

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Wednesday, 13th October, 2010

The House met at 2.30 p.m.

*[Mr Deputy Speaker in the Chair]*

PRAYERS

PAPER LAID

The following paper was laid on the Table:-

Report of the Departmental Committee on Agriculture, Livestock and Co-operatives on Committee's hearings on challenges facing the sugar sector in Kenya.

*(By Mr. Mututho)*

NOTICE OF MOTION

ADOPTION OF REPORT ON CHALLENGES  
FACING SUGAR SECTOR IN KENYA

**Mr. Mututho:** Mr. Deputy Speaker, Sir, I beg to give notice of the following Motion:-

THAT this House adopts the report of the Departmental Committee on Agriculture, Livestock and Co-operatives on Committee's hearings on the challenges facing the sugar sector in Kenya laid on the Table of the House today on Wednesday, 13<sup>th</sup> October, 2010.

QUESTIONS BY PRIVATE NOTICE

FAILURE TO OPEN NCPB DEPOT  
IN BUNGOMA

**Mr. Kombo:** Mr. Deputy Speaker, Sir, I beg to ask the Minister for Agriculture the following Question by Private Notice.

(a) Is the Minister aware that maize farmers in Western Kenya, particularly in Bungoma County, are selling their produce to brokers at Kshs.800 per bag due to failure to open the National Cereals and Produce Board (NCPB) depots?

(b) When will the Government re-open the depots and commence purchasing the produce?

(c) What measures is the Government taking to avert the farmers' burden caused by the steep rise in the price of diesel?

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

(a) I am not aware that farmers in Western Kenya, especially in Bungoma are selling maize produce at Kshs800 per 90 kilogramme bag to brokers. However, it has been noted very well that the grain subsector is fully liberalized.

(b) Bungoma, Lugari, Webuye, Kipkarren River and Kakamega silos are open for farmers who want to store their grain under the new Warehousing Receipt Systems (WRS). The Government has authorized the National Cereals Produce Board (NCPB) to buy maize for the Strategic Grain Reserve (SGR) worth Kshs500 million at a price of Kshs1,500 and we expect to purchase approximately 300,000 bags for SGR.

(c) The price of diesel is determined by market forces and the Ministry of Agriculture does not play any regulatory role when it comes to pricing of fuel.

**Mr. Kombo:** Mr. Deputy Speaker, Sir, the answer is extremely disappointing and frustrating. The answer shows that this Government has no interest, whatsoever in the farmers. All over the world, the governments protect their producers. In the case of maize, we are now being told the NCPB will be opening to buy maize at Kshs1,500 per bag of 90 kilogrammes and yet, the Government is allowing the producers of maize to sell at Kshs800 per bag because of a liberalized situation.

When there is famine, the Government will be running around to look for imported maize and pay very high prices. Is this Assistant Minister really interested in farmers of this country?

**Mr. Mbiuki:** Mr. Deputy Speaker, Sir, I would like to be extremely very clear. The grain sector is liberalized. It is not the responsibility of the Government to be offering the prices which are above the market prices which are determined by the law of demand and supply.

Mr. Deputy Speaker, Sir, the current prevailing market prices in the entire East African region is about Kshs1,500 per bag. When the SGR Trustees met, they were the people who were charged with the responsibility of setting the price of Kshs1,500 per bag. Anything above that, it is extremely abnormal. The Government cannot be part of the abnormality.

**Mr. Koech:** Mr. Deputy Speaker, Sir, you heard the Assistant Minister stating that he is not aware that farmers are selling their maize at Kshs800 per bag. That is a very clear indication that he does not care about the fate of the farmers in this country.

He has also indicated that they have opened Kipkarren Depot for farmers to store their maize until such a time they will sell it. How much will he charge these farmers for storage? How long will he keep maize for them? How big is Kipkarren Depot? How much maize can it store?

**Mr. Mbiuki:** Mr. Deputy Speaker, Sir, the Government through the NCPB has come up with a new system of warehousing receipting system. I would like to introduce Members to this new concept. We have brochures which I can distribute to hon. Members so that they can know the rates charged per bag and for how long. I do not have the specific capacity for Kipkarren Depot. Maize can be taken to Kipkarren Depot and then be transferred to some other depots in the entire country.

Mr. Deputy Speaker, Sir, I hereby table a very well documented warehousing system in the country.

*(Mr. Mbiuki laid the document on the table)*

**Mr. Koech:** On a point of order, Mr. Deputy Speaker, Sir. Is the Assistant Minister in order to avoid answering the question which is: How much will they charge every farmer per day or per month for them to stock maize with the Government?

**Mr. Mbiuki:** Mr. Deputy Speaker, Sir, I have already tabled the document but I can go through it. Under the new warehousing receipt system, once the farmer delivers the maize to the depot, he or she is charged Kshs60 for intake at a go. There is Kshs17 for storage, maintenance, and bag hire per month from the second month and Kshs16 for discharge or release when the farmer wants to take his goods. When the depositors store their grain with the National Cereals and Produce Board (NCPB), the payment covers grading, cleaning, weighing, bagging, handling in and out, fumigation, insurance and all other grain management process for the time they are willing to store their maize in the warehouse.

**Mr. Wamalwa:** Mr. Deputy Speaker, Sir, only last week, the Prime Minister indicated that because of the *La Nina* that is approaching, they were looking at ways of protecting the farmers and encouraging them to bring in their crop. Part of the incentive would be to give the farmers a good price. Last year, they gave the farmers Kshs2,300 per bag. Another incentive is to offer drying of the maize through the mobile driers that the Ministry was supposed to buy. That would encourage farmers to take their maize to the NCPB. Is the Assistant Minister telling this House that the consultations the Prime Minister talked about last week to review the prices have not taken place? Is he contradicting the Prime Minister? Are there consultations or not to raise the prices from Kshs1,500 to Kshs2,300 per bag?

**Mr. Mbiuki:** Mr. Deputy Speaker, Sir, as I speak as the Assistant Minister for Agriculture, I am in consultation with my Minister. All I am aware of is the price of Kshs1,500 which is way above the market price of Kshs800. This is because the farmers are fetching Kshs800 per bag now but the Government has gone out of its way to offer Kshs1,500 per bag of maize.

I am aware there is a Cabinet meeting which will take place tomorrow. I have read in the media that the Vice-President and Minister for Home Affairs will table this issue so that we can get a Cabinet position on pricing. It is not upon the Minister for Agriculture to determine the price of maize. As at now, the price is Kshs1,500 per bag of maize. Anything else is a political pricing.

**Mr. Kioni:** Mr. Deputy Speaker, Sir, the answers that we have continued to receive in the past two weeks on the issue of maize, to say the least, are very distressing. It is like farmers really have to struggle alone through this process. It is only last year that we had difficulties in feeding this nation. This year, we had a good harvest but the Ministry and the Government seem to have forgotten that very quickly.

Many of these farmers approach financial institutions to be able to cater for the cost of planting, the seeds and everything else. They need to repay the financial institutions, perhaps, by the end of this year. The Assistant Minister has told us that all they can do now is to offer warehousing for the harvest. Could the Assistant Minister tell us if there are any mitigation measures the Government intends to take because the

farmers need to repay the loans they borrowed from the financial institutions? They also need capital for them to do the planting in the coming season.

**Mr. Mbiuki:** Mr. Deputy Speaker, Sir, I would like to make it extremely clear. Maize farmers are not any privileged than other farmers in the country. When we say that the market is liberalized, the Government is usually the buyer of the last resort. Under normal circumstances, in the business of planting maize, you are the person who is charged with the responsibility to know where you will sell your produce. The Government, however, through the Strategic Grain Reserve (SGR), normally stocks maize for any eventuality.

The Government is in the process of mopping up the maize which is available in the market at a price of Kshs1,500 per bag. Anything over and above that, it is the businessman, who is the farmer, who is supposed to know where to off-load the maize. The Government does not offer any guarantee whatsoever. The same case applies to coffee, tea and cotton. What the Government does is to subsidize the farmers when it comes to the inputs such as fertilizers and seeds. This should be very clear.

**Mr. Mwangi:** On a point of order, Mr. Deputy Speaker, Sir. Is the Assistant Minister in order to say that this Government is very irresponsible? It was only last year the Head of State was declaring shortage of food and begging around. The Assistant Minister is now saying that they do not care whether the maize is bought or not when it is rotting in Tana River and elsewhere. Is he in order to mislead the country on that?

**Mr. Mbiuki:** Mr. Deputy Speaker, Sir, I am not in the process of misleading this House. However, let us accept reality. The Government is in the process of stocking the SGR to the tune of eight million bags as a result of buying from the farmers. As at now, we have set aside Kshs500 million to start this process. Let the maize farmers not over-rely that the Government has the responsibility to mop up the entire maize in the market. They are business people like any other farmer we have in the country. They are not special or unique in any way. If they are in the business of maize growing, let them know that the Government does not guarantee that it is the buyer of the last resort.

**Mr. Koech:** On a point of order, Mr. Deputy Speaker, Sir. This is a very serious case. The farmer in this country is really suffering and you have had the Assistant Minister talk of liberalization. Currently, there is a ban on export of maize from this country. Is the Assistant Minister telling us that they have liberalized the market to the extent that farmers can sell their maize anywhere in the world?

**Mr. Mbiuki:** Mr. Deputy Speaker, Sir, the Government is assessing the situation. Once we are able to get enough stock--- We are really pushing the Office of the Deputy Prime Minister and Ministry of Finance to allocate the Ministry in charge of special programmes enough funds so that we can achieve our stock of eight million bags. If we achieve that, we can then allow the export of maize to the rest of the world.

We have come up with the warehousing receipt system so that we can mop up the maize in the country. We are now able to know how much maize we have in the country so that the excess maize can be exported to other countries. That has to be done in an organized, systematic way and not in a haphazard and protective market. The era of protection is gone.

**Dr. Nuh:** On a point of order, Mr. Deputy Speaker, Sir. I think this Assistant Minister is misleading this House. He cannot speak of a liberalized market that he cannot control and at the same time tell us that he does not know the number of bags of maize

this country holds. Is he in order to mislead this House by saying that there is so much maize and in the same vein still say that he does not know how many bags of maize there are in this country?

**Mr. Mbiuki:** Mr. Deputy Speaker, Sir, so far we have more than 3 million bags of maize in the SGR. We are talking about the warehousing receipt system so that farmers can bring their excess maize for warehousing facilities offered by the Government. As at now, unless we do the census of maize in our farmers' backyard, we will not be able to tell the amount of maize in the country. We are quite satisfied that we have enough stock. The Ministry of Agriculture and Ministry of Special Programmes is looking for funds from the Treasury so that we can mop whatever we have in the market at the price of Kshs1,500 per bag.

**Dr. Nuh:** Mr. Deputy Speaker, Sir, the Assistant Minister is misleading the House by circumventing the question. He has been asked a very clear question. We are talking of a liberalized market for maize so as to allow the maize farmer or the seller or the buyer to regulate their prices. Has the Government allowed maize farmers in this country to sell their maize anywhere in the world?

**Mr. Mbiuki:** Mr. Deputy Speaker, Sir, so far, there is an export ban. The farmers are not allowed to export maize as at now. We are in the process of taking our stocks so that we can know the amount of maize we have. From there, we will make a decision as Government, to start exporting maize.

**Mr. Wamalwa:** On a point of order, Mr. Deputy Speaker, Sir. Is it in order for the Assistant Minister to continue misleading the House that farmers can actually be allowed to sell their produce anywhere, yet the ban is still there and Ugandan farmers are allowed to bring in their maize through Suam border? The maize is flooding our market and our farmers do not have good prices.

**Mr. Deputy Speaker:** Mr. Assistant Minister, what is your definition of liberalization? That is probably what you need to explain.

**Mr. Mbiuki:** Mr. Deputy Speaker, Sir, I am an economist and I know the meaning of liberalization. It is where the forces of demand and supply determine the prices in the market. Our bone of contention with the hon. Members is the current prices which the Government is offering of Kshs1,500. When it comes to exports, first of all, we are in consultation with the Office of the Deputy Prime Minister and Ministry of Finance, so that they can give us adequate funds to mop up whatever mess is in the market. Once we are able to achieve the Strategic Grain Reserve (SGR) of eight million bags, then we can start exporting.

**Mr. Kombo:** On a point of order, Mr. Deputy Speaker, Sir. On the one hand, the Assistant Minister says "liberalized" and on the other hand, he says the ban on exports is on. Is that not misleading the House? If it is liberalized, why is there a ban? Is he in order to mislead the House on that basis?

**Mr. Deputy Speaker:** Mr. Assistant Minister, are you maintaining that Ugandan or any maize can find their way into our country because of that liberal market and our maize cannot find market outside the country?

**Mr. Mbiuki:** Mr. Deputy Speaker, Sir, yes, it is true. During the time of maize shortage, we allowed farmers and other people to bring in maize from anywhere within or outside the country as long as they paid duty. Initially, it was being brought duty-free, but from January this year, we said that whoever will bring maize into the country must pay

duty. But, unfortunately, because as a Government, we have not achieved our SGR stocks, we were unable to lift the ban on exports. We are assessing the situation and I want to promise this august House that within the next one week, I will come back to the House and state the number of bags which we have and the Government's position when it comes to exports of maize.

**Dr. Nuh:** On a point of order, Mr. Deputy Speaker, Sir. The Assistant Minister is talking of duty that is paid on importation of maize from Uganda when we well know that import duty within the East African States have already been cancelled. What is this duty he is talking about?

**Mr. Mbiuki:** Mr. Deputy Speaker, Sir, I have not heard the hon. Member clearly. I would like to request him to repeat the question.

**Dr. Nuh:** Mr. Deputy Speaker, Sir, the Assistant Minister is talking of duty paid on maize imported from Uganda when the East African partner states have done away with all duties on maize and other goods.

**Mr. Mbiuki:** Mr. Deputy Speaker, Sir, duty is payable on any maize which is brought into the country.

**Mr. Njuguna:** Mr. Deputy Speaker, Sir, farmers in Western Kenya and particularly in Bungoma, have incurred a lot of losses as a result of the Government inability to provide storage facilities. Could the Assistant Minister, therefore, consider compensating these farmers who have already incurred losses at the rate of Kshs700 per bag?

**Mr. Mbiuki:** Mr. Deputy Speaker, Sir, the Government is not in the process of considering any compensation for any losses whatsoever but from now on, the Government is offering warehousing so that farmers can take their maize for drying and other facilities we have in our silos.

**Mr. Koech:** On a point of order, Mr. Deputy Speaker, Sir. You have heard the Assistant Minister indicate here that the ban on export of maize is for them to be able to mop up the maize for the SGR. Is he in order to gag the farmers at Kshs1,500 per bag and actually force them to sell their maize to the Government by insisting on the ban on export of maize?

**Mr. Mbiuki:** Mr. Deputy Speaker, Sir, I have indicated to this House that we would like, as a Ministry, to be given at least two weeks, so that we can assess the situation, especially on the maize exports and allow our farmers the leeway to export their produce. It is a big challenge because my Minister has been camping at Treasury to get funding so that we can continue mopping up, even if it means at the price of Kshs1,500.

**Mr. Wamalwa:** On a point of order, Mr. Deputy Speaker, Sir. Now that the Assistant Minister has asked for two weeks, may we ask that this Question be deferred to allow him to do the necessary and also allow for consultations, as the Prime Minister said last week, between the Ministry of Agriculture, Ministry of State for Special Programmes and the Office of the Deputy Prime Minister and Ministry of Finance?

**Mr. Mbiuki:** Mr. Deputy Speaker, Sir, that is acceptable. We can even refer this Question to the Prime Minister's Office.

**Mr. Deputy Speaker:** Order! Hon. Assistant Minister, you have said a lot of contradictions in here. On the one hand, you are saying that Kenyan maize is not allowed to go out of the country because you have not reached the threshold of the SGR and on

the other hand, you are saying that the Government cannot keep on buying maize to allow the market forces to take care of it. You have also said that Ugandan maize is coming into the country. I think your answer is thoroughly inadequate and the Chair is really concerned that you can give that kind of an answer. Under the circumstances, the Chair defers this Question to next week on Wednesday morning. You better come with an answer that is essentially coherent. There is a lot of incoherence in your own answer.

*(Question deferred)*

**Mr. Mbiuki:** Mr. Deputy Speaker, Sir, my Minister will be tabling the same issue and get the right position from the Cabinet tomorrow morning. I will be here next week on Wednesday morning to give an answer!

**Mr. Deputy Speaker:** Next Question, Dr. Nuh!

DETAILS OF CLERKS INVOLVED IN VOTER  
REGISTRATION IN BURA

**Dr. Nuh:** Mr. Deputy Speaker, Sir, I beg to ask the Minister for Justice, National Cohesion and Constitutional Affairs the following Question by Private Notice.

(a) Could the Minister provide details of registration clerks who worked for the Interim Independent Electoral Commission (IIEC) during the revision of voters' register exercise before the last Referendum in Bura Constituency, including the names of polling stations?

(b) Could the Minister also indicate how many days each Clerk worked?

(c) Could the Minister confirm that the Clerks have not been paid their dues and, if so, when will they be paid?

**The Assistant Minister for Justice, National Cohesion and Constitutional Affairs** (Mr. Cheptumo): Mr. Deputy Speaker, Sir, I wish to seek the indulgence of the Chair on this matter. I do not have a satisfactory answer to this Question because the Interim Independent Electoral Commission (IIEC) is yet to avail to me the necessary details to be enable me give the answer. I was able to consult them this morning and they assured me that they will avail the information by tomorrow. Because of that, I would like to seek your indulgence to answer this Question next week on Tuesday.

**Dr. Nuh:** Mr. Deputy Speaker, Sir, indeed, the Minister has consulted me. But we are talking about the youth who have not been paid for the last four months after working for the IIEC. How I wish this Question was answered tomorrow and not next week on Tuesday.

**Mr. Deputy Speaker:** The Assistant Minister has said that he does not see the possibility of having the right answer tomorrow but he is confident that he can answer this Question on Tuesday next week.

**Dr. Nuh:** Mr. Deputy Speaker, Sir, this data is clearly available within the headquarters and I do not think there is any reason to defer this Question to Tuesday next week. I think the Assistant Minister can get the records by tomorrow morning and let it available for answer to this House by tomorrow afternoon.

**Mr. Deputy Speaker:** Mr. Assistant Minister, this is a Question by Private Notice.

**The Assistant Minister for Justice, National Cohesion and Constitutional Affairs** (Mr. Cheptumo): Mr. Deputy Speaker, Sir, I had even shared this with my colleague. I would like to really give him a proper answer on Tuesday. It may not be possible to do that tomorrow.

**Mr. Deputy Speaker:** Under the circumstances, the Chair directs that the Question be deferred to Tuesday next week.

*(Question deferred)*

**Mr. Deputy Speaker:** Next Question by Dr. Eseli! Dr. Eseli is out of Nairobi on official engagement. I direct that this Question appears on the Order Paper on Tuesday next week.

#### IDENTITIES OF PERSONS BEHIND OPINION POLLS

**(Dr. Eseli)** to ask the Minister for Information and Communications:-

(a) Could the Minister clarify why polling companies are not revealing the identities of persons who commission the conduct of opinion polls and also state the identity of persons who have commissioned such polls since January, 2010?

(b) Could the Minister make it mandatory for persons who conduct opinion polls to reveal the identity of the clients who have commissioned such polls before results are disseminated?

*(Question deferred)*

#### ORAL ANSWERS TO QUESTIONS

*Question No.356*

#### SECONDARY SCHOOLS IN EMBAKASI ESTABLISHED THROUGH CDF

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

(a) whether he is aware that there are new secondary schools in Embakasi Constituency started through the CDF initiative; and,

(b) how many teachers and support staff have been posted by the Ministry to the new schools.

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

(a) Yes, I am aware that there are eight new CDF secondary schools in Embakasi Constituency.

(b) The Ministry has posted a total of 85 teachers to the new secondary schools. The Ministry does not post support staff to secondary schools.

**Mr. Waititu:** Mr. Deputy Speaker, Sir, I thank the Assistant Minister for sending those teachers. However, from January, we will have 800 Form I students. There are no



teachers for students who will be admitted in January. Could he give us a guarantee that he will give us more teachers to teach the students in January?

**Prof. Olweny:** Mr. Deputy Speaker, Sir, it is my assumption that those schools already have students in Form I. Therefore, we do not need new teachers to teach the students who will be joining Form I. We will give them teachers as per the requirement. However, I think they already have teachers.

**Mr. Waititu:** On a point of order, Mr. Deputy Speaker, Sir. I should have informed the Assistant Minister that the schools have classes of up to Form III. Therefore, the students in Form III will be in Form IV next year. We will have students in Form I without teachers.

**Mr. Deputy Speaker:** What will the current teachers for Form I be doing?

**Mr. Waititu:** Mr. Deputy Speaker, Sir, right now, the schools have classes up to Form III. Next year, we will have students in Form I. Therefore, they will be complete schools running from Form I to Form IV. However, we do not have teachers for students who will be joining in January.

**Mr. Deputy Speaker:** Mr. Waititu, do you have Form I students in 2010?

**Mr. Waititu:** Yes, Mr. Deputy Speaker, Sir. We have students in Form I. But they will be in Form II next year. Next year, we will have new students in Form I. But they will not have teachers.

**Prof. Olweny:** Mr. Speaker, Sir, let me inform the hon. Member that teachers do not specialize in teaching classes. They specialize in subjects that they teach. Therefore, the teachers you see there can teach all the way from Form I up to Form IV. However, since you will have an increased population because of the schools going up to Form IV, we will consider giving you more teachers. You will be having a higher Curriculum Based Establishment (CBE). We will reflect that we need more teachers in some of the schools.

**Mr. Ruteere:** Mr. Deputy Speaker, Sir, the schools that are built using CDF funds have headteachers who are posted by the TSC. However, their deputy heads and other teachers are not posted by the TSC. Could the Assistant Minister consider posting deputy TSC heads to all the CDF schools that are in the country?

**Prof. Olweny:** Mr. Deputy Speaker, Sir, once a school is registered as a public school, it does not belong to the CDF but to the Ministry of Education. However, with regard to what the Member is asking, we do not post teachers as deputy principals. We have teachers who are qualified to deputize the principals in those schools. It is up to the Board of Governors (BOG) to decide on which of the qualified teachers can be made the deputy principals. We then confirm at the Ministry that the teacher is playing that role.

**Mr. Ruteere:** On a point of order, Mr. Deputy Speaker, Sir. Is the Assistant Minister in order to tell this House that it is not the Ministry that posts deputy heads to schools, when they are posted from the PDE's offices and not by the Board of Governors (BOGs)?

**Prof. Olweny:** Mr. Deputy Speaker, Sir, we post teachers. That, I can confirm. I would like to repeat that the TSC teachers that you see are posted by us. They belong to us. Any of them, as long as they are graduates and are in the appropriate Job Group, any of them can be made a deputy. Once we have posted the principal, any other teacher who has the right qualifications can be made a deputy principal. We do not have to post a

teacher straightaway to play the role of a deputy principal. That is what I wanted to tell my colleague.

**Mr. Waititu:** Mr. Deputy Speaker, Sir, I appreciate the promise by the Assistant Minister that he will give us more teachers due to the increased population. However, could he be specific on when we will receive those teachers, considering that the new students will be coming in January?

**Prof. Olweny:** Mr. Deputy Speaker, Sir, we will give them teachers after the next recruitment of teachers. The recruitment will depend on when we will be given money by the Treasury. The recruitment of teachers that we had, we all know, was based on the Economic Stimulus Programme. Before that, we had recruited teachers between March and May. Therefore, we are waiting for the next allocation from the Treasury and we will give you the teachers based on the CBE.

*Question No.390*

OCCUPATION OF CHESINENDE PLOT BY MR. CHEBORGE NG'ENO

**Dr. Laboso** asked the Minister for Lands:-

- (a) under what circumstances Mr. Cheborge A. Ng'eno is occupying Plot No.15 in Chesinende Scheme, while the title holder, Mr. Kibet A. Turgut, is landless; and,
- (b) what the Ministry is doing to ensure that Mr. Turgut regains his property?

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

(a) I am not aware that Mr. Cheborge A. Ng'eno is occupying plot No.15 in Chesinende Scheme while the title holder, Mr. Kibet A. Turgut is landless. According to the information from the Kericho Land Registry, Plot No.15 in Chesinende Scheme is registered in the name of Chepkwony A. Butere. The said parcel measures approximately 10 acres. Registration was done on 10<sup>th</sup> March, 1992 and no transfer has since been done.

(b) The registered land owner, Mr. Chepkwony A. Butere is the same person occupying the land on the ground, unless evidence to the contrary is produced.

**Dr. Laboso:** Mr. Deputy Speaker, Sir, I have evidence here to prove that my Question asked about Plot No.51 and not No.15. Therefore, I do not know what plot the Assistant Minister is talking about. He is answering a Question that I did not ask.

**Mr. Deputy Speaker:** Could you table your evidence?

**Dr. Laboso:** Mr. Deputy Speaker, Sir, I will lay it on the Table.

*(Dr. Laboso laid the document on the Table)*

**The Assistant Minister for Lands** (Mr. Bifwoli): Mr. Deputy Speaker, Sir, if you look at the Order Paper, you will see that she wanted me to answer a Question with regard to Plot No.15 and not 51.

**Mr. Deputy Speaker:** Fair enough! The Chair directs that the right Question be sent to the Ministry and the Question appears on the Order Paper next week on Thursday.

*(Question deferred)*

Next Question by Ms. Karua!

*Question No.421*

APPOINTMENTS TO DIPLOMATIC SERVICE

**Ms. Karua** asked the Minister for Foreign Affairs whether he could provide the details and qualifications of people appointed to the diplomatic service by the Coalition Government since 2008, their respective stations of work and indicate their relationship, if at all, to members of the Executive.

Mr. Deputy Speaker, Sir, I would like to note that the written answer that has been given to me is incomplete. I did not ask for the details and qualifications of ambassadors. I asked about people appointed to the diplomatic service who include ambassadors and other staff. I am aware that the staff level has recently risen from 371 to over 900. This answer is incomplete and, as such, it will not be possible to interrogate him. I seek your direction.

**Mr. Deputy Speaker:** Since the Chair does not have a copy of the written answer, the Chair can only direct the Minister to proceed and answer that Question. If it is inadequate, then the Chair will be in a position to rule on the same.

**The Minister for Foreign Affairs (Mr. Wetangula):** Mr. Deputy Speaker, Sir, I wish to clarify that other than ambassadors and Consular-Generals who are appointed, the rest of the staff are recruited by the Public Service Commission (PSC) or transferred from other Government departments and posted to missions. So they are not technically appointed.

I beg to reply.

(a) Appointments of Kenya's representatives abroad as heads of mission or permanent representatives to international bodies such as the United Nations (UN) are governed by Section 112 of the old Constitution of the Republic of Kenya which rests with the President of the Republic. The new Constitution provides for the same with a rider that such appointments are subject to Parliamentary approval.

The appointed ambassadors, High Commissioners and permanent representatives serve at the pleasure of the President and are his representatives to their countries of accreditation.

Since the formation of the Grand Coalition Government in 2008, the following 37 have been appointed by His Excellency the President:-

	NAME	MISSION	QUALIFICATION
1.	Francis Kibyegon Sigei	Abuja, Nigeria	Masters of Science
2.	Ukur Yatan Kanacho	Vienna, Austria	MA (Admin & Policy)
3.	Julius Lekakanyo ole Sunkuli	Beijing	LLB

**Mr. C. Kilonzo:** On a point of order, Mr. Deputy Speaker, Sir. I thought the Chair has ruled many times that a document of this nature, if too long, be tabled.

**Mr. Deputy Speaker:** Fair enough! Because this is a matter that has a lot of interest and we do not have sufficient copies for every hon. Member to peruse and---

**The Minister for Foreign Affairs (Mr. Wetangula):** They are not many!

**Mr. Deputy Speaker:** Order, Minister! The Chair is giving a communication; you should be seated.

Under the circumstances, the Chair feels it is right for the Minister to proceed and read the names and qualifications. They are only 37.

**The Minister for Foreign Affairs (Mr. Wetangula):** Thank you Mr. Deputy Speaker, Sir.

	NAME	MISSION	QUALIFICATION
4.	John Mutinda Mutiso	Dar-es-Salaam	MBA(Finance)
5.	Elkana Odembo	Washington	Master in Public Health
6.	Kamau Macharia	UNON Nairobi	MA(Education)
7.	Symon Nabukwesi	Ottawa	MA(Education)
8.	Geoffrey Lukale Okanga	Kampala, Uganda	Dip(International Relations)
9.	Wenwa Akinyi Odinga Oranga	Los Angeles	PhD(Chemisty)
10.	Stephen Kipkenyi Tarus	Canbera Australia	BA(Economics)
11.	Ngovi James Gitau	South Korea	MBA(Business)
12.	Josphine Vivian Owuor	Harare	BA and Dip(International Relations)
13.	Mohammed Abdi Gelo	Abu Dhabi, UAE	MA (International Relations), MA (Public Administration)
14.	Antony Andanje	Geneva, Switzerland	BA, Post Graduate Diploma in International Relations.
15.	Josphine Wangare Gaita	Rome, Italy	MA (Political Science)
16.	Antony Mwaniki Muchiri	Tripoli, Libya	BA (Arts), Postgraduate Diploma
17.	Salma Abdilahi Ahmed	Paris	BA, MA (International Studies)
18.	James Kembi-Gitura	Brussels	LLB
19.	Galma Muke Boru	Doha, Qatar	MA (Economics)
20.	Peter Kirimi Kaberia	Brasilia, Brazil	Masters (ICT)
21.	Rose Muchiri Makena	Kigali, Rwanda	LLM
22.	Agustino Stephen Njoroge	Tel Aviv	Retired General, National Defence College, Nairobi
23.	Dave Otieno Arunga	Cairo, Egypt	BA(Political Science)
24.	Josphine Majale Ojiambo	New York, UN	Master in Public Health
25.	Kennedy Nyaunjo Osinde	Berlin, Germany	MBA(Strategic Management)
26.	Paul Kibiwot Kurgat	Moscow, Russia	MA(International Relations)
27.	Samori Ang'awa Okiya	Kuala Lumpur	MSC(Management and Organizational Development)
28.	Dr. Monica Kasina Juma	Addis Ababa	PhD (Political Science)
29.	Dr. Rashid Ali	Tehran, Iran	PhD(Public Administration)

30.	Peter Mburu Gitau	Windhoek, Namibia	MA(International and Inter-cultural Management)
31.	James Benson Ochami	Kinshasha, DRC	MBA(Strategic Management)
32.	Bramuel Waliakhula	Madrid, Spain	MA(Rural Economics)
33.	Kleland Lesagendo Leshore	Juba, Southern Sudan	MA(International Relations)

The group of career ambassadors below were appointed by the President and serve at the Ministry of Foreign Affairs headquarters in different capacities:-

	NAME	POSITION	QUALIFICATION
34.	Patrick S. Wamoto	Political Diplomatic Secretary	BA (Arts) and Post-graduate Diploma.
35.	Jane Wambui Kimani	National Coordinator of the Great Lakes Office	Bachelor of Arts and Post-graduate Diploma.
36.	Solomon Maina Karanja	Director International Organizations and Conferences	MA(International Relations)
37.	Michael Adipo Oyugi	Director of Africa and AU Directorate	BA and Post-graduate Diploma.

(b) The relationship if at all, to Members of the Executive, the Ministry does not keep a record, neither does it concern itself with relationships if any, between the appointed ambassadors and Members of the Executive or indeed, any other Kenyan. We only look at their competence.

**Ms. Karua:** Mr. Deputy Speaker, Sir, if indeed it is true, and I doubt that the Government does not look at the relationship to Members of the Executive, how then would the Government fight nepotism which when practiced is against our Public Officer Ethics Act and the stated policy?

Could the Minister also tell us what an MSc or a PhD in Chemistry or a Masters in ICT or background in military have to do with diplomatic service? It appears there is mismatch of talent here.

**Mr. Wetangula:** Mr. Deputy Speaker, Sir, before appointment, there is a vetting that is done through the National Security and Intelligence Service (NSIS) and if there are any issues that make anybody unqualified for appointment, it is so done. There are cases where such vetting has disqualified nominees.

Mr. Deputy Speaker, Sir, on the issue of qualifications, my learned senior knows that people who have attained sound education or sound public service and experience are capable of representing the country in any capacity anywhere. Indeed, there are certain stations where you need some background in military career. There are certain stations where you need some sound background in public life. There are other stations you need sound background in law and so on and so forth. For example, if you post somebody in a station where you need a lot of multi-lateral engagement like Addis Ababa, that is the reason we have Dr. Kathini Juma who is one of the most qualified

women in this country. She is the former Executive Director of the Institute of Public Policy and Studies (IPPS) in South Africa, manning the station in Addis Ababa.

From what I have read, I do not see anybody unqualified or unsuitable to hold office in the Republic of Kenya.

**Mr. C. Kilonzo:** Mr. Deputy Speaker, Sir, I am a little bit concerned that the Minister has said that the Ministry does not concern itself with issues of relationships. Nobody is saying those who are serving are not qualified. However, this House needs to know that nepotism is not, in any way, being encouraged within the Government system, whether in the diplomatic service or other quarters. So, when he says that he does not concern himself with relationships, is this a way of trying to cover up something? He would have comfortably said these officers are related to so and so. If they are qualified, nobody would have had issues with them. In any case, it is the prerogative of another authority. But for him to say relationships do not concern him, truly, it means that nepotism will creep in on that basis.

**Mr. Wetangula:** Mr. Deputy Speaker, Sir, there are many ways of concern. First, I am not the appointing authority. It is the President in consultation with the Prime Minister. Secondly, as a Minister, if I have any name to propose or a name is proposed, it will actually be inordinate and improper for me to ask: Whose wife, sister or relative are you? We are looking at the qualifications of Kenyans. Certainly, everybody is related to somebody. Where there are relations, we should underpin, underline and emphasis the issue of competence. Are they able to discharge the responsibility bestowed upon them by the Republic of Kenya or not? If they are, that is the benchmark.

Indeed, if I may refer you to an American case, when John Kennedy appointed his brother as the Attorney-General and an issue was raised, he said:- "Ask whether Bob is qualified to be an Attorney-General or not. If that is answered, then we can deal with the issue of his relationship with me later". Bob served him as an Attorney-General and a brother until he was assassinated.

**Mr. Kiptanui:** Mr. Deputy Speaker, Sir, is the Minister satisfied that the list that he has just read represents the face of this country? From my analysis, out of the 37 names, 12 are from the same region and another 10 from another region. This does not represent the face of this country. Is he satisfied?

**Mr. Wetangula:** Mr. Deputy Speaker, Sir, it is not a question of satisfaction and I was very careful in my answer. These appointments were done under the old Constitution. The new Constitution will make it very difficult to have an overall of appointments from one region against other regions. In any event, this House will approve every appointment. We can look at the ethnic, regional and other factors to balance the appointments and advise the Executive accordingly.

**Mr. Affey:** Mr. Deputy Speaker, Sir, I want to thank the Minister for the answer he has given. However, I would like to raise a concern with him in terms of the time it takes before an ambassador to report to a station. In many stations, it has taken over two years before the Ministry has sent ambassadors after it recalled the previous ones. In the process, the Government continues to incur a lot of expenses. What arrangement is he putting in place, so that the moment an ambassador is recalled, fairly soon, another one replaces him?

**Mr. Wetangula:** Mr. Deputy Speaker, Sir, indeed, we have had some lapses, not because the Ministry is not doing its work, but sometimes you recall an ambassador and

all of a sudden, they start giving excuses like the children are in school and they must finish the year and so on. Sometimes, we give them that allowance but we are trying to make sure that it is properly institutionalized for the transitional period to be as brief as it is practically possible, so that we do not have any gaps. But we must be comforted with the fact that these missions also have very competent deputies to ambassadors that continue with the work whether there is the plenipotentiary or not.

**Ms. Karua:** Mr. Deputy Speaker, Sir, I do not know whether you are quite satisfied that the answer to part “b” about relationships to members of the Executive is fully answered when the Public Officer Ethics Act clearly provides that a public officer will not exercise favouritism or nepotism. Last year, during the Public Service Week, the Prime Minister was recorded telling this House that they will fight nepotism in the Government. I happen to know from this list that, at least, there are two relatives to the Prime Minister. They may not be the only relatives and that is why I wanted the answer to come from the Government. These are in Los Angeles and Washington DC. I want to state that those are not the only relatives. I am seeking your direction, so that we are fair to these officers and the truth is out to the public.

Even though it is not wrong to appoint a qualified relative, if there is a pattern of appointing cronies of members in the Executive, it would be contrary to public policy. I am, therefore, seeking that the part which the Minister has refused to answer be referred to the Committee on Defence and Foreign Relations, which will answer comprehensively, so that we can know how many others are related to members of the Executive and then this House will be in a position to influence policy moving forward.

**Mr. Wetangula:** Mr. Deputy Speaker, Sir, I have no doubt that the Question as framed by my learned senior has been adequately answered. She wanted to know the details of qualifications and relations, if any. I have given an adequate answer. That notwithstanding, if the Committees wants to look at this issue, it does not even need prompting from this Floor. It can do so. But to defend the person of the Prime Minister, if you look at the representative of this country in Los Angeles, Wenwa Akinyi Odinga Oranga, you will find that she is an immensely qualified woman. I cited the case of America and I can cite another case. Last year, in Poland, the President and the Prime Minister were identical twins. They served their country very efficiently and nobody raised an issue. The man in Washington DC, I am not even sure that he is related to the Prime Minister because I know Mr. Odembo very well. He does not carry the name Odinga or Oginga.

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

**Mr. Deputy Speaker:** Order! Hon. Members, if a Committee does wish to look into anything, it does not need any prompting from the Chair. This is the Prime Minister’s Time which was supposed to have started as early as 3.00 p.m. We are already starting about half an hour late.

*Question No.432*

FAILURE BY TARDA TO TAP RIVER ATHI

**Mr. Deputy Speaker:** We will defer this Question to Wednesday, next week because Mr. Nyamai is out of the country.

*(Question deferred)*

*Question No.455*

MANDATE OF PERMANENT PRESIDENTIAL MUSIC COMMISSION

We will defer this Question to tomorrow afternoon.

*(Question deferred)*

*Question No.457*

STATUS OF MOMBASA WATER AND SEWERAGE COMPANY BOARD

We will also defer this Question to Wednesday, next week in the afternoon.

*(Question deferred)*

**Ms. Karua:** On a point of order, Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** I have already given my direction on this!

**Ms. Karua:** Not on that particular issue, Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** What is the issue?

**Ms. Karua:** Mr. Deputy Speaker, Sir, if the Minister is unable to answer the question as to who is related to who, I am seeking that it be referred to the relevant Committee, so that this House is able to know that the laws are being obeyed.

**Mr. Deputy Speaker:** Order! Order! Hon. Martha Karua, if you had listened very well, the Chair did give direction on that one. If you wish, you may go ahead and look at the HANSARD to confirm what the Chair is saying.

I have now called the next Order.

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

**Mr. Deputy Speaker:** Next Order!

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

**Mr. Deputy Speaker:** Is it on the same issue, hon. Isaac Ruto?

**Mr. Ruto:** Yes, Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** You are out of order! I have called the next Order.

**PRIME MINISTER'S TIME**

**Mr. Deputy Speaker:** Order! Order! Hon. Members, the Chair does know that, because of the limitation of time, the Rt. Hon. Prime Minister will deal only with the Statement. Question QPM006 is deferred to Wednesday, next week.

*Question No. QPM/006*

RESTORATION OF MAU FOREST COMPLEX



*(Question deferred)*

Proceed, Rt. Hon. Prime Minister and deal with the Statement.

## **PRIME MINISTERIAL STATEMENTS**

### **MODERNIZATION OF NAIROBI ROAD NETWORK**

**The Prime Minister** (Mr. Raila): Mr. Deputy Speaker, Sir, I rise today to make a Statement on the Government's efforts to modernize roads and general urban transportation network in the City of Nairobi and its immediate peripheries.

It has become increasingly very difficult to move within the City of Nairobi. In this regard, transportation is now reaching a crisis level. Traffic jams have become permanent features while deaths caused by reckless drivers, pedestrians and the poor state of the roads are on the increase. An increase in the number of motor cyclists and bicycle riders on our roads has also lead to increase in accidents.

Mr. Deputy Speaker, Sir, the reason as to why we are having this problem is because of poor planning. We have not been able to respond to the increasing population within our city of pedestrians, motorists and motor cyclists. On highways in Kenya, fast-moving vehicles are increasingly unable to find opportunities to overtake, and must travel at the speed of the slowest vehicles.

In addition, urban areas' stop-go traffic and severe delays are notable even during off-peak periods. Minor traffic incidents escalate into full-scale traffic jams.

Mr. Deputy Speaker, Sir, currently, Nairobi City is linked externally through the Nairobi-Thika-Nyeri Highway, and the Northern Corridor, which runs from the Port of Mombasa, through the City of Nairobi, all the way towards Uganda, via Malaba and Busia, respectively. These routes carry about 20 per cent of trucks, which currently traverse the Nairobi Central District Business Area (CBDA). This has combined with other factors to cause severe traffic congestions within our city.

To address this problem, the Government is carrying out selective upgrading of heavily trafficked trunk and primary roads. We are also constructing important bypasses and missing link roads around the CBDA. Additionally, the Government is steadily passing plans for the implementation of the bus and rapid transit traffic transportation system, including a light rail system within the city.

The upgrading of the Nairobi-Thika Road, which carries the North-South bound traffic is on. Upgrading of the 53 kilometre road will allow 80 to 100 kilometre per hour design speeds. It is proceeding in three contracts as follows. There is the 12.4-kilometre stretch, which starts from Museum Hill Roundabout and part of Landhies Road and Pangani Road. The second one is the 14.1-kilometre stretch, from Muthaiga Roundabout to Kenyatta University-Ruiru stretch. Lastly is the 23-kilometre, Ruiru-Thika stretch. Grade separated junctions, overpasses and inter-changes will be provided at various locations, where the road crosses busy streets in order to enhance traffic capacity. Several underpasses as well as approximately 75 kilometres of slip roads and service roads will also be constructed to enhance capacity.

The total cost estimate for the three lots co-financed through support of the African Development Bank (ADB) amounts to Kshs26.2 billion.

Mr. Deputy Speaker, Sir, the work progress on this road is satisfactory. When completed in 2012, the highway will comprise between four and eight lanes, with frontage roads and access control, which will minimise conflicts and enhance road safety.

Airport North Road and Outering Road have been designed for upgrading to a four lane free-flow dual carriage way all the way up to Thika Road.

Mr. Deputy Speaker, Sir, the overall investment required to rehabilitate and maintain roads to required standards is enormous. That is why we decided that public funding alone was completely inadequate in order to be able to respond to the infrastructure needs of the country.

Sometimes back, the Government requested the World Bank to fund a study on concession in our country. That study established that concessioning is actually viable in Kenya. However, convention tolling is only viable on the Northern Corridor – that is the road which runs from the Port of Mombasa, through Nairobi, to our border with Uganda.

Mr. Deputy Speaker, Sir, the Government, therefore, embarked on the process of creating a fast-toll road in our country's history. This is best run from Rironi, in Kikuyu, through Dagoreti and Karen, joining Mombasa Road in order to divert the traffic coming from Mombasa through what we call the "Southern Bypass". There is also the Eastern Bypass and the Northern Bypass.

The Northern Corridor should be improved in three phases as follows:-

- (i) from Mombasa to Machakos Turn-off, covering 466 kilometres;
- (ii) the 106-kilometre road, which I have already mentioned, running from Machakos Turn-off to Rironi, and Nairobi Southern Bypass; and,
- (iii) the 693-kilometre road stretching from Rironi to Mau Summit, Mau Summit to Malaba, and Mau Summit, through Kisumu, to Busia.

Mr. Deputy Speaker, Sir, the first stage in the improvement of the Northern Corridor should be number two, which is the most viable and will involve the construction of a five-kilometre six-lane elevated road above Uhuru Highway, with under-changes and overpasses at Lusaka Road, Bunyala Road, Haile Selassie Avenue, Kenyatta Avenue and Ring Road, Westlands.

This means that when you are coming from Jomo Kenyatta International Airport (JKIA) into the city – the road is going to be widened to four lanes on both sides; when you reach Nyayo Stadium, you will have a flyover which will run all the way through Uhuru Highway to Westlands Roundabout. This means traffic coming from Westlands towards JKIA will not have to be part of the traffic congestion in the city.

The Nairobi Southern Bypass was designed in the early 1990s, through technical co-operation with the Japanese International Co-operation Agency (JICA).

Mr. Deputy Speaker, Sir, the Nairobi Southern by-pass was designed in the early 1990s but the project was, however, not implemented then due to budgetary shortfalls and challenges related to site and acquisition. The Eastern by-pass which starts at City Cabanas through the Airport North Road, goes through Embakasi, Njiru up to Ruiru and joins Thika Road around Ruiru. The Northern by-pass starts from Ruiru, through Kamiti, Runda all the way to join Limuru Road at Ruaka. Then there is a link road which comes from Runda passing through Roslyn Estate, Spring Valley, Kitisuru, Waiyaki Way, James Gichuru Road into Othaya Road through Ngong Road across Kibera to join the

Southern by-pass around Ngei Estate. All these are meant to ease traffic within Nairobi Area. Once these by-passes are complete, it will be much easier to move within the City of Nairobi and also within our country.

I would like to conclude by saying that the Government is committed to investing heavily in infrastructural improvement throughout our country. As the Northern by-pass is constructed, around Nakuru Town there is also Nakuru by-pass which runs from Lanet near Lake Nakuru all the way past the Rift Valley Institute of Technology to join the western bound road about 20 kilometres from Nakuru Town. There are also Kisumu and Eldoret by-passes. With these developments, we are confident that the traffic flow within our towns and cities will be substantially improved. As we do that, there is also a move to create the pedestrian way along the roads within the city so that they are able to move more comfortably. There will also be cyclist ways so that those who are cycling are not interfered with by the motorists. We have lost very many lives as a result of collision between cyclists and motorists on our roads. We hope that this will reduce the number of traffic accidents on our highways.

Mr. Deputy Speaker, Sir, the improvement of roads around the city has contributed greatly to the renewal of the built up environmental space through relocation of businesses and residential development. I am confident that in the next two years, our City of Nairobi will be more friendly, accessible and competitive.

Thank you.

**Mr. Kombo:** Mr. Deputy Speaker, Sir, I do appreciate the Prime Minister's Statement that the Government is indeed getting concerned with the traffic jams in the city that really cost a lot of money. There are two reasons for jams. One is the *matatu* mania in the city which is bad manners by the *matatu* drivers. The second one is the movement of the Head of State. Roads are closed 45 minutes before he leaves State House and that can cause tremendous jams. Is it not possible in these two cases, for the police to manage their affairs properly? For example, when the Head of State moves, only one lane should be opened while the rest of the traffic is left to flow to ensure that there are no traffic jams. They should also deal with the bad manners of the *matatu* drivers.

**Mr. Konchella:** Mr. Deputy Speaker, Sir, while I also thank the Prime Minister for the answer and the good plan that the Government has for the traffic flow in the country--- One wonders what the Government thinks about, particularly in cases where a lot of fuel is consumed by stationary vehicles because of traffic jams. The Prime Minister is someone who is well-travelled and, therefore, he can see the best practices all over the world. In most cities, buses do not interfere with the traffic flow of normal road users. The problem of Nairobi is not of traffic jam but sheer mismanagement. That mismanagement has occurred because the responsible departments of the Government do not do their job. If you use Uhuru Highway, you will find trailers which occupy space for four or five vehicles. Why can the Prime Minister not issue a directive that lorries will cross the City of Nairobi between 9.00 p.m. and 5.00 a.m.? So, if any businessman wants to take his lorry out of the city, he can only do it between 9.00 p.m. and 5.00 a.m. and the rest of the day should be left for traffic to flow. This is because we are wasting a lot of money. If you try to go the Airport--- I was going to Korea the other day but I missed my flight because I was on the road for three hours. There were also many other people who missed flights because of the traffic jams. So, can we ask the Prime Minister as a matter

of urgency to stop every lorry using Uhuru Highway during the day and only use it at night from 9.00 p.m. to 5.00 a.m.?

**Mr. Lessonet:** Mr. Deputy Speaker, Sir, I would like the Prime Minister to tell us something about concessioning. We are aware that part of Uhuru Highway from Machakos to Westlands will be under concession. I remember that we passed a document in this House allowing that concessioning. I am wondering why the construction has not started up to today. There is no update about the concessioning, as to how far it has gone. Have they already agreed with all the players in Kenya in terms of that concessioning?

The second issue is that if you look at Thika Road at the moment, the Kshs26 billion road that is being done, you will find that the Chinese are laughing all the way to the bank. I wonder this time round who will be laughing all the way to the bank. Will it be the Chinese, Indian or a Kenyan contractor who will be awarded the other part of the road so that he or she can laugh all the way to the bank?

**Mr. Okemo:** Mr. Deputy Speaker, Sir, I would also like to request the Right Hon. Prime Minister to also consider, in the traffic arrangement, the two exit points, that is Busia and Malaba in terms of trying to decongest traffic. Today, you will find about 20 to 30 stationary petrol tankers at Busia. You can imagine and God forbid, if there was a fire, I think it would not only be a traffic problem but also a problem of loss of life. Therefore, I request that in this arrangement, a provision should be made to decongest traffic in the two exit points, that is, Malaba and Busia.

**Mr. Kabogo:** Thank you, Mr. Deputy Speaker, Sir. You have heard the sentiments from the Prime Minister and I am sure the Prime Minister is very well travelled. I think Kenya is where countries like Dubai were in 1995/1996, where, to travel from one end of Dubai to the other was almost impossible. That is where we find ourselves today. Why can the Government not consider, just like Dubai did, to have modern train tubes alongside vehicular traffic in Nairobi? You will also see in places like the USA that there are lanes for high occupancy vehicles. You will find that in this country, there are vehicles with only one occupant in all the four lanes that are coming into Nairobi. So, if we have an arrangement like they have in the USA, Germany or even in Dubai, we will be able to ease congestion in the city.

Most of all, you will find that the congestion in Nairobi is by the 14-seater *matatus*. We had occasion to propose double decker buses only to ply in the streets of Nairobi. If these things are put into place--- It does not cost a lot of money; it will take just half the worth of Anglo Leasing or Goldenberg to be able to do these things in the streets of Nairobi.

**Mr. Deputy Speaker:** That is fair enough! Let the Rt. Hon. Prime Minister respond to those points of clarification and then we can take another five.

**The Prime Minister** (Mr. Raila): Thank you, Mr. Deputy Speaker, Sir. Hon. Musikari Kombo talked of the causes of the jams, which others have also talked about. One is the *matatus* which I agree. I think this is going to be dealt with when we deal with a much more efficient public service transport system which is now under consideration jointly by the Ministry of Transport and the Ministry of Roads.

Mr. Deputy Speaker, Sir, he talked about the closing of roads when his Excellency the President is travelling. I think this happens more when we have several heads of states in our city; that is when this problem becomes acute. But, yes, I think that the traffic officers can take note of the proposal by hon. Musikari Kombo as to which

lanes to close when some dignitaries have to move fast in order to be able to respond to the call of duty. So, that is one of the proposals that will be taken on board particularly when the Ministry is dealing with the redesign of the traffic flow within the city.

Mr. Deputy Speaker, Sir, hon. Konchellah, of course, again shares the same frustrations which most people do share; the difficulty of reaching destinations. I do agree that a lot of valuable man hours are wasted on the roads because of traffic jams. I mentioned that one of the reasons for this is that most of the heavy transit traffic coming from Mombasa to the west and vice versa all comes through the Uhuru Highway. That is the cause of this congestion. I understand the concern of the Member and his suggestion that we must come out with a timetable for the heavy traffic, particularly the trucks.

We also need to understand that these trucks are travelling very long distances from Mombasa all the way to Kigali and to Bujumbura in Burundi. If you were to put a timetable for them to transit the small section within the city of Nairobi at specific times, it will cause very heavy inconvenience. I want to assure the hon. Members that the southern bypass construction is shortly going to be awarded and it is going to take just a few months for that bit to be completed – that is the bit from Mombasa Highway to Dagoreti . That is going to be a long term solution to this problem.

Mr. Deputy Speaker, Sir, the hon. Member for Eldama Ravine is talking about the concession of the road; when the actual construction is going to start. I have already said that it is going to start very shortly. But what we are doing is that we have now subdivided the concession because of some challenges that the project has encountered with the World Bank (WB). The WB has had some problems with the main concessionaire and they have insisted on doing due diligence on the procurement procedures of the main concessionaire. This matter has not been concluded. As I am talking, the Minister for Roads has just returned from Washington, during which time he held very extensive discussions with WB officials on how to find ways and means of fast tracking this process. In the meantime, we have decided to award the southern bypass alone, to a Chinese contractor company, which is now tooling up to start construction.

Mr. Deputy Speaker, Sir, the hon. Member also talked about the Thika Highway and that the Chinese are laughing all the way to the bank. Yes, that is the unfortunate situation in the construction industry in our country. This contract was awarded competitively; there is competitive bidding and there is also the issue of capacity of the company to be able to carry out some of those contracts. In my earlier incarnation, I was Minister for Roads and Public Works. I am, therefore, very conversant with the problems in that sector. I tried, during my time there, to assist the African contractors to come up. That is the indigenous Kenyan contractors, but they faced several challenges; manpower and financial capacity to be able to compete in some of these very major constructions. However, there are plans to build the capacity of indigenous Kenyan construction companies to be able to be more competitive in the future.

Mr. Deputy Speaker, Sir, hon. Okemo talked about the congestion at Busia and Malaba. I am aware of this issue and I have gone to the extent of trying to find out why this congestion is there. I did visit both Busia and Malaba border posts and established that one of the reasons is because the Ugandans were closing their side at 6 p.m. and they do not work until the following day at 6 p.m. so that the trucks that come from the Kenyan side, when they reach the border at around closing time, they cannot proceed until the following day. Thus, the pile up! We have taken this matter up with the Ugandan

authorities because last year, Kenya restarted a 24-hour economy and the Port of Mombasa is now operating on a 24-hour basis. That advantage is then wasted at the exit port when these trucks have to now stay at the border for over 12 hours before they can be able to proceed. But we know that under the new arrangements of the Common Market that will be coming into force from 1<sup>st</sup> of July, we are now moving towards getting a one point border post so that we are not going to have this dual checking where the traffic is checked first on the Kenyan side and then on the Ugandan side. There will be one point so that we can have a seamless process and that will make it much easier. Our officials are in the process of establishing that.

Mr. Deputy Speaker, Sir, Mr. William Kabogo Gitau talked about “one man vehicle lane”. That operates in many cities as it encourages people to carry more passengers. So, you find that those motorists who are alone are in one lane and there, they will be experiencing the inconvenience of having to wait a longer time on that queue whereas vehicles that are carrying three or four passengers move on another lane. That, again, is something that can be tried because I have said there is a comprehensive review of traffic laws within the City to take advantage of methods which have worked in other countries. I am sure the Ministry of Transport will take advantage of that suggestion.

**Mr. Deputy Speaker:** Under normal circumstances, we should have been through with the Prime Minister’s Time. But I will allow three more clarifications.

**Mr. Murgor:** Mr. Deputy Speaker, Sir, thank you for giving me this opportunity. I will give a few similar comments about the congestion in Nairobi and other towns. Why is it that lorries occupy lanes meant for faster cars even though they know they are slower than all the other vehicles? Should there not be a regulation requiring them to keep on one side of the lane so that the fast vehicles can use the other lane? The other problem is about overtaking. Drivers overtake from any direction, some even to the far left. Should there not be a policy that drivers should only overtake on the right hand side of the other vehicles? It should be known that whoever is driving fast should keep at the far right lane and, as soon as he passes the slower car, he or she should move to the left to keep away from the fast lane. Some people miss their flights because of slow vehicles moving on the fast lane.

The same thing applies to ambulances that try to save lives. They also experience congestion because there are no regulations that guide motorists. The ambulances face difficult situations and almost cause accidents trying to pass and rush to hospitals. In a place like Eldoret, for example, the police have converted one lane into a weighbridge. They use that lane to weigh overloaded trucks thus causing a serious traffic jam. They should do that away from the road. They can look for a space, cement and level and weight the vehicles there. They have caused a problem in Eldoret!

**Mr. Chanzu:** Mr. Deputy Speaker, Sir, yesterday, we had a heated debate here regarding road carnage and the Minister for Transport conceded that there is a problem between his Ministry and the Office of the President with regard to enforcement. I hope that the Prime Minister will take it up from there. The Minister said that when it comes to enforcement, they have a problem because the matter lies with the police. I want to follow up on what my colleagues have raised about the congestion on our roads. If you come from the side of Karen using Lang’ata Road, you will be stuck in a big traffic jam only to come to some point near Lang’ata Barracks to find there is an accident. Maybe, a matatu has hit another vehicle, thus causing a big traffic jam. I have noticed the problem

near the road going to Kenyatta Hospital from Lang'ata Road. They tried to install some traffic lights and there was some movement. But when the police came, there was no movement. Since the police came there, there has been a lot of congestion. I think there is a law that I would like the Prime Minister to look into with regard to the performance of the police when they are controlling the traffic. He needs to carry out a study to find out the performance between the traffic lights in some places and the police. That is because, sometimes, they cause a lot traffic jam and accidents.

**Mr. James Maina Kamau:** Mr. Deputy Speaker, Sir, thank you for giving me this chance. I would like to appreciate what the Prime Minister is telling us this afternoon. But, at the same time, I would like to say that we know the Government is up to a lot of good by constructing modern roads for Kenyans. I do not know whether any Government official has managed to travel along Thika Road to see what the people with businesses on that road are going through. In fact, the business people along that road are counting losses by the day because of dust. There are so many accidents on that road, especially at night. I believe there are rules that contractors are given by the Government when they win the contracts. There are rules about diversions. When you drive along that road during the day, say between 7.00 a.m. and about 2.00 p.m. you will find a diversion. By the time you go back in the afternoon, you will find the same diversion is not on the spot where you left it. It is on a completely different position. Then, there are those boulders they are putting on the road. So, when you travel on that road, you will find that there are so many accidents at night and people have lost their lives. I think that is something that the Government can look into.

The Chinese are laughing all the way to their bank. It is not fair to Kenyans. They could be laughing all the way to their banks but they are not giving us what we require. What I would like the Government to do is to make sure that the markings are visible. We know that there are markings that are internationally recognized. That is what they should follow all the time.

**Mr. Kathuri:** Mr. Deputy Speaker, Sir, I would like the Prime Minister to clarify two issues. There was the issue of instant fines which would have gone a long way in reducing the number of court cases. That is because one of the reasons why the public service vehicles--- This time it is not the matatu drivers. I would like to state clearly that it is not only the matatu drivers who are careless on our roads. All commercial vehicles are competing with time! One of the reasons why they always get away with it is because the process is too involving and they end up getting a loophole somewhere. There was the issue of instant fines which was being introduced in this House through the Ministry of Finance. It is still pending! When is the Prime Minister intending to push it so that it can be implemented? That way, it will address some of these issues urgently?

Secondly, we have seen in other countries the involvement of stakeholders like NACA. You will find that police officers operate parallel to stakeholders so that they can reduce corruption. This is one of the ways in which we can create efficiency. Does the Prime Minister have such an idea in mind? We can involve stakeholders; they can participate in the policing of our roads.

**Mr. Shakeel:** Mr. Deputy Speaker, Sir, I want to thank the Prime Minister for an excellent Statement on modernization of urban roads. I was wondering whether the Prime Minister, or his team, has looked at the issue of the Mono Rail from, perhaps, the airport all the way up to Westlands or further. It will be a faster system and more effective, and

will serve wananchi better. Many wananchi do not have vehicles and they use public transport. A Mono Rail would probably be a very good solution.

Secondly, I would like to urge the Prime Minister to kindly see what he can do about the GK vehicles that have been breaking all the traffic rules with impunity, especially where there are traffic jams. The majority of vehicles which break the rules are GK vehicles. Is there a way in which the Prime Minister can insist that all GK vehicles are identified using the name of the Ministry or the organization which they represent, so that wananchi can actually report particular vehicles that break traffic rules? Secondly, could the Prime Minister kindly inform the police not to give them any leeway?

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

**Mr. Deputy Speaker:** On what?

**Mr. Waititu:** Considering that this Statement was specifically on Nairobi, is it in order for the Prime Minister to complete the Statement without any hon. Member representing constituencies in Nairobi speaking?

**Mr. Deputy Speaker:** Order. You are out of order, Mr. Waititu. Check the Standing Orders and acquaint yourself with parliamentary procedures before you raise such issues. For your information, the Right hon. Prime Minister is from Nairobi, and he is the one who is issuing the Statement. Could you hold your horses?

Proceed, Right Hon. Prime Minister.

**The Prime Minister** (Mr. Raila): Mr. Deputy Speaker, Sir, a number of the clarifications that have been sought are really related. If for example, you look at the concerns of hon. Murgor that lorries should be kept on one side, or that overtaking should not be done on the right side of the road; that ambulances cause accidents on the roads; that the police put weigh bridges on one side and, therefore, cause accidents; all those have to do with traffic regulations which are available but are not being enforced. There is nothing more that needs to be done, other than ensuring that the police do enforce the traffic regulations which exist already.

Mr. Chanzu raised the issue which was discussed here yesterday, that is the co-ordination between the Office of the President and the Ministry of Transport. I give an undertaking that we will ensure that those two Ministries do work in tandem.

Mr. Maina Kamau wanted to know about Thika Road; the construction work is causing dust which makes the residents of the area suffer. He was also concerned about diversions which are causing accidents, and said that sometimes there are no clear markings. I agree with the hon. Member that the contractor is under an obligation while creating a diversion to do it in accordance with the provisions of the Traffic Act. Secondly, there should be clear markings for motorists so that they can see it at a reasonable distance and know that there is a diversion in front in order to avoid an unnecessary accident.

However, I do not know if there is anything that can be done about dust. There are certain risks that must be borne by the population when you are carrying out a construction of this magnitude. It is not possible, for example, to tiptoe with a Jumbo jet. You cannot bring the Jumbo jet from the air and land it without making noise. Likewise, we cannot carry out road construction without some dust being emitted. There is nothing that the contractor can do. Therefore, I am afraid that I cannot save businessmen using Thika Highway from dust.



Mr. Deputy Speaker, Sir, Mr. Kathuri talked of the issue of PSV vehicles. PSV vehicles are normally in a rush because they compete. The problem that he is talking about is just lack of enforcement of regulations. On the issue of instant ticketing, I know that this matter is now being considered, and that very shortly we will have traffic officers armed with tickets that they will be able to issue to offending motorists on the spot.

Regarding Mr. Shakeel's question, I talked about rapid transit train which is already now under consideration. In fact, the Kenya Railways Corporation is working on this, and within the next few months we will have the first Mono Rail Train in our city.

Mr. Deputy Speaker, Sir, the hon. Member further suggested that the GK vehicles are reckless, and that they should bear the names of the Ministries. The fact that they are GK vehicles is sufficient identification. Whether or not you write the name of the driver on top of the vehicles, in my view, does not really help. People know that this driver is driving a Government vehicle. Whether the vehicle belongs to the Ministry of Agriculture, the Ministry of Roads or the Ministry of Foreign Affairs, it does not make a difference.

**Mr. Deputy Speaker:** The Right Hon. Prime Minister, you have another Statement. Could you please proceed and deliver it?

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

**Mr. Deputy Speaker:** Are you on a point of order? We will go for the Statement by the Right Hon. Prime Minister; I am afraid that all other Statements will be deferred, because we have to go to the substantive business of the sitting.

TABLING OF REPORT ON FORENSIC INVESTIGATION/  
IMPLEMENTATION OF SUBSIDIZED MAIZE SCHEME BY NCPB

**The Prime Minister** (Mr. Raila): Mr. Deputy Speaker, Sir, the hon. Member for Gichugu did request last week that a copy of the report by PriceWaterHouseCoopers on the forensic investigation and the implementation of the subsidized maize scheme by the National Cereals and Produce Board be tabled in the House. She further sought to know what the Government was doing to ensure that the culprits identified in the report are punished.

Mr. Deputy Speaker, Sir, PriceWaterHouseCoopers had recommended in their report that further investigations be conducted by the Kenya Anti-Corruption Commission and the CID on the matter. The Kenya Anti Corruption Commission (KACC) working together with the CID and the Inspectorate of the State Corporations conducted such further investigation. The KACC issued its report on the investigations via Kenya Gazette No.69 of July 16<sup>th</sup>, 2010.

Mr. Deputy Speaker, Sir, I now table the report by the PricewaterHouseCoppers and the KACC report as published in the Kenya Gazette No.69 of July 16<sup>th</sup>, 2010.

*(Mr. Raila laid documents on the Table)*

Mr. Deputy Speaker, Sir, those are the reports. The KACC did not recommend any prosecution in the matter. It recommended that administrative action be taken against the three Strategic Grain Reserve Trust Fund Trustees, the Managing Director of the National Cereals and Produce Board (NCPB), the General Manager, Sales and Operations of the NCPB and the Sales and Marketing Manager of the NCPB. All other officers were cleared of the allegation.

The Government has taken various administrative actions on this matter. One of the Strategic Grain Reserve Trustees was transferred. The others were severely reprimanded. An officer in the NCPB has since retired. That is a Mr. Robert Langat, the General Manager, Sales. A Mr. James Boit, who was the Sales and Marketing Manager was redeployed.

Mr. Deputy Speaker, Sir, the Government directed the NCPB to establish a system of warehouse receipting as a precursor to commodity exchange which will create more efficiency and transparency in the manner in which grains are managed by the Board. The Government has further directed the NCPB to develop and implement a plan to upgrade and modernize its facilities and record keeping system.

Mr. Deputy Speaker, Sir, on 24<sup>th</sup> September, this year, the Government authorised the NCPB to purchase maize worth Kshs500 million for the SGR at a cost of Kshs1,500 per 90 kilogramme bag.

Thank you.

**Mr. Wamalwa:** Mr. Deputy Speaker, Sir, last week, the Prime Minister indicated that there would be consultations on the issue of the price increment from Kshs1,500. Now that he is here and he said that, indeed, this is a matter they had already given directions on, would he be kind enough to inform the House that these prices would be reviewed from Kshs1,500 to Kshs2,300?

**The Prime Minister** (Mr. Raila): Mr. Deputy Speaker, Sir, the Minister for Agriculture is going to issue a comprehensive statement on Thursday, next week.

**Mr. Deputy Speaker:** Next order!

## **BILL**

### *Second Reading*

#### THE COMMISSION FOR IMPLEMENTATION OF CONSTITUTION BILL

**The Minister for Justice, National Cohesion and Constitutional Affairs** (Mr. M. Kilonzo): Mr. Deputy Speaker, Sir, I beg to move that The Commission for Implementation of the Constitution Bill (Bill No.15) be now read a Second Time.

Mr. Deputy Speaker, Sir, allow me at the very outset to congratulate this House and your office for the historic moment that you are presiding over this afternoon. It will be recalled that in the course of this year, the Interim Independent Electoral Commission (IIEC) in a period of only 45 days managed to register 12.6 million voters in this country. Following that successful exercise, on 4<sup>th</sup> August this year, 72 per cent of those people who registered to vote actually turned out to vote in a historic referendum. Out of that 72 per cent, 69 per cent voted for approval of this Constitution. I am happy and very proud

to be Kenyan as I speak this afternoon that even the other 30 per cent or so, who were saying “no” have now come to join the rest of Kenyans in the implementation of this very important Constitution.

Mr. Deputy Speaker, Sir, the Kenyan population, in giving themselves this new gift, took every precautionary step in approving that the key to unlock the implementation of the Constitution be not left in the hands of any one organization or unit. They said they will have two institutions to oversee implementation. The first institution is the Parliamentary Oversight Committee. Again, I wish to salute this House; that has already been established and the officers appointed.

*[Mr. Deputy Speaker left the Chair]*

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

In fact, I am told that they are holding a retreat towards the end of this week and early next week.

The second key for unlocking the implementation of our Constitution was left in the hands of the institution otherwise known as the Commission for the Implementation of the Constitution and hence this very important Bill. Therefore, this is the second step that this honourable House will take this afternoon in saying “yes” to Kenyans. That is; you said “yes” to a new Constitution, we, as a Parliament, are also saying “yes” to its implementation. Therefore, I want to remind hon. Members of the famous saying of Confucius of China that a journey of a thousand miles starts, but with only one step. Therefore, for me, it is a privilege and honour to move this very important Bill.

In doing so, allow me to quote from Queen Hasfut of Egypt. Queen Hasfut of Egypt was living in the period 1501 BC and 1482 BC. This is what she said and I would, therefore, encourage, not only the House, but also the country to borrow from her words; she said and I quote:-

“My heart turns to and fro in thinking what will the people say; they who shall see my monument in after years and shall speak of what I have done”.

Mr. Temporary Deputy Speaker, Sir, this is our moment. This is a moment for this House. This is a moment for this country for saying we will implement the Constitution.

Mr. Temporary Deputy Speaker, Sir, allow me to be very brief because the House is well aware of the objectives of this Commission. It will be recalled that the primary objective of the Commission, including this one, is already laid out in our Constitution. Allow me to read it loudly because it is very important under this Article 249(1). It says:-

“The objects of the commissions and the independent offices are to—

(a) protect the sovereignty of the people;

(b) secure the observance by all State organs of democratic values and principles;

and,

(c) promote constitutionalism”.

Mr. Temporary Deputy Speaker, in fact, that Article goes further and I think as soon as we finish this exercise, Parliament shall seize the moment because under sub-article 3, Parliament is required to allocate adequate funds to enable each Commission

and Independent Office to perform its functions and the Budget of each Commission and Independent Office shall be as a separate vote.

Therefore, that is the objective of this Commission and I want to emphasize promotion of constitutionalism and also the observance of national values. The source of this Bill that I am proudly presenting this afternoon is, in fact, dictated clearly by Section 5 of Schedule 6 of our Constitution. This is found on page 194. The composition is expressly stated and established in Article 5. For the benefit of the country that is listening and watching this, it must be understood that although the Commission is already established, nevertheless the Constitution requires that Parliament enacts legislation for purposes of Section 5(3) of Schedule 6 so that we can produce not only the Chair, but also the Commissioners and their functions. You will find that not just in Section 3, but also in Article 250. It says that legislation is required for the purposes of identifying, recommendation and appointment of the Chairperson and also the Members.

Article 253 states that to be appointed, a person shall have the specific qualifications required by this Constitution or national legislation. Since the Constitution has not set out the qualifications, we present this Bill not only to the House, but also to the country for the purpose of the implementation of the Constitution. Therefore, legislation is required.

I want to repeat that this Commission is also – quite apart from its independence – required to report to Parliament as well as to His Excellency the President. Hon. Members will find this under Article 254(1). Again, you will find this in the theme of the Bill when I mention it as I move forward.

Mr. Temporary Deputy Speaker, Sir, perhaps, the biggest challenge facing the country now is that because of its functions under Section 6 of Schedule 5--- The functions require it to monitor, facilitate, oversee and co-ordinate the origination of legislation and even its discussions with the Attorney-General. An issue has been raised even by Kenyans outside that we have sponsored this Bill with the agreement of the Attorney-General because, in his functions, the Attorney-General is required to consult with the Commission itself. Therefore, if he was to sign the Bill, the question would be: Who has he consulted with? It was, therefore, considered that this is the best way to proceed; that is, my Ministry produces this Bill, but the Attorney-General has co-sponsored this process and is in agreement.

Therefore, the challenge is that this Commission must be in office within 90 days. You will find that under Section 25 of Schedule 6. Even though it says “within 90 days”, it is quite clear to me – and I speak with utmost humility – that unless we fast-track the establishment of this Commission, the fact of the matter is that all other legislation requires to have consultation with that Commission for purposes of presentation. It will be recalled that my Ministry has already published two other Bills on the vetting of judges and the Judicial Service. We are, therefore, between a rock and a hard place or rather it is a chicken and egg situation. I would like to request hon. Members to rise to the occasion to have this law put in place as quickly as possible.

Mr. Temporary Deputy Speaker, Sir, if I may just mention a little, one of the key benefits of the new Constitution is the benefits that will go to our women folk. For many years, the issue of gender parity has merely been a matter of lip service. I would like to quote the statement of the late President of the USA, Benjamin Harrison. He said:-

“The manner by which women are treated is a good criterion to judge the true state of society. If we know but this one feature in a character of a nation, we may easily judge the rest, for as society advances the true character of women is discovered.”

I fully identify myself with these sentiments. He also said:-

“In this respect, the law, the will of the majority expressed in orderly constitutional methods is the only king to which we bow.”

Therefore, our function as I understand it, is to consider this Bill so that we can truly say that every Kenyan from the President all the way down to the unborn child – for the first time our Constitution has given recognition to the embryo inside its mother’s womb for as long as the mother is Kenyan. Therefore, from the President who is in office in State House all the way to a Kenyan embryo in its mother’s womb, we have to say that we are implementing this Constitution so that it is the only king to which we shall bow. Of course, that does not include God because he is overall in charge.

Therefore, on this aspect, I speak without fear that this is the opportunity for our country to also borrow from the words of Confucius who is very well known. He said: “To govern means to correct. If you take the lead by being correct, who will dare not to be corrected?” I dare to present that approach to this legislation, to this honourable House, the country and the world so that we can look everybody in the face and say: “Yes, in Kenya we can do it.”

Hon. Members will see the Memorandum of Objects and the reason for this very important Bill. The main object is to provide for the qualifications and appointment procedures of the Chairperson and Members of the Commission as established under Schedule 6 which I have referred to. Therefore, the Commission, in this Bill is established primarily to oversee the implementation of the new Constitution. If we need to be reminded, the Constitution establishes a Presidential system of Government. In such models, appointments to key offices originate from the Executive. Under Article 250, the role of Parliament is to approve the persons nominated by the Executive.

However, our Constitution, while accepting that structure or architecture of a presidential system also has got Article 10. Here we have national values and principles that are binding on all of us. Those national values and principles of governance require among other things inclusiveness, equality, non-discrimination and participation of the people. In consequence, you will find that, in the Bill, when we talk about the procedure for appointment while respecting the Presidential System that we have established, we nevertheless have put in place a very elaborate mechanism appearing in Clause 8, which is about procedure for appointment of Members. I encourage this House to carefully study that process and appreciate that it is a very strict guideline, but above all, both the President in consultation with the Prime Minister, will be required to gazette and declare vacancies in this Commission if this House passes this law and it is assented to. At the same time, in Clause 8(14), we have also attempted to protect that image of the Executive by saying that nothing under this Section shall be construed as precluding the President in consultation with the Prime Minister from nominating and forwarding names other than those submitted by the Public Service Commission (PSC) to the National Assembly for consideration and approval.

It must be appreciated and accepted that it is an attempt to ensure that we balance between the national values of participation of the public and involvement of everybody in the country, and also the concept, given the “yes” by Kenyans to an executive

presidency that we have established. Therefore, I urge hon. Members to study carefully Article 8. It should not be regarded as cast in stone. It is available for comment, contribution and even amendment so long as we move the process forward.

Mr. Temporary Deputy Speaker, Sir, Clause 14 provides for the appointment of the Secretary to the Commission and requires that secretary to be appointed competitively and, hence, the urgency. We have already consumed nearly a month-and-a-half of the time from promulgation of the Constitution. So, we have a very short time left, even if we were to accept that the Commission can wait for the 90 days, which I do not think is my position. My position is that the sooner we appoint it, the better.

Mr. Temporary Deputy Speaker, Sir, in Part III of the Bill, we provide for financial affairs of the Commission. We have been very careful to make sure that they understand and can follow the national principles and values for transparency. We have even provided for annual reports and audits in Clause 25. We have also provided for the annual estimates in Clause 23. Again, the theory of this law is to make it completely compliant, that is, Constitution compliant.

Mr. Temporary Deputy Speaker, Sir, in Part IV, we deal with miscellaneous matters, yet they are also very important. Clause 26 requires the Commission to make its progress report every six months. Although ideally they are required by the Constitution to have annual reports to the President, we think that in order to allow the other key of implementation, that is, the Parliamentary oversight, then six months is reasonable. It will enable the country to move faster. The report is to be forwarded to the President and the Parliamentary Committee that oversees implementation.

Mr. Temporary Deputy Speaker, Sir, Clause 27 provides for the preparation of annual reports. Clause 28 requires all Government agencies to co-operate with the Commission to ensure the successful implementation of the Constitution. I would like to take this opportunity as Minister for Justice, National Cohesion and Constitutional Affairs to express my forthrightness in ensuring that my Ministry co-operates with this Commission in every way, every day, every hour and every minute, to ensure that it is facilitated sufficiently for the work that it must do.

Mr. Temporary Deputy Speaker, Sir, you will notice that we have also, in Clause 9, provided that the chairperson of the Commission shall be appointed by the President in accordance with Clause 8.

Mr. Temporary Deputy Speaker, Sir, without wasting too much time of this honourable House and in any way seeking to be presumptuous, I would like to end my presentation this afternoon by, again, quoting Confucius on the difference between reputation and success. He said:

“The successful man is by nature straightforward and fond of what is right. He examines what people say and notices their looks and is anxious to give priority to others. He is bound to be successful whether he is employed in the state or a noble family, but the man of reputation on the other hand, assumes an air of humanness, although his conduct belies it. He does not feel any misgivings about persisting in this. Whether employed in the state or noble family he will certainly achieve reputation.”

Mr. Temporary Deputy Speaker, Sir, I would suggest without fear or hesitation that as a House, we aim at being successful people who are straightforward and fond of what is right and listening to the rest of the country, because the rest of the country is saying: “Yes, we want a new Constitution implemented.”

Mr. Temporary Deputy Speaker, Sir, I beg to move. My very good friend going back to university days, hon. Orenge, has very kindly agreed to second the Bill.

**The Minister for Lands** (Mr. Orenge): Mr. Temporary Deputy Speaker, Sir, I wish to commend the Minister for the able manner in which he has moved this Bill. In fact, when it comes to the content, details and process of the Bill, one would not really have anything more to add.

Mr. Temporary Deputy Speaker, Sir, I am glad to be seconding this Bill in this very Chamber. As I said last time, this Chamber has had many historical moments when our own founding fathers were demanding a new Kenya based on a new constitutional order. Those battles ended up in Lancaster where we had a constitution, but that process of constitution making was not homegrown. It was a document received from the colonial power. But this time round, we can say with confidence and a sense of pride that every consequential legislation that will be brought before this august House is based on a Constitution which has been enacted by the Kenyan people. The Kenyan people turned out in large numbers to vote overwhelmingly for a new Constitution, which now requires of us to enact implementing or enabling legislation.

Mr. Temporary Deputy Speaker, Sir, this is the second step we are making after the enactment of the Constitution. I think the first step was the successful appointment and establishment of the Parliamentary Implementation and Oversight Committee (PICOC) to make the process move forward. This is yet the second step and there have been some difficulties on this issue, as the Minister for Justice, National Cohesion and Constitutional Affairs has indicated, as to whether or not this Bill could come before the House without the input of the Law Reform Commission and more importantly, this very Commission that is established under the Constitution. Now, its functions and internal procedures are being articulated in this Bill. I remember there is one person who said intellectuals can muse whether the egg or chicken came first. It can be a matter of controversy intellectually in science or any debate. But if you want a meal, it would not be very difficult to decide to eat the chicken or egg. It would just be a matter of choice, especially when you are hungry. I think this chicken and egg situation is appropriately addressed because the consequences of enacting this Bill would be that, indeed, we will be implementing this very important document.

Mr. Temporary Deputy Speaker, Sir, I was in this House before, when saying anything in this very Chamber, would cause somebody to be taken to detention or locked up. The famous situation is when both hon. Shikuku and the late Seroney, for making some statements in the House which looked rather ordinary---. The consequence of the statements made in this House was detention without trial. We can say that under this new constitutional order, there will be no Kenyan who will be detained without trial. We are creating a new constitutional order in which every decision made by the Executive, including the President and for the time being when we have transitional arrangements, will be interrogated, particularly on appointments into the public service. That is a new turn of events. You will see that this very Bill sets out the requirements for those who will be appointed as Commissioners; in doing so, there will be strict compliance with the Chapter on this issue and integrity.

I dare say that the final product will depend on how we start this long journey so that, if that Commission will consist of men and women of integrity, we will have a democratic and a constitutional system of governance. This is very important. If you look

at the functions of the Commission, you will see that it is not just about legislation or preparing Bills for tabling before this House. In fact, in the first provisions relating to functions, it requires the Commission to monitor, facilitate and oversee that development of legislation but, more importantly, legislative procedures required to implement the Constitution. That should be read together with the other function, which is to work with each constitutional commission to ensure that the letter and the spirit of the Constitution are respected. It places the mandate of the Commission beyond just a Commission whose primary mandate is to talk about legislation. It is to ensure that the very principles of constitutionalism as set out in the Constitution are complied with not only in lawmaking legislation, but also in areas that have to do with governance.

It is also important to see that in creating the Commission, there is a mischief which was detected in the process of constitution making; that Parliament and the Executive, left on their own, could easily subvert the process of implementing the Constitution. The Commission, which is extra-Parliamentary, has functions which would be exclusive to the Executive and the Legislature. That is why they are required to monitor the entire process. This is critical to ensure that the timelines and the spirit of the new Constitution are not abrogated, if I can use a word which my good friend, Mr. Kajwang, does not like being used anyhow. However, for lack of a better word, I think the spirit is that the Commission should go beyond the call of duty to make sure that the process of implementation has no impediments.

I believe that we now need a spirit of bipartisanship to go through the process. Indeed, whenever Kenya has faced strong and insurmountable challenges, the tradition of this country, right from 1952, is for the Kenyan people to come together. That tradition has been repeated many times when the rest of the world thought that Kenya would fall into the brink. We always rose up and in the spirit of unity and bipartisanship; we have done what looked like the impossible. We need not concentrate too much on the past. In this process of implementation, we should not look at what divides us or what the debates were yesterday because as one European said, life can only be understood backwards - I am paraphrasing - but it can only be lived forward. We need to look forward towards the creation of a stronger and a better governed Kenya.

In repeating these words, I remember the words of Benjamin Franklin when he was asked about the type of document that came out in the convention that enacted the American Constitution. He said:-

“We have given you a sovereign republic. If you can, keep it.”

Are we going to keep the constitutional arrangement that we have in the current Constitution? I think that will depend on the type of implementing legislation that we will pass and that will guide the process through to a successful end.

Many times, I used to believe that to have a new Constitution was a pipe dream. Personally speaking, I was losing hope because men and women died in the process. There are those who were assassinated in the process. I dare say, because hon. George Saitoti is here, that there are those who were poisoned in this process and we cannot overlook that fact. There are those like hon. Millie Odhiambo-Mabona who were brutally hit in front of a police station in a bid to release a patriot from the atrocities of the police. That was dealing with the kind of governance that we do not want, any day, to be seen in the new Kenya. Even the Minister for Justice, National Cohesion and Constitutional Affairs, who is my senior, and whom I respect, in order to have this Constitution, as a



senior counsel, he had to climb over the gate of the Attorney-General's Office. I am glad that he is now passing through the open gate very quickly. I do not know whether, when he loses the flag, they will open it as expeditiously. Sometimes, we need that reality check. However, on that particular day, when the Senior Counsel was climbing over the gate, the policemen did not understand what he was trying to do. He was on a great journey of trying to create a better and stronger Kenya.

Therefore, in the spirit of bipartisanship, because, finally, Parliament will have a say on who will sit in this Commission - we will have a say--- The problem with Kenya is that whenever we are faced with a situation of doing appointments, gender and regional considerations are important. However, sometimes, the debate goes beyond the consideration based on human rights issues which are very well protected in the Constitution. So, in the argument of representation, we must have one person from this area and then anybody can do. That debate also stands on its head when people have committed crimes. Suddenly, when they are made to account for the crimes, people start saying that they are being targeted. Really, you cannot create a new Kenya if you are still caught up in that turmoil. We want to create a new Kenyan person who can account for his conduct and deeds. I am grateful to my learned senior for quoting many wise people who, right from the centuries before Christ--- One person, a great British activist known as John Stuart Mills said:-

“The worth of a State in the long run is the worth of the individuals who compose it.” So, we may have the best laws in the land or the best Constitution in the land but if in the name of regionalism or diversity we do not put our best foot forward, then those men and women who have fought for these changes and have left us, will turn in their graves and say: “This battle was not worth it”.

Mr. Temporary Deputy Speaker, Sir, finally, whenever law ends, tyranny begins. I want to tell the gracious ladies sitting across, that vigilance---. The reason I am very proud about the ladies I am looking at is that, eternal vigilance is important. Nobody should go to sleep that we have a new Constitution. Every self criticism is important. Let us not just sit back and think we have a new Constitution. Every little thing that is done in the name of the Government or in the name of the people or in the name of public office must be interrogated. Every public officer who is given authority like James Orendo here is given authority; I am not given that authority to please myself. I am given it in the public interest. For that matter, it must be interrogated thoroughly. This is the spirit upon which this Commission has been established so that in law making, legislation and implementing the Constitution, we have a reality check and accountability. In that true spirit, we will build a better Kenya for ourselves and for prosperity.

With those few remarks, I beg to second.

*(Question proposed)*

**The Minister of State for Provincial Administration and Internal Security** (Prof. Saitoti): Mr. Temporary Deputy Speaker, Sir, I feel privileged to contribute to this Bill.

I am doing so after a very wonderful and enlightening exposition by both the Minister for Justice, National Cohesion and Constitutional Affairs and Mr. Orendo. In a

way, I am going to be very careful because the two who are very experienced lawyers have laid down the framework.

Mr. Temporary Deputy Speaker, Sir, it is wonderful that this Parliament passed and appointed the Constitutional Implementation Oversight Committee (CIOC). I am saying so because after having waited for a very long time to have a new Constitution and after it was promulgated, *wananchi* were beginning to wonder as to whether we had misled them. They were wondering whether, after having fought and struggled for more than 20 years, we were serious.

We were wrangling outside there and we know about it. At one stage we took very bi-partisan positions. Finally, I believe that the wise counsel prevailed when the list came here for the second time and we adopted it without any problems.

Kenyans also got very worried when the issue of who was going to chair the Committee came up. Out there, *wananchi* almost began to wonder whether we Members of Parliament had gone back to our old habits, as it were. They thought we were thinking much more of ourselves than about them and the country.

Mr. Temporary Deputy Speaker, Sir, I want to commend the Members of the CIOC because of the manner in which they discussed the issue and resolved what had appeared to be a stalemate. That restored confidence in the people of this country. I have no doubt that the way the Minister presented this particular Bill and the deliberation we are involved in now, is going to add more value to curb the conflicts that Kenyans have.

There is no doubt that because of the wonderful content embodied in the new Constitution, Kenyans are eager to enjoy the fruits of the new Constitution. They are tired of the old Constitution. They suffered and you have heard it from Mr. Orenge. Kenyans just want to see this new Kenya that we talked about so eloquently as we went all over the country persuading them to pass the Draft Constitution. This is the Bill that is going to open the doors. Without the CIOC we cannot go very far. In fact, we can hardly move. This is because all of the Bills which enable the implementation of the Constitution must be submitted to this Committee.

Mr. Temporary Deputy Speaker, Sir, the Minister responsible for the fundamental changes that are required to be made as a result of the new Constitution will prepare the Bill, send it to the Attorney-General then the Bill goes straight away to this Committee. It will be studied to ensure that the Bill is formulated in accordance with the spirit of the Constitution. They will detect whether the Bill as drafted is compliant to the new Constitution. From there, it will then go to the Cabinet and later on to this House. There are several Bills to be addressed. Therefore, the speed at which we move in deliberating on this very important Bill and to ensure that finally a Committee is put in place will also determine the speed at which the other Bills are going to be moved. Every one of the enabling Bills has a time-line when it is supposed to be implemented. For example, my Ministry is implementing reforms in the police force.

Although the Bills we already have were formulated before the new Constitution, fortunately, we now find that a way had already been paved to ensure that they are examined within the context of the new Constitution. Of course, we have had to align them in the light of the new Constitution. I could not present the Bills here, for example, the Bills on the police, national policy, the one establishing the position of Inspector-General and the Deputy Inspector-General of the Police Service Commission, the Deputy Inspector-General of the Administration Police and all the others, without this

Commission in place. I am sure you will find a similar story repeated by every Minister, whose Ministry is required to come up with Bills.

Mr. Orenge said something which is very important about this Bill. He urged us to approach it, not in a partisan manner, but in the spirit of partnership; the same spirit we had when we were discussing the Constitution making process. More importantly, we should all embrace this spirit, those who were for the Constitution and those who were not for it. I believe that what we have in front of us are the people of this country. Nothing will give more meaning to the new Constitution than the Bills that we are required to implement.

After the passage of the new Constitution, Kenya today enjoys a great deal of admiration all over the world. We have passed a new Constitution in a state of peace. We have demonstrated total political maturity and, indeed, we have established a reputation, as a peaceful nation. Those of us who are travelling to various parts out of this country are getting nothing, but accolades for the great step that we took. We are being seen as a leader in Africa. A great deal of hope is expected of us. Therefore, I hope that we will do nothing that will compromise that confidence and the admiration that we have all over the world. Kenya has always been held and seen as a leader, not in Africa, but also internationally. We may not think so, but this country is, first and foremost, a leader in Africa. We have strong institutions. Many of our African countries do not have such institutions. Those that have, they are extremely weak. I am sure our weak institutions will be strengthened by the new Constitution.

It will no longer be business as usual. Things will be done in a very transparent manner through a consultative process. People will feel that they are part of this country. We have now laid down a road map to ensure that whatever we do will be all inclusive. The youth, which is the future and the faith of this nation, has been fully recognized in the new Constitution. The women, who have for a very long time lagged behind and were not very much involved in the development process and the political affairs, are fully recognized in the new Constitution. The disabled, who for many years have been neglected, they too have been provided a space for participation. This participatory spirit is what will make our nation a great nation of great people.

With those few remarks, I beg to support.

**Mrs. Odhiambo-Mabona:** Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity. I just want to start by thanking the Minister for elaborately presenting the Bill. I also want to thank hon. Orenge for seconding the Bill and acknowledging inter-generational equity. A lot of times when we hear discourse on human rights and the struggle, we always forget the younger generation. So, I want to thank hon. Orenge, not for myself, but on behalf of several younger people. Not young, because I am not young, but younger people who have been involved in the struggle for this country.

For us, as a country, the passing of the Constitution is a challenge. We have for a long time been very negative. We are always criticizing anything that comes out of Kenya. It is important for us as a country to criticize when it is necessary, but also to acknowledge when we do a good thing. For instance, in the Commonwealth Games, we are doing very well. We should congratulate ourselves. We should also congratulate ourselves when we have done well like the passing of the Constitution. That is something we, as a country, should be proud of.

This Commission is not a permanent Commission under the Constitution. It has a five year mandate. Because of that, it needs to be smart by having specific duties which are provided under the Constitution. It must also be realistic, have measurable outputs and time bound. I would, therefore, want to encourage the Minister to consider having an amendment to the Bill, so that we can have a very clear road map, which has been the practice of Parliament for most of the Bills. We need to have a very clear road map because with a road map, then we can hold the Commission accountable.

Mr. Temporary Deputy Speaker, Sir, if you look at Clause 4(c), it provides that one of the tasks of this Commission is to work with other constitutional Commissions to ensure the spirit and letter of the Constitution is respected. Here, I would also want to encourage the Minister that we should have an amendment to ensure that there are punitive measures where this is not done. Otherwise, we may not get off the culture of impunity. This is because we will be saying that the Constitution provides, but when it is convenient, we ignore what it provides.

Even though we have adopted a new governance structure, in our thinking we seem not to move away from the Provincial Administration structure. Therefore, we still move in that direction. If you look at the Constitution of this Commission, it seems to be informed by that thought. It will be important, maybe, if we thought of a leaner Commission. That also goes into the thought of the counties as opposed to the provinces. If you look at Clause 7(1)(d), it makes reference to importing Chapter six of the Constitution on leadership values. I would also want to encourage the Minister if we could adopt amendments, so that we do not basically refer to Chapter six and yet, we are not informed by what it says.

We know that within this Bill, there are times we have restated some parts of the Constitution, and it is important. We need to restate it. Chapter six is an important Chapter which needs to be restated here. One of the things we need to provide for is integrity issues. For instance, we had presentations from the civil society, including the Law Society of Kenya (LSK), amongst others, in the Departmental Committee on Justice and Legal Affairs.

They were suggesting that if, for instance, as a person who is interested in this Commission, you have not been able to clear your loan with the Higher Education Loans Board (HELB), you should not apply. I am very agreed to the approach; if the society has invested in you, you need to equally invest in the society by ensuring that you meet your obligations to it.

Mr. Temporary Deputy Speaker, Sir, under Clause 7(2), we need to also restate the zebra approach, which is that if the chairperson is a man, the vice-chairperson should be a woman, and vice versa. Even though that is the constitutional position, it is important for us to restate it in the Bill.

I would also want to talk on something the Minister mentioned when he was talking, namely one of the principles that are espoused in the Constitution, which is the principle of public participation. The principle of public participation is actually a human rights-based approach in legislation and programming. When we talk about public participation, it is not merely cosmetic. So, now that it is a constitutional principle, it must be seen to be incorporated in this Bill.

Mr. Temporary Deputy Speaker, Sir, I am, therefore, suggesting that we need to formulate a very clear way of public participation, either through a reference group akin

to what we had in the Constitution of Kenya Review Act, or through expansion of the team that will do the interviews to include other professional bodies such as the LSK, the accounts' body, and the Federation of Women Lawyers (Fida), amongst others.

The role of Parliament will increasingly be that of vetting. We must have very clear rules, or a law on vetting. I know that right now we are working on a very strict timeline. So, we may not meet that, but for purposes of laws that will be coming in future, we must ensure that we take that aspect on board.

Mr. Temporary Deputy Speaker, Sir, in relation to Clause 8(13), even though hon. Orenge has spoken on it, we must always remember to have the face of Kenya represented as much as possible within the proposed Commission. I know that I have spoken about a leaner Commission, and that it may not be possible to incorporate everyone. It is, however, worth noting that there was richness and value added to the Committee of Experts (CoE) because we had representation of young persons, persons with special interests in children issues, women, persons with disabilities and persons representing persons with HIV/AIDS. We know that getting persons with technical expertise is possible even from those categories.

Mr. Temporary Deputy Speaker, Sir, I am very uncomfortable with Clause 8(14), where we say that having vested the Executive with powers, later on we give them other powers to nominate persons who are not vetted--- I would want to suggest that since we are giving the Executive the greater power, if we feel that the way we have formulated it is not strong enough for the Executive appointment, we can strengthen it, but anybody who comes through should be vetted like everybody else. Otherwise, we will be running into the danger of being accused of discrimination.

I would also want to say that Clause 13 is unconstitutional, because the Constitution does not provide that after you have served in this Commission, you cannot serve in the public service. In the case of the CoE, it was clear, because it is provided for constitutionally. However, in the case of the Commission, that is not the case. So, if we provide for this, we run the risk of going against the Constitution. So, I would request the Minister to consider that aspect.

Mr. Temporary Deputy Speaker, Sir, in relation to Clause 14, I would also like to say that we need to be very clear what the role of the Secretary is, because we have seen tension in other Commissions emanating from the role of the Chair and the role of the Secretaries. Since we do not want to be derailed, and want to do this work very timeously, can we also come up with amendments which will provide for clear roles of the Secretary?

I would also like to suggest amendments to Clause 16(2), where it is provided that the Commission should co-opt members into committees. I think the better way would be for them to engage consultants. If we leave that open, and we do not even give a ceiling as to how many, what if they co-opt 200 members into a committee? It will cease to be a Commission. So, I would suggest that instead of providing for them to co-opt members, that we provide for them to consider actually hiring persons as experts.

With those few remarks, I beg to support.

**The Temporary Deputy Speaker** (Prof. Kaloki): Yes, hon. Mbadi!

**Mr. Mbadi:** Mr. Temporary Deputy Speaker, Sir, I rise to support this Bill although I will propose some amendments to certain clauses that I feel a bit uncomfortable with when we reach the Committee Stage.

Kenyans have been waiting for the time when this Parliament would start putting flesh on the skeleton Constitution they passed, which was promulgated on 27<sup>th</sup> August, 2010. Many have spoken about the Constitution Implementation Oversight Committee. At one point there was a hitch, and we were not able to agree on who the Chair would be, but I want to give assurance to Kenyans that there is no cause for alarm.

Mr. Temporary Deputy Speaker, Sir, as we speak, we have singularity of minds. We are working together. There is unity of purpose, and we have all focussed our energy towards the actualisation of the Constitution that Kenyans just passed, which they expect to change their lives. Kenyans have been waiting and asking: When are we going to start seeing ourselves enjoying the provisions contained in the elaborate Bill of Rights Chapter, which has been hailed as, probably, the best in the region?

This can only be enjoyed by Kenyans if this Parliament lives up to the task of legislating, or passing the various legislations that will make it possible for Kenyans to enjoy what they fought so hard to make go through.

Mr. Temporary Deputy Speaker, Sir, I have a few comments to make on this Bill, one of which is with regard to the functions of the Commission. I do not know whether hon. Millie Odhiambo-Mabona referred to it. If you look at the functions of the Commission, you will see that they are actually uplifted from the Constitution and put in this Bill, which is a good move, but there is an additional function, which is spelt out under paragraph (e), and says:-

“(e) the functions of the commission shall be to exercise such other functions that are provided for by the Constitution or any other written law.”

To me, this looks very wide and open-ended provision. We need to be very careful. We need to insulate this commission from interference from any quarter, or interference from future legislations. Chances are that if we leave it like this and then there comes another legislation which could go against the spirit of this particular Bill, the Commission will be required to go by that legislation.

Mr. Temporary Deputy Speaker, Sir, we need to understand the reasons as to why this Commission was thought to be critical in the implementation process. First, it is very evident from the drafters of the Constitution that they wanted to remove some of the responsibilities of implementing this Constitution from both Parliament and the Executive. That is what necessitated the recommendation to have a separate and independent Commission which will help safeguard the interest of Kenyans. To me, Article 18 which talks about the procedure of appointing members of the Commission is deficient. The Bill is deficient in the process of short-listing the qualified candidates of filling the nine positions of Commissioners.

Mr. Temporary Deputy Speaker, Sir, one of the biggest problems we have had in this country has not been the procedure of appointing people but the procedure of coming up with suitable candidates. We need to have an elaborate procedure of short-listing the various candidates who would effectively be interviewed later to become members of the Commission. So, it is important that this Bill includes the procedure for short-listing.

I also want to say that I am a bit uncomfortable with the role that is given to the Public Service Commission (PSC) in appointing the Commissioners. You realise that we have been complaining about unfairness and lack of transparency in appointing various public officers in this country. The PSC has been accused of unprofessionalism in appointing various State officers. So, giving them such a huge task as we have given

them without adequate checks, to me, amounts to perpetuating the same old vices that we have been complaining about. Therefore, I feel that the PSC has been given too much power in this case.

Mr. Temporary Deputy Speaker, Sir, I also want to mention something that hon. Odhiambo-Mabona talked about on Article 8(14). It talks about the procedure of appointing these Commissioners. It states:-

“Nothing under this section shall be construed as precluding the President, in consultation with the Prime Minister, from nominating and forwarding names other than those submitted by the Public Service Commission to the National Assembly for consideration and approval.”

If you look at the earlier Bill which was published through the *Kenya Gazette Supplement* No. 57, you will find that this provision is missing. This is an addition in the subsequent one. If you critically look at it, and I beg to be corrected on this, I feel that this may negate the entire process of getting these Commissioners because you are giving a blank cheque to the President and Prime Minister to consult and come up with other names which did not go through the entire process that is spelt out in Article 8. To me, this is unnecessary addition which should be done away with from this piece of legislation.

Mr. Temporary Deputy Speaker, Sir, I want to talk about the Secretary to this Commission who is supposed to be the Chief Executive Officer (CEO). The functions of the CEO are not spelt out in this Bill. That is likely to cause conflict between the CEO and the Commissioners. I think we need to be clearer on what the duties of the CEO are to avoid this conflict. Additionally, I also request that we consider the qualifications of the Secretary to this Commission. The qualifications of the CEO should also be spelt out in this Bill so that we are not in doubt as to who is likely to take up the position of the Commission Secretary.

There is also a provision in Article 11(2) that the Chairperson or a member may be removed from office for misbehaviour or misconduct incompatible with the functions of the Commission. I think we need to insulate this Commission from any mischievous or future attempts to remove a Commissioner maybe based on factors which are not beneficial to this country. We should be clear on what constitutes misbehaviour or misconduct that are incompatible with the functions of the Commission so that we can avoid mischief. I recommend that we probably import Article 251 of the Constitution to this particular section so that we are clear under which ground a Commissioner or the Chairman of the Commission may be removed from office.

Mr. Temporary Deputy Speaker, Sir, the other comment is about the disqualification from holding elective office. We are saying that the Commissioners who will be appointed, even after ceasing to be Commissioners, will not be allowed to hold office for about five years or so. I really do not understand the reasoning behind this. If the reasoning is to deter Commissioners from helping to make those legislation which would further their interest, I do not see how this will work. To me, this looks unconstitutional. We are telling Kenyans who will be given tasks to perform that even after performing those tasks they will not enjoy their constitutional right to vie for elective posts for five years. To me, this looks a bit harsh on these Commissioners.

My final comments are with regard to Article 12(2) which states:-

“Notwithstanding the provisions of sub-section (1), the President may select a nominee from a list provided by the Public Service Commission under Section 8(5) for purposes of filling a vacancy.”

But it is silent about the approval by Parliament.

We have had a case in this Parliament with regard to the appointment of former Director of the Kenya Anti-Corruption Commission (KACC) where we were not sure whether the re-appointment should go through the same procedure of vetting. We need to be very clear because we have experience in the past. We need to be very candid and very clear that even this time round, if there is a vacancy the President still needs the approval of Parliament. That needs to be very explicit to avoid any future doubt.

Thank you very much. With those remarks, I beg to support this Bill.

**Eng. Gumbo:** Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this chance to support this Bill. As I support the Bill, I thank the people of Kenya for finally finding it in themselves--- I think this was an effort by the people of Kenya. We may have been assisted by some of our friends but to me, this was the resolve of the people of Kenya and we need to thank them. I want also to thank the good people of Rarieda, including my 86 year-old mother, who woke up very early on 4<sup>th</sup> of August, 2010 to go and vote for this Constitution. We returned one of the highest verdicts in the country on “YES”. It was 99 per cent and I am very proud of that.

Mr. Temporary Deputy Speaker, Sir, as we go about implementing this Constitution, my plea to the people of Kenya is that let constitutionalism reign among us. It is very saddening that we have passed and promulgated this Constitution but life in this country is still going on as though the Constitution was a mere piece of paper. Police brutality is still the order of the day and appointments to public service are being done just like they have been done since 1963. This is very discouraging. Kenyans must embrace the spirit of this Constitution. It envisages an equal country where opportunity will be available as equitably as possible to the people of Kenya.

As I turn to the Bill, I want to thank the Minister for a job well-done. The time was very short and I know that the drafters of this Bill worked under extreme pressure. As we move on, I would like to inform the Minister that part of the problem we have had with our laws is vagueness. When you start using a word like “regularly” it starts to bring vagueness in the implementation.

Mr. Temporary Deputy Speaker, Sir, as we go along, I will be proposing and requesting the Minister to consider some amendments. For example, in Article 4(d), one of the functions of the Commission shall be to report regularly to the Constitutional Implementation Oversight Committee. How regular is “regularly”? I think we should be bold and say if it is two months, or three months. My proposal here will be that it should be three months.

Mr. Temporary Deputy Speaker, Sir, Article 7 in my view, is actually plucked from Transitional Clause No. 5, where it states:-

“A person is qualified for appointment as a member if such person -

(c) has knowledge and experience of at least ten years in matters relating to any of the following fields---”

This one, I protest. The good engineers of this country have been excluded. Scientists have been excluded. Accountants have been excluded. Why do we not stick to the provisions of the Constitution which talk of public administration, human rights and



governance? Why do you include some professions and not others? So, Mr. Minister, I would urge you to consider that amendment and, certainly, if you must include professions, include the distinguished profession of engineering and accounting where yours truly is a member.

Mr. Temporary Deputy Speaker, Sir, Article 8(11) of this Bill states:-

“If Parliament rejects all or any subsequent nominees submitted by the President for approval under Subsection 10, the provisions of Subsection 7 shall apply.”

Subsection 7 says:-

“The National Assembly shall, within fourteen days consider all nominations received under Subsection (6) and approve or reject the nomination.”

There is some ambiguity which I want the Minister to look at. What happens in Article 8(11)? What if all the shortlisted candidates are rejected? That is a possibility and I want the Minister to consider it.

Mr. Temporary Deputy Speaker, Sir, Article 9 states:-

“The Chairperson of the Commission shall be appointed by the President in accordance with Section 8.”

I think we should be bold and also state the mode of appointment of the Vice Chair. This is not stated anywhere in the Act and I think it is important that we look at it.

Mr. Temporary Deputy Speaker, Sir, Article 14(3) is with regard to the Secretary. I think the Minister, being the one in charge of the Interim Independent Electoral Commission (IIEC), you must be aware that there have been a lot of problems at the IIEC on the functions of the CEO and the Commissioners and one of the reasons we are having those problems is because the functions of the CEO are not defined. I think we should come out very clearly. This is Parliament and we should come out clearly because this is the enabling legislation. Let us define the functions of the Secretary and the CEO.

Maybe, it is my English which is failing me, but in Article 19(2) it says:-

“The officers and other staff appointed under Subsection (1) shall serve on such terms and conditions as the Commission, in consultation with the Commission and the Treasury, may determine.”

Which Commission? I thought it should simply be “the Commission, in consultation.” But the Minister may look at that and see. Maybe, if it is another Commission, then it needs to be clear whether it is the Salaries Commission. But when you say: “The Commission, in consultation with the Commission” I think it tends to look ambiguous.

Then Article 21, the Minister may want to look at it, though I thought it is a spelling mistake on line number three where it says:-

“No matter or thing done by a member of the Commission or any other officer, employee or agent of the Commission shall, if the matter or thing is done in good faith foe---”. I thought that should be “for.” So, the Minister might want to consider that.

Mr. Temporary Deputy Speaker, Sir, then there is a miscellaneous provision. This is Article 26. It states:-

“The Commission shall prepare a progress report every six months---”

Because this is not provided for in the Constitution, I thought the Minister should be bold here and make it shorter. He might want to consider making it three months.

Then Article 29, Mr. Temporary Deputy Speaker, Sir---

*(Eng. Gumbo spoke off record)*

**The Temporary Deputy Speaker** (Prof. Kaloki): Order, Eng. Gumbo! Please, put on the microphone. It is off!

**Eng. Gumbo:** I am sorry, Mr. Temporary Deputy Speaker, Sir.

Mr. Temporary Deputy Speaker, Sir, Article 29 says:-

“The Commission may make regulations generally for the better carrying into effect of the provisions of this Act.”

This is a good provision, but I thought that to make these regulations effective, because this will really be subsidiary legislation, I thought we should make a provision that such regulations should be laid on the Table of the House for debate and approval before being adopted by the Commission. In fact, I think what will probably happen is that, because we have not defined the role of the CEO and if we do not make amendments, it could probably be done through regulations, which I think this House needs to approve before they are adopted.

With those many remarks, I beg to support.

**Mr. Njuguna:** Mr. Temporary Deputy Speaker, Sir, I also take the opportunity to thank the Minister for Justice, National Cohesion and Constitutional Affairs, who has very ably presented this Bill to this House. We also recognize that he is a senior counsel of long standing experience and this is a commendation on his part.

Secondly, I wish to recognize the Seconder of the Bill, hon. Orengo, who is also a very senior barrister in this country. He is somebody who has really struggled and was even exiled to Tanzania in the struggle of this nation. It is, therefore, very important also to recognize the role played by the Grand Coalition Government which facilitated a conducive environment for the Kenyans to achieve a very peaceful referendum.

Mr. Temporary Deputy Speaker, Sir, in addition, I wish to recognize that this Implementation Commission must be given full support because we realize that it is going to address some of the ills that have affected this country. One of the issues that this Commission should be able to address through the new Constitution is on national security. It is in the public domain that our borders are very porous. They have not been surveyed well and I think with this implementation, our borders will be secure. They should also be manned properly. Our borders have also not been beaconed. Any enemy could come into this country any time. It is also important that the new Constitution will address some issues like that of Migingo Island. It is important that even it is one family, one school or one company on Migingo Island, all those belong to the nation of Kenya and must be protected and be brought to this country.

Mr. Temporary Deputy Speaker, Sir, regarding territorial integrity or security, there is this real threat now on merchant shipping. I think with the new Constitution, some of those issues will be addressed. The issue of piracy is a threat to this country and we realize that some of these young people have been brought to our country where they have been tried. In my view, trying these pirates on our land poses a very serious national security matter and, therefore, it should be re-addressed properly.

Mr. Temporary Deputy Speaker, Sir, I hope marginalized communities will be addressed through the implementation of this Constitution. For a long time, North Eastern Province has been neglected. I think it is high time that more resources are invested in that region so that the youth of that area could enjoy job opportunities. Dams and

irrigation schemes must be created for the youths of that area, so that they are not lured by those militant groups recruiting youth to get into unnecessary engagements in that region.

Corruption, which has been a major vice in this nation for many years, will also be addressed and eradicated. It has, indeed, affected the appointment of people in senior Government positions. It has also affected distribution of resources and good governance in this country. I hope the sooner we allow the establishment of the Commission, the better for the country. The Commission, as stipulated in the Bill, will have nine members. That is a small number. In my view, we should expand it to 12 people so that a third of them will be ladies. With that composition, it will be better for the Commission to address issues quite effectively and qualitatively in the new Constitution.

With those few remarks, I fully support the implementation of this Bill.

**Mr. Gunda:** Mr. Temporary Deputy Speaker, Sir, thank you for giving me this opportunity to contribute to this Bill. I have a few comments to make. First is on the functions of the Commission and Clause 4(c) talks about the functions of the Commission. The Commission is supposed to work with each constitutional commission to ensure that the letter and the spirit of the Constitution is respected. We hope that once the Commission is up and running, the issue of chicken and egg will come to an end. That is because if we are talking about respecting the letter and spirit of the Constitution, then let us leave issues to do with implementation of this Constitution to the Commission. It has been given adequate functions to make sure that the implementation is carried forward.

Secondly, I feel that Clause 12(2) should be deleted because it goes against the spirit of Clause 12(1). When we say in subsection (1) “Where a vacancy occurs in the membership of the Commission in accordance with Section 11, the President shall nominate a member for approval by the National Assembly in accordance with Section 8”, that covers it. When we now say in subsection (2), “Notwithstanding the provision of subsection (1), the President may select a nominee from a list provided by the Public Service Commission under Section 8(5) for purposes of filling a vacancy”, what we are really doing is giving the President an open hand to nominate members to the Commission. So, I feel that subsection (2) should really not be there; it should be deleted.

Under Miscellaneous Provisions, Clause 26(1) says that the Commission shall prepare a progress report every six months and submit the report to the Parliamentary Select Committee and the President. It is my feeling that we should be consistent because if the selection of the members for approval by Parliament has been done by the President in consultation with the Prime Minister, the report should also be submitted to the Prime Minister and the President. That also goes for Clause 27(2) where again, the report is presented to the President and Parliament. Since the Prime Minister was involved in the selection with the President, it is only fair that the Prime Minister is also given a copy of that report.

Mr. Temporary Deputy Speaker, Sir, on the First Schedule on the Oath of Affirmation, I do not know if this was an error and if it was not, it is Mr. Gunda who is not able to interpret it correctly. But when it says: “I----- having been appointed (the chairperson/member of/ Secretary to) the Commission for the Implementation of the Constitution under the Commission for the Implementation Commission Act, 2010---” I feel there is something missing. I thought it would be “under the Commission for the

Implementation of the Constitution Act". Maybe, the Minister can have a look at that particular Oath of Affirmation.

Under Clause 8 of the Memorandum of Objects and Reasons, it provides for the procedure of appointment and requires the President to declare the vacancies at the Commission in the Gazette. I thought that was to be done in consultation with the Prime Minister. Maybe, the Minister can check that particular one again. That also goes for Part IV on the last page where it deals with miscellaneous matters. Clause 26 requires the Commission to make its progress report every six months. The report is to be forwarded to the President. Again, the Prime Minister, having been involved in selecting the Commission, should also receive these reports. Those are issues which the Minister can look at and make the necessary amendments.

Otherwise, with those few remarks, I support the Bill.

**Mr. Wamalwa:** Mr. Temporary Deputy Speaker, Sir, I also wish to support the Bill. I want to agree with my learned senior that, indeed, this is the proverbial first step in a journey of a thousand miles. This being the first Bill that has been brought before this House, I want to urge Members of the House that we must do everything possible to ensure that the new Constitution is implemented. We should not be obstructionist in any way!

We should embrace the spirit of consultation, compromise and co-operation in a bipartisan manner to allow this House to discharge the heavy legislative agenda ahead of it, and to also enable us to meet the timelines set. There are serious timelines ahead of us. As my learned senior did say, unless we fast track this process, we might not really be able to beat some of the deadlines. We will need the utmost goodwill of all Members of the House, all parties and all key players in the process.

Mr. Temporary Deputy Speaker, Sir, we must also look at where we have come from. Winston Churchill once said that the farther back you look the farther ahead you can see. We must look back and see where we have come from as a country to reach where we are. There were many false starts along the process before we got where we are.

Even where we are, we have had a false start in starting off the implementation process after the promulgation. We did have a situation where we took sides and fell back to our party positions. We had to fight over positions in the Implementation Oversight Committee. Kenyans do not really want to know who will be chair, secretary or who will be on this committee or the other. What they really want us to do is to implement this Constitution. What they want is to taste the fruits of their sweat of over 20 years of fighting for this Constitution.

We do not want to be like Peter and John, the sons of Zebedeo in the Bible who were fighting for one to sit on the left side and the other on the right side of Jesus. That does not really matter to Kenyans now. Now that we have overcome the first false start, we want to note that as we go ahead there are many Bills that will come; let us co-operate and work together to speed the process.

Mr. Temporary Deputy Speaker, Sir, if you look at the teams that were involved before we got where we are, we had the Committee of Experts that played a very important role. We had the Parliamentary Select Committee. In their places now we will have the Commission for the Implementation of the Constitution. We will have the Constitutional Implementation Oversight Committee. These two teams will play a key

role, but we must not forget the role that the CoE and the PSC played to get us where we are.

It was very strange that the day when the Committee of Experts was winding up, was on 11<sup>th</sup> October. Had they done it a day earlier, they would have done it on a historical day, 10<sup>th</sup> October, 2010. I was surprised to learn that the date 10<sup>th</sup> October, 2010 only happens in a 100 years. I was also surprised to learn from Mr. Kombo that it takes 830 years to have a month like this one, that has four Fridays, four Saturdays and four Sundays. It is a very strange month.

We must congratulate Mr. Nzamba Kitonga and other very able members of his team for the role they played. We must also thank the Minister for Justice, National Cohesion and Constitutional Affairs and the Parliamentary Select Committee for their roles that got us where we are. If we were to embrace the same spirit and put our country ahead of our partisan and regional interests, we would be able to achieve what we must achieve within the timelines set.

The only issue I had wanted to bring to the notice of the Minister, and I was discussing it with my colleagues; is the issue of the Commissioners who will be appointed. The test of integrity is very important. My learned friend, Mrs. Odhiambo-Mabona did say that we must very strictly invoke the provisions of Article 6 to ensure that the Commissioners who will serve on this Commission will be men and women of integrity, and will move this country to the next level. This is a provision that we must invoke, but we must also invoke the provision for their removal. When you look at Clause 12(2), we have said that if one is to be removed from this Commission, they will be removed from office for behavior or conduct that is incompatible with the functions of the Commission. That is the provision that we have put there for removal.

However, I would urge the Minister to look at the provisions of Article 251 of the Constitution that provide for removal of all Commissioners. It has more to it that should be imported---

**The Assistant Minister for Education** (Prof. Olweny): On a point of order, Mr. Temporary Deputy Speaker, Sir. May I move that the Mover be called upon to reply?

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

**The Minister for Justice, National Cohesion and Constitutional Affairs** (Mr. M. Kilonzo): Mr. Temporary Deputy Speaker, Sir, truly this is a special day and I want to salute Mr. Wamalwa for pointing out--- I was just checking and it is a very strange month where there are five Fridays, five Saturdays and six Sundays. So, I will seek Mr. Kombo so that he can educate me a little more.

I want to salute hon. Members in this House, particularly for standing up to be counted on this very unusual day on which we can start telling Kenyans that, yes, implementation is starting. I am amazed at some of the points that have been raised which even in the drafting process we did not notice. I sincerely want to salute hon. Members for raising these issues. Mrs. Odhiambo-Mabona talked about the concept of generational change, the challenges we are facing and the road map. We welcome an amendment; just propose an amendment so that we can have a very clear map of how the Commission will be able to perform its mandate to avoid some of the challenges this

country has had. I also accept and welcome the suggestion that we have punitive measures included in Clause 4. Unfortunately, the question of a leaner Commission must also be informed by what the Constitution says in Articles 248 to 254. So, we will be looking at that.

Mr. Temporary Deputy Speaker, Sir, I agree and accept that this is a suitable opportunity in 7(1)(d) to reinstate the provisions of Chapter 6, which are so crucial for this country, so that the Commission need not be in doubt. In case they forget their Constitutions at home, they can see it in the law, the national principles and values of governance.

I accept also the question of zebra approach, so that if the chair is a man the vice chair should be a woman. I will look again at the provisions in the Constitution as to whether this structure is not running through all the Commissions. If it is not, then I will welcome an amendment so that we provide for it. It is in complete agreement with the principles of my party, the ODM(K), that says that we need to go for 50-50 representation and not one third.

On public participation, I sincerely accept this proposal. We should find a method of either expanding the team for interviews or alternatively we create a reference group upon which the Commission can rely. Therefore, I hope that in due cause this House will allow me to also move the vetting law, which has been proposed.

Mr. Temporary Deputy Speaker, Sir, again, I accept hon. Odhiambo-Mabona's proposal on Article 8(13) to add a category. We will look forward to further arguments and debate during Third Reading as to whether under Article 8(14), we should actually vet everybody.

Mr. Temporary Deputy Speaker, Sir, you remember from the outset, I pointed out that this is just a policy decision of my Ministry. Hon. Mbadi even noticed that it was not there in the original Bill that I published. It is important that the House knows, because I have an absolute duty to a full disclosure, that this was a recommendation debated very heavily by the Cabinet and it was felt, to balance the principle of an Executive Presidency with the principle of accountability and public participation, we need Clause 8(14). But as I said, it is not cast on stone. Let us debate it and formulate whatever amendment you want to put forth and we will consider it.

I have seen the wonderful comments because they have been brought in the House, that Clause 13 might be unconstitutional. I will look at it. I will also collect the HANSARD and read it and see how best we can address that concern. I also accept that in Clause 14, we amend it a bit to be very clear about the role of the Secretary. In Clause 16(2), instead of Committees, hon. Odhiambo-Mabona suggests we have consultants. Again, I will also look at it and also share this with the Parliamentary Committee on Oversight to see whether we are able to come up with acceptable provision.

I share with hon. Mbadi the concern that you have expressed about Clause 4(e) on other written law. But it must be clear that if you look at Clauses 14, 16 and even 17, you will see that the Commission has got other functions, particularly on administrative issues. That is what we are talking about, but we can be a little clearer in the final document.

Procedure of short listing, Clause 18, I accept the comments made and we will look at it. Please, accept my very humble submission. I am now talking to the whole House as well as the country; that we actually bashed our mind to look for an organ with

experience and skills to assist in at least bringing together the Committee for short listing. In the end, I am afraid, we settled on the Public Service Commission. Not because we are not aware of the accusations and the amount of power that they have, but because this law is required very urgently. Speaking for myself, I am not quite sure how else we would be able to get an organ that would receive at least some modicum of acceptability to do the short listing and to organize the interviews. But you notice their function is purely to call a Committee meeting of various other organs. If this House feels that we need to also add some other institutions, feel free to suggest them and then we can see.

Mr. Temporary Deputy Speaker, Sir, as you can see I am using the national value of consultation and inclusivity. Therefore, personally, I do not feel either intimidated or for that threatened by any proposals from the Floor. We are going to look on all of them, particularly, hon. Mbadi's, on removal on misbehaviour and the suggestion that we import Article 51. Again, thankfully, my wonderful student hon. Odhiambo-Mabona is now the Vice Chair. They have done quite a lot of work for this country, so, I will consult them to see how we can be little clearer on this issue.

Similarly, disqualification from office, I will look at it. I will compare notes with the Parliamentary Oversight Committee on the Constitution to see whether this disqualification is legitimate and reflects the spirit of the Constitution. If it is not, I will remove it.

Mr. Temporary Deputy Speaker, on Section 12(2), the President may select persons with regard to filling the vacancies. Mr. Mbadi is dead right on that one. We will find a way of making sure that the President will not select persons. We will go through the route of the former Director of Kenya Anti-Corruption of Commission (KACC), Mr. Ringera. In selecting, the President must also be subject to the provisions of the Constitution. He should select and bring the names before this House.

With regard to Eng. Gumbo's contribution, I am pleased to hear that the mother of the hon. Member went out to vote leading to a 99 per cent "YES" victory. I want to acknowledge and salute the honorable lady.

I agree completely that even after the promulgation of the Constitution, impunity continues. You have seen, for example, the so-called spokesman of the police saying that since rendition has gone on since eternity, it will nevertheless continue. That is a violation of the Constitution. I want to tell whoever it is that whatever position of power you think you have, you are misleading yourself by thinking that you can talk at Kenyans. Rendition is unconstitutional and, therefore, illegal. With regard to police brutality, I saw photographs of someone being kicked with boots bought by taxpayers' money and yet the man just wanted to enter into a football match to salute and congratulate his national team. The police must learn that there are better methods of dealing with these people.

I salute the suggestion that we must remove vagueness. I agree with it. I salute the concept that there are very many professionals, particularly engineers and scientists. I want to salute them. Therefore, we will consider together with the Parliamentary Oversight Committee on the Implementation of the Constitution whether we can fix this wording so that we are not talking about specific professionals, but include a mechanism that reflects the Constitution.

Mr. Temporary Deputy Speaker, Sir, the reporting of six months is a valid point. We ought to reduce it to three months. I welcome any amendments and if they are not forthcoming, I will propose them during the Third Reading.

On the regulations, I also agree. The Commission being required to implement this Constitution, whatever regulations they make under Article 29, must be tabled in this House and debated.

I want to thank hon. Njuguna. The issues he raised are very dramatic, for example, borders, beaconing, and territorial integrity. Allow me to deal with them at another opportunity. The same goes to hon. Gunda. All these are wonderful opportunities.

I have noticed the typing errors in the Oath of Affirmation and we will correct them. We will also include the Prime Minister for purposes of reporting. Since he is there in nomination, I see no reason whatsoever not to mention him when it comes to the reports that will be filed. After all, the Office must be recognized. I went to the Prime Minister's Office and it is beautiful. I encourage you to go there and have a look at how beautiful those offices are.

Hon. Wamalwa, may God bless you. I salute you. I support the argument that you have advanced. I support the position that you have taken that we made a false start. Fortunately, for me, it is much better to make a false start than none at all. Therefore, allow me, in conclusion to salute and congratulate the Parliamentary Oversight Committee on the Implementation of the Constitution for the many hours that you spent looking for leadership and the solution that you came up with. I have accepted the invitation to come and join you during the retreat on Sunday and Monday early next week so that we can find a formula of ensuring that we fast-track the work that we must do.

May God bless you. I beg to move.

*(Question put and agreed to)*

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

## **ADJOURNMENT**

**The Temporary Deputy Speaker** (Prof. Kaloki): Hon. Members, that concludes the business on the Order Paper. Therefore, the House stands adjourned until tomorrow, Thursday, 14<sup>th</sup> October, 2010, at 2.30 p.m.

The House rose at 6.20 p.m.