

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 10th March, 2010

The House met at 9.00 a.m.

[Mr. Deputy Speaker in the Chair]

PRAYERS

QUESTIONS BY PRIVATE NOTICE

MINISTRY'S PROPOSED RESTRUCTURING PLAN FOR NCPB

Dr. Kones: Mr. Deputy Speaker, Sir, before I ask my Question, I would like to say that I do not have a written response to this Question. However, I beg to ask the Minister for Agriculture the following Question by Private Notice.

(a) Could the Minister outline the Ministry's proposed restructuring plan for the National Cereals and Produce Board (NCPB) and clarify whether the planned restructuring will result in the organization's privatization?

(b) Could the Minister also provide details of the send-off package for the employees earmarked for retrenchment?

Mr. Deputy Speaker: Usually, it is not mandatory for Ministers to give you a written answer if it is a Question by Private Notice. Nonetheless, Minister for Agriculture!

The Assistant Minister for Agriculture (Mr. Ndambuki): Mr. Deputy Speaker, Sir, I beg to reply.

(a) I hereby table the proposed restructuring plan for the National Cereals and Produce Board (NCPB). I would also like to clarify that the Board is undergoing restructuring and as such, there are no plans to privatize the organization.

(Mr. Ndambuki laid the document on the Table)

(b) Once the restructuring of the NCPB has been accomplished, the staff who will not be deployed in the restructured organization should exit through abolition of offices they hold or retire under the age set by the Government, as stipulated in the Government procedures.

Dr. Kones: Mr. Deputy Speaker, Sir, I think I will have to take a little bit of time to scrutinize the document he has laid on the Table. But I want an assurance from the Assistant Minister because there is some anxiety among the staff of the NCPB that they might be sent off after the restructuring without any compensation, yet they have worked

and put in a lot of their energy for many years in the company. Could the Assistant Minister assure me that there will be an attractive package for those who will be sent off?

Mr. Ndambuki: Mr. Deputy Speaker, Sir, I would like to assure the hon. Member that nobody is going to be sent home just like that. Those who have worked will be compensated and paid their dues.

Bahari: Mr. Deputy Speaker, Sir, could the Assistant Minister confirm that once offices have been abolished in the restructuring plan, all newly created positions will be advertised internally and competitively filled?

Mr. Ndambuki: Mr. Deputy Speaker, Sir, that is exactly what is happening now.

Dr. Kones: Mr. Deputy Speaker, Sir, there is also an indication that some of the activities of the NCPB might be privatized. Could the Assistant Minister assure this House that these services will not go to the same individuals who are undertaking this privatization exercise? It looks like some people are trying to carve out some business out of the deal.

Mr. Ndambuki: Mr. Deputy Speaker, Sir, we are not going to privatize anything. We are only making sure that the Board is going to be effective by restructuring and bringing in people who are really qualified and who can really perform for the sake of this nation.

Dr. Khalwale: On a point of order, Mr. Deputy Speaker, Sir. Matters pertaining to the NCPB are very sensitive at the moment. The Assistant Minister has laid a document on the Table here which we would be interested to analyze, to see which positions are affected, who are the officers concerned and more importantly, who is presiding over the restructuring. If in these particular documents, we are going to find that the Minister is involved in midwifing the restructuring process, then we would not allow it because the same Minister is also adversely affected on matters corruption pertaining to NCPB.

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

Dr. Khalwale: Mr. Deputy Speaker, Sir, could we defer this matter so that we analyze this document and then come here when we are properly prepared to interrogate the Minister, because he lacks the moral authority to preside over this process?

Mr. Deputy Speaker: Order! Order, Dr. Khalwale! You know very well the rules of the House. It is very sad when Members of Parliament take on their own colleagues in the manner you are now doing, from the Floor of the House, without a substantive Motion. The hon. Minister is an honourable Member of this House. You cannot discuss or impute any improper motives on him without a substantive Motion to discuss that. Confine yourself always to the subject matter. Discuss issues and not personalities. When you want to discuss personalities and their character, bring Motions to do so. If you want to bring up an issue or discuss the matter, there are provisions in the Standing Orders that allow you to do so.

Hon. Dr. Kones, have you asked your last question on this?

Dr. Kones: Mr. Deputy Speaker, Sir, I am fairly satisfied although I still want to go through the document, but not along the line hon. Dr. Khalwale is taking.

Mr. Deputy Speaker: Order, Hon. Dr. Kones! Hon. Members need to understand what a Question by Private Notice is. It is an urgent matter that needs to be responded to within 48 hours. It needs to address only one issue. It is not a comprehensive issue the way you want to do it. If you want a comprehensive discussion of an issue, then bring a

Motion or ask an Ordinary Question and seek so many clarifications. Then, you will get the answer in advance and have sufficient time to interrogate that.

The Assistant Minister for Agriculture (Mr. Ndambuki): On a point of order, Mr. Deputy Speaker, Sir. Hon. Dr. Khalwale talked of credibility and I am the one answering the Question. Was he talking about my credibility?

An hon. Member: Is that a point of order?

The Assistant Minister for Agriculture (Mr. Ndambuki): Mr. Deputy Speaker, Sir, I just want to know whether he is in order, really---

Mr. Deputy Speaker: Order! If you want to demand a substantiation, you demand a substantiation. Do not turn it into an argument between the two of you.

The Assistant Minister for Agriculture (Mr. Ndambuki): Mr. Deputy Speaker, Sir, what did Dr. Khalwale mean when he said that I have no moral authority to make sure that the restructuring of NCPB---?

Mr. Imanyara: On a point of order, Mr. Deputy Speaker, Sir. Is it in order for the Assistant Minister to rise on a point of order on a matter that you have disposed of?

Mr. Deputy Speaker: Indeed, yes, this matter has been disposed of, hon. Assistant Minister. We will go to the next Question.

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

Mr. Deputy Speaker: Order! Is it on the same?

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

Mr. Deputy Speaker: Then you are out of order!

Next Question by hon. K. Kilonzo!

NON-DISBURSEMENT OF SECONDARY SCHOOLS BURSARY FUNDS

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

(a) Why has the Ministry not disbursed secondary school bursary funds, which has resulted in drop out by many students in rural areas?

(b) What action is the Government taking to ensure that the funds are released, and when will they be released?

The Minister for Education (Prof. Ongeru): Mr. Deputy Speaker, Sir, I beg to reply.

(a) The Ministry has delayed to disburse secondary school bursary funds because there was need to ensure that Form One students are also considered in the allocation of bursaries at the constituency level. Disbursing the funds before Form One students report to their respective secondary schools would have locked them out.

(b) The Ministry has finalised the process of disbursement of the first tranche of the constituency bursary funds for the Financial Year 2009/2010, amounting to Kshs239,454,263. The funds will be electronically transmitted to the respective constituency bursary fund accounts by 13th March, 2010.

Mr. K. Kilonzo: Mr. Deputy Speaker, Sir, I have a lot of respect for the hon. Professor. However, it saddens me when he gives answers which are untrue. Since last year June, the second tranche of bursary was not remitted. Is he trying to say that since last year June, you are actually waiting for Form Ones to come in this year?

Prof. Ogeri: Mr. Deputy Speaker, Sir, I would request the hon. Member to check his facts because we did remit bursaries to constituencies. I would like him also to appreciate the fact that the academic year is different from the financial year. When we talk of the first tranche, we refer to the academic year starting from January to December. As it relates to last year, indeed, we did remit the tranche of the bursaries to respective constituencies in early January. What we have here is for this academic year.

Mr. K. Kilonzo: On a point of order, Mr. Deputy Speaker, Sir. My question was the second tranche for last year and not from January. The normal practice is that every year we get two tranches. Is the Minister in order to imply that he sent money this January? No money has gone to the constituencies this January.

Mr. Deputy Speaker: Actually, your Question does not indicate what tranche. It is fairly general. It is not specific.
Proceed, Mr. Minister.

(Several hon. Members stood up in their places)

Hon. Members, the Minister is responding to a point of order. Could you allow him to respond to the point of order first?

Prof. Ogeri: Mr. Deputy Speaker, Sir, I think I am fairly very specific; this is the first tranche for this academic year. It is my expectation that before we close the financial year, 2010 in June, I would be able to transmit the balance of the other amount of money. Please, do appreciate that the total package for bursaries for the academic year is Kshs500 million. By 15th of March, 2010, we will have disbursed almost half of those funds. The balance will be disbursed before 30th June, this year for this academic year, before we go to the next financial year.

Mr. C. Kilonzo: On a point of order, Mr. Deputy Speaker, Sir. Is the Minister in order to mislead the House that he released bursaries in January this year while no constituency has received any bursary?

Prof. Ogeri: Mr. Deputy Speaker, Sir, if he heard me, I said last year. If he got it this year then that is obviously not the reference I was making to. As I said, I requested him to distinguish between the academic year and the financial year. The financial year starts from 1st July to 30th June. The academic year starts in January to December.

I want to make myself absolutely clear that the money I am referring to is the Kshs500 million bursary fund, which is captured in the Budget. My answer clearly states that Kshs239,454,263 could be available in respective constituency accounts by 15th of this month, which is next week over the weekend.

Thank you.

Prof. Kamar: Mr. Deputy Speaker, Sir, the Minister should clarify issues. How many tranches did we receive last year? How many are we expecting this year? Is it possible for him to give us those details in this House? We have seen that other Ministers circulate whatever that is sent to our constituencies. Could we get a circular that tells us how this money is disbursed and how many tranches we get? Could we know how many tranches came last year? As far as I know, my constituency only received it once.

Prof. Ogeri: Mr. Deputy Speaker, Sir, I think it is only fair to appreciate one factor. It does not matter whether there is one tranche or one and half tranches, but the quantum of funds that are transmitted to respective constituencies, the total is Kshs500

million. I think it may be appropriate at this stage to be able to appraise the House how this figure is arrived at. Usually it is the constituency secondary schools students' enrolment over the national secondary school student's enrolment times the constituency poverty index over the national poverty index. That then gives you the total sum of money available for each respective constituency.

As regards to how many tranches last year, we did disburse the entire Kshs500 million to the respective constituencies. If she wants me to bring up the list, I will. As for this particular tranche, I have a list of every constituency that will be a recipient of these funds by 15th of March. The list is here.

(Prof. Ongeri laid the document on the Table)

Mr. Bahari: Mr. Deputy Speaker, Sir, I appreciate what the Minister is saying; that Form Ones need to benefit from the bursary fund. But since he was going to issue this money in tranches, why is it absolutely necessary to delay it until March, when others are already suffering and yet, the Form Ones can benefit from the next tranche?

Prof. Ongeri: Mr. Deputy Speaker, Sir, I think the essence is equity and access to resources. We cannot say our tranches are coming later in the part of the year when Form One intake was just completed about two weeks ago. We are very much within our time. Given the schedules of Treasury Exchequer releases, March is the period when such releases are being captured.

Mr. Yinda: Mr. Deputy Speaker, Sir, the Minister is actually not making it clear how these tranches are normally distributed. As far I am concerned, the first tranches of bursary funds are always sent out around February/March, with the second tranche around July/August. Last year, only one tranche was dispatched. The second tranche which was supposed to be around August never reached the constituencies. What is he doing to ensure that that second tranche also gets to the constituencies?

Prof. Ongeri: Mr. Deputy Speaker, Sir, I think we are talking at cross purposes; the financial year starts from July to June, 30th. Whatever you might have received in January last year does not count towards the tranche of this year. As I said, the funds which will be released by 15th of this month, 2010, will form the tranche for this academic year.

Hon. Members, rest assured that the balance of the money will be released before 30th of June. The bursary funds for 2011 will be released after the Budget is tabled in Parliament and funds are made available to us. All I want to assure hon. Member is that not a single cent is left behind. Indeed, it does go to the constituency as described. The formula we are using is based on the poverty indices and the national enrolment figures for both the constituency level and national level times the poverty index of that constituency and the national poverty index. That gives us a fair measure of distribution of these funds to respective constituencies. Those figures are available at the Ministry of Planning, National Development and Vision 2030.

Mr. Deputy Speaker: Last question, Mr. K. Kilonzo!

Mr. K. Kilonzo: Mr. Deputy Speaker, Sir, what is in contention is whether the monies for last year, which were supposed to go to the constituencies, have been remitted by the Ministry. Every hon. Member is being blamed back in the constituencies for the delay in the remittance of these monies. Could the Minister table a list of the money

which he has remitted to respective constituencies for bursaries, and undertake that if all the money was not remitted, the balance is going to be remitted? That money is somewhere in the Ministry. Would you undertake to table that list?

Prof. Ogeri: Mr. Deputy Speaker, Sir, the Ministry does not keep any cent. The Ministry will transmit every cent that will come from the Treasury directly---

Mr. Ruteere: On a point of order, Mr. Deputy Speaker, Sir. The Minister was asked a simple question; can he table the list? The point is not that the Ministry keeps money; can he table the list so that we can see what he has given?

(Applause)

Prof. Ogeri: There is absolutely no problem, Mr. Deputy Speaker, Sir. The hon. Member who asked that Question is already in receipt of an answer. He enquired directly from my Ministry how much funds have gone to his constituency. I have given him the tabulation. I think what we will do, in order to satisfy everybody, is to table that list so that you know what went to each constituency in the last financial year.

Mr. Deputy Speaker: Order, hon. Minister! When shall the House have that list? The information you have tabled now is on money that has not been transmitted yet; it is for 2009/2010. For what has already been disbursed and spent, when will you table that list here?

Prof. Ogeri: Mr. Deputy Speaker, Sir, I am sure we are referring to the Financial Year 2008/2009 ending 30th of June. I will be too glad to table that list next week on Thursday.

(Applause)

Mr. Deputy Speaker: Next Question by Dr. Otichilo!

CAUSE OF DEATH OF FISH IN LAKE NAIVASHA

Dr. Otichilo: Mr. Deputy Speaker, Sir, I beg to ask the Minister for Fisheries Development the following Question by Private Notice.

(a) Will the Minister inform the House the cause of recent deaths of fish in Lake Naivasha and reveal the scope of effects on other aquatic life in the lake?

(b) Could the Minister indicate the potential toxic levels of all chemicals used, give trends in the levels of lake pollution or eutrophication in the last ten years and reveal the expected long-term impact on aquatic life?

(c) What mitigation measures is the Minister taking to save the fish and other aquatic life in the lake?

The Minister for Fisheries Development (Dr. Otuoma): Thank you, Mr. Deputy Speaker, Sir. I beg to reply.

(a) The cause of recent fish deaths in Lake Naivasha was suffocation as a result of lack of oxygen. Preliminary results revealed a sharp drop in dissolved oxygen to almost zero milligrammes per litre at 1.5 meters depth to the bottom of the lake, implying that there was a dead zone at the bed of the lake. The general accepted minimum amount of dissolved oxygen that supports life is between 4 to 5 milligrammes per litre. We are

certain that this was the cause of the death because the fish taken from the site showed signs of death from suffocation. All fish died at the same time during the night. Large fish were more severely affected than the small fish. Of course, as I went through this, that was the first indication that we got.

(b) Mr. Deputy Speaker, Sir, on the second level whereby we were checking on chemicals and other causes of eutrophication, as asked by the hon. Member, so far the analysis has only revealed that some organo-phosphates, basically malathion, was found in the sediments. Malathion's life span is around just six days. So this normally decomposes very fast and we do not expect it to accumulate within the aquatic organisms. The cause of eutrophication, which caused that depletion of oxygen, is mostly currently being attributed to decomposing organic matter in the lake. The lake had receded so much during the dry spell and when there were some flash rains during the months of December and January, a lot of organic matter was washed into the lake and a lot of it was decomposing. This caused depletion of oxygen.

(c) Mr. Deputy Speaker, Sir, on the issue of mitigation and future plans, the immediate action that the Government took was to form an inter-Ministerial committee composed of the Ministry of Fisheries Development, Ministry of Environment and Mineral Resources, Ministry of Water and Irrigation and, of course, the National Environment Management Authority (NEMA) and the Office of the President to try and address the issue. My Ministry also banned fishing in the lake as from 18th of February, and the ban is still on and we are awaiting the final results from KEPHIS. We have already received results from the Public Health Laboratory and, of course, from our own laboratory. But there is some analysis that is still going on at the KEPHIS Laboratory, whose results are expected on Friday this week, on, I think on 11th of March. Of course, once those results come in, the technical team will be able to analyze them and give us the final results. Other ongoing actions include the fact that NEMA is already taking an environmental audit on the watershed areas, which include flower farms, hotels, Lake Naivasha, County Council and, of course, any other stakeholders that are associated with Lake Naivasha.

Mr. Deputy Speaker, Sir, on medium and long term actions, the Ministry, being a major stakeholder, is collaborating with other agencies to ensure that the environment is rehabilitated and, of course, sustainably utilized for the benefit of both fisheries and other stakeholders.

Thank you, Mr. Deputy Speaker, Sir. I hereby table the report on the preliminary findings.

(Dr. Otuoma laid the document on the Table)

Dr. Otichilo: Mr. Deputy Speaker, Sir, I would like to thank the Minister for giving me a very comprehensive answer on this Question. However, I want the Minister to elaborate further as regards the increased level of organo-phosphates in the lake. As much as I agree that the decomposing of high level of organic matter could have brought in some phosphates, what was the major origin of these organo-phosphates?

Dr. Otuoma: Mr. Deputy Speaker, Sir, as I said, one of the organo-phosphates that was identified in the sediments, not in the fish muscle tissue, was malathion. As I said earlier, malathion is basically used for spraying crops and other plants; a lot of it is

sometimes also used in farms. So, this can be washed down into the lake. But the levels which were found were not of dangerous concentration to cause sudden death of fish. These are sometimes normal levels that one would find. But as I said, I am awaiting the KEPHIS report so that we can collaborate what the Ministry has done, what the Ministry of Public Health has done and, of course, what KEPHIS will have done. Once we have got those three reports, if they are identical, then we will say with certainty that, that is the position. I have laid on Table the details of all the chemicals analysis.

Thank you, Mr. Deputy Speaker, Sir.

Eng. Gumbo: Mr. Deputy Speaker, Sir, I thank the Minister for the answer. However, it is known that water levels have gone down in many lakes in the Rift Valley. The one feature that is known around Lake Naivasha is the big flower farms. It is also known that they discharge a lot of chemicals into the lake. Could the Minister state categorically what steps have been taken to confirm that it is not these chemicals which were responsible for the death of the fish?

Dr. Otuoma: Mr. Deputy Speaker, Sir, if the hon. Member listened to me clearly, I said that we had an inter-ministerial co-ordinating team whereby the NEMA, the Ministry of Fisheries Development, the Ministry of Public Health and Sanitation and the Office of the President are doing their parts. So, we have not seen heavy metals in the initial results we have got on chemical analysis. There were no traces of the heavy metals that can cause sudden death in the analysis report. We want to corroborate the results from the various laboratories just to be sure.

I have also said that the NEMA is also undertaking an environmental audit which takes a bit of time. It means that they have to check with the municipal council, the flower firms and so on. We can check that once those results are out.

The cause of sudden death of fish is not unique to Lake Naivasha alone. This sometimes happens when there is depletion of oxygen. It can happen in Lake Victoria or the Indian Ocean where there is layering of water. You can find water which has no oxygen and fish that feed at that level will die. In the case of Lake Naivasha, it is only the *common cap* which was affected. The *common cap* fish are bottom feeders. They are normally below the 1.5 metres that I mentioned because Lake Naivasha is a very shallow lake.

Secondly, we have to understand that the fish species in Lake Naivasha are not traditional. The last time traditional fish was seen there was in 1968. Most of the fish in Lake Naivasha is introduced. Just like any other species that you introduce in an environment that is not traditionally theirs, as environmental phenomena change, those organisms may not cope like the species that have evolved naturally in that place. All the three or four fish species we have in that lake, for example, Tilapia and others were introduced. So, the phenomenal changes in the lake in terms of when the water recedes, for example, Lake Naivasha contracted in the last 11 months by almost three kilometers and pastoralist moved in--- Plants that would traditionally grow on land also grew and were submerged when the water came in. When that happens, the plants decay because they are not aquatic vegetation. As they decay they use up oxygen.

So, there are many phenomena than just to point a direct finger and say: "This is the cause." I think this is something that needs to be handled professionally.

Mr. Lessonet: Mr. Deputy Speaker, Sir, before we ask the Minister in future to take personal responsibility for the death of fish, I would like to ask him what proactive

measures or early detection systems he will put in place in all the water masses so that we do not see the death of fish again in future?

Dr. Otuoma: Mr. Deputy Speaker, Sir, again, I need to remind the hon. Member that our researchers take periodic samples. We have a research station known as the Kenya Marine and Fisheries Research Institute (KEMFRI) in Lake Naivasha. They take periodic samples of water and fish to test for any harmful organisms or anything that might happen to the fish that could be of danger to human beings.

This is basically an ongoing project. If you go to Lake Turkana, you will also find the KEMFRI there doing periodic samples. It is the same thing in Lake Victoria and the Indian Ocean. The scientists, therefore, take periodical samples. If you look at the detailed report I have given there, you will see samples taken from 1999 up to February, 2010 when this problem happened.

Mr. Mututho: Mr. Deputy Speaker, Sir, looking at the Minister in the eyes, he also knows that he is misleading the House. From his basic answer, the oxygen depletion theory cannot be sustained by any science because it could not have occurred overnight. There must have been an event that triggered the lack of oxygen that night.

The truth is that an argument between workers led to the poisoning of fish in Lake Naivasha. There were two chemicals which are known and the Minister should not just go round it. If we really have scientists like he has said in the field, then he should go at the tributary of the sewerage between the municipal council and the adjacent flower farms. He needs to take samples from that point and he will detect the two chemicals.

Mr. Yinda: On a point of order, Mr. Deputy Speaker, Sir. Is the hon. Member in order to mislead this House that the Minister who seems to know what he does, does not know what he has told this House?

Mr. Deputy Speaker: Could you, please, complete your question?

Mr. Mututho: Mr. Deputy Speaker, Sir, I am sure the hon. Member is mourning the fish too because he comes from a fishing area.

It is very painful for a Lake that has been in existence for over 100 years to lose millions of fish overnight. The hon. Minister is misleading this House by giving us a completely wrong and untheoretical answer. The truth is that, and he should bear responsibility for this, there was poisoning of the waters of Lake Naivasha by 1,800 litres of a known chemical at the tributary between the sewerage system of Naivasha Municipality and the adjacent farm. That is the truth and I stand by it.

Mr. Deputy Speaker: What is your question?

Mr. Mututho: Has the Minister arrested the people who made a concoction of Round Up and Peretrin to poison millions of fish in Lake Naivasha?

Dr. Otuoma: Mr. Deputy Speaker, Sir, I think the hon. Member is well educated enough to know that what he is saying needs to be supported with clear information just as I have tabled here the results of an investigation that was done. However, to just stand before the House and start saying that he has heard that some farmers poured some chemicals into the Lake Naivasha, I think is being an alarmist. It is also rumour mongering---

Mr. Deputy Speaker: Order, Mr. Minister! You are out of order, Mr. Minister! If the hon. Member has information and is ready to volunteer it, the only credible thing you can do is to invite him to your office so that you can act on it.

Dr. Otuoma: Thank you, Mr. Deputy Speaker, Sir. However, the hon. Member has been talking about this and we have been doing investigations.

Mr. Mbadi: On a point of order, Mr. Deputy Speaker, Sir. Given the detailed reaction from hon. Mututho and given that this argument can go on forever, would I be in order to ask the hon. Member for Naivasha, now that this is a criminal act which could have happened in Lake Naivasha, if he has already recorded a statement with the police? This is a very serious matter especially if it is known that some individuals poisoned fish in Lake Naivasha.

Mr. Deputy Speaker: Hon. Members, it has been drawn to my attention that, indeed, Mr. Mututho requested a Ministerial Statement on the poisoning of Lake Naivasha. This has, of course, invariably, in his opinion, resulted into the death of the fish. Since this matter was directed at the NEMA which does not fall within the Ministry of Fisheries Development, perhaps, it will be important that in the spirit of collective responsibility in the Government, and this being a cross cutting issue, I hesitate to direct it to the Prime Minister. This is because these are very serious allegations and already there is a request for a Ministerial Statement. Probably, there is need for the Minister to consult further with his counterparts and wait until this issue is tackled by the Ministerial Statement which is supposed to be issued this afternoon. We, therefore, have to re-schedule or defer this Question to a day other than today.

Hon. Members, the Chair takes a very serious note of a situation that involves the lives of Kenyans, and which involves the very vital ingredient in terms of food security. It is not fair for us to treat this matter very casually and turn it into some kind of a diatribe between one side and the other. So, the Chair directs that this Question be put on the Order Paper on Wednesday morning, next week.

Mr. Assistant Minister, in the meantime, my suggestion is that you have collective *loci destiny*. In any case, the Minister in charge of Environment is going to issue a Ministerial Statement on the general poisoning of Lake Naivasha, which is clearly related to what the Assistant Minister and the hon. Member are talking about.

Mr. Bahari: On a point of order, Mr. Deputy Speaker, Sir. I appreciate your ruling but, in view of the gravity of this matter--- You realise that all of us are going to Lake Naivasha and we might start feeding on some that fish! It is a very serious matter. But, given that the Assistant Minister is very hostile to the information given by the hon. Member from Naivasha, would I be in order to request you to direct the relevant Departmental Committee of this House to investigate this matter as an independent team, so that the truth can be unveiled?

Mr. Otuoma: On a point of order, Mr. Deputy Speaker, Sir. First of all, let me make myself clear that I am not trying to be hostile. What I was trying to say is that this is a very complex matter that we need to handle from a point of information. What I did was to tell the hon. Member that if he had that kind of information--- I am glad to hear that he has already tabled some information and he has sought for a Ministerial Statement from the Ministry of Environment where the National Environment Management Authority (NEMA) falls. As I had indicated earlier, that is a multi-sectoral problem. I had mentioned that we in the Ministry of Fisheries Development, Ministry of Environment, Ministry of Water and Irrigation and NEMA are working together.

Mr. Deputy Speaker, Sir, that collaboration has already started yielding some results, which I have already tabled here. I said that I am only waiting for some results

that will come in on Friday from Kenya Plant Health Inspectorate Service (KEPHIS) and then we will have a complete report on this matter. I do not think it is right to misinform the public over a matter that is as sensitive as this one. It is a point that is basically just attributing poisoning from the preliminary results, which do not show that kind of thing.

In fact, I was beginning to get confident enough to even lift the ban on fishing in that area, so that hon. Members can enjoy fish when they go there. That is how confident I was from those kind of results. So, I will comply with your directive that we will get the Ministry of Environment to make a comment on the matter. But I want to stand by what I have said. That position is informed from the information that we have. The fish that died was due to lack of oxygen. The environmental results that are coming in are not showing anything that is unique.

Sudden fish deaths happen everywhere in the world. That literature is everywhere, including the internet. Even hon. Ottichilo here is an environmental scientist and he knows that very well. Fish can die just because of lack of oxygen or even change in temperature. Even now, we have rolled out this Aquaculture Stimulus Programme in fish ponds.

Mr. Deputy Speaker: Mr. Minister, you have made your point. In any case, you have said the information that you have is not conclusive. So, it is only fair that you get the additional information that you are waiting for. So, the Question is deferred to Wednesday next week.

(Question deferred)

The relevant Departmental Committee of this House does not need direction from the Chair. It is only fair that if the Parliamentary Committee Members are here, they can undertake these things on their own. It is important that Parliament does not only depend on what the Executive says. You should also do your own investigations, scrutinize and table the reports in this House.

Next Question!

GOVERNMENT'S BUDGET FOR IIEC

Mr. Namwamba: Mr. Deputy Speaker, Sir, I beg to ask the Deputy Prime Minister and Minister for Finance the following Question by Private Notice.

(a) How does the Government plan to finance the Kshs7.3 billion budgetary requirement for the Interim Independent Electoral Commission (IIEC), especially in the light of revelations that Treasury has only committed Kshs1.1 billion (less Kshs6.3 billion)?

(b) Could the Deputy Prime Minister and Minister for Finance assure this House that he will provide funds for the planned countrywide voter registration exercise scheduled to commence on 22nd March, 2010, as well as the anticipated referendum on the proposed constitution?

(c) Could the Deputy Prime Minister and Minister for Finance also assure the House that the IIEC is guaranteed to receive the full complement of its budgetary requirements and indicate when the money will be availed?

The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Finance (Dr. Oburu): Mr. Deputy Speaker, Sir, I beg to reply.

(a) The Government will finance the budgetary requirements of the IIEC through the Government Fiscal Framework.

(b) I assure this House that the Government will provide funds for the voter registration exercise and the anticipated constitutional referendum.

(c) The IIEC will receive funds in accordance with the agreement between Treasury and the Commission.

Mr. Deputy Speaker, Sir, I wish to assure this House that the Government is committed to supporting the activities and programmes of the IIEC.

Mr. Namwamba: Mr. Deputy Speaker, Sir, I have delayed joining my colleagues in the Parliamentary Select Committee (PSC) in Naivasha because of the gravity of this Question. I believe that it is critical for the Government to not only give a commitment, but to also demonstrate clearly that it has the financial capacity to finance both the voter registration exercise which commences in a week's time, and the referendum that is expected mid-2010.

My further question to the Assistant Minister is as follows: There are reports that the Government has appealed to international development partners to support the financing of that process. We are often reminded in this House by the Government of the notion of sovereignty and we have taken great pride in the sovereignty of this land. If we are going to run to development partners to finance a critical national process like voter registration and a referendum on a new constitution, how does that reflect on our sovereignty as a nation and on our preparedness for a process of such great significance? Is it true that the Government---

Mr. Deputy Speaker: Order! Order! You have already asked the supplementary question. Can you allow the Assistant Minister to respond to it and then you proceed and ask another supplementary question?

Mr. Namwamba: Mr. Deputy Speaker, Sir, for emphasis, could he confirm that the Government has, indeed, sought financial support from international development partners? What is the implication should that request not be granted?

Dr. Oburu: Mr. Deputy Speaker, Sir, it is true that the Government has asked our development partners to support us in that reform process. That is not unique because our development partners have already been supporting the Government in its reform agenda. That, in no way, compromises our sovereignty.

As to whether the Government will continue to support that process even without that support, I would like to inform the House that we have already provided, in the Supplementary Budget, an extra Kshs3 billion, which will be used for voter registration. We are also going to make provisions for the referendum in the coming Budget for the next financial year.

Mr. Imanyara: Mr. Deputy Speaker, Sir, given the very strict timelines set out in the Constitutional of Kenya Review Act, is the Assistant Minister satisfied that the referendum can be held on time, given that as we speak today, the voter registration exercise that ought to have started by now, has not started due to lack of funds? We continue to promise that we will release the money, but we are not releasing it on the due dates! Is he satisfied that we can comply with the timelines as set out in the Act and hold the referendum in July as envisaged?

Dr. Oburu: Mr. Deputy Speaker, Sir, as I have explained, we have Kshs3 billion for the voters' registration exercise. It will be brought before this House in the Supplementary Estimates any time now. I do not think the delay in the registration of voters is because of non-release of funds by the Treasury.

I do not control the timetable of reforms. However, there are many factors which would affect the delay and not necessarily the release of these funds.

Mr. Bahari: Mr. Deputy Speaker, Sir, it looks like the Treasury keeps on delaying release of funds. The Economic Stimulus Package has been delayed because funds have not been disbursed. The bursary and the Interim Independent Electoral Commission (IIEC) funds have been delayed. The Ministry of Medical Services had its own problems because it had no drugs. Could the Assistant Minister confirm that this Government is broke or explain why they cannot release funds on time?

(Applause)

Dr. Oburu: Mr. Deputy Speaker, Sir, I confirm that the Government is not broke.

Mr. Mungatana: Mr. Deputy Speaker, Sir, on the IIEC, we are aware that there is a programme for electronic voting that is supposed to be underway for purposes of bringing transparency to the whole exercise, not only in the by-elections that are expected, but also to the referendum exercise. In keeping with the worries that Kenyans have, could the Assistant Minister confirm whether the Treasury has availed the funds that are required so that procurement can be done on time to enable us have the electronic voting system?

Dr. Oburu: Mr. Deputy Speaker, Sir, we act on the request of the IIEC. From the breakdown of the request which came from them, electronic voting was not part of that budget. Therefore, we do not have any provision for that. However, if they bring it, we shall factor it in the budget. As for now, we do not have any provision for that.

Mr. Koech: Mr. Deputy Speaker, Sir, the Assistant Minister has indicated that he can only provide for the referendum money in the next financial year. If that is the position then it means Kenyans will not go for a referendum before September this year. When are we likely to go for the referendum?

Dr. Oburu: Mr. Deputy Speaker, Sir, that does not fall under my docket. I cannot say exactly when we will have the referendum. However, we are ready to fund it from July this year.

Mr. Imanyara: On a point of order, Mr. Deputy Speaker, Sir. The matter of the referendum is not a matter that falls within one Government Ministry. It is a matter that was legislated by this House and time lines set out in the Act of Parliament that we passed. So, no Minister should say that they cannot tell whether or not we shall have a referendum. Is it in order for the Assistant Minister to tell the House that he is not in a position to tell us whether a referendum will take place or not when he knows it is due for July this year? We know that the referendum will not take place because there is no funding made available to the IIEC.

Dr. Oburu: Mr. Deputy Speaker, Sir, I have assured the House that there is funding for this exercise. What I have said I cannot undertake is to tell this House exactly when the referendum will take place. I did not say that the referendum will not take place. I just said, I cannot say exactly when it will take place.

Mr. Deputy Speaker: Mr. Mungatana, it has been brought to my notice that, indeed, you sought a Ministerial Statement on exactly the same issue. The Chair will give you an opportunity to interrogate through one more Supplementary question on the same so that we do not have to do the same thing all over again.

Proceed, Mr. Mungatana!

Mr. Mungatana: Mr. Deputy Speaker, Sir, apart from the issue that my colleague, Mr. Imanyara, brought in terms of keeping with the timetable, there is the question of the technical capacity. I do not know whether the Assistant Minister would be in a position to answer. We expected the Minister for Justice, National Cohesion and Constitutional Affairs to have a sitting with the IIEC which falls under his Ministry so that he can come and tell us whether they have the technical capacity or not. If there are any difficulties, what should be anticipated? Are there any extensions of dates for the referendum? So, I was humbly seeking if the Minister for Justice, National Cohesion and Constitutional Affairs can tackle the other aspects apart from the financial aspect.

Dr. Khalwale: Mr. Deputy Speaker, Sir, the Assistant Minister has done very well so far in terms of funding of the review process of the Constitution. However, a strange announcement came out from the Committee of Experts (CoE) to the effect that they are about to roll out voter education exercise. Given that the Assistant Minister has said that he does not have money, could he clarify who is funding the CoE in the intended voter education exercise?

Dr. Oburu: Are you saying, voter education exercise? I did not hear that.

Dr. Khalwale: Mr. Deputy Speaker, Sir, I beg your pardon. I did not mean voter education but civic education. With due respect, could the Assistant Minister explain who is funding that exercise?

Dr. Oburu: Mr. Deputy Speaker, Sir, the Ministry of Justice, National Cohesion and Constitutional Affairs must be having some provisions if this was announced by the CoE.

Mr. Deputy Speaker: Last question, Mr. Namwamba!

Mr. Namwamba: Mr. Deputy Speaker, Sir, as we debate this matter I want the Assistant Minister to take note of the fact that the IIEC is very concerned about sufficient financing for them to roll out their programme. The IIEC did submit to the Government a budget for Kshs7.3 billion. In the last budget, in the Fiscal Year 2009/2010, the Government committed Kshs1.1 billion. The Assistant Minister has said that he now intends to bring a further provision of Kshs3 billion in the Supplementary Budget. Could he confirm exactly how much money he has already made available to the IIEC and if that is sufficient for the operations until the Supplementary Budget is passed by the House?

Dr. Oburu: Mr. Deputy Speaker, Sir, the allocation which is in the current budget is Kshs1.1 billion. The one we will put in the Supplementary Budget is Kshs3 billion. That will total Kshs4.1 billion. If the IIEC lacks money, the Treasury can release some money to it to keep it going until the Supplementary Budget is approved.

Mr. Deputy Speaker, Sir, there is no reason which will stop the IIEC's exercise.

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

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

(a) Under what circumstances did the Kenya Power and Lighting Company make a pre-tax profit of Kshs2.8 billion for the six month-period ending December, 2009 and yet power consumers across the country are complaining of being overcharged?

(b) When will the KPLC lower its charges to the consumers?

Mr. Deputy Speaker: Is anyone here from the Ministry of Energy? The Minister for Energy is not here! In line with the collective responsibility, could another Minister undertake to inform the Minister for Energy?

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Deputy Speaker, Sir, I undertake to inform the Minister for Energy to come and answer this Question by Tuesday, next week.

Mr. Deputy Speaker: This is a Question by Private Notice!

Hon. Members: Let him answer it in the afternoon!

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Deputy Speaker, Sir, it is not possible to answer the Question in the afternoon because the Order Paper is already out.

Mr. Deputy Speaker: Mr. C. Kilonzo, what is your point of order?

Mr. C. Kilonzo: On a point of Order, Mr. Deputy Speaker, Sir. In all fairness, it is not a matter of informing the Minister to come and answer. It gives the impression that we are pleading with the Minister to answer. I wish to refer to Standing Order 46; the Minister did not seek the leave of the Speaker not to come and answer the Question. Therefore, I want you to find the Minister disorderly and take action against him, because this particular Question touches on power charges which are excessive on Kenyans. For the Minister to have failed and to have no courtesy to have alerted the Chair, is not only belittling this House but also the Chair.

Mr. Deputy Speaker: Anybody from the Government side who knows where the Minister is and why he is not here, just in case there is a very powerful and compelling reason?

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Deputy Speaker, sir, it is true that the substantive Minister should have been here to answer questions, but in the absence of the substantive Minister, the Assistant Minister should have been here. I am not aware of where the Minister is but I undertake to give information, so that on Tuesday, he must come and answer this question.

Mr. Ethuro: On a point of order, Mr. Deputy Speaker, Sir. Arising from Standing Order No. 46, in terms of the Minister seeking leave from you, you will also notice that the entire Front Bench does not have a single cabinet Minister. That means that this Government is treating this House with utmost contempt because it is not taking our work seriously. You will need to invoke some serious measures to deal with these Ministers, according to the provisions of the Standing Orders; where a Minister should be declared as having committed gross misconduct, that should happen.

Mr. Gabbow: On a point of Order, Mr. Deputy Speaker, Sir. We just know Kenya Power and Lighting Company will disconnect power immediately if you do not pay for it. So, we do not want to wait for them to answer our Questions on another day; we just want to deal with them the way they deal with us.

The Minister of State for Defence (Mr. M.Y. Haji): On a point of Order, Mr. Deputy Speaker, Sir. Is the hon. Member in order to mislead the House? I am one of the cabinet Ministers and hon. Ojode is an Assistant Minister and there are several Ministers here.

Dr. Khalwale: On a point of Order, Mr. Deputy Speaker Sir. It is very saddening that whereas our Ministers cannot make it to the Front Bench, in the media they are on the front pages for matters of corruption. The Hon. M.Y. Haji, if he is treating this House seriously, indeed he is here, and he has come to work, can he step forward and answer this important Question?

Mr. Namwamba: On a point of Order, Mr. Deputy Speaker, Sir. I wanted to emphasize something. This is not an ordinary Question, if you will take note of that from the Order Paper. This is a Question by Private Notice, which means that special notice has been given to the Ministry. This is a matter on which we should not prevaricate; action must be taken against this Minister to send a very unequivocal message. We are listening to the people of this country and the cost of electricity is too much. The KPLC is making astronomical profits at a time when KenGen which generates the electricity is making losses. This is a matter that must be dealt with urgently and without any further prevarication; actually it should be dealt with now.

Mr. Bahari: On a point of Order, Mr. Deputy Speaker, Sir. I agree with hon. Namwamba that this is a very important Question. The Question is not just about the bills but also about employment or lack of it in this country at the end of the day. The Ministers have been barred from travelling outside this country and they are not here to answer questions; are they in order?

Mr. Koech: On a point of Order, Mr. Deputy Speaker, Sir. This Question is very important as many Kenyans are going without electricity as we speak now. Many factories have closed, including the Pan paper factory at Webuye, which was closed because of a debt of Kshs200 million. The office of the Minister for Energy is not far. Could I request that we defer this Question up to the end of the other Questions, and then he can be called to come here and answer the Question.

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

Mr. Deputy Speaker: What is your point of order hon. Ethuro? This should be the last point of order and the Chair is going to give directions.

Mr. Ethuro: Mr. Deputy Speaker, Sir, I rose on a point of order Standing Order No. 46 to support hon. Kilonzo and Minister Yusuf Haji contradicted me. I think it is only fair that I state that the hon. M.Y. Haji is a Minister of State in the Office of the President. His sitting position confirms that he lacks the confidence to be on the Front; that is why he is hiding behind there.

The Minister of State for Defence (Mr. M.Y. Haji): On a point of Order, Mr. Deputy Speaker, Sir. I am very confident and I am a very capable Minister as I was a very capable Provincial Commissioner. The fact that I did not get a sitting place on the Front Bench does not mean that I do not have confidence; in any case, I think it would be very unfair. We do not know why the Minister for Energy is not here. Not only that; even hon. Members put Questions and they fail to be here---

(Mr. Imanyara stood up in his place)

Mr. Deputy Speaker: Order! Order! Hon. Imanyara! This should be the very last point of order and the Chair is going to give direction on the matter.

Mr. Imanyara: On a point of Order, Mr. Deputy Speaker, Sir. Your attention has been drawn specifically to Standing Order No. 46. The only circumstances in which a Minister may fail to answer a Question is if he has leave of the Speaker; if he has no such leave, then you must look at Standing Order 96 and you find that it is gross disorder for a Minister to refuse to answer a legitimate question. So, Mr. Deputy Speaker, Sir, would you have this Minister declared out of Order?

Mr. Deputy Speaker: The Chair directs that, indeed, the feelings of the hon. Members and the seriousness of this House, and on the part of the Government itself, must be registered unequivocally. Nonetheless, the Chair will direct that we proceed on to Ordinary Question No. 92 and then we will come back to this Question. If the Minister, or any of his assistants will not be around then the Chair will have no option but to take a firm action. Proceed to question No 92, hon Mbadi!

ORAL ANSWERS TO QUESTIONS

Question No.092

NON- SUPPLY OF ELECTRICITY TO NYATOTO MARKET

Mr. Mbadi: asked the Minister for Energy:-

(a) why he has not supplied electricity to Nyatoto Market in Gwasi Constituency despite the lines having been installed two years ago and which have now fallen on the Sindo-Homabay Road thereby inconveniencing motorists; and,

(b) whether he could confirm when action will be taken to re-erect the lines and to ensure that the people of Nyatoto have electricity?

Mr. Deputy Speaker: The same Minister for Energy!
Ordinary Question No.40, the hon. Nyamai!

Question No.040

CRITERIA FOR REGISTRATION OF DISPENSARIES

Mr. Nyamai: asked the Minister for Public Health and Sanitation:

(a) what the criteria is used in the registration of dispensaries; and

(b) why the Ministry has not registered Kanyongonyo, Ngomoni, Syomonyu, Kalulini, Kathuma, Muselele, Masaani, Usiani, Mutanda, Matinga, Iiani, Ndiuni, Nzambia, Syokithumbi, Nzinia and Kathome dispensaries in Kitui West Constituency; and,

(c) when the Ministry plans to register the dispensaries.

The Assistant Minister for Public Health and Sanitation (Dr. Gesami): Mr. Deputy Speaker, Sir, I beg to reply.

(a) The criteria used for registration of a dispensary, or a health facility, is that it should be a complete facility structure with equipment; this is usually established during

technical inspection by the District Health Management team. The team prioritises and recommends to the Ministry facilities for gazettment and consequently provision of staff and supplies of pharmaceutical and non-pharmaceutical commodities.

(b) The Ministry has received the list of facilities which have fully complied with these requirements.

They include Kathome, Syomunyu, Kalulini, Kamanyi, Muselele and Kanyongonyo dispensaries. The other facilities; that is, Usiani, Masaani, Nzambia and Mutanda dispensaries were inspected and found to be incomplete and hence, not recommended for gazettment at the moment. Kathuma, Ngomoni, Matinga, Syokithumi and Isinia are yet to be inspected. However, the District Medical Officer of Health has dispatched an inspection team to the ground to inspect those facilities. Ndiuni dispensary is gazetted and receives medical supplies from the Government, while Ndiani is run by the Catholic Diocese of Kitui.

(c) The Ministry is preparing a list of all the facilities which comply with the requirements for gazettment and they will be considered alongside others.

Mr. Nyamai: Mr. Deputy Speaker, Sir, let me thank the Assistant Minister for a fairly comprehensive answer. Nevertheless, some of the facilities you are compiling for gazettment have been ready for the last two years and yet, they have never been gazetted. What guarantee are you giving me that they are going to be gazetted now? When exactly are you going to gazette them?

Dr. Gesami: Mr. Deputy Speaker, Sir, as I have already mentioned, some of the facilities were inspected and found not to be adequately equipped. Therefore, we have asked the MoH to re-inspect them again. But there are, of course, facilities from Kitui West that we have sent for gazettment and those ones will be out in the course of next week.

Mr. Gabbow: Mr. Deputy Speaker, Sir, what is the use of registering such dispensaries when this Ministry cannot even provide the cheapest drug such as Panadol, leave alone posting a nurse?

Dr. Gesami: Mr. Deputy Speaker, Sir, that is a completely different question. When we build a dispensary, we must inspect it to make sure that it conforms to the standards. The issue of drugs and staff is a different one. However, we will be providing staff and drugs as we get resources.

Dr. Khalwale: Mr. Deputy Speaker, Sir, I must thank this Assistant Minister and the Assistant Minister, Office of the President and Ministry of State for Provincial Administration and Internal Security, because they continue to hold brief in a very effective manner.

Mr. Deputy Speaker: Order, Dr. Khalwale! They are not holding brief! They are Ministers in accordance with the Standing Orders and they are discharging their functions as Ministers.

Dr. Khalwale: Mr. Deputy Speaker, Sir, the Assistant Minister has assured the House that he is about to register those dispensaries and many others across the country. But something of great interest to us, as hon. Members, is that in the economic stimulus package of hiring nurses, we were promised that we will have nurses in our constituencies over six months ago. Could the Assistant Minister ably explain to us when those nurses are going to be posted to our health centres and, especially, Lunemere Health Centre in Ikolomani?

Dr. Gesami: Mr. Deputy Speaker, Sir, let me assure Dr. Khalwale that we have now recruited 20 nurses as part of the stimulus package as required by the Ministry of Finance for about 190 constituencies. There are a few other constituencies that have not recruited those nurses. But let me assure you that by 1st April, 2010, for those who have recruited, they will be in their positions in their constituencies.

Mr. Ethuro: On a point of order, Mr. Deputy Speaker, Sir. The Assistant Minister is talking about hiring them on 1st April, 2010. The information that has been put out there is that they would be hired by 1st March, 2010. Is he in order to mislead the House that it is now April and not March, even without explaining why he is changing from March to April? We need those nurses badly!

Dr. Gesami: Mr. Deputy Speaker, Sir, while recruiting the nurses, we needed a lot of details to pass on to the Public Service Commission (PSC), for them to be put on the payroll. That is what has delayed the hiring of those nurses from 1st March, 2010 to 1st April, 2010. Nevertheless, hon. Members should bear with us; the process is quite tedious and we shall go through it. I can assure you that by 1st April, 2010, we shall give you the nurses!

Mr. Gabbow: Mr. Deputy Speaker, Sir, thank you once again. I consider dispensaries; not just buildings. They should have nurses and drugs. I have more than nine dispensaries in my constituency and district which do not have a single nurse or panadol. Just registering buildings and calling them dispensaries does not add any value. Could the Assistant Minister explain to us why he is registering new dispensaries while they are not stocked?

Dr. Gesami: Mr. Deputy Speaker, Sir, let me inform the hon. Member that it is through the efforts of wananchi and us, as hon. Members, that we have built quite a number of dispensaries. I have always indicated in this House that one of the most serious constraint that we have as a Ministry is lack of financing and human resource for development. Nevertheless, we cannot stop having structures so that, when we get those resources, we can actually put the nurses there to serve the people of this country.

Mr. Chepkitony: Mr. Deputy Speaker, Sir, I would like to ask the Assistant Minister whether there are any guidelines to assist the community in locating or setting up dispensaries, or we are just leaving them to decide for themselves. Do they get any guidelines before they start building those dispensaries?

Dr. Gesami: Mr. Deputy Speaker, Sir, we have very clear guidelines. They are given by the local medical officer of health. They have them and they know which facility can be built in which area, according to the demographic features of a particular district.

Mr. Nyamai: Mr. Deputy Speaker, Sir, I have heard the Assistant Minister talking about the financing issues which are affecting staffing. But we forwarded a list of 21 dispensaries from Kitui West, which is a very expansive constituency. Actually, it is one of the biggest in this country. I know Mr. Gabbow has touched on this but, what guarantee is he giving the people of Kitui West and this House that those dispensaries will have personnel in view of the expansive nature of the constituency?

Dr. Gesami: Mr. Deputy Speaker, Sir, I cannot give any guarantee. But let me say that we shall continue providing personnel as we get funds to employ and train them

Thank you!

*Question No.079*NON-FUNCTIONAL LAND CONTROL BOARDS/LAND
DISPUTES TRIBUNALS IN MAKUENI

Mr. Kiilu asked the Minister for Lands:-

(a) whether he is aware that there have been no functional land control boards and land disputes tribunals in Makeuni constituency for the last one year; and,

(b) when he will operationalize them.

The Assistant Minister for Lands (Mr. Rai): Mr. Deputy Speaker, Sir, I beg to reply.

(a) I am aware that there have been no functional land control boards and land disputes tribunals in Makueni constituency for the last one year.

(b) The boards and land disputes tribunals will become operational once the list of names of members is submitted by the district commissioner to the Minister for Lands for gazettelement.

Mr. Kiilu: Mr. Deputy Speaker, Sir, the Assistant Minister has rightly replied that there has been no functional land control board in Makueni Constituency. For your information, Makueni Constituency has three districts, five land control boards and an equal number of tribunals. Land is a very critical resource in this country that the Ministry of Lands undertakes to control. The Assistant Minister is now putting the blame on non-appointment of these land control boards on the District Commissioners. As the Ministry charged with the regulation and management of this resource, could he confirm or deny that there have been illegal transactions by the land control boards and tribunals? If so, what is the effect of the transactions that have taken place in the last one year?

Mr. Rai: Mr. Deputy Speaker, Sir, unless otherwise informed that there have been some tribunals which have been operating, to the best of my knowledge, these tribunals were dissolved by the Minister in 2009. As of now, no names of new members have been received from the DC, Makueni for any of the 15 land control board areas; Wote, Kathonzweni, Mbitini, Kasikeu, Kilome, Kilungu, Kii, Kaiti, Mbooni, Kalimani, Kisau, Kalawa, Makindu, Kibwezi and Mutito.

Mr. Ngugi: Mr. Deputy Speaker, Sir, the Assistant Minister has said that he is waiting for the names to be submitted by the DC. What is the process of nominating those who sit in these tribunals? Do Members of Parliament have any role to play?

Mr. Rai: To the best of my knowledge, when these nominations are being done by the District Commissioners, the MPs are involved. So, if any of these names are submitted to my office without the knowledge of the MP, then those names are null and void.

Mr. Lessonet: I just want to know the efforts the Ministry has put to ensure that these names are submitted at the earliest opportunity.

Mr. Rai: Since my office has already communicated to the relevant District Commissioners, I take it upon the hon. Members to pursue these matters through their District Commissioners so that the names are submitted for these offices to start operating.

Mr. Wambugu: Mr. Deputy Speaker, Sir, the land control boards and tribunals in Mathioya have been in existence since last year. Unfortunately, they have not received the allowances for the last one year totaling to over Kshs300,000. When will the Assistant Minister pay the allowances to those members?

Mr. Rai: Mr. Deputy Speaker, Sir, once my attention has been drawn on the wish of the allowances, I will address it. I can assure the hon. Member that money will be released.

Mr. C. Kilonzo: Mr. Deputy Speaker, Sir, I do not know whether you heard what the Assistant Minister said. If I may repeat, he said that if the matter is brought to his attention, he will act. The issue of allowances for land control boards and tribunals has been on the Floor of this House last year and in previous years. Allowances have not been paid. Does it mean the Assistant Minister has been sleeping on the job? He is not even aware.

Mr. Rai: Mr. Deputy Speaker, Sir according to me, this is a new question. However, I would like to take up this matter with my Ministry because to my knowledge, money has been released to the respective tribunals. So, if no money has been paid, then once my attention has been drawn to this, I will then take action.

Mr. Kiilu: Mr. Deputy Speaker Sir, as the Assistant Minister awaits for this list to be gazzeted, could he again assure this House that sufficient funds for facilitating the sitting allowances for members will be set aside because that has been one of the biggest problems in management of land control boards and tribunals?

Mr. Rai: Mr. Deputy Speaker, Sir, I undertake to do that. If there are any at the moment, once my attention has been drawn, I will try to address it. At the moment, I will also take up this issue with my officers to find out why this money has not been paid to the respective persons.

Mr. Deputy Speaker: Hon. Members, the Chair directs that Question No.083 by Peter Gitau, Question No.087 by Mrs. Noor and Question No.096 by Mr. Lessonet will appear on the Order Paper on Tuesday next week.

Question No.083

CIRCUMSTANCES IN WHICH MWEA
DO WAS TRANSFERRED TO SOSIOT

(Question deferred)

Question No.087

STAFFING LEVEL AT DEPARTMENT OF
REGISTRATION OF PERSONS IN NEP

(Question Deferred)

Question No.096

NON IMPLEMENTATION OF PROJECTS

UNDER DEVELOPMENT VOTE IN ELDAMA RAVINE

(Question deferred)

QUESTION BY PRIVATE NOTICE

HIKING OF ELECTRICITY CHARGES BY KPLC

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

(a) Could the Minister explain under what circumstances the Kenya Power and Lighting Company made a pre-tax profit of Kshs2.8 billion for six month period ending December, 2009 and yet power consumers across the country are complaining of being overcharged?

(b) When will KPLC lower its charges to the consumers?

The Assistant Minister for Energy (Mr. M.M Mahamud): Mr. Deputy Speaker, Sir, I am sorry for not being here early enough. I would like to beg the indulgence of the House because I do not have an answer to this Question---

Mr. Deputy Speaker: Order, Mr. Assistant Minister! Did you apologise for coming late?

The Assistant Minister for Energy (Mr. M.M. Mahamud): Yes, I did, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Proceed!

The Assistant Minister for Energy (Mr. M.M. Mahamud): I am sorry I have no answer to this Question. I blame the KPLC because they have not been able to give me an answer on time. I will ask the House to allow me to answer this Question next week on Tuesday. I know it is a Question by Private Notice. I am sorry for that.

Mr. C. Kilonzo: Mr. Deputy Speaker, Sir, to show you how the KPLC has become a rogue Government corporation, instead of forwarding an answer to the Minister, they did one and put it in the newspapers. If they have the money and time to place an answer in the newspapers, it shows they have total disregard of the Minister and this House. I do not wish to accept that this answer comes next week. This answer should come this afternoon. He can bring it as a Ministerial Statement because the facts are there. I wish to table the advert which was put in the media by KPLC.

Mr. Deputy Speaker: Hon. Assistant Minister, you realize that the House has not taken too kindly to the fact that both the Minister and two Assistant Ministers were not here in the morning to answer this Question. This is a serious matter and the House has expressed its outrage. I think you need to do better than that. Proceed.

The Assistant Minister for Energy (Mr. M.M. Mahamud): Mr. Deputy Speaker, Sir, I again beg indulgence of the hon. Member because I do not think I will get an answer by this afternoon. I seek the indulgence of the House to answer this Question on Tuesday next week so that we can do justice to it.

Mr. Anyanga: Mr. Deputy Speaker, Sir, if the parastatal has the audacity of putting an answer in the press the way the hon. Member has indicated, could the Assistant Minister assure us that he will take some action against the same parastatal and

the chief officer who decided to put an answer in the press instead of giving the Assistant Minister the answer so that he could respond to this Question in this House?

Mr. Deputy Speaker: Hon. Members, it is common knowledge in the Standing Orders that newspaper cuttings and information in the newspapers cannot be used for purposes of tabling or as a substantiation on the Floor of the House. Nonetheless, hon. Assistant Minister, I think you understand what the hon. Members are talking about.

I also want to inform hon. Members that the Order Paper for the afternoon session is already out. This was a Question by Private Notice. It is not there in the Order Paper. Much as the outrage is there, the Chair is inclined, and for the purpose and interest of this Ministry and any other Minister who does not take the business of the House seriously, the Chair was on the verge of taking a very firm action against your Minister and against you also because you have a collective responsibility. You have just missed that by a whisker. Nonetheless, I direct that this Question appears on the Order Paper as the first Question on Tuesday next week.

(Question deferred)

Mr. Koech: On a point of order, Mr. Deputy Speaker, Sir. You have ordered that the Assistant Minister answers the Question on Tuesday afternoon. However, listening to him, it is like the Kenya Power and Lighting Company (KPLC) is independent from the Ministry. Now that the Ministry will face the wrath, could he---

Mr. Deputy Speaker: Order, hon. Koech! The tradition of the House is that once a Question has been disposed of, you do not re-open it again. You can raise your sentiments when the Question is put on the Order Paper on Tuesday, next week.

ORAL ANSWER TO QUESTION

Question No.092

NON-SUPPLY OF ELECTRICITY TO NYATOTO MARKET

Mr. Mbadi asked the Minister for Energy:-

(a) why he has not supplied electricity to Nyatoto Market in Gwasi Constituency despite the lines having been installed two years ago and which have now fallen on the Sindo-Homabay Road thereby inconveniencing motorists; and,

(b) whether he could confirm when action will be taken to re-erect the lines and to ensure that the people of Nyatoto have electricity

The Assistant Minister for Energy (Mr. M. M. Mahamud): Mr. Deputy Speaker, Sir, again, I apologize for being late to answer this Question. Normally, it is not my habit to say I do not have answers for Questions in this House. However, I seek your indulgence to be allowed to answer this Question next week.

Mr. Mbadi: On a point of order, Mr. Deputy Speaker, Sir, it is my belief that when Questions are put on the Order Paper, Ministries are first notified of the same. I wonder why this Ministry is not ready to answer two Questions. The Ministry has a Minister and two Assistant Ministers who pride themselves as Ministers.

The Assistant Minister for Energy (Mr. M.M. Mahamud): Mr. Deputy Speaker, Sir, as of last night, I did not have this Question. In fact, we saw the Order Paper, but people were frantically looking for the Question. As I said, I am sorry. It is not my habit not to answer Questions here. I have been answering Questions here. I would like to apologize to the House. I assure you that will not happen again. We will answer it next week with your indulgence.

Mr. Mbadi: on a point of order, Mr. Deputy Speaker, Sir. I appreciate and understand the problems that the Assistant Minister is going through. Maybe I could request him to bring the answer the week after next week because I will not be in the country next week. I will be out on parliamentary business.

Mr. Deputy Speaker: Hon. Assistant Minister, your Ministry is seriously out of order! It is understandable when it comes to Questions by Private Notice, which do not appear on the programme of the House. But Ordinary Questions are there one week before. The Questions to be asked this week, were on the programme last week. So, your Ministry must have been aware of it and prepared. But nonetheless, you have one last chance. The Chair directs that the Question appears on the Order Paper next week but one.

(Question deferred)

MINISTERIAL STATEMENTS

STATUS OF DISARMAMENT EXERCISE IN THE COUNTRY

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Deputy Speaker, Sir, on 3rd March, 2010, hon. Ethuro rose on a point of order and requested for a Ministerial Statement from my Ministry in regard to the status of disarmament exercise in the country. In the Statement, he wanted a clarification to pertinent issues, which I would like to state as follows:-

At the beginning of 2005, conservative estimates put the number of illegal firearms in North Rift Valley districts at over 50,000. These firearms accounted for high incidents of banditry, violent robberies and cattle rustling which brought about inter-communal animosities and expansionist tendencies. This severely disrupted the normal life and the provision of essential Government services. In January and March 2005 alone, 20 people were killed, 5,000 heads of cattle stolen and about 65,000 people displaced. In April, 2005, as a result of that, the President issued a directive on immediate disarmament of those illegally holding firearms in the North Rift. The disarmament programme commenced on 10th May, 2005 and was called Main Operation Dumisha Amani. As at July 2005, the following had been achieved:-

(i) The surrendered firearms amounted to 2,298; surrendered ammunition amounted to 418; surrendered assorted ammunitions and firearms 859; patients treated, 28,719; animals branded, 170,000; schools re-opened, 66; dams constructed, 13 and boreholes constructed 10 and the total length of feeder or security roads constructed, 167 kilometres.

Mr. C. Kilonzo: On a point or order, Mr. Deputy Speaker, Sir. The Chair has previously ruled in many occasions that Ministerial Statements should be very brief.

Looking at what the Assistant Minister is going through, it is not brief. Could he be requested to summarize? If it is possible to save the time of the House, statements be given in advance to hon. Members who have sought them?

Mr. Deputy Speaker: It is only fair that you share the Ministerial Statements that you are going to give to the Members, so that they can interrogate it better. They can seek clarifications when they are better informed. Proceed and be precise, concise and summarize!

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Deputy Speaker, Sir, I had communicated to the hon. Member that I would be sharing with him what I have, but when I checked whether he was in the House, he was not there. As you know, I had promised to give this Statement on Wednesday morning and I have to go by what I had promised the House.

Mr. Ethuro: On a point of order, Mr. Deputy Speaker, Sir. Ordinarily, I would be very angry with the Assistant Minister, but he happens to be my friend. He agreed that he was going to share the Statement with me, but it is not true that I was not in the House. You are my witness that this morning, I have even asked supplementary questions to other Questions. I saw him and he saw me. So, he cannot claim that I was not in the House.

Mr. Deputy Speaker: Hon. Assistant Minister, hon. Ethuro was very much in the House this morning.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Deputy Speaker, Sir, I agree with you, but by the time you were giving me clearance to issue the Statement, hon. Ethuro was not---

Mr. Deputy Speaker: You do not have any time to share with him after I give you the clearance. I give you clearance to issue the Statement and then you proceed. You, probably have two seconds before you begin sharing with the rest of the House. Anyway, proceed, now!

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Deputy Speaker, Sir, I will be very brief. I will summarize the whole thing.

After several consultative meetings on peace and security in North Rift and Upper Eastern involving political and the local leaders, the Government felt the need to restart the disarmament programme. Such meetings include the Naivasha I and Naivasha II which brought together all Members of Parliament and Government officers from the affected regions. As a result of these consultative meetings, on 15th November, 2009, the Government issued an amnesty to all people holding illegal firearms in North Rift and Upper Eastern provinces to surrender them voluntarily. So far, the following has been achieved:-

(i) They surrendered 2,266; 19,736 assorted ammunitions; 16 magazines; 1 grenade motor and 5 hand grenades.

After the expiry of the amnesty to voluntarily surrender illegal firearms, a forceful disarmament exercise is underway. It is important to note that the Government has on two occasions extended the amnesty on 20th January and 20th February, 2010. The objective of the disarmament exercise is to promote sustainable peace and security to seize illicit small arms and light weapons, strengthen cross-border peace initiatives and promote and enhance development in the ASAL areas. Bilateral and regional co-

operation for successful disarmament is very critical. This is due to the fact that the targeted districts border communities across national boundaries who are equally heavily armed where banditry and culture of cattle rustling is also entrenched.

Mr. Deputy Speaker, Sir, in the light of regional dimension, there will be joint Inter-Ministerial consultative meeting between the countries sharing the boundary in Uganda on Friday, 12th March, 2010, to discuss among other things, simultaneous disarmament. A joint Commissioners and administrators' meeting which discussed, among other issues, the need for disarmament was held in Hawasa in Ethiopia between 15th and 16th February.

Mr. Deputy Speaker, Sir, Kenya and Southern Sudan Governments have held several meetings to discuss the importance of simultaneous disarmament. We have covered much ground on the issue of bilateral and regional co-operation on simultaneous disarmament. This will also ensure successful disarmament exercise, hence, minimizing incidences of banditry and cattle rustling not only in the upper eastern and North Rift regions but also with our neighbours.

Mr. Deputy Speaker, Sir, I would also want to mention that Intergovernmental Authority on Development (IGAD) has continued to play a major role on issues of conflicts and small arms and light weapons in the region. The Government is exploring ways of engaging IGAD to ensure successful disarmament exercise, especially on lobbying other neighbouring members to engage in similar disarmament action.

Mr. Deputy Speaker, Sir, in conclusion, the disarmament exercise that is to be undertaken is a long-term programme and encompasses three phases. The first phase, apart from the disarmament and cattle branding, will involve equipping of security personnel. In Phase II, development projects in health, water, education infrastructure and environment have been earmarked. These projects are aimed at giving alternative means of livelihood to the people living within this region.

In Phase III, the line Ministries are also expected to mainstream funding for development projects in their budgets. This is aimed at bringing sustainable development in the region, which is also a prerequisite for sustained peace and security.

Mr. Ethuro: Mr. Deputy Speaker, Sir, it is a sad day when a Minister of Government stands before this House and the whole nation to give empty statements on the state of insecurity of the nation. This Assistant Minister must be declared the Assistant Minister for insecurity and lawlessness!

Mr. Deputy Speaker, Sir, when I requested for the Statement, I was very clear. How many disarmament exercises has the Government engaged in the past and what did they realize? What development programme is being put parallel to the disarmament programme? What security measures were being undertaken, because when you disarm people, you must ensure that you have also beefed up your security apparatus on the ground? Finally, what arrangements are being made under the IGAD programme so that the neighbouring countries participate because we are talking about northern Kenya where we neighbour Ethiopia, Sudan and Uganda? We have people on the other side who are equally armed.

Mr. Deputy Speaker, Sir, just the other day, our own security forces were killed in Southern Sudan. The Assistant Minister, obviously, has not responded to a single issue that I raised. I need your guidance. Just to confirm my concern, in fact, only yesterday, 9th March, 2010, a bus travelling from Lodwar to Kitale was sprayed with bullets and one

person was killed and several others injured. The same morning, there was an attack at Loiyapat Primary School where one pupil, Alfred Kimutai, was killed and several others were injured. On 5th March, there was a raid at Lokapel. On 2nd March, there was a raid at Nakukulas and on 3rd March, in Loriu. These are just incidents of insecurity in the last one week. I have a longer list. Surely, for how long is this House going to entertain such Ministers who are not responsible for their docket and who only come here to---

Mr. Deputy Speaker: Order, hon. Ethuro!

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Deputy Speaker, Sir, let me respond to what he has just asked and then I will respond to the others also.

First, this is a very serious Ministry. We are dealing with security. We are not going to play around with anything touching on the security of this country. We have taken security personnel to areas which are affected predominantly by the raiders. Yes, it is true that we are disarming. But what is it that we are doing to safeguard the interests of innocent wananchi in those areas? What have I done? I have brought in enough security personnel to take care of those whose illegal guns have been taken away.

Mr. Deputy Speaker, Sir, the hon. Member will agree with me that we have tried as a Government. Insecurity has gone down and we have minimal incidences. We are going to continue apprehending those who are causing insecurity in that area.

Mr. Ethuro: On a point of order, Mr. Deputy Speaker, Sir. I would hate to contradict the Assistant Minister, but when he invites me to agree with him that incidents of insecurity have reduced when I have given him incidents of insecurity in the last one week alone, on 2nd March, 3rd March, 5th March and 9th March, how do I agree with such a Statement even if I wanted?

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Deputy Speaker, Sir, we have done a lot to secure those areas which are prone to raids. I want to assure this House---

Mr. Deputy Speaker: Order, hon. Assistant Minister! Can you clarify the specifics that the hon. Member asked, including the youth who have been disarmed in tandem? Be specific and to the point.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Deputy Speaker, Sir, I have assured this House that in areas where we have done disarmament, we have brought in our security personnel. It is a continuous exercise. We are not just going to leave it to those officers whose areas we have moved into. We also have farms in various places which are prone to these kinds of activities. I have brought in new vehicles to serve the areas that are prone to insecurity and the exercise will continue. We are going to mount a forceful operation of disarmament in order for us to capture the illegal arms which are in the hands of criminals. That will not just be in the upper side of Eastern. The disarmament exercise will also be brought here in Nairobi. This is because it is an exercise which jeopardizes the economic growth of this country. We will never relent. I want to assure the hon. Members that we are doing all that it takes to bring normalcy in those areas.

Mr. Imanyara: Mr. Deputy Speaker, Sir, I will not go as far as using the words to describe the Assistant Minister such as those used by my friend. I will probably reserve those words for "the flag carrying Minister" rather than the Assistant Minister. But it is common knowledge that these small arms that are being used to kill Kenyans thrive and

feed on ammunition, particularly bullets manufactured in Kenya, at a Government controlled military barracks. What specific measures has the Ministry taken to ensure that those who are responsible for stealing and selling bullets that are being used by these so-called small arms merchants to kill people and that are responsible for so much of the extra-judicial killings that have taken place in Kenya? What specific measures has he taken against those who are responsible for this massive theft of bullets from the Eldoret based bullet factory?

Mr. Abdirahman: Mr. Deputy Speaker, Sir, the Assistant Minister is speaking very loudly on issues that really touch on the lives of many Kenyans, but what we are hearing is more rhetoric than actions.

We support disarmament because we do not need illegal arms in the hands of people who do not deserve them. But disarming people alone is not a solution. He admits that they have Phases I, II and III, but these things must go together. The history of the security personnel or the manner in which the Office of the President acts on security issues is not good. Those people become idle immediately you take over guns from them. What will they be doing? There must be something else besides the long-term development interventions. We would want some quick and short-term interventions that will actually deter the young men from engaging in further illegal activities. What plans does the Assistant Minister have for this?

Prof. Kamar: Mr. Deputy Speaker, Sir, I would pick from where the last speaker left. Could the Assistant Minister clarify which phase we are in now because insecurity in this country has been terrible, especially on the border areas? The Ugandan disarmament of 2005 yielded fruits because they moved in and actually developed the affected areas.

Could he clarify whether any *Kazi Kwa Vijana* programme funds targeting the youth in these areas have been enhanced? Unless we keep them busy, there is nothing we are doing. Are we going to wait for Phase 1 to finish and then we go to Phase 11? We will never reach Phase 11 because already Phase 1 has entangled the youth.

Mr. Letimalo: Mr. Deputy Speaker, Sir, if the communities affected have voluntarily surrendered the illegal firearms during the amnesty, what is the purpose of the Government applying forceful operation? Secondly, we have already seen before the expiry of the amnesty period, security personnel were harassing people to get firearms. What assurance is the Government giving that the disarmament process will not lead to brutalities in getting these firearms?

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Deputy Speaker, Sir, I can gauge what my colleagues are undergoing.

I want to make this assurance to the whole country; those areas where we have disarmed people there will be enough security personnel. I would also want my colleagues to help in the exercise so that we mop up---

Mr. Deputy Speaker: Hon. Assistant Minister, you do not seem to get the clarification the Members are asking. What interventions do you have for the people who have been demobilised?

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Deputy Speaker, Sir, I am coming to that. I have to build it so that they understand. Areas where we have disarmed these people, we must give them enough security personnel. As I have indicated earlier, we are not just going to

disarm in those areas. After finishing with Upper Eastern and North Rift, we will also come back to Nairobi. Even within Nairobi, we have illegal fire arms being in the hands of wananchi.

Mr. Deputy Speaker, Sir, the other bit is this issue; what the line Ministries are doing for those other fellows not to be idle. We have prevailed upon Intergovernmental Authority on Development (IGAD). IGAD has actually communicated to both the Ethiopian Government and the Sudan Government. We have agreed that we are going to have a simultaneous disbarment for the success of this exercise. That is taken care of.

Mr. Deputy Speaker, Sir, Hon. Imanyara talked of ammunitions which are in the hands of some criminals. It is true. We have so far taken some actions. Those who read newspapers are aware that we have already apprehended and arrested this guy called Munir who has been trading in ammunitions. The case is in court. It is a *sub judice* mater now. I cannot talk about it more than that. Several people have so far been arrested as a result of having ammunitions. We are still continuing to crack down these criminals. I would want to assure this House that whoever has got any illegal ammunition will be arrested.

Mr. Imanyara: On appoint of order, Mr. Deputy Speaker, Sir. My question is with regard to what the Assistant Minister is doing at the factory in terms of audit of the arms and bullets that get out of there because those are the bullets that Munir uses. There is no point arresting Mr. Munir when we have the officers who are manufacturing bullets and distributing them in office.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Deputy Speaker, Sir, that was what I was coming to now.

We, as the Office of the President, constituted a committee to investigate the source of the ammunitions. The members of the Committee are: The Police Commissioner, Army Commander, AP Commandant and all security agencies.

Hon. Members: But they were involved!

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Deputy Speaker, Sir, even if they are involved, we will know. But as at now, these fellows are not involved. They are not involved in bringing ammunitions to the people. No, it is not true. We will definitely get to the bottom of this matter.

We have also arrested about six people. The crackdown is continuing.

POINT OF ORDER

TRAMPLING OF KENYANS' RIGHTS BY FOREIGNERS

Dr. Khalwale: Mr. Deputy Speaker, Sir, I rise to seek a Ministerial Statement from the Minister of State for Immigration and Registration of Persons.

This is in respect of what action he is taking against foreign nationals who are in this country illegally and who continue to interfere, trample on the rights and freedoms of Kenyan citizens and families, thereby occasioning them pain, suffering, public embarrassment and in some instances, actual loss of property. The foreign nationals that I have in mind are as follows:-

1. Mr. Mahamud Muhumed Sirat, who is a known Australian national and who shockingly was allowed by this Government to run for a Parliamentary seat in 2007 in Wajir South.

2. Mr. Antony Chinedu who is a Nigerian national who continues to harass and deny one Joyce Akinyi her right to enjoy her property in this country; lastly,

3. Mr. Quincy Timberlake, is a Congolese national who has caused serious damage in the family of Dr. Arunga by way of luring his unsuspecting daughter Esther Arunga, into cartels and religious sects that the Luo people do not subscribe to.

Mr. Deputy Speaker, Sir, I demand that this answer be brought at the earliest time possible.

An hon. Member: Did he say “sex” or “sect”? Verify, please?

(Laughter)

Mr. Deputy Speaker: Order! Are you sure any of the issues that you are raising here do not fall under the *sub judice* rule?

Dr. Khalwale: Mr. Deputy Speaker, Sir, I am aware that there are court processes involving all the three. But I have analyzed the court cases that are ongoing and established that none of them is trying to establish the nationality or otherwise of these people. So, all that I am asking the Assistant Minister is to tell us that, since these people are not nationals, why are they allowed to be in this country and what action is he taking?

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Deputy Speaker, Sir, let me undertake to inform the Minister of State for Immigration and Registration of Persons to actually come up with areas which are not in court. By Wednesday afternoon, I think, the Minister will be able to give a Statement in this regard.

Mr. Deputy Speaker: On the issue of *sub judice*, I think the Minister has to be--- The Standing Orders do not allow us to discuss the content of a matter that is before the courts.

COMMUNICATION FROM THE CHAIR

MEMBERS WORKSHOP ON THE PROPOSED CONSTITUTION

A workshop for hon. Members on the proposed Constitution will start tomorrow, Thursday the 11th of March, 2010, at 9.00 a.m. The programme is scheduled to end on Friday, the 12th of March, 2010, at 5.00 p.m. You will be accommodated at various hotels in Naivasha. However, the conference venue is Sopa Lodge. As of last night, a total of 160 hon. Members had confirmed attendance. Those who have not registered are requested to do so on before 2.00 p.m. this afternoon. The Liaison Officer is at the reception outside the Chamber, and hon. Members are requested to confirm with the officer the hotel they have been booked into. Mileage to and from Naivasha will be paid to hon. Members who will use their own vehicles, and not GK vehicles.

Thank you, hon. Members.

Mr. Imanyara: On a point of order, Mr. Deputy Speaker, Sir. I am not in any way challenging your ruling because we all support the enactment of a new Constitution

as soon as possible. But there was Business which appeared on the programme of this week, even for Thursday, this week. I am not even aware that there has been a Motion of adjournment to enable the House not to sit on Thursday. What is the fate of the business that was set down in the programme of the House for the week, so that we know that, that business will, indeed, be taken care of?

Dr. Khalwale: On a point of order, Mr. Deputy Speaker, Sir. I can see you are about to respond to hon. Imanyara, but I have something that is closely related to his. Could you, please, clarify whether the sittings of the House have been transferred to Naivasha, so that while we are in Naivasha, we will be clear in our minds that wherever we will be seated, we will constitute the National Assembly?

Mr. Deputy Speaker: Indeed, hon. Imanyara has raised a pertinent issue. You cannot adjourn the sittings of the House without the leave of the House, and the Chair is going to give a communication on the same today in the afternoon.

(Hon. Kajembe stood up in his place)

Order, Hon. Kajembe! I am afraid you will have to issue your Ministerial Statement sometimes next week, preferably on Tuesday afternoon.

Thank you.

Next order!

[Mr. Deputy Speaker left the Chair]

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

BILL

Second Reading

THE ALCOHOLIC DRINKS CONTROL BILL

Mr. Mututho: Thank you, Madam Temporary Deputy Speaker. I beg to move that the Alcoholic Drinks Control Bill be read the Second Time.

Madam Temporary Deputy Speaker, I want from the onset, to state that unlike what many Kenyans think, or what many people believe, we are not particularly talking about *chang'aa*; we are talking about third generation alcohol, which is a concoction between ethanol and methanol and what is popularly known as "industrial alcohol". This has been the cause of a lot of suffering to Kenyans, particularly in Central Kenya, as I stand here. Most hon. Members will bear me witness that, that concoction not only erodes the very fabric of family finances, but it also denies our good ladies the right to get children. In many areas, most of Kenyans, particularly young men in Central Province, cannot do what they are supposed to do to raise families.

Madam Temporary Deputy Speaker, Sir, I am privy to the fact that in this country, there is widespread use and misuse of alcoholic beverages. It is reported by NACADA that as early as the age of 10 in some areas, children have been known to be

already abusing alcohol. Alcohol is addictive; while talking about addiction, I want to thank the Chair for allowing me to attend an international conference on alcohol and alcohol abuse, attended by people and experts from all over the world. The findings there were crystal clear that there are three principal reasons why people take alcohol. There are three reasons in number, not four. One is that people drink alcohol because of access. So, this Bill has gone to greater depths in addressing the issue of access to alcohol. In talking about access to alcohol, I want to cite one very good example that if you display alcohol, so that everybody can see it, just like you have displayed water here, the tendency is for people to start admiring that alcohol and they will end up drinking that alcohol.

Madam Temporary Deputy Speaker, I want to commend the Parliamentary Service Commission because they have a drinking place, but as you walk into the main Chamber, you will never know there is a drinking place there. That is a very civilized alcohol outlet. Other than that, if you compare that with the petrol stations and supermarkets, you will realize that everybody can access alcohol at will. So, access is the principal cause of alcohol abuse worldwide, out of the three.

Madam Temporary Deputy Speaker the second reason why people drink is peer pressure or just a kind of fallacy among the people that drinking is good; a little red wine is good after a meal and so forth and so on. These are misconceptions. There is no scientific basis for it; nevertheless, it contributes greatly to what we now see as an alcohol problem. It is for this that this Bill makes a lot of effort to address the issue of media in terms of publicity and the rest of it. Advertisements which are misleading and which tend to lure young people to drinking alcohol are already taken care of in this Bill.

The third reason, Madam Temporary Deputy Speaker, is the alcoholism; people who are alcohol-dependent. I have given three reasons and the third one is particularly pathetic because most people, once hooked to alcohol, tend to develop such an appetite for alcohol that they develop alcohol tremor and have to take a bit of it before they are even able to sign on paper. This particularly affects executives and other people of means. That has been addressed too in this Bill by establishing a fund that will work for rehabilitation of those who are now alcohol-dependent.

Chang'aa in the Kalenjin community was not a very bad drink. It was a fairly strong drink just like vodka, rum and others. Over time, and I say this with a lot of pain, people around Kisii started mixing a concoction of sewage, molasses and other things to produce methanol or ethanol impurities which they call *chang'aa*. That is not *chang'aa*. It should have a specification if it has to be produced. It should be produced just like vodka. In a country like Russia where people have vodka for breakfast, you do not experience the problems that we have here. This is because they do not take banned substances or alcohols. I am talking about things that are meant for industrial use.

Alcohol cannot be blamed or condemned. However, when people consume methanol or ethanol in the name of alcohol, then you have the kind of problems that we have. Amongst the Kikuyu there is a wine called "*Muratina*" which is good if prepared with the *Muratina* Tree, honey and then brewed properly under hygienic conditions. If it is filtered properly, that is a good drink. However, *Muratina* which is made of people's clothes, sponges and molasses and is called "*Miti ni dawa*" is not *Muratina*.

Madam Temporary Deputy Speaker, the NACADA has done a very good job in the past. It specified the extent of alcohol abuse in Kenya. Whether we want to ignore

these facts or not, they have produced a series of reports showing the problems we are in now and how deep we are entrenched in them. They have launched their own policy. I want to comfort hon. Members with the fact that this Bill is in harmony with the Government policy in relation to alcohol and its consumption.

The Bill seeks to strengthen the licensing regime by having district alcoholic licensing boards that are professional by having a secretariat that is functional. I invite hon. Members to look at the details in the Bill. This will allow people to sit in a licensed office properly labeled as a licensing office. Today such an exercise is conducted by the District Commissioners and it lapses at the end of that exercise. It will also have professionals who are hired by the necessary authorities. The details of that are well described in this Bill.

Madam Temporary Deputy Speaker, most of the functions have been borrowed from the old Act on liquor licensing. There is a very tedious exercise under which somebody can be licensed. I invite hon. Members to look at some of these sections. For example, if you are licensed to sell beer at particular hours and you continue doing so on credit, the law has always been there. We have just done “cutting and pasting” that the law cannot enforce collection of such a debt. If you want to sell beer on credit then you are doing it at your own risk and no statute can be used to force you to pay for that. If you continue selling beer to someone who is already flat, that is he or she cannot consume more alcohol, this Bill addresses what can be done and the penalties therein.

Still on licensing, if you are licensed to have 80 people in your bar or hotel and then you end up having 800 people, that situation will be addressed by this Bill. Offenders will completely be dealt with. However, a few companies in this country, most of them in my constituency have decided that Kenyans do not matter anymore. All they do is to get industrial alcohol, dilute it a bit, add food colourings and then call it fortified wine. You will be done in ten minutes if you take it. You will sleep for 12 hours. We have lost the labour force particularly of young men and women. It is a big disaster particularly in Central Province where coffee production has declined because we do not have the labour force. It is not that the young men are not willing, their hearts are willing, but their bodies cannot take it. Just a sip of Kshs10 or Kshs20 is enough to affect one. This is industrial alcohol which is coloured and then given a beautiful name to lure young men.

It is not about *chang'aa*, but about the third generation alcohol. To me, there is nothing like that. Even the alcohol that was drunk and served by our Lord Jesus Christ was actually ethanol. That was pure alcohol developed from the vineyards. It was not the poisonous substances which we want to believe is alcohol. I am not talking about *chang'aa/cham* but I am talking about these drinks that people masquerade to be *chang'aa* which leave one in a complete mess if he or she takes them in little proportions.

The fourth reason is that we want to protect the health of Kenyans.

Madam Temporary Deputy Speaker, the Minister has a lot of powers, under this Bill, to deal with anybody, be it a large-scale brewer or small-scale brewer, who introduces deliberately certain ingredients that have adverse effects on the consumer. For instance, there is a clause which provides that the Minister can outlaw anything that, to his opinion, and on advice of the necessary agencies, is not proper for human health. What we are saying here is that if Kenyans react differently from the effects of say,

Vodka Red Label or Vodka Blue Label, the Minister has powers, if the body chemistry of Kenyans cannot take it, to outlaw that particular one.

For cheap beers that are sold in large volumes, like a beer that is manufactured by one of our local breweries, the Minister cannot direct that a brewer must not exceed 2 per cent alcohol content per volume, compared to the 6 per cent alcohol content per volume that they now produce because there are no laws empowering any particular Minister to take such an action. I am talking about keg beer, which has done more harm than good to the consumers. It was supposed to be a poor man's drink, but the poor man now has turned to be blind in some areas or is suffering from serious bouts of pneumonia. That is because, first of all, it is too cold. Secondly, the alcohol content per volume is too high and, thirdly, it is too cheap. So, we have ended up in a bigger mess than when we started.

Madam Temporary Deputy Speaker, I, particularly, find nothing wrong with *mnazi* palm wine. If it could be licensed, defined by the authorities and packed decently in such a way that an hon. Member like me can go to a five star hotel and order *mnazi* without any of those foreign ingredients, that should be the spirit. That is because, at the end of the day, we are Kenyans. Whether we like it or not, people will still drink. The poor man will drink too.

I want to give hon. Members another reason why they must support this Bill. The Bill seeks to educate the public about alcohol. In this Bill, we have proposed the creation of a fund, which will be funded by the licence fees that people pay. About 50 per cent of the licence money contained in this Fund will be retained in the districts or constituencies. If we do that, we can organise *barazas* and seminars to educate people on the pros and cons of drinking.

Madam Temporary Deputy Speaker, I want to insist, for special reasons, that drinking is good. I do not drink because of my own reasons. Drinking cannot be banned. It would be ridiculous to even imagine that you can ban drinking. But Kenyans should be subjected to good and healthy alcohol so that, at the end of a hardworking day, you can sit down and enjoy your cup of *busaa* knowing that there are no rats inside there; there are no inner clothes and no GMO maize. The drink is made of clean maize and the millet is properly fermented. That is what I am talking about. It is our food. It is our beer. We know of some old people, particularly in the Rift Valley Province and parts of Nyanza Province, who have been drinking *busaa* for over 90 years. They do not experience the problems that we have in Central Province, where men as young as 19 years old cannot even spell or remember their names. They are just there. As I speak now, and those who come from Central Kenya are hearing and they can confirm whether it is true or not, there are thousands of young men lying by the roadside. They stay there up to 8.00 p.m., when their wives go to pick them up. Those women pick up husbands who cannot give them babies because, functionally, it is proven and documented by National Campaign Against Drug Abuse (NACADA) that second generation alcohol affects the libido of human beings. It is that serious. It is not a laughing matter.

Madam Temporary Deputy Speaker, whoever imports second or third generation alcohol must, of course, be doing so with the consent of the Government. That is because they pay tax. Most of the so-called "second" or "third" generation alcohols have Kenya Revenue Authority (KRA) labels on their containers, meaning that they have paid taxes. So, the Government will have to get its mathematics right. It should either allow that to go on and continue having huge medical bills and having a whole section of a community

denied their fundamental God-given right to have children, or come up with a policy that will allow people to continue enjoying their alcohol responsibly. The Government should continue punishing heavily those people who invest in damaging the masses or those ones who want to poison millions of people through alcohol.

You only need to go to the media and see some of the stories that are coming from some parts of this country to understand the seriousness of what I am talking about. I did not mention Kisii with a bad heart, but it has been reported that somebody did something from a sewerage and produced methanol and ethanol and called it “*chang’aa*”. So, you know why we need this particular law.

Madam Temporary Deputy Speaker, the sixth reason is to eliminate any illicit trade. Over 50 per cent of the alcohol trade in this country is illicit. What has happened is that, due to lack of good statutes, chiefs have become very powerful in their own way. The Officers Commanding Stations (OCSs) have become monsters. The dealers in illicit brews pay royalties to those authorities. Consequently, brewing has become very expensive.

What I am saying is that it would be cheaper if the law defines *Muratina* clearly. It can provide, for instance, that it must be served in containers that are not made of aluminium and specify all the other aspects relating to the consumption of that drink. That way, the chiefs or the local *Mungiki* goons will not have any justification for collecting royalties from dealers in *Muratina* and that drink will be made available.

Madam Temporary Deputy Speaker, I do not know of a person who can sit here and pretend that there is no alcohol problem. We see it in the Press. We see drums of the so-called “*chang’aa*” being poured away in the valleys and all the other places. We see all kinds of weird things coming up just because we do not have the standards.

This Bill seeks to have a good laboratory to test those products. We will have men and women who are experts in alcohol to ensure that the alcohol produced in Kenya meets particular standards. I have talked about *Mnazi*, which is an invention of the coastal people. It is not an invention of the people of Central Kenya. So, if people in Central Kenya wanted to come up with any concoction and call it *Mnazi*, it would be illegal. But if the coastal people decide to pack the *Mnazi* in such a way that it does not conform to the specified packaging of *Mnazi*, then you will have a problem. You can be fined as much as the law provides, which is about Kshs2 million for that particular adulteration. People must have hygienic drinks.

Madam Temporary Deputy Speaker, this Bill proposes that there will be a rehabilitation programme. As I said, the third reason why people drink is that they are already hooked to alcohol. They are hooked to an extent that they are alcohol-dependent. Those are our brothers, sons and daughters. We cannot just dump them. We must clear our mess. We should come up with methods to solve that problem. We need to detoxify and counsel people and eventually convert them into non-alcohol dependent status. The money collected from licensing should be available to do that particular work. Every decent human being knows that once he has had a meal, he or she has to clean the dishes. The alcoholics are our dishes and we have to clean them up. Somebody has to pay for that cleansing and it should be the person who is doing the brewing. That is why we need that fund. That fund will not be from the Exchequer, it will be from the licences kitty. Currently, people are just left to die. Some of them are serious professionals, including university professors.

Madam Temporary Deputy Speaker, I am glad that you worked at the university at one time. That is with a light touch. We cannot have a section of our intellectuals condemned to death because of the fact that they are alcoholics, whereas we know that there are ways and means of rehabilitating them. That is why we are proposing the creation of a fund. Part of the money from that fund will be available to the civil society, who will popularise good contents of alcohol drinking and de-popularise bad habits of drinking alcohol. We thought that if 20 per cent is availed to the civil society, they will talk about alcohol and licensing. They will also create awareness in addressing the second reason.

Madam Temporary Deputy Speaker, the marketers are up in arms, they say that if this Bill is passed, you cannot have big billboards and commercials that say: "*Ukikunywa Pilsner, utakuwa kama simba*". Those misleading adverts---

An hon. Member: *Imara kama simba!*

Mr. Mututho: Thank you. That is misleading. I know of a family where a three-year old child told the father that they would like to have Pilsner so that they can be like *simba*. Those are misleading adverts. I am sure that the Kenya Breweries Ltd. is not in the business of killing Kenyans or converting human beings to be *simba*. We should have adequate and correct advertisement.

In talking about promotion, this Bill has put into legal language what they themselves had agreed to do. For instance, you cannot have a billboard within 300 meters from a school and you have to do certain advertisements at certain times when children are asleep. That is being responsible. That is what this Bill says.

Lastly, the Bill seeks to promote research and dissemination of facts. Everybody knows a drink called "Amarula" which is developed from an African tree. That is good research but abuse of Amarula is not good. Such research and development can only be enhanced by agencies which do not have any other interest other than having human beings at heart. In research and development, we are talking about the alcohol that can be allowed to be consumed in Kenya. Like I said earlier on, some of you like wearing black while others like wearing yellow for your own reasons. Some people react even to certain smells. Such research can only be done by institutions such as the NACADA so that people have real facts and not myths and rumours.

Part I of the Bill contains preliminary provisions which I do not need to go into depth. Part II provides administration of the Act. For once, there will be an inspector. This is not an inspector of police or Administration Police, but a woman of such a character that would be a demand of the local community. She will sit in that Licensing Board. The inspector could be a teacher and now we have this inspectorate role which is financed by the same body to make sure that everybody complies and bars are opened in good time. It could also be local Officer Commanding Police Division (OCPD), the local AP Commandant or a very good clergyman.

Madam Temporary Deputy Speaker, Part III contains provisions relating to licensing of alcoholic drinks. Very stringent rules have been outlined here. Not everybody can be licensed. For instance, if you have been convicted of alcohol-related offences, then do not expect to get a licence under this Act. It will be very difficult for you. If you run a *chang'aa* den or hide impurities and give funny names or ingredients that are not allowed, you will not be licensed to sell alcohol. However, if you are a decent person like all of us hon. Members, you will be licensed to run that business.

Clause 8, establishes District Alcoholic Drinks Committee. This has been revised and broadened as you can see to include more people who have more say. It will be more transparent now than when we had only three people namely, the OCPD, the DC and the District Criminal Investigation Officer (DCIO), determining who will be licensed. They ended up licensing people of suspicious character and eventually, we have this problem. People are running 24 hours poisoning Kenyans in the name of fortified wine.

Madam Temporary Deputy Speaker, Part IV contains positions relating to general requirement for the alcoholic drinks. This part is important because I have said that we cannot sit here and pretend that we are of that faith that does not support alcohol drinking. Alcohol is even available in some medications. However, we are talking about responsible use of alcohol.

Part VII provides for the enforcement of the Act. Obviously, when you have 15 statutes as we have now, you get confused on what you are supposed to do. That is why we thought of consolidating all these statutes and pick the good parts. By the way we read this and had it examined by some experts all over the world. They said, if enacted this will be a very good law. That was according to them. We have old professors, some who are about 80 years old who have been in this alcohol business for a long time. People from the sobriety society also said that this will be good. People who want to drink, will have cheap alcohol that is hygienic to drink. This is cheap alcohol that can be used in ceremonies without necessarily being denied that facility. Those who are rich can have the super alcohols which cost tens of thousands, but again, in pure form and in a manner that is prescribed by the Minister under Section 66.

Madam Temporary Deputy Speaker, Part VIII contains provisions relating to education and information. I have already said that people act in ignorance. If somebody had bothered to tell people that these fortified wines when they come to Central Kenya will make them impotent, chances are Kenyans would not have taken it. However, in the absence of knowledge, they continue acting in ignorance and get hooked to this very dangerous habit. We have seen more deaths now because of liver cancer. We have also seen more deaths because of accidents than any other time in our lives. That is what we are talking about. People should be educated. Let them be told that this Bill is not about legalizing *chang'aa* but what the Minister has been advised to legalize by the agencies. If they say that Tusker beer is not good and the agencies advise the Minister and he or she proves that it has heavy metal, that is it! It will not be licensed. So, if you want to celebrate licensing of *chang'aa* then you must understand that the *chang'aa* that will be licensed by the Minister can also be diluted to 50 per cent so that you do not have 80 per cent alcohol. The Minister can decide you have to market your *chang'aa* at 50 per cent proof or none at all. The Minister will have widespread powers based on new research and not on myths. The research will be carried out by the necessary agencies and not the many Government agencies that cannot agree on the day of the week.

Madam Temporary Deputy Speaker, this morning you heard it and you will hear it again this afternoon; people cannot even agree on what killed fish in Lake Naivasha. They think it is lack of oxygen. It will continue like that. The public health department does not agree with everybody else and the 20 agencies come up with different stories. That is why we want one agency, very responsible society and then have an Act that can be enforced. There is no need to create laws that no one would even bother to look at. That is why we have looked at the issue of fines which have been rather moderate in

some cases. We also do not want to fine people Kshs2 million when we know they cannot raise Kshs10, 000.

Madam Temporary Deputy Speaker, Part VIII has miscellaneous provisions; this is the most interesting, and I have referred repeatedly to this part, particularly Clause 66. Should we continue to have the Kane in the market? Should it be that the Minister has already issued a licence and specified Kane as a healthy drink, we can then take the Minister to task. Should we continue having this fortified wine that is killing our people, causing liver cancer, then we can hold the Minister responsible for this. If we have *chang'aa* licensed then we can hold the Minister responsible because we will be working from an informed position. Under this section, the Minister has widespread powers, which he is expected to use and not to abuse. If he abuses them under the watchful eyes of this Parliament, I am sure his actions will be brought under check.

I want to state again that this whole thing is not about condemning or supporting *Chang'aa, Muratina, Mnazi*; it is not about anything else more than having Kenyans have a drink that they wish to have, but that drink must be healthy, hygienic, legal and the Government must be able to collect its revenue based on that. Ultimately, all Kenyans will be able to do their work and what they are paid to do. We will not have to expand mortuaries as we did in Gilgil and other areas because of road accidents and other related incidents.

Madam Temporary Deputy Speaker, I would propose this Bill for days, but I want to call upon my very experienced friend, who has seen people die, who has seen children born and abandoned, somebody who is a respected administrator, somebody who was in charge of thousands of chiefs in the past and ordered them to pour down *chang'aa* or *busaa* to second this Bill; that is hon. Peter Kiilu.

I beg to move. Thank you.

Mr. Kiilu: Thank you, Madam Temporary Deputy Speaker. I stand to support this Bill as introduced by hon. Mututho. As I second this Bill, I want to commend the Mover for the able manner in which he has presented his case, and say that I belong to the Committee on Administration and National Security. This Bill was brought before us, we looked at it and we were convinced beyond any reasonable doubt that the Mover means well and that the Bill is good for this country.

I have been in the field for long and I happen to be one of the officers who have served this country in many provinces, and who have come across problems associated with alcohol abuse in this country. This Bill has come at the right time. I say so because at this time, many people particularly the youth, have taken to drinking alcohol which is easily accessible, and easily supplied in many areas of this country.

Traditionally, and particularly in the area where I come from, we used to have alcohol but that time there was no abuse of this stuff, because it was regulated in a way. Alcohol and related things like snuff were only available to the old people. Socially, the youth were not allowed to take that stuff but today, things have changed. They are now taking a lot of alcohol. The intention of this Bill, as moved, is to provide this country with alcohol that is hygienically clean, meets the health standards and anybody who is taking it is not afraid of taking poison. At this stage, we want to commend the Press because over the time, it has been able to highlight many cases of loss of life and what the Government is doing to combat the problem.

Madam Temporary Deputy Speaker, I have worked in various provinces in this country. I have been in charge of District Commissioners, chiefs and Administration Police (AP). I want to confirm that we have spent a lot of time arresting people who distill and sell illicit brews in slums or have access to those second and third generation brews which are detrimental to the health of our people. But the exercise has been in futility most of the time. You arrest, you take them to the criminal justice system which is supposed to help us but, sometimes, the sentences that are passed and the time spent is not worth the undertaking. So, by passing this Motion, this country will save on time, funds and it will give Kenyans affordable drinks that are fit for human consumption.

We have witnessed many road accidents in this country. After investigations, it is found out that the dead driver was driving under the influence of alcohol. Many youths have dropped out of school because they cannot concentrate in education. Many families have broken up. Disharmony has cropped into our homes as a result of one partner being drunk beyond control. Those are the problems that this Bill intends to cure. Making a special reference to Central Province, where I was for five years as a Provincial Commissioner, I want to confirm, just as the Mover has said, that there were many cases and many delegations of women, particularly from Muranga, Nyeri, Kirinyaga and Kiambu who came to complain to me that they were having social problems with their families. Their husbands were nowhere. They were there to be seen. They were not in charge of their families. They complained that their children were getting drunk to a point where they were not sure of getting grandsons and granddaughters because those men are not capable of performing the duties of a man once they got married. That situation has serious implications in the societal set up. It is the duty of this House to ensure that Kenyans get something that will keep this generation going on.

The NACADA has also done a very good job and, if you allow me, I want to table a document which it has done with special reference to Central Province. I want to quote before I table it. It reads:-

“Alcohol and drug abuse is a key societal problem in Central Province. The main types of drugs abused are alcohol such as bottled beers, Keg, Kane, Napoleon; second and third generation brews such as Amario, Vienna, Vatican; cheap illicit brews like *Chang’aa, Kangara, Marigi, Makabo, Muratina* and so forth.”

But the worrying thing is that, it reads:-

“Although it is not a big problem in Central Province, 5 per cent of the population of women in Central Province takes alcohol, compared to 6 per cent which is the national average”

But even more worrying is that Central Province is now leading with men who are taking alcohol at 30 per cent, compared to the national average of 23 per cent. The people who are taking that alcohol are the youth who are between 19 and 35 years; the group that I have said is able to support the families.

(Mr. Kiilu laid the document on the Table)

The impact of alcohol consumption in Central Province – which is a coffee growing area - is that we lose productive labour. When the youth between 19 to 35 years are not able to be productive in their farms--- There are no people to pick coffee or tea. That is why you find the *Mungiki* taking the softer option of soliciting for funds from

other sources. I think that is where we have a problem. We foresaw that problem. The youth take a lot of alcohol, particularly over the weekends. They over-binge. They have no control over their minds and they can easily be tempted to engage in unprotected sex. Of course, that will lead to HIV and other STIs. I think that is not good for this country. So, this Bill is good because once it is enacted, it will enhance the family unit. It will reduce road accidents. It will ensure that access is controlled. It will also ensure that the kind of beer or alcohol accessible to our people is safe; it meets health standards and it is regulated.

We had a chance to call the industry players and they are not opposed to this Bill. They are supporting it on the basis that a fair playing field be established. I think this Bill has all those intentions. We want to have alcohol players who are licenced, who can follow time and who can pay Government revenues when they are due. That way, we will know that if it is *Muratina*, it is brewed at a specific time. It will not be brewed in the back streets or riversides. It is produced, stored and marketed openly.

Finally, the Provincial Administration can play a major role in sensitizing our people on the need to consume that regulated alcohol. We know that the administration that is at the forefront-- The Chiefs Act was amended and today, they do not do a lot. We believe that the empowerment of the Provincial Administration and NACADA as an authority in this country can do a lot of good in making sure that we minimize the threats that are facing this country as a result of the proliferation of adulterated alcohol and third generation beverages.

Madam Temporary Deputy Speaker, with those few remarks, I beg to second.

(Question proposed)

Mr. Imanyara: Madam Temporary Deputy Speaker, thank you for giving me this opportunity to support this very important Motion.

It is a pity that in a country with a law reform commission and the Office of the Attorney-General and an authority like NACADA, it has taken the efforts of a private hon. Member to draw a bill with such far-reaching implications to this House. Therefore, I commend Mr. Mututho for the industry and purpose that is reflected in this Bill.

Madam Temporary Deputy Speaker, I dare say that should we pass this Bill, as I would urge the hon. Members to do, it will be one of the most important pieces of legislation ever passed by the Tenth Parliament. I hope and trust that a lot more hon. Members will take interest in what it seeks to do.

At the outset, I want to commend the Mover for seeing it fit to bring all these laws that have been with us since the colonial era into focus and bring them into one piece of law that we can look upon to bring a sense of justice to the prevailing situation in this country. There is no doubt at all that this country is a dying nation. The majority of our workforce and youth that do not get opportunities to further their education go into alcohol consumption.

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

[The Temporary Deputy Speaker

(Mr. Ethuro) took the Chair]

Mr. Temporary Deputy Speaker, Sir, on any weekend on a Sunday afternoon, after the church service, if you go to any market centre in this country, you will see large numbers of unemployed youths walking aimlessly or just waiting for hire by MPs or other politicians or people with causes that need to be advanced. These people appear to be in truancy. They seem to walk like zombies because of the effect of alcohol and drug use. We cannot talk about achieving Vision 2030 unless we address this very serious social problem of alcoholism.

The only area that I would urge the Mover of this Motion to reconsider is that in terms of the administration of the law, I would like the Ministry of Education to play a much more significant law by legislation. I will suggest to my good friend that when it comes to the Third Reading, we should also amend the Education Act to require that Alcohol and Drug Abuse is brought into school curriculum as an examinable subject so that our children are brought up knowing the dangers of alcoholism.

It is important that this social problem be recognized at the earliest opportunity. Not to require schools to bring this to the attention of the pupils and the attendant dangers will not realize the noble objectives that the Mover of this Motion has brought to this House.

Mr. Temporary Deputy Speaker, Sir, I am particularly impressed that you have finally seen it fit to do what the Ministry of Health has been doing over the years, putting warning signs on tobacco products. If we pass this law, we will require warning messages on all these alcoholic products. I noticed that excessive alcohol consumption is harmful to your health. It is not just harmful; it kills. I would like to urge that rather than have these warnings specifically in an Act, we should make provisions requiring manufacturers to have warning signs that have been passed by the relevant authorities that we can set up under the Act. These days of the use of Sheng as a language, language is changing so fast. We need to recognize that in order to reach these young people, sometimes you need to use the language that they understand. Rather than have the warning signs set out in the law, we just require that these products do have warning signs that are consistent with the times.

The seconder of this Motion has tabled a report by NACADA and this report makes sober reading. Even though it relates to just one province, particularly Murang'a and Thika, the conclusions that it arrives at can be applied to any part of this country. You can apply it to Eastern Province, North Eastern or any part of this country.

I would have imagined that if only NACADA had visited other parts of the country, they would have found that the conclusions they would have come to are national. If I may quote from the executive summary of that report which has been tabled, you will notice that it talks about the most common effects of alcohol and drug abuse in the region and you can infer to the country. At the individual level, these were impotence, infidelity, insanity, low libido and increased HIV/AIDS infections.

There can be no question at all that the age bracket that is most affected by the HIV/AIDS epidemic in this country is that age bracket that this NACADA report is talking about. Unless we are serious about changing the lifestyles of our young people, unless we bring legislation such as is envisaged in this Bill, then as they say in this report, there will be family breakdowns and increased domestic violence in many parts of the

country due to poverty. You will find that a mother, father and children are found in drinking dens without regard to the ancient styles of living where we separated the lifestyles of grown up children and their parents. At community level, incest, homosexuality, lesbianism and unwanted pregnancies were the major negative effects. They also said that the major social, economic and political effects of ADA were an upsurge of crime and insecurity, high school dropout rates, rise in school unrests and declining education standards.

The majority of potential partners undertaking ADA initiatives in the province were not specific to ADA prevention. They go on to say that cases of underage alcohol and drug abuse were evident. Secondly, children are indecently exposed at entertainment venues by their own parents and guardians, proliferation of illegal gangs specifically *Mungiki*. It was also important to note again cases of incest, homosexuality and lesbianism in the province arising directly out of this drug abuse.

Mr. Temporary Deputy Speaker, Sir, we need to look at this problem of alcoholism from a national context. I would have hoped that the Minister of State, in the Office of President, would have been in the House to show the Government's commitment or support to this legislation. But looking at the Government side, you will see the utter contempt with which we regard such important issues requiring Government attention. They prefer to go out and do things that are totally unrelated.

That is why this afternoon; some of us will oppose any move to adjourn this House to go to Naivasha in order to give those people opposed to the introduction of a new Constitution an opportunity to bring divisions. These issues should not go to Naivasha when the country is united to get us a new Constitution by creating avenues for disagreement and adjourning the House from discussing important business of the House to go and waste taxpayers money in Naivasha when we should be passing this Bill in the House without adjourning to go to Naivasha.

Without anticipating the Motion that will come to the House this afternoon, I would urge the Government to reconsider the Motion of Adjourning the House to go and do business that has already been largely concluded.

Mr. Temporary Deputy Speaker, Sir, I will go back to the Bill and I support it, wholeheartedly---

The Temporary Deputy Speaker (Mr. Ethuro): Mr. Imanyara, you are well advised to go back to the Bill because all these issues are important for the House.

Mr. Imanyara: Thank you, Mr. Temporary Deputy Speaker, Sir. I have just pointed that I was to go back to the Bill before us and support it wholeheartedly. It would have been important for the Government to show commitment and support for this noble effort by being in the House this morning. I notice my good friend, hon. Kabando wa Kabando, who sometimes I forget is in the Government, is here and I am sure he is supporting this Bill. He will be speaking as an Assistant Minister for Youth Affairs and Sports, who are largely affected by the evil effects of alcoholism in this country.

The reasons and the urgency for passing this Bill has been set out clearly and very vividly in hon. Mututho's well argued presentation when he was moving the Motion. They have also been captured well in the statements of the seconder of the Bill, hon. Kiilu, who has wide experience in Provincial Administration. He knows the effects, first hand, of the consequences of drug and alcohol abuse in our country. For those reasons, I support---

The Temporary Deputy Speaker (Mr. Ethuro): Order, hon. Imanyara! I just want to make reference to the document that you have quoted from NACADA. You and I, are quite familiar with the fact that documents tabled before the House must be signed. This is not signed. I am not disputing the fact. I am just saying that hon. Kiilu should get a signed document.

Mr. Imanyara: Mr. Temporary Deputy Speaker, Sir, I agree with you, but I think the right moment was when the document was being tabled. There was no objection to it because it is common knowledge and self evident that a document should be signed. The matters that are here are not matters that anybody can object to, but I am sure that before we close this debate, hon. Mututho and hon. Kiili will have got for us a signed copy. But I agree with you although the right time to have taken objection to the document was when it was being tabled.

For those reasons, I conclude by---

The Temporary Deputy Speaker (Mr. Ethuro): Order, hon. Imanyara! I must make this absolutely clear. The Chair has the responsibility of upholding our procedures. So, it is not a mild point. It is important that the document is signed. Let us not debate it!

Mr. Imanyara: Mr. Temporary Deputy Speaker, Sir, I am just saying that it was admitted by a Chair as substantive as yourself, who was sitting on that Chair when this document came before the entire staff who should have brought it to her attention. But nevertheless, I will not go back there.

I conclude by saying that one of the areas that require amendment, and I will be suggesting to my good friend, is in terms of penalties. We need to recognize that we need rehabilitation as one of the punishments rather than a fine. We should look at the social aspects where rehabilitation is very important. Finally, obviously this Bill will occasion additional expenditure. We are talking about starting a firm that will be administered by an Accounting Officer. These are public funds and this will be an additional expense. Therefore, I hope that the Deputy Prime Minister and the Minister for Finance or the Government, when they are supporting this Bill, as I trust they will, will undertake to make the necessary financial inclusion in the Annual Estimates, so that this Bill can have teeth. The enforcements provisions in the Bill can be of value.

With those remarks, I beg to support.

The Assistant Minister for Youth Affairs and Sports (Mr. Kabando wa Kabando): Thank you very much, Mr. Temporary Deputy Speaker, Sir, for the opportunity to contribute and support this very timely Bill. It is timely because it is focusing on a key sector which is contributing significantly to the reduction of productivity in the nation. It also causes other adversities which if not redressed at this juncture, will have very negative effects. With regard to the Vision 2030 that we talk about, we need to live today for us to be there tomorrow.

The generation that is hugely affected in a very adversarial way by the hazards of alcohol and the weakness of the regulatory mechanism is the young generation. We have been talking about this. In 2008, we convened a meeting for Members of Parliament in order to raise awareness through the Ministry of Youth Affairs and Sports on matters that should be considered seriously by Parliamentarians in their constituencies and before the House to mainstream the youth potential and re-focus resources at the CDF level, the devolved funds or even the donor funds for the youth to be effective as key players and stakeholders for the nation. On Jamhuri Day, 12th December, 2009, my constituents had

occasion to host all the day secondary schools in conjunction with NACADA, Nestle Foods and other sponsors in order to promote non-alcoholism within Mukurwe-ini Constituency. So, our National Independence Day was shared by all the stakeholders, the Provincial Administration and the teachers to focus on the youth in primary and secondary schools who are very vulnerable and can easily get tapped and disadvantaged by the consumption of alcohol.

The records, and I want to make reference to the Central Kenya region which the Mover and the seconder have mentioned, are very alarming. In many areas, you will have a ratio of 1:7; primary school to bars. One primary school in a radius of two kilometers is surrounded by seven bars. These are alcohol selling bars which are open from dawn to past midnight. They attract the frustrated youth or those who are easily persuaded to go into alcoholism. Astonishing is the fact that even teachers are not spared. There have been cases of teachers being interdicted in central Kenya, and I know this happens in other parts of the country as well, but I speak from a point of knowledge, because of alcoholism and, therefore, inability to perform. This Bill, therefore, deserves our support because it seeks to reduce insecurity. This is because when people are consuming alcohol all day, it is natural that in the evening they will be seeking an extra coin so as to consume the following morning.

The Bill also seeks to produce better leadership. It will regulate advertisements. It is a bit disappointing because even companies in this country that claim to give so much money for corporate social responsibility, watching television and listening to the radio, is a deception. What they give sometimes if analyzed very well on socio-economic parameters, is not what this country gets in terms of corporate social responsibility account whether it is through sports or the construction of schools. Advertisements do not indicate clearly that alcohol consumption is bad for people aged below 18 years. I would even hastily say that even 18 years is very tender. It is even advisable to go forward to 21 years and beyond. It is even more advisable, a 19 year old in a pub is still a very vulnerable youth. This is straight from Form Four.

A 20-year-old is basically somebody who is in first year in the university. These are the categories of individuals that we want to produce. In my constituency, last year, I witnessed cases of suicide. In many areas, they are not reported, but they were not one, two, three or five. I know of one which included a very brilliant university student. The avalanche of alcohol and other drugs aggravate the mental capacities for one to endure and to be patient, tolerant and have even optimism. The effect on education is very negative, where we have domination of alcohol sources nearer to schools than even churches. So, it is easier to walk to a pub in many parts of Central Kenya than a school, dispensary or a place of worship. The productivity needs no gainsaying; it is reduced. If the workforce is reduced and this is a generation that we are saying constitutes 75 per cent including children, if people who have the physical capacity and technical knowhow are reduced to zombies, then it is worrying for this country.

Mr. Temporary Deputy Speaker, Sir, the *Kazi kwa Vijana Programme* clearly showed the dangers of alcohol consumption in many areas. My Ministry has records that the impact economic-wise was not very visible. This is because many youth were given money. I want to thank the Members of Parliament, Provincial Administration and Government officers who took time to advise the youth groups that were given these temporary contracts to invest. But where they were not counselled and given any

capacity, they put all their earnings into alcohol. In fact, the payment day of coffee or tea farmers and those engaged in *Kazi kwa Vijana* programmes in many areas is evidenced by the occupation in the evenings in the local pubs and the number of youth lying on the roadsides or even in the middle of the road and the domestic fights and violence because of overconsumption of alcohol. But there is a big question beyond that – the responsibility towards a new Constitution. Even beyond the Alcoholic Drinks Control Bill, there is the question of our responsibility as a nation. Even with the laws we have, what are we doing, for example, in cases where a chief is caught being bribed by people who are selling illicit beer? What do we do to the politicians adversely mentioned for giving the youth not just beer but even bhang and other intoxicating materials? There is a question of the moral law which cannot be legislated by this House. Even with the laws we have in this country, there is impunity from the highest level, where everytime we indicate that somebody is liable for public office and abrogating the Public Officer Ethics Act, we shamelessly rush forward to protect an individual because he is from our village or ethnic group. This is the biggest shame that I have seen in this House. I can boldly say that the acts that we show in the House contribute largely to the impunity of the commercial enterprises which continue to manufacture, produce, distribute and sell alcohol.

If one morning I am able to do an illegal contract which will make me draw millions of taxpayers' money with my proxies or tribesmen, I will be encouraging illegal trade. I support this Bill because it gives parameters for what needs to be done. Even when the moral law is been avoided, at least, there is a platform which can oblige a well meaning public officer to have recourse for a proper action.

Mr. Temporary Deputy Speaker, Sir, the question of the producers making obligations is important in the sense that we just do not need the Liquor Licensing Boards. I have seen there are references to the District Committees. I have seen about the adverse requirements that will make a difference. I have had references on the materials and laboratories to be established. I have no doubt this Bill will get support requisite enough to pass, the call should be more powerful on the implementation. The section on Government campaign, awareness and education, need to be fortified. We need to re-invest the marketing of this Bill, so that on the ground, it is not just a piece of legislation that will remain in the archives or which will be left at the best of the Government officers. Because of its uniqueness and significant position to shift unproductively and the waste of human resource base, and in order for us to placate the potential necessary to enable realization of greater contribution, particularly from the youth, I would request the Mover to look at the provision afresh and see what may be incorporated in the area of establishment of the fund, so that there is an obligation from the relevant offices. These offices are District Youth Affairs, Divisional Youth Affairs and interns that we are distributing across the country through the Ministry of Youth Affairs and Sports and also responsibility through the School Management Committees and other units that can constitute stakeholders, so that the campaign on this one can captivate the nation. The engagement with the media houses as a communication template will enable this very important Bill to achieve the attention, attraction and support that will be necessary for it to effect on the ground easily.

As I conclude, I just want to reiterate that whatever we do on the new Constitution, whatever fashion it is indispensable. The irritations and aggravations likely

to come from ethnic cocoons and partisan political party alliances or even 2012 preparation, should not aggravate our harmony as a country to the extent of disabling our capacity to unite and do legislation together like this and even have one Constitution. The call for us, as leaders, is let us speak with one voice against the vice of alcoholism, impunity on corruption and the vice of protecting those who belong to us because we speak the same language. We live in the 16th Century when the generation of this country is creating a mechanism and a culture for perpetuity, not just for itself.

With those few remarks, I beg to support.

Mr. Chanzu: Thank you, Mr. Temporary Deputy Speaker, Sir. I also want to support the Alcoholic Drinks Control Bill, 2009. This Bill is long overdue. The main objective and purpose of the Bill is to provide the legal framework to control the production, sale and consumption of alcoholic drinks to protect the health of individuals.

Mr. Temporary Deputy Speaker, Sir, maybe because the Mover is here, the Bill should not only be about the control of production; it should also be for the control and regulation as well. It should also not be just about the individual; as we know, excessive consumption of alcoholic drinks also affect families and, in a large way, communities and the country at large.

Mr. Temporary Deputy Speaker, Sir, you know very well that uncontrolled, or unregulated, drinking generally lowers productivity. So, it is very important that the Mover, as we go along, will take into account all these wider dimensions, and not just the individual. We know very well that we have had laws in this country to regulate licensing and consumption of alcohol, but I think the problem we have had in most of the cases is corruption. I think as we go along addressing issues that have let this country down, if we can deal with corruption, whatever laws we put in place, and if we are not able to change the culture of even the Provincial Administration --- In my place, the sale of *chang'aa* is done in the eyes of the Provincial Administration. You will find in every homestead nearby, there is selling of *chang'aa* and the Provincial Administration in the form of chiefs, assistant chiefs and the village elders, whom we call *Magutu* are aware. So, as we go along, I think we need to engage in a lot of reforms in all these sectors in order for these very good laws that we are putting in place to work.

Mr. Temporary Deputy Speaker, Sir, I do not think the production of these drinks should only be limited to *chang'aa*; as the previous speaker said, the advertisements we get, let us say, by Kenya Breweries Limited (KBL), I think, carry us away, as a nation. The kind of statements that they give us when they talk about the profits they have made mislead us. We are talking about Kenya Breweries competing with Safaricom. If you look at the way these companies operate, whatever they give back is minimal. So, you will find that this excessive consumption of alcohol happens due to adverts. We used to see written on some of the bars "*Baada ya kazi.*" *Baada ya kazi* takes you up to when? If you leave work at 5 o'clock and then you drink the whole night, you know that is *Baada ya kazi*. There is no limit to the extent to which this should be done. I was thinking that there should also be regulations, not only to control the production and drinking of *chang'aa*. Legislation should also cover the production and consumption of these beers that are produced by the so-called giant companies, which are just here to make profits and do not care about the welfare of the citizens.

Mr. Temporary Deputy Speaker, Sir, I am sorry to say that recently, I was very amazed; people were running and I did not know who was right. But now that we have

two centres of power in this country, we were talking about the Mau and we were going to talk about conservation. But the following week, I saw one of the principal at one of the very major plants of Kenya Breweries trying to open a plant for manufacture of alcoholic drinks. I did not understand what that meant. So, I think even our leaders should also lead by example.

Mr. Temporary Deputy Speaker, Sir, the number of youth is rising---

The Temporary Deputy Speaker (Mr. Ethuro): Order! Order, hon. Chanzu!

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

ADJOURNMENT

The Temporary Deputy Speaker (Mr. Ethuro): Order, hon. Members! It is now time to interrupt the business of the House. The House stands adjourned until this afternoon at 2.30 p.m.

The House rose at 12.30 p.m.