

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Tuesday, 16<sup>th</sup> November, 2010

The House met at 2.30 p.m.

*[Mr. Speaker in the Chair]*

### PRAYERS

### QUESTIONS BY PRIVATE NOTICE

LOSS OF HIGH COURT FILES HCCC 1909/09 / HCCC1416/95

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

(a) Could the Minister clarify whether the Police have established the circumstances surrounding the loss of two High Court files, No. HCCC 1909/09 and HCCC 1416/95, from the court strong room?

(b) Could he also confirm whether the police investigated the loss of a title deed and transfer transaction of a proposed sale of property LR 36/VII/586 (Original No.50-52, 117) I.R 5666/2 by

Mr. George Chege and Mr. Mark Ngarira?

**The Assistant Minister of State for Provincial Administration and Internal Security** (Mr. Ojode): Mr. Speaker, Sir, I request the indulgence of the Chair to allow me to answer this Question on Thursday, this week. This is because there are some issues which the Questioner wanted me to sort out first, make some arrests and charge the suspects. So, I request that I answer this Question on Thursday.

**Mr. Speaker:** The Member for Ndaragwa, the Assistant Minister needs a little more time to source information for you.

**Mr. Kioni:** Mr. Speaker, Sir, I have no objection, but it is good to note that this Question was placed on today's Order Paper on the direction of Mr. Speaker, because the Assistant Minister had given an answer that was unsatisfactory. We hope that he will give an appropriate answer on Thursday.

**Mr. Speaker:** Fair enough! I direct that the Question appears on the Order Paper for Thursday at 2.30 p.m.

Let us move on to the Member for Bura's Question!

### ORAL ANSWERS TO QUESTIONS

*Question No.398*

DELAYED PAYMENT OF CENSUS DUES

TO KENYA POLICE RESERVISTS

**Mr. Speaker:** Is the Member for Bura not here?  
Let us move on to the hon. Member for Laisamis' Question.

*Question No.059*

CRITERIA FOR IDENTIFYING  
PROJECTS IN ASAL AREAS

**Mr. Speaker:** Hon. Members, on this Question, I have intimation from the two parties, that is both the hon. Member and the Minister for Development of Northern Kenya and Other Arid Lands that they will not be able to transact this Question this afternoon. So, I defer this Question to Tuesday, next week at 2.30 p.m.

*(Question deferred)*

*Question No.549*

DEMOLITION OF CITY COUNCIL  
OFFICES IN HARAMBEE WARD

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

(a) under what circumstances the City Council offices in Harambee Ward in Makadara Constituency were demolished and the offices transferred to Jericho;

(b) to state why the land meant for the said council offices is currently occupied by a private developer; and,

(c) What action the Ministry is taking to ensure the land reverts back to the public.

**Mr. Speaker:** Is anyone here from the Office of the Deputy Prime Minister and Minister for Local Government? We will attempt another round on this.

Let us move on to the Member for Vihiga's Question!

*Question No.468*

LIST OF VIHIGA TEACHERS SACCO DEBTORS

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

(a) whether he is aware that Vihiga Teachers SACCO is owed a lot of money by the borrowers; and,

(b) whether he could provide names of persons indebted to the SACCO indicating the amount each owes and what steps the Minister is

taking to ensure that those who owe the SACCO repay their outstanding liabilities.

**Mr. Speaker:** Is anyone here from the Ministry of Co-operative Development and marketing? We will treat this Question in a similar manner as Question No.549.

*Question No.510*

ISSUANCE OF NEW IDS IN COAST PROVINCE

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

(a) to indicate the number and names of people issued with new identity cards in Kwale, Mombasa, Kilifi, Taita Taveta, Malindi, Tana River and Lamu districts from January to August, 2010;

(b) whether he is aware that applications approved by the Lamu District Committee are routinely rejected at the Headquarters in Nairobi and, if so, what is the point of having the District Registrar of Persons Committee at the district level; and,

(c) whether he could table a list of names of people who have not collected their identity cards in Kwale, Mombasa, Kilifi, Taita Taveta, Malindi, Tana River and Lamu districts as at 15<sup>th</sup> September, 2010.

**Mr. Speaker:** Is anyone here from the Ministry of Immigration and Registration of Persons? There seems to be something the matter with the Front Bench notwithstanding my willingness to accommodate them. We will come back to the Question a little later. If there is any Whip for the Front Bench, please, take some action.

*Question No.512*

LIST OF HEALTH FACILITIES  
IN TURKANA COUNTY

**Mr. Speaker:** Is Mr. Ethuro not here?

Let us move on to the Member for Kisumu Town West's Question!

*Question No.403*

SUBDIVISION OF BLOCK 13/22 IN  
KISUMU MUNICIPALITY

**Mr. Olago** asked the Minister for Lands:-

(a) what circumstances and on whose authority the Ministry subdivided L.R. No. KISUMU MUNICIPALITY/BLOCK 13/22, reserved for Joel Omino Primary and Secondary Schools, into parcel Nos. KSM MUN/BLOCK 13/10, KSM MUN/BLOCK 13/11, KSM MUN/BLOCK

13/12, KSM MUN/BLOCK 13/13, KSM MUN/BLOCK 13/14, KSM MUN/BLOCK 13/15 and KSM MUN/BLOCK 13/87;

(b) under what circumstances and on whose authority land parcel Nos. 10, 12 and 15 above were transferred to Hezekiah Nelson Oyugi, John Ongayo Kokwaro and Donald Joseph Okiro, respectively; and,

(c) what steps he is taking to cancel the irregular titles so that the original parcel of land reverts back to the schools as public land.

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

The title deeds which are a subject matter of the Question were allotted to the persons to whom these pieces of land were allotted on the basis that they were available for alienation. Eventually, the subsequent dealings on the land were on the basis that the land was available for alienation. However, since the land was alienated to the persons whose names appear as title holders, I have given instructions to the Commissioner of Lands in collaboration with the Office of the Attorney-General that forfeiture proceedings be instituted for the recovery of the said pieces of land under Section 77 of the Government Lands Act.

Just for purposes of clarity, I want to point out that the following parcels of land, that is, KSM MUN/BLOCK 13/10, KSM MUN/BLOCK 13/11, KSM MUN/BLOCK 13/12, KSM MUN/BLOCK 13/13, KSM MUN/BLOCK 13/14, KSM MUN/BLOCK 13/15 and KSM MUN/BLOCK 13/87 were allocated to the late Hezekiah Oyugi; Mr. John Kokwaro and Mr. Donald Joseph Okiro. This was done through the office of the Commissioner of Lands. However, I have since determined that all of them have not been developed which would be in breach of the conditions of the lease. So, I have given instructions for all those pieces of land to be recovered by the Government.

**Mr. Olago:** Mr. Speaker, Sir, allow me to say that I am very proud of what the Minister is doing not just on these allocations, but on all other allocations of illegally acquired land in Kenya. However, as the Question states, this land belongs to Joel Omino Primary and Secondary Schools in Kisumu. The alienation of this land was clearly obtained by falsification. First, there was an allegation that the land was available for registration which is not true because this was schools land. Secondly, there was an allegation that the land would be developed by the people to whom it was allotted. That has not been done up to date. Under these circumstances, and given the answer by the Minister, could he confirm how soon it will take the Ministry and the Office of the Attorney-General to finalize forfeiture proceedings and revert this land to Joel Omino Primary and Secondary Schools?

**Mr. Orenge:** Mr. Speaker, Sir, to give assurances on timelines is very difficult for me because when the proceedings are before the High Court, I cannot control them. However, I can assure the hon. Member that the instructions are being acted on. I will make sure that this is resolved as quickly as possible. Indeed, in line with the new Constitution, there is a provision that Parliament should establish a court with equal jurisdiction as the High Court for purposes of handling land and environmental issues. If that court can be in place, this matter can be dealt with as quickly as possible.

**Mr. Olago:** Mr. Speaker, Sir, I am glad that the hon. Minister is taking steps to ensure that no further impunity occurs in Kenya with regard to allocation of public land. The persons to whom those parcels of land were allocated were clearly public figures at that time. I am, however, satisfied with the action the Minister has taken.

**Mr. Orengo:** Mr. Speaker, Sir, just for the purpose of clarity, there is no transaction that can take place against those titles as we await the decision of the court. So, the hon. Member should be rest assured that nothing will happen.

*Question No.411*

DELAYED TARMACKING OF ROAD C83 IN OL KALOU

**Mr. Speaker:** Is the Member for Ol Kalou not here? Since we have given other hon. Members the benefit of another round we will let the Member for Ol Kalou enjoy the same.

*Question No.498*

NON-COMPLETION OF MUKURWEINI-  
GAKONYA-RUTUNE-MAHUAINI ROADS

**Mr. Speaker:** Is the Member for Kiharu not here? We will give the Member for Kiharu the same treatment.  
We will now do the second round. Member for Bura!

*Question No.398*

DELAYED PAYMENT OF CENSUS DUES  
TO KENYA POLICE RESERVISTS

**Mr. Speaker:** Is the Member for Bura still not here? His Question is dropped.!

*(Question dropped)*

*Question No.549*

DEMOLITION OF CITY COUNCIL  
OFFICES IN HARAMBEE WARD

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

(a) under what circumstances the City Council offices in Harambee Ward in Makadara Constituency were demolished and the offices transferred to Jericho;

(b) to state why the land meant for the said council offices is currently occupied by a private developer; and,

(c) what action the Ministry is taking to ensure the land reverts back to the public.

**Mr. Speaker:** Is the Deputy Prime Minister and Minister for Local Government still not here? Mr. Minister of State for Public Service, will you hold brief for your colleague?

**The Minister of State for Public Service** (Mr. Otieno): Mr. Speaker, Sir, I will draw the attention of the Deputy Prime Minister and Minister for Local Government on the serious breach. He should be able to answer the Question during the week.

**Mr. Speaker:** I will then defer this Question to Thursday at 2.30 p.m. I expect that the Deputy Prime Minister and Minister for Local Government will be here with a tenable explanation as to why he has made this breach.

*(Question deferred)*

Let us move on to Mr. Chanzu's Question!

**Mr. Chanzu:** Mr. Speaker, Sir, for the second time, I beg to ask Question No.468.

*Question No.468*

#### LIST OF VIHIGA TEACHERS SACCO DEBTORS

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

(a) whether he is aware that Vihiga Teachers SACCO is owed a lot of money by the borrowers; and,

(b) whether he could provide names of persons indebted to the SACCO indicating the amount each owes and what steps the Minister is taking to ensure that those who owe the SACCO repay their outstanding liabilities.

**Mr. Speaker:** Is the Minister for Co-operative Development and Marketing still not here? Hon. Orengo, will you hold brief for your counterpart? The Ministry of Co-operative Development and Marketing is not very far from the Ministry of Lands.

**The Minister for Lands** (Mr. Orengo): You are very right, Mr. Speaker, Sir. I will alert the Minister for the serious breach. However, with your permission, could this Question be deferred until Thursday?

**Mr. Speaker:** How many workshops do we require before you people can change, turn round and do what you should do?

**The Minister for Lands** (Mr. Orengo): Probably, we need an overhaul.

*(Laughter)*

I will not hold any brief as it were on the reasons why anyone is late. However, since you have drawn this matter to our attention probably, an overhaul would do.

**Mr. Speaker:** Can we invite Chuka Dancers to come with their drums and beat them for the Executive?

**The Minister for Lands** (Mr. Orengo): Mr. Speaker, Sir, that is very pleasant. It will be an easier task than being grilled by the side opposite.

*(The Minister for Co-operative Development and Marketing (Mr. Nyagah) entered the Chamber)*

**Mr. Speaker:** Order, hon. Members. Mr. Minister, you were not here when this Question was called out and when it was due. This is the third time we are calling it out. Do you have anything to put in by way of account or explanation? We were wondering that the Legislature jointly with your leadership in the Executive has endeavoured to put together several workshops to sensitize you on your duties and roles to Kenyans and to the House. However, it appears like that is not making any difference. So, what do you suggest that we should do to make you do your work?

**The Minister for Co-operative Development and Marketing (Mr. Nyagah):** Mr. Speaker, Sir, I do apologise most sincerely. I was aware and then I forgot. That is what happened. I know the Question from the hon. Member who is my friend about Vihiga teachers. I forgot to come with the answer to Parliament. However, if he gives me a copy of his answer which he is holding, I can answer the Question. I apologise for this. It was not deliberate. I take your warning very seriously. I know we have had seminars. I am very sorry. Since I know the answer, if you allow him to give me the copy of the answer, I will answer the Question.

**Mr. Speaker:** Mr. Minister, I am afraid you are being very casual. You were aware that this Question will be placed on the Order Paper. You have said that you have prepared an answer, but you do not have it. Now you want the hon. Member to give you his copy of the answer. Really, what are we talking about Mr. Minister?

**The Minister for Co-operative Development and Marketing (Mr. Nyagah):** Mr. Speaker, Sir, I have said that I am sorry I forgot to bring the answer. However, I know that we had given the hon. Member a copy of the answer. So, I plead with you to allow me to get the copy of the answer so that I can answer the Question. It was not deliberate. I am very sorry. You know that I respect you and the rules of the House.

**Mr. Imanyara:** On a point of order, Mr. Speaker, Sir. Could the Minister tell us what he came to do in the House if he forgot the business of the House?

*(Laughter)*

**Mr. Speaker:** Order, hon. Members! Of course I take this matter very seriously. I note that even the Deputy Prime Minister and Minister for Local Government was not here when Question No.549 was called out. He came in subsequently after we had called out the Question twice. I have really agonized with my conscience and I am actually tempted to mete out sanctions immediately both to the Deputy Prime Minister and Minister for Local Government and the Minister for Co-operative Development and Marketing. However, taking guidance from their position in the Executive; that they are in fact the top leadership of the Executive, I am a bit hesitant. I want to give them the benefit of not meting out sanctions immediately. Otherwise, I was going to exclude them from the proceedings of the House for the next two days. I will not do that now, but note that I have those powers and I am inclined to use them.

**End A**

[Mr. Speaker]

I will not do so but note that I have those powers and I am inclined to use them. I will use them beginning tomorrow without fear, favour and indiscriminately. Just note! Out of the respect that you have for the House that you have said, Mr. Minister for Co-operatives and Marketing, I am giving you the last benefit. That also applies to the Deputy Prime Minister for Local Government. So, Question No.549 has already been deferred to Thursday at 2.30 p.m. Question No.468 has also been deferred to tomorrow at 9.00 a.m. Mr. Minister, please note that.

Let us move on to the next Question by Mr. Yakub.

*Question No.510*

ISSUANCE OF NEW IDS IN COAST PROVINCE

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

(a) whether he could indicate the number and names of people issued with new identity cards in Kwale, Mombasa, Kilifi, Taita Taveta, Malindi, Tana River and Lamu districts from January to August, 2010;

(b) whether he is aware that applications approved by the Lamu District Committee are routinely rejected at the Headquarters in Nairobi and, if so, what is the point of having the District Registrar of Persons Committee at the district level; and,

(c) whether he could table a list of names of people who have not collected their identity cards in Kwale, Mombasa, Kilifi, Taita Taveta, Malindi, Tana River and Lamu districts as at 15<sup>th</sup> September, 2010.

**The Minister for Immigration and Registration of Persons** (Mr. Kajwang): Mr. Speaker, Sir, I would like to raise a matter of procedural nature before I can answer this Question. First, it is the same question that I answered on 28<sup>th</sup> October, 2010. I remember bringing before this House volumes of names from Kwale, Mombasa, Kilifi, Taita and Tana River. At that time, my brother did---

**Mr. James Irungu Kamau:** On a point of order, Mr. Speaker, Sir. The Minister has just rose to answer the Question and yet he was not here when the Question was called out first. Is he in order to continue answering the Question before explaining why he was late? He should apologise to the House.

**Mr. Kajwang:** Mr. Speaker, Sir, I thank my brother for reminding me that. Actually, I was walking in when the Question was called out for the first time. I was of the view that maybe it would take some minutes before the Question was called out but somehow it was called out before I was in this House. However, I really apologise for coming late.

Mr. Speaker, Sir, I was saying that this is the same Question that I dealt with two weeks ago. That was on 28<sup>th</sup> October, 2010. I brought a very elaborate answer with



annexures, registers and names. When I looked at the Question I wondered what it is that I am supposed to deal with today. Is it an error to bring the Question for a second time with a span two weeks? I seek guidance on this Question before I answer it. I did not even carry the answer because I had brought it to the House about two weeks ago.

**Mr. Speaker:** Mr. Minister, what you are saying is very important and I would like to verify that. Mr. Yakub, is that so?

**Mr. Yakub:** Mr. Speaker, Sir, I would like to remind the Minister that the copy of the HANSARD which I have in this House says clearly that I had asked the Chair at that time to give me more time to go through the list so that I can ask the supplementary questions the following week. That is why the Question has been put on the Order Paper.

**Mr. Speaker:** Very well! Could you now ask your supplementary question?

**Mr. Yakub:** Mr. Speaker, Sir, from the list given by my good friend the Minister, 68,162 is the number of people issued with identity cards. Part “c” of the answer shows that 25,127 have not collected their identity cards. Could the Minister tell us the arrangement he has made to ensure that the 25,127 uncollected identity cards reach their owners.

**Mr. Kajwang:** Mr. Speaker, Sir, as a matter of fact, it is the responsibility of the citizen of Kenya who applied for registration to collect his identity card when it is ready. As a matter of fact, it is very painful that we spend a lot of time to register Kenyan citizens and keep some of those identity cards for more than a year before their owners come for them. Last year just before the referendum, we did something extra ordinary. We asked the District Commissioners to ask the District Officers and the chiefs about the owners of some identity cards. In my village I found a headman carrying them while walking from gate to gate asking the owners to pick them. However, I do not think that that is our responsibility. Kenyans must be told that it is their right and duty to make sure that they are registered. They should collect their identity cards when they are ready. However, I am willing to co-operate and ask the DCs of the various districts that the hon. Member has mentioned to find ways of working with the chiefs to make sure that the identity cards reach their owners. I urge the hon. Member to inform the public, as I am doing, that it is their responsibility to collect their identity cards and not to wait for them to be taken to their homes.

**Mr. Gunda:** Mr. Speaker, Sir, I have a community in my constituency, the Somalis who migrated from North Eastern Province. They have lived there for a long time and have given birth to children who have now reached the age of acquiring identity cards. When they meet the screening committee, they are told to go and get identity cards from North Eastern Province. Are we not discriminating against these Kenyans who have now become residents of Bahari Constituency? They have lived in that constituency for a long time and have given birth to children who are now old enough to get identity cards and yet they are told to go back to North Eastern Province to get the same.

**Mr. Kajwang:** Mr. Speaker, Sir, I was unaware that that is happening and it is good that the hon. Member for Bahari has brought it to my attention. Every Kenyan has a right to be registered wherever he lives as long as he can be identified as a Kenyan. The only problem is that sometimes we are doubtful whether one is a Kenyan or not. I think sometimes we take that too far and consequently deny people who have a right to be registered their right of registration. On top of what I have just said, could the hon.

Member write a letter to me addressing this particular issue so that we can take it up as a special case?

**Mr. Imanyara:** Mr. Speaker, Sir, 25,177 uncollected identity cards is a very large number indeed. Is the Minister satisfied that the directive he given to the DCs to contact the chiefs and the Chiefs to contact the assistant chiefs and the assistant chiefs to contact the headmen was acted upon given the fact that this Minister is on record as having said that these people should pack up and go? Is it possible that they have refused to implement his directive given the fact that he said publicly that they should pack up and go?

**Mr. Kajwang:** Mr. Speaker, Sir, of course, I said that when the time comes; that is when we have the devolved governments, they will not have a role or if they do, it will not be in the manner in which it is currently established. I am not willing to withdraw that but this happened last time when we had the referendum. That was because we co-operated with the Minister of State for Provincial Administration and Internal Security. I request the Minister to assist me in this regard because it is not his responsibility to be distributing identity cards. However, because they have to reach the owners, and we want to co-operate in this regard, we request for his assistance. Again, it is important that every Kenyan knows that it is their duty to register, collect and carry their identity cards.

**End B**

**Mr. Njuguna:** Mr. Speaker, Sir, as I acknowledge the answer given by the Minister, and noting that there are many applications rejected at his Ministry headquarters, what assistance does the Ministry give to those applicants when their applications are rejected, so that they can have the required documents?

**Mr. Kajwang:** Mr. Speaker, Sir, the consultations were a bit loud; so, I did not quite get the gist of the question. But it is that there are certain applicants whose applications are rejected, that is normal. I am not saying that it should happen, but it happens because maybe the form was not properly filled, maybe the person who was taking the finger prints did not take it properly, maybe the person who was taking the photograph did not take it properly. For such reasons we take them back, so that the application is done properly one more time.

We usually take them back to the District Registrar of Persons and he routes them down the line to the administrators, so that this information reaches the applicants. So, if there is anybody who has not gotten his ID because their application was rejected, it is our duty to replace it within 21 days if it is an upcountry applicant; please, if there is any pending case raise it with me.

**Mr. Yaku:** Thank you, Mr. Speaker, Sir. I just heard the Minister saying that those uncollected ID cards should be collected and Kenyans should carry them. I want the Minister to clarify, is it a must that every Kenyan must carry an ID card, or is it an option?

**Mr. Kajwang:** The law is that the applicants should register. The law does not require you to carry an identity card, but definitely if somebody was to ask you whether you are a Kenyan or not and you do not have it, you would go to unnecessary inconvenience before you prove it. So, we would advice that if you cannot carry the original, at least carry some information that can show that you have been registered and you are a Kenyan.

*Question No. 512*

LIST OF HEALTH FACILITIES IN TURKANA COUNTY

**Mr. Ethuro** asked the Minister for Public Health and Sanitation:-

(a) to provide a list of all health facilities in the Turkana County from 1980 up to date, stating name, location/site, type of facility, staffing levels, distances from each other, registration of vehicles assigned and names of the District Health Management Board Members, where applicable;

(b) to indicate the number of cases of emergency treatment, especially vehicle accidents, gunshot wounds and other victims of cattle rustling, cholera outbreaks, malaria, dysentery that have been treated in those health facilities per facility in the last 3 years, and what the Ministry is doing to address these emergencies; and

(c) what plans the Government has to ensure each sub-location, location, division and district has a dispensary, health centre, sub-district hospital and a hospital respectively, and how much funds have been allocated for the upgrading of Lodwar District Hospital to a referral facility following an earlier Government commitment, in March 2010.

Mr. Speaker, Sir, I apologise for coming late. I expected it to be reached after about 30 minutes because it is the 7<sup>th</sup> Question on the Order Paper.

**Mr. Speaker:** Note it and be careful next time!

**Mr. Ethuro:** Mr. Speaker, Sir, I do not have a copy of the answer and it is quite a detailed one; I am entitled to a written answer.

*(The Assistant Minister for Public Health and Sanitation  
(Dr. Gesami) stood up in his place)*

**Mr. Speaker:** Order Assistant Minister! Where is the answer for the hon. Member?

**The Assistant Minister for Public Health and Sanitation (Dr. Gesami):** Thank you, Mr. Speaker, Sir. I just wanted to tell the Member for Turkana Central that there are two Ministries that deal with health matters in this country, and that parts (a) and (b) of his Question belong to the Ministry of Public Health and Sanitation, but part (c) belongs to the Ministry of Medical Services. Therefore, we have brought back the Question to the Clerk's office for him to frame it properly, so that we can give him an answer to the Questions that concerns us.

**Mr. Speaker:** Very well; that appears genuine. So the question has to be broken into three, so that parts (a) and (b) go to which Ministry, Assistant Minister?

**The Assistant Minister for Public Health and Sanitation (Dr. Gesami):** Mr. Speaker, Sir, parts (a) and (b) will come to our Ministry, while part (c) will go the Ministry of Medical Services. We have sent the Question back to the Clerk's office.

**Mr. Speaker:** Will Thursday afternoon be fine for you to answer parts (a) and (b)?

**The Assistant Minister for Public Health and Sanitation (Dr. Gesami):** We can do it next week, Sir.

**Mr. Speaker:** Why next week? You had time; you have seen the Question already, and you have only brought it back!

**The Assistant Minister for Public Health and Sanitation (Dr. Gesami):** Mr. Speaker, Sir, parts (a) and (b) are mammoth. They want us to give the distances between dispensaries and health centres and all this requires that we get a proper answer.

**Mr. Speaker:** Hon. Ethuro!

**Mr. Ethuro:** Thank you, Mr. Speaker, Sir. Initially the Assistant Minister was talking about responsibilities; now he is talking about the magnitude of the task before him; which is which? More fundamentally, I think the Government has a collective responsibility to Parliament. I would have expected my good friend, the Assistant Minister for Public Health and Sanitation, to have consulted his colleagues, But, as you directed, let him answer what he is comfortable with and we will give the rest to the responsible Ministry, if it is convenient to him; but that is no reason for him to ask for more time.

**Mr. Speaker:** Assistant Minister, I will direct that you be ready to answer parts (a) and (b) on Tuesday afternoon, at 2.30 pm, and sensitize your counterpart in the other Ministry to bring the answer to part (c), as a substantive Question to that Ministry, also on Tuesday at 2.30 pm.

**The Assistant Minister for Public Health and Sanitation (Dr. Gesami):** Most obliged, Mr. Speaker, Sir.

**Mr. Ethuro:** On a point of order Mr. Speaker, Sir. If you look at part ©, apart from the referral status of Lodwar District Hospital, the sub-location dispensary, the location and the division are within the mandate of his Ministry. Is he in order to abdicate his responsibility by transferring the whole thing to the Ministry of Medical Services?

**Mr. Speaker:** Order, Member for Turkana Central! I have given directions. Given that the Assistant Minister appeared to be genuine, as I said, he will answer parts (a) and (b) and his counterpart will answer part (c) as a substantive Question to his Ministry. Let us see what happens on Tuesday at 2.30 pm.

*(Question deferred)*

*Question No. 411*

#### DELAYED TARMACKING OF ROAD C83 IN OL KALOU

**Mr. Mureithi** asked the Minister for Roads –

(a) whether he is aware that road C83, which joins C77 with C99, was designed in 1994 and 1997 for tarmacking but it is yet to be tarmacked, and how much money was used for the two exercises;

(b) whether he could state how much money was used, how many kilometers were tarmacked and what is the fate of the remaining part of the road; and

(c) what plans the Minister has to tarmac the road which links two district headquarters and one provincial headquarter.

Mr. Speaker, Sir, first of all I apologise because I do not know whether you reached my Question before I arrived here.

**Mr. Speaker:** Order Mr. Mureithi! What is the subject of your apology?

**Mr. Mureithi:** I am told that many Questions were not answered and I was not here. So I need your indulgence---

**Mr. Speaker:** Order! The fact that other Questions have not been answered does not explain why you were not here when the Question was called.

**Mr. Mureithi:** We were coming from Embu.

**Mr. Speaker:** That is not a good reason, I am afraid!

**Mr. Mureithi:** On Parliamentary business---

**Mr. Speaker:** You may just be the one to be punished this afternoon.

**Mr. Mureithi:** I want to apologise, Mr. Speaker, Sir.

**Mr. Speaker:** Please, be careful not to repeat that because that is not a reasonable explanation.

**Mr. Mureithi:** Thank you, Mr. Speaker, Sir.

**Mr. Speaker:** Assistant Minister, you may proceed!

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

(a) I am not aware that Road C83, which joins C77 and C99, that is Ndunduri to Ol Joro Rok was designed to bitumen standards in 1994 and 1997.

(b) My Ministry carried out in-house maintenance sometime back in 1991, in which a section of five kilometers was sealed to hold the gravel.

(c) The Ministry, through the Kenya National Highways Authority, has advertised for the design of the roads. The contract is expected to be awarded by January 2011. The road will be considered for tarmacking after the completion of the design work.

**End C**

**Mr. Mureithi:** Mr. Speaker, Sir, I would like to tell the Assistant Minister that the information about the design of Road C83 is common knowledge because it was given to previous contractors. The Assistant Minister has not even answered my question regarding how much they used in terms of what he is referring to as minor sealing or tarmacking to hold the gravel. Could the Assistant Minister tell us how much money they used for both design and the issue of sealing to bitumen level to cover the gravel, and whether that was the purpose for the design work?

**Mr. Kinyanjui:** Mr. Speaker, Sir, as I have indicated, my records at the Ministry indicate that no design was carried out. However, we did an in-house sealing process that cost a total of Kshs4 million in 1991. What the hon. Member is referring to as “common knowledge” does not appear in our records, and I would be glad if he could furnish us with the information.

**Mr. Kiuna:** Mr. Speaker, Sir, I would like to thank my neighbour, the Assistant Minister, because he has done a commendable job from Pipeline to Elementaita. I did ask this Question last time and he promised me that in the emergency kitty they had Kshs900 million set aside for emergencies. Could the Assistant Minister consider releasing that Kshs900 million for work between Mau Narok and Elementaita? Is it available?

**Mr. Kinyanjui:** Mr. Speaker, Sir, I want to confirm to the hon. Member that the section of the road he has referred to, although it is in a different one, has been declared impassable and my Ministry is considering setting aside funds through the emergency kitty to ensure that the it is maintained to motorable standards.

**Mr. Mureithi:** Mr. Speaker, Sir, I do not think the Government is serious. This road traverses a very high potential area. It delivers milk and foodstuffs to Nakuru, Nyahururu and also the northern region. It has become the norm; the Ministry of Roads always says that it will do design work. Could I get an assurance from the Assistant Minister that he will consider this road, considering that other roads are equally impassable in my constituency, and upgrade it to bitumen standards in order to increase investment in the area?

**Mr. Kinyanjui:** Mr. Speaker, Sir, I appreciate the concerns by the hon. Member, but also wish to assure him that the section of the road that leads to Ol Kalou also goes through Lanet-Dundori. It is a road for which my Ministry has already awarded a contract---

*(Loud consultations)*

**Mr. Speaker:** Order, hon. Members. Please lower the level of your consultations so that we hear the Assistant Minister.

**Mr. Kinyanjui:** Mr. Speaker, Sir, I was saying that I wanted to assure the hon. Member that my Ministry recognizes the importance of this road, and we will ensure that we do everything possible to upgrade it to bitumen standards, more so, noting that it is the only road within that highly productive area that has not been upgraded.

I also wish to inform the House that a contract on the road from Lanet to Dundori has already been awarded and work will commence within this month. It is only logical to connect it to the Ol Jororok Road.

*Question No.498*

NON-COMPLETION OF MUKURWEINI-  
GAKONYA-RUTUNE-MAHUAINI ROADS

**Mr. Mwangi** asked the Minister for Roads:-

(a) whether he is aware that the contractor, TM-AM Construction Group (Africa), which was tarmacking Mukurweini-Gakonya-Rutune-Mahuaini Roads, (D429, E559 and E554) abandoned the works;

(b) how much funds he had allocated for the construction of the said roads; and,

(c) what steps he is taking to have the project completed.

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

(a) I am aware that the work of tarmacking Mukurweini-Gakonya-Rutune and Mahuini Roads, that is D529, D559 and D554, stopped due to exhaustion of funds.

(b) The contract for construction of the above roads was awarded to TM-AM Construction at a tender sum of Kshs1,113,073,000.

(c) The unfinished works are due to be retendered before the end of November this year and subsequently the contract will be awarded after evaluation.

**Mr. Mwangi:** Mr. Speaker, Sir, while I appreciate the answer given by the Assistant Minister, the roads that have been referred to in the reply--- It is a little bit worrying because the Assistant Minister acknowledges that the design was done 20 years ago. After the design was done 20 years back the contract that was given of Kshs1.1 billion has been exhausted. Could the Assistant Minister, please, tell this House how much more the Ministry will spend on the unfinished job?

**Mr. Kinyanjui:** Mr. Speaker, Sir, I appreciate the concerns by the hon. Member and wish to assure him that we will do everything possible. At this particular moment, I may not be able to certify the amount required to finish the road. But given time, I will be more than happy to give him that answer.

**Mr. Njuguna:** Mr. Speaker, Sir, while thanking the Assistant Minister for that positive reply, could he indicate to this House the amount of funds that have been allocated for the to be retendered project, and the action he is likely to take to make the three roads motorable?

**Mr. Kinyanjui:** As I have indicated in part "c" of the answer, we are in the process of compiling the cost of the remaining works, and, therefore, will retender it within this month. The process is ongoing, but I am not able to give the exact amount of money required. However, my Ministry will release funds to ensure that the road is maintained to a motorable level as we await the works to be completed.

**Mr. Mwangi:** Mr. Speaker, Sir, I think the Assistant Minister would still have to confirm the amount; the answer he has given, as I said earlier on, is worrying. If I read that part of the answer---

**Mr. Speaker:** Order, Member for Kiharu. The Assistant Minister read the answer and we heard it. Interrogate him. If you are not satisfied, push the Assistant Minister to satisfy you.



**Mr. Mwangi:** Mr. Speaker, Sir, he says that the budgetary allocation is not adequate. In which ways would we be able to know that the budgetary allocation is not enough if he is not ready to say how much more they will spend over and above Kshs1.1 billion?

**Mr. Kinyanjui:** Mr. Speaker, Sir, I want to shed more light on my answer. I want to clearly state to the hon. Member that upon commencement of works, several challenges were encountered which brought about the exhaustion of funds. The first challenge was inadequate design. Fresh design works and alignment had to be done; these cost quite some amount which was not initially envisaged.

Secondly there was the presence of obstructions from water and power lines. Water and power lines had to be relocated on an emergency basis to avoid high delay claims. The total expenditure on reallocation and reinstatement was Kshs11 million against a contract provision of Kshs1 million.

Thirdly were inadequate contract provisions. After re-design and appraisal of the contract documents, some missing bill items were identified and procured on variation orders.

Also there was inadequate works quantities. Several bill items were found to be under quantified, and this led to quantity overrun in several bill items, especially on drainage, earthworks and guardrail quantities.

Lastly were the physical issues and resettlement. The road alignment passes through hilly terrain, offering very little leeway in terms of realignment to avoid heavy earthworks. This resulted in an increase in the quantities to be filled.

In view of the issues I have stated here, the cost of the project went up. I want to assure the hon. Member that we have now taken into account all the issues that I have stated here and a proper sum will be availed as we go to tender this month.

**End D**

## STATEMENTS

**Mr. Speaker:** Hon. Members, we will want to take Statements which are ready and then after that we will take requests for Statements. So are there Statements which are ready?

**Mr. Kutuny:** Hoja ya nidhamu, Bw. Spika. Majuma mawili yaliopita kulikuwa na Swali niliua Wizara ya Kilimo. Mawasiliano kutoka kwa wenyekiti wako ilikuwa ni kwamba Waziri atafute jibu kabambe baada ya majuma mawili. Swali lenyewe lilikuwa linahusika na bei ya mahindi na vile vile hatua za Serikali za kufungua ghala la halmashauri ya nafaka ili mahindi yanunuliwe kwa wakulima. Mpaka sasa hatujapata taarifa yoyote. Vile vile mawasiliano kutoka kwa kiti chako ilikuwa ni kwamba, Kamati ya Bunge inayohusika na ukulima ikachunguze hili swala na kutoa taarifa hapa Bungeni kuelezea hatua ambazo Serikali itachukua ili wakulima wapunguziwe gharama ya kukaa na mahindi kwa sababu hivi sasa, hakuna soko. Nilipitia kwenye shamba lako juzi na nikagundua kwamba pia wewe unahaingika kama mkulima yeyote yule kwa sababu wamekosa soko la mahindi yao. Ningependa taarifa kutoka kwako.

**Mr. Speaker:** Order! Hio ilikuwa hoja ya nidhamu na sijui lilikuwa Swali nambari ngapi. Hilo Swali unazungumzia lilikuwa nambari ngapi?

**Mr. Kutuny:** Bw. Spika, daftari za Bunge zikipekuliwa, nafikiri litapatakina na pia nafikiri Waziri anaelewa kwa sababu alikuweko wakati taarifa ilipotolewa na Mwenyekiti.

**Mr. Speaker:** Bw. Kutuny, Swali lilikuwa lako; utakosaje kujua nambari yake? Tutakusaidia lakini inafaa ujue nambari yake, haswa ukija kusimama hapa Bungeni, lazima uwe na habari kabla hujasimama.

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

Keti basi! Ninaona tutaangalia ratiba ya Bunge na tuone lilikuwa Swali nambari gani halafu tutaliwasilisha kwenye Orodha Jumanne wiki lijali. Lakini hata kabla hilo halijafanyika, nataka Bunge lielewe kwamba Bw. Spika haangaiki kwa vyovyote.

*(Kicheko)*

Ni kweli mimi ni mkulima huko Kitale na nimevuna mahindi lakini sijaanza kutafuta soko. Sina haraka!

**Mr. Wamalwa:** Kwa hoja ya nidhamu Bw. Spika. Ingekuwa vyema kama ungemwelekeza Mwenyekiti wa Kamati ya Kilimo, kwa sababu analijua hili swala ili aweze kutupatie ripoti yake.

**Mr. Speaker:** Tutaweza kufafanua hayo kutokana na maandishi ya Bunge ya kila siku. Tukishaelewa kufikia Jumanne, tutapeana mwelekeo. Sasa usubiri mpaka Jumanne, tutapeana mwelekeo.

The Minister of State for Provincial Administration and Internal Security!

**The Assistant Minister, Minister of State for Provincial Administration and Internal Security** (Mr. Ojode): Mr. Speaker, Sir, on 2<sup>nd</sup> November, 2010, Mr. Konchella, Member of Parliament for Kilgoris rose on a point of order seeking a Ministerial Statement from my Ministry with regard to the invasion of veterinary laboratory stocks club land. In the Statement, the hon. Member wanted to know the following:-

(i) How the developers were able to use the police to invade the land despite the presence of the Administration Police (AP).

(ii) The action that has been taken against the perpetrators of this heinous crime; who destroyed public property with impunity.

(iii) Why and how the police was used to defeat the cause of justice and the rule of law.

(iv) He also wanted the names of the companies which had been allocated this land and their directors.

I wish to respond as follows:

Kabete Veterinary Laboratory Headquarters is situated at Kabete on LR.No.189 together with its sister department, the Kenya Veterinary Vaccine (KEVEVAPI)'s headquarters. Adjacent to this piece of land, there is the LR.No.189/R which serves as the staff quarters for both institutions. Next to both pieces of land, is LR.No.2952. There have been several cases pending in court between the Ministry of Livestock, Kabete Veterinary Club and private developers over ownership of portions subdivided from the land LR.No.2952.

*(Loud consultations)*

**Mr. Speaker:** Order, hon. Members! Please lower the level of your consultations so that we can hear the Assistant Minister.

**The Assistant Minister, Ministry of State for Provincial Administration and Internal Security** (Mr. Ojode): Mr. Speaker, Sir, on 30<sup>th</sup> October, 2010, there was a golf tournament at the club and a large crowd of players and caddies assembled early to start the tournament. As the tournament was about to start, the assembled crowd noticed a Mitsubishi Truck off-loading an excavator within the grounds. A spontaneous outrage broke out and it is reported that caddies surrounded the truck, Reg.No.KAN681F and the excavator Reg.No.KBM3206 and set them ablaze. During the skirmishes, a Mr. Kenneth Kimari and Jackson Ng'ang'a Gitere were injured and treated at Avenue Hospital. The irate mob proceeded to the home of one of the men accused of encroachment into the club land, a Mr. Mutuku Wambua and torched his four bed-roomed house.

The club officials alerted Kabete Police Station officers and AP officers based at Kabete Veterinary Laboratory who quickly moved to the site and arrested six persons. Those who were arrested were identified as Justus Oloo Matu, Jackson Kunga Kalii, Peter Mwaura Mbugua, Ibrahim Muvuro Akumu, Kamau Kanyaihu and Godfrey Ng'ang'a. The six were arraigned before the Kibera Principal Magistrate's court and charged with arson contrary to Section 33(2) of the Penal Code and malicious damage to property contrary to Section 33(9)(1) of the Penal Code vide Kabete Police Station No.CR163/138/210 and Kibera Law Courts Criminal File No.4782/2010. They denied the charges and were given bonds of Kshs500, 000 and the surety of the same amount. They are still in police custody as they could not raise the bond.

It is clear that the police from both the Kenya Regular Police and the AP involvement in this matter was purely for restoration of law and order. The police were not used to defeat the course of justice as the suspects arrested were destroying private property, attacking and injuring innocent citizens and threatening the peace and tranquility that existed at that particular time. The area is still under regular patrol by both the AP and the Kenya Police to ensure that peace prevails. I wish to table the list of institutions and individuals who benefited from this piece of land. I have a long list of those who were allocated this piece of land.

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

**End E**

**[The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode)]**

I have tabled the names as was requested and if there are clarifications in regard to the land my colleague is here and will answer some of those questions.

Thank you.

**Mr. Speaker:** Let us have clarifications beginning with the Member for Kilgoris!

**Mr. Konchella:** Mr. Speaker, Sir, while I thank the Assistant Minister for that Statement, there are issues I want him to address. I am not satisfied with the action he has taken so far.

I have not looked at the list he has tabled so that I can be able to---

*(Mr. Mbuvi and Mr. Kinyanjui  
consulted on the passage way)*

**Mr. Speaker:** Order, hon. Members! Member for Nakuru and Member for Makadara, what you are doing is not permitted by the Standing Orders. Just look at your Standing Orders again, you are not allowed to stand in the passage ways for anything longer than a few seconds. You are supposed to transit through those areas. Please, note that!

Mr. Konchella, please, proceed!

**Mr. Konchella:** Mr. Speaker, Sir, one issue I would like the Assistant Minister to address is Gazette Notice No.751 of 1963 which set aside the land in question to be utilized by the Director of Veterinary Services. I believe this Gazette Notice has not been revoked. Could he confirm, therefore, whether it has been revoked? If it has not been revoked, it means the people are there illegally. They acquired public property illegally.

So far, the people who have been arrested and are languishing in remand unable to raise a bail of Kshs500, 000 are a student of the university and two workers. These people will never be able to raise that money. We asked the Assistant Minister earlier to consider allowing these people to go home while the matter is being pursued by the relevant people in authority. They are suffering yet they were arrested four hours after the incident took place. The burning took place at 5.30 a.m. and the police were alerted by the club. They came four hours later at 10.00 a.m. and arrested a member of the club who was showering. This was a diplomat from the United States of America (USA). He, however, had to be released because he is not a Kenyan. Why do we have these double standards where you release foreigners because you fear them and allow poor Kenyans to suffer yet they are innocent?

Mr. Speaker, Sir, these are the issue I would like addressed---

**Mr. Speaker:** Order, Member for Kilgoris! You must have heard my directions last week on what you do when you seek clarification. I think you have sought two clarifications and because you had the major interest in this matter I allowed that. Otherwise, you can only seek one clarification at a time.

Anybody else interested?

Assistant Minister, please, take notes!

**Mr. Imanyara:** Mr. Speaker, Sir, I have taken a quick look at this list which includes at least one Judge of the Court of Appeal. I have noticed that many of the allottees are limited liability companies. Could the Assistant Minister consider lifting the veil and telling us the directors and shareholders of these limited liability companies which were allotted this land?

**Mr. Njuguna:** Mr. Speaker, Sir, now that this land has been allocated to certain individuals against the interest of the community near this area, could the Assistant Minister consider revoking the title deeds so that the tension in the area is stemmed?

**The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode):** Mr. Speaker, Sir, I will start with the clarification sort by Mr. Konchella.

Yes, it is true that there was a Gazette Notice of 1963 and I wish to table it here.

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

If you go through the Gazette Notice of 1963 it has given the areas which were demarcated for institutions. These include even Mlolongo. This land at Kabete Veterinary Laboratory was left as Government land. It was not among what was gazetted. The hon. Member can go ahead and peruse the Gazette Notice.

Mr. Speaker, Sir, with regard to the release of the fellows who were arrested, the work of the police is to maintain law and order. First, where the skirmishes took place is a private land that belongs to somebody. It does not belong to the golfers. I even told my friend that the golfers had long applied for land and they were given an allotment letter in August 1995. To date, they have not paid for the legal fee that is required which is only Kshs2, 500. I would urge the questioner to ask the golfers to contribute the Kshs2, 500 in order for their title deed to be processed.

There is no way I can release criminals. The police came in swiftly, arrested those who caused havoc and we took them to court. Ordinarily, that is the end of the work of the police. If there is anything else which the questioner wants me to do then that belongs to the Minister for Justice, National Cohesion and Constitutional Affairs or the Attorney-General because it involves court cases.

Mr. Speaker, Sir, with regard to Mr. Gitobu Imanyara's question, the companies' names are there, he can go and check the names of the directors from the Registrar of Companies. There is nothing being hidden there.

On the issue raised by the Member for Lari, revoking of title deeds is beyond Ojode. That belongs to the Minister concerned with matters related to land.

Thank you.

**Mr. Konchella:** On a point of order, Mr. Speaker, Sir. The Assistant Minister has not come to the grip of the issue. The issue here is that club members are not able to develop---

**Mr. Speaker:** Order, Member for Kilgoris! Let me assist you. Please, resume your seat!

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

**Mr. Speaker:** Just hold it, Member for Kisumu Town West! We are still with the Member for Kilgoris.

Member for Kilgoris, you did seek certain clarifications, the Assistant Minister has responded perhaps the best way he could. If you are still not satisfied, will you please raise the matter and ensure that you are so specific such that the Assistant Minister understands what it is that you are seeking and he has not responded to. Try and be clear. Be precise!

**Mr. Konchella:** Mr. Speaker, Sir, thank you for that clarification.

In fact, I was going to ask the Chair to allow this matter to go to the relevant Committee of the House because there is more than meets the eye. The Committee should carry out investigations so that we can do justice to this problem and the club and other Government agencies can utilize the land.

**Mr. Speaker:** Order, hon. Members! With respect to the request by the Member for Kilgoris that this matter be referred to the Committee, the Speaker does not have to give those directions. The Committee concerned will know that this matter falls within its mandate and it is at liberty to commence inquiry at any time as it deems appropriate. I do not have to give any directions.

**End F**

**Mr. Mbugua:** On a point of order, Mr. Speaker, Sir. There was a Public Investment Committee (PIC) which investigated the same parcel of land. It was in the PIC Report for 2004 headed by hon. Mwai Kibaki.

**Mr. Speaker:** Order, Member for Kamukunji! Perhaps, that is just information given to the Minister and he does not seem to agree with it.

**The Assistant Minister, Ministry of State for Provincial Administration and Internal Security** (Mr. Ojode): On a point of order, Mr. Speaker, Sir. For record purposes by the year 2004, which the hon. Member is talking about, hon. Mwai Kibaki was the President of this country. Perhaps, he is talking about the Public Accounts Report of 1995/1996.

**Mr. Mbugua:** Correction, Mr. Speaker, Sir.

**Mr. Speaker:** Order, Member for Kamukunji! That is not the way you do it. Do you now want to withdraw your information as inaccurate?

**Mr. Mbugua:** Mr. Speaker, Sir, I withdraw and stand corrected.

**Mr. Speaker:** Very well! Leave it there!

What is it Member for Kigumo?

**Mr. Jamleck Irungu Kamau:** Mr. Speaker, Sir, I heard the Minister say that the issue of revoking the title deeds is not under his domain. Given the theory of collective responsibility, could he undertake to liaise with the Minister for Lands, who is also in the House, with a view to having these titles revoked immediately?

**The Assistant Minister, Ministry of State for Provincial Administration and Internal Security** (Mr. Ojode): Mr. Speaker, Sir, I do not know which titles the questioner is talking about because some of them belong to Government institutions. I do not know whether he wants the Minister for Lands to revoke the entire titles which were given to institutions. Could he be specific as to which titles he would want us to liaise with the Minister for cancellation purposes?

**Mr. Speaker:** Order! Hon. Ojode, given that the Minister for Lands is present in the House this afternoon and when I deferred this matter to today, we had indication that if need be, the Minister for Lands would be available to compliment you on dealing with this matter, perhaps, he is prepared to give that response so that we clear this matter on whether or not he is prepared to revoke any titles at all, and if so, when he will do so.

I heard you clearly Mr. Jamleck Irungu Kamau and I think the Minister for Lands is here. You cannot have a second bite at the cherry!

Minister for Lands, proceed!

**The Minister for Lands** (Mr. Orengo): Mr. Speaker, Sir, on my part, we need to fully interrogate every title from the moment it was allotted, registered and issued. If we find that, that title had no foundation at all, then we will proceed to revoke. But I cannot undertake to revoke before we have fully interrogated each and every title.

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

**Mr. Speaker:** Member for Garsen, are you standing on a point of order?

**Mr. Mungatana:** Yes, Mr. Speaker, Sir.

**Mr. Speaker:** No, that is done already!



Is there any other Ministerial Statement?

GAZETTEMENT OF THE REPORT ON  
ELECTORAL UNITS BY THE IIBRC

**Mr. Olago:** Mr. Speaker, Sir, I rise to request for a Ministerial Statement from the Minister for Justice, National Cohesion and Constitutional Affairs. I rise to ask for this Statement on a matter that for the last few days has been talked about by Kenyans and which Members of Parliament and the Minister concerned has been addressing through the Media, which I think should be rightfully addressed on the Floor of this House.

Mr. Speaker, Sir, this pertains to the Report by the Interim Boundaries Review Commission of Kenya (IIBRC) and the validity or otherwise of the Report that the Commission may have or intends to gazette. The Statement that I seek from the Minister ought to address itself to the following pertinent issues:-

(a) The independence of that Commission as set out under Section 41(b) (8) of the former Constitution under which the Commission started to operate.

(b) The tenure of the Commission as set out under Section 41(b) (11) of the former Constitution.

(c) The delimitation of electoral units under Article 89(5) and (6) of the Constitution.

(d) How the Commission will proceed under the Constitution in line with Sections 27 and 28 of the Sixth Schedule of the Constitution and whether or not the Commission has gazetted the boundaries.

Mr. Speaker, Sir, in asking for this Statement, I am informed by the fact that information available indicates that the Commission has not been able to gazette its report because of instructions from the Head of Public Service to the Government Printer not to accept the report for publication. This is a matter that has taken this nation's attention fully and we ought to ventilate on the Floor of the House so that peripheral issues surrounding this matter can be addressed fully and with finality on the Floor.

**Mr. Speaker:** Very well! Minister for Justice, National Cohesion and Constitutional Affairs, this is a very urgent matter as I have heard it. Deputy Leader of Government Business, you are here and must take responsibility. This is a very urgent matter and as much as possible, it must come tomorrow afternoon.

**The Minister for Agriculture** (Dr. Kosgei): Mr. Speaker, Sir, I am informed that the Minister is not in the country, but hon. Orengo seems to have some information which I do not have. Let him share it with the House and I will return.

**Mr. Speaker:** Hon. Orengo, do you have something on this?

**The Minister for Lands** (Mr. Orengo): Mr. Speaker, Sir, I just know that the Minister is in the country, but I do not think he will be here tomorrow. He is on a Government assignment beginning tomorrow. So, if it is---

**Mr. Speaker:** What Government assignment?

**The Minister for Lands** (Mr. Orengo): Mr. Speaker, Sir, he is on a Government assignment; the specific which I may not be able to reveal to the House. But I know that today he was making arrangements to leave tonight for Geneva on a Government assignment.

**Mr. Speaker:** Order! Are you saying that the business of this House is not Government business?

**The Minister for Lands** (Mr. Orengo): No, Mr. Speaker, Sir. All that I am saying is that, if the Minister can be accommodated. If we say tomorrow then he will not be here. But in the spirit of collective responsibility, we could be given time to liaise with the Minister to find out when an adequate response can be made, because it is a very serious. Personally, I would want to hear what the Minister has to say on this matter. It is a matter which, if he was in the House, one would demand---

I have seen it before that if it is a matter of national importance, the Minister would not even be required to wait another day because of the urgency of the matter. But since he is not here and will not be here tomorrow, he should then be accommodated. Under the spirit of collective responsibility, we can discuss with the Deputy Leader of Government business and find out how we can get that issue dealt with at an appropriate time.

**Mr. Speaker:** Deputy Leader of Government business, I am aware that the Minister has an Assistant Minister. Where is the Assistant Minister?

**End G**

**The Minister for Agriculture** (Dr. Kosgei): Mr. Speaker, Sir, I saw the Assistant Minister here in the House, a few minutes ago, but I am told that he stepped out. However, I am also told that the Minister is in the country and that he did not go to Geneva. Therefore, I will convey the information to him that the House wants to talk to him because there is an urgent matter of which he should consider either availing himself or his Assistant Minister tomorrow.

**Mr. Speaker:** Deputy Leader of Government Business, I just want you to note that many times, this House has been reminded as to the definition of a Minister and that is repeated from time to time. However, Assistant Ministers are also Ministers, which, indeed, is true, if you take the definition in the Standing Orders. So, if the Minister is away, but the Assistant Minister is here, we expect that business of that Government Department will be transacted notwithstanding the absence of the substantive Minister.

**The Minister for Agriculture** (Dr. Kosgei): Mr. Speaker, Sir, I could not agree with you more. Therefore, business will be transacted.

**Mr. Speaker:** We will proceed and at 2.30 pm, tomorrow, that Statement will have to be delivered.

**The Minister for Agriculture** (Dr. Kosgei): Mr. Speaker, Sir, that is accepted and it will be conveyed.

**Mr. Wamalwa:** On a point of order, Mr. Speaker, Sir. Last Thursday, I had requested for a Ministerial Statement from the Minister of Labour with regard to the strike in Kericho. You directed that the statement be delivered today. There was an undertaking from the Deputy Prime Minister and the Minister for Local Government that it would be delivered this afternoon. May we have some directions?

**Mr. Speaker:** Where is the Minister for Labour? Mr. Deputy Prime Minister, you took responsibility last time.

**The Deputy Prime Minister and Minister for Local Government** (Mr. Mudavadi): Mr. Speaker, Sir, could I, for a second time, plead with the House, so that I make sure that the Minister for Labour issues this Statement on Thursday?

**Mr. Speaker:** On Thursday at 2.30 pm?

**The Deputy Prime Minister and Minister for Local Government** (Mr. Mudavadi): Yes, Mr. Speaker, Sir!

**Mr. Speaker:** It is so directed, but he must come with an explanation as to why he was not here this afternoon.

**Mr. Ogindo:** On a point of order, Mr. Speaker, Sir. I have noticed with a lot of concern that Members of the Executive come to this House, but when they notice that an issue is coming up, that touches on their docket, they slowly slip out. I saw the Minister for Labour in this House. I also saw the Minister for Justice Constitution Affairs and National Cohesion. The matters here are very serious and very urgent. I seek your ruling on what kind of reprimand we can give the Executive so that they take this House seriously.

**Mr. Speaker:** Order! I have already given directions on that matter. I will expect the Minister to be here tomorrow at 2.30 pm. If he will not be here, then we will cross that bridge tomorrow. You can also be certain that we will deal with the Minister appropriately depending on the circumstances.

Before we move to the next order, I have this communication to make.

### **COMMUNICATION FROM THE CHAIR**

Hon. Members, you will recall that on Thursday, 4<sup>th</sup> November, 2010, the House resolved to adjourn the sittings of the House until Wednesday, 10<sup>th</sup> November, 2010 so as to enable all hon. Members to attend the workshop on the implementation of the new Constitution hosted by the Constitutional Implementation Oversight Committee on the 8<sup>th</sup> and 9<sup>th</sup> November, 2010 at the Kenya Institute of Administration (KIA) in Kabete. Among the key resolutions agreed to at the workshop was that the appointments of the Chairperson and members of the Commission on Revenue Allocation should proceed to dispatch on the basis of constitutional provisions to be found at Article 215(2) and Article 250 of the Constitution. As hon. Members are aware, Article 215(2) of the Constitution empowers the President and the political parties represented in Parliament to nominate the Chairperson and seven Members of the Commission on Revenue Allocation respectively. The ninth member of the Commission is the Principal Secretary, read, Permanent Secretary in the Ministry responsible for Finance.

Further, you will recall that the Kenya Institute of Administration, Kabete, workshop expressed the commitment of this House to comply with the constitutional provisions relating to transparency and accountability and participation of the people as well as all the other national values and principles of governance as set out under Article 10 of the Constitution. It is in this light that the Chair has found it necessary to communicate to the House the procedure that was agreed upon to guide the appointment process for the Commission on Revenue Allocation as well as the present status in relation to that procedure.

Hon. Members, the process for the appointment for the chairperson and the members of the Commission on Revenue Allocation commenced by the advertisement in the Kenya Gazette by His Excellency the President and the Clerk of the National Assembly, respectively declaring vacancies in the office of the Chairperson and the members of the commission and setting out the qualifications required for each office. These advertisements were dated 11<sup>th</sup> November, 2010 and were carried in a special issue of the Kenya Gazette of the same date. The closing date for the receipt of the application is Thursday, 18<sup>th</sup> November, 2010.

After the closure of the application date, His Excellency the President and the Clerk of the National Assembly shall on Friday, 19<sup>th</sup> November, 2010, each publish in the Kenya Gazette the list of all applicants for the office of the chairperson and members of the Commission, respectively; indicating their academic and professional qualifications and shall forward the list of the applicants to all the political parties represented in Parliament through the Whips. The published lists of the applicants shall be forwarded by the Whips to the concerned political parties on the same day; Friday, 19<sup>th</sup> November, 2010.

Hon. Members, the parties represented in Parliament shall consider all the applications received abiding by all constitutional requirements between 20<sup>th</sup> and 21<sup>st</sup> November, 2010; and, shall on Monday, 22<sup>nd</sup> November, 2010 forward the names of the seven persons nominated for appointment as members of the Commission to the

Departmental Committee on Finance, Planning and Trade through the offices of the Whips for vetting.

His Excellency the President, in consultation with the Right hon. Prime Minister, shall similarly forward the name of the person nominated as Chairperson of the Commission to the Departmental Committee for vetting. The Departmental Committee on Finance, Planning and Trade shall vet the persons nominated for appointments as Chairperson and members of the Commission and shall prepare and present its Report thereon to the House for debate and approval on or before Thursday, 24<sup>th</sup> November, 2010. Hon. Members, according to the process as agreed at the KIA, if the House approves the person nominated for appointment to the Commission, the names of the persons so approved shall be forwarded by the Speaker of the National Assembly to His Excellency the President so that the appointments to the Commission are made either on or before 25<sup>th</sup> November, 2010.

**End H**

**[Mr. Speaker]**

Thursday, 25<sup>th</sup> November, 2010, is, therefore, the last date by which, under the Constitution, the Commission on Revenue Allocation must be appointed.

It should also be noted that it was agreed that as the appointment process of the Commission proceeds, it is vital that a supplementary legislation to govern the Commission on Revenue Allocation be developed and introduced in the National Assembly.

Hon. Members, I wish to commend the House for the determination and resolve it has so far shown in disposing of matters relating to the implementation of the Constitution and to assure the public that, we, in this House, will continue to do all that we can, to ensure that the Constitution is implemented timously and both in letter and in spirit.

I thank you.

**Mrs. Odhiambo-Mabona:** On a point of order, Mr. Speaker, Sir. Thank you for that direction. I had wanted to raise this by way of letter, but I think now that you have raised that issue, I will raise it on the Floor. I do not know if this is the appropriate forum. As the Vice-Chair of the---

**Mr. Speaker:** If it relates to this Communication, yes.

**Mrs. Odhiambo-Mabona:** Yes, Mr. Speaker, Sir. As the Vice-Chair of the Constitutional Implementation Oversight Committee, I would like to get the direction and guidance of the House as to where I should be getting information about the agenda, where and when the meetings are held. Today, there was a meeting of the Constitutional Implementation Oversight Committee. I had no knowledge of it. I had no communication of it. In fact, half of the Members of the Committee had no knowledge or information on it. Could I, please, get direction on where I am supposed to get that information as the Vice-Chair of the Committee?

**Mr. Speaker:** As the Vice-Chair of the Oversight and Implementation Committee, that is a bit surprising. But information on meetings is always permanent available in Office of the Clerk and also in Room 8. So, there are two places where you will get that information from. It is available in the Office of the Clerk and you will also find it in Room No.8. You, as the Vice-Chair of the Committee, really, must be aware of meetings as a matter of course. So, maybe, there is a problem between the Office of the Clerk and the Committee.

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

**Mr. Speaker:** Order, Member for Gichugu! I know this is a passionate matter. All communication is supposed to be made to the membership of the Oversight and Implementation Committee without exception. So, all Members, really, must be notified by all notices convening meetings by the Clerk's Office. Henceforth, it will have to be done and I have that undertaking from the Clerk. He is actually surprised that there appears to have been a lapse.

**Ms. Karua:** On a point of order, Mr. Speaker, Sir. I am also a Member of that Committee. I heard about it in the car as I came. I was also not aware. I am hearing it for the first time. There are serious issues to resolve before any such step is taken. There is

also the fear that the interpretation of the parties that are supposed to nominate is not agreed upon because it must not be made to mean parliamentary political parties. That is not the language in the Constitution. This is a thorny issue which had better get your direction lest we end up like the Interim Independent Boundaries Review Commission (IIBRC), which promised that it was going to use boundaries as bridges for cohesion and which has now bridged that---

**Mr. Speaker:** Order, hon. Members! As I have indicated in my Communication away from the written script, the Office of the Clerk will ensure that all Members of the Oversight and Implementation Committee get notices convening all meetings without exception. Your notices will normally be posted in your pigeon holes, dutifully so, at the very latest two hours before any meeting is convened.

With respect to the second matter raised by the Member for Gichugu, I have been careful in my Communication to refer to political parties represented in Parliament. I have not talked about parliamentary political parties. However, it is up to the membership, whose intelligence I have said in the past is well above average, to interpret the Communication as I made it. You may need further directions if there is default, and I will be available to make that interpretation. For the moment, I believe that I am clear in that Communication.

Next Order!

## MOTION

### ADOPTION OF REPORT ON ALLEGATIONS OF MISMANAGEMENT OF HARAMBEE SACCO

THAT, this House adopts the Report of the Departmental Committee on Agriculture, Livestock and Cooperatives on the Inquiry into Allegations of Mismanagement at the Harambee Sacco Society Limited laid on the Table of the House on Thursday 4th November, 2010.

*(Resumption of debate interrupted on Thursday 11.11.2010)*

**Mr. Mututho:** Mr. Speaker, Sir, as this House is aware, on 31<sup>st</sup> August, 2010, the House debated the response by the hon. Attorney-General to a Question raised by hon. Karua relating to the mismanagement of funds by the Central Management Committee (CMC) and the management of the Harambee SACCO Limited. The Attorney-General response generated a lot of interest in the matter among the Members and reference to documents in the House over the subject matter. You directed the Committee on Agriculture, Livestock and Co-operatives to inquire into the matter and make a report to the House. Of particular concern were letter tabled and related to the allegations.

*[Mr. Speaker left the Chair]*

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

Subsequent to your ruling, the Departmental Committee, during its sitting on Monday 20<sup>th</sup> September, 2010, resolved to invite witnesses to give evidence on the issues raised during the debate. The Committee received oral and written evidence from Monday, 27<sup>th</sup> September, 2010, to Monday 11<sup>th</sup> October, 2010, from witnesses involved in the matter. These witnesses included hon. Karua, about a dozen whistle blowers, the Director of the Criminal Investigations Department (CID), Mr. Muhuro, the Director of the Kenya Anti-Corruption Commission (KACC), Mr. P.L.O. Lumumba, the Attorney-General, the directors and the management of Gina Din Communications SACCO Limited and the management of the Harambee SACCO. The Minister for Co-operative Development and his officials also gave evidence.

The Committee first heard the nature of the complaints made by some members against the Harambee SACCO. They presented information relating to cases of mismanagement. Thereafter, the Committee utilized the information to gather evidence in its subsequent meetings with the management of Harambee SACCO, investigation and prosecuting agencies and the Ministry of Co-operative Development. After analyzing the evidence presented, the Committee was of the opinion that the allegations were perennial in nature and not new in the SACCO fraternity. The Committee observed that investigations had been done on the allegations, but lacked merit in law since the complainants failed to record statements which would allow the prosecution to be expeditiously instituted.

We came across a very serious matter here where the complainants flatly refused to record statements with the Director, CID, on the subject in spite of the fact that they had perennially complained---

*(Loud consultations)*

Mr. Temporary Deputy Speaker, Sir, the Members are consulting fairly loudly. I request you to ask them to consult in low tones.

**The Temporary Deputy Speaker** (Mr. Imanyara): Order, hon. Members! The Member on the Floor requires to be heard. Please, consult in low tones.

**Mr. Mututho:** Thank you, Mr. Temporary Deputy Speaker, Sir.

Subsequently, the Attorney-General was totally handicapped in proceeding with the prosecutions against those thought to be culpable could not proceed. I want to explain again that the 12 whistle blowers refused to record statements with the police. The Attorney-General on request could not constitute a charge sheet because he lacked evidence from the same whistle blowers.

**End I**



**[Mr. Mututho]**

This was confirmed by the whistle blowers. More interestingly, some of the complainants whose letters raised these allegations and which were tabled in this House were found to have been members of the SACCO who had various challengers which I will come back to later on.

Mr. Temporary Deputy Speaker, Sir, at this very early opportunity I would like to state that the Committee found it grossly irregular that somebody by the name J. S. Lagat, whose identity was denied by both whistle blowers, the Criminal Investigation Department (CID) and the Kenya Anti-Corruption Commission (KACC) found his way on top urgent fliers to the pigeon holes used by hon. Members and this House was moved by the “ghost” Mr. Lagat, who until now, in spite of very spirited efforts by the Director of CID cannot be traced and the police will have again use miracles to identify who Mr. Lagat is. The big question is; How did Mr. Lagat, a mysterious man, find his way to the pigeon holes in front of the cameras and nobody can trace him to know who he was. Nevertheless, we gave all the benefits to Mr. Lagat’s comments and went ahead and investigated each and every 31 allegations that were contained in his letter.

Despite these observations by the Committee, it still proceeded with the investigation where there was a discovery that Mr. Lagat, mysterious as he is, was able to cause the Chair to order this Committee to move with speed within two and three weeks and investigate this matter. We feel, as a Committee that we need to re-organize our information system so that in future--- I am speaking with a lot of information as the Chairman for the Departmental Committee on Agriculture, Livestock and Cooperatives that it is possible that such a letter could have even contained anthrax virus which is fatal. We must have security in place so that hon. Members only open mail that is authorized by the Serjeant-At-Arms. I am glad that, on administrative complaints, these days they drop mail to our offices. I hope that the trend will be improved because we that to be gross.

The Committee made observations that on allegation of mismanagement, some of the employees were guilty of fraudulent actions and consequently they were discharged or dismissed. Some cases are still pending in court. Among the allegations which were brought here, is that there were dead threats. We asked the Director of CID, Mr. Muhoro, and we thank him because we had him for over eight hours to counter check again whether somebody had recorded statements or complaints in any police station with regard to death threats from Harambee SACCO officials. In the contrary, we only found that there was only one complaint by Mr. Malonza that some members were threatening his life and not the other way around. That did not corroborate with what we heard in this House that people had died and the police had failed to prosecute.

Mr. Temporary Deputy Speaker, Sir, this House rose with speed believing that a total of Kshs724,069,864 was allegedly misappropriated. We cross-examined the whistle-blowers. I want to thank Ms. Karua because she gave us many documents but conceded that all those were things that she could not stand by because she had been told by somebody else who had also been told by somebody else. The total figure which the

Committee found to have been misappropriated is Kshs23,377,040.60 and not Kshs724,069,864 as alleged. We found that rather strange. There was a huge discrepancy. We moved and investigate an alleged fraud by the whistle-blowers and when they came they ended up conceding that it was not Kshs724,069,964 but Kshs23,377,040.60.

The Committee found out that some expenditure paid in the form of allowances to the CMC from the Kshs23,377,040.60 had been approved by the Annual Delegates Meeting (ADM). That is the reason why the KACC were unable to prosecute and the Attorney-General declined to take anybody to court. At the face value everybody was panicking because they thought that the amount in question was Kshs724,069,964. So, moving to court would have been necessary had we found in the first instance that amounts exceeding Kshs23,377,040.60 were incurred without the ADM approval.

Mr. Temporary Deputy Speaker, Sir, based on the Committee's analysis on all allegations made before it and from the documents tabled in this House, the Committee came up with the following conclusions and recommendations. Perhaps, it will be good to mention quickly that the Committee had earlier established that there was a Mwaliko Report. The Mwaliko Commission was one of the five commissions which had been established to deal with Harambee SACCO. For those of you who may wish to know what we found, if Harambee SACCO was to be ranked alongside banks, it would be rank between 22 and 23. In actual fact, over 40 banks would fall behind Harambee SACCO. That is a very important point because later on we will demonstrate that the actual problem that we found out is failure by the Government to strength the SASRA. The SASRA is the oversight body which is the equivalent of the Central Bank of Kenya's supervisory powers. That is the actual problem. You cannot have a SACCO which is bigger than about 40 commercial banks running business the same way Mama Pima is runs her SACCO, and that is with due respect, in Kibera, Naivasha or any other place. The rules must be strengthened. This House pushed very hard to have the SACCO Act in place only to realise that the Minister for Finance has deliberately avoided financing the SASRA. Now we are lamenting here over lack of oversight. I also want to state that at the point the current management took over the Harambee SACCO, and we went through all the audit reports, it was at a loss of Kshs500 million. That means that the SACCO was collapsing.

**End J**

**[Mr. Mututho]**

Mr. Temporary Deputy Speaker, Sir, today, based on the evidence we received in 2009 alone, they declared a surplus of Kshs700 million, and this was the worst to happen. If we had to liquidate all the assets and close shop at Harambee Sacco, there would be a net worth of Kshs3.5 billion. Harambee Sacco is not about to collapse. I want to say that of all investigations this committee has undertaken this has been the most painstaking; we have registered well over 100 hours of sitting. Before we come to these recommendations it is important to note that unlike what anybody may be thinking the committees of this House really deal with policy issues. They exercise oversight and look at acts of omission and commission by the Executive; they focus on policies. We cannot, and I repeat, we will not accept to be used by a mysterious Mr. Lagat to come on and paint dark faces to the Executive or to any particular person.

The story is very sad; it is a story of people believing that the auditors have been compromised, that KACC has been compromised, the Director, CID, has been compromised, the Ministry officials have been compromised; everybody, except themselves and, perhaps, those who may be in heaven, has been compromised. We were hoped to get the remotest indication that, indeed, the Minister for Co-operative Development and Marketing receives Kshs200,000 on weekly basis as protection money. On a simple calculation that would work out to about Kshs800,000 per month; add to this Kshs7.2 million per month. We went flat out believing that Kshs. 1.2 billion was missing in the books. Even with the professionals who sit in the committee - I want to acknowledge one of them, a chartered accountant, hon. Akura - we could not understand how an audit report, if, indeed, Kshs1.2 billion Kshs1.5 billion was missing, could miss such a figure. The total figure entered was only Kshs13 billion. This would represent about 10 percent of the amount, and any auditor would, surely, be able to pick such a figure.

Mr. Temporary Deputy Speaker, Sir, our recommendations are one, in respect to alleged concealed or destroyed vital files required by the banking fraud investigating unit, the committee received submissions from the Director of the KACC--- The committee wants to thank the Director, who came severally to the Committee. This was Mr. PLO Lumumba. The Director, Criminal Investigations Department ( CID), Mr. Muhoro, came in person with his officers.

There are three crucial files; both of them confirmed to the committee that they were critical in sustaining any criminal or civil matter against the management, or, indeed, anybody; they contain:-

- 1) the cheque counter foils for the years 2003 to 2007;
- 2) Treasury registers for the years 2003 to 2007; and
- 3) the cashier's daily specification report summary for the years 2003 to 2007 relating to cash transfers involving cashier 1 and a non-existent cashier No. 8.

The committee could not, therefore, ascertain who bore responsibility for disappearance of documents and the committee, therefore, recommended specialized forensic audit to recover information relating to the missing files.

We found it a bit strange that the police raided computers which we have in our possession; all the files and documents which are said to have been collected point to the three files. Although we recovered the guarantees for the software of the computers, none demonstrates that actually the software had been installed in the hardware that we received; this left a very big grey area in terms of investigations.

Again there is the defunct Anti-Corruption Police Unit whom nobody knows who they were, or whether they, indeed, took any documents. There was lots of recklessness on the part of the Harambee Sacco for not maintaining an inventory at the point when the documents were recovered. But we hear it was a raid in which 20 armed police officers moved in, took the computers, took any document and that was it.

Mr. Temporary Deputy Speaker, Sir, we need those three critical sets of documents. Prof. Lumumba agrees that he needs those three critical documents. The Director, CID, has admitted that even with the manpower and whatever else he has, he cannot do that kind forensic audit. This leaves us with only the KACC to go back and see what they can do to try and reconstruct the data that would be contained in the three critical documents.

According to Harambee Sacco Management the documents are with the Director, CID. Again in this push and pull game we do not understand why, if the CID Director was, indeed, not responsible he did not then charge these people with the lesser charge of concealing or hiding documents, or whatever charge that he would have preferred against them. Obviously, we, as a committee, in full execution of our oversight mandate recommend that;

- 1) the Government strengthens the capacity of the CID and KACC. There are 12,000 plus Saccos. If this one case has taken us in merry go round for the last two three months, and has taken the Ministry of Co-operative Development and Marketing even longer and the police over four five years, that just shows that the police force we have and the Director of CID would require sympathy, funding and, maybe, prayers to do a serious forensic audits.
- 2) As recommended by the Attorney General the committee reiterates that a specialized audit be undertaken by KACC.

Mr. Temporary Deputy Speaker, Sir, this House, if still interested, can invoke Standing Order 186 and hire a specialized auditor to try and reconstruct something bankable, or something that can sustain both criminal and civil case of this magnitude. In respect of alleged fraudulent encashment of cheques in the Fosa worth Kshs121 million only Kshs4,047,000 was actually found to have been misappropriated in that office. Subsequently action was taken against two employees, and we have named them in our report. The Sacco is now recovering the money from the two employees; the total amount involved is actually Kshs4,047,000 only and not Kshs121 million.

Mr. Temporary Deputy Speaker, Sir, the Committee noted that the loss of money was a result of weak internal controls in the Sacco; we underlined the weak control systems in Sacco. The Committee recommended that the internal audit be strengthened. Also the Government needs to build the capacities of the Saccos. These Saccos hold over Kshs200 billion.

**End K**

**[Mr. Mututho]**

These Saccos are hiding over Kshs200 billion. These people sit with that money and the regulatory body, the Societies Regulatory Authority, cannot move. We need to have this Government come in heavily, so that we do not have these kinds of scenarios.

Mr. Temporary Deputy Speaker, Sir, there are other Saccos, including some which are rural based, in places as far as Meru and Embu, about which we hear stories. There are other Saccos which are in this City. If we were to go this way, then this House and this Committee would spend all their time here questioning Saccos over issues to do with governance, because we do not have adequate regulatory mechanisms.

In respect of allegations of the failure by the Central Management Committee (CMC) to implement the Kenya Anti-Corruption Commission Report of 2004, and the Mwaliko Report the Committee observed - this was corroborated by all the people who were accusing each other - that this committee had implemented 95 percent. That was not challenged and it has only five percent to implement; this relates to sale of some land.

It was recommended that they should stick to their core business. Their core business is not to go, and their core business is not development of estates, but rather to deal with what they were licensed to do; they have not been able to do that. Some of those pieces of land do not have title deeds; there are all kinds of challenges and some matters are in court.

Mr. Temporary Deputy Speaker, Sir, looking at the allegations, the Committee observed that the transfers at the Sacco and the transfers of all those officers had something that the Committee needed to know about. Subsequently, we called the Director, CID, for the third time to give us a confidential report on who these complainants were. I do not think it will be in the interests of the whistle blowers, or the complainants, for us to give a detailed analysis of what the CID said about them. Nor would it be in the interests of this House for us to describe the families of the people who are currently in the CMC.

We also find it a bit odd to come here and do character assassination by blaming one or two people. But all the alleged whistle blowers, at least the known ones, such as J.S. Lagat and that one who caused the CID to move, who is also anonymous, we found had one common denominator. They were in Harambee Sacco. They were disgruntled and must have had some certain problems; a few of them were in court over a series of cases related to misappropriation of funds in this particular Sacco.

Mr. Temporary Deputy Speaker, Sir, the Committee---

**Ms. Karua:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Once the Chairman has said that most of the whistleblowers are in court over misappropriation, he is under obligation to substantiate, lest he character assassinates, which he had warned himself against. So, could he substantiate or withdraw that remark?

**Mr. Mututho:** Mr. Temporary Deputy Speaker, Sir, if I said “all of them” I withdraw the words “all of them”; but some of them are, indeed, in court. I think in modern democracy we need to respect whistleblowers, because they try to highlight what they feel is wrong in that particular Sacco. Whistleblowers against us, Ministers, the Speaker or anybody should be encouraged, particularly when they identify themselves.

So, I am declining to name them because that would amount to something not very good to be picked by the Press; I do not really feel comfortable doing that.

So, I beg to continue. I have already covered the issue of death threats. I said that we asked a direct question to the Director of the CID, Mr. Muhoro; it is in the HANSARD and also in our minutes. Nowhere in the whole Republic we have anybody who has recorded a statement claiming that he was under threat. There was the alleged fraudulent purchase of Class A shares of Co-operative Bank Holdings worth Kshs19.95 million by Gina Din Corporate Communications Sacco. The Committee observed that the transaction was clean.

In our evidence we found out that the Minister for Co-operative Development and Marketing is, indeed, a small shareholder in Gina Din Sacco, which is based in Nairobi, and the transaction on Class A shares was reserved as a transaction between co-operative societies, which are themselves shareholders in Co-operative Bank of Kenya. The transaction was aboveboard. No one denies that Kshs19.95 million worth of shares was transferred, but anybody we tried to check, including the employees of Gina Din Communications numbering about 12, did not indicate or even give a clue that they were acting on instructions of the Minister for Co-operative Development and Marketing, who is, himself, a small shareholder in Gina Din Sacco; it was a normal transaction.

That business transaction of Class A shares is not open to every Tom, Dick and Harry. It is open only to members of Saccos within themselves and within that particular family. We went further because we were very eager to pin down the Minister for Co-operative Development following such a huge allegations. We found out that even within the memoranda and files we had in our possession there was no caveat in the transfer of shares involving Gina Din or any complaints filed with any authority on the matters to do with the transfers of those shares between Gina Din and Harambee Sacco.

As regards the weekly payment of Kshs200,00, nothing could have been easier than to have just one cheque, which shows that, indeed, the Minister for Co-operative Development and Marketing actually enjoyed such big honoraria of Kshs200,000 per week from this co-operative. Subsequently, we found this as totally and grossly malicious; I believe the police would be interested to go and check the source of that, and take serious action because we have to respect laws both ways.

There were allegations against the Director, CID, the Director KACC, the Attorney-General, the auditors and the Ministry of Co-operative Development and Marketing individually and collectively. All these allegations sounded too sweet to be true. They are 31 in number and I read them out last time. They are frightening. They are awesome. The Director of CID appeared before us for three days. We went over and over the matter. The Attorney-General came and spent two days with us. We went through and scrutinized every document that we could find. We could not find anything questionable against the Director KACC, the Director, CID Mr. Muhoro, the auditors of this Sacco and the Attorney-General, but the blame game continues. This can end if KACC can be empowered to do a forensic audit; it can construct anything that is bankable, which can be utilized in a criminal case or civil case, or which can sustain such a case so that this matter ends. It looks like a big cancer in Harambee Sacco. It has to come to an end.

I do concur with one hon. Member who told me: "Good or bad, sometimes matters have to come to an end". We must stop this and start our lives. We must stop all these hassles of going round and round. I know that the Ministry of Finance is very busy.

I know they like giving money, and they have given a lot of money. They did give a lot of money this financial year. You have to remind hon. Members, just in case they have forgotten, that they gave them Kshs21 billion for irrigation.

**End L**

**[Mr. Mututho]**

Just to remind hon. Members in case they have forgotten, they gave them Kshs21 billion for irrigation. All we are asking is a paltry amount of money to be able to have SASRA operate; a small amount of money that can help us safeguard the interest of the SACCO members and control the Kshs200 billion.

This Kshs200 billion is a lot of money and you cannot just run it - like I have said before - a kiosk. Harambee SACCO has been demonized to an extent that there were reports in the newspapers that there was a run-down. Luckily, it is solid. We saw it and we said that had this to happen, they would still have a take home of Kshs3.5 billion but they could not repair their lifts and they could not sweep the corridors because of procurement challenges. They could not even walk in daylight and say that they are chairman or secretary because there was a private case that had come in handy and everybody believed that they had a criminal case. We checked the document and there were rulings in court that, indeed, the people who were accusing them did not have *locus standi* and the matter, more or less, ended there. This means that they could not even be challenged in our stringent Chapter 6 of the Constitution.

Mr. Temporary Deputy Speaker, Sir, in respect to alleged irregular payment of honoraria amounting to Kshs8.8 million – and I want to explain to the Mwaliko Commission that there is a habit or procedure in these SACCOs that whenever they have a commission then they have to pay for it – I want to confirm to this House that Parliament paid for this one. It is not going to appear in future inquiries as in Mwaliko's case. This amount of money was subsequently approved on the 32<sup>nd</sup> AGM meeting on 9<sup>th</sup> October, 2003 and the matter comes to rest.

With regard to the alleged use of contingency monies, and IOUs, the Committee observed that these monies had not been properly accounted for in the period 2006 to 2009 and the Committee, therefore, recommends prompt re-accounting of the monies whenever they are issued and that those who may owe the SACCO outstanding contingencies be surcharged as they did with the two officers whom again, is not the interest of this House to name, because we do not want to harm their families and themselves given that they are already paying for that particular money and there is a surcharge.

Mr. Temporary Deputy Speaker, Sir, with respect to allegations on claim by the CMC and the issue of death threats, I said that I will tell you later the case number. The case in question is a Criminal Case No.721 of 2010 and the person threatened is Maclod Malonza. It is not Maclod Malonza threatening the other party. So the Committee scrutinized the documents with the help of the Attorney-General and found out that the people who were being accused were threatening the SACCO Chairman and not the SACCO Chairman threatening the members.

In respect to allegations of the CMC being in office after the expiry of the terms, the Committee observed that their being in office was in conformity with the Co-operative Society Rules of 2004 as amended vide Legal Notice No.3 of 2008 in consonance with recommendations of the Mwaliko Report. The Committee noted that the CMC has performed well in improving the services delivery and profitability of the



SACCO as discussed in detail in the Report. I want to say that the taste is in the pudding. We found out that these people started at negative Kshs500 million and now they have to their credit Kshs13.5 billion but when you discount that on liabilities, they have Kshs3.5 billion. That is their net worth

Mr. Temporary Deputy Speaker, Sir, in respect to alleged land grabbing by SACCO officials, the Committee found no material evidence to support this claim and as such, the Committee made no further investigations on the matter. In respect to alleged shoddy investigative work by the Criminal Investigations Department (CID) and the police and, the inability of the Attorney-General to prosecute the cases thereof, this was hampered by lack of vital documents and failure by complainants to record statements. I emphasize failure to record statements because that is what we were told and it was confirmed and corroborated. In respect to the key complainants, the Committee questioned the whole transaction. Are we dealing with fraud here? Are we dealing with disgruntled members? What are we dealing with? That would be a matter for another day.

We did not like the description of the whistleblowers by the authorities particularly when they come and conclude that their claim is forgery, lie and fictitious. This is because in this country, this impunity has to end in one way or another. We must encourage people to say what they want to say particularly if they can identify themselves but we cannot stop there. Those who malign other's names should also carry their case.

In conclusion, therefore, this was the sixth inquiry into Harambee SACCO. Let us stop there! Somebody must conclude this matter. As for Mr. Langat, we are keen; we want to know how he found his way to Parliamentary pigeon holes and what our security system within Parliament is doing. I said again, that I acknowledge the fact that now they are delivering letters to our offices, maybe following this discovery and I hope that we shall remain safe while working and serving in this House.

Mr. Temporary Deputy Speaker, Sir, the profitability of Kshs700 million or their net worth of Kshs3.5 billion is a big stride. This Committee wants to conclude strongly by requesting the Government to stop everything else and finance this SASRA. Luckily, I see the Assistant Minister for Finance is here and out of his contingencies, he should understand that Harambee SACCO is number 22 or 23 compared to the banks if we were to put them on the same platform and that they will be bigger than over 40 of their banks. Leaving it open ended as they are doing is putting a lot of funds at risk.

Strengthening of both the Director of the CID and the Kenya Anti-Corruption Commission (KACC) to do forensic audit should also come in very seriously. I want to thank Ms. Karua who has been very useful in this whole matter. It is her effort that made us discover what we have now discovered that this Harambee SACCO is a giant; it is a giant that can be abused and we can have even what we are claiming as Kshs3.5 billion disappear if this Ministry does not show up and strengthen SASRA as prayed for, it can go and collapse if we have documents appearing at the rate under which it did. We thank Ms. Karua for that.

Mr. Temporary Deputy Speaker, Sir, we want to thank everybody who has participated; from the membership of this Committee to the staffers of this Parliament. We want to thank all the witnesses and we had maximum co-operation particularly from PLO Lumumba who appeared twice for long hours, the Director of CID, the Minister himself and apologize to him because of the failing air conditioners in what appeared like

a torture chamber. But all said and done, 12 hours of investigations were enough for us to pick anything that we thought was not good.

I want to thank the Membership of this Parliament for trusting this Committee to deal with this delicate issue of Harambee SACCO. With that, I want to ask a Member and my brother, Dr. Munyaka to second the Motion.

**Dr. Munyaka:** Mr. Temporary Deputy Speaker, Sir, I rise to second that this Report be adopted by the House. By seconding, I want first to thank the entire membership of the Departmental Committee on Agriculture, Livestock and Co-operatives for the commitment they undertook so that we could have this Report.

**End M**

**[Dr. Munyaka]**

I will not forget members of staff and witnesses who gave their knowledge to the Committee during the investigation.

Mr. Temporary Deputy Speaker, Sir, as the mover of this Motion has said, Harambee SACCO Society Limited is the largest in Kenya and Africa. It was, therefore, our greatest concern when allegations of mismanagement were raised. We had to move with speed and try to unearth the truth.

In the course of the inquiry, the Committee noted that the Harambee SACCO Society Limited had continued to improve and diversify its products and services to its members. I want to give some few services which have brought improvement to the membership of Harambee SACCO Society Limited.

- (i) Development loans are usually granted at three times the member's savings and are nowadays processed within a week.
- (ii) Emergency loans are processed within 30 minutes of application subject to a maximum of Kshs50, 000.
- (iii) School fees are processed and the maximum depends on the member's ability to repay in 12 months and are usually processed in 30 minutes.
- (iv) Top up loans to re-finance the development loans once a member has paid 50 per cent of the existing loans are also granted.
- (v) There also exists a facility known as *Jisaidie* Loan which is a new product granted at four times the member's share payable in 60 months.
- (vi) We also have *Mkombozi* Loan which is given at 1.2 per cent interest per annum to cushion out members from loans taken from other banks to save them from embarrassment.

Mr. Temporary Deputy Speaker, Sir, these improvements in the delivery of services is worth mentioning considering that before 2001, members could not even access loans in good time. Processing of loans could take even up to one year. That is according to evidence that the Committee acquired.

Evidence was also presented to show that the Society has improved its financial performance by 300 per cent in the last ten years as reflected in the graphical illustration in the Report.

Mr. Temporary Deputy Speaker, Sir, currently the SACCO boasts of a net worth of Kshs3.5 billion as at 2009 and an asset base of Kshs13.5 billion. The SACCO has also paid regular dividend which amounted to Kshs560 million in 2009 at a rate of 6 per cent compared to nil dividends in 2001 and 2002. The CMC Management predicts that this could rise to between 6 to 8 per cent in 2010.

As a result of the improved performance of the Harambee SACCO Society, the SACCO was awarded a trophy for the best improved SACCO by the *Ushirika* Council during the Annual International Cooperative Day celebrated in July this year.

Mr. Temporary Deputy Speaker, Sir, the Committee observed that this and the persistent allegations of mismanagement appear to interrupt the SACCO operations as they are being raised every now and then. In this regard, the Committee is of the view

that these allegations should come to an end and reports of the various inquiries be expeditiously implemented.

Indeed, the Committee investigated every allegation raised over mismanagement of funds at the Harambee SACCO. The Committee found that most of the allegations were not genuine and were being circulated by non *bona fide* members of the SACCO. Therefore, they were not credible.

The Committee also found most of the allegations had been investigated and hold no merit in law. As already stated by the mover, the complainants made allegations but did not commit themselves to make statements to enable any prosecutions. I will agree with the mover that the SACCO now be left to run its affairs smoothly because we have noted a steady growth and that a forensic audit be recommended in this Report to address missing documents should be completed.

With those few remarks, I beg to second.

*(Question proposed)*

**Ms. Karua:** Mr. Temporary Deputy Speaker, Sir, I rise to support the Committee's Report with a few reservations which I will mention.

I did ask three questions in this Parliament; one directed to the Attorney-General, one to the Minister in charge of internal security and another to the Minister for Cooperative Development and Marketing. All the questions were relating to issues surrounding Harambee SACCO. It was a Question to the Attorney-General and the police that caused this matter to be referred to the Committee.

I must say that the Question that I had asked the Minister initially was resolved by the Minister agreeing to see the complainant in his office, listening to them and promising that the regulator who was being put in place at that time would be able to sort out the problems of the SACCO. I want to say, therefore, from the outset that the gentlemen who gave me the material from which I asked the Question are not anonymous people. They are people who were even able to go and sit in the Minister's office. They are members of the SACCO who at one time or another have been barred from participating in the general meetings of the SACCO by the current management who are unhappy with their raising issues.

Mr. Temporary Deputy Speaker, Sir, I must say that the Minister was helpful but we are still waiting for the regulator to sort out the problems of this SACCO. The Committee has also been helpful but there is the limitation that a Parliamentary Committee cannot play the role of the investigators of crime. That is the role of the Criminal Investigation Department (CID) or the Kenya Anti-Corruption Commission (KACC). This matter brings to fore the limitations of Parliamentary Committees.

During the same time that the Speaker referred this matter to the Committee, the Attorney-General did indicate that he had directed the KACC to investigate the matter and call for a forensic audit. That ought to have settled the matter but because of the letter of the anonymous Mr. Lagat, the Speaker referred the matter to the Committee. May I say from the outset that the questions that I had raised in this Parliament were never about the Minister for Co-operative Development and Marketing. Those who asked me to raise the questions had no issue with the Minister. Therefore, it is somewhat unfortunate that the focus of the Report has been allegations that have been unsubstantiated which were

directed at the Minister, whereas he was never subject of the questions before the Committee.

The questions I raised were also never about shares being bought by this co-operative. Shares are traded in the Stock Exchange and shares belonging to the Co-operative Bank are traded through a registrar within the bank. They are not traded in the ordinary stock exchange market. So these questions were never about a commercial transaction.

**End N**

[Ms. Karua]

If anybody had issues with how the commercial transaction of buying shares from Gina Din was conducted or whether the SACCO officials had authorization to buy, that is an internal SACCO matter and can never be an issue for raising in the House. Those are the two unfortunate events. The focus of the Report has dwelt on those two issues which were not the issues that brought us to ask the Question in Parliament. I think we must be very careful how we conduct business so that we do not drag parties who were not subject of the focus into the matter.

Mr. Temporary Deputy Speaker, Sir, the Committee has admitted that there are problems within the SACCO. The Attorney-General admitted the same thing. The Attorney-General was stronger than the Committee and admitted that there is rot within the SACCO. It is time the Government, through the Minister for Co-operative Development and Marketing and the regulator entered this giant SACCO to streamline its operations. The fact that documents that can unearth the truth can get lost is in itself an indictment on the SACCO management. This SACCO collects over Kshs500 million a month. The fact that it has a surplus of Kshs3.5 billion is not necessarily a pointer to good management. After all, these are the collections of only seven months, without factoring in interests, loan repayments *et cetera*. I think once membership of an organization raise issues, those issues should be attended to with reasonable dispatch to rest them.

It is my hope that the Minister and Government will liaise with the Kenya Anti-Corruption Commission (KACC), so that it may speedily do the forensic audit to bring this matter to a closure. How can the largest SACCO not only in Kenya but in Africa, have unfinished business for the last one decade? It is, again, an indictment on the leadership, our institutions and investigation agencies. If the allegations are not true, let them be dismissed conclusively. If they are true, let them be followed conclusively. Also, we need to see somebody over the loss of documents. An organization is all about its records. Once you destroy records, you destroy the integrity of the systems of that organization.

Mr. Temporary Deputy Speaker, Sir, the Mwaliko Report also raises issues that need to be attended to both in our law and practice. It is not proper that a co-operative society under investigation should pay any sort of allowance to the people investigating it. If it has to pay at all, that money should be paid to another entity or the Ministry to be able to defray those expenses. But officers who are investigating you receiving money from you, that compromises the investigation. Look at how much money the Mwaliko Committee got. It got Kshs8.8 million. That is an exaggeration. There cannot be honoraria going to those figures. I think that this is an area which needs to be looked into.

There also ought to be policy. I know that there are people who have managed the SACCO. I know in my area of a SACCO that has had the same top leadership for more than 15 years and it is one of the best performing SACCOs. So, longevity is not synonymous with doing bad, but, perhaps it is time in keeping with modern times that we limited the terms of office of the top SACCO leadership, the same way we do with the country and other organizations, so that we can bring down the possibility of people

perpetuating bad practice and getting disgruntled because the leadership has taken too long.

Mr. Temporary Deputy Speaker, Sir, this Report also brings to fore the need for us to move with speed to have the police reforms complete, so that the police are able to go about their business. If the investigations were proper Questions would not be raised in Parliament. We also need reforms in the Judiciary. We would not be having a case against the management pending. Here, I beg to differ with the Committee. That case is not concluded. It is a mere injunction that was issued and the challenge in the constitutional court has never been prosecuted. So, there is a paralysis of the case, which is the wrong way to go about things. When people have nothing to hide, the prosecution should conclude. The prosecution of the injunction case should either dismiss the fraud case or open it to conclusion. These are the things that we must really check.

I do not think that the KACC really needs much more empowerment. If it does not have forensic auditors within it, it has funds within which it can source. We want to see this investigation concluded as has been emphasized by the Committee.

Mr. Temporary Deputy Speaker, Sir, the point of divergence with the Committee is that it cannot conclude that only Kshs4 million is lost. That cannot be when documents are missing and before the forensic audit. Since Parliament is ill-equipped can this forensic audit be complete so that this giant SACCO may be allowed to get on with its life?

Let us not have the habit of dismissing any issue raised, but let us not also believe everything said. An issue raised deserves an answer. It should be looked at and concluded. That is why we are unhappy as a House – and I join the Committee in that – that this matter has taken more than a decade to bring to rest. We urge that the KACC concludes the matter and the Minister ensures that the regulator steps into this SACCO and also goes to other SACCOs, not necessarily to investigate them, but to build capacity.

Mr. Temporary Deputy Speaker, Sir, the SACCO movement has more members than the entire banking industry in this country. Majority of our people rely on the SACCO movement and I know the Minister is painfully aware of this. I think there is a case that, as a country, we must spend some money to build the capacity of our SACCOs which are the mainstay of the small saver. Look at that giant building – the Harambee SACCO Plaza – built of co-operators' money. Look at many other buildings and houses around the country. We really need to do something about the SACCO movement to encourage development.

Mr. Temporary Deputy Speaker, Sir, finally, there is the issue of the Harambee Plaza. The Mwaliko Report had clearly said that the Harambee Plaza should be separated from the running of the SACCO so that when the SACCO says it has a surplus, we are able to know it is a surplus of the SACCO and they are not including the rent of the Harambee Plaza. This will ensure that when they account, there is a separate account for the Harambee Plaza and another separate account for the SACCO. As it is, even if there was mismanagement of the Plaza money, once it is lumped up with the SACCO money, nobody would know. Let us pray that this matter will come to an end.

With those few remarks, I beg to support.

**The Minister for Co-operative Development and Marketing** (Mr. Nyagah):  
Mr. Temporary Deputy Speaker, Sir, I want to also support this Report that has been

presented by the able Committee that was given the assignment some two or three months ago.

It has been a difficult time for me to have been accused by a person who turns out to be non-existent and to have been in the newspapers basically to be called corrupt. So, to see this come to an end, I am very grateful. I just hope that it would be possible in future for things to move a little faster, so that those unfairly accused are able to clear their names as soon as possible.

**End O**



**[The Minister for Co-operative Development and Marketing (Mr. Nyagah)]**

Mr. Temporary Deputy Speaker, Sir, it is my hope that we will study what other parliaments do in situations like this when a time as now when there is so much going on, a Mr. Langat, who is non-existence, miraculously got his documents into the pigeon holes of every Member of Parliament. He also found his way to every newsroom, to the Officer of the President and the Office of the Prime Minister. I am sure there are very powerful systems which can assist this Parliament in the new dispensation to investigate this kind of thing.

Personally, I am grateful that I can sleep soundly tonight. For almost three months, I have not been able to sleep. Harambee SACCO is a very important institution. It plays a very important role in this country. As the Minister in charge, I can confirm that with 12,000 co-operatives, there bound to be problems. It is not possible for us to run them perfectly. In 1990s, there was no control of any kind. There were almost no laws governing these co-operatives. However, in the last few years, the Government has attempted to try and improve governance. So, I wish to confirm that we are not perfect and that we have 12,000 co-operatives. Those who lose in the elections will always try to fight back just as hon. Members of Parliament do when they lose elections. We know the problems we face from those who lose elections. So, it is a similar situation. I am hope we can encourage co-operatives run their businesses smoothly. If there are problems, please, alert us. We, as Parliament, will try to work with them because we want to have a clean structure in the sector. However, let us not in the process destroy them.

There have been rumours about others which have been investigated in a similar manner. I would appreciate and hope that we can go through this in a programmed manner. I am quite happy to come to Parliament as often as possible. However, 12,000 SACCOS are very many and will keep this House preoccupied with nothing else, but co-operatives. We will not even have time for any other business. We need to encourage them and not to kill them.

I know that the management of the Harambee SACCO has gone through a very rough time for almost over a decade. Therefore, I fully support them. I have talked to them and we are in agreement that a forensic report would make sense so as to conclude this issue once and for all. There is no need of going on forever with this issue. A time comes when we must say enough is enough even if there any other things being mentioned here and there.

I would like us to support the recommendation by the Sacco Societies Regulatory Authority (SASRA). I would like also to see all the other regulatory authorities such as the Central Bank of Kenya (CBK) which supervises the commercial banks, Insurance Regulatory Authority (IRA) which regulates the insurance sector and Capital Markets Authority (CMA) which regulates the Nairobi Stock Exchange fully funded to undertake their work. We know they manage tiny institutions as opposed to the size of the institutions that SASRA has been charged with. SASRA needs a lot of support. We have been talking with the Treasury. Whatever this House can do to help us will be appreciated. Therefore, I fully support the recommendation that has been made that SASRA be funded in order to capacity build the institutions that are under it.

Information available to me indicates that in the coming few years, more and more people will go the co-operative way as the way to the development of this country to reduce the gap between the poor and the rich. Therefore, I see a danger of many co-operatives coming up which is good for the country. However, we need the capacity and resources to control our coffees, SACCOs, tea, pyrethrum and others involved in this sector.

Let us hope that we can develop rules that will not make it possible to witch-hunt others. We want Parliament to have a very good reputation. We want Kenyans to look Parliament for guidance and oversight role. We can sustain Parliament image which it begun to acquire after one party system. It is now beginning to be an independent institution. What is better than not being accused of witch-hunting and not having misunderstandings as to the roles that they are playing. Nobody is misleading hon. Members by giving them false information. These are things that I hope we can find a solution to and a way of working together. We want this Parliament to be strong and independent. We want Parliament to be respected by Kenyans. The only way this can happen is when investigations are seen to be done fairly and the reports produced are fair.

As I said, I am a very happy person. However, I would like to know how those things got to the pigeon holes. How did Mr. Langat got to our pigeon holes? I will follow this one personally because I think it is unfair. I might even go to court to because my family name has been mentioned adversely in this and yet it goes back to 55 years back in public life. We have never been accused of stealing. Being accused of stealing makes me a very angry person. I will be considering legal action now that the Report it out, irrespective of what other action will be taken because names are very important. My name is the only asset that I have. I am not a rich man, but I am a comfortable person. I need to follow up this to a logical conclusion.

Mr. Temporary Deputy Speaker, Sir, let us leave this matter alone. Let us proceed. As I said, I have 12,000 SACCOs. I need the help of this House to run them effectively. I will be approaching the Committee for help from time to time because I have issues with the coffee co-operatives and all other crops. I need help from this Parliament. I now feel comfortable that we can work this Committee and Parliament to help us. We need to work with Parliament so as to get resources from the Treasury and donors. If we continue to be painted as thugs or thieves, no donor or Treasury will put resources into this sector which is needed in order to develop this country. It has recognized the Vision 2030 as one of the sectors that will help improve the qualities of lives and help this country to develop to greater heights. I am confident this sector is capable of lifting the lives of our people to great heights the way it used to be, whether it is milk, coffee, pyrethrum, honey, and housing or at any other product. There many youth co-operatives being registered. We are doing our best, but we need sufficient resources.

In conclusion, I thank you, Parliament, for a job well done. This is the kind of work we expect from House Committees. I am not saying this because I have been cleared, but it is because I know what I was put through by the Committee. I sat there from morning to 5.30 p.m. I saw what all the people we have talked about went through for them to be declared innocent. It is annoying, but satisfying when we are given a clean bill of health. This is the end of this issue which at one point I thought was witch-hunting. I hope that it was not witch-hunting, but at the moment, I am convinced that it was not. I

thank the Committee. I think we will work closely with the House for the benefit of the co-operatives movement in this country.

Thank you and may God bless you.

**Mr. Njuguna:** Thank you, Mr. Temporary Deputy Speaker, Sir. I also rise to very strongly support this report that has been submitted to this House.

On the onset, let me thank the Chairman for the manner in which he has presented this Report to the House. I also extend the same appreciation to the membership of the Committee who really assisted the Chairman to generate this Report. In addition, I wish to thank all the people who assisted in the formation of this Report. For instance, I wish to thank the Director of the CID and the Director of KACC and the Minister of Co-operatives and Marketing, without whose contributions, this Report would not have been complete.

**End P**

**[Mr. Njuguna]**

I note with some excitement that the agony the Minister underwent during that critical period has been cleansed through this investigation. He is now enabled to continue enjoying his integrity and dignity which suffered then.

Mr. Temporary Deputy Speaker, Sir, let me also thank the entire Committee for the commitment and sacrifice they have shown in investigating the 31 allegations they were mandated to look into. One of the allegations that came to their attention was the alleged misappropriation of Kshs724 million. To my delight, it is only Kshs23 million that has been found to have been misappropriated. This Kshs23 million should not be allowed to disappear without a thorough investigation into why it has disappeared. This is money that has been contributed by very innocent small contributors. Therefore, a thorough investigation must be executed to unearth the culprits who have misappropriated this money.

The contributors of this SACCO enjoy their right by getting small loans to educate their sons and daughters and even to put up some houses. Therefore, the loss of this Kshs23 million must be investigated thoroughly and the culprits arrested and prosecuted. We want this giant SACCO, which is the biggest in the African Continent, to be a role model in our country. For it to be a model society, its transparent and accountable systems must be set right.

I have noted that SACCOs have played a pivotal role in enhancing the quality of lives for our people, but it is still fresh in our memories that recently, we had the pyramid schemes, which were being executed by mischievous characters in our society. As a result, people have lost their lives, livelihoods and even committed suicide. I am calling upon the Minister to execute his responsibility, in the best way possible, so that the assets of the innocent contributors are taken care of properly.

Regarding the mysterious character who walked into protected premises and penetrated the pigeon holes, this is a very serious issue and a real threat to these premises. It is high time a serious security operation is conducted. Those who could be found to have compromised that very important element, action must be taken against them. Security in this place must be maximized. We have the best National Security Intelligence Service in this country and they should be asked to investigate this matter. Mr. Langat is not a fictitious character. This is somebody who is walking and eating. Why can we not set a mechanism to bring him to book?

I note that all co-operative societies in this country require constant and clear audit. It is, therefore, important for the Minister and any other Government agents to co-ordinate their activities, so that the members of these co-operative societies do not unnecessarily lose their contributions. Impunity in this country must not be condoned because it is a threat to the fabric of this society. Therefore, all those who are involved must be arrested and taken to court. We do not want to have mudoff in this country.

It is, therefore, important that the Harambee SACCO is given a clean bill of health, supported and encouraged to continue rendering better services to its members.

With those few remarks, I full support this report.

**The Temporary Deputy Speaker** (Mr. Imanyara): Mr. Mututho, there appears to be no one willing to contribute. So, you may reply.

**Mr. Mututho:** Thank you, Mr. Temporary Deputy Speaker, Sir. I want to thank the Members who have contributed. I also want to clear the fears that, indeed, all figures were not checked. All the figures were checked and the amount in question is Kshs4 million. As for the mysterious Langat, I am gratified to note that already, Parliament is delivering letters to the Members' own offices and not in the pigeon holes as, perhaps, it studies the system to see how it can enhance security within Parliament.

That notwithstanding, we will still be looking forward to somebody being prosecuted for illegal entry alongside those people who may have destroyed documents at Harambee SACCO. Criminal activities within and without us need to be addressed at that level.

The pyramid schemes fall within the purview of this Committee. We may not require excess permission from you to deal with this issue. May I take this opportunity to ask the Minister to co-operate with this Committee although the Standing Orders do not allow us to summon him through the newspapers. We are on already on it, so that the Members can know the truth. We need to know this person who has made so many widows commit suicide, grasped billions of shillings from savers, came up with a scheme that he thinks is water-tight and has stolen people's money.

While thanking the House again for its patience, I am hoping that during the coming Supplementary Budget, the Deputy Prime Minister and Minister for Finance will wake up to the reality that people's funds need to be safeguarded.

On an issue like this, I would like to assure the Minister and, indeed, the Executive that we, as oversight Committees, are not in witch-hunting business. We are responding to the people's complaints. We do this very diligently in full glare of cameras from the media and everybody. All we ask is what must be asked.

With those remarks, I beg to reply.

*(Question put and agreed to)*

**End Q**

**MOTION**

## ADOPTION OF REPORT ON CATTLE RUSTLING IN KENYA

THAT, this House adopts the Report of the Select Committee appointed to investigate the Root Causes of Cattle Rustling in Kenya laid on the Table of the House on Thursday 4th November, 2010.

**The Temporary Deputy Speaker** (Mr. Imanyara): Is Mr. Kaino not in the House? He is not in the House. I will defer the Motion to such time as it will be allocated by the relevant Committee.

**ADJOURNMENT**

**The Temporary Deputy Speaker** (Mr. Imanyara): Hon. Members, that concludes the business on the Order Paper. Therefore, the House stands adjourned until tomorrow, 17<sup>th</sup> November, 2010, at 9.00 a.m.

The House rose at 5.35 p.m.