr. Ouko was found at Got Alila after he disappeared from his Koru home, the temperatures in this country went very high. What did we do? We formed the Ouko Commission of Inquiry in 1991. This Commission carried out its work but was disbanded under mysterious circumstances. The public never really got to know the outcome of this Commission. However, public funds had been expended during this Commission.

Madam Temporary Deputy Speaker, also, when we had one of the biggest rip-offs in the history of our country; during the Goldenberg affair, what did we do as a country when Kenyans demanded to know who were the fraudsters behind the Goldenberg Scandal? We did again form the Commission of Inquiry into the Goldenberg Affair.

Madam Temporary Deputy Speaker, when we had problems again in 1991 and 1992, during the tribal clashes and Kenyans killed each other, we, again, formed a Commission of Inquiry known as the Akiwumi Commission of Inquiry into the Ethnic Violence. Recently, after the last general election, there was serious post-election violence and Kenyans killed one another again. That was when we formed the Commission of Inquiry on Post-election Violence, otherwise, known as the Waki Commission.

Madam Temporary Deputy Speaker, indeed, we have formed a habit of forming these commissions just to release the tensions that have arisen when faced with serious situations that have threatened to divide our nation. However, it is left at the pleasure of the President to decide whether the outcome or reports handed to him by the Commissions would be made public or not, yet the irony of the matter is that what has been inquired into has always been in the public interest or public in nature.

It has been a matter to which public funds have been applied. Therefore, what Mr. Olago has proposed is overdue. It is a matter that will eventually bring accountability in these matters. It will also make the process more transparent.

Madam Temporary Deputy Speaker, once commissioners are appointed, ultimately, they will be answerable, not just to the President but to the nation through this House. With the amendment to Section 7, it will then be required that after a report is handed over to the President, indeed, this House will also receive the report; it will be debated upon and we will have an output, eventually for which we will be accountable as a country for using public funds.

Madam Temporary Deputy Speaker, it is for these reasons that I wish to strongly support this proposed Bill.

With those few remarks, I beg to second.

(Question proposed)

Mr. Namwamba: Thank you, Madam Temporary Deputy Speaker. I rise to support the Motion. Let me start by commending my learned senior, hon. Olago, for moving this most important amendment.

Madam Temporary Deputy Speaker, we are living in interesting times. We are living in times when one has to choose to be on the right side of history, as President Barack Obama would say. One way of demonstrating that is by being part of the great transformation that seeks to correct some gross historical injustices, imbalances and inequalities, some of which are manifest in the manner in which we have conducted critical public affairs over the period that we have been an independent State.

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

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

Mr. Temporary Deputy Speaker, Sir, commissions of inquiry have become one of those facets of public life that have lost essence, meaning and public confidence, because they have come to be taken as an arena for jokes, wastage of public funds and a waste of time. Walking down memory lane and looking at our history, we see a litany of commissions of inquiries that have had occasion to handle various public issues in this country, many of which Mr. Olago has so lucidly mentioned in moving this Motion; they include the Ouko Commission of Inquiry, the Akiwumi Commission that inquired into ethnic violence and clashes in this country, the Davy Koech Commission that inquired into issues to do with higher education, the Ndung'u Commission that looked into issues

of land, the Hancock Commission that looked into issues of the insurance industry and the so-called Ringera Commission that undertook the so-called drastic surgery of the judiciary.

When you look at the history of these commissions, there are certain things that stand out starkly. You see wastage of public funds to the extent that you get a sneaky feeling that some of these commissions may have been put in place for no reason other than to act as cash cows. You see some commissions that have given you the impression of them having been an attempted cover-up, and a waste of time in the hope that the people of this country would somehow forget the issue of concern. You see impunity in the manner in which justice has been delayed and, therefore, denied. As we say, justice delayed is certainly justice denied. A lot of these commissions of inquiry have resulted in the delay of justice and, therefore, denial of justice to the people of this country.

Mr. Temporary Deputy Speaker, Sir, some of them have been no more than arenas for witch-hunting. Most importantly, is that all these commissions, without exception, have hardly moved beyond the paper upon which the reports have been scripted. Some were halted midstream, and many that lived to see the light of day never reached the point of implementation.

In his epic poem, the *Odyssey*, Homer says: "Man is hardly remembered for what he begins. You only live to be remembered for what you successfully conclude; what you move to a logical conclusion". By that standard, we can say that a lot of these commissions of inquiry cannot be remembered for anything because they have never seen the light of day.

The amendment moved to Section 7 of the Commissions of Inquiry Act must be seen in the light of an attempt to correct a gross injustice that the appointment of these commissions has visited upon our land and people. The amendment seeks to allow for the presentation of reports of commissions of inquiry to this House at the same time as the same is presented to the President. That will permit this House the opportunity to interrogate reports of these commissions and initiate measures to ensure implementation, even in the face of lethargy or inertia in the Government.

Mr. Temporary Deputy Speaker, Sir, what gives me confidence is the fact that while amending our Standing Orders recently, we introduced a major innovation by enacting into the new Standing Orders a new committee that we have called the Committee on Implementation. Standing Order No.196 states:

- (1) There shall be a select committee to be designated the Committee on Implementation.
- (2) The Committee shall scrutinise the resolutions of the House (including adopted committee reports), petitions and the undertakings given by the Government on the Floor of the House and examine-
 - (a) whether or not such decisions and undertakings have been implemented and where implemented, the extent to which they have been implemented; and whether such implementation has taken place within the minimum time necessary; and
 - (b) whether or not legislation passed by the House has been operationalised and where operationalised, the extent to which such operationalisation has taken place within the minimum time necessary.
- (3) The Committee may propose sanctions to the House on any Minister who fails to implement resolutions of the House.

Mr. Temporary Deputy Speaker, Sir, for the first time ever this House now has a clear, concise and deliberate mechanism to implement resolutions of this House, including undertakings by the Government which will include reports produced by the litany of Commissions of Inquiry that we are so fond of putting in place to handle various public affairs.

Therefore, I absolutely have no doubt in mind that this amendment will present to this House with the very unique opportunity, to not only be part of the process of scrutinizing reports of Commissions of Inquiry, but, indeed, to ensure that these reports do not continue to gather dust. It must be admitted that a lot of the issues that have had opportunity to be addressed have had potential to solve some of the myriad problems that afflict this land.

Mr. Temporary Deputy Speaker, Sir, one of those issues is that of ethnic clashes. One wonders if we had effectively addressed issues that were raised by the Akiwumi Commission that inquired into monster of ethnic clashes; whether, in fact, we would not have been better placed, better equipped to handle the ghosts of ethnic clashes that have repeatedly sprung up any time we have had an electoral contest in this country, best demonstrated, of course, by the post-election problems after the 2007 elections.

Mr. Temporary Deputy Speaker, Sir, we would have addressed land issue which continue to disturb our conscience even today. As we debate a new Constitution, one of the issues that have actively remained in the public domain and which has invited most heated debate is the question of land. Yet through the Ndungu Commission on affairs related to land, we had opportunity to address them. But because we never saw that process to its logical conclusion, we lost an important opportunity to address a critical issue of national importance.

I urge this House, therefore, to see this amendment in the light of the momentous opportunity we have to address a lot of these deficiencies and present this House with unique opportunity to be part of the process of bringing some of these issues to conclusion. And also to stop the habit that Government has formed of setting up Commissions of Inquiry merely for the show and for purpose of sometimes, with due respect, to hoodwink the public. I urge the House to pass this Motion and allow our new Committee on Implementation to have a major responsibility in terms of tracking reports of these Commissions and ensuring that they, not only see the light of day, but they are implemented in a manner that can contribute to taking this country forward.

With those few remarks, I beg to support.

Mr. Affey: Thank you very much, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to support this very important Motion.

Mr. Temporary Deputy Speaker, Sir, I begin by joining colleagues in congratulating the hon. Olago for thinking very seriously about this country and for bringing such a very critical amendment. This has come at a time when it has become crucial to scrutinize the reports of Commissions of Inquiry that the Government from time to time establishes in order to fire fight situations that essentially if the Government planned properly would not have required Commission of Inquiry to be established.

Mr. Temporary Deputy Speaker, Sir, this amendment will allow Parliament to play its rightful role. This House has risen to the occasion over time either to propose new laws or amend existing laws. I know the House will approve this Bill. But once it is approved, there is always the part the President plays. Most cases, it has been quite slow.

This is because, probably, the officers that work in the office of the Attorney-General or the President's office do not advise the President in good time. So, when Parliament makes a statement by making this kind of proposal, the Office of the President is expected to act within the law and in good time to assent and to enact it into law.

About one month and a half ago, this same House approved the Indemnity Repeal Bill. We passed a resolution to amend the Indemnity Act, Cap.44 of the Laws of Kenya because it was retrogressive law. It has existed in our laws when it actually goes against the fabric of our Constitution. But to date one and a half months down the road, after Parliament, in its own collective wisdom, passed that important Bill, the President has not signed it into law. It then means we have to come back to the Floor of the House and remind the Executive about an important duty. This should have been done as a matter of procedure.

Mr. Temporary Deputy Speaker, Sir, this amendment is so important because many times the Government has established Commissions of Inquiry in order to relax a situation. There is one I have in mind. In 2007, the President established a Commission of Inquiry to look into the grievances of the Muslim community. This was done just before we went for the 2007 General Election. That Commission went to every part of this country where Muslims reside. They went to many areas, including Othaya and Nyeri towns. Muslims had an opportunity to say their frustrations. The Muslim felt discriminated against. They felt marginalized in most parts of the country. It was apparent that this Commission created a lot of hope. What happened? Because the Muslims were up in arms and it was an election year, the Government established a commission and we saw it as a sign of good faith. Everybody celebrated that finally the Government was beginning to listen. But what happened? First of all, it was difficult for the Government to accept certain things the Committee said existed in the country, yet they did exist. So, the report together with the recommendations was shelved. We expected the report to be made public and the recommendations of the report to be followed by concrete actions of Government in order to solve the issues that were raised in that report.

It took a Question to be brought to Parliament. Hon. A. Abdalla and I asked a Question in this House about that report. The Minister of State for Provincial Administration and Internal Security was compelled by the Chair to furnish the House with that report. But to date, the Minister had defied the ruling of the Chair. The report's recommendations have been shelved. Of course, we managed to get copies of what the report had said. But if Parliament was enjoined in that process, as we are suggesting here, then we could have had a parallel system of finding out how this report could be implemented through the Committee on Implementation. But here is a situation where Parliament is denied a role to play because of the manner in which this law was enacted.

Therefore, we need to undo what we did as a House even though it was done in good faith. We should not trust everything that the Government says or take it at face value. In most cases, it has been used as a fire-fighting mechanism where the Government tries to investigate a certain situation and a commission of enquiry is established. After the political pressure, it is down to business as usual and nothing is done. That is why I appreciate this amendment. I urge the House to pass it quickly. After we pass it, I would like to remind the President's Office to follow up the resolutions of the House more critically than it has done. The office normally takes the resolutions that

we pass very casually. We need to apply constant pressure on the Floor of the House for laws to be assented to by the President.

With those few remarks, I support this Bill.

The Assistant Minister for Youth Affairs and Sports (Mr. Kabando wa Kabando): Thank you, Mr. Temporary Deputy Speaker, Sir. I rise to support this Bill because it is timely. I would like to congratulate the hon. Member who has moved it. It has been said by my colleague, Ambassador Affey that, commissions of inquiry have been constituted for various reasons. They are not formed for positive reasons but largely for political expediency. I recall in 1990 when Kenyans were gathering steam to shift ground to accommodate multi-party politics, a committee was constituted and was chaired by the then Vice-President hon. Saitoti. That Commission went round the country seeking views from Kenyans to usher in multi-party politics in order to conform to pluralism that was happening in the whole world. Though that was not a commission of inquiry by the Government - it was a small commission formed by the ruling party then. We had one party - it signifies the general formula that has been used whenever a commission of inquiry is formed. Also before then, reading through the HANSARD reports of this very august House--- I have gone through the deliberations regarding the assassination of J.M. Kariuki and the Elijah Mwangale Select Committee. The Committee's work was comprehensive and it captivated the interests of the country. That Report, after consuming time, resources and the intellectual capacity of hon. Members - and even compelling the then Minister for Public Works Masinde Muliro to leave the Cabinet due to the contention of the Report - it was trashed. I remember reading through the HANSARD and the then Minister in charge of Defence and the Attorney-General saying that the Report should be noted but not adopted by the House. That means that there has been no respect by successive regimes for reports compiled by Select Committees and Commissions of Inquiry on matters of national importance, even if the matters are grave enough to threaten the stability of the country.

We had a commission which investigated the activities of devil worshippers in this country. The Commission went round the country and ventilated even on forbidden grounds. The Report of that Commission has not been made public. We have been dealing with issues of public ethics. We presented in this House, in 2003, the Public Officer Ethics Act. Certain matters could have been dealt with if those commissions had their reports exposed, interrogated by the House and implemented by the Government through Cabinet approval. Therefore, it is important that this amendment be brought so that, in its own very wording, it brings accountability. "Transparency" and "accountability" are the key words which have been amplified time and again in the quest for better governance, improved governance, accountability, transparency and being in charge of a leadership that is accountable. The resources that can be accounted for in a system that is transparent.

This amendment will stop what has been happening in the past. The appointments to those commissions of inquiry have largely depended on political patronage, who is connected to who, who is who in the political regime of the time. Sometimes, it has been a question of rewards for sycophants and surrogates. The reports have never been interrogated to ascertain their authenticity and relevance. There is a requirement that those reports must be brought to the Floor of this august House, which is the supreme law making body of this country. It will ensure that the work of those committees is diligent

and watertight. The commissions will not make shoddy presentations in highly publicized events in Ministerial board rooms or in the hallowed grounds of State House and that is the end of the story. It will question the terms of reference for the committees. It will question the latitude of harvesting contributions from the public or the sectors concerned with the issues at hand. It will also call into question the outcome of such reports, accountability and even the financial implications of it. How much money has been budgeted for the commissions, who have been allocated how much and which firm was engaged to facilitate the work of the commission. Therefore, it will also facilitate financial audit and scrutiny. As I said, it will cause less wastage.

This amendment is looking forward on what needs to be done tomorrow and the day after tomorrow. It may be important, perhaps, for the Mover or those contributing to consider – I will be making this effort before we conclude – that we look at this retrospectively so that whatever has been done in the past is compelled to be produced for accountability. If you look at all those commissions such as the Ndung'u Commission--- I know that the contents of the Ndung'u Report are one of the issues which are embroiling us in some of the sideshows in debates and dialogues for the proposed Constitution. The question of devil worship, the Akiwumi Report on Land Grabbing are some of the issues that are causing disagreement, fear, paranoia, disarray and hate. It is part of what contributed to almost genocide in 2008 after the general election. We did not address areas where electoral malpractices and contests had been persistent. The question of Ouko and J.M. Kariuki need to be addressed.

Some of the issues that we have witnessed in the past such as mysterious killing of high ranking Government officers have continued to be exposed by the media. Those issues could have helped us end impunity in this country. They could have helped this country to deal with matters of political competition, corruption and fraud in corporations. That is because deals gone sour are sometimes many and no solutions are found. Some of them are like the Goldenberg Scandal and the Artur Brothers. We saw them invading even the most secure institutions like the Jomo Kenyatta International Airport. The Report has not been made public. That simply means that all through, those commissions have been constituted with an intention not to have an immediate solution to the issues at hand but, perhaps, to bring suspense so that we can conveniently exit that problem because of the proverbial short memory of Kenyans. It is also intended to also make people captives. The people who are mentioned in the Ndung'u Report, the Akiwumi Report, and the late Kennedy Kiliku's Report that was before this House, the Ouko Report, the J.M. Kariuki Report and the Artur Brothers Report can easily be made by security apparatus or power leaders to remain captives of the regime in place. Therefore, they remain the hidden or secret financiers of the regimes because they are under fear that they will be exposed one way or another. Every time there is a new Government, a new Cabinet or new wielders of power, those reports become very useful. Therefore, making them exposed and subject to this amendment to the Commissions of Inquiry Bill, No. 15 of 2009, is something that can help us move forward.

Mr. Temporary Deputy Speaker, Sir, in conclusion, looking at the amendments that have been proposed here, it is very clear that Parliament wants to assert itself like it has done. This is something that, perhaps, has not been communicated very well. The Public Relations Department of this House needs to do a better job. Sometimes it is easier to criticize that Parliament has just done a few of these things that benefit a certain class

of the citizenry, including parliamentarians, without citing roundly that this Tenth Parliament has passed the most important Bills, the highest number of Bills relevant to improve governance, create wealth and make job opportunities more available to the people of this country.

In the proposed Constitution that we are debating out there in rallies, churches, mosques, in our houses and everywhere, it is expected that all the treaties that Kenya signs will be subject to Parliamentary approval. This means that there shall never be any international convention or law which will ever be entered to by the Minister for Foreign Affairs, or even an international agreement by the Minister for Finance or any memorandum of understanding by the President who is the chief executive of the country without the approval of Parliament. Today, Kenyans are witnessing the Deputy Prime Minister and Minister for Finance signing international agreements and deals which are completely oblivious to this House. Every day, people are witnessing either the Prime Minister or the Vice-President or the President pronouncing a certain agreement with a certain nation or a certain community of nations on a certain international Non-governmental or Governmental organization without necessarily the relevant Parliamentary department being aware or involved to interrogate and ventilate such treaties, agreements or pronouncements.

Giving this House, therefore, the opportunity to interrogate all the commissions of inquiry reports gives the House, tomorrow and in the future, the Eleventh Parliament, the proposed and intended Senate and other organs of governance, opportunity to enter into these things, so that accountability and transparency for good corporate governance in the Executive and in the House is realized.

Mr. Temporary Deputy Speaker, Sir, I finish by saying how excited I am to have had the opportunity on this very first day when we have reconvened to contribute to this Motion. Reading through this Motion, you can see that the contents are wholly in anticipation of the proposed law that we are going to pass.

With those remarks, I beg to support.

The Assistant Minister for Education (Prof. Olweny): Thank you, Mr. Temporary Deputy Speaker, Sir. I want to make very brief comments in support of this Motion.

In this country, several commissions have been set up to look into various issues, for example, assassinations, mysterious murders, scandals and issues touching on corruption. A lot of money has been spent on these commissions. Kenyans have spent their time participating in these commissions with the hope that the reports and the recommendations of such commissions would solve problems for which they were made. Unfortunately, nothing has come out of these commissions. Most of them have given their reports secretly to the powers that appointed them. Some of these commissions have been appointed for political reasons, like a few of my colleagues have said. Some of them were appointed simply to reduce tension when some incidents had caused tension in the country. The Government wanted to get a way of getting out of such problems and so, commissions would be formed to help the Government ease out the tension.

A time has come when Kenyans should be made to know the details of the reports and the recommendations of such commissions. We should no longer allow people who have spent Government money and taken Kenyans' time in deliberations and investigations to take their report to State House without the *wananchi* knowing what is

really in those reports. They take these reports to State House when they are fully sealed. This is a House of the representatives of this country. Should there be burning issues, scandalous issues, issues touching on corruption, murders and assassinations, they should be debated here. It is my wish that if such commissions are formed, they should have a time limit within which to submit their reports to both the President and the House. The House should also have a time limit within which to debate those reports instead of simply having them tabled and sometimes, that is the end of it.

Mr. Temporary Deputy Speaker, Sir, if action was taken based on the reports of some of these commissions, impunity in this country would have ended. Mysterious assassinations and corruption would have ended. So, a time has come when we, as Kenyans, should force future Governments to table those reports in Parliament, have them debated and the appropriate action taken based on the contents of the reports of such commissions.

With those few remarks, I support.

Mr. Muthama: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me the opportunity to support this very important Bill that has been introduced by hon. Olago. I am also thankful for the opportunity to contribute on the first day after the recess.

This important Bill has come at the right time. I am happy to join my colleagues who have supported it. I want to support it with my body and soul. Truly, any commission of inquiry that is formed is because there is loss of lives, destruction of property and many other crimes that are committed. It is extremely difficult for our security enforcers and investigators like the National Security Intelligence Service (NSIS) to expose the truth. I want to cite the case of the late hon. Kiliku who has passed away without seeing or hearing the report of a commission of inquiry that he chaired in 1992.

Mr. Temporary Deputy Speaker, Sir, Mr. Kiliku stood in this august House and stated in detail what happened. That report was given to the Head of State at that time. There is absolutely nothing that has been heard since then. Kenyans pay taxes, commissioners were paid, information was collected, a report was written but so far nothing has been exposed. Time has come for Kenyans not to be taken for granted. The amendment of this Bill is what will empower the common *mwananchi* to demand to be told the truth. The truth should come from the Government that is elected and paid by *wananchi*.

There was the case of Tom Mboya and Robert Ouko. A commission of inquiry was formed when Ronald Ngala passed away but up to now nothing has been exposed. If the Bill is passed, this House will have the mandate to demand a report from any inquiry or commission that has been formed. They will be required to bring the original report to Parliament and a copy to the Executive or the Head of State. This will enable Kenyans to be told the truth. Why should we spend a lot of money and time and hire people to do work but at the end of the day nothing is given to Kenyans? We are not here to play games. We are serious with the business of this House. We want the Government that would be in power to be serious with issues that concern Kenyans. That will prevent a situation where somebody wakes up, takes a *panga* and kills another person or destroys his or her property and expects to get away with it. The law should deal with that person accordingly. In order for the truth to be realized, discipline to be maintained and Kenyans to know what it means to obey the law of the land after amending this Bill, we should

demand that all the reports that have been written since the commissions of inquiry were formed be laid on the table, read and discussed. Even if the report is old, let Kenyans and the children who come tomorrow, ten or 20 years know the truth about what happened. This is because it is our dear children, sons and daughters who have been eliminated without courtesy, fear or respect. People used to peg their protection on the chair that appoints the commission. So, the commissions never worked for Kenyans but individuals.

Mr. Temporary Deputy Speaker, Sir, after being elected to this House we say that we have reached a dead-end and we cannot go beyond that. So, we want these reports to be made public and if not we should be told why. Since a lot has been said, there is nothing absolutely new that would be said about this Bill except to support and pass it.

With those very many remarks, I beg to support it.

The Assistant Minister for Labour (Mr. Ojaamong): Mr. Temporary Deputy Speaker, Sir, thank you for according me the opportunity to support this amendment. These are some of the injustices the previous governments have done to our people. That is hiding the report of these commissions.

Mr. Temporary Deputy Speaker, Sir, one very well known commission in my area is the one that is referred to as the Joseph Mwangovya Commission or the “one man commission”. This was only headed by one person and two secretaries. It was appointed by the previous government to come and look into the boundary disputes between the neighbouring districts of Busia, Mt. Elgon, Bungoma and Teso. Indeed, the Commissioner, Mr. Joseph Mwangovya came and was given facts by the people on the ground on how they wanted the issue to be resolved. However, after spending millions of shillings of the Kenyan taxpayers, a report was prepared and to-date, we have not heard or seen its copy. When I asked a Question in the Ninth Parliament whether the report could be tabled, the Government was very resistant. When the Minister in the Office of the President failed to answer, one of my colleagues, an hon. Member from the neighbouring constituency told me that whatever happens that report will not see the light of the day. This is because a lot of truth had been unearthed in that report and it would have solved the disputes between the neighbouring districts. Today, those disputes have not been resolved and things have been swept under the carpet. If the current Interim Independent Boundaries Review Commission (IIBRC) does not resolve the disputes, I am sure that they will recur.

In short, I just want to say that the Commissions of Inquiry (Amendment) Bill that has been brought by Mr. Olago is timely and has to be supported. The reports done by these commissions should be brought to this Parliament so that we, as the representatives of the people, deliberate on them and look at those recommendations accordingly.

Thank you, Mr. Temporary Deputy Speaker, Sir.

Mr. Baiya: Mr. Temporary Deputy Speaker, Sir, I also rise to support this amendment and wish to thank the Mover, Mr. Olago. Basically, the power of the President to appoint the commissions, looking at the spirit of the Act, have been to give the State the opportunity to use specialized investigative team with a view to ascertaining the truth on the various matters that have been investigated. Unfortunately, as has been said by my colleagues who have spoken previously, these powers have been grossly abused. Public resources have been put to use only for the reports and the information that they were supposed to generate to be shelved. This leads to a lot of waste of public

resources. Whenever there is an incident that arouses public displeasure and generates pressure on the state, the method used to hoodwink the public has been to create commissions and create the impression that the state is serious and is determined to go to the root of the problem. That always happens when there is public pressure. However, as soon as the public pressure has precipitated by the time the reports are available, they are shelved to ensure that the public never gets to know the truth. So, this amendment will, therefore, serve a great public purpose of removing that tool in the hands of the State. It will not appoint a commission if it knows that at the end of the day it does not want to share the information to be generated with the public.

During Commissions of Inquiry, at times there is a lot public pressure and public resources are used and victims subjected to interviews. They give their input and views in the belief that justice would ultimately be done but when those reports are made public, they are shelved and no action is taken. One example relates to the famous Ouko Commission where the public at the time of the protracted demonstrations after the discovery of the murder of the former Minister for Foreign Affairs, the Government went on record and promised Kenyans that no stone would be left unturned in unearthing the culprits who were responsible for the murder. But in the process of conducting this Commission, when indeed some stones started turning, we discovered the real intention of the Government. The Government moved in to abruptly terminate the proceedings of the Commission arguing that the Commission was receiving hearsay evidence. It is to be noted that the Kenyan people who were in charge of that Commission were experienced judges of the High Court and Court of Appeal. So the claim that they were handling hearsay evidence was a non-starter. So the real intention of the State in appointing that Commission was to cover up the murder. As soon as evidence started coming to the open as to whom the actual culprits were, we saw the state exposing its real face.

This amendment, therefore, to the extent that it seeks to demystify the power of the commission appointed by the President by ensuring that ultimately the outcome of the investigations are brought to the public limelight, is going to remove that abuse and ensure that the powers of the commissions will only be exercised for the just interest of public good in this country.

For those reasons, I also support the amendment.

Mr. Pesa: Thank you, Mr. Temporary Deputy Speaker, Sir. I want to add my voice in supporting this very important amendment to the Commissions of Inquiry Bill which was introduced by hon. Olago Aluoch. We have had a lot of experiences and talks about commissions in this Republic. I must say here that it has been very sad that in all the commissions that were very vital for Kenya, no actions have been taken. It appeared to Kenyans that most of these commissions were set up actually to appease Kenyans at times when the people felt aggrieved because of issues like assassinations, for instance, the assassination of Tom Mboya and J.M. Kariuki. We have issues like that of the late Dr. Robert Ouko. These are very important issues in this country and Parliament is here to fight impunity at this time. We cannot fight impunity if commissions which are set up are not going to come up with solutions which will give Kenyans the right direction and action to take against the oppressors. That is why we are saying that for us to have these commissions, first, to perform the functions for which they are intended, we need to have the reports made public to Kenyans so that we know the causes of the problems under investigation. More importantly, we need to have refined the course of action that needs

to be taken once they come up with theirs. I am sure if we did that one, the commissions set up in future will be relevant to the need of Kenyans in the changing Kenyan society where we are trying to fight impunity at all quarters in the country. I, therefore, want to support this amendment and say that this House should pass it so that we have a better way forward for the formation of the next commissions of inquiry. Thank you.

Mr. Njuguna: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me the opportunity to contribute to this very timely amendment. I also thank the Mover of this Bill because it is a very timely and appropriate amendment that could address some of the historic concerns that have been noted in this nation.

Mr. Temporary Deputy Speaker, Sir, you realise that public funds have been immensely used to carry out inquiry on certain events that have taken place in this nation. Disappearances of very famous personalities in this nation, brutal murders and even assassinations have occurred in this country and no concrete results have been found to allay fears of Kenyans. Notable among these is the disappearance of Kungu Karumba who had been a very popular and committed nationalist of this country, Gama Pinto who really participated in the liberation of this country. These are the areas that should have been addressed by the commissions of inquiry if, indeed, they were formed so that the perpetrators of these acts would have been taken to court and punished.

In my view, appointments to these commissions in the past have not really given representation of the entire country. They have been formed primarily to satisfy certain political interests. When such commissions are formed, they should reflect the representation of the whole country. Also, the commissioners should also be appointed on basic qualifications. They should be people who are patriotic in handling affairs of this nation. It is in our minds that even those commissions like the Ouko, the Akiwumi and even the others like the Ndung'u's gender consideration was not really given a thought. Although a lot of public funds have been used in these commissions, they have not been of any benefit to Kenyans. You recall the Njonjo Commission that really took a lot of our money, and again lengthy periods were taken. The end result of that Commission was forgiveness. Kenyans never benefited from that Commission. Kenyans must see the benefit of such commissions. The Ndung'u Commission is another one that really tried to address some of the land issues in the country. It highlighted the irregular and the illegal manner land is acquired and even the grabbers were cited; roads have been taken, church land has been taken, and even school land. Land belonging to universities has also not been spared either. Unfortunately, the recommendations in that Report have not been implemented. If they were implemented, they would really give this nation stability, peace and even harmony.

I would, therefore, Mr. Temporary Deputy Speaker, Sir, highly recommend the amendment of this Bill, so that some of the historic concerns are addressed as per the desires of the people.

The Temporary Deputy Speaker (Mr. Bahari): Order, hon. Members! I will put the question.

(Question put and agreed to)

(The Bill was read a Second Time and committed to a Committee of the whole House tomorrow)

ADJOURNMENT

The Temporary Deputy Speaker (Mr. Bahari): Order, hon. Members! Having concluded Business on the Order Paper, it is time to adjourn the House. The House stands adjourned until Wednesday, 9th June, 2010, at 9.00 a.m.

The House rose at 4.52 p.m.