

NATIONAL ASSEMBLY

OFFICIAL REPORT

Thursday, 15th April, 2010

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

PAPERS LAID

The following Papers were laid on the Table:-

The Report of the House Broadcasting Committee on the procedures for enforcing parliamentary broadcasting regulations.

(By Eng. Gumbo)

The joint Report by the Departmental Committee on Health, the Committee on Delegated Legislation and the Committee on Equal Opportunity on the appointment of the Director of the Kenya Medical Training College.

(By Dr. Monda)

The Report of the Departmental Committee on Transport, Public Works and Housing on the consideration of the matter of recruitment of the Managing Director of the Kenya Airports Authority.

(By Mr. Were)

Mr. Speaker: Let us move on to the next Order!

NOTICES OF MOTIONS

ADOPTION OF REPORT ON APPOINTMENT OF KMTC DIRECTOR

Dr. Monda: Mr. Speaker, Sir, I beg to give notice of the following Motion:-

THAT, this House adopts the Joint Report of the Departmental the Committee on Health, Committee on Delegated Legislation and Committee on Equal Opportunity on the appointment of the Director of the Kenya Medical Training College, laid on the Table of the House, on, Thursday 15th April, 2010.

ADOPTION OF REPORT ON RECRUITMENT OF THE KAA MANAGING DIRECTOR

Mr. Were: Mr. Speaker, Sir, I beg to move notice of the following Motion:-

THAT, this House adopts the Report of the Departmental Committee on Transport, Public Works and Housing on the consideration of the matter of recruitment of the Managing Director of the Kenya Airports Authority laid on the Table of the House, on, Thursday 15th April, 2010.

QUESTIONS BY PRIVATE NOTICE

ARREST OF AGIKUYU CLAN ELDERS BY ADMINISTRATION POLICE

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

Under what circumstances did Administration Police officers arrest the nine Agikuyu clan elders, parties to case No.HCC71/2006 at Embu who are opposed to the illegal settlement on land LR No.13963 at Ngariama Settlement Scheme, and later released them without charge?

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

On the night of 15th/16th March, 2010, four people were found grisly murdered in South Ngariama Settlement Scheme in Kirinyaga South District. Information available at the time pointed to the persons opposed to the settlement scheme including the elders and the Member of Parliament for Mwea Constituency.

Mr. Speaker, Sir, the elders and area Member of Parliament had been making public utterances which had negated security and peace in the settlement scheme. They have been quoted in public forums uttering sentiments to the effect that those settled in South Ngariama by Kirinyaga County Council are there illegally and must be removed by all means necessary.

The elders who were arrested include Stanley Murithi Warui who hails from Kangai Location, Kirinyaga South District; Michael Munyao Mulwa Tebere - Kirinyaga South District; Geoffrey Mudhii Mugweru - Kianyaga Location, Kirinyaga East District; Geoffrey Njeru Rupinga -Nyakati, Kirinyaga South; Jack Mungai Kachoya - Kangai Location, Kirinyaga South District; Paul Kariuki Nyamu - Murinduku Location, Kirinyaga South District; Joel Mwaniki Gathiku - Kiine Location, Kirinyaga West District; John Kugeria Kungu - Tebere Location, Kirinyaga South District; Ruriga Gichangi - Thimba Location, Kirinyaga South District; Moses Gachuki Kimwea - Njukiini Location, Kirinyaga East District; Simon Mbugu - Murinduko Location, Kirinyaga South District; Silas Njiru Njine Bakabingu - Kangai Location, Kirinyaga South District; Stephen Njeru Muriithi - Barigwi Location, Kirinyaga East; Nahashon Mugo Kabeu - Barigwi Location, Kirinyaga East District.

Mr. Speaker, Sir, all the above mentioned are suspects and are believed to be behind the previous attacks on the settlers of this scheme. They are also suspected to be organizing terror groups which have been terrorizing those who are settled there. It is not true that the suspects were only arrested by the Administration Police. Both regular police and Administration Police, together with the District Criminal Investigation Officer (DCIO's) office participated in the hunt and arrest of the suspects and the organizers.

From the above list, those arrested hail from the larger Kirinyaga which includes Gichugu, Ndia and Mwea constituencies. Those who were arrested had already been handed over to the DCIO Kirinyaga to follow up investigations which are yet to be concluded. All those

arrested were released on cash bail. No person has been released without charge. I want to assure this House that all those who were arrested were bailed out after having paid cash bail. This included the area Member of Parliament.

Mr. Speaker, Sir, during public peace meetings convened by the District Security and Intelligence Committee for Kirinyaga South, members of the public volunteered information and gave names of those they suspect to be behind the attacks. The Government will not spare anybody who incites people to violence, irrespective of his or her status in the society.

I would like to appeal to the residents of Kirinyaga that they should maintain law and order at all times. While there is a case pending in court, the *status quo* should be observed until a time when the court makes a ruling on the fate of those already settled there. Both regular and Administration Police have been providing security to over 4,500 households already settled in that settlement scheme.

Mr. Olago: On a point of order, Mr. Speaker, Sir. The Question is why the suspects were released without charge and I heard the Assistant Minister say that they were all released on cash bail. I thought it is not in order for the Assistant Minister to say they were released on cash bail without indicating whether they were charged or not. I think there is a mix up. Could the Assistant Minister kindly clarify that?

Mr. Ojode: Mr. Speaker, Sir, Mr. Olago knows the procedure. Once you are arrested, you have to be taken to court which allows you to get a bail in order to be freed. That has been the tradition. All those suspects were charged.

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

Mr. Speaker: Order, the Member for Kisumu Town West! It is implicit. The Assistant Minister is, otherwise, conceding that all these persons were charged and that they have been released on cash bail by the court. That is what the Assistant Minister is saying by implication.

Mr. Assistant Minister, do you want to confirm that? I know the Member for Kisumu Town West, occasionally is pedantic.

Mr. Ojode: Mr. Speaker, Sir, that is exactly what happened.

Mr. Gitau: Mr. Speaker, Sir, as I thank the Assistant Minister for the answer, it is full of inconsistency. It is me who bailed out all those people from the police cells. No charge was preferred against them and they were never taken to any court. Could the Assistant Minister state the case number under which those people were charged?

Mr. Ojode: Mr. Speaker, Sir, I believe that he is out on cash bail after having been charged with incitement. If at all he has not been charged---

Mr. Speaker: Order, Mr. Assistant Minister! Give the case number!

Mr. Ojode: Mr. Speaker, Sir, the case is No.HCC71/2006 at Embu.

Mr. Gitau: On a point of order, Mr. Speaker, Sir. Is the Assistant Minister in order to mislead the House by mentioning the case which I was charged with as the case the others were also charged with? I was released on a cash bail of Kshs20,000 when the others were never taken to court.

Mr. Speaker: Order, the Member for Mwea. The Assistant Minister has cited a case and you have confirmed that you are one of the accused persons in that case. Are you the only accused person in the case?

Mr. Gitau: Yes, Mr. Speaker, Sir. I would like to confirm that.

Mr. Speaker: Mr. Assistant Minister, then you have something to clarify.

Mr. Ojode: Mr. Speaker, Sir, if he goes through his charge sheet he will find that they have been jointly charged on this case. I would want him to peruse the---

Mr. Speaker: Fair enough! That does it.

Yes, Mr. Emilio!

Mr. Kathuri: Mr. Speaker, Sir, Ngariama area where there is this problem borders Manyatta Constituency. These land problems are spilling over to Manyatta Constituency and specifically Embu. Could the Assistant Minister tell us what he will do about that problem? The moment they mishandle those cases in Kirinyaga by arresting those they call inciters when they are trying to protect their interest, and later on releasing them without charges aggravates the problem even in the neighbouring constituency. Could the Assistant Minister tell this House what he will do about that case? As I speak here there is a vehicle in the police station---

Mr. Speaker: Order, Mr. Kathuri! It is Question Time and you have already asked your question!

Mr. Ojode: Mr. Speaker, Sir, the interest the Government has on this case is to maintain law and order. That is prerequisite. I urge my colleagues that we must maintain law and order. We must also keep peace. The land in that scheme belongs to the county council and it has nothing to do with the Ministry of State for Provincial Administration and Internal Security. I urge my colleagues to maintain law and order all the time.

Currently, we have beefed up security and there will be no spill over of the problem to the neighbouring constituencies.

Mr. C. Kilonzo: Mr. Speaker, Sir, I know the issue of land does not fall under the Assistant Minister's docket. In my home location, people have been in occupation as squatters for more than 45 years and now the Government is issuing titles to absentee landlords who come with the police to evict those who have been in occupation for 45 years. How do you expect any person or leader to support the Government in evicting their constituents? Definitely they will not. What has the Government done to address the cause of the problem?

Mr. Ojode: Mr. Speaker, Sir, ordinarily, the police only implements court orders. As you are aware, I do not issue title deeds but I only keep peace. While keeping peace, I will try to implement what the court or the Minister for Lands says. That is how we come in. Otherwise, my docket does not deal with land cases.

Mr. Gitau: Mr. Speaker, Sir, for any serious crime, anybody around the scene of the crime is supposed to be a suspect. Could the Assistant Minister tell this House the criteria he used to arrest elders who are over 95 years who live over 40 kilometers away from the scene of crime?

Mr. Ojode: Mr. Speaker, Sir, we do not have any law which excludes a 95-year or 100-year fellow who commits a crime. The law says very clearly that we must maintain peace and follow the law to the letter. I urge the hon. Member as my colleague, to settle this case without fighting or inciting other people to fight---

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

Mr. Ojode: Mr. Speaker, Sir, that is my advice. Otherwise, we will maintain law and order and we will keep peace in that region until normalcy returns.

Mr. Gitau: On a point of order, Mr. Speaker, Sir. Is the Assistant Minister in order to insinuate that I am the one who incited the people when he does not have the facts that I am the one who did it? Whatever statement that was made to the police is supposed to have been said in the presence of the Interim Independent Boundary Review Commissioner, Mr. Kaguthi, who has not recorded a statement as a credible witness.

Mr. Speaker: Mr. Assistant Minister, do you have any response to that?

Mr. Ojode: Mr. Speaker, Sir, you know my colleague is charged in court over incitement. Definitely, he is party to the incitement bit within his constituency. That is why I appeal to him that as the Member of Parliament for that particular area, that he should put people together so that they can work together.

Mr. Speaker: Order! That does it!

The Member for Mwea, that is a reasonable explanation. If there is a charge for incitement pending against you, it is valid for the Assistant Minister to appeal to you to try and settle the matter. As a matter of fact, the law allows that to happen. Those directions are conclusive!

Next Question by the Member for Kimilili!

Dr. Eseli: Mr. Speaker, Sir, first, I would like to apologise to the House for being absent when this Question first came up. I was away in the constituency with the Interim Independent Boundaries Review Commission (IIBRC). That is why I was unable to ask two Questions on Tuesday and yesterday. I sincerely apologise.

Mr. Speaker: The apology is accepted. Proceed and ask your Question!

NON-AVAILABILITY OF SUBSIDIZED FERTILIZER
IN WESTERN/TRANS NZOIA DISTRICT

Dr. Eseli: Mr. Speaker, Sir, I beg to ask the Minister for Agriculture the following Question by Private Notice.

(a) Why is there no subsidized fertilizer in any of the National Cereals and Produce Board (NCPB) depots in Western Province and Trans Nzoia District?

(b) Where was the fertilizer meant for these areas diverted to and what urgent measures is the Minister taking to remedy the situation before the current planting season ends?

(c) How much free fertilizer and seeds have been distributed to needy families in Western Province, considering that the province has the highest poverty levels in the country?

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

(a) I am aware that some NCPB depots in Western Province and Trans Nzoia District have limited stocks of Government subsidized fertilizer remaining.

Mr. Were: On a point of order, Mr. Speaker, Sir. Just looking at the first part of the Question, it is asking why there is no subsidized fertilizer. But the Assistant Minister is talking of being aware. He is not responding to the Question. It is asking why there is no fertilizer and not whether you are aware. Is he in order to avoid answering the Question?

The Assistant Minister for Agriculture (Mr. Ndambuki): Mr. Speaker, Sir, I would ask the hon. Member just to be patient.

I beg to reply.

(a) I am aware that some National Cereals and Produce Board (NCPB) depots in Western Province and Trans Nzoia District have limited stocks of Government subsidized fertilizer remaining.

(b) I am not aware that fertilizer meant for those areas was diverted to other areas.

(c) My Ministry, in collaboration with other stakeholders, is in the process of distributing 2,867.5 tonnes of fertilizer and 274 tonnes of assorted seeds to needy families in Western Province.

Dr. Eseli: Mr. Speaker, Sir, the Assistant Minister has absolutely failed to answer the Question. I asked why there is no subsidized fertilizer and he is talking about being aware that there are limited stocks in some depots. He is not telling us what depots are these with limited fertilizers. To who is it limited and why is it limited? Why do the other depots not have it? Could he tell us which depot then has this limited fertilizer and who it is limited to?

Mr. Ndambuki: Mr. Speaker, Sir, in the beginning, we sent various types of fertilizer to Western Province and Trans Nzoia District. We sent 81,990 bags of Diammonium Phosphate (DAP) fertilizer, 21,420 bags of NPK and 40,300 bags of Calcium Ammonium Nitrate (CAN) fertilizer. As I speak, we still have some of the fertilizer we sent in the stores. In Kakamega Depot, we have 715 bags remaining. In Kitale, there are 15; 351; 208. In Butere, there are 866 bags---

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

Mr. Speaker: Order, Member for Kimilili! The Assistant Minister is responding to your questions, as I heard them.

Mr. Ndambuki: Mr. Speaker, Sir, in Webuye there are 2,041 bags of NPK. In Kipkaren, there are 1,976 bags, Lugari, 693 bags and Kimilili 4,930. So, we have fertilizer which is subsidized by the Government and also the other one which is being sold at Kshs2,500 by the NCPB.

(Dr. Eseli stood up in his place)

Mr. Speaker: Order, Member for Kimilili! Receive help from other Members.

Mr. K. Kilonzo: Mr. Speaker, Sir, first, I want to thank the Assistant Minister for opening an NCPB depot in Mutitu. In view of the fact that Ukambani has proved to be one of the most productive areas when there is rain, when is he going to also supply the subsidized fertilizer in Ukambani and mainly in Kaiti Constituency, which he represents here in Parliament?

Mr. Speaker: Order! Mr. Assistant Minister, that is a different Question.

Dr. Kones: Mr. Speaker, Sir, I also want to thank the Ministry for the efforts it has done this time to make available fertilizer and seeds at subsidized rates. I would like to know from the Assistant Minister what plans they have to ensure that more depots are also opened in areas where there are no NCPB depots.

Mr. Ndambuki: Mr. Speaker, Sir, we cannot afford to open depots everywhere. But I would also request the hon. Members whether they could also assist by putting up some godowns which could be hired by the NCPB for use in those areas.

Dr. Eseli: On a point of order, Mr. Speaker, Sir. Is the Assistant Minister in order to mislead this House that there is a cereals depot in Kimilili when there is none? Is he in order?

Mr. Speaker: Very well! Mr. Assistant Minister, are you misleading the House that there is a depot in Kimilili when there is none?

Mr. Ndambuki: Mr. Speaker, Sir, it is in Webuye/Kimilili.

Mr. Speaker: Yes, Member for Kiharu!

Mr. Mwangi: Mr. Speaker, Sir, the Assistant Minister has said that there is free fertilizer and subsidized fertilizer. Could he tell the House which areas qualify for the subsidized and free fertilizer because in my area we have not heard of free fertilizer?

Mr. Ndambuki: Mr. Speaker, Sir, all these fertilizer has been taken to all parts of the country. There is no specific area that did not receive subsidized fertilizer.

Mr. Speaker: The Member for Kiharu says that there is none in Kiharu. Is there any in Kiharu?

Mr. Ndambuki: Mr. Speaker, Sir, I can check about Kiharu.

Dr. Eseli: Mr. Speaker, Sir, it is a very sad day for Western Province. The Assistant Minister has actually greatly let down a large section of the citizens of this country. I specifically asked him how much fertilizer was left there and actually what he has read out here are minuscule amounts. He is talking of NPK when people are using CAN. The amount he is talking about means that the major fertilizer, which is DAP, is actually out of stock. Mr. Assistant Minister, you have heard my colleague from Rift Valley thanking you for supplying fertilizer in Rift Valley. You have also been thanked by people from Ukambani for supplying them with fertilizer. When are you going to restock the depots in Western Province?

Mr. Ndambuki: Mr. Speaker, Sir, as I said, in fact, we sent over 81,000 bags of DAP and 40,000 bags of CAN. As I speak, we have also given free DAP and CAN fertilizer to more than 26,400 people in Western Province. So, Western Province is well covered like any other part of this country.

REPLACEMENT OF NON-FUNCTIONAL LIFTS
AT KENYATTA NATIONAL HOSPITAL

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

(a) Is the Minister aware that the lifts (elevators) at the Kenyatta National Hospital (KNH) are old and have often broken down and stalled with users inside?

(b) How old are the lifts and why has the Minister not replaced them?

(c) What is the cost of replacement and when will the Minister install functional lifts at the hospital?

Mr. Speaker: Hon. Members, the Minister for Medical Services has put the Chair on notice that he is out of the country. Since he does not have an Assistant Minister, we will have to defer this Question to Wednesday next week.

(Question deferred)

Next Question by the Member for Kitui South!

REPAIR OF KIBWEZI-MUTOMO-KITUI ROAD

Mr. I. Muoki: Mr. Speaker, Sir, I beg to ask the Minister for Roads the following Question by Private Notice.

(a) Is the Minister aware that, as a result of the ongoing rains, the Kibwezi-Mutomo-Kitui Road (B7) is currently impassable?

(b) What urgent steps is the Minister taking to ensure the road is made all-weather?

(c) Could he upgrade the road to class A and tarmac it as a permanent solution, considering that it is an international road connecting the port of Mombasa and Ethiopia?

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

(a) I am aware that motorists have difficulties driving along Kibwezi-Kitui Road which is otherwise referred to as B7, especially after the current rains.

(b) To address the problem, my Ministry has set aside Kshs20 million for upgrading and spot gravelling on the road to make it motorable.

(c) The road does not have to be classified in order to be tarmacked. Even some lower class roads have been upgraded without re-classification and that is an open secret.

(d) The road is not an international road connecting Mombasa and Ethiopia but it is a national trunk road which is part of a short-cut linking A109, which is Mombasa-Nairobi Highway to A3 that is Thika-Garissa Road. Nevertheless, my Ministry understands the importance of tarmacking the whole road and in line with that, we are carrying out a feasibility study towards the construction of the proposed road corridor from Kibwezi to Isiolo through Kitui, Mwingi, Usweuni and Maua.

Mr. I. Muoki: Mr. Speaker, Sir, I would like to thank the Assistant Minister for the answer although it is not satisfactory. This is a very important road connecting Kibwezi-Kitui-Isiolo and all the way to Ethiopia, although he refused to acknowledge that bit. There have been many feasibility studies on this road. The first one was in 1974. There have been others and even the one the Assistant Minister is talking about was done in 2008/2009. I am sure that, that bit is complete.

The question that I am raising is that, we have been experiencing problems all this time. When is the road going to be tarmacked? It should be done urgently so that people in that region do not continue to suffer.

Dr. Machage: Mr. Speaker, Sir, currently, there is a feasibility study being done with the support of the World Bank towards the possible construction of the corridor from Kibwezi-Kitui-Mwingi and its prioritized in the Ministry. I may not be able to give the exact time for this, but it is a priority as far as the Ministry is concerned. Meanwhile, with the Kshs20.8 million that I have allocated for the maintenance of this road, actually, I have released Kshs11.7 million for the procurement of minor maintenance works which is already going on. That is gravelling and drainage protection.

Mr. Mbugua: Mr. Speaker, Sir, could the Assistant Minister tell this House if he could spare some amount of money to deal with the roads which have been washed off by the pounding rains? In Eastleigh, all the roads have been washed away. Are you going to set aside some emergency funds to cater for those roads?

Dr. Machage: Mr. Speaker, Sir, yes, indeed we are looking into that.

Mrs. Noor: Mr. Speaker, Sir, I had a Question sometimes last year on the Masalani Bridge and the poor conditions of the road that is connecting Masalani to Hola. The Ministry of Roads promised this House, under your leadership, that they are going to pay a visit in January. To date, that visit was not made and nothing has been undertaken. So, I am requesting for your direction on this particular matter.

Mr. Speaker: Mr. Assistant Minister, do you have any response at all?

Dr. Machage: Mr. Speaker, Sir, my visit to an area does not have to be personal. I sent officers to that area, most likely when she was out of the country and we have the report.

Mr. I. Muoki: Mr. Speaker, Sir, I would like to tell the Assistant Minister that this road is 150 kilometres and the Kshs20 million allocated for the emergency work will not last for a long period. So, I would like to ask him if he can consider increasing the funds up to Kshs150 million so that the whole section can be motorable.

Dr. Machage: Mr. Speaker, Sir, I hope the hon. Member has technical support for his request but the prerogative of allocating funds lies with this House of which he is a Member.

Mr. K. Kilonzo: On a point of order, Mr. Speaker, Sir. Is the Assistant Minister in order to say that he has set aside some money to repair this road yet the problem on this road is mostly on the Nzau Bridge which makes the road impassable when it rains? Is he in order to say that he has set aside money without telling us how much he has set aside to repair the Nzau Bridge on this Road?

Mr. Speaker: May be you will deal with that as a point of order, perhaps in this respect. Otherwise it does not pass the test. That you have set aside funds to repair this road and yet, according to the hon. Member for Mutito, this road is not repairable. It needs total rehabilitation. Is that so hon. Member for Mutito?

Mr. K. Kilonzo: Mr. Speaker, Sir, I am saying that the reason why this road is not passable is because of the Nzau Bridge. That is one of the main hindrances. He is telling us that he set aside money but he is not telling us how much it is.

Mr. Speaker: If you say so, it is a question and I am afraid it is not a point of order. Mr. Assistant Minister, you need not respond.

We will make an exception and allow Mr. Gabbow who has a special concern in this matter to raise a question.

Mr. Gabbow: Mr. Speaker, Sir, thank you for your consideration. It is not only in Kibwezi where roads have been washed by the rains. At the moment, this Member of Parliament is unable to access his own constituency. Seriously, the road between Malka-Gufu-Buna-Korondile-Moyale is cut off. May be the Assistant Minister can help me by giving me a chopper to go to my constituency. I request the Assistant Minister to give immediate emergency funds for this road which is about 85 kilometres.

Mr. Speaker: Assistant Minister, although that may sound like a different Question, it is related to this in so far as the cause is concerned.

Dr. Machage: Mr. Speaker, Sir, I take great concern that the hon. Member cannot reach his home. Unfortunately, my Ministry does not have a helicopter for the same purpose. May I use the Floor of this House to order the Provincial Roads Officer in that area to immediately visit the area and give me a report by Tuesday. I also want to say that the Provincial Roads Officer should go and visit Mr. K. Kilonzo's area to give me a report on the bridge that he has talked about. That should be on Tuesday.

ORAL ANSWERS TO QUESTIONS

Question No.135

NON-PAYMENT OF DUES TO RETIRED TEACHERS BETWEEN 1997 AND 2007

Mr. Pesa asked the Minister for Education:-

(a) to state the Ministry's position on the dues of thousands of teachers who retired between 1997 and 2007 and are yet to receive money running into millions of shillings as was ordered by the High Court is;

(b) why the Teachers Service Commission (TSC) deliberately refused to implement court orders issued by the High Court sitting in Nakuru in 1997 soon after the negotiated salary deal between the Government and the Kenya National Union of Teachers (KNUT); and,

(c) whether he could state the position of the Pensions Department and Treasury on the matter and also indicate how much interest will be paid on these monies, considering that the affected teachers have incurred expenses in the hope of being paid by the Government.

Mr. Speaker: Order, hon. Members! Before the Minister rises to respond to this Question, I have the following communication to make.

COMMUNICATION FROM THE CHAIR

QUESTION NO. 135 IS NOT SUBJUDICE

Mr. Speaker: On Tuesday, 13th April, 2010, Question No. 135 by the Member for Migori, the Hon. John Pesa, was listed on the Order Paper seeking an answer from the Minister for Education as follows-

(a) what is the Ministry's position on the dues of thousands of teachers who retired between 1997 and 2007 and are yet to receive money running into millions of shillings as was ordered by the High Court two years ago;

(b) why the Teachers' Service Commission (TSC) has deliberately refused to implement court orders issued by the High Court sitting in Nakuru in 1997, soon after the negotiated salary deal between the Government and the Kenya National Union of Teachers (KNUT); and,

(c) whether the Minister could state the position of the Pensions Department and the Treasury on the matter and also indicate how much interest will be paid on these monies, considering that the affected teachers have incurred a lot of expenses in the hope of being paid by the Government.

In response to the question, the Assistant Minister for Education, Prof. Ayiecho Olweny, informed the House that the matter is still pending in the Court of Appeal, having been lodged by the Government on 28th October, 2008, and it would, therefore, be *sub judice* to discuss the matter in the House before a ruling is delivered. The Assistant Minister then laid some documents on the Table in support of his proposition, that the matter is before the Court of Appeal.

Hon. Members, the *sub judice* rule finds expression in Standing Order No. 80, and in particular, Standing Order No. 80(4) imposes a duty on a Member claiming that a matter is *sub judice* to provide the requisite evidence. It states, and I quote-

"A Member alleging that a matter is *sub judice* shall provide evidence to show that paragraphs (2) and (3) are applicable."

Hon. Members, I have carefully scrutinised the documents tabled by Prof. Olweny in support of his claim that the matter is in court. These documents, purporting to be a record of appeal do not indicate that they have, in fact, been filed in court in as much as they do not bear a court stamp nor do they have a case number. The only substantive document among those tabled is the judgement of the High Court sitting in Nakuru in Civil Case No. 65 of 2006, Simon P. Kamau & Others vs. Teachers Service Commission which, if anything, is evidence that the matter was concluded by the court. No pleadings have been tabled by the Assistant Minister as required. Consequently, there is no evidence that an appeal was lodged in court on 28th October, 2008, as claimed by the Hon. Olweny. In addition, and more importantly, the purported record of appeal tabled by the Assistant Minister dated 5th November, 2009 does not accord with the date he claims an appeal was lodged in the Court of Appeal.

Hon. Members, in the light of the foregoing, it is my considered view that the Assistant Minister has not passed the requisite test as provided for in Standing Order No. 80 and as expounded in my previous communications. I, therefore, direct the Minister to proceed and answer the question asked by the member for Migori.

Thank you.

(Applause)

The Assistant Minister for Education (Prof. Olweny): Thank you, Mr. Speaker, Sir.

Mr. Speaker, Sir, in that case, I beg the indulgence of the Chair and the House so that I go and organize another approach to deal with the Question.

Mr. Speaker: Mr. Pesa, do you have any reaction to the Assistant Minister's request for accommodation?

Mr. Pesa: Mr. Speaker, Sir, this is a very weighty matter for this country. Could you kindly allow me to donate my time to my lawyer, hon. Olago, on this matter?

Mr. Speaker: Agreed, but, Mr. Pesa, in this House, hon. Members represent themselves as they conduct business!

(Laughter)

They are not represented by counsel! But your sentiments have been noted. I know that it is a weighty matter---

(Mr. Pesa stood up in his place)

Please, resume your seat, Mr. Pesa! It is a weighty matter and urgent in its nature. It is also significant to note that it has been pending before the House for two months or so, this being the fifth time that it is appearing on the Order Paper. So, Mr. Assistant Minister, will you, please, take this brief very seriously and ensure that you are ready with your answer on Tuesday at 2.30 p.m., notwithstanding the possibility that the House may adjourn.

Further, I direct that you furnish the hon. Member with details of immediate action to remedy the situation, even before you come to the House to answer this Question, and that you do so within the next 14 days. I will monitor the hon. Member to confirm that you have complied with this direction.

The hon. Member for Lari!

Question No. 153

NON-PAYMENT OF HARDSHIP ALLOWANCE
TO TEACHERS IN LARI DISTRICT

Mr. Njuguna asked the Minister for Education:-

(a) whether he is aware that some teachers posted by the Teachers Service Commission to Lari District immediately request for transfers with complaints of severe weather and cold-related diseases; and,

(b) whether he could, therefore, consider Lari District as a hardship area in order to control the trend, which is affecting academic performance in the District.

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

(a) I am aware that some teachers posted by the TSC to Lari District immediately request for transfers with complaints of severe weather and cold-related diseases.

(b) Determination, reviewing, designation, harmonization and gazettelement or degazettelement of hardship areas and allowances for public officers, including teachers is not the responsibility of the Ministry of Education. I, therefore, advise the hon. Member to direct the Question to the Ministry of State for Public Service.

Nevertheless, Mr. Speaker, Sir, according to the report of the Task Force on the Harmonization of Hardship areas and Allowances in the Public Service released by the Minister of State for Public Service effective 1st July, 2010, Lari District is not a hardship area.

Mr. Njuguna: Mr. Speaker, Sir, while I do appreciate the answer that has been given by the Assistant Minister, I wish to note, with some sadness, that for the last three months, 12 teachers have moved out of my district to other areas. I would ask the Assistant Minister to indicate to this House what corrective measures he has taken to guarantee continued effective learning in the affected schools.

Prof. Olweny: Mr. Speaker, Sir, the issue is actually of concern to the Ministry, because as the hon. Member has said, 12 teachers have left that district. These were teachers who were not from within Lari. The Ministry is going to ensure that teachers from the locality are recruited in those schools, so that they do not have the problem related to cold conditions in Lari.

Thank you, Mr. Speaker, Sir.

Mr. I. Muoki: Mr. Speaker, Sir, if you look across the country, you will see that the issue of under-staffing is severe in those areas which have difficulties like Lari, and may be, semi arid areas like Kitui South, North Eastern Province and so on. As a way of solving this problem in the future, could the Assistant Minister consider, during employment, giving more slots to those areas which are under-staffed because of hardships, and also employing the local people so that we do not have this exodus of teachers from these difficult areas to their home districts?

Prof. Olweny: Mr. Speaker, Sir, the teachers are posted based on the requirements; that is the understaffing within respective areas. Any place that has been listed as a hardship area, the teachers in those areas will get their allowances to help retain them there. That is the best that the Ministry is doing with regard to retaining teachers in hardship areas. I think, in any case, Kitui is listed as a hardship area.

Mr. I. Muoki: On a point of Order, Mr. Speaker, Sir. The point I had raised, if the Assistant Minister listened carefully, is that hardship areas have a shortage of teachers. Therefore, when you do not employ enough teachers from that area, the problem will still be there. Could the Assistant Minister, as a matter of policy, consider employing more teachers in those areas and employing local people at the same time so that we do not have this problem?

(Prof. Olweny stood up in his place)

Mr. Speaker: Order, Assistant Minister! It is a simple question really and that is a genuine concern. Can your Ministry consider employing teachers in those areas who are local residents so that you avoid these problems?

Prof. Olweny: Mr. Speaker, Sir, the policy in this country today is that teachers are recruited by the District Education Boards (DEBs) and they are recruited from their localities.

That is local people are recruited as teachers within their districts, and that is the policy that we have as of today. Hon. Members are members of the DEB and they can help in the recruitment of teachers.

Mr. Njuguna: Mr. Speaker, Sir, I wish to remind the Assistant Minister that there is the element of collective responsibility in the Government. Therefore he should not have advised this House that my Question should have been directed to another Ministry. Nevertheless, Lari District is 8,500 feet above the sea level. It is misty, foggy and freezing most of the time. The pupils and even the teachers are numb with the cold. Could the Assistant Minister consider providing warm clothes to the teachers in my district and even classroom warmers so that learning will also be guaranteed? This will curb the trend of the declining academic performance in my constituency.

Prof. Olweny: Mr. Speaker, Sir, I think what the hon. Member wants is not within the jurisdiction of the Ministry of Education. Otherwise, teachers are given their salaries; they can buy the warm clothes using their salaries.

Question No. 167

STATISTICS ON NUMBER /AGES OF STREET CHILDREN IN MOMBASA

Mr. Yakub asked the Minister for Gender, Children and Social Development.

(a) to provide statistics on the number and ages of street children in Mombasa currently; and

(b) what steps he is taking to assist the street children in the district, whose number is increasing rapidly.

The Assistant Minister for Gender, Children and Social Development (Mr. Keya): Mr. Speaker, Sir, I beg to answer.

On 14th April, 2010, I responded to the above Question regarding street children in Mombasa. Consequently, the supplementary question arose as to where the street children being rehabilitated at the Tononoka Church Protection Centre and those attending various schools and vocational training slept. I, therefore, beg to respond as follows:-

(a) Day scholars in secondary schools put up at Alms House which is a facility of Mombasa Municipal Council. Primary and Nursery school pupils as well as the youth who attend vocational skills training all stay at the Christian Industrial Training Centre. It is emphasized that the Tononoka Church Protection Centre is a new project which started in the year 2008 and hence no child has completed their learning.

Mr. Speaker, Sir, my Ministry also carries out other child welfare activities in Mombasa, besides those mentioned yesterday which are aimed at stabilizing the children hence reducing the numbers that tend to rise in the streets. These include the Likoni Remand and Rehabilitation school which caters for the children in conflict with the law and have been taken through court processes. The children in these facilities include those who were previously in the streets and those who were in ordinary communities.

The Orphans and Vulnerable Children Cash Transfer programme covers 850 families in the larger Mombasa District. Under the programme, each of the targeted families receives Kshs1,500 per month to cater for orphans and vulnerable children within the families. The Ministry has recently opened a new---

Mr. Speaker: Order, Assistant Minister! You had substantively answered this Question and you had just one supplementary question that you needed to answer. Where do these children sleep? Have you answered that?

The Assistant Minister for Gender, Children and Social Development (Mr. Keya): Yes.

Mr. Speaker: Mr. Yakub, do you have anything remaining?

Mr. Yakub: Thank you, Mr. Speaker, Sir. I would like to remind the Assistant Minister that these children are part of our society and it is high time that the Government should take very seriously the issue of their health, education and shelter. The answer which the Assistant Minister gave mentioned Alms House which is a facility of Mombasa Municipal Council. But I would like to inform him that up to today, by 2.30 pm in that particular house we had only seven street children. Where are the other 893 street children?

Mr. Keya: Mr. Speaker, Sir, as per my information, these children are in this house and if they are not there, then we may decide to look for them later but as at now they are there.

Mr. Yinda: Thank you, Mr. Speaker, Sir. It is really disturbing when you have Ministers come to the House with very sketchy answers. The issue at hand is a very serious one. The problem of street children in this country is worrying. It is actually a time bomb and it is high time the Ministry rose to the occasion to take care of these children. What is the Ministry doing to ensure that the children in Mombasa are taken care of properly because the information he has given is not correct? There is no psychological support that the Ministry is giving. If it is, could he table what the Ministry is doing in Mombasa with these children?

Mr. Speaker: Mr. Assistant Minister, you may answer that and that is the last question we will deal with because I followed the proceedings yesterday and I know that this matter was substantively dealt with.

Mr. Keya: Mr. Speaker, Sir, I think the hon. Member is asking a different question other than the one that was asked earlier. If the hon. Member has other concerns, he can raise them in the office and we will deal with them.

Mr. Speaker: Mr. Assistant Minister, will you, please, undertake to follow up on this matter and ensure that these gentlemen are being properly looked after?

Mr. Keya: Yes Mr. Speaker, Sir. I will undertake to do so.

Question No. 051

NON PAYMENT OF RETIREMENT BENEFITS TO FORMER EMPLOYEES
OF NYANDO/KISUMU COUNTY COUNCIL

Mr. Ochieng asked the Deputy Prime Minister and Minister for Local Government ,

(a) if he is aware that several former workers of Nyando/Kisumu County Council who retired from the council since 1999 have not been paid their retirement benefits to date and, if so, when the Minister intends to pay them their lawful dues in full; and

(b) if he could avail the names and particulars of these retirees and indicate the amounts they are likely to be paid.

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

(a) Yes, I am aware that several workers of the County Council of Nyando and Kisumu who retired from the council since 1999 to date have not been paid their retirement benefits and the two councils have been directed to pay within this financial year, 2009/2010.

(b) I hereby table the names and the amounts that are to be paid. Thank you.

(Mr. Nguyai laid the document on the Table)

Mr. Yinda: Mr. Speaker, Sir, now that the Assistant Minister has agreed that the retirees should be paid their dues, can he also order that the accrued interest to date should be paid to these retirees?

Mr. Nguyai: Mr. Speaker, Sir. I have tabled the amounts to be paid and there is the principal amount plus arrears and anything additional will be paid in accordance with the Government requirements and laws. Thank you.

Mr. Olago: Mr. Speaker, Sir, this issue of non-payment of retirement benefits in time is not confined to Nyando County Council. It also affects Kisumu Municipal Council severely thus causing a lot of problems to retirees. How are the retirement funds for local authorities in Kenya managed? How are the local authorities pension managed? We need it to be done in a way that cannot cause problem to retirees. In those circumstances, could the Assistant Minister clarify the matter?

Mr. Nguyai: Mr. Speaker, Sir, we have LAPTRUST and LAPROFUND which manage the local authorities funds. Unfortunately, some funds have not been remitted by the respective councils, particularly because of lack of funds. We have taken action to ensure that they do remit the funds through the restructuring of those councils. In the meantime, we are focusing on ensuring that whatever funds are available to those councils, first, take care of the arrears that exist including the pensions.

Mr. Outa: Mr. Speaker, Sir, it has been 11 years now and the Assistant Minister has just laid on the Table a list of names of the people to be paid. Could he confirm when he really plans to pay these workers? We want to help these poor workers who have worked all their life and they are now at home. Most of them come to our homes everyday to find out when they will be paid. When will they be paid?

Mr. Nguyai: Mr. Speaker, Sir, in part "a" of my response, I said that the two councils have been directed to pay within this financial year.

Mr. Ochieng: Mr. Speaker, Sir, maybe, I request that a copy of the list that has been tabled be availed to me so that--

Mr. Speaker: It is now the property of the House and it will be available to you, of course, as the Member for Nyakach.

Mr. Ochieng: Thank you, Mr. Speaker, Sir. I have no further questions.

Questions No.104

PROHIBITION OF RAW NUTS EXPORTATION

Ms. Karua asked the Minister for Agriculture:-

(a) what consideration motivated the Minister to publish Legal Notice No.109 of 16th June, 2009 prohibiting the exportation of raw nuts; and,

(b) whether he could consider urgently revoking the notice to avert loss and financial injury to farmers.

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

(a) The decision to publish Legal Notice No.109 prohibiting the exportation of raw nuts was informed by the recommendation made by the task force on revitalization of the nut industry which had overwhelming evidence of negative socio-economic impact arising from the export of raw nuts.

(b) My Ministry, through the wider stakeholder consultation, is formulating the National Nut Crop Industry Policy whose legal framework will facilitate fair trade in the industry.

Ms. Karua: Mr. Speaker, Sir, the background of this matter is that the Chinese and Asians entered the nut industry as buyers in 2004. Before then, the price of nuts had dropped to Kshs8 a kilo. That price has now risen to Kshs80 or Kshs90 a kilogramme. The Assistant Minister has suddenly, because of competition, slapped this legal notice without any consultation with farmers.

The Assistant Minister has now told us about consultations after he has already ruined the market causing financial injury to farmers. Could he suspend the notice awaiting these consultations and empowering these farmers so that they can do value addition rather than push them to only two local cartels?

Mr. Ndambuki: Mr. Speaker, Sir, as I said, there was consultation last year in Pwani University with all the growers of nuts. That is where the task force was formed because there was a complaint that the local processors---

Mr. Speaker: Order, Mr. Assistant Minister! You were asked a simple question. Can you consider suspending the legal notice? Just answer that!

Mr. Ndambuki: Mr. Speaker, Sir, I can only go back to the Ministry and we see how far we can go with this matter or what we can do.

Mr. Mbadi: Mr. Speaker, Sir, the Assistant Minister has talked about some socio-economic impact that this task force came up with. Could he tell us one or two of these socio-economic impacts which informed this decision?

Mr. Ndambuki: Mr. Speaker, Sir, during the consultation meeting, the farmers and processors expressed concern that they could not access the local nuts because they were being bought at a higher price. Indeed, that is true. They said that the nuts were being exported out of the country and they could not process them. At the moment, we have only a capacity of 45,000 kilograms and what is being produced now are 43,000 kilograms. So, some of the processors could not get nuts to process.

Mr. Speaker, Sir, the farmers were not involved in the export of the nuts. So, we wanted to form co-operatives for the local people so that they could benefit from the sale of the crop.

Mr. Mututho: Mr. Speaker, Sir, you heard that two families are involved in the export of macadamia nuts. I also want to confirm that three families are involved in maize production to the level of 67 per cent. I also want to confirm that, maybe, there is one family involved in the production of pyrethrum. What has happened here is that the two families have influenced this Ministry to do what they have done and we need to go deep into that matter and clear all those cartels. Could the Assistant Minister consider lifting the gazette notice immediately because it does not have any legal or economic basis and allow the poor farmers to market the nuts?

Mr. Ndambuki: Mr. Speaker, Sir, first, I do not know any company or family that does this business. The hon. Member has made an allegation that these families have influenced the

Ministry. Could he substantiate what he has alleged? This is because I do not understand what he has said. I do not know anything to do with that.

Mr. Speaker: Order! The Member for Naivasha, that is a legitimate challenge. Could you substantiate the two families that have influenced this decision?

Mr. Mututho: Mr. Speaker, Sir, there are two companies exporting macadamia nuts. Both companies are family concerns. Just like in the case of maize, there are three families which control 67 per cent of the entire *unga* trade.

Mr. Speaker: Order, the Member for Naivasha! The Assistant Minister has challenged you to substantiate your allegation that two families have influenced his decision.

Mr. Mututho: Mr. Speaker, Sir, I withdraw my remarks.

(Laughter)

Mr. Speaker: Order! You withdraw and apologise. Could you do that?

Ms. Karua: On a point of information, Mr. Speaker, Sir.

Mr. Speaker: Order, the Member for Gichugu!

Mr. Mututho: Mr. Speaker, Sir, I would like to withdraw and name one---

Mr. Speaker: Order, the Member for Naivasha! Your allegation is that two families have influenced the Minister's or the Government's decision for that matter. Will you substantiate by naming the two families?

Mr. Mututho: Yes, Mr. Speaker, Sir.

Mr. Speaker: Proceed!

Mr. Mututho: One is the Kenya Nut Company which is owned by---

Mr. Speaker: Order, the Member for Naivasha! One is the Kenya Nut Family. The second one is?

Mr. Mututho: Mr. Speaker, Sir, I was going to mention who owns Kenya Nut Company. Could I be given time to name the family now?

Mr. Speaker: We do not have infinite time! You said that two families have influenced the Assistant Minister's decision or, for that matter, the Government's decision. Kenya Nut Company is not a company, but it is a limited liability company. Hon. Mututho, please, be careful!

Mr. Mututho: Mr. Speaker, Sir, I withdraw and apologise!

Mr. Speaker: Thank you.

Yes, Member of Parliament for Gichugu!

Ms. Karua: Mr. Speaker, Sir, this is a very serious issue, which is rendering about 10,000 people, mainly youth, jobless. The Assistant Minister has talked of consultations. Could he table the documents which will show that the farmers were actually represented, and the recommendations? Could he tell us the names of the companies that are now buying nuts in the absence of the Chinese? Who are their directors? He cannot feign ignorance to protect cartels.

Mr. Ndambuki: Mr. Speaker, Sir, first, I want the hon. Member to withdraw the statement that "I cannot feign ignorance to protect cartels." Honestly, I do not know anything or any cartel in this business. The only thing I know is that there was a consultation, which was held there. A taskforce was formed, which is still dealing with this issue.

Mr. Speaker: Order, Assistant Minister! The issues raised are also straightforward. You claimed that there were consultations held. The Member of Parliament for Gichugu has asked

you to indicate whether or not farmers were involved in those consultations. If so, table the names of the farmers who were involved. Are you able to do that?

Mr. Ndambuki: Mr. Speaker, Sir, at the moment, I cannot table that information, but I can get the document.

Mr. Chairman: Are you able?

Mr. Ndambuki: To get the document, Mr. Speaker, Sir?

Mr. Speaker: Yes!

Mr. Ndambuki: Mr. Speaker, Sir, I can get the document.

Mr. Speaker: How long do you require to do so?

Mr. Ndambuki: Mr. Speaker, Sir, next week, once I go to the office, I will ask for the document.

Mr. Speaker: Fair enough! We are prepared to give it time.

Ms. Karua: On a point of order, Mr. Speaker, Sir. Could he, in the meantime, revoke this Gazette Notice and give a timeframe for its implementation to enable the farmers to continue enjoying the benefit of the high price of the Macadamia nut? The families are starving.

Mr. Ndambuki: Mr. Speaker, Sir, as I bring the document, I will also inform the House about that aspect.

Mr. Speaker: You will have made consultations, and you will be able to report to the House the progress made?

Mr. Ndambuki: Yes, Mr. Speaker, Sir.

Mr. Speaker: So, I direct that this Question appears on the Order Paper next Tuesday.

(Question deferred)

Next Question, Member of Parliament for Mutito!

Question No.133

ESTABLISHMENT OF GAME RESERVE
IN MUTITO/HOLA DISTRICTS

Mr. K. Kilonzo asked the Minister for Forestry and Wildlife what action he is taking to establish a game reserve in the vast land between Malalani Location in Mutito District and Hola District with a view to opening up the Eastern Tourism Circuit.

The Minister for Forestry and Wildlife (Dr. Wekesa): Mr. Speaker, Sir, I beg to reply.

My Ministry has no immediate plans to establish a national reserve in the vast land between Malalani Location in Mutito District and Hola District. However, my Ministry is liaising with Kitui County Council to establish the Kitui South National Reserve that falls close to this area.

Mr. K. Kilonzo: Mr. Speaker, Sir, given that Kitui South Game Reserve cuts into Malalani Location, could the Minister consider extending the same, so that the residents of both locations can benefit from tourism?

Dr. Wekesa: Mr. Speaker, Sir, I have no objection provided that the hon. Member can liaise with the county council, which should be the authority to approach us since he is not qualified to approach us. We need a credible institution to do so, we will consider it.

Dr. Nuh: Mr. Speaker, Sir, considering the fact that the game reserve also extends from Kitui towards Tana River District, and the fact that Coast Province houses the largest portion of game reserves in this country at a time when there is so much competition between pastoralists and wildlife, does the Ministry think, in terms of policy, that it is fair enough to go on and gazette more game reserves rather than reduce them?

Dr. Nuh: Mr. Speaker, Sir, my Ministry does not consider giving this provision, provided *wananchi* in the area have requested. May I also add that people living near wildlife stand to gain by this procedure? So, it is something that would be encouraged, provided that the communities are involved.

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

Mr. K. Kilonzo: Mr. Speaker, Sir, I would want to thank the Minister for that answer. The county council and I, as the area Member of Parliament, work in consultation. This Question was brought to the House after intensive consultations with area leaders. So, could he consider visiting the area to see its potential, with a view to opening it up for tourism activities?

Dr. Wekesa: Mr. Speaker, Sir, there is no need for me to go there. If *wananchi* want the national reserve, I am agreeable to the proposal. So, there is no need for me to visit the area, unless the hon. Member wants me to go there for other things.

(Laughter)

Mr. Speaker: Next Question, Member of Parliament for Vihiga!

Question No.144

ISSUANCE OF ALLOTMENT LETTER
TO MASINDE MULIRO UNIVERSITY

Mr. Chanzu asked the Minister for Lands:-

(a) why Masinde Muliro University of Science and Technology has not been issued with an allotment letter for the 16 acres of the former ASK Showground land (Kakamega Municipality /Block 111/114) and the adjacent 68 acres of the Kakamega Rehabilitation School land, as directed by the Government on 11th August, 2007; and,

(b) when the allotment letter will be issued.

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

(a) Masinde Muliro University of Science and Technology has not been issued with a letter of allotment because there was a dispute between the university and Kakamega Rehabilitation School over the excision of the school's land.

(b) Masinde Muliro University has raised objections on the ground that they should be allocated the whole land currently occupied by Kakamega Rehabilitation School, while the school is not willing to part with any of part of the land it is occupying.

Mr. Speaker, Sir, Kakamega Rehabilitation School is a public institution and, therefore, its interests cannot be completely ignored. The Ministry is seeking ways of resolving the dispute amicably between Masinde Muliro University and Kakamega Rehabilitation School before issuing the letter of allotment.

Mr. Chanzu: Mr. Speaker, Sir, I would like to thank the Minister for that answer. However, part “a” of the Question has two sections in it. There is the part asking about the land that was formerly for the ASK Showground, and the other one for the land belonging to the rehabilitation school. He has only answered the part relating to the land belonging to the rehabilitation school. Could he explain why the part relating to the ASK Showground land cannot be dealt with?

Mr. Orenge: Mr. Speaker, Sir, the university wanted the land belonging to Kakamega Rehabilitation School, and that belonging to the ASK, to be given together as one piece of land, with one title deed. In trying to do so, Kakamega Rehabilitation School raised objections, and that has made it very difficult for us to resolve the matter.

Mr. Chanzu: Mr. Speaker, Sir, in view of the fact that Masinde Muliro University is growing very rapidly, could the Minister consider getting alternative land for the Kakamega Rehabilitation School?

Mr. Orenge: Mr. Speaker, Sir, that has been put on the floor as it were, but the school would hear none of it. They said they have been there longer. Indeed, there have been efforts under the auspices of the provincial administration with our officers to find a solution. But since the two parties are not prepared to reach an agreement, we must keep on trying until there is a solution.

Question No. 155

COMPENSATION TO FAMILY OF LATE
SAMUEL KIVUITU NZIOKI

Mr. Kiilu asked the Minister for Roads:-

(a) whether he is aware that Samuel Kivuitu Nzioki(ID No. 2581507), a works paid staff, who died in a road accident involving the Ministry’s motor vehicle registration GK T497 along Machakos – Sultan Hamud road on 10th January 2008, has not been compensated; and,

(b) when he will pay compensation to his next of kin.

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

(a) Yes, I am sadly aware Samuel Kivuitu Nzioki (ID No. 2581507), a works paid staff, who died in a road accident involving the Ministry’s motor vehicle registration GK T497 has not been compensated. This is because the next of kin has not filed a formal claim against the Ministry for compensation as required by law.

(b) Compensation will be processed once the matter is filed and settled in court as required under Fatal Accident Act, Cap 32 and Law Reform Act, Cap 26 of Laws of Kenya.

Mr. Kiilu: Mr. Speaker, Sir, I want to thank the Assistant Minister for the answer he has given. This answer gives hope of justice being done to the family of the late Nzioki.

The family of the late Nzioki has been following the issue of compensation for the last two years, but the Ministry’s staff have been a bottleneck. I want an assurance by him that once the family has now done what he wants them to do; fill the necessary forms, he will undertake to have the payment processed in good time.

Dr. Machage: Mr. Speaker, Sir, if the hon. Member listened to my opening remarks, I said, I am sad that this issue is that way. I undertake that once they do what is supposed to be done by them, I will assist and they will get their compensation the fastest possible.

Mr. Kiilu: Mr. Speaker, Sir, I am satisfied.

Question No. 161

CRITERIA FOR SHORT LISTING CANDIDATES
FOR TRAINING IN HEALTH DISCIPLINES

Mr. Speaker: Member for Wudanyi. Question dropped!

(Question dropped)

Question No. 180

IMPLEMENTATION OF DIRECTIVE
TO WEIGH SUGAR-CANE AT FARM GATES IN MUMIAS

Mr. Washiali asked the Minister for Agriculture when he will implement his directive to weigh sugarcane at farm gates in Mumias Sugar Scheme.

Mr. Speaker: Minister for Agriculture! Where is the hon. Ndambuki?

*(The Assistant Minister for Agriculture
(Mr. Ndambuki) crossed to the Government side)*

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

Mr. Konchella: On a point of order, Mr. Speaker, Sir. The hon. Assistant Minister just walked through without bowing to the Chair.

The Assistant Minister for Agriculture (Mr. Ndambuki): Mr. Speaker, Sir, I did.

Mr. Speaker: I thought he did.

The Assistant Minister for Agriculture (Mr. Ndambuki): I did. Unless he wants me to do it again. I am ready to do it again!

Mr. Speaker: Proceed, Mr. Assistant Minister. Expedite your answer!

The Minister for Agriculture (Mr. Ndambuki): Mr. Speaker, Sir, my Ministry will implement the directive on weighing of sugar cane at farm gates once consultations with the industry's stakeholders have been concluded.

Mr. Washiali: Mr. Speaker, Sir, I call upon this House to sympathize with farmers of Mumias because cane as a crop is sold to Mumias by way of weighing its weights. Unfortunately, for them, they need to seek permission from the management of Mumias Sugar Company to allow them access the weighbridge.

The Sugar Act of 2001 dictates that sugar must be weighed at the farm gates. However, ten years down the line, nothing has been done. When will the Assistant Minister effect this requirement?

Mr. Ndambuki: Mr. Speaker, Sir, I agree with the hon. Member that, that is what the Act says. Last week, we sent the regulations to guide the Act to the Attorney-General for gazette and we are waiting for them. We would want to know what "farm gates" means.

Also the Kenya Sugar Board has been to millers to agree on a central place where sugar can be weighed because the machine is huge and costly and not every miller can afford to buy it.

Mr. Odhiambo: Mr. Speaker, Sir, is the Assistant Minister telling us that he does not know the meaning of “farm gates”?

“Farm gate” is just like the home gate. The home gate is the gate that enters your home or leaves your home. So, farm gate is at the entry where one enters the farm or leaves the farm. So, it is assumed that the farm gate is the area of his or her farm where the tractor enters to carry the cane or leaves with cane. That is the farm gate. So, do not mislead us by saying you do not know the meaning of farm gate.

Mr. Speaker: Order, Member for Butula! You have done very well and I know from your background as a teacher you have taught the Assistant Minister, could you now ask the question?

Mr. Odhiambo: Mr. Speaker, Sir, the Assistant Minister says that they have sent regulations to the Attorney-General for gazette. My colleague has already said that ten years down the line, the story has been the same and farmers have continued to suffer?

Mr. Speaker: Order, Member for Butula!

Member for Butula, that then becomes repetitive!

Mr. Odhiambo: Mr. Speaker, Sir, I was only giving the background!

(Laughter)

Mr. Speaker: Order, Member for Butula!

(Mr. Odhiambo kept standing in his place)

(Laughter)

Order, Member for Butula! I am afraid you are out of order! I have given you as much indulgence as I could. I want to direct you to, please, go and read your Standing Orders, once again, on what happens when you are prompted by Mr. Speaker; and what happens when Mr. Speaker rises, particularly because you have caused him to do so. So, for the moment, you are out of order. But, please, spend some time on your Standing Orders.

Member for Gichugu!

Ms. Karua: Mr. Speaker, Sir, I am surprised to hear the Assistant Minister wonder what farm gate is because that is the language in the Sugar Act.

Mr. Speaker, Sir, my question to the Assistant Minister is whether he is aware that when the cane is taken to the sugar factory to be weighed, it is lost along the way and, therefore, farmers lose their revenue? Is he also aware that their weight is sometimes deliberately distorted by those weighing at the factory and hence the need to weigh at the farm gate?

Mr. Ndambuki: Mr. Speaker, Sir, I totally agree that the sugarcane should be weighed but there has been an agreement between the stakeholders, especially the millers with the Kenya Sugar Board (KSB), where the agreement is that they cannot afford to put a weigh bridge. For example, in Mumias, they have more than 70,000 sugarcane growers. Are we really going to have a weigh bridge for them; a machine which is so costly? That is why we are saying that we want the farmers and the KSB to agree to have this machine at a central place where this sugarcane can be weighed.

Mr. Washiali: Mr. Speaker, Sir, it has taken so long. But I want to find out from the Assistant Minister how often his Ministry contracts the Department of Weights and Measures to go and check on the efficiency of the current weigh bridge; the one that is currently used by the Mumias Sugar Company (MSC)?

Mr. Ndambuki: Mr. Speaker, Sir, that is really done by the KSB regularly. They check whether those weigh bridges are functioning and are accurate.

Question No.182

POLICY ON ROLE OF AMBASSADORS/HIGH COMMISSIONERS

Mr. Lessonet asked the Minister for Foreign Affairs:-

(a) whether he could explain the policy regarding the role of Ambassadors and High Commissioners and, specifically, the duration of such postings;

(b) whether he could provide the names of Kenya Ambassadors and High Commissioners recently recalled, the duration of their respective postings and their replacements; and,

(c) what the reasons are for the recall of the Ambassadors and High Commissioners.

Mr. Speaker: Mr. Wetangula, please try and expedite your answer!

The Minister for Foreign Affairs (Mr. Wetangula): Mr. Speaker, Sir, I beg to reply.

(a) The role of Ambassadors and High Commissioners is defined by the 1961 Vienna Convention on diplomatic relations. Specifically, Kenya's ambassadors and high commissioners serve as the Heads of the diplomatic missions and personal representatives of the Head of State in the countries of accreditation. They promote, project and protect Kenya's image and national interest and promote cordial relations between Kenya and the country or institution of accreditation. In this case, institutions like the AU and the UN. The persons appointed as ambassadors and high commissioners serve at the pleasure of the appointing authority.

(b) A list of the ambassadors and high commissioners recently recalled and the duration of their respective postings is attached to the answer and the hon. Member is in possession of it.

(c) Appointment to the grade of ambassador extraordinary and plenipotentiary is made in accordance with Section 112 of the Constitution of the Republic of Kenya which states as follows:-

“The power to appoint a person to hold or act in the office of ambassador, high commissioner or other principal representative of Kenya in another country and to remove from office a person holding or acting in any such office shall vest in the President.”

Mr. Lessonet: Mr. Speaker, Sir, my interest is basically on the ambassadors who have served for a very short time. I am just wondering what would have offended the appointing authority, despite his statement that they serve under the pleasure of the appointing authority. This means they can as well be treated in the same category as gardeners, houseboys, tea girls and tea boys of the appointing authority. What does he think might have offended the appointing authority in recalling Messrs. Sio, Kiplagat and Odembo, having served less than three years?

Mr. Wetangula: Mr. Speaker, Sir, a recall of an ambassador or high commissioner is not accentuated by any offence as the hon. Member is insinuating. Ambassadors and high commissioners are appointed and are posted to serve in stations and they may, midstream, be relocated to other stations or be recalled back to serve the Government in different capacities.

Even where an ambassador may be in the process of being moved from one station to another, the correct procedure is to recall before the designation to another station is done. So, there are some who have served much longer than others while there are some who have served much shorter than others. The reasons for recall are varied; some will come to take up responsibilities internally and others may be assigned responsibilities to other stations.

Mr. K. Kilonzo: Mr. Speaker, Sir, I belong to the Departmental Committee on Defence and Foreign Affairs and the Minister is very much aware that complaints have come of ambassadors whose terms of duty have been cut short because of political intrigues.

Could the Minister tell us why Amb. Elkana Odembo only served for one year and two months and why Dr. Maria Nzomo was recalled before her term was over?

Mr. Wetangula: Mr. Speaker, Sir, my good friend here has asked me that question in the Committee and he repeats it here. First, when ambassadors are appointed and posted, there is no fixed term. They are appointed and posted to serve the country. There is no provision in any law for any fixed term for an ambassador. Secondly, Amb. Nzomo very diligently and ably served this country for six good years in Zimbabwe and Geneva. So I do not understand what my colleague means by cutting short her term. Thirdly, as to Amb. Odembo, he was appointed and posted to Paris and he has been recalled. He has been recalled for the reasons that I have given; he may be assigned local duties or be deployed elsewhere. I think I am quite clear on this.

Mr. K. Kilonzo: On a point of order, Mr. Speaker, Sir. This is the National Assembly and the Minister cannot afford to be vague. I have just asked him to give specific reasons why Amb. Odembo was recalled. Is he in order just to say he has been recalled because of the obvious reasons he has given? Could he be more specific?

Mr. Wetangula: Mr. Speaker, Sir, Amb. Odembo is our extraordinary and plenipotentiary in Paris. He has been recalled! I am not the appointing authority and I have made it very clear that an ambassador can be recalled in transit to another station. Unless an appointment to another station is done, I am not the appointing authority. Therefore, I am not obligated to speculate.

(Mr. K. Kilonzo stood up in his place)

Mr. Speaker: Order, Mr. K. Kilonzo!

Mr. Shakeel: Mr. Speaker, Sir, on the same note, could the Minister for Finance tell us what action is taken when you recall ambassadors and other officers and they refuse to come back like the case in Britain where the ambassador refused to come back? There are a number of other cases where they have been recalled and they have not come back. What do they do?

Mr. Mbugua: On a point of order, Mr. Speaker, Sir. He is directing the question to the Minister for Finance. Is he in order to ask the Minister for Foreign Affairs a question related to the Ministry of Finance?

Mr. Speaker: Order, Mr. Mbugua! I know that that may be an inaccuracy on the part of Mr. Shakeel but it is just a small mistake in form. It does not affect the substance!

Proceed, Mr. Wetangula!

Mr. Wetangula: Mr. Speaker, Sir, I am quite sure that my good friend from Kisumu knows the difference between me and my good friend sitting next to me; the Deputy Prime Minister and Minister for Finance.

Mr. Speaker, Sir, there is no ambassador who has been recalled and refused to come. However, I know there was a High Commissioner in London who was recalled and gave a series

of excuses as to why he should not come. Eventually, he came back or if he has not come back to the country, he is definitely not our High Commissioner. He is an ordinary citizen and we have a new High Commissioner in London.

(Mr. K. Kilonzo and Ms. Karua stood up in their places)

Mr. Speaker: What is your point of order the Member for Gichugu?

Ms. Karua: Mr. Speaker, Sir, the Minister insists that they do not give a duration for ambassadors. The law may not have a specific period but we are aware that either the appointment letter or the Agreeemo sent to the foreign country where the ambassador is being posted contains the duration for which that ambassador will serve. Is the Minister in order to mislead the House that no duration is given while an ambassador is being posted?

Mr. Wetangula: Mr. Speaker, Sir, I have not in any way misled this House. I want my learned senior to know that there is no provision that requires a duration. That is why you can see some have served for six years, others five years and others three years. When their Letter of Appointment and Agreeemos are sent they simply say: "We propose to appoint in the Agreeemo the following person to serve our country as ambassador or High Commissioner".

Mr. Mbadi: On a point of order, Mr. Speaker, Sir. The way the Minister has handled this issue makes me think that Kenyans need to vote for the new Constitution so that we can rein on the appointing authority. However, the Minister has told us that the reason Mr. Elkana Odembo was recalled--- He is not the appointing authority. Would I be in order to ask that we give him more time so that he can consult the appointing authority? Someone being appointed and serving for one year is unfair. Could the Minister go and consult the appointing authority and come with the correct answer to this House on why Mr. Elkana Odembo could serve for only one year?

Mr. Wetangula: Mr. Speaker, Sir, I hope the reason Mr. Elkana Odembo is being picked on has nothing to do with the fact that he comes from the same region with my colleague. I said very clearly that ambassadors and High Commissioners can be recalled at any time and may be on transit to another station or may be coming to take up a local appointment. I have not said that any of these recalled ambassadors and High Commissioners has been dismissed. I have simply said they have been recalled and they are coming back to serve the country in different capacities. I cannot be any clearer than that.

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

Mr. Speaker: Order, the Member for Mutito! The Member for Mutito, you belong to a committee that overlooks this Ministry and you have more powers than you are utilizing even now.

Yes, the Member for Eldama Ravine!

Mr. Lessonet: Mr. Speaker, Sir, you have succeeded some time in this Tenth Parliament to help us interpret the National Accord. With respect to that, I would like the Minister to confirm to us that there was proper consultation between the partners who run this Government in recalling these ambassadors and that the replacements will be done after such consultation.

Mr. Wetangula: Mr. Speaker, Sir, you and my colleagues know that I am not one of the principals. Therefore, the levels at which the principals consult certainly is not within my ring.

Thank you.

Mr. Speaker: Hon. Members, that brings us to the end of Question Time! I am happy that we have been able to go through all the Questions, notwithstanding the number.

We will now take the Next Order!

STATEMENTS

Hon. Members, I think we have three Statements. We will want an indication as to how long each of them will last so that we can see if we can take all of them because we have just half an hour. We have only 30 minutes at most. We will begin with the Minister for Education!

PATHETIC STATE OF EDUCATION IN NORTH EASTERN PROVINCE

The Assistant Minister for Education (Prof. Olweny): Thank you Mr. Speaker, Sir.

On 7th April, 2010 the Member for Lagdera, Mr. Farah Maalim, stood on a point of order requesting for a Statement regarding the pathetic state of education in North Eastern Province.

Mr. Speaker, Sir, the standards of education in North Eastern Province is of major concern to the Ministry of Education. It is bad and I have discussed with the Member concerned. We have agreed that the Ministry will have to organise a stakeholders' forum in May, where we shall involve the leaders and all the people concerned with education to ensure that we improve the standard of education in North Eastern Province.

I would wish to leave it at that point because we shall handle it later---

Mr. Speaker: Would you want to issue a Statement thereafter?

The Assistant Minister for Education (Prof. Olweny): Mr. Speaker, Sir, maybe, after because we have agreed---

Mr. Speaker: The request is now the property of the House. So, you must come with that Statement! You do not satisfy the Deputy Speaker and the matter stops there.

The Assistant Minister for Education (Prof. Olweny): Mr. Speaker, Sir, I will issue it.

Mr. Speaker: I will defer the delivery of that Statement therefore to Thursday, next week!

(Statement deferred)

Mr. Maalim: On a point of order, Mr. Speaker, Sir. Indeed, the Assistant Minister has had some very fruitful discussions with me. He intends to carry out very good steps in calling the stakeholders to see how the standards of education can be improved. My request to the Chair is that the Ministerial Statement be delivered after the month of May. By then, we will have seen what good steps the Government has carried out. I rest my case at that. I am satisfied basically with the---

Mr. Speaker: Order, the Member for Lagdera! I have already given directions and those directions are not reviewed that lightly!

The Minister for Lands!

STATE OF LR.NO.209/1866

Mr. Orengo: Mr. Speaker, Sir, I apologise for not making this Statement earlier. When I had come to the House to make the Statement, Mr. Kioni who had requested for it was not in the House. He had indicated that he had taken his kids to school. I now wish to give the Statement.

Land reference No.209/1866 which was originally LR.No.209/7437 is located along Uhuru Highway – Westlands Road and Chiromo – Museum Road junction. The land measures 1.587 hectares and was initially leased to the Tourist Paradise Investment Ltd. for the purposes

of a casino and an international tourist centre that included a night club, a concert hall and an indoor open-air restaurant and related activities.

The first lease period was for 15 years from the 1st October, 1968 and was subject to renewal. In the year 1994, the said company, the Tourist Paradise International Investment Ltd. charged the property to the National Industrial Credit which is now known as the NIC Bank for Kshs60 million.

The company besides failing to service the NIC loan, also failed to pay Kshs6,300,000 annual rent, which together with accrued interest had accumulated up to Kshs204,279,233. The attempt by the Attorney-General to recover the outstanding rent by civil suit No.956 of 2004 was not successful.

[Mr. Speaker left the Chair]

[Mr. Deputy Speaker took the Chair]

Mr. Deputy Speaker, Sir, in September, 2007, NIC approached the Government with a request that the interest on the rent be waived and the remaining term of the lease be extended for 15 years. This request was granted, wherein in the interest of the general public and protection of depositors' funds and in agreement approved by the Attorney-General and Treasury, the remaining term of the lease was extended by five years and NIC was allowed to pay only the principal land rent amounting to Kshs92,400,000. This is what enabled the NIC on 4th September, 2008 to use the chargee's statutory power of sale to transfer the land to Galaxy Walker Limited for Kshs155 million which was freed and discharged from all encumbrances. So, the first point to note is that the Government did not sell or allocate. It is the NIC which exercised its statutory power of sale.

Mr. Deputy Speaker, Sir, the new owner of the property, however, requested the Government to extend the remaining term of lease, which was seven years and three months, with effect from 1st August, 2008 to 99 years, to enable them recoup the intended investment. They also requested for change of user from casino to commercial hotel and residential apartments. The Government approved the extension of lease for a further 50 years and change of user as requested at a reduced rent of Kshs1.6 million per year. After payment of the required fees, a grant with the extended term and new user was issued and registered in favour of Galaxy Walker Limited on 27th November, 2008. The approval was granted subject to the following conditions.

(a) Advance copies of the building plans must be submitted to the Commissioner of Lands for due diligence and determination of whether the proposed development is commensurate with the status of the land.

Mr. Deputy Speaker, Sir, the conditions of the grant are there and so, I do not want to take a long time on it. However, instead of commencing with the envisaged development as indicated in the application for extension of lease and change of user, Galaxy Limited transferred the land to Azarel Investment at a consideration of Kshs205 million. Considering the circumstances under which the extension of lease and change of user was considered and granted by the Government, the reduction of the rent and disposal of land by Galaxy Walker Limited to Azarel Investment Limited within a period of less than four months, the transaction was clearly tainted with dishonesty and fraud. It is for that reason that when this matter came to my attention on 16th June, 2009, I directed that a caveat be placed on the title with a view of revoking the

lease. Presently, there is no evidence that the guarantors have the financial capability to develop the land. They have not submitted approved plans to Nairobi City Council and those made available to the Ministry do not demonstrate a serious undertaking to construct a seven-star or even a five-star hotel. With this state of affairs, it may well be that the land was acquired for speculation. The history of the land while in the hands of the Tourist Paradise Investment Limited showed lack of commitment by that company to pay land rent, interest and penalties and the Government will not allow further speculative transactions on the property. The land is and will remain a prime Government property for which the Government must realize substantial incomes and returns.

Mr. Deputy Speaker, Sir, considering that both the Treasury and Attorney-General's Chambers approved the request by the NIC to dispose of the property in order to secure depositors' funds and outstanding principal land rent in pursuit of public interest and financial stability, it is apparent that the consequent transactions involving the property do not support the Government's intention. Under the circumstances, I directed that a Cabinet memorandum be prepared to brief the Cabinet and seek its guidance and final decision on the matter. In the meantime, the caveat is in place and no transactions are allowed on that property.

Mr. Deputy Speaker, Sir, just for completeness of record, I want to lay on the Table the transfer between the bank and Galaxy Walker Limited, which shows quite clearly that it was in exercise of the statutory power of sale. I would also like to table my memorandum of last year in which I said nothing should happen on that land.

(Mr. Orengo laid the documents on the Table)

The Minister for Trade (Mr. Kimunya): On a point of order, Mr. Deputy Speaker, Sir. I am put in a very odd situation here, where I need to correct the information that has been given by my colleague. This is because in 2007, I was the Minister for Finance. I do not recall giving any approval for either extension or sale of that property. The approval that was given by Treasury was for waiver of penalties and interests based on a request that was put by the Ministry of Lands, that in order for them to collect the rent that was outstanding, they needed Treasury to approve the waiver of penalties and interest. The communication from Treasury was very clear that, that was the waiver that was being given. If the Minister has been given other information, I will be happy to assist him.

The Minister for Lands (Mr. Orengo): Mr. Deputy Speaker, Sir, I just want to clarify. Unfortunately for my learned friend, he believes that Minister for Finance means hon. Kimunya-

--

An hon. Member: He is not a learned friend!

The Minister for Lands (Mr. Orengo): Mr. Deputy Speaker, Sir, then I understand why the misunderstanding is coming. If he was learned, probably that mistake would not arise.

I think the mistake that my friend is making is that he thinks the Minister for Finance means hon. Kimunya. The negotiations started during his time, but the final approval of waiver of penalties and extension came when hon. Michuki was the Acting Minister for Finance. I have that in writing because in this issue, even the Office of the President was involved. Amb. Muthaura was also involved in extension. So, they are all there, if we want to do an inquiry.

(Laughter)

Ms. Karua: Mr. Deputy Speaker, Sir, I would like the Minister to clarify why the Ministry of Lands and the Government would extend the lease to a bank which gave money knowing the period of the lease that was remaining. Ordinary Kenyans are losing their property and we have not seen the Government help them. Furthermore, from the Minister's account, a whopping Kshs140 million has been made by people sitting on their desks and doing what is known in common parlance wheeler-dealings. The Minister has been so good to repossess land. I saw one such incident yesterday. Can we be told why he cannot repossess this land and could he also table the documents here for each of these four or five transactions so that we are able to identify the companies and the directors so that we can know who they are? This making of a scandal, is directing itself to a merry-go-round of when mega corruption started in this country.

Mr. K. Kilonzo: Mr. Deputy Speaker, Sir, I am happy that the Minister for Trade has also come in to clarify some of the issues. I would like the Minister to confirm that indeed, Grand Regency Hotel and the next hotel which is going to come up there is Grand Hyatt which has connections with one Mr. Kamlesh Pattni and who is now called Brother Paul. I would like the Minister to table, in this House the directors of Galaxy Company which was involved in these transactions. He should also tell us what the role of Mr. Kimunya, the current Minister for Trade was---

The Minister for Trade (Mr. Kimunya): On a point of order, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Order! You cannot discuss the conduct of an hon. Minister without a Substantive Motion. The rules of engagement in the House are very clear on that.

Mr. K. Kilonzo: Mr. Deputy Speaker, Sir, I want to withdraw that and rephrase it. Could we be told the roles of Ministers in this Government; the ones that the Minister has just mentioned and the Head of the Public Service? What was their role? Lastly, would you in the public interest repossess that land for it belongs to the Government? This is a bigger scheme than the maize scam.

Mr. Thuo: Mr. Deputy Speaker, Sir, I would like to seek some quick clarifications. Currently, even as it has a caveat, in whose name does the title deed stand as we speak?

Secondly, I am not too sure about the list. Ms. Karua mentioned it. My understanding was the first initial sale to Galaxy was prior to the extension of the lease. If I am wrong, then I would like to know when it happened. If am right, it then means that at the point of paying a whopping Kshs140 million, they were aware that the lease would expire in a couple of years and, therefore, they had enough time to recoup their investment. Is it normal to buy on the basis of speculation and, therefore, buy knowing that you have already arranged for it to be extended for the next transaction?

Finally, I would like to understand why the Minister finds it necessary to take it to the Cabinet for a decision, when I agree with Mr. K. Kilonzo, that it could be revoked and then the whole shenanigan comes to an end.

Dr. Kones: Mr. Deputy Speaker, Sir, I have three clarifications to seek. First, has the Government been involved in the improvement of the facilities which are at the site? How long is the lease period for Paradise Limited? Is it necessary for the Minister to take this issue to the Cabinet for approval?

Mr. Deputy Speaker: Mr. Minister, can you now make clarifications sought by the hon. Members?

The Minister for Lands (Mr. Orengo): Mr. Deputy Speaker, Sir, the documents that I have laid on the Table; the exercise of the statutory power itself contains the names of the directors and their pictures. That is available for record purposes. Concerning the question

whether I should take this matter to the Cabinet, the only reason why I think it is important for me to take it to the Cabinet is that, the office of the Attorney-General and Treasury have been involved and I do not want to make a decision in which the Cabinet as a whole is not involved. I also have, at the back of my mind that this is a very prime property. Nairobi lacks the kind of hotels that you will see coming up in Kampala and Dar-es-Salaam.

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

Mr. Deputy Speaker: Can you allow the Minister to finish?

Mr. K. Kilonzo: This is very important.

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

Mr. K. Kilonzo: My point of order is that when we asked the Minister to table the names, he is saying that the names---

Mr. Deputy Speaker: Order! The Minister has not concluded his clarification.

Mr. K. Kilonzo: On that point, he has said that we can look at those documents---

Mr. Deputy Speaker: Order, Mr. K. Kilonzo! Proceed, Mr. Minister!

The Minister for Lands (Mr. Orengo): Mr. Deputy Speaker, Sir, I was requested to lay the names on the Table and I have done so. The names are there. I do not want to take a lot of time on this. I need to get some guidance on this issue because as we speak today, as the Minister for Lands, I can tell you that the Government does not have access to a lot of Government land in this City. This is one of the prime properties that are available in which the Government can give guidance as to what kind of structure. In view of the infrastructural development in the area, even the Ministry of Roads may want to have an input. The Government is not involved in any of the transactions that are going on.

I want to tell the House that last year, I was of the view that probably this matter should go to the relevant Parliamentary Committee so that there is full disclosure. One thing that I do not want to be responsible for, is to mislead Parliament. In fact, if you look at the memorandums that I wrote giving directions last year in June, I was saying that there had been lack of disclosure of very many matters concerning this issue. But I am prepared to open up the entire deed files and have access to any Member of Parliament or any Committee of the House, so that Parliament can be fully informed.

Mr. Deputy Speaker, Sir, I also want to assure this House that I am not deterred in any fashion or form in cancelling and revoking title deeds that I think were not available for alienation or Government land that had been grabbed. But I must exercise due diligence before I do that. Like yesterday, when Mr. M. Kilonzo and I were giving back the title deeds to the judiciary, I did that only after undertaking due diligence that the area was planned for roads and other Government buildings. As it is, if you look at that memorandum, my focus was not only on revoking the extension of the lease, but revoking the entire title deed. But I must be given time to exercise due diligence in the matter.

Mr. Deputy Speaker, Sir, as to what type of development is going to take place on that property, I have not seen any plans and the plans that are in the Ministry are not official and not properly before the Ministry. In any case, I have dismissed them as not demonstrative of a serious undertaking on that particular property. That is what I would wish to say in reaction to the points which have been raised.

Ms. Karua: On a point of order, Mr. Deputy Speaker, Sir. The Minister said he was extending the lease to assist the bank to recover its money. It is not true. The sole reason the lease was extended was to help people make money through speculation. In those circumstances, then the Minister is entitled to revoke the lease on the basis of fraud, especially when we see that

the characters involved in the transactions are associates of people who have been in all the big scandals, from Goldenberg to everything. The pictures are here. I do not know why the Minister has hesitated to read them---

Hon Members: Read them out! Read!

Ms. Karua: Mr. Speaker Deputy, Sir, if you allow me, I can read out the names.

Hon Members: Read them out! Read!

Ms. Karua: I know of no associations myself, but this is what is in the market. This is NIC Bank. The Director who has signed on their behalf is Dod Allan James; he is transferring to Galaxy, and one of the directors is Anur Shariff Jamal---

An hon. Member: Trade Bank!

Ms. Karua: Can we have the other document?

(Mr. K. Kilonzo handed Ms. Karua a document)

The Company Secretary, I believe, of NIC Bank is one Livingstone Murage.

An hon. Member: *Wakora!*

Ms. Karua: We also have a gentleman in Galaxy Ltd is--- The Company Secretary is Manoha Murali. I do not know whether it is "Mukaji" or "Murali."

(Laughter)

Mr. Deputy Speaker, Sir, can the Minister--- Would it be in order for the Minister, on the basis of fraud, and the fact that the sale--- In quick succession, there have been three sales yielding Kshs140 million over and above the original sale. Would it not be in order to repossess it?

The Minister for Lands (Mr. Orengo): Mr. Deputy Speaker, Sir, I, for one, have said many times that land is being used as currency; people are turning land into ready cash, and that must be stopped. I want to invite my learned friend, Ms. Karua, to look at the memorandum that I wrote last year in which I came to the conclusion that this particular transaction, long before anybody else asked this Question, was tainted with fraud and that I was not convinced that there was full disclosure. I directed that a restriction be put on the property with a view of cancelling the extension of lease which was obtained by deceit and fraud. Those were my words. So, I am on the road towards that direction. But I want to undertake due diligence, so that I am not accused of---

Mr. Mbadi: On a point of order, Mr. Deputy Speaker, Sir. Looking at this issue, it looks like there is corruption and fraud, and that the Kenyan public is going to lose land to the very, very fraudsters who have been fleecing this country!

(Applause)

Mr. Deputy Speaker, Sir, would it be in order to ask that you direct the relevant committee to go and investigate this matter thoroughly, dig deep and submit a report the earliest time possible to this House?

Mr. K. Kilonzo: On a point of order, Mr. Deputy Speaker, Sir. I have a copy of the Ministerial memorandum which the Minister tabled, which says: "The seriousness of the matter is exacerbated by the fact that the original title deed and the files have disappeared." In view of the fact that this is a deal which is shrouded in a lot of mystery and it is a fraud, could the

Minister consider taking this matter to the Kenya Anti-Corruption Commission (KACC) to investigate further and stop all the transactions thereof?

Mr. Deputy Speaker: Order! Hon. Minister, can you finally respond and then we bring the matter to a closure?

The Minister for Lands (Mr. Orengo): Mr. Deputy Speaker, Sir, all these things that are being raised, I am on the road there. I am not on the road having been triggered by a Question in this House; I started last year. But I want to understand the problem properly. There are instances where we have sent matters to the KACC and we have not found any resolution. Even the pieces of land whose deeds I am revoking, most of them are with KACC and they are stuck in the courts. So, having heard what the House has said and the mood of the House, please, bear with me, so that I fully get briefed in all the aspects and the dimensions of this case. I can assure you I will not disappoint; this is a matter in which I will do what is right for the country and not what is right for those who want to make money from public land.

(Applause)

Mr. Deputy Speaker: Order! Hon. Members, whereas the Chair has stated time and again that relevant Committees do not need the direction from the Chair for them to undertake what essentially is what they are supposed to do, I, nonetheless, because of the gravity of the issue, still direct the relevant Committee to also investigate the matter.

(Applause)

There is the Executive Arm of the Government which essentially is there to be scrutinized and held accountable by Parliament. They will report back to the House also as soon as they have the report ready.

The Minister for Trade (Mr. Kimunya): On a point of order, Mr. Deputy Speaker, Sir. At the risk of repeating myself, if I got it right, the Minister did mention that the approval was granted in the year 2007---

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

The Minister for Trade (Mr. Kimunya): Mr. Deputy Speaker, Sir, may I--- I have been put through this thing for similar things, and I do not want my name to be dragged into every scandal by people who want to escape their responsibilities.

Mr. Deputy Speaker, Sir, I want to be very categorical that the application that I granted as the Minister for Finance was for waiver of penalties, which is standard for purposes of collecting Government revenue. But I had nothing to do with the extension of a lease; I had nothing to do with the sale of the property and I want that in the public record, because the misinformation given here is meant - as it was given for the Grand Regency, that I had sold an hotel - to start dragging my name into all these scandals where people have failed to do their jobs and are busy looking for people to blame!

Thank you, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Order! Order,

(Mr. Orengo stood up in his place)

Order!

The Minister for Lands (Mr. Orengo): Mr. Deputy Speaker, Sir, if, indeed, you give me just one minute---

Mr. Deputy Speaker: Order! Order,

Hon. Kimunya, indeed, you made that point very categorically from the beginning and, indeed, the Minister - I have heard almost everything he has said - did not indicate at any given time that you had a certain role in it, as you are trying to put it, or you had that kind of a fundamental role to play.

The Minister for Trade (Mr. Kimunya): Indeed not!

Mr. Deputy Speaker: In any case, nobody can discuss your own conduct as hon. Kimunya on the Floor of the House without a Substantive Motion. The matter is there in the HANSARD; it is there for public record; it has not been closed and there is no point for you to get worried.

I think, hon. Orengo, you are clear on this now.

The Minister for Lands (Mr. Orengo): Mr. Deputy Speaker, Sir, I would want the Minister to look at the Statement I read out---

Mr. Deputy Speaker: Indeed, yes!

The Minister for Lands (Mr. Orengo): In fact, there is no indication that the final decision was made when he was the Minister concerned, and I did not make that allegation. In fact, if he looks at this Statement, he will be the first to stand up and say: "Well done!" The Nigerians have an Ibo saying which goes that whenever you mention old bones, old women tend to get worried.

(Laughter)

So, I do not know---

Mr. Deputy Speaker: Order! Order,

(Loud consultations)

The Minister for Trade (Mr. Kimunya): Mr. Deputy Speaker, Sir---

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

Hon. Orwa Ojode, can you proceed and give your Ministerial Statement?

(Mr. Kimunya stood in his place)

Mr. Deputy Speaker: Order, hon. Kimunya!

The Minister for Trade (Mr. Kimunya): Mr. Deputy Speaker, Sir---

Mr. Deputy Speaker: Order! Order! Hon. Kimunya, the Chair has given direction, the matter is put to rest. Indeed, this floor is not going to be used by two members of the Cabinet to settle some kind of personal scores---

Proceed, hon. Ojode!

The Minister for Trade (Mr. Kimunya): On a point of order, Mr. Deputy Speaker, Sir. My person has been insulted on this floor of the House. The insinuation that the Minister has made, that I am reacting because of feelings sensitive to what he said, I need your protection.

Mr. Deputy Speaker: Hon. Kimunya, you are not even respecting the basic rules of the House. The Chair is on its feet and you still insist on using this; do not denigrate the dignity of

the House. You have said your piece and the Minister has said his piece. At no time did he insinuate anything against you that essentially is not in line with what he was doing. You have served this Government as a Minister. The fact that somebody can say you were a Minister at that time, it does not necessarily mean that he says you have done something wrong.

Proceed, hon. Ojode!

MEASURES TAKEN TO ARREST DEALERS OF ILLICIT BREWS

The Assistant Minister, Ministry of Provincial Administration and Internal Security (Mr. Ojode): Mr. Speaker Sir, on Wednesday 14th April, 2010, hon. Mbugua rose on a point of order seeking a Ministerial Statement on measures taken by the Government to arrest dealers of illicit brews.

Mr. Deputy Speaker, Sir, my Ministry has embarked on a crackdown of illicit brews to ensure that brewing and consumption of the same has been reduced completely. So far, we have been able to arrest 1,002 persons and netted 3,326 litres of *chang'aa*, 44,460 litres of *Kangara*, 140 litres of *muratina*, and 490 rolls of *cannabis sativa*.

A total of 31 bars operating in contravention of liquor licensing Act have been closed down. The suspects have been arraigned in the Principal Magistrates court and charged with either possession or consumption of the brew. Some were handed prison sentences ranging from six months to two years while others denied the charge and were released on Kshs200,000 bond each.

Mr. Deputy Speaker, Sir, my Ministry further has identified alcohol and drug abuse, including illicit brews as one of the thematic areas under the study wave of the 100 days of Rapid Results Initiative Programme that we officially launched on 12th April, 2010.

The Provincial Commissioners (PCs) and District Commissioners (DCs) have been instructed to ensure that these brews are eradicated within the next 100 days. This is a commitment my Ministry has undertaken, to ensure Kenyans will remain healthy and productive, for the good of our country and the economy. Whereas there have been general allegations that the brewing of illicit brews is as a result of inaction by the security organs, it is imperative to note that Provincial Administration officers, and police officers have been on the forefront in the fight against illicit brews.

Indeed, operations have continued to be carried out countrywide where the brewing apparatus have been destroyed. The brews found and those involved in the trade have been arraigned in courts. However, the Rapid Results Initiative is a strategy to up the fight on illicit brews which will hopefully eradicate this vice.

Mr. Deputy Speaker, Sir, we will engage community policing committee members in the entire country to be more pro-active in this endeavour and assist in this fight. I wish to inform the House that all the Provincial Commissioners and District Commissioners have signed performance contracts in which eradication of illicit brew is a key component. This is cascaded down to assistant chiefs. I wish, therefore, to assure the House that the administrative officers who will not meet their targets in accordance with their performance contracts will be held accountable and disciplinary action will be taken against them.

Mr. Mbugua: Thank you, Mr. Deputy Speaker, Sir. I think the issue of illicit brew should be taken by this Government as a national disaster, considering the lives it has taken over time. We cannot have brewers laughing all the way to the banks while other people are mourning. There is one case in Shauri Moyo of an Officer Commanding Police Station (OCS),

and we are very lucky that we never lost him; he is involved in drinking of the illicit brews and protecting these people. Could the Assistant Minister clarify what action he has taken against the administration in regard to drinking of illicit brews?

The Assistant Minister, Ministry of Provincial Administration and Internal Security (Mr. Ojode): Mr. Deputy Speaker, Sir, that, indeed, is a very serious allegation. If there is a way he can substantiate, I will take action because when I had put some investigators to check whether the OCS indeed also takes the illicit brews, I was informed that the same, same man takes *Alvaro*. *Alvaro* is completely different from the *chang'aa*. It has ingredients which *Fanta* has, so this OCS does not and I do not think he will at any time anticipate taking illicit brews.

Mr. Deputy Speaker: Seek one final clarification and then we proceed to the next order. Eng. Maina!

Eng. Maina: Thank you, Mr. Deputy Speaker, Sir. The illicit brew is actually killing more people than HIV or any other problem we have in this country. Worse still, it is targeting the youth. Some bars open from 6 am to 6 am; 24 hours. Could the Assistant Minister tell us whether the Provincial administration and security organs will reinforce the drinking hours?

Two, the brands of some drinks are known to be poisonous even by the local people. I want the Assistant Minister to tell this House that if people in a certain area meet and decide that they do not want a certain brew to be sold in their area, then the administration should take immediate action. What is happening is that people go and get certain certificates and hung them on the wall and then they continue using other poisonous ingredients to make the drink. If people decide in an area---

Mr. Deputy Speaker: Fair enough! You have made your point.

Eng. Maina: So, I would like the people to be empowered. Thirdly, we should have guidelines on how many bars are allowed in any particular area because in some areas, there are more bars than restaurants or, schools. Could the Assistant Minister also include in his directive, a certain guideline on how many bars should be licensed in any particular area?

The Assistant Minister, Ministry of Provincial Administration and Internal Security (Mr. Ojode): Mr. Deputy Speaker, Sir, in my statement, I said that there are some bars which were already operating in total contravention of the Liquor Licensing Act. These are the bars which we have actually closed down and we are continuing closing those that contravene the Act.

I know, there are a number of bars which are operating within the estates and these are the ones we are targeting. We do not speak for the sake of it. We will actually close these bars. I would also want to assist the members of the Provincial Administration in identifying some of these bars which are contravening the liquor licensing Act.

Mr. Deputy Speaker: Order, hon. Members! Hon. Mutula Kilonzo, I understand you are supposed to give a Ministerial Statement.

The Assistant Minister for Youth Affairs and Sports (Mr. Kabando wa Kabando): On a point of information to enrich---

Mr. Deputy Speaker: Order, Mr. Kabando wa Kabando! Mr. Mutula Kilonzo, you will not be able to give that Ministerial Statement today. You will have to indicate when you will give it next.

The Assistant Minister for Youth Affairs and Sports (Mr. Kabando wa Kabando): Mr. Deputy Speaker, Sir, but he needs my information!

Mr. Deputy Speaker: That matter has been disposed of!

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. M. Kilonzo): Mr. Deputy Speaker, Sir, I will be ready to give the Statement on Tuesday or the earliest---

Mr. Deputy Speaker: Fair enough! It is so directed! Next Tuesday in the afternoon! Next Order!

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

Mr. Deputy Speaker: Hon. Kabando wa Kabando and Eng. Maina, if, indeed, you have information you wish to give to the Minister, look for him and give it to him!

The Assistant Minister for Youth Affairs and Sports (Mr. Kabando wa Kabando): Mr. Deputy Speaker, Sir, this is about---

Mr. Deputy Speaker: That matter has been disposed of and we have gone to the next Order!

The Assistant Minister for Youth Affairs and Sports (Mr. Kabando wa Kabando): Mr. Deputy Speaker, Sir, this is important information that will help the country. It is not information to him; rather, it is to the country.

Mr. Deputy Speaker: Order! Proceed, Mr. Thuo!

PROCEDURAL MOTION

EXTENSION OF SITTING TIME

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

THAT, notwithstanding the provisions of Standing Order 20(2) this House resolves that the Sitting Time of the House this afternoon be extended from 6.30 p.m. until conclusion of business appearing on the Order Paper.

Mr. Deputy Speaker, Sir, we seek this because, as you can see from the Order Paper, we have quite a number of Motions that are outstanding. Given the time that we have and the desire that was expressed in the House Business Committee (HBC) to actually adjourn the House to a day other than the next normal sitting day, we need to give hon. Members who have worked extremely hard during this Session, a break so that they can go home and do two things; one of which is having successfully played their role in passing the Draft Constitution, hon. Members need to go home and either support or oppose that particular draft.

Hon. Members have an opportunity to explain to their constituents what is contained in that draft and why they think it is good for the country. Some of them will have to explain why they think it is not good. As it was said here yesterday, this is a democracy and we will have those shades of opinion.

Mr. Deputy Speaker, Sir, this break will also allow hon. Members to meet with their constituents and disburse the CDF money. They will be able to get in touch with the groundroots and get feedback on their performance which is important for the next sitting. They also need to prepare for the next sitting which will include the Budget and all things associated with it.

I do not want to take a lot of time because we do not have it. I would like us to go straight to business. With those few remarks, I hope hon. Members will support this Motion as we prepare to move another one later to allow for the aforementioned adjournment.

I beg to move and request Maj-Gen. Nkaiserry to second.

The Assistant Minister, Ministry of State for Defence (Maj-Gen. Nkaiserry) seconded.

(Question proposed)

The Assistant Minister, Ministry of Youth Affairs and Sports (Mr. Kabando wa Kabando): Mr. Deputy Speaker, Sir, I will be very brief. I rise to support this Motion because it is necessary. We really need to engage with our constituents. We need to be available to them so that we can give and share information with them. Those of us who are from constituencies that are seriously at risk, because of the rising consumption of illicit brew want to participate in the next 100 days when the Ministry of State for Provincial Administration and Internal Security will be implementing the Rapid Results Initiative (RRI)--- This is a comprehensive programme meant to ensure that we deal with the sources of the illicit brews and not just their distribution. We need to participate in a friendly and effective way, in support of the chiefs, the assistant chiefs and the DOs who are on the ground so that we deal with this scourge that threatens to exterminate a generation and, therefore, constitute a national disaster.

But more importantly, as political leaders, we want to be there to tell our constituents that they have the greatest and most historical opportunity to cause a milestone that will lay the framework for new governance. They will enable women, people with disability, and the youth to say a strong “yes” to accepting change and reform in the context of the proposed Constitution. This country requires extraordinary skills, measures, courage and leadership to put it on a new template that will say: “Never again to corruption, Executive domination, ethnic hatred, violence, corruption, impunity and ethnic paranoia”.

Therefore, I strongly support an extension of the sitting time so that we do what is necessary and patriotic.

I beg to support the Motion.

Mr. Ogindo: Mr. Deputy Speaker, Sir, in view of the articulation by the Mover and in view of the fact the reasons given are in tandem with the mood of the House and the nation, would I be in order to ask the Chair to put the Question?

(Question put and agreed to)

Mr. Deputy Speaker: Order, hon. Members. The Chair has used its discretion as provided for under Standing Order No.36 to bring Order No.10 before Order No.9 because the hon. Member is sick as you can all see. We would like to dispose of this before the other.

COMMUNICATION FROM THE CHAIR

CONSIDERATION OF PRESIDENTIAL MEMORANDUM ON OFFICES OF THE MINISTER BILL

Mr. Deputy Speaker: Hon. Members, I wish to make this Communication regarding the matter you have to dispose of in Order No. 10.

Hon. Members, before we proceed to Order No.10 which is the Committee of the whole House to consider the Presidential Memorandum on the Offices of Minister Bill, 2009, I wish to take this opportunity by way of a reminder to set out the procedures applicable to the deliberations on the Memorandum from His Excellency the President submitted in terms of Section 46(3) and 46(4) of the Constitution.

Hon. Members, you will recall that after the House passed the Offices of the Minister Bill, 2009 on 9th December, 2009, His Excellency the President, in exercise of the powers conferred upon him by Section 46(4) of the Constitution, declined to give assent to the Bill. His Excellency the President submitted a Memorandum to the Office of the Speaker dated 20th January, 2010 giving reasons for declining to assent to the Bill.

Subsequently, His Excellency the President submitted a Supplementary Memorandum dated 15th March, 2010 and which has since been circulated to all hon. Members indicating a specific provision of the Bill which requires to be reconsidered by the House.

Section 46(5) of the Constitution provides as follows:-

“The National Assembly shall reconsider a Bill referred to it by the President taking into account the comments of the President, and shall either-

(a) approve the recommendations proposed by the President with or without amendment and submit the Bill to the President for assent; or

(b) refuse to accept the recommendations and approve the Bill in its original form by a resolution in that behalf supported by votes of not less than sixty-five per cent of all the Members of the National Assembly (excluding *ex-officio* members) in which case the President shall assent to the Bill within fourteen days of the passing of the resolution.”

Hon. Members, in the Supplementary Memorandum, His Excellency the President recommends that Clause 8 of the Bill be amended in Subclause (b) by inserting the words “subject to the Constitution” immediately after the word “shall”.

The House will, therefore, be required to reconsider Clause 8 of the Bill in accordance with Section 46(5) of the Constitution and approve the recommendation proposed by the President with or without amendments, or refuse to accept the recommendation and approve the Bill in its original form by a resolution supported by votes of not less than 65 per cent of all Members of the National Assembly, excluding the *ex-officio* Members.

Hon. Members, 65 per cent of 222 translates to 144.3 Members, which is rounded upwards to 145 Members since the words used are “not less than 65 per cent of all Members of the National Assembly, excluding the *ex-officio* Members.”

On the reporting procedure, the Bill will not be read a Third Time as this was actually done and the Bill passed on 9th December, 2009. It is, therefore, enough that a resolution of the House adopting or rejecting the Report of the Committee of the Whole House, in accordance with Standing Order No.121(3) read together with Standing Order No.119(1) and (2), which state *inter alia* “That the House do agree with the Committee in the said Report” would satisfy Section 46(5) of the Constitution and will be in conformity with the rules of procedure on re-committal of Bills as amplified by Standing Order No.121(1) and (2).

Hon. Members, we will, therefore, at Order No.10, immediately proceed to the Committee of the Whole House to reconsider the Clause referred to the House.

Next Order!

COMMITTEE OF THE WHOLE HOUSE

(Order for Committee read)

(Mr. Deputy Speaker left the Chair)

IN THE COMMITTEE

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

THE OFFICES OF MINISTER BILL

The Temporary Deputy Chairman (Prof. Kaloki): Hon. Members, the House will now be sitting in the Committee of the whole House to consider The Offices of Minister Bill, 2009.

Clause 8

The Minister for Information and Communications (Mr. Poghisio): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 8 of the Bill be amended in Subclause (b) by inserting the words “subject to the Constitution” immediately after the word “shall”.

(Question of the amendment proposed)

Mr. Ethuro: Mr. Temporary Deputy Chairman, Sir, first, I want to thank the President for that amendment. You will appreciate that when the President presided over the Official Opening of this Session, in terms of thanking this House for its good work in the Third Session, he actually indicated that he had not signed this Bill into law. Since every law in anticipation of the proposed Constitution will be subject to the Constitution, I do not see any problem at all. I accept the amendment proposed by the President.

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

(Clause 8 as amended agreed to)

Mr. Ethuro: Mr. Temporary Deputy Chairman, Sir, I beg to move that the Committee doth report to the House its consideration of the Presidential Memorandum on The Offices of Minister Bill, 2009, and its approval thereof without amendment.

(Question proposed)

(Question put and agreed to)

[The House resumed]

[Mr. Deputy Speaker in the Chair]

REPORT

THE OFFICES OF MINISTER BILL

Prof. Kaloki: Mr. Deputy Speaker, Sir, I beg to report that a Committee of the Whole House has considered The Presidential Memorandum on the Offices of Minister Bill and approved the same without amendment.

Mr. Deputy Speaker: Yes, Minister!

Mr. Ethuro: Mr. Deputy Speaker, Sir, in this case, the “Minister” is the Mover of the Bill.

Mr. Deputy Speaker, Sir, I beg to move that the House doth agree with the Committee in the said Report.

Mr. Shakeel seconded.

(Question proposed)

(Question put and agreed to)

Mr. Deputy Speaker: Hon. Members, the Chair will, again, use his discretion to bring forth Order No.12!

PROCEDURAL MOTIONREDUCTION OF PUBLICATION
PERIOD OF APPROPRIATION BILL

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

THAT, pursuant to the provision of Standing Order 107, this House resolves that the Publication Period of the Supplementary Appropriation Bill be reduced from seven to three days.

Mr. Deputy Speaker, Sir, I wish to reassure hon. Members that this Procedural Motion that we move with a lot of reluctance, but it is necessary under the circumstances. As I explained earlier, we are looking forward to taking a break later tonight; a very much deserved break. This has been done purely to facilitate our being able to pass the Appropriation Bill before we do so.

Hon. Members will recall that subsequent to our adjourning tonight, the next time we report here on the 8th June, we will be looking forward to debating the Budget for the next financial year. So, it is important for this Supplementary Appropriation Bill to be approved and finalized by this House. So, this Motion is specifically to facilitate that process.

Mr. Deputy Speaker, Sir, with those few words, I beg to forward and ask hon. Nkaiserry to second me.

The Assistant Minister, Ministry of State for Defence (Maj-Gen. Nkaiserry) seconded.

(Question proposed)

Mr. Ogindo: Mr. Deputy Speaker, Sir, it is obvious from the articulation of the Mover of the Motion that it is out of necessity that we reduce the time period. Would I be in order to call upon the Chair to put the Question?

Mr. Deputy Speaker: So, long as there are no Members willing to contribute to the same Procedural Motion, then the Chair will put the Question.

(Question put and agreed to)

BILL

First Reading

THE SUPPLEMENTARY APPROPRIATION BILL

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

Second Reading

THE SUPPLEMENTARY APPROPRIATION BILL

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

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

Mr. Deputy Speaker, Sir, the Supplementary Appropriations Bill 2010 seeks statutory approval from this Parliament for the expenditures contained in the recurrent and developmental Supplementary Estimate of the Financial Year 2009/2010, which I laid before this House on 13th April, 2010. The Budget I presented in June of 2009 amounted to Kshs867.7 billion of which Recurrent Expenditure amounts to Kshs606.7 billion and the Development Expenditure Accounts for Kshs258.9 billion and a Civil Contingency Fund Account for Kshs2 billion.

Mr. Deputy Speaker, Sir, since the commencement of the financial year, we have experience numerous challenges, including prolonged drought and *El Nino* floods. As I said, in the Motion, this has in turn led to increased demands for additional funds to mitigate adverse effects arising from the challenges. I wish to assure the hon. Members that despite the challenges, we have contained our expenditure within the resources available in order to maintain macro economic stability.

Mr. Deputy Speaker, Sir, we have made re-allocations within the Budget to cater for the requirement for urgent strategic intervention which emerged during the financial year which includes, as I stated earlier, voter registration and other preparatory activities for the national referendum, drought emergency and flood interventions, purchase of excess maize also for farmers strategic grain reserve and to cater for the shortfall of the budget for the national census.

Mr. Deputy Speaker, Sir, I would want to reassure hon. Members that the funds allocated to Ministries and departments shall, indeed, be applied prudently to achieve the intended objectives.

Mr. Deputy Speaker, Sir, Clause 2 of the Bill provides for the issuance from the Consolidated Fund, the sum of Kshs42,008,528,669 and to appropriate the funds to various services and purposes during the financial year ending 30th June, 2010.

Clause 5 of the Bill seeks for a reduction of the sum of Kshs27,955,2400 of the supply granted for the services of financial year ending 30th June, 2010.

Mr. Deputy Speaker, Sir, having briefly appraised the hon. Members of the objects and reasons for the Supplementary Bill, 2010, may I now request that the House pass it in order to authorise the issue of funds from the Consolidated Fund to meet expenditures as contained in the Recurrent and Development Supplementary Estimates of the 2009/2010 Financial Year.

Mr. Deputy Speaker, Sir, I wish to also thank hon. Members for their continued support and I am sure today, debate will remain constructive and enriching. In this regard, I wish to assure hon. Members that I will be open to their views which I have always received positively as well as the views of the Budget Committee as contained in their report.

Mr. Deputy Speaker, Sir, finally, I would, indeed, endeavour to the extent possible to reflect their views as we continue to reform the Budget making process.

With those few remarks, I beg to move.

The Assistant Minister, Ministry of State for Defence (Maj-Gen. Nkaisserry) seconded.

(Question proposed)

(Question put and agreed to)

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

COMMITTEE OF THE WHOLE HOUSE

(Order for Committee read)

[Mr. Deputy Speaker left the Chair]

IN THE COMMITTEE

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

THE SUPPLEMENTARY APPROPRIATION BILL

(Clauses 2, 3, 4 and 5 agreed to)

(First Schedule agreed to)

(Second Schedule agreed to)

(Title agreed to)

(Clause 1 agreed to)

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

(Question proposed)

(Question put and agreed to)

(The House resumed)

[Mr. Deputy Speaker in the Chair]

REPORT AND THIRD READING

THE SUPPLEMENTARY APPROPRIATION BILL

Prof. Kaloki: Mr. Deputy Speaker, Sir, I beg to report that a Committee of the Whole has considered the Supplementary Appropriation Bill and approved the same without amendment.

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

The Assistant Minister for Foreign Affairs (Mr. Onyonka) seconded.

(Question proposed)

(Question put and agreed to)

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

The Assistant Minister for Foreign Affairs (Mr. Onyonka) seconded.

(Question proposed)

The Deputy Prime Minister and Minister for Finance (Mr. Kenyatta): Mr. Deputy Speaker, Sir, I just wish to thank hon. Members most sincerely.

(Question put and agreed to)

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

MOTION

ADOPTION OF REPORT ON THE BUDGET POLICY STATEMENT

THAT, this House adopts the Report of the Budget Committee on the Budget Policy Statement laid on the Table of the House on Wednesday, 14th April, 2010.

(Mr. Mbau on 14.4.2010)

(Resumption of Debate interrupted on 14.4. 2010)

Mr. Deputy Speaker: Mr. Shakeel, you are the Deputy Chairperson of that Committee? Are you not? Proceed, nonetheless!

Mr. Shakeel: Mr. Deputy Speaker, Sir, I was still contributing. Yesterday I was underlining the importance of the Budget Committee and I was very happy to see the Ministry of Finance officials here but I can see that they are all leaving! The Minister as well as his team are leaving. So, I do not know whether I should ask them to indulge me and sit for a short while so that they can hear what we have to say about the Budget Committee.

However, the issue that we had brought forward was that it was a very important day in our history when the Budget Committee started to flex its muscles and take over the responsibilities of being an active partner in the Budget-making process. The times for quick fixes are gone. The time for management by crisis is also gone. The Ministry of Finance must understand that as much as they will try and go out of their way to make quick fixes and manage by crisis, they now need to start realizing their role of overall control and of keeping people and Ministries within their allocated budgets.

We hope that the Budget Committee and Fiscal Management Act that has brought that forward has in mind, the fact that each Ministry prepares its own strategic plan, that each Ministry has a building block and that its policies and strategies are congruent with the others. That is where the Ministry of Planning, National Development and Vision 2030 comes in. It is a matrix approach. The matrix approach is like building a pyramid. It is a continuing role that the Ministries must play. The Office of the Deputy Prime Minister and Ministry of Finance and Ministry of Planning, National Development and Vision 2030 must be the coordinators. If that happens, then there will be synergy and the Ministries will all work together in the same direction and be congruent. They will not be working against each other. There is a disconnect that we have seen before, where one Ministry is planning this way and the other one is going the other way. I do not want to talk too much about that, but there are the maize and milk scandals and other issues which, in fact, go contrary to the essence of budget and policy making.

Mr. Deputy Speaker, Sir, the Deputy Prime Minister and Minister for Finance has really allayed his problems and talked about them to the Committee, and we feel for him. We feel that the Ministry of Planning, National Development and Vision 2030 should become an implementer and make sure that the budget making is alive at every Ministry. They must have somebody from the Ministry of Planning, National Development and Vision 2030. The budget making process is a constant and continuous process that cannot just be coming up at the end of the year. These processes are communicable and start to become more transparent. I urge the Office of the Deputy Prime Minister and Ministry of Finance and the Ministry of Planning,

National Development and Vision 2030 to start trying to make our budgets more transparent. Of course, it is a very complex process which requires a number of very intelligent and experienced economists. But I think they can simplify it like in certain countries where the budget making process is on computers and the internet.

Mr. Deputy Speaker, Sir, the example I am showing is that one does not need to know the mechanics or how a motor vehicle runs. All one wants to see is whether it can take you from point A to B. That is what I am asking. The Office of the Deputy Prime Minister and Ministry of Finance and the Ministry of Planning, National Development and Vision 2030 should simplify the process so that we can see where it is taking us from process one to two. This will enable the Budget Committee to play an active role, supplement as well as augment the Office of the Deputy Prime Minister and Ministry of Finance and us to work in synergy rather than against each other. I think this is an excellent time for us to start this process afresh. In Rwanda, the President calls all the Ministries and asks them for their strategic plans, goals and objectives, and performance indicators at the beginning of the year. He then calls them back at the end of the year and asks them to explain why they have not performed. I think that role can be taken by the Deputy Prime Minister and Minister for Finance. He can take that role with the Ministry of Planning, National Development and Vision 2030 and call all the Ministries to come and give their plans and budgets well in time. Then, the Ministry of Finance and the Ministry of Planning, National Development and Vision 2030 will be able to come up with some performance indicators of each Ministry.

Mr. Deputy Speaker, Sir, it is very important that the population census results are released because one of the roles of budgeting is greatly handicapped. I would also like to suggest that we look at the growth strategy plan again. Is the growth strategy that has been put forward really relevant? Is it good for our country? Has it got the major factors right; that is labour, capital and innovation? Labour is the *Jua Kali* sector. That is what has changed countries like China and India. They have moved from *Jua Kali* very quickly to cottage industries and then the main industry.

Mr. Deputy Speaker, Sir, finally, we would like the Office of the Deputy Prime Minister and Ministry of Finance to kindly set some sort of goal on how they are going to cut back recurrent expenses. From that point of view, I would like to suggest one thing. Payment of education is really a development, if you look at it--- So, probably some of that element that is in education, which you treat as recurrent in actual fact should, perhaps, come to development.

Mr. Deputy Speaker, Sir, with those few remarks, I beg to support this Motion wholeheartedly.

Mr. Ogindo: Thank you, Mr. Deputy Speaker, Sir. I rise to support the Motion.

Mr. Deputy Speaker, Sir, allow me to start by congratulating the Deputy Prime Minister and Minister for Finance for having done such a wonderful job in preparing his Budget Policy Statement. I know that this House has been at the forefront of asking for engagement in the Budget making process. I think the Executive has lived up to their side of the bargain. I think it is now important that this House takes its rightful position in the new dispensation. This is the first time that the House is interacting with the Executive in the budget making process. It is important for this House, through the Chair, to ensure that Parliament has the capacity to interact with the Executive. I say this because the more we get to engage, the more it becomes technical.

Mr. Deputy Speaker, Sir, to this end, I want to ask that this House finds it necessary to equip the relevant Committees to discharge their responsibilities. You will realize that what we have today is the Budget Office and Research Department. These departments are very lean and

lack technical capacity. The departments we have in the Executive would range from the Ministry of Energy, Ministry of Roads, Ministry of Agriculture, and so on. To that end, in order for Parliament to match the Executive, it is important that it considers hiring experts in various fields, ranging from energy, agriculture to engineering and all manner of experts.

Mr. Deputy Speaker, Sir, having said that, the Budget Policy Statement is well done. It is very comprehensive and, indeed, in response to the Fiscal Management Act. It is with great pleasure that now we look behind and say that this country is, indeed, progressing. When you look at the Medium Term Micro-Economic Framework as laid out in the Budget Policy Statement, it is very clear where we are coming from and going to.

However, I want to point out that indeed, sometimes, the Minister appears to be a little optimistic and I know that is good for this country, but from experience, we are able to see that the projected growth of 4.9 per cent would slightly be on the higher side. I am praying for this country to realize far and beyond that. But it is important to give ourselves realistic hopes. When you look at the revenue targets, they have not been met according to the Budget Compliance Report that we have been receiving. One of the attributes that I would put to this is the fact that the revenue targets were set against the projected growth rates. To that extent, I would urge the Minister to consider making them much more realistic. Looking again at the Gross Domestic Product (GDP)/Ratio, it is important that concrete efforts be made to ensure that this country enlarges its GDP.

Mr. Deputy Speaker, Sir, I want to say this against the background that, in as much as the Minister for Finance, possibly working together with the Minister for Planning, National Development and Vision 2030, have worked out a growth rate of 4.9 per cent, the real generators of the GDP are not aware of that. It is important that we translate these things into comprehensible information to people who are engaged in production in this country. What I have in mind is that, it is important for the farmers in Rangwe to be told that this year, this Government is committed to ensuring that the GDP grows by 5 per cent and as such, they are required to increase their farm sizes, milk production and service delivery to over 10 per cent, so that cumulatively, this country knows that they are working towards an increased GDP.

Mr. Deputy Speaker, Sir, I also know that some items of revenue have not been responding as expected. My analysis has it that the Value Added Tax (VAT) on imports has not been responding. I know that this is an area that requires closer and intensified look. I want to urge the Minister for Finance under whose docket the Kenya Revenue Authority (KRA) falls, to find ways and means of netting the VAT therein.

I also want to say something about roads. In tandem with the recent reforms in the roads department where we today have the Kenya National Highways; the KURA and the KERA, I think it is now important that from now on, Treasury is better of releasing money directly to these Authorities so that we do not have to go through the bureaucracy of going through the Ministry of Roads.

The other issue I want to talk about is agriculture. I want to congratulate the Minister here, that the Government's initiative this financial year where they decided to engage in extensive irrigation, I think, we are beginning to see dividends. As such, it is important that these efforts be intensified so that we can secure our food security. We need to secure our food security by way of production not by way of setting aside money for imports. The amount of money that we spent on imports--- It is true that when irrigation was tried in Ukambani, yields were realized. One more important thing there is that, in the Ukambani/Coast areas, the maturity period of the products there is much lower than our traditional granaries like Kitale and Eldoret.

To that extent, I want to urge that the farms there be expanded and the water reservoir there expanded if we are to have food security.

Mr. Deputy Speaker, Sir, regarding education, I want to say that, indeed, Kenya has done well but this is one area that we have not got value for money. I have said time and again here that in Uganda, they spend 5.2 per cent of their GDP on education. In Uganda, you will realize that the pupil teacher ratio is 57:1 but in Kenya we have classrooms of 60 or 70 pupils. It is important that we are clear what value we are getting for the money that we give to the education sector. That needs to be itemized from primary, secondary and all the way to the university.

Last but not least, I want to commend the Minister because Central Bank has done a very good job. Looking at the interest rates, we are seeing very well contained interest rates. I think that is commendable. On the issue of borrowing, I have seen that the Minister has focused on reduction in domestic borrowing. I think this is very commendable. I also want to commend the Minister because there is an increased allocation to the Development Vote. I think that means that this country is on the path of growth.

Mr. Deputy Speaker, Sir, I also wish to commend the Minister because he has secured the stimulus programme here in his Budget Policy Statement. This is very important to the nation because ahead of our anticipated Constitution, we are still able to ensure that Government resources reach each and every corner of this nation. What is most important is for this House to look at the areas through which these stimulus programmes are going to penetrate the counties.

With those few remarks, I beg to support.

The Deputy Prime Minister and Minister for Finance (Mr. Kenyatta): Mr. Deputy Speaker, Sir, thank you for giving me the opportunity to respond to some of the issues that have been raised by hon. Members on the Budget Policy Statement. I want to take this opportunity first of all, to thank Members of the Budget Committee whom we have worked with well. I want to once again assure this House that it is indeed the intention of the Ministry of Finance to continue with that relationship. We also fully appreciate the important role that the Budget Committee can play in helping transform the Budget into an effective instrument towards translating our national aspirations to reality.

Mr. Deputy Speaker, Sir, there are certain issues and concerns that have been raised in this Report and I would like to respond to some. On whether the 2010 Budget Policy Statement fully complies with the law, as was questioned in some statement, the Committee Report notes that it falls short of providing details and breakdown on Ministerial ceilings. However, I would agree partially with the Committee's observation that the Budget Policy Statement only focuses on sectoral programmes and sectoral ceilings. It is however also true that the Fiscal Management Act of 2009 in its wisdom, also recognized the limitation of availing Ministerial ceilings by March 21st of every year. Thus, it clearly states in Section 7, Sub-section 2(d) that:-

“The total resources to be allocated to individual programmes within a sector or Ministry for the period identified under paragraph A, indicating the outputs expected from each such programme during the period---“

So, therefore, Mr. Deputy Speaker, Sir, it does mean the option of either giving sectoral ceilings, or Ministerial ceilings, and in our case we did give, in accordance with the law, the sectoral ceilings.

Mr. Deputy Speaker, Sir, on the link between the Budget and national policy, it is my view that the Budget Policy Statement (BPS) does provide a strong link between policy and budgeting. A BPS is a medium-term national strategy that takes into account all sectoral and Ministerial strategies to implement the Vision 2030 Medium-Term Plan. The BPS is, therefore, a

rolling strategic plan to achieve our national development objectives, indeed, as outlined in the Vision 2030 and its Medium-Term Framework.

Mr. Deputy Speaker, Sir, I am also aware, as has been the practice under the Medium-Term Expenditure Framework process, the preparation of the BPS has been guided by Vision 2030. The Vision 2030 Medium-Term Ministerial Plan and sectoral strategies take into account both Ministerial strategic plans and Ministerial public expenditure reviews. Hence, it is not just a question of adding ten or five per cent to the Budget.

Mr. Deputy Speaker, Sir, indeed, the Ministry of State for Planning, National Development and Vision 2030 is involved throughout the Budget process, leading to the development of the 2010 Budget Policy Statement. The Ministry of State for Planning, National Development and Vision 2030 is, therefore, the main player in this process at various levels, amongst which it co-ordinates the implementation of Vision 2030. The Ministry of State for Planning, National Development and Vision 2030 co-ordinates also the development of Vision 2030, the Five-Year Medium Term Plan which forms the basis of the BPS.

Mr. Deputy Speaker, Sir, the Ministry also developed the Vision 2030 Medium-Term Plan monitoring and evaluation framework for the comprehensive set of performance indicators in consultation with sectors and Ministries. The Ministry of State for Planning, National Development and Vision 2030 is, indeed, the technical co-ordinator with the Ministry of Finance of the MTS Sector Working Groups, and co-ordinates the development of Ministerial Strategic Plans through their officers who are based in the Ministries; it co-ordinates Ministerial public expenditure reviews through the Central Planning Units of each Ministry.

Mr. Deputy Speaker, Sir, on the question of whether the BPS brings out strategies for poverty reduction and the Millennium Development Goals (MDGs), including food security, I wish to draw hon. Members' attention to the overriding policy objectives of the BPS, which is to consolidate the economic recovery and put the economy back on a firm foundation of higher and sustainable growth.

To this end, Mr. Deputy Speaker, Sir, the BPS clearly sets out the Government plan to step up investments in key priorities, social and economic activities of health, education, agriculture, infrastructure as well as deepening structural reforms to reduce the cost of doing business and to expand economic opportunities for Kenyans. The BPS, therefore, explicitly prioritizes pro-poor growth and poverty reduction. To this end, it has proposed various strategies to achieve these objectives, which include ensuring food security through expanded irrigation, promoting environmental conservation, improving health care delivery by implementing measures to reduce maternal and child mortality and enhanced access to clean water and expanded access to education, technical and vocational training.

Mr. Deputy Speaker, Sir, I do not want to say much more, save to say that, as I said, we want to work with the Budget Committee.

(Applause)

But that has to also be within the spirit of understanding that this is not a simple process, and we need to be able to understand one another. Indeed, as I did mention to the Committee when we appeared before them, it is important also for them to be part and parcel of that budget-making process, including attending some of the sectoral meetings for them to be able to fully appreciate what goes into making the national Budget and for us, therefore, to be able to work out how we can clear some of the problems that may exist. But not, as I consistently say, in an "us" versus

“them” type of position, but rather, in understanding, as I said in my opening remarks, that the Budget process is really an instrument that helps us all translate our national aspirations into reality.

With those few remarks, Mr. Deputy Speaker, Sir, I beg to move.

(Applause)

(Question put and agreed to)

Mr. Deputy Speaker: Next Order!

MOTION

ADOPTION OF REPORT ON STUDY VISIT TO TURKEY/REPUBLIC OF IRELAND/UK

THAT, this House adopts the Report of the Departmental Committee on Defence and Foreign Relations on the study visit to Turkey, Republic of Ireland and the United Kingdom on 22nd November to 7th December, 2009 laid on the Table of the House on Thursday, 10th December 2009.

(Mr. Keynan on 07.04.2010)

(Resumption of debate interrupted on 07.04.2010)

Mr. Deputy Speaker: Hon. Keynan, you moved the Motion and you still have 15 more minutes to debate it!

Mr. Keynan: Thank you, Mr. Deputy Speaker, Sir. I wish to continue from where we left off on 7th April, 2010.

Mr. Deputy Speaker, Sir, there is need for the Ministry of Foreign Affairs to operationalize the foreign policy document. The foreign policy document of the Republic of Kenya is supposed to be a reflection--- First of all, it is supposed to be constitutional, legal and a reflection of the aspirations and the thinking of the Head of State of the Republic of Kenya. This document was passed by the Cabinet and the Ministry of Foreign Affairs ought to operationalize it, so that Kenyans know what constitutes the Foreign Policy of the Republic of Kenya.

Mr. Deputy Speaker, Sir, in our Committee, what we realized when we went to a number of countries, is that most of these countries even where there is no written constitution, the foreign policy document is an integral part of every activity of that particular country. We need to do the same; as we reform other sectors, I do believe, and this is the opinion of the Committee, that this document must be made part and parcel of everyday life of the people of Kenya.

Mr. Deputy Speaker, Sir, we have problems with Uganda; the issue of Migingo is still unresolved. There is a problem between Kenya and the Sudan on the issue of the use of River Omo; there is a potential problem actually between Kenya and Southern Sudan. We have had historical problem between Kenya and Somalia. These things need to be sorted out right now! There is nobody else who will come to help the people of Kenya to solve these problems.

Mr. Deputy Speaker, Sir, as part of our recommendations, because I am just going through what the Committee actually recommended, there is also need for the Ministry of State

for Defense to establish some sort of military co-operation with Turkey. Turkey is a relatively modern state. We have been there and I know that the officials of the Ministry of State for Defense have also been there. In Turkey, there is an amalgamation of modernism, aspects of Middle East and European life.

Unfortunately, Kenya does not have a mission in Turkey. We have recommended that the Kenya Government, as a matter of national interest, opens a mission in Turkey because in today's world, diplomacy is economically driven. We have over 52 missions and some of the missions ought to have been closed long time ago. Turkey has had a mission diplomatic representation in Kenya for the last over 20 years and the commercial engagement between Kenya and Turkey, is overwhelming. Therefore, it is the high time that the Ministry of foreign Affairs opened a mission in Turkey.

There has been the issue of whether the Government of Kenya should retain the services of attaches. In this particular case, there is administrative, cultural and jurisdictional conflict and challenges between the Ministry of Foreign Affairs and a number of other Ministries, in particular the Ministry of State for Immigration and Registration of Persons, the Ministry of Higher Education Science and Technology, the Ministry of Education, Ministry of Trade, the Ministry of Livestock Development and the Ministry of Agriculture. These different Ministries have the same coalition. If we have a letter from one Ministry going to a particular mission, recalling a particular officer and the next month, you have another letter from the same Government but from a different Ministry asking the same officer to stay, we are negating the essence of having diplomatic representation. Diplomatic representation is meant to serve, first of all, the diplomatic community other than that country of accreditation, and the treatment of that country in the Diaspora and the Kenya foreign service group. The essence of appointing diplomats is to reflect a good image of that particular Government. The catch words are "to protect, promote and project a good image of that particular country". This issue of conflict on attaches is something that ought to be sorted out at the Cabinet level. We do not have to punish the junior officers in the mission because those people have been posted there by a Government, whether this Government agrees or does not agree. I want to plead with the Minister for Foreign Affairs to be proactive and ensure that this issue of attaches is sorted out once and for all. Two weeks ago, the Minister of State for Immigration and Registration of Persons went public and complained. Two months ago, the Minister for Higher Education, Science and Technology complained. This issue needs to be sorted out and I want to repeat it is negating the essence of having diplomatic representation.

Mr. Deputy Speaker, Sir, in a mission like London, there is a letter from the Ministry of Foreign Affairs asking the commercial attache to come back. In the same breath, the parent Ministry has written to the same officer asking him to stay. These people are in the same Government and they are serving in the same mission. Which order do you obey? One is from a Minister, a PS and another one is from a Minister from a different Ministry. The same applies to the Agricultural, education and Livestock attachés. I plead that this issue be sorted out once and for all.

Mr. Deputy Speaker, Sir, the Ministry of Foreign Affairs, with due respect to my colleague hon. Wetangula, requires serious radical surgery in terms of its administrative functions, activities and operations. It is the only Ministry where you find a junior officer in the cadre of Job Group "J" defying instructions of none other than the Accounting Officer. If you go through some of the letters, the correspondence between senior officers at the Ministry

headquarters and some of the staff in some of our missions, you will really wonder whether that Ministry exists. These are administrative issues but they are challenging.

In London where went, it is supposed to be the epicentre of our diplomatic representation. Our representation in London has been reduced to a laughing stock within the diplomatic community. None other than the Minister posted one officer as a consular called Chebukaka. The innocent officer went to London but he was rejected by the High Commissioner on the basis of tribal considerations, on the basis of cronyism, corruption and other vices. These individuals need to be protected. There is an instance where the commercial attaché brought an introductory letter to one of the officers posted to a mission. The head of that mission rushed to the bank and said “how can you introduce such an officer since he did not---“ and that officer had authority from none other than the Accounting Officer.

Mr. Deputy Speaker, Sir, these might sound like small issues, but in the eyes of the international community and Kenyans in the Diaspora, these issues need to be addressed. The issue concerning High Commissioner, Muchemi, is the talk all over. Kenya is supposed to be the diplomatic hub of the entire African Continent. The policy of Kenya is supposed to make it a leading country in diplomatic representation not only in southern Sahara, but in the entire continent. That must be protected at all costs. The only way we can do it is by having proper policies and implementation of the same by the Ministry for Foreign Affairs.

Diplomatic representation is a cardinal aspect of any Government. However, when this issue is intertwined with corruption, tribalism, regionalism, favouritism and so on--- I do not want to take you through the list of our staff and the staff structure in all of our 52 Missions. If you go through it, you will find that there is clear indication of abuse of office. This could have happened over the last 15 years. These issues must be addressed.

Mr. Deputy Speaker, Sir, again, with due respect to my colleague, hon. Wetangula, he is a lawyer and senior counsel. If anything, this Ministry ought to have benefitted from his legal expertise. This is the time we expected this Ministry to be managed better. Some of the issues might have been carried over, over the years. Right now, I want to challenge the Minister to take into account the realities. We cannot say that we are modernising one arm of the Government and at the same time leave the other arms rotting. This Ministry is the face of Kenya. If the Ministry of Foreign Affairs is not doing well, then the other arms of Government will not be doing well. This is the reality we must face. I plead with my brother here to redouble what he has been doing and restructure that Ministry without fear or favour. By doing so, he will have saved every Kenyan. He will have reshaped and rebranded the face of every Kenyan. We will be proud when we walk out there.

Mr. Deputy Speaker, Sir, if you go to London and visit some of the offices in Britain, I am not sure whether you will be proud to be a Kenyan. We are looked down upon in that country simply because of what has been happening over the years. I want this to go on record. There is a junior officer who was posted as a driver in 2003. My brother here might not have been the Minister then. That officer was suspended and interdicted by the Public Service Commission (PSC).

The Minister for Foreign Affairs (Mr. Wetangula): On a point of order, Mr. Deputy Speaker, Sir. I hate to interrupt my very good friend who was, in my formative years, my client. We have rules that prohibit tedious repetition of the same point over and over again. If you look at the HANSARD of last week or the week before, what my colleague is saying is exactly what he said. He said it over and over again. There is no point flogging the same point. I will respond to the issue, but tedious repetition does not augur well for debate on the Floor of this House.

Mr. Keynan: Mr. Deputy Speaker, Sir, I will wind up. I am sure that will save you a lot. What I was trying to say is that even if you repeat the truth ten times, it will still remain the truth. These are issues that we must face. I want to conclude.

I plead with this Parliament to adopt this Report. It is not an indictment on hon. Wetangula. The Report only cites oversights and gives suggestions on some of the pitfalls the Ministry might have failed to notice. That is not something against hon. Wetangula. The only thing that might have been against my brother here is the way he answered a Question that was asked by hon. Gunda who is also a Member of the Departmental Committee on Defence and Foreign Relations. The Minister gave his answer on 18th December, 2009, but it was not satisfactory, in our opinion. All the facts were not given. To that extent, we want Parliament to invoke Standing Order No.97, which the Speaker will have the discretion to interpret and find the Minister as having misled Parliament and the Kenyan public. This is because the Minister for Foreign Affairs is not an ordinary Minister. If anything, he is supposed to be the Chief Public Relations Officer of the 39 million Kenyans. He is the head of the Ministry that is supposed to project the Head of Government and Head of State of Kenya. That Ministry must be a special Ministry. To that extent, its affairs, activities and management must be carried out in a way that will always project the Government and the people of Kenya in a proper manner.

I beg to move and ask hon. Nyamweya to second.

Mr. Nyamweya: Thank you, Mr. Deputy Speaker, Sir. I would like to pose a question before I proceed. What is the objective or the purpose of the Ministry of Foreign Affairs? If we do not understand ourselves, how can we explain ourselves to anyone else? Kenya is not a small country. We are a country of 40 million people. Our Budget, and I am glad that the Deputy Prime Minister and Minister for Finance is here, is financed by the Kenyan taxpayers. In fact, 60 per cent of the GDP of the whole of East Africa is Kenyan. We command the Indian Ocean and all other areas. We have universal and compulsory primary education. To access Africa, you have to go through Kenya. In the banking sector, all the requirements you need elsewhere in the world are found in Kenya. We have wonderful and hardworking people in Kenya. If you go out of Kenya, will that be the image that you will get?

Most people out there do not know that we are a peaceful country. They do not know the things I have said that, in fact, our Budget is our own. It is thought that we are supported by the international community. They do not know the perils and dangers that we face from the pirates in the Indian Oceans. Our friends who many of you like calling "Development Partners" do not help us man the Indian Ocean. Our partners in East Africa will not help us deal with the Indian Ocean.

With regard to our borders, we have a very volatile neighbour in Somalia. We have a difficult neighbour in Ethiopia. Sudan is facing problems. We also have problems with Uganda. If you were to ask what our foreign policy is, really, what answer would you get? Would you be able to get any of our ambassadors to tell us any of these things without being defensive? Are our ambassadors proud to be Kenyans? Do they put Kenya first or it is about what other people want to hear?

I believe that we should be able to start saying: "I am who I am", before you can start dealing with the others. What does Kenya have to offer? All the services that the rest of the world needs. Why do we have the United Nations (UN) here? Why do we have the headquarters of almost every international organisation here, in Kenya? It means Kenya has the ability to service the world, but is that what we are doing out there? Is that what we are projecting?

Mr. Deputy Speaker, Sir, we have Kenyans all over the world, including the United States of America (USA), India, the United Kingdom, Europe and Australia. In those countries, we have very hardworking people, who have done very well. What sort of effort have we put in place in helping them to secure international jobs, say, in the UN, the International Labour Organisation (ILO) and so on? You will find that most Kenyans who have jobs in such organisations have acquired them through their own effort, without any help from our own Government. This is something that is expected from our missions abroad. Is that what they are doing?

If we are able to know who we are through the missions that we have across the world, how are we projecting this? What is it that we are seeking from the rest of the world as Kenya? What sort of partnerships are we looking for with our diplomatic colleagues in other countries? We have the main research centres here like Kenya Medical Research Institute (KEMRI), Kenya Forestry Research Institute (KEFRI), Kenya Agricultural Research Institute (KARI), the Kenya Seed, and so on. What sort of relationship have we developed with those other countries, in terms of research, university exchange programmes, and other programmes? Is this not what we should be looking at?

Mr. Deputy Speaker, Sir, if the major resource that we have is human resource or our ability to engage ourselves in commercial entrepreneurship – are these not the sort of countries we should be looking at? Should we not have moved away from the colonial foreign policy we had, simply because the UK and Europe were the colonisers? Where are our new markets? Are they not in the Far East and the East? This is what we have been saying. How is the Ministry of Foreign Affairs applying our policy, assuming that we now have a policy?

The Assistant Minister for Livestock Development (Mr. Duale): On a point of order, Mr. Deputy Speaker, Sir. I have read the Committee's Report, and it looks like the hon. Member is not seconding the Motion. Of course, he should second the Motion on the basis of what the Committee has reported to Parliament.

Mr. Nyamweya: Mr. Deputy Speaker, Sir, the point I am making is that it is so sad that, perhaps, we do not have a foreign policy. The result of this Report is precisely the fact that our missions abroad are not being managed properly. If they are not being managed properly, what is the cause of that problem? It is our duty, as leaders, to be able to get our missions to work properly. There is hardly any point, simply saying: "We have a little Report here. Look at it and just pass it." We want the Minister to understand our concerns, as a Committee, as the House, and as the country.

If you look at the particular missions or countries that were visited and, for example, ask yourself: Why would we still need a mission in Ireland? What is our engagement with them, so that we must still have a mission there? What commerce do we have with them? Why can that country not being managed by some other place, where you can have a combination of missions?

Mr. Deputy Speaker, Sir, that is what we are saying. We need to re-evaluate our foreign policy. Our foreign policy is no longer the cold war foreign policy. Our survival, as a country, depends on commerce, research and human resources. Dual nationalities is an issue for us. How are we protecting our people in the Diaspora? I have been out of the country. I have met Kenyans there who have literally given up about our missions, because they know that they cannot expect any assistance from our Ambassadors and High Commissioners. That is the reality.

The issue of London is just an example. We must get away from appointments that depend on "how I know you" or "how you know me" and make appointments on the basis of

what it is that one can do for this country out there. That is the point we are making. I do not think we are saying anything very difficult to our colleagues here. We are trying to help, help ourselves and help Kenya. I do not think that is really a very difficult thing to do, with our help.

Mr. Deputy Speaker, Sir, Turkey is a country which has been able to pull herself into the modern world very rapidly. Is this not something we should learn from them? Our requirements, as a service industry country, is what we want to learn from others. We do not need to continually be dependent on the old policies of agriculture, other things and so on. We must start processing the service industry and export zones. This is what we have. Are we projecting our Vision 2030 to the rest of the world? Do they know what is available here, or is it only the CNN news with flashbacks of 2007/2008?

There are so many positive things that we, here, in Kenya have. That is what we are urging our brother here; that, can we expect them to project and articulate what is available in Kenya? At one time, I served as the founding Chairman of the Kenya Film Commission. You will be amazed that a country like Nigeria makes up to US\$80 billion just from their film industry.

Mr. Deputy Speaker, Sir, I know that Kenya has the best filming sites in the whole world. However, there are people who would take their films to South Africa, Zimbabwe and elsewhere, because we do not have proper policies here in Kenya. We have not provided the necessary incentives for them to be able to do their filming here in Kenya.

Mr. Deputy Speaker, Sir, this is one of the areas we would want the Ministry of Foreign Affairs to be able to say: "Kenya is suitable. Kenya can give you these facilities." These are the sort of things we want to be able to ask the Minister for Foreign Affairs and his colleagues to be able to review, re-project and re-brand Kenya. They should not, simply, say that this is what has been going on and, therefore, let us go on this way.

We are going through a constitutional review process. If you contact our missions abroad, would they understand that we are actually going through this very serious process in a very peaceful way? We are making a fundamental change in the way of managing our country. We are doing it while managing the normal affairs. We are also trying to transform the country. There is nothing to feel awkward about. It is our decision.

Mr. Deputy Speaker, Sir, we want to move this country forward. We should be able to say to the rest of the world that we want to change our system of government because we have found "a", "b", "c" and "d". It should not be the other way as if it is the rest of the world that wants these things done, and not we.

When you look at this Report, which we are urging the House to adopt, in terms of sourcing the people who man our foreign missions abroad, we are saying that they must reflect the face of Kenya. It cannot be a small group of people. It should be able to say: "If you look at this particular thing, you will see Kenya as it is." We have even said in our Committees and the new Draft constitution; that one of the requirements is: Are you able to see the face of Kenya in that commission, committee and so on?

This is not reflected in the current establishment, which is over-established? What is the purpose of having budgets, if we cannot comply with budgetary requirements? Just a few minutes ago, we were dealing with the Supplementary Appropriation Bill. But if you look at this Report, where the whole Ministry requires 400 or so officers, its budget is double that.

Mr. Deputy Speaker, Sir, in any management of any organisation, surely, if you have objectives, and you have a staff establishment, must you not comply with it? If you do not, it means that you are either not in charge of what is going on, or the whole thing has gone out of

control. So, we are urging our colleagues in the Ministry of Foreign Affairs that Parliament will support them. Parliament is very much aware of its capabilities and responsibilities.

Particularly, in a difficult time, I would want the Minister for Foreign Affairs to be able to say, when he goes home: "I managed the foreign policy of the country during a very difficult period, but I think Kenya came out of it with a reasonably good image."

This is what we expect when we want to go out. People look up to us, particularly if you go round in the East African region or even in Africa. People will wait to hear what Kenya says of this. Do we want to besmirch that image by the sort of activities that took place in London? Is there any particular explanation we can have for what took place in London? A High Commissioner completely defied his own Government by refusing to come back home. Surely, that is not the image we want. As you know, the Royal Court of St. James has a cluster of ranking diplomats around the world. So, when they see the sort of problems we expose there, what sort of image then are we presenting to the world?

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

(Question proposed)

Mr. C. Kilonzo: Mr. Deputy Speaker, Sir, as a member of the Committee, I wish to support this Motion. I was part of the delegation.

Mr. Deputy Speaker, Sir, from the outset, let me say that we are aware and also appreciate whatever the Ministry is doing. Our findings on several occasions during our tour left us wondering whether the Minister has full power to run the Ministry, or there could be interference from a higher office. One good case, we would have really wanted to know is whether there is no criteria for opening up new missions and embassies. We visited Turkey. The Turkish Government has had an embassy here for over the last 20 years. However, we do not have a representation in Turkey. The Turkish Government has requested the Kenyan Government on many occasions to open an embassy in Turkey. In the Republic of Ireland, which is a smaller country and economy with little trade in Kenya, we do have a mission there.

[Mr. Deputy Speaker left the Chair]

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

We have a country which closed down its mission here more than 25 years ago and they have no intention of reopening, yet, we opened a mission there. When we visited London, we found out that the same staff in London is busy going on almost daily to carry out activities which are supposed to be done by the new mission in the Republic of Ireland. We are talking about two countries which are considered in the region as one country. You do not need a visa to travel from the Republic of Ireland to London. It is like a domestic flight from Mombasa to Nairobi. That was one discrepancy which we could not understand.

Mr. Temporary Deputy Speaker, Sir, the issue of salaries among the staff in the missions came out very well. There appears to be some disparities. This has brought a lot of discontent within the embassies. We want the Ministry to look into these issues, particularly within the missions in Europe and Asia compared to those in America.

Mr. Temporary Deputy Speaker, Sir, what was most shocking during our visit was the High Commission in London. We found out that Kenyans in London have forgotten about that High Commission. In particular, the conduct of the then High Commissioner, Ambassador Joseph Muchemi was shocking. This was a rogue ambassador. This was an Ambassador who could not take orders from his own Permanent Secretary and Minister. He only knew authorities from a higher office.

Mr. Temporary Deputy Speaker, Sir, I will give the House only two examples to demonstrate this issue. An officer within the embassy by the name Mr. Fred Odiak wrote a letter of introduction, introducing the Deputy High Commissioner to their bank to open an account. This was on 27th November. The Ambassador was not in office. He wrote a letter on 2nd December to the bank. I want to quote what the Ambassador wrote to the bank. This letter was addressed to the Branch Manager, HSBC Bank, 117 Great Portland Street, London. It was reference letter of introduction: Mr. Anderson Kutundo Chebukaka. I will now go to the specific details. It says:

“This is to inform you that the officer who signed the letter on my behalf was not authorised to do so. This was a breach of administrative procedures and regulations, as my office has no knowledge and does not know the officer introduced to open a personal account with your bank.”

He is talking about his deputy. He says he does not know that officer and the officer was already in the office. He goes on to say and these shows how rogue this Ambassador was: He says:-

“With the current financial crunch, it is your interest and mine, to safeguard the bank from dealing with customers who are not known to us and purporting to be from our mission”.

His interest has moved from that of representing Kenya. He disowned his own junior officer; Fred Ondiek, the Deputy High Commissioner in his office. He says, “to protect interest of the bank”. You can imagine that is our Ambassador. You can imagine the fellow in the bank reading this letter. I would imagine him asking what is wrong with these fellows. He goes on:

“In this regard, I am requesting the bank to treat the letter of introduction by Mr. Fred Ondiek signed on my behalf as null and void”.

Mr. Temporary Deputy Speaker, Sir, that was not enough. That is just one evidence. Another case, the PS, when the term of one Mr. William Chege expired, he rightly recalled him to Nairobi. The Ambassador took upon himself to oppose the recall. On the many letters, where the Ministry said they were going to take disciplinary action on this officer, the Ambassador wrote the following letter to the P.S. It is addressed to the PS, Ministry of Foreign Affairs. It says down there. This about an officer called William Chege who has been recalled after his term expired. The Ministry said he would not be paid any money because his stay in London is illegal, he responded as follows:

“Mr. Chege is not in London illegally. He is performing functions as Transport Officer and some protocol duties under my supervision”.

This is a case where you create a monster. You appoint a humble person, he gets into an office and becomes a monster. When he finishes his letter he says: “You cannot discipline an officer under my charge.” I think after dining with the Queen, this man thought he had gone to heaven. He says: “These fellows at the Ministry here, who do they think they are?” He says: “I have given him instructions to stay and he will and, of course, he will remain until I release him. I believe you understand this under the normal working of Government”. You can see the kind of person we are talking about. A rogue Ambassador, who was calling his officers boys. The

Minister was referred to as a boy. The Assistant Minister, he must have been calling him a kindergarten pupil.

The Minister for Foreign Affairs (Mr. Wetangula): On a point of order, Mr. Temporary Deputy Speaker, Sir. My colleague and nephew, is out of order in making any reference, even by way of quoting another person, to his own uncle as a boy.

(Laughter)

Mr. C. Kilonzo: Mr. Temporary Deputy Speaker, Sir, I think my uncle was busy laughing but he missed what I said. He was being referred to as a boy by the then High Commissioner. We want to show you where we found the Ministry had failed to act. You do not employ somebody and he becomes your boss. That cannot be allowed! That was the highest level of impunity by a civil servant. The fact that the appointment came from the Head of State, it is only a procedure. We say appointments under the law be made by the Head of State. That does not mean that that officer should not take instructions from the Minister and the Permanent Secretary.

There were other cases of drivers who had overstayed by three years and no action was taken and they continued earning salaries. The Ministry had the responsibility to ask for the cancelation of the visas of those officers. The Ministry was too lenient! They should have used this as an example to the rest of those fellows who go and dine with kings and queens so that they remember who appointed them. It was even worse when the tenure of that officer ended, it became the most embarrassing case. The particular ambassador had to be physically locked out of the High Commission. Can you imagine that? Imagine the Londoners watching Kenyans physically locking out the former High Commissioner. The handing over ceremony was never held for him. The procedure is that these are diplomats; they hold a big bash for you because you are leaving but for this particular one, it could not be held. The man was saying that he could not leave office. The Ministry must know that failing to act or being lenient, is as bad as the person committing the offence.

With those few remarks, I beg to support.

The Minister for Foreign Affairs (Mr. Wetangula): Mr. Temporary Deputy Speaker, Sir, I hope today being a day we are looking forward to a Motion of Adjournment, we will finish this Motion quickly.

Let me start by acknowledging and thanking the Committee that provides oversight to my Ministry like all other Ministries. Let me also thank the hon. Members for taking the initiative to visit some of our missions and also visit countries---

The Temporary Deputy Speaker (Prof. Kaloki): Order, Mr. Wetangula! Are you responding on behalf of your Ministry and the Government?

The Minister for Foreign Affairs (Mr. Wetangula): Mr. Temporary Deputy Speaker, Sir, I am replying.

The Temporary Deputy Speaker (Prof. Kaloki): You are replying?

The Minister for Foreign Affairs (Mr. Wetangula): Mr. Temporary Deputy Speaker, Sir, yes, and there is no rule that says that I reply at any particular time. I can reply at any moment and I am replying. I am sure hon. Members want us to finish so that we can go to the Motion for Adjournment.

The Temporary Deputy Speaker (Prof. Kaloki): Proceed then!

The Minister for Foreign Affairs (Mr. Wetangula): Mr. Temporary Deputy Speaker, Sir, the Committee visited Turkey which is a country that is very close to Kenya but where we have no mission. The Committee visited England and Ireland. If you have the report before you, the Committee made three recommendations on page 5. From the meetings and observations during the visit, the Committee recommends that:-

“(i) The Ministry of Foreign Affairs reviews its policy of establishing missions. The Ministry should focus on the economic viability of the missions in line with Kenya’s policy shift to trade and economic diplomacy”.

So you can see that the Committee is already acknowledging that we have a foreign policy that has shifted to economic diplomacy. So, it is not right to say that we have no policy. The Committee recommends that the Ministry undertakes a review of the performance of all missions and that those that are economically not viable be closed down.

”(ii) The Ministry of Foreign Affairs should strengthen the division of international jobs and the Diaspora at the headquarters and open diaspora desks in each mission so as to effectively engage the diaspora in national development.

(iii) The Ministry of State for Defence should explore areas of military collaboration with Turkey which has a strong and productive defence industry that has contributed to the economic development of the country”.

Those are the three recommendations. The first recommendation is totally at variance with the sentiments expressed by the Mover of the Motion and his Seconder who said that we have no policy but yet they acknowledged that we have a policy that is oriented to economy and trade activities.

Secondly, on the international jobs office and the diaspora, in fact, the Committee that does oversight to my Ministry should commend me because I brief them regularly on the ongoing in my Ministry and they know that under my watch, I have opened an international jobs office and a diaspora office that is well staffed at directorate level. An office that has done so much for this country within so little a time. I can give you an example: Under my watch and through that office we campaigned at the most difficult moment in January 2008 and got Mr. Erastus Mwencha, a Kenyan, elected the first Kenyan as the Vice-Chair of the African Union Commission (AUC) where he still works to date.

(Applause)

Through the international jobs office and the diaspora office, we campaigned single handedly, as a Ministry, without any support of any other arm of Government and got Justice Joyce Aluoch elected the first Kenyan judge to the International Criminal Court (ICC) at The Hague and she is now serving. Under the international jobs office and the diaspora office, single handedly, I have put Kenya sitting on the AU Commission on Corruption; elective and not appointive. In that same office, I have had a Kenyan called Githu Muigai elected the first Kenyan to sit in the African Court of Justice and People’s Rights. That is the diaspora. We have continued to urge our missions, through writing, every time I travel I talk to them and have given them a firm assignment that their cardinal duty is to project the image of Kenya; defend the image of Kenya and further the interest of this country and its people. It is through this that we have Kenyans competing for jobs. I cannot mention them all. The Secretary-General of the African Postal Union, Mrs. Masaviru was engaged through my diaspora office that I created in the Ministry. Right now, there are three or four Kenyans we are fighting for, one to go to United

Nations Educational, Scientific and Cultural Organization (UNESCO), one to go to Habitat and many other places.

I do not want to blow my trumpet but I want to humbly submit to this House that the Committee that does oversight to my Ministry has been a little harsh and unfair to me, as a Minister because I have done the best I can and that best I can is not the best within mediocrity but the best within the best. I can assure you and I have colleagues here like my able Assistant Minister, Maj-Gen. Nkaisserry and you can ask any other Minister, go to the AU Council of Ministers, Kenya has the most respected voice. We are listened to and our opinions are taken into account on everything. We give this country very adequate representation. It is simply not possible for my oversight Committee to sit and advise me to rationalize the posting of officers in my Ministry and at the same time, urge me to open a diaspora office in every mission. We are in an era of multi-skilling officers; making sure that an officer who is posted as an ambassador must have knowledge of accounts, human resource and be able to deal with Kenyans who go for services. Every ambassador is a diaspora officer. So, we do not need to open any desk in any mission to put diaspora officers because that is the role of the ambassadors; to make sure that Kenyans get the best. We have instructed them very firmly. On national days and any other days, each mission has a web on which they post all issues Kenyan. We urge all Kenyans to continuously look at the Ministry web and see what is available for them to apply.

Mr. Temporary Deputy Speaker, Sir, if I may add, through the diaspora desk, the vice-president of the largest bank in South Africa is a Kenyan who procured the job through our Ministry; the diaspora desk that I set up as part of reforms in my Ministry.

Mr. Temporary Deputy Speaker, Sir, on the question of rationalizing and closing missions, because the team visited only three countries, Ireland is a special case. Those of you who follow Economics and History know that for the last ten years, Ireland was a phenomenally growing economy. It was the biggest growing economy in the entire European Union. It was a success story in the evolution of Information Technology (IT) and everything. The Irish were uncomfortable for Kenya to continue having a representation in their country from elsewhere. Ireland has a very serious engagement in this country. I do not know if you are Catholic; I am. In almost every area where we have Catholics, there are Irish priests working and teaching. Every Catholic secondary school in this country has a history of having Irish teachers. Those teachers are here on Irish aid. They are not here for free. We do not pay them. The Irish Government pays them. Yes, Ireland has gone through a very tumultuous economic situation. It is now not as booming as it was. But in international relations, you do not just open and close offices like you close and open doors in a house. There are many variables. Ireland may not be engaged with Kenya in trade terms today, but it is a critical vote for Kenya when some malicious friends of Kenya want to take away United Nations Environment Programme (UNEP)

from Kenya. We count on them. When there was a move through some of the European countries to take away Habitat and UNEP, I want to tell this House that Ireland was one of the few European countries that stood with the Group of 77 plus China to support Kenya, that UNEP and Habitat must not only remain in Kenya, but must be strengthened. So, the diplomatic engagement goes way beyond just the tenets of trade and commerce.

Mr. Temporary Deputy Speaker, Sir, take Namibia, for example. Kenya was the team leader at the Independence of Namibia. We sent Gen. Opande – Maj-Gen. Nkaisserry can bear me witness – and led the UN team. After that, out of respect and continental pride, we opened a mission in Windhoek, but we have very little trade with Namibia.

Namibia remains a critical ally and supporter of Kenya when it comes to issues like whether UNEP should be here or not or whether we should be voted to some international committee or not. So, we cannot just wake up and go and close a mission in Namibia. What have I done? I have rationalized by cutting down to the bare minimum the number of officers that serve in these missions, to the extent that under the Geneva Convention, a diplomatic mission is recognized as such as long as it has an ambassador, a consular and one officer. That is a mission. We have cut down some of our missions to that level. The committee is recommending that the Ministry of Defence should explore areas of military collaboration with Turkey. This is obviously beyond the mandate of the Committee. The Committee does oversight on defence and foreign relations, how we engage with others, what we do, they cannot be the ones to direct where to engage in military terms.

Mr. C. Kilonzo: On a point of order, Mr. Temporary Deputy Speaker, Sir. I am finding myself in an awkward position. Is the Minister in order to mislead this House that the mandate of this Committee does not include issues concerning defence? They have even used the word “explore”. Is he in order to mislead this House?

The Minister for Foreign Affairs (Mr. Wetangula): Mr. Temporary Deputy Speaker, Sir, you know, I am not one of those Ministers who just say things that they do not know. What the Committee would do when they do oversight is to see what we do. Military engagements are very delicate issues. Parliament should provide oversight; are we procuring our arms properly, are we getting value for money, and so on and so forth? But not to direct the Government that we should engage in military collaboration with a particular country. There are many countries which are stronger militarily and more developed than Turkey. Why Turkey?

Mr. Temporary Deputy Speaker, Sir, I want to make a response to a few things that my very good friend, Mr. Keynan said in the process of moving his Motion. I would be quite happy if he could have restricted himself to the Motion, but he went way beyond and made what looked like personal attack on me. I do not want to take exceptions to that and I want to ask my brother, Mr. Keynan that we have come a long way to engage in civility towards our colleagues. I have never and I will never use harsh words against a colleague. Not before, not tomorrow and not any other time. Last week when my colleague was moving the Motion, he gave some startling statistics here about staffing levels in our missions. He cited about three or four missions. Even as a Minister for once, I reflected back and wondered whether I knew what was going on in my Ministry because what I knew was different. You may recall that Mr. Keynan said that in our mission in New York, we were over-staffed by--- He said that our establishment was 12 and we have 32 members of staff. This is far from the truth. In our mission in New York, our authorized establishment--- When you talk of authorized establishment it is the officers that we post from Kenya to go and work there whom we pay foreign service allowance, we pay for their families and everything. Our authorized optimum in New York is 12 members of staff, but because of pressure of work, we have 13 members of staff with one extra member of staff only. My colleague here said that we have about 28.

Mr. Temporary Deputy Speaker, Sir, he cited Washington and said we are overstaffed by almost three times. The truth is that our recommended and authorized staff establishment is 13; we have eleven, which is less by two. In London, we are authorized to have 14, but we have 12, fewer by two and there is pressure of work. What missions do is from time to time--- We have encouraged them that when they do this, they should recruit Kenyans.

With this Committee, Mr. Temporary Deputy Speaker, Sir, we sat in Mombasa and the hon. Chairman of the Committee supported me to the hilt, that the days when we posted to the

missions cooks, warders, drivers and attaches are over. I can bring the clips and play them to this House. We have since returned home all those excess staff members in our missions. As a result, we saved Kshs1.6 billion that was used to open new missions, including in Brazil, Ireland that we are talking about, Thailand and South Korea; we are thinking of reciprocity and opening a mission in Canada. Even the Turkey he is talking about is on our list, if this House will give us enough money, because what we saved has been spent.

Mr. Temporary Deputy Speaker, Sir, in Dublin we just have an ambassador and four officers. My colleague mentioned Somalia; who does not know the problems of Somalia? There are some countries whose ambassadors to Somalia are based here in Nairobi! We have a vision for Somalia; we have a liaison officer in Mogadishu and Hargeisa, but because of security problems in Somalia, our embassy runs our business on Somalia from Nairobi. There is nothing strange about that! As soon as Somalia normalizes, we will send our ambassador to Mogadishu.

But, Mr. Temporary Deputy Speaker, Sir, I will be a highly irresponsible Minister of this Government if, tomorrow, I bundle out our ambassador and his entire staff to go to reside on a street where everybody has a Kalashnikov on his shoulder; I will be irresponsible! I want to be a responsible Minister; and I believe I am a responsible Minister!

Mr. Temporary Deputy Speaker, Sir, the question of attaches generally, it is not my policy. This is a matter that was decided by the Cabinet; that we must multi-skill and withdraw attaches. Tell me today, if you send an agricultural attaché to London, what does he do? Look at the missions representing their countries in Nairobi – apart from one or two, each of those missions' trade and commercial attaches are Kenyans; they are not called attaches but commercial officers. If you pick - as we used to do in the days of abuse – a trade licensing officer from Sirisia and you post him to Russia as a commercial attaché, he does not know the language, he does not know where to start and he does not even know what business we have with Russia, is that how we want to run our country? I have instructed our missions that they have a free hand to hire local staff to help develop trade and commerce. If Germany is our source of tourists, as it is, our mission in Germany must recruit Germans who can recruit German tourists to come to Kenya! But if we send a Kenyan there, he will spend two years learning German, another one year trying to find the names of streets, how will he help this country? I want to urge my Committee to appreciate what we are doing. We can actually run all our mission accounts from Nairobi and post to the embassies. Instead of posting accountants, I have a trial run. Today, Rwanda and Burundi share one accountant and I have saved the country Kshs25 million every year. That is what it costs to keep one accountant in one station with his family. I have now instructed that Los Angeles, Washington, New York and Ottawa are going to have one accountant based in one optimal centre. I am going to save the country Kshs25 million times four. That is what I am doing.

Mr. Temporary Deputy Speaker, Sir, we are engaged in very serious economic diplomacy. Only last December, we had the Kenyan week in Dubai. You cannot believe it from the time I was appointed Minister, there were about 10,000 Kenyans working in Dubai but today, there are 36,000 Kenyans working in Dubai. I went there for the Kenyan week and you could have seen the delight of Kenyans; that we are doing a good job for them. We are giving them consular services. What will Kenyans want when they are out there? When their passports expire, they are renewed. When they run into a problem, there is a Kenyan to listen to them. That is what we must do.

(Mr. Lessonet stood in his place)

The Temporary Deputy Speaker (Prof. Kaloki): What is your point order, hon. Member?

Mr. Lessonet: On a point of order, Mr. Temporary Deputy Speaker, Sir. The Minister is misleading the House that 36,000 Kenyans in Dubai is a big number, while he knows very well that there more than 5 million Indians working in Dubai. Can we compare the two?

The Minister for Foreign Affairs (Mr. Wetangula): Mr. Temporary Deputy Speaker, Sir, it is always good to have your facts right. The population of the United Arab Emirates is 7 million. The indigenous are 3.7 million, so where are the 5 million Indians? It is just simple arithmetic.

Mr. Temporary Deputy Speaker, Sir, India has a population of 1.3 billion people while Kenya has 40 million. We have 36,000 Kenyans working in Dubai. In Bahrain, we have 2000 Kenyans working there, Qatar, where we are opening a new mission, we have 6,000 Kenyans working there and they are growing. We want to give them these services. I want this House to give my Ministry support. I want this House to support the Government. I fully appreciate what they are doing. In fact, I would want them to visit more missions and when they come back, they call me. One lamentation I can have to the House is when my colleagues finish their visit, the rules of natural justice expect that they would call me as the Minister and say we have been to the following missions and this is what we found. What do you explain?

Let me go to London quickly because my time is running out. We have had a bad ambassador in London; there is no doubt about that. There is a man called Joe Muchemi who I cannot defend. He has miscondacted himself and I thank the President because when I went and told the President this is what Joe Muchemi is doing, he told me recall him and he was sacked. He is no longer the High Commissioner. The rude letters that my good young colleague here read are true. I am not disowning them. He did worse things than those letters. There was an officer called Kinyuru who was his deputy. His term ended, we recalled him instead High Commissioner Muchemi came to Nairobi without authority. An ambassador is not supposed to leave his station without the authority of myself, the PS or the head of Public Service.

He came to Kenya without authority and went to connive with some lawyers to sue my Permanent Secretary for recalling an officer. A case was even filed in court. Luckily, judicial sense prevailed and the case was dismissed. He was using public funds to do this. We recalled a driver, but he said that the driver was not coming. We recalled another officer and he said that the officer was not coming. When this piled up, as a responsible Minister, I went to the Head of State and explained to him everything. He told me to recall him. Of course, when you recall an ambassador, when he has behaved that way, you are terminating his services.

So, the matter of Mr. Muchemi is not one that I can stand here and deny. What have I done about his misconduct? He also engaged in financial misappropriation and I have given instructions upon consultation with the Treasury. His terminal dues of Kshs3.2 million have been attached and he will not get a cent. We will recover everything that he misappropriated. Is that not what a responsible Minister should do? What else would you expect me to do? The driver who refused to come has been dismissed. What happened to this driver? He was hired as a local staff. Eventually he was promoted to become a home-based staff so he started costing the country KShs25 million a year. We recalled him, but the High Commissioner said that the driver was not coming. When we sacked the driver, the High Commissioner flew to Nairobi and went to the Public Service Commission and reinstated him. However, he is no longer working with us now. I cannot defend the indefensible.

Mr. Temporary Deputy Speaker, Sir, today, London is a very orderly station. The case of mistreating Mr. Chebukaka is true and I cannot deny it. He wrote the letters that were read here. When we recalled him, he said that he needed extra time. Being an old man of close to 70 years of age, we gave him two to three months to pack up. At the end of three months, we were given a medical report that he was unwell and that he needed medical attention.

I urge Mr. Keynan that we need to be respectful of professionals. The doctor who wrote a report for Amb. Muchemi is a Nigerian physician who is licensed by the Board of Physicians in London. So, it is unfair for him to stand on the Floor of this House and call him a “Nigerian quack”. He is a doctor. We tested that report with local doctors in this country and they told us that the man was sick. We are not removing him because he was sick but because he had misconducted himself. He is now out of station and he is history behind us. I want us to look forward.

London is an important station, but there are as many important stations. For example, Uganda is our number one trading partner. That is a very critical station. We are now Tanzania’s No.1 trading partner. It is also a very critical station. We have been major trading partners with Germany. That is a very critical station.

Mr. Temporary Deputy Speaker, Sir, I support the Report to the extent that I have said and to the extent that it goes beyond the mandate. I urge the Departmental Committee that next time--- The over ceding of the mandate is harmless. I urge the Committee that next time they need to share the information with me so that we bring a Report that adds value to what we are doing.

Mr. Keynan: Mr. Temporary Deputy Speaker, Sir, before I respond I would like, under Standing Order No.198, to prove that what my good friend has told the House was completely out of context and the Standing Orders. In fact, I will quote the law. I will allow my colleague Mr. Charles---

The Minister for Foreign Affairs (Mr. Wetangula): On a point of order, Mr. Temporary Deputy Speaker, Sir, under the rules of the House, the Mover of the Motion can lend his time to another hon. Member to contribute, but he cannot invite an hon. Member who has already contributed to the Motion to contribute again.

Mr. Keynan: Mr. Temporary Deputy Speaker, Sir, that is true.

The Temporary Deputy Speaker (Prof. Kaloki): Order! Order, hon. Keynan!

Hon. Members, is there anybody who has not contributed, and would like to do so? Hon. Keynan, are you willing to respond to debate?

Mr. Keynan: Yes, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Prof. Kaloki): Very well, you may proceed.

Mr. Keynan: Mr. Temporary Deputy Speaker, Sir, the mandate of the Committee, just like any other Committee of this House, comes from Standing Order No.198.

(Several hon. Members stood up in their places)

The Temporary Deputy Speaker (Prof. Kaloki): Order, Mr. Njuguna! Order, all of you! I had already given time to anybody who wished to contribute, but nobody was willing to do so. It is now time for the Mover to reply.

Proceed, Mr. Keynan!

Mr. Keynan: Mr. Temporary Deputy Speaker, Sir, I intend to take the shortest time possible to respond to this debate. In order to put the record straight, I want to quote what

Standing Order No.198 says on the functions, mandate and establishment of Departmental Committees. Let us get it right, because the Minister said that it is not within our mandate to do some of the things that we did. It is fair that this aspect comes out clearly from the law, because I am not the one who designed this law. So, our Standing Order says as follows:-

198. “(1) There shall be select committees to be designated Departmental Committees which shall be nominated by the House Business Committee and approved by the House at the commencement of every Parliament---

(3) The functions of a Departmental Committee shall be:-

(a) to investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned Ministries and departments---

Mr. Temporary Deputy Speaker, Sir, we do not need an Englishman to interpret the content, in spirit and letter, of these particular aspects of the mandate of any Departmental Committee, not only the Departmental Committee on Defence and Foreign Relations, because this is the law.

Standing Order No. 198 continues to explain the functions of Departmental Committees as follows:-

“(3) (b) to study the programme and policy objectives of Ministries and departments and the effectiveness of implementation---

Mr. Temporary Deputy Speaker, Sir, what does this mean? This is in essence, Parliament’s oversight role. So, it is completely out of context for the Minister to say that this Committee went out of its mandate. What we did is 100 per cent within the mandate of the Committee.

The Standing Order went on to give the mandates of a Departmental Committee as follows below:-

“(3)(c) to study and review all legislations referred to it---

Mr. Temporary Deputy Speaker, Sir, this is one of the legislative functions of Parliament.

The fourth function of Departmental Committees is explained hereunder:-

“(3)(d) to study, assess and analyse the relative success of the Ministries and departments as measured by the results obtained as compared with their stated objectives---

Mr. Temporary Deputy Speaker, Sir, this Ministry, over the last two years, has refused to sign performance contracting. For three consecutive years, this Ministry has been the last in the rating of Ministries. I know that right now there is a tug-of-war between this Ministry and the Office of the Prime Minister on how performance contracting is supposed to be done. That is not the role of Departmental Committee on Defence and Foreign Relations. It is an arm of the Government.

The fifth function of this Committee and any other Departmental Committee is-

“(3)(e) to investigate and inquire into all matters relating to the assigned Ministries and departments as they may deem necessary, and as may be referred to them by the House or a Minister---

That is Parliament’s oversight role as the catch line here is “as they may deem necessary”.

Mr. Temporary Deputy Speaker, Sir, therefore, we do not need the blessing, authority, interpretation or concurrence of my good brother to do what we did. What we did is purely within the confines of our oversight role as parliamentarians, and that is what we shall continue to do as long as we are in this Committee.

The Assistant Minister for Foreign Affairs (Mr. Onyonka): On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the hon. Member in order to say that the Minister said that he needed authority from the Committee? I thought the Committee Chairman need to be a bit clear on that.

The Temporary Deputy Speaker (Prof. Kaloki): Just proceed, Mr. Keynan!

Mr. Keynan: The Committee made ten recommendations, but the Minister just alluded to three of them. In these ten recommendations some were positive; some we critiqued and, some we suggest issues that would have given the Ministry room for improvement. In my opinion, that again is within our mandate. I think I would urge the Minister to go through the Report, so that he is familiar with its content.

Mr. Temporary Deputy Speaker, Sir, it is true that there is Diaspora Desk here, but we said, and you need to get this clearly, out of the many officers you have employed in different missions, designate one of them as a Diaspora Officer. Yes, I do agree that the Ambassador is supposed to be multi-skilled. He is supposed to be an all round person, but we need one key person who is there to assist Kenyans.

Mr. Temporary Deputy Speaker, Sir, I appreciate that Kenyans are people who are very aggressive. Kenyans have gone to schools. Kenyans are by nature, people who really want to do things for themselves. I am not sure whether my good brother is the real cause of all the good things Kenyans have done in many different countries. I am not sure whether the Ministry of Foreign Affairs is the cause of the many Kenyans who are in Dubai. Kenyans have specialised education and are experts in particular fields.

The Minister for Foreign Affairs (Mr. Wetangula): On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the Chairman in order to continue making what looks like personalised response when all I said was, through my Ministry's facilitation we have 36,000 Kenyans working in Dubai? I never said we got them jobs there. I said we facilitate. That is our work.

The Temporary Deputy Speaker (Prof. Kaloki): Indeed, hon. Keynan on that point of order, stick to the Report and let us move on.

Mr. Keynan: Mr. Temporary Deputy Speaker, Sir, I appreciate. I want to conclude because I can see Members are really tired and want to go.

On the issue of the mission staff, there are two categories of workers. There are home-based staff and local staff. Again, I do not want to challenge, I will leave it there. But I do know that there are factual differences on what the Minister is alluding to and the details that I have. I will leave that for another day because the Minister will be appearing before us.

Mr. Temporary Deputy Speaker, Sir, I want to say that the issue of the Ministry of Foreign Affairs is not about hon. Wetangula. Hon. Wetangula, at this particular juncture, happens to be the Minister for Foreign Affairs. Tomorrow, we can have another one by the appointing authority. What we are critiquing is the policy, but not hon. Wetangula. He does not have to personalise issues. I do not have to personalise issues. Any other Chairperson of any other departmental Committee would have done the same. I can see that my brother, hon. Thuo is excited. I want to bring this to end because I can see that the two whips really want to go. I want to say that this Report is fair, objective and it will assist if some of the recommendations will be input in the day to day management of the Ministry.

Mr. Temporary Deputy Speaker, Sir, I beg to move that this Report be adopted under Standing Order No.181.

(Question put and agreed to)

MOTION FOR ADJOURNMENT

ADJOURNMENT TO A DAY OTHER THAN THE NEXT NORMAL SITTING DAY

Mr. Midiwo: Mr. Temporary Deputy Speaker, Sir, I beg to move the following Motion:-
THAT, this House do adjourn until Tuesday, 8th June, 2010 at 2.30 p.m.

The reasons are fairly obvious and as you can see, hon. Members really seem to be exhausted. I want to personally say that I need a break. But I want to thank hon. Members for the period that we have gone through. As you know, we cut short our recess last time just to come back here and address the issue of the Constitution review. I think we have done our bit and now it is time to go to the people. We are looking forward to Kenyans to take it from where Parliament left it. A lot has been said that Parliament was not capable of doing much but I think it did what it had to do when it passed the draft of the Committee of Experts (CoE) the way it came to the House.

We need to go home! Besides a breather for hon. Members, there is the issue of voter registration which I think, talking for myself and I know I am talking for many hon. Members, we need to tell our people to come because we are at the dawn of a new era and people need to take the new generation voter cards in preparation for the Referendum and the Elections to come.

One other thing I wanted to say is that the Ministry of Finance has now released the monies for the Economic Stimulus Package. As we know, these programmes are largely being resisted by many civil servants. So I think our presence on the ground will make a difference and we need to be there and address them.

With those few remarks, I beg to support and ask Maj-Gen. Nkaisserry to second.

The Assistant Minister, Ministry of State for Defence (Maj-Gen. Nkaisserry): Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to second this very important Motion. First of all, I would like to thank the Mover for bringing this very important Motion.

Mr. Temporary Deputy Speaker, Sir, as elected leaders of this country, after passing the proposed Draft Constitution, it is important that we go out and inform and educate our people on the value of this move. As the Mover said, we need to tell our people about voter registration. We need to register so that our people can give this country a new Constitution at the Referendum. I know that the proposed Constitution may not be perfect, but it is going to be good medicine for this country. It is going to bring cohesion and unity. Therefore, this country is like a sick patient who requires medication to heal. So, if we can preach the message of peace, unity and cohesion, it will be very important.

Mr. Temporary Deputy Speaker, Sir, the Deputy Prime Minister and Minister for Finance has also released the Economic Stimulus Package. We are required, as elected leaders, to tell our people how this is going to benefit them, especially in the area of *Kazi kwa Vijana* programme.

Mr. Temporary Deputy Speaker, Sir, I will go back a little and mention about the Draft Constitution. The Draft Constitution is going to get rid of ethnicity, impunity and corruption. Most importantly, it is going to get rid of nepotism. So, there are many issues which we, as elected leaders, need to go and educate our people about.

Mr. Temporary Deputy Speaker, Sir, we need to go and talk about security. As you realize, our borders are porous. The hon. Members who come from areas which border

international boundaries need to go there and tell their people what the Government is doing to safeguard and protect their security and property. So, this is a well deserved recess.

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

(Question proposed)

Mr. Pesa: Mr. Temporary Deputy Speaker, Sir, I want to support this Motion. Hon. Members have been here long enough. You remember that we were recalled earlier from our usual December vacation because of other pressing issues that we had to come and deliberate on, which we have done up to this time.

I want to thank the Office of the Speaker for taking us through this Session in a very organized and civil manner. In particular, I want to thank the Speaker for his ruling this afternoon on the Question that I had asked about the retired teachers. That was, I am sure, a welcome ruling by Kenyans who have served this country and actually deserve to live a decent life having served Kenya as teachers in this Republic. They have families to look after, children to take to school but because somebody somewhere does not want to give them their right, they suffer I want to applaud the ruling by the Speaker this afternoon and I hope that what he gave will be followed by the Minister for Education so that these teachers get their rightful money that they worked for and have been denied since 1997.

Mr. Temporary Deputy Speaker, Sir, we need a break. As you can see in the House, hon. Members are tired. When we go on recess, it does not mean that our work as Parliamentarians has ended there. It is down there in the constituencies where we actually have a lot of work. We have now been told that the Deputy Prime Minister and Minister for Finance released funds for Economic Stimulus Programme. Actually, we have had a lot of resistance at the line Ministries level. Some of us were not given the type of recommendations that we had wanted. They gave other projects at different places. So, there is a lot of resistance. I think we need to be down there at this time to make sure that at least this money is properly utilized. We have complained in this House about the Bills of Quantities (BQ) that were given by the Government and up to now, we are not very happy because the type of money that we need in different constituencies differs according to constituency.

Mr. Kutuny: Hoja ya Nidhamu, Bw. Naibu Spika wa Muda.

The Temporary Deputy Speaker (Prof. Kaloki): Order, Mr. Kutuny!

Mr. Pesa: Thank you, Mr. Temporary Deputy Speaker, Sir, for defending me and allowing me to proceed. Mr. Kutuny will have time when we come back.

We are coming to the fourth stage of the constitutional making process. The Committee of Experts (CoE) has done its work, the Parliamentary Select Committee also did their work, we also did our work as Members of Parliament and the exercise now goes to Kenyans who have the right and the last say on whether the Constitution is going to be implemented or not. I know that Kenyans have looked for this Constitution for a very long time. We need to have civic education outside there and with hon. Members going to preach peace during the recess, I am sure the harmony will make us go through this process very amicably.

Mr. Temporary Deputy Speaker, Sir, therefore, we need to have time to go and join our brothers, sisters and constituents at home and actually talk to them on the way forward about this Draft Constitution. Whatever they will say as Kenyans, I think that will be the binding issue in constitution making in this country.

Lastly, as you are aware, we have plenty of rain in the country and many of us are farmers. We want to go and join our friends and families in ensuring that we improve on the crop production in this country so that our food security can be enhanced.

With those remarks, I beg to support.

Mr. Njuguna: Mr. Temporary Deputy Speaker, Sir, I also appreciate the opportunity to very briefly contribute to this very timely Motion. Let me first of all thank the Mover of this Motion. It has come at the right time. We need to engage. We need to go to the countryside in our constituencies and deal with our voters at this critical time so that we can consolidate their spirit which is geared to supporting the referendum that is coming. It is important that the Interim Independent Electoral Commission (IIEC) issues new directives concerning those people with old identity cards. When they go to the registration centres, they are being denied the right to register. That is critical because it is tantamount to denial of democratic right.

I also wish to emphasize on the new development that is affecting our country; piracy. This is a new trend that is affecting our international trade here and even denying the Exchequer a lot of money. The pirates who have been brought into the country cannot be accommodated in our courts of law. Therefore, continued hosting of pirates in our country also poses threats from other forces. Therefore, it is important that we call upon the international community very quickly to come and support this Government. This is the time for them to come.

Finally, Mr. Temporary Deputy Speaker, Sir, I fully support this Motion for Adjournment.

Thank you, Mr. Temporary Deputy Speaker, Sir.

Mr. C. Kilonzo: Thank you, Mr. Temporary Deputy Speaker, Sir. I stand to support this Motion. As I do so, I wish to note the failure, as we go home, by the Government to buy maize from farmers.

Mr. Temporary Deputy Speaker, Sir, although we have provided in the Supplementary Budget Kshs5 billion to buy maize from farmers, more than 50 per cent of that money is going to go to the pockets of middlemen.

Mr. Temporary Deputy Speaker, Sir, despite numerous requests and demands to hon. Members from the farmers for the Government to buy this maize directly and open centres at locational level, or to have mobile units, the Government has turned a blind eye to this problem. It is of no point for leaders to organize a prayer breakfast for leaders to pray to God to lead this nation. Leaders have become arrogant to the extent that they can see maize rotting in the farms and instead of taking action they organize prayer breakfasts and eat a breakfast worth Kshs2,500 a plate, yet our farmers are suffering. I do not subscribe to that behaviour and I will never, because it is hypocrisy! It is a simple thing for farmers to sell maize at Kshs100 and a middleman pockets the difference; every middleman is making Kshs1,400 for every bag of maize sold!

Mr. Temporary Deputy Speaker, Sir, I know you know what is happening in Kibwezi. How then do we organize a prayer breakfast? For what purpose? It is the same as a certain African president who organized a birthday party when he was 83 years old to celebrate, and the people in his country were dying of cholera! We have to look at these issues seriously! Farmers countrywide are complaining that the Government has formed a cartel---

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

Mr. Chachu: Thank you, Mr. Temporary Deputy Speaker, Sir. I stand to support this Motion for Adjournment. This is a crucial moment for this country and, as leaders, I think it is time we went back and gave leadership and direction to our constituents. I think it is time for us to go and meet with our constituency leaders, councillors and all other key people in our

constituencies, have dialogue with them, so that we have a shared understanding of the draft Constitution document, and ensure that we give Kenyans a new Constitution this time round.

Mr. Temporary Deputy Speaker, Sir, I think it is time for us to go back to audit, monitor and evaluate our programmes, whether they are Constituencies Development Fund (CDF) projects or programmes under the Economic Stimulus Programme.

With those few remarks, Mr. Temporary Deputy Speaker, Sir, I beg to support the Motion.

(Applause)

Mr. Mwangi: Thank you, Mr. Temporary Deputy Speaker, Sir. I stand to support the Motion. As many of us have said, we have issues to address in our constituencies. We need to go out and urge our constituents to register as voters. We have the Draft Constitution that we have to go and support, or educate our constituents on the importance of voting, whichever way.

But, Mr. Temporary Deputy Speaker, Sir, I think the Government of Kenya has a few things that it needs to address as we go out to our constituencies. An earlier speaker has addressed the issue of the farmers. When the Minister for Finance was presenting the Supplementary Budget, I did not hear him mentioning anything to do with dairy farming. We expected him to bring in the issue of cushioning the New Kenya Co-operative Creameries (KCC) in as far as the purchase of milk is concerned. In some of the areas where we come from, we need fertilizer. We did not get it clear whether the Minister will consider providing some of these dry areas with subsidized fertilizer. The Minister for Agriculture promised farmers that they will get subsidized fertilizer but we have not seen it. We would adequately be feeding our country if the Minister for Agriculture at least addressed the shortcomings and the needs of our people across the country. As we go back to our constituencies, these farm implements are required during these long rains. We need Calcium Ammonium Nitrate (CAN) fertilizer for topping up. We need to address these issues adequately as we go on talking about getting food security.

Mr. Temporary Deputy Speaker, I think we have a few others who would want to contribute.

With those few remarks, I beg to support.

The Assistant Minister, for Higher Education, Science and Technology (Mr. Kamama): Mr. Temporary Deputy Speaker, Sir, I rise to support this Motion because it is necessary that we have a break, so that we can have a bit of physical rejuvenation. As you know, this Parliament has worked so hard to actually produce one of the best drafts. I know it is contentious but I think this Parliament has done a better job than previous Parliaments. Again, we need to go home because as they say according to the book of the *Lemuntu*, home is where man returned. We need to go and see our people, socialise with them, and hear from them what they are saying about the new Constitution. We need civic education and our people should be taught properly on this Constitution before they make informed decisions.

With those few remarks, I beg to support.

Mr. Kathuri: Thank you, Mr. Temporary Deputy Speaker, Sir. I also stand to support this Mo

tion. I would also want to say that we are going on recess and that does not mean that we are going to rest. We would want to see some things being done right. We know we are getting into the budget-making period and I would want to state here that we would want some specific input in that Budget. A good example is the fact that we have seen eschewed allocation of

resources from one Ministry to another. We want to see a situation whereby we can say here confidently this will be the amount that will be allocated to the Ministry of Agriculture and Ministry of Roads by way of percentages. If the Deputy Prime Minister and Minister for Finance can introduce percentages in the allocations, just the way we do with CDF, so that we will be knowing from one year to the other, this percent of the budget is what will be going to the Ministry of Agriculture, this other is what is going to the Ministry of Education, I think that will be a very good thing. It is also important for us to remind the Deputy Prime Minister and Ministry for Finance that we need to see money being put to the Treasury for it to come under Budget. When we see Appropriations-in-Aid generated by the Judiciary and universities being expended at the point of cost, it is very bad because we do not see that reflected in the national Budget.

There are many issues. We are going for the referendum, let us all go out so that we can hear what the public is saying, so that we can make an informed decision. If we talk from this end only, we will not be in touch with the ground.

With those few remarks, I beg to support.

Mr. Midiwo: Thank you, Mr. Temporary Deputy Speaker, Sir. Since nobody is opposing the Motion and we all seem to agree that we want the recess, I beg to move.

(Question put and agreed to)

ADJOURNMENT

The Temporary Deputy Speaker (Prof. Kaloki): Hon. Members, that concludes the business on the Order Paper. Therefore, the House stands adjourned until Tuesday, 8th June, 2010, at 2.30 p.m.

The House rose at 7.55 p.m.