

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Wednesday, 23<sup>rd</sup> June, 2010

The House met at 9.00 a.m.

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

PRAYERS

PAPER LAID

The following Paper was laid on the Table:-

The Fiscal Compliance Report for January, 2010 to March, 2010.

*(By the Deputy Prime Minister  
and Minister for Finance)*

**The Deputy Prime Minister and Minister for Finance** (Mr. Kenyatta): Mr. Temporary Deputy Speaker, Sir, Section 14 of the Fiscal Management Act, 2009 requires that the Minister for the time being responsible for Finance lay before the House a Quarterly Compliance Report. For more information, I have submitted to the Clerk of the National Assembly adequate copies for distribution to all hon. Members.

## NOTICE OF MOTION

VOTE ON ACCOUNT 2010\2011 FINANCIAL YEAR

**The Deputy Prime Minister and Minister for Finance** (Mr. Kenyatta): Mr. Temporary Deputy Speaker, Sir, I beg to give notice of the following Motion:-

THAT, in accordance with Section 101 of the Constitution of Kenya, the withdrawal of Kshs319,762,623,324 representing one-half of the total net estimates of the Recurrent and Development Expenditure made up in the manner set out in the Vote on Account Schedules laid in the House, be authorized for the purpose of meeting expenditure necessary to carry on the services of the Government of Kenya during the year ending 30<sup>th</sup> June, 2011 until such time as the Appropriation Act for the year comes into operation.

Mr. Temporary Deputy Speaker, Sir, His Excellency the President has given his consent to this Motion. I lay on the Table a schedule of the Vote on Account.

*(Mr. Kenyatta laid the document on the Table)*

## QUESTION BY PRIVATE NOTICE

CIRCUMSTANCES SURROUNDING  
RAID AT DADAJABULA TRADING CENTRE

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

(a) What are the circumstances surrounding the raid at Dadajabula Trading Centre in Wajir South Constituency by insurgents from Somalia on 27<sup>th</sup> May, 2010?

(b) Could the Minister confirm the extent of injuries to the casualties?

(c) What does the Government plan to do to forestall such attacks in future?

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

(a) On 27<sup>th</sup> May, 2010, at about 1.00 a.m. suspected members of the Al Shabaab militia group from Somalia drove to the home of one Mohamed Adan and opened fire. It was later established that the Al Shabaab insurgents were searching for members of Hisbul Islam whom they suspected were taking refuge at Mr. Mohamed Adan's homestead.

(b) During the shootout, the following members of Mr. Mohamed Adan's family were injured. Fodosa Mohamed, aged 17 years, sustained gunshot wounds on the abdomen; Farah Said Abdi, aged 20 years, sustained gunshot injuries on the right knee and abdomen; Abdullahi Arab aged 22 years, had injuries on the neck; Osman Omar Noor, aged eight years, sustained injuries on the thigh; and Godane Abdi Yusuf aged 30 years, sustained injuries on the left shoulder.

(c) The following measures have been taken to forestall future attacks. One army platoon has been deployed in the affected areas; *barazas* have been held to reassure the residents of security and advise them on dangers of harboring aliens and militias; additional police officers have been posted to the area to beef up security and patrols have been intensified in the affected area and its surrounding.

Mr. Temporary Deputy Speaker, Sir, I have also instructed the Commissioner of Police to remove and relocate the police and Administration Police (AP) post within that area to a central and convenient area slightly outside the town so that it can be accessed by those who come from the eastern, western, southern and northern side.

**Mr. Affey:** Mr. Temporary Deputy Speaker, Sir, it is clearly a very sad day for us as a country. The Assistant Minister has not supplied me with any copy of the written answer. However, he has confirmed that the insurgents of the Al Shabaab movement actually entered Kenya, terrorized Kenyans and left them with bullet wounds. That is a serious confirmation by an Assistant Minister in charge of security, that members of a militia from another country can walk into Kenya, terrorise and kill Kenyans and leave without being arrested by any security officer. This tells you that Kenyans who live along the Kenyan border with either Sudan or Somalia do not feel protected.

However, I have some information for the Assistant Minister. The following Kenyans are nursing serious bullet wounds. Ferdosa Mohammed Adana, a young girl aged 17-year old and in Class Seven at Dadajabula Primary School, as we speak now, is nursing bullet wounds inflicted by foreigners on Kenyan soil. Those who inflicted this pain have not been arrested to date. The others are Osman Mohammed Noor who is admitted to Dadajabula Health Centre; Abdulahi Hassan Arab - Garissa General Hospital; Farah Abdi - Kenyatta National Hospital and Gurane Abdi Yusuf who is aged 8 years old is nursing bullet wounds at Garissa General Hospital.

There is a serious lapse of security. Who was expected to protect these Kenyans? How is it possible that foreigners walked into Kenya and left without being arrested? What were the security forces of Kenya doing when foreigners came into Kenya, inflicted pain on our people and left?

**Mr. Ojode:** Mr. Temporary Deputy Speaker, Sir, it is quite unfortunate that something like this happened in the 21<sup>st</sup> Century. But I want to commend my police officers for having pursued these fellows and killed three of them. That was the best my police officers did on that particular day. I want to assure Kenyans that a repeat of the same will never happen. That is why I am relocating even the police post to a more convenient place. I have added more police officers within that area. We are also considering putting surveillance or CCTV cameras within our porous borders in order for us to capture those who enter into our country.

**Mr. Ethuro:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for the Assistant Minister to keep informing the House of what actions he is taking? He has said that this will be the only incident---

**The Temporary Deputy Speaker** (Prof. Kaloki): Hon. Ethuro, what is your point of order?

**Mr. Ethuro:** Mr. Temporary Deputy Speaker, Sir, is it in order for the Assistant Minister to continue misleading the House that the Government can protect Kenyans and that this was the only incident which happened on 27<sup>th</sup> May, when I know for a fact that on 19<sup>th</sup> June, Ethiopians came and raided Todonyang' Police Post? Is he in order to mislead this House that this is the last incident?

**Mr. Ojode:** Mr. Temporary Deputy Speaker, Sir, I am giving assurance as the Assistant Minister in charge of internal security that a case like this will never happen again. I am doing that because we are beefing up security in those areas with porous borders. I want to assure the hon. Members also that we have so far done a lot within those areas. If my friend goes back to that area, he will see quite a number of police officers. I want to assure him, the House and Kenyans at large that a repeat of the same will not be there.

**Mr. Keynan:** On a point of order, Mr. Temporary Deputy Speaker, Sir. While I appreciate the concerted effort by the Assistant Minister, is he in order to mislead this House when we know that this country lacks a cogent policy to man our international borders? I want to clarify this. You know what happened in Migingo.

**The Temporary Deputy Speaker** (Prof. Kaloki): Order, hon. Keynan! Stick to the point of order!

**Mr. Keynan:** Mr. Temporary Deputy Speaker, Sir, is the Assistant Minister in order to mislead this House and Kenyans when we know from our borders to Somalia, Ethiopia, Uganda and Southern Sudan, there is no policy? In fact, Kenyans are at the mercy of their neighbours.

**The Temporary Deputy Speaker** (Prof. Kaloki): Hon. Assistant Minister, are you misleading the House?

**Mr. Ojode:** Mr. Temporary Deputy Speaker, Sir, I have never misled this House and I will never do it. My intention is to provide security. As you are aware, I am in charge of internal security! Some of the hon. Members are talking about external security. That is being done by the General who is seated there. It is not Mr. Ojode. Hon. Ojode cares for internal security. We have agreed---

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

**Mr. Ojode:** Mr. Temporary Deputy Speaker, Sir, can I finish?

**The Temporary Deputy Speaker** (Prof. Kaloki): Proceed, Mr. Assistant Minister!

**Mr. Ojode:** Mr. Temporary Deputy Speaker, Sir, I want to assure the hon. Members that on anything touching on internal security, we will move fast and never have killings internally.

**Mr. Keynan:** On a point of order, Mr. Temporary Deputy Speaker, Sir. The Assistant Minister is contradicting himself. On one hand, he says that this is an issue concerning the Ministry of State for Defence and on the other hand, he is attempting to answer the Question. Is he in order? He should have said that this Question is outside this docket and so, he has no capacity to answer it. He is continuing to mislead the House.

**The Temporary Deputy Speaker** (Prof. Kaloki): Hon. Assistant Minister, that is a valid point of order.

**Mr. Ojode:** Mr. Temporary Deputy Speaker, Sir, indeed, it is. Even the hon. Members know that I only deal with internal security. Anything regarding external security is handled by the Minister of State for Defence.

**The Temporary Deputy Speaker** (Prof. Kaloki): Order, Mr. Assistant Minister! Do you want to proceed to answer this Question? Do you have the capacity to answer it? Does it fall under your docket?

**Mr. Ojode:** Mr. Temporary Deputy Speaker, Sir, this particular one falls under my docket because the killings happened inside the country. It was not done outside the borders.

**Mr. Bahari:** On a point of order, Mr. Temporary Deputy Speaker, Sir. This is a matter that concerns the security of Kenyans; whether it happened on the border or inside the country. It happened in Wajir North the other day when Ethiopians were there. It also happened in Turkana. It has been happening everywhere across the border. Could we get the substantive Minister who can adequately answer this Question? Will I be in order to ask that the Minister of State for Defence comes here to answer this Question?

**The Temporary Deputy Speaker** (Prof. Kaloki): Hon. Assistant Minister, you have already stated that this Question touches on the Ministry of State for Defence. If you know that some of the surrounding circumstances fall under that, I think you need to be able to guide us actually; whether you should proceed to answer this Question or we refer it to the relevant Ministry so that you can jointly answer it.

**Mr. Ojode:** Mr. Temporary Deputy Speaker, Sir, I think I have adequately answered the Question. I have given the names of those who were injured. Right now, they are nursing wounds in hospital. We will transfer some of those who are in critical condition to Kenyatta National Hospital at the expense of the Government. I have also promised this House that something like this will not recur. I have beefed up security. I do not think I should have any problem. I have also relocated the Administration Police and police posts to a more convenient area. What else do you want Mr. Ojode to do?

**The Temporary Deputy Speaker** (Prof. Kaloki): Hon. Assistant Minister, part “c” of the Question asks: “What does the Government plan to do to forestall such attacks in the future?” That is the issue which concerns the external forces.

**Mr. Ojode:** Exactly, Mr. Temporary Deputy Speaker, Sir. I have said that we are going to talk to the military wing to have a camp at the border point. We have agreed, in fact, that there will be a platoon which must be established within that area.

**Mr. Mungatana:** Mr. Temporary Deputy Speaker, Sir, the Assistant Minister has concentrated a lot on the question of security and he was given the names of the people who were injured. They are: Fardesa Hussein, Osman Maalim, Abdulahi Hassan, Furha Abdi and Gandhale Abdi Yusuf. Could he undertake specifically, first of all, to meet all the medical expenses of those who are in the private hospitals? There is a class seven pupil and a gentleman

at Dadajabula Dispensary. Could the Assistant Minister take responsibility for this and those who have been taken to Kenyatta National Hospital because it was the lapse of security by the Government that was specifically responsible for the injuries of these Kenyans who have bullet wounds?

**The Temporary Deputy Speaker** (Prof. Kaloki): Hon. Assistant Minister, are you able to take that responsibility?

**Mr. Ojode:** Mr. Temporary Deputy Speaker, Sir, I would like to say the following: One, on humanitarian ground, yes. That will be based on case by case. For those who are seriously injured, I have instructed the PC to transfer them to Kenyatta National Hospital. If they request us and if they are unable, I will consider.

**Mr. Ethuro:** Thank you, Mr. Temporary Deputy Speaker, Sir. The Assistant Minister seems to be inviting more points of order than the answers he is giving. I would like to ask a supplementary question. Dadajabula Trading Centre in Wajir South Constituency is 15 kilometers away from the Somali border. You have talked about relocating the police post from the trading center to a more convenient place, which you do not seem to be aware. That incident took place on 27<sup>th</sup> May. Today, it is almost a month since then and yet, he has not airlifted the injured. He has not relocated the border post as he promised in Garissa. The Garissa one is still there. He had promised to relocate it two years ago. When will he relocate that border post and to where? Could he also do the same for Todonyangi in Turkana North and visit the area?

**Mr. Ojode:** Mr. Temporary Deputy Speaker, Sir, the issue of relocating the police post or the Administration Police post was left to the District Security Committee. They had suggested that and we gave them a go-ahead to relocate the AP post and the police post. On the issue of relocating, if we do not get any recommendation from the security team on the ground, I would not do anything. If he wants us to reallocate the police or the AP post, let the security team write to us so that we can gazette the areas where they want the relocation to be done. I will do that immediately. He knows that I am an action oriented person.

**Mr. Affey:** Mr. Temporary Deputy Speaker, Sir, what the Assistant Minister has confirmed is that a serious crime has been committed against Kenyans. Those Kenyans have nothing to do with the conflict in Somalia. For him to suggest that Al Shabaab has a better intelligence network than the Kenyan security forces to an extent that the fellows in Somali are pursuing some of their own inside Kenya, shows that there is a serious lapse in our security. However, I want the Assistant Minister to reconfirm, since we are talking about the welfare of Kenyans, whether those five Kenyans will get Government treatment as hon. Mungatana has said, they will be airlifted from wherever they are and, in fact, the Government will apologize to them because who else was supposed to protect them if it was not for the Kenyan security forces?

**Mr. Ojode:** Mr. Temporary Deputy Speaker, Sir, there is nothing to reconfirm. As the Assistant Minister for Provincial Administration and Internal Security, I have said that we will deal with this issue, case by case. If there are those who have been seriously injured and cannot be treated locally, they will be transferred to Kenyatta National Hospital. That will be done with immediate effect. If there is anything else that they would want the Government to do, I am ready for it. However, they should tell us what they want us to do.

## ORAL ANSWERS TO QUESTIONS

*Question No.028*

GROWTH PATTERN OF TRAINING OPPORTUNITIES  
IN MEDIUM-LEVEL COLLEGES

**Mr. Bahari** asked the Minister for Higher Education, Science and Technology:-

(a) what has been the growth pattern of training opportunities in medium-level colleges in Kenya in the last 10 years; and,

(b) how the Ministry has increased access to Kenyans who aspire to train in those institutions.

**The Minister for Higher Education, Science and Technology** (Mr. Samoei): Mr. Temporary Deputy Speaker, Sir I want to seek the indulgence of this House to answer the Question either tomorrow or on Tuesday. That is because the details are very critical. This is a very important Question because of the neglect of middle level colleges that produce--- The skills that we need to turn around this country have suffered over the years. I want to give a comprehensive answer to this House so that it can help us to package the way to the future.

**The Temporary Deputy Speaker** (Prof. Kaloki): Hon. Samoei, you seem not to be ready today. Have you been campaigning a lot for the “No”?

*(Laughter)*

Hon. Bahari, are you satisfied? Could you wait until the Minister is ready so that you can get the right answer?

**Mr. Bahari:** Mr. Temporary Deputy Speaker, Sir, in view of the fact that the Minister has grasped the spirit of the Question, and I am sure that he is going to give us an adequate answer that will satisfy many hon. Members who are very keen about this Question, I will be contented if he can answer the Question tomorrow afternoon.

**The Temporary Deputy Speaker** (Prof. Kaloki): Hon. Samoei, we will defer that Question. When will you be ready to answer the Question?

**The Minister for Higher Education, Science and Technology** (Mr. Samoei): Mr. Temporary Deputy Speaker, Sir, I want to request the hon. Member to allow me to answer it on Tuesday because I want to give it my personal attention.

**The Temporary Deputy Speaker** (Prof. Kaloki): Fair enough! We will defer it to Tuesday next week.

*(Question deferred)*

*Question No.095*

PAYMENT OF MEDICAL RISK ALLOWANCE SINCE 2002

**Mr. Ethuro** asked the Minister for Medical Services:-

(a) whether he could provide information on the payment of medical risk allowances to all medical professionals by cadre since 2002;

(b) what is the establishment status of plaster technicians in the country; and,

(c) why the Government suspended the training of orthopedic technicians in 2001.

**The Assistant Minister for Medical Services** (Mr. Kazungu): Mr. Temporary Deputy Speaker, Sir, I beg to reply.

(a) Medical risk allowance is paid at rates approved by the Ministry of State for Public Service. The rates are paid per cadre and grade based on seniority as per the attached profile. The total medical risk allowance paid to all medical professionals from 2002 to date is about Kshs8,031,209,924.70.

(b) The establishment status of plaster technicians is as follows: One, plaster technician grade 3, 2 and 1 belong to job groups G, H, J and K. The approved establishment is 257. The number of positions available is 200. The shortage we have is 57. The senior cadres approved establishment is 155. The position occupied is one. The shortage is alarming because it is at 154. With regard to plaster technicians job grade 3, the approved establishment is 155 and the deficit is 154. The total number of approved establishment is 412. Those who are in the establishment total to 201 and there is a total deficit of 211.

(c) The Government has never had a training programme for orthopedic technicians. However, there is a training programme for orthopedic technologists at the Kenya Medical Training College which began in 1972 and is still running up to date.

**Mr. Ethuro:** Mr. Temporary Deputy Speaker, Sir, I want to thank my good friend and congratulate him for giving a maiden answer as the Assistant Minister for Medical Services, a post that took too long for the Government to fill after hon. Mungatana took leave. I am glad that he is catching up.

This Question is quite personal to me. Just before we went on recess, I was in this House with a plaster. Although I had asked the Question before that scenario, there are many Kenyans who are getting injured in accidents because of bad roads and reckless drivers. That profession is extremely critical. We need technicians who can deal with bones.

The Assistant Minister has confirmed that the approved establishment is 412. There is an acute deficit of 211. He has also confirmed that there is no training programme for technicians. So, how does he expect to fill the positions of plaster technician? Do you expect to get expatriates when you are not training those junior officers?

**Mr. Kazungu:** Yes, Mr. Temporary Deputy Speaker, Sir, the demand is there. The Government is mobilizing resources and, sooner than later, this problem will be a thing of the past. Following increased demand for orthopedic plaster services, the Ministry has plans to reintroduce the training programme for plaster technicians. Currently, consultations are ongoing between the Ministry and the Kenya Medical Training College (KMTC).

**Mr. Bahari:** Mr. Temporary Deputy Speaker, Sir, I am happy the Ministry is in the process of addressing this problem. In view of the fact that the deficit is very high, what capacity does the KMTC have to train this very important cadre of paramedics?

**The Temporary Deputy Speaker** (Prof. Kaloki): That is a valid question. The problem is being faced in all the hospitals in the country, including Makindu District Hospital in my constituency. There is a serious lack of nurses and technicians. When do you intend to reintroduce the training programme for plaster technicians?

**Mr. Kazungu:** Mr. Temporary Deputy Speaker, Sir, as I said earlier, the Government is mobilizing resources, so that this training programme can be reintroduced immediately. Once we get enough resources, we will implement this programme.

**The Temporary Deputy Speaker** (Prof. Kaloki): Which year? Is it during this financial year? We want to see something concrete taking place.

**Mr. Kazungu:** Mr. Temporary Deputy Speaker, Sir, since this programme involves a lot of resources, we will start it in the next financial year.

**Mr. Mwangi:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the Assistant Minister in order to say that he will factor it in the next year's Budget? Which financial year does he intend to bring it on board?

**The Temporary Deputy Speaker** (Prof. Kaloki): Hon. Assistant Minister, are you talking about the Budget that hon. Kenyatta just read or which Budget are you talking about?

**Mr. Kazungu:** Mr. Temporary Deputy Speaker, Sir, if it was in this year's Budget, we would not be talking about this problem today. I am sure you have seen the Budget for the Ministry of Medical Services. It is not good enough. I urge hon. Members to push for more funds for this Ministry.

**Mr. C. Kilonzo:** Mr. Temporary Deputy Speaker, Sir, I appreciate the fact that this is a maiden answer given by the new Assistant Minister. He has talked about the next financial year. These are medical issues which cannot wait for that long. I thought he would have been a little bit more sensitive and talked about the coming Supplementary Budget, if not otherwise.

**Mr. Kazungu:** Mr. Temporary Deputy Speaker, Sir, I would love to make this happen the soonest. However, according to the Budget, there are so many plans by the Government. As I said, we will factor this one in the next financial year.

**The Temporary Deputy Speaker** (Prof. Kaloki): Hon. Assistant Minister, the question was specific. There is a Supplementary Budget that will be tabled in this House before the next year's Budget. Could you consider including that item in the Supplementary Estimates?

**Mr. Kazungu:** Mr. Temporary Deputy Speaker, Sir, I will not commit myself to do so during this financial year. However, I can assure the House that if we find it possible, we will address it in the next financial year.

**The Temporary Deputy Speaker** (Prof. Kaloki): Will you factor it in the Supplementary Budget or the next financial year?

**Mr. Kazungu:** Mr. Temporary Deputy Speaker, Sir, we may factor it in either of them, because we are mobilizing resources.

**Mr. C. Kilonzo:** On a point of order, Mr. Temporary Deputy Speaker, Sir. We are dealing with issues of human health. These are medical issues. If, indeed, there is going to be a Supplementary Budget, why can the Assistant Minister not consider providing for this programme in the Supplementary Budget? We know that includes construction of roads and other facilities which do not necessarily deal with human health. He keeps on saying "I", yet we are talking about the Government. It is not about his money. It is the Government's money.

**The Temporary Deputy Speaker** (Prof. Kaloki): Hon. Assistant Minister, please, be specific!

**Mr. Kazungu:** Mr. Temporary Deputy Speaker, Sir, as the Government, we will consider factoring it in the Supplementary Budget. I hope the House will approve it.

**Mr. Mungatana:** Mr. Temporary Deputy Speaker, Sir, just to be kind to my colleague, I want to ask a policy question. Whenever we have training of medical personnel, the problem that follows is that the distribution of the personnel, particularly to Tana Delta and other districts, is not fair. There has been no clear policy from the Ministry, so that we can expect reasonably that-

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**The Temporary Deputy Speaker** (Prof. Kaloki): Hon. Mungatana, what is your question? Be specific!

**Mr. Mungatana:** Mr. Temporary Deputy Speaker, Sir, could the Assistant Minister undertake to give a proper direction, so that we can reasonably expect to have some of these technicians trained in our regions? We want to get that assurance from the Ministry.

**Mr. Kazungu:** Mr. Temporary Deputy Speaker, Sir, I am new in the Ministry. However, we have a policy which provides that all the people who are trained are equally distributed among, not only the provinces, but also the constituencies.

**Mr. Ethuro:** Mr. Temporary Deputy Speaker, Sir, I wish the Assistant Minister well. He has seen the mood of this House which confirms that this training is extremely important. We want him to commit himself that within exactly one year, this training can start. Given the fact that some of the medical training colleges are about to close for lack of students, the Ministry has enough room to train. The need is there. This country is committed to the millennium development goals. One of them is accessing medical services by our country men and women. When will he give this priority within the current financial year? He should make a commitment to that effect.

**Mr. Kazungu:** Mr. Temporary Deputy Speaker, Sir, as I said earlier, we are consulting with the KMTTC. Once we have finalized this, we will start the training programme for plaster technicians. This is something that is very sensitive to the country. However, I would ask my fellow hon. Members to make sure that when we bring our Budget here, they will approve it, so that we address this training programme and other issues in our Ministry.

**Mr. Shakeel:** Mr. Temporary Deputy Speaker, Sir, before I ask the Question, I would like to inform you that I do not have the written answer.

*Question No.098*

CORRUPTION ACCUSATIONS AGAINST CEO/OFFICERS OF ASK

**Mr. Shakeel** asked the Minister for Agriculture:-

(a) to confirm whether the Chief Executive Officer and other officers of the Agricultural Society of Kenya have been accused of corruption and embezzlement of funds by the Board of Trustees, including irregular purchase of vehicles, illegal payment of allowances and honoraria and misappropriation of funds; and,

(b) what action he has taken against the concerned officers.

**The Assistant Minister for Agriculture** (Mr. Ndambuki): Mr. Temporary Deputy Speaker, Sir, I am sorry that the hon. Member does not have a written answer. Copies of the written answer were distributed last week but the hon. Member was not present. I even did not get time to answer the Question.

**The Temporary Deputy Speaker** (Prof. Kaloki): Proceed, Mr. Assistant Minister!

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

(a) I am aware that the Chief Executive Officer and other officers of the Agricultural Society of Kenya have been accused of corruption and embezzlement of funds by the Board of Trustees.

(b) The Ministry appointed a task force to look into the allegations, whose findings are expected tomorrow. Depending on the task force's findings, appropriate action will be taken.

Thank you.

**Mr. Shakeel:** Mr. Temporary Deputy Speaker, Sir, I look forward to seeing that report next week. So, I do not think I can add anything else.

**The Temporary Deputy Speaker** (Prof. Kaloki): Are you satisfied with the answer?

**Mr. Shakeel:** No, Sir. I would like to defer the Question until after the report has been released.

**The Temporary Deputy Speaker** (Prof. Kaloki): Hon. Shakeel, are you satisfied? You cannot defer the Question. I do not think you have such powers. Are you satisfied?

**Mr. Shakeel:** Mr. Temporary Deputy Speaker, Sir, I cannot be satisfied because I have not seen the report. I am satisfied that action is being taken, but it is my request to Chair to, kindly, consider deferring this Question for, at least, two weeks, so that we can have the benefit of looking at the report of the task force and then come back to the Question.

**The Temporary Deputy Speaker** (Prof. Kaloki): Hon. Shakeel, I am sorry. I do not want to defer the Question. The Assistant Minister is here. If you have any specific question, you can ask him.

Assistant Minister, can you give your final submission?

**Mr. Ndambuki:** Mr. Temporary Deputy Speaker, Sir, I am ready to give a copy of the report to the hon. Member immediately I get it. Thereafter, if he has any other question, he can put it to the House.

Thank you.

**The Temporary Deputy Speaker** (Prof. Kaloki): Next Question, Mr. Cheruiyot!

### *Question No.183*

#### PER-SCHOOL/PER-DIVISION TEACHER VACANCIES IN KURESOI

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

(a) to indicate per-school and per-division teacher vacancies in Kuresoi District; and,

(b) what immediate steps the Minister will take to reduce staffing shortfalls in the district.

**The Assistant Minister for Education** (Mr. Mwatela): Mr. Temporary Deputy Speaker, Sir, this Question seeks to address the very serious issue of shortage of teachers in our country. I have been given a very inadequate answer by my officers, and I plead for the indulgence of this House that I be given more time – maybe a week – so that I come here with a good answer.

**The Temporary Deputy Speaker** (Prof. Kaloki): Order, Assistant Minister! The Question has been in your possession for some time now. Why do you need additional time to come with the right answer?

**The Assistant Minister for Education** (Mr. Mwatela): Mr. Temporary Deputy Speaker, Sir, as I have said, the issue of staffing in our schools is pertinent. It is a thorn in the flesh of our schools.

**The Temporary Deputy Speaker** (Prof. Kaloki): Are you doing anything about it?

**The Assistant Minister for Education** (Mr. Mwatela): Yes! I would like to have a proper meeting with---

**Mr. Mwangi:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the Assistant Minister in order to mislead this House by saying that there is a shortage of pre-unit teachers whereas the Government has not undertaken to employ any Early Childhood Education (ECD) teachers?

**The Temporary Deputy Speaker** (Prof. Kaloki): Assistant Minister, even before you dwell on the point of order raised by Mr. M. Mwangi, why do you need more time?

**The Assistant Minister for Education** (Mr. Mwatela): Mr. Temporary Deputy Speaker, Sir, my request is very genuine. I need to examine this issue very critically. I need more time. I am requesting for that time. I have spoken to the Questioner and we agreed that we need more time to address this issue adequately.

**Mr. Mwangi:** On a point of order, Mr. Temporary Deputy Speaker, Sir. The Assistant Minister has not responded to my point of order. The Government has not undertaken to employ any ECD teachers. What answer is he looking for?

**The Temporary Deputy Speaker** (Prof. Kaloki): Hon. Assistant Minister, do you want to respond to the point raised by Mr. Mwangi as we consider your request for additional time?

**The Assistant Minister for Education** (Mr. Mwatela): Mr. Temporary Deputy Speaker, Sir, the Question is not on ECD teachers.

**Mr. Mungatana:** Mr. Temporary Deputy Speaker, Sir, I am very disappointed by the Assistant Minister on this one, although he is my friend. Looking at this Question, really, reminds me of the fact that the Government has a fully established ICT Department, which we pay for. We vote for this Department every year in this House. This Question asks him to indicate per-school and per-division teacher vacancies. It is just a matter of pressing some buttons on a computer keyboard, and the answer will appear on the screen. He can then address the issues that Parliament wants him to address.

While we understand that he probably does not have the answer here, he can have it in the afternoon. We cannot accept this kind of behaviour from the Front Bench. It is not acceptable.

**The Temporary Deputy Speaker** (Prof. Kaloki): Assistant Minister, can you be---

**The Assistant Minister for Education** (Mr. Mwatela): Mr. Temporary Deputy Speaker, Sir, I need to be understood by hon. Mungatana. The Question is in two parts. The first part requires me to indicate per-school and per-division teacher vacancies in Kuresoi District, whereas the second part asks me to state what immediate steps the Minister will take to reduce the staffing shortage in the District.

We can answer the first part of the Question by pressing some buttons on a computer keyboard. However, on the second part of the Question, which is very critical, I need to sit down with my officers, so that they can brief me on the specific measures we have to take to address the situation.

**Mr. C. Kilonzo:** Mr. Temporary Deputy Speaker, Sir, part (b) is even easier than part (a) because this is on the staffing policy. This Question has been here in other forms, many times. So, what is this big deal about it being difficult? When we say the "Minister" we are not talking about him. We are talking about the Ministry.

**The Temporary Deputy Speaker** (Prof. Kaloki): Actually, he is the "Minister" here, speaking on behalf of the Ministry.

Assistant Minister, are you able to bring the answer this afternoon?

**The Assistant Minister for Education** (Mr. Mwatela): Mr. Temporary Deputy Speaker, Sir, I want to be fair to the Questioner and the House. I am getting very concerned. I am a

teacher by profession. So, I know what staffing is all about. I know the kind of impact proper staffing will have on our education sector. So, I need time to address this Question.

**The Temporary Deputy Speaker** (Prof. Kaloki): When can you come with an adequate answer?

**The Assistant Minister for Education** (Mr. Mwatela): On Wednesday next week, Mr. Temporary Deputy Speaker, Sir.

**The Temporary Deputy Speaker** (Prof. Kaloki): Can you do it on Tuesday?

**The Assistant Minister for Education** (Mr. Mwatela): Yes, Mr. Temporary Deputy Speaker, Sir.

**The Temporary Deputy Speaker** (Prof. Kaloki): Very well! Bring it on Tuesday.

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

**The Temporary Deputy Speaker** (Prof. Kaloki): On the same issue?

**Mr. Ethuro:** Yes, Mr. Temporary Deputy Speaker, Sir.

**The Temporary Deputy Speaker** (Prof. Kaloki): I am sorry, I have already ruled on the matter, Mr. Ethuro.

**Mr. Ethuro:** Mr. Temporary Deputy Speaker, Sir, I want to give information to the House.

**The Temporary Deputy Speaker** (Prof. Kaloki): Very well!

**Mr. Ethuro:** Mr. Temporary Deputy Speaker, Sir, on part (a) of the Question, there is somebody called "Assistant Education Officer" who is in charge of a Division. At the school-level, there is somebody called "Head Teacher", who is supposed to make monthly returns. So, this information should be obtained.

On part (b) of the Question, the Ministry has just recruited teachers. So, they are supposed to know how many teachers are missing. Surely, once a Question is on the Floor of the House, it is the property of the House. This House cannot entertain Ministers who do not do their homework.

**The Temporary Deputy Speaker** (Prof. Kaloki): Mr. Assistant Minister, you do not have to respond to that one. I have already ruled on the same. Come with your answer next Tuesday. Dwell on parts (a) and (b) only.

*(Question deferred)*

Next Question, Mr. Peter Kiilu!

*Question No.217*

#### REPAIR OF WOTE-KATUMANI ROAD

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

(a) whether he is aware that the Wote-Katamani Road is deteriorating too fast as a result of poor maintenance resulting in many fatal accidents; and,

(b) what immediate measures he will take to repair the road

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

(a) I am aware that the Wote-Katamani Road is in need of repair.

(b) I have instructed the regional manager of the Kenya National Highways (KENHA) Lower Eastern, to address the issue and I can confirm that already the site-patching of potholes has already commenced. We have allocated Kshs1.5 million this financial year and a further Kshs4.5 million in the next financial year for the same road.

**The Temporary Deputy Speaker** (Prof. Kaloki): Mr. Kiilu, do you have any further questions?

**Mr. Kiilu:** Mr. Temporary Deputy Speaker, Sir, I wish to thank the Assistant Minister for that answer. However, I would like him to confirm whether he has set aside any funds to repair the Mwanja Bridge which is along that road. This is a killer bridge and it is just after Machakos Town.

**Mr. Kinyanjui:** Mr. Temporary Deputy Speaker, Sir, I appreciate the fact that the bridge is in need of repairs and we are considering it under the emergency repairs. As soon as those funds are available we will confirm to the hon. Member. However, as I speak, it is on our priority list, pending funding.

**The Temporary Deputy Speaker** (Prof. Kaloki): Mr. Assistant Minister, could you be a little bit specific? Has it been factored in the Budget? When you say “emergency” what are you talking about?

**Mr. Kinyanjui:** Mr. Temporary Deputy Speaker, Sir, it is not in the Budget. We did not budget for it but we want to consider it under emergency funding. The bridge requires emergency repairs and we would like to treat it as such.

**The Temporary Deputy Speaker** (Prof. Kaloki): When can we see some repairs taking place?

**Mr. Kinyanjui:** I may not be able to give an immediate answer right now, but I would be able to confirm to the hon. Member as soon as the contractor is awarded the tender to do it.

**Mr. Mbadi:** Mr. Temporary Deputy Speaker, Sir, the report I get from the area Member of Parliament is that the bridge is very narrow. That is the cause of this problem. Is this an emergency situation or the Ministry of Roads does not have a policy on how to maintain roads and repair bridges?

**Mr. Kinyanjui:** Mr. Temporary Deputy Speaker, Sir, I am not too sure I got the hon. Member’s question, but I want to assure him that we have a fully-fledged department that deals with bridges in this country. However, as you know, because of the terrain in this country, we have too many bridges and not sufficient funds to maintain them at all times. However, we will prioritise it on the basis of available funding.

**The Temporary Deputy Speaker** (Prof. Kaloki): Mr. Mbadi, is that what you asked? He seemed not have got your question on that specific bridge.

**Mr. Mbadi:** Mr. Temporary Deputy Speaker, Sir, I am surprised that my good friend did not understand my question because I thought I was very clear. Why does the Ministry allow the deterioration of these bridges to become an emergency when they should have a clear policy on how to maintain them alongside roadworks?

**The Temporary Deputy Speaker** (Prof. Kaloki): Mr. Assistant Minister, do you have a maintenance policy?

**Mr. Kinyanjui:** Mr. Temporary Deputy Speaker, Sir, as the hon. Member maybe aware, for a very long time the allocation in the Budget for the Ministry has been very small. Until recently when the Budget was raised, it was not possible to have regular maintenance of the bridges. However, with that increased funding it would be possible to include regular maintenance of bridges in our regular maintenance programmes. I want to thank the hon.

Member for asking this Question because we have done a survey of most of the bridges and found that, indeed, many are in dire need of maintenance.

**The Temporary Deputy Speaker** (Prof. Kaloki): Mr. Kiilu, are you satisfied with the answer from the Assistant Minister?

**Mr. Kiilu:** Mr. Temporary Deputy Speaker, Sir, I am, in a way. However, you will appreciate that this is a very important road link. It links the greater Makueni District with Machakos and Nairobi. The only problem is that the Ministry seems to have no money for maintenance of the roads, particularly in the southern region. We also have Road C99 which links this road with Emali. Could the Assistant Minister confirm that there is a regular maintenance allocation for this road?

**Mr. Kinyanjui:** Mr. Temporary Deputy Speaker, Sir, as I have indicated, we have about Kshs6 million allocated to this road. As I speak now the contractor is already on site to do the patch work. We will continue to do regular maintenance but that will always be subject to availability of funds.

**The Temporary Deputy Speaker** (Prof. Kaloki): Let us move on to the next Question by the hon. Member for Kapenguria, Mr. Murgor. Is he not here?

**Mr. Cheruiyot:** Mr. Temporary Deputy Speaker, Sir, I am not Mr. Murgor but I know he is out of the country on official duty and I think he has notified the Speaker.

**The Temporary Deputy Speaker** (Prof. Kaloki): We will defer that Question to a later date.

*Question No.212*

STRENGTHENING/RESTRUCTURING OF  
REGIONAL DEVELOPMENT AUTHORITIES

*(Question deferred)*

Let us move on to the next Question by Mr. Anyanga!

*Question No.229*

ALLOCATION OF FUNDS FOR MAINTENANCE  
OF MACALDER AIRSTRIP

**Mr. Anyanga** asked the Minister for Transport:-

(a) when the Government last allocated funds for the maintenance of Macalder Airstrip in Nyatike; and,

(b) when will he re-open the airstrip to promote tourism and the mining of gold and copper which are available in the region.

**The Assistant Minister for Transport** (Mr. Mwau): Mr. Temporary Deputy Speaker, Sir, I have already consulted with Mr. Anyanga and he seems not satisfied with the answer that he has been given and we have agreed to defer the Question until Thursday, next week.

**The Temporary Deputy Speaker** (Prof. Kaloki): Order, Mr. Assistant Minister! Mr. Anyanga, is that okay?

**Mr. Anyanga:** Mr. Temporary Deputy Speaker, Sir, it is true that we have consulted and I am in agreement because I need an elaborate answer for this Question.

**The Temporary Deputy Speaker** (Prof. Kaloki): Mr. Assistant Minister, when will you be ready with a comprehensive answer?

**The Assistant Minister for Transport** (Mr. Mweu): Mr. Temporary Deputy Speaker, Sir, on Thursday, next week.

**The Temporary Deputy Speaker** (Prof. Kaloki): That is all right. I will defer the Question until Thursday, next week.

*(Question deferred)*

Let us move on to the next Question by Mr. Koech!

*Question No.230*

SHORTAGE OF REGISTRATION OFFICERS  
IN NANDI NORTH DISTRICT

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

(a) whether he is aware that there are no officers at the Registration of Births and Deaths offices in Nandi North District, and if so, when he will post them; and,

(b) whether he could consider providing mobile registration in the district to ease congestion in Kapsabet.

**The Temporary Deputy Speaker** (Prof. Kaloki): Is anyone from the Ministry of State for Immigration and Registration of Persons not here?

**The Minister for Trade** (Mr. Kimunya): Mr. Temporary Deputy Speaker, Sir, I have confirmed that the Minister is not here and I wish to seek the indulgence of the House until we find out what is happening and why he has delayed. In the meantime, the Chair should defer this Question to this afternoon when we have traced him. I am also aware that he was travelling to Arusha for the East African Community but I need to know the status of his Assistant Minister.

**The Temporary Deputy Speaker** (Prof. Kaloki): Mr. Kimunya, if you are making an undertaking on his behalf, when do you think the answer will be ready next week?

**The Minister for Trade** (Mr. Kimunya): Mr. Temporary Deputy Speaker, Sir, let us work on tomorrow. I will trace the Minister and ask him to bring the answer tomorrow.

**The Temporary Deputy Speaker** (Prof. Kaloki): If you do not know where he is, I would prefer to defer the Question until Tuesday, next week.

**The Minister for Trade** (Mr. Kimunya): Much obliged, Mr. Temporary Deputy Speaker, Sir.

**Mr. Koech:** Mr. Temporary Deputy Speaker, Sir, I am surprised that the Minister cannot be traced yet he was in Eldoret yesterday. I know he was representing the Prime Minister and he had the biggest convoy, you can imagine. I believe the Minister is still enjoying himself. I would not mind if you deferred the Question to Wednesday next week.

**Temporary Deputy Speaker** (Prof. Kaloki): I have already ruled on Tuesday afternoon. Is that okay.

**Mr. Koech:** I was requesting that you defer it to Wednesday, Mr. Temporary Deputy Speaker, Sir.

*(Question deferred)*

**The Temporary Deputy Speaker** (Prof. Kaloki): Thank you, hon. Koech. Next Question, Mr. Keynan!

*Question No. 234*

FREQUENT CHANGE OF OWNERSHIP OF ZAIN COMPANY

**Mr. Keynan** asked the Minister for Information and Communications-

(a) whether he could explain why there has been a high frequency of change of ownership of the Zain Company from Kencell, Celtel, Zain and finally to Bharti Airtel; and,

(b) whether he could explain the effects of the frequent change of ownership of the company on security of the country and economic stability at large.

**The Temporary Deputy Speaker** (Prof. Kaloki): Minister for Information and Communication not here? Is there any Minister to take that undertaking on behalf of the Government?

**The Minister for Trade** (Mr. Kimunya): Mr. Temporary Deputy Speaker, Sir, it looks like we have the same problem. I would like to urge that we defer the Question to Tuesday next week when we have the facts on exactly where they are.

**The Temporary Deputy Speaker** (Prof. Kaloki): It is so ordered.

*(Question deferred)*

*(Mr. C. Kilonzo stood in his place)*

Let us hear from hon. Keynan, first of all, whether he is satisfied with the deferring of the Question to next week.

**Mr. Keynan:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Under Standing Order No.97, I would like to seek the indulgence of the Chair because two weeks ago, the Speaker made a ruling in this House that Members of the Front Bench need to take the deliberations of this House seriously. He went ahead and issued a circular to political party leaders. Today, we are being subjected to the same business as usual. It is not fair on the part of the Chair, I am sorry to say this, to subject all of us to the convenience of this lax Front Bench. I want to plead that these Ministers who have failed to come to the Floor of the House this morning may be subjected to the provisions of Standing Order No.97 for failing to appear and to take Parliamentary business seriously and with no proper explanation. I will not want my question to be deferred but I want an explanation on the Floor of the House. I think this is the desire of every Member of Parliament. If we defer these Questions, we shall be giving in to individuals who have failed the very responsibility they have been entrusted with by the appointing authority and two, on behalf of the people of Kenya.



It is not enough to say this Question will be deferred. What punishment is the Speaker going to take on these individuals who have failed to take their responsibilities seriously?

*(Several Members stood in their place)*

**The Temporary Deputy Speaker** (Prof. Kaloki): Order! Let us deal with that one first. Hon. Minister, that is a valid concern from the Member of Parliament. Since you are representing the Government and you have already started taking that undertaking, could you go further and explain where the Minister for Information and Communication is? Why is he not in the chamber to answer the Question? The Question had already been sent to him and he had the time to answer it. Could you proceed on and give that explanation?

**The Minister for Trade** (Mr. Kimunya): I hear the sentiments of the Members and I share the same sentiments. But at this point, I am not in a position to establish exactly why he is not here and the most I can do is undertake to communicate the sentiments of the Members to him. I am sure when he comes, he will explain himself and apologise to the House personally.

**Dr. Nuh:** On a point of Order, Mr. Temporary Deputy Speaker, Sir. The Questions on the Order Paper do not find themselves there by chance. They are crafted by a House Business Committee that has by and large the membership from the side of the Government. The Speaker ruled that in case a Minister is not available to answer a Question, he is supposed to convey a written notice to the Speaker of his absence and seek leave from the House as to why he cannot avail himself to answer a Question. Yesterday, the Prime Minister expressed sentiments that this House asks Questions for answers. I think that is what is going into the head of the executive. We would not want this House to be taken for a ride and especially the Back Bench. We shall be firm. We are not going to be taken into the convenience of the Government side just because they can avail or they cannot avail themselves as and when they wish.

**The Temporary Deputy Speaker** (Prof. Kaloki): Very well! Order! That was a point of order. Hon. Minister, I will then direct that in your communication with the Minister, you request him to provide a written explanation to the Speaker as to why he was not able to come and answer this particular Question. I will still go further and defer that Question to next week on Tuesday afternoon.

*(Question deferred)*

*(Several Members stood in their place)*

I have already ruled that the Minister has to provide a written explanation on why he is not in the Chamber to answer this Question. Now, I will go back to hon. Keynan to give us the final submission on the same and then we move to the next Order---

**Mr. Keynan:** Mr. Temporary Deputy Speaker, Sir, I appreciate and I do not want to contradict your position, but I have invoked Standing Order No. 97. That is what I expected your ruling to be based on. Standing Order 97 clearly states the methodology to be used in events like these. It is not just enough to get a written explanation because this is not the first Question. You can see MPs have been put on the defence by what happened yesterday. It is our legitimate right to insist that we will not be cowed to work at the convenience of the Executive and this point must be heard clearly because Parliament is supreme, and that supremacy must be respected if positions change---

This is not the first Parliament that I have been. I personally will not be cowed into submitting to the wishes of anybody on the side of the Executive because we will play our legitimate role of oversight. This thing must be taken seriously. Therefore, I expect you to make a ruling on the basis of what Standing Order No. 97 says in this glaring disregard to Parliamentary privilege.

**The Temporary Deputy Speaker** (Prof. Kaloki): Thank you, hon. Keynan. Your concern is valid. So I have already directed the Minister to provide a written explanation as to why he or his deputy is not here to answer this Question. I agree with you that these Ministers on the side of the Government should take parliamentary business seriously. Mr. Kimunya has already given an undertaking that he will convey the concerns of the House to the Minister. Hon. Members, you will have the opportunity to raise your concerns next Tuesday. So, let us rest that issue there. Hon. Keynan, let us rest the issue there.

Next Order!

## STATEMENTS

### POINT OF ORDER

#### DIFFICULTIES IN ACQUIRING BIRTH CERTIFICATES FOR STUDENTS

**Mr. Wamalwa:** Mr. Temporary Deputy Speaker, Sir, I wish to request for a Ministerial Statement from the Ministry of Education on the problem of acquisition of birth certificates by both parents and students in view of the the fast approaching 30<sup>th</sup> June, 2010 deadline. In his Statement, I would like the Minister to address the need for postponement of 30<sup>th</sup> June, deadline to avoid many students missing out on registration up to a later date in the year or even suspending this until next year in view of the delays in processing of the birth certificates and the limited time left before the deadline.

Mr. Temporary Deputy Speaker, Sir, I would also like the Minister, in his Statement, to indicate what has been done to liaise with the Ministry of State for Immigration and Registration of Persons to facilitate decentralization of the on-going exercise to the respective schools, to use school heads as registration agents so that the process will be decentralized to the divisions and locations to ease congestion at the district headquarters.

Finally, Mr. Temporary Deputy Speaker, Sir, I would like the Minister to also issue a circular in the meantime to the principals to stop sending away students from schools for lack of these birth certificates.

Thank you, Mr. Temporary Deputy Speaker, Sir.

**The Temporary Deputy Speaker** (Prof. Kaloki): Thank you very much, hon. Wamalwa. Now we go to another Statement by hon. Mbadi.

#### STEPS TAKEN TO RECLAIM MIGINGO ISLAND

**Mr. Mbadi:** Thank you, Mr. Temporary Deputy Speaker, Sir. Sometimes back, I think more than a month ago, I sought a Ministerial Statement from my friend, the Minister for Foreign Affairs, with regard to the steps they had taken to reclaim Migingo Island, which is illegally occupied by Ugandan forces. To date, I have not received the Statement. Since the Minister is in the House today, I would request that he gives that Statement; being a very good

friend of mine and knowing my suffering, he does not like my suffering and, by extension, the suffering of my constituents.

Thank you, Mr. Temporary Deputy Speaker, Sir.

**The Minister for Foreign Affairs** (Mr. Wetangula): Thank you, Mr. Temporary Deputy Speaker, Sir. I am sorry to the House that I do not have the Statement ready, but it is ready and available at the office. If you give us time up to early next week, either myself or my Assistant Minister will come and deliver it. I seek the indulgence of my honourable good friend.

**The Temporary Deputy Speaker** (Prof. Kaloki): Hon. Minister, when; Tuesday, Wednesday or Thursday?

**The Minister for Foreign Affairs** (Mr. Wetangula): Can we do it on Wednesday, Mr. Temporary Deputy Speaker, Sir?

**The Temporary Deputy Speaker** (Prof. Kaloki): Okay. Hon. Mbadi, are you satisfied with that?

**Mr. Mbadi:** Mr. Temporary Deputy Speaker, Sir, since the Statement is ready, could he give it on Tuesday afternoon then? It is just a difference of one day. I hope that this time, my friend will give the Statement.

**The Minister for Foreign Affairs** (Mr. Wetangula): Mr. Temporary Deputy Speaker, Sir, Tuesday is not good since I will be away in Burundi and my Assistant Minister is not here; I do not know if he will be available. But I know he will be available on Wednesday.

**The Temporary Deputy Speaker** (Prof. Kaloki): Okay. Hon. Mbadi, let us stick to Wednesday. We have already agreed on that.

**Mr. Mbadi:** I agree, Mr. Temporary Deputy Speaker, Sir.

**The Temporary Deputy Speaker** (Prof. Kaloki): Thank you, hon. Mbadi. Yes, Mr. Ochieng?

#### DISBURSEMENTS OF FUNDS FOR FREE PRIMARY EDUCATION

**Mr. Ochieng:** Mr. Temporary Deputy Speaker, Sir, I requested a Ministerial Statement from the Minister for Education in the last session regarding the disbursement of free primary education funds, and up to now the Minister has not come up with a Statement. Could I, please, be guided accordingly?

**The Temporary Deputy Speaker** (Prof. Kaloki): Mr. Minister? Hon. Kimunya, you have been doing very well giving undertakings. Can you---

The Assistant Minister for Education is here! Proceed!

**The Assistant Minister for Education** (Mr. Mwatela): Mr. Temporary Deputy Speaker, Sir, I will attempt to have the Statement delivered next week on Thursday.

**The Temporary Deputy Speaker** (Prof. Kaloki): Mr. Ochieng, is that okay?

**Mr. Ochieng:** Mr. Temporary Deputy Speaker, Sir, I do not have a problem with that.

Thank you very much, Mr. Temporary Deputy Speaker, Sir.

**The Temporary Deputy Speaker** (Prof. Kaloki): Okay. So, we agree on next Thursday. It is so ordered!

Next Order!

#### COMMITTEE OF THE WHOLE HOUSE

*(Order for Committee read)*

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

IN THE COMMITTEE

*[The Temporary Deputy Chairman  
(Mr. Ethuro) took the Chair]*

THE PRICE CONTROL (ESSENTIAL GOODS) BILL

**The Temporary Deputy Chairman** (Mr. Ethuro): Order, hon. Members! Now we are in the Committee of the whole House and the matter before the Committee is the Price Control (Essential Goods) Bill, Bill No. 9 of 2009.

*(Clauses 2, 3,4,5,6 and 7 agreed to)*

*(Title agreed to)*

*(Clause 1 agreed to)*

**Eng. Maina:** Mr. Temporary Deputy Chairman, Sir, I beg to move that the Committee doth report to the House its consideration of The Price Control (Essential Goods) Bill and its approved thereof without amendment

*(Question proposed)*

*(Question put and agreed to)*

*(The House resumed)*

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

**REPORT AND THIRD READING**

THE PRICE CONTROL (ESSENTIAL GOODS) BILL

**The Temporary Deputy Speaker** (Prof. Kaloki): Proceed, hon. Minister!  
I am sorry; proceed, Mr. Chairman!

**Mr. Ethuro:** Thank you, Mr. Temporary Deputy Speaker, Sir, for the temporary promotion to a Minister.

Mr. Temporary Deputy Speaker, Sir, I beg to report that a Committee of the whole House has considered The Price Control (Essential Goods) Bill and approved the same without amendment.

**Eng. Maina:** Mr. Temporary Deputy Speaker, Sir, I beg to move that this House doth agree with the Committee in the said Report.

**Mr. Wamalwa** seconded.

*(Question proposed)*

*(Question put and agreed to)*

**Eng. Maina:** Mr. Temporary Deputy Speaker, Sir, I beg to move The Price Control (Essential Goods) Bill be now read the Third Time.

**Mr. Nyambati:** seconded.

*(Question proposed)*

**The Minister for Trade** (Mr. Kimunya): Mr. Temporary Deputy Speaker, Sir, while appreciating the mood of the House in terms of the sensitivity to escalation of prices, I wish to put on record that the Government is committed to the continued liberalization of the economy. The passage of this Bill by this House would not necessarily mean going back on the liberalization that this country committed itself to from the early 1990s. It should not be seen as a signal to potential investors that Kenya is backtracking on the progressive reforms it has been making. I can appreciate the sensitivity because of escalation of prices and I hope that in the application of this Bill, we will be targeting goods with a lot of care not to send mixed signals to the economy. I hope this House gets that on board as we get into the implementation.

As things stabilize, I would like to invite this House to eventually look at this Bill and put it into the context as we move forward among the communities of nations that have opened up to private sector control, participation, liberalized economies and not send the wrong signals as a country, as part of the East African Community (EAC), Common Market for Eastern and Southern Africa (COMESA) and World Trade Organization (WTO), that we are going back but it is necessitated by specifically, the issues relating to the escalation of prices of essential goods as we saw in 2008 and 2009 and that its application will be with outmost care.

**Ms. Karua:** Mr. Temporary Deputy Speaker, Sir, I want to congratulate the Mover of this Bill and say that it was necessitated by the Government sleeping on the job.

Liberalization without regulation is a disaster. It always leads to disaster. The crashing of the world economy or the financial crisis the countries of the world are trying to come away from is because of failure to regulate the financial sector. This Bill is intended to regulate the issue of prices of essential commodities. The Government has watched without doing anything as food prices escalate beyond the reach of the common man. We can hardly afford goods because of the rising cost of energy which triggers the rising cost of everything including food. What we need to see is regulation not apologies to any investor. The greatest investor in any country is the local population. It is our local population that we must aim at safeguarding.

Mr. Temporary Deputy Speaker, Sir, I would like to invite the Government to quickly ensure that the President assents to this Bill. This is to ensure that the local investor, who is the citizen, gets the protection they need. They should also ensure that we move forward with reviving the economy making sure that the gains do not become a preserve of the few but are spread over to many. This is the way to end inequalities.

I beg to support.

**Mr. Mbadi:** Mr. Temporary Deputy Speaker, Sir, I also want to thank the Mover of this Bill, Eng. Maina. I would also like to allay fears the Minister is putting across. The Bill has a definition of essential goods. So the Minister should not be worried. There is a definition of the goods whose prices we want controlled.

I think it is clear that this Bill came as a result of the frustration of many Kenyans and Members of Parliament because prices of essential goods were sky rocketing and the Government was doing absolutely nothing. Therefore, I agree with Ms. Karua that the Minister should ensure that the President assents to this Bill as fast as possible so that we can rein in on some of these unhealthy practices that some businessmen are involved in.

Mr. Temporary Deputy Speaker, Sir, when the Minister talked about fair competition, I do not think this is fair competition. What we have had in the Kenyan economy is a cartel extorting and exploiting Kenyans.

Look at the petroleum industry, it is just a cartel profiting at the expense of Kenyans to the extent that we have even had a company like the Kenya Power and Lighting Company Ltd. (KPLC) making huge profits at the expense of the economy. This is not a free economy. It is an economy that is being controlled by cartels and the Government has been doing very little.

So, Minister, we appreciate your concerns but we ask and advise you to advise the Executive to assent to this Bill today, if possible.

Thank you.

**The Assistant Minister, Ministry of State for Defence** (Mr. Musila): Mr. Temporary Deputy Speaker, Sir, I start by congratulating my good friend Eng. Maina for this timely Bill. I also want to congratulate hon. Members for passing it. It has stalled for quite a while and the fact that today we have passed it, I think we should all congratulate ourselves.

The idea of removing price controls was noble and good. However, experience has shown that whatever we intended to do to create free economy has not worked. We have managed to create billionaires at the expense of ordinary Kenyans.

Mr. Temporary Deputy Speaker, Sir, I want to join my colleagues in urging that His Excellency the President assents to this Bill immediately. If he does so, I think the first essential good we must target is petroleum. We have suffered at the expense of cartels. We have seen people profiting from the ordinary *mwanauchi*. We have seen people hoarding sugar and importing sugar in order to benefit from *wanauchi*.

Mr. Temporary Deputy Speaker, Sir, I agree that this Bill was necessary and it has been occasioned by the greed of businessmen. It is high time we protected the ordinary Kenyans.

Thank you.

**Mr. Wamalwa:** Mr. Temporary Deputy Speaker, Sir, I also want to join my colleagues in congratulating Eng. Maina for this timely Bill and also hon. Members. It is only yesterday that we were dealing with a Bill here which was brought by Ms. Odhiambo. The Bill was dealing with vulnerable members of our society; women and children who are being trafficked. Today, we are passing a Bill that is also dealing with vulnerable parts of our society, the poor who cannot afford to put a meal on the table. We are talking about a nation whose population - over 50 per cent - is living below the poverty line. In the days of J.M Kariuki, he said that Kenya was a nation of ten millionaires and one million paupers. But today, Kenya is really a nation of about ten billionaires and 40 million paupers. Indeed, this Bill will go a long way in helping people to put food on the table and it is the simple things like cooking oil, sugar and paraffin that the women, people of Kibera and other parts of the country can hardly afford in a country where prices have sky-rocketed; a country where the rich and the poor go to the same supermarkets. Indeed, it is timely and we want to urge the President to assent to this Bill as quickly as possible. Thank you.

**Mr. Nyambati:** Mr. Temporary Deputy Speaker, Sir, I also want to take this opportunity to congratulate Eng. Maina for this very worthy Bill that he has brought to the House. I also want

to concur with my colleagues that it is extremely important that the Minister ensures that the President assents to this Bill.

As a House and a nation, we have failed to take care of the vast majority of this country who live under the poverty line. I want to support the sentiments of Ms. Karua that the Government is sleeping on the job. It is about time that most essential goods that are utilized by our people like food, oil and other things are controlled because Kenyans cannot afford them. Our people have no employment and we must take care of them. A nation which cannot take care of its people; a Government that cannot take care of its vast majority members has no business governing any country. So, I support this and I want to advise the Minister that this is not something to show that we are against the Government. This is something geared to take care of our people. When you go to the rural areas, our people are living in poverty. Those are the same people who go to the supermarkets just like the millionaires that we have. This country must start thinking seriously about the poor people in our rural areas and find ways to cater for them.

With those few remarks, I beg to support.

**Dr. Khalwale:** Mr. Temporary Deputy Speaker, Sir, I want to thank you for giving me this opportunity and, more importantly, I would like to thank Eng. Maina because, just a few months ago, this country sunk so low that the leaders of the nation who should have thought of this wisdom ended up saying that we shall have low grade food for poor Kenyans and better grade food for themselves. That is why in the supermarkets, we found that there was a packet of two-kilogrammes of maize-meal that was going to cost less for the poor Kenyans and better quality for the rich ones.

As if they were not listening, they were faced by wananchi in a rally in Kibera where they were told that they did not need the Constituencies Development Fund (CDF) to be used for putting up toilets because they had no stool in their system to relieve themselves.

*(Applause)*

That humiliation actually reflects what I can collectively say crime against humanity where we have a leadership in the country that is so insensitive to those basics. If you go to our boarding primary and secondary schools, school fees is high, not because of the needs for tuition, but because food is too expensive. So, the heads of schools are forced to raise school fees so as to keep the children in school. Now with this Bill, prices of food will go down, the cost of feeding our children in schools will go down and school fees will go down. What kind of leader would be against this kind of Bill?

Mr. Kimunya, I know you are a man with a lot of exposure in international world trade, but I want to tell you that when you people will be enjoying your whiskeys, we will not be complaining; we will just be talking about *ugali*! When you people will be---

**The Minister for Trade** (Mr. Kimunya): On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the hon. member in order to insinuate that I enjoy whisky when he knows very well that I do not even drink any alcohol?

*(Laughter)*

**Dr. Khalwale:** Mr. Temporary Deputy Speaker, Sir, I would like to urge Mr. Kimunya to be more social so that we can also know his social habits. Since he does not normally socialize with us, we would not know these things!

I would like to conclude by saying that, maybe, some people might misunderstand us. We support the ideology of liberalization of the economy; we support it fully, but as we do so, we must continuously be sensitive to the needs of the poor of this country, so that we do not go rogue and start thinking that the economy is only for the benefit of the rich members of society.

With those few remarks, I beg to support.

**Mr. Njuguna:** Mr. Temporary Deputy Speaker, Sir, once again, thank you for giving me this opportunity to contribute to this very timely Bill that has been presented to the House by Eng. Maina. It is high time that price controls are implemented in this country. Most of the rural folk are not able to afford that small cost of buying a litre of kerosene because the cost of kerosene has really gone up tremendously. It is the wish of the common man to enjoy that commodity. Even the common man is not in a position to afford that staple food; maize and others. That is because the prices are very prohibitive. Therefore, this Bill is geared to improving the welfare of the vulnerable in the society. Even the elderly are not able to buy half a kilogramme of sugar or a packet of milk. But if the price control is implemented, the elderly will be able to access them. The quality of our people in this society will improve tremendously.

Mr. Temporary Deputy Speaker, Sir, you will recall that we allowed some money to be given to the aged in this nation at a rate of Kshs1,500. It is very sad to realize that up to now, only 44 constituencies are enjoying that facility. We want the Minister in charge of that Ministry to make sure that the other 166 constituencies are given those funds. You will also sympathize with the plight of IDPs who have not been settled even now. They cannot access food or kerosene and, therefore, it is very important that this Bill goes through. The IDPs who have not been settled by our Government will afford some of those commodities.

Even the *matatu* industry has become very expensive. A person wishing to visit a patient at Kenyatta National Hospital (KNH) cannot reach it because the bus fare is very prohibitive. But once we bring down the cost of petroleum products, everybody will be happy. We will be able to visit our families and the society will become prosperous. Every *mwananchi* will be supportive of this Government. Therefore, it is important that without any hesitation, we support this very important Bill.

With those few remarks, I support the Bill.

**The Temporary Deputy Speaker** (Prof. Kaloki): Hon. Ochieng, please restrict your contribution because now we are almost putting the Question.

**Mr. Ochieng:** Mr. Temporary Deputy Speaker, Sir, I want to take this opportunity to thank the Mover of this Bill for bringing up this important Bill. The prices of basic food items have been skyrocketing almost every day. If you go to supermarkets like Uchumi you will find a 2-kilogramme packet of *Unga* selling much cheaper than it sells at Nakumatt and other outlets. You wonder why these prices have been varying to that extent. This is because of a few individuals who come in to exploit our people who do not have proper income.

I think it is high time the Government moved in to regulate some of these prices. When you go to some of these fuel stations like those of the National Oil Corporation, you will find that fuel there is cheaper than in other fueling stations and you wonder the logic that they apply since they source fuel from the same place.

Mr. Temporary Deputy Speaker, Sir, this Bill will go to a great extent in assisting our people to afford basic needs, and the number of people who go hungry day by day will go down. I know the Government has been subsidizing the cost of fertilizer. If this is the case, we wonder why is the prices of food commodities that are grown using fertilizer keep on going up. Is it not



because of the few people who take advantage of this to steal from Kenyans? It is high time the Government came in and regulated some of these prices for the benefit of our people.

For some of us hon. Members, who are pushing this Bill to go through it will be a plus to our people. We represent people who actually live below the poverty line. We want to make sure that everybody enjoys, if not three meals a day, at least one meal a day.

Mr. Temporary Deputy Speaker, Sir, I beg to support.

**Mr. Waititu:** Thank you, Mr. Temporary Deputy Speaker, Sir. I wish to thank the Mover of the Bill and also wish to support the Bill. This Bill will go a long way in improving the lives of our poor Kenyans, because most of them cannot afford the essential goods. This will ensure that most of the goods are affordable by everybody in the country.

I wish the Bill could have also included essential services. There are some services in this country which are essential. An example is a Certificate of Good Conduct for our unemployed lot. That service should be made very cheap. Right now, in order for somebody to attain a Certificate of Good Conduct, one is required to pay Kshs1,000, yet most of the applicants are unemployed. Such a service should cost around Kshs100. If we had amended this Bill to include essential services also, that would have also gone a long way in improving the lives of our people.

Mr. Temporary Deputy Speaker, Sir, some of our hospitals are also very expensive to some of our people. Some of our people from the slums find it expensive to seek medical attention at Kenyatta National Hospital. The cost of such a service should be controlled, so that everybody can afford medical services.

There is also the mortuary fee, which is very high to some of these people. They go around holding *harambees* so that they can raise money to collect their dead from the mortuaries. Such a service should be made to be very cheap in this country because even the poor die. The ones who are left behind to bury their dead are also very poor. This service should be made affordable to everybody. Therefore, I wish the Mover could have included essential services in the Bill, so that life can be easy and affordable for everybody in this country.

I support the Bill.

**The Temporary Deputy Speaker** (Prof. Kaloki): Hon. Members, we are not debating. So, let us restrict ourselves to at least a minute of contribution.

**Mr. Ethuro:** Thank you, for finally catching my eye. It has been a long search for that eyesight.

First, I want to congratulate Eng. Maina for bringing this Bill. Ordinarily, as a trained economist, I would not go for controlling prices. As my colleagues have said previously, the Government has been sleeping on the job; Kenyans have been suffering because of skyrocketing food prices, yet food is a right. As we work towards a new dispensation in this nation, it is important that we assure the citizens of this Republic that they have a right of access to affordable food, because that is what will sustain them.

In my village, known as Lomil they asked me one time, how come that the prices are getting higher? A few years ago in high school, I heard people from Central Province singing: "Chumvi ni kilo. Sukari ni kilo". It meant that the price of everything has become exorbitant.

I am happy that Eng. Maina, with all his great ability to afford essential goods, he has been able to introduce a measure to make prices affordable. I think we are speaking to the country as a Parliament. This Government has continuously allowed profiteers, marketeers and capitalists to ruin this country. The Barclays Bank gets the highest returns in Africa while back in England its ability to make a profit is controlled. The Minister for Finance will confirm that.

This is a country where you will borrow a loan and the interest will be ten times the principal amount.

When we brought a Bill here in Parliament the owners of capital fought us. This is why we are telling the hon. Ministers present: It is your job to ask the President to assent to this Bill immediately. If he does not and you did not raise even a single amendment, this House will make this Bill pass, whether the President or the Prime Minister likes it or not.

Thank you, Mr. Temporary Deputy Speaker, Sir.

**Mr. Wambugu:** Thank you, Mr. Temporary Deputy Speaker, Sir. I also want to take the opportunity to congratulate the hon. Member who brought this Motion. It was actually long overdue because of the conditions that are in this country, especially on the price of essential goods.

You will remember that this country has suffered a lot from prices which have not been regulated for a long time. That is why we wish to say that the hon. Member who brought this Bill to the House did quite some good work, especially so on essential goods like food commodities, which most of our people in this country have not been able to afford. That is why you find that some time last year the country was almost going into chaos.

As we continue discussing this, we need to note that price changes normally come in because of the demand of a commodity. This is because of the demand and supply; this is especially so for maize. It was very nice early this year when we heard that the Ministry of Agriculture had moved to produce a lot of food within Hola. Unfortunately the same Government did not take measures to make sure that the food reached the food market. We would like the Government to have proper measures in place to make sure that any time we have food that has been produced it---

**The Temporary Deputy Speaker** (Prof. Kaloki): Hon. Member, are you supporting the Bill?

**Mr. Wambugu:** Yes, Mr. Temporary Deputy Speaker, Sir.

**The Temporary Deputy Speaker** (Prof. Kaloki): Could you do that in the interest of time?

**Mr. Wambugu:** With those few remarks, I support the Motion.

**Mr. Ruteere:** Mr. Temporary Deputy Speaker, Sir, I want to start by thanking the Mover of this Bill, Eng. Maina.

In this country people will know that there was a Member of Parliament who had the interest of people at heart and brought this Bill. People are now guaranteed food. There is hope restored where there was no hope. We are happy that the Government did not bring a single amendment. We are sure that if the President assents to this Bill immediately, our people will access food easily. They can buy food with the little that they have and they can live comfortably. They will be able to feed themselves and families.

I also wish to request that poor and aged people in slum areas to be given enough money to take care of themselves.

With those few remarks, I support the Bill.

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

**Dr. Monda:** Mr. Temporary Deputy Speaker, Sir, may I correct you that I am hon. Dr. Monda, Member for Nyaribari Chache. Hon. Ombui is Member for North Mugirango/Borabu.

I stand also to add my voice to this very important Bill. At this particular time, Parliament has addressed itself to the concerns of the Kenyan population. Majority of Kenyans cannot

access essential commodities such as food and drugs even when they are unwell. I want to also mention that---

**The Temporary Deputy Speaker** (Prof. Kaloki): Order, hon. Member! In the interest of time, you just have to support.

**Dr. Monda:** Mr. Temporary Deputy Speaker, Sir, I beg to support the Bill.

**Eng. Maina:** Mr. Temporary Deputy Speaker, Sir, I want to thank Members of this House for supporting this Bill.

I want to dispel any feeling that the passage of this Bill will bring restriction. This Bill has been necessitated by the saddening situation in this country. We cannot have a secure country as long as ordinary Kenyans cannot feed themselves. We cannot be talking of development when essential commodities are not affordable to ordinary Kenyans.

Mr. Temporary Deputy Speaker, Sir, there is no doubt that all efforts have failed in the past. Secondly, let us allow forces of demand and supply to work. There is no country in this world, America included that does not have what we call Anti-Monopoly Act. That Anti-Monopoly Act is nothing else, but a Bill like this one.

Once again, I thank the Members and hope that the Government will see the intention of this Bill and get His Excellency to assent to it. This House which is the representative of the people has spoken. The Government should tell everybody outside there who is thinking otherwise that Kenyans cannot have it any more and we must do something. We should bring some regulations which will bring some normality in the market.

Mr. Temporary Deputy Speaker, Sir, I am a businessman. I believe in making money. However, I do not believe in making money at the expense of the lives of the people. Kenyans have been dying for lack of food. Kenyans have even witnessed that international prices are going down, but our prices are going up.

I hope our Government will hear the voice of the suffering Kenyans and assent to this Bill. We want Kenya to become a country of law and order where everybody can afford a life of decency. We, as leaders, want one day to go to heaven. We do not want to be condemned as leaders who let their subjects suffer without doing anything.

With those few remarks, I beg to move.

*(Question put and agreed to)*

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

## **MOTION**

### **ADOPTION OF REPORT ON APPOINTMENT OF DIRECTOR/ASSISTANT DIRECTORS TO KACC**

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

*(Mr. Were on 16.6.2009)*

*(Resumption of Debate interrupted  
on 22.06.2010 )*

**The Temporary Deputy Speaker** (Prof. Kaloki): Hon. Nyambati, you were contributing yesterday. Please, continue.

**Mr. Nyambati:** Thank you, Mr. Temporary Speaker, Sir, for allowing me to continue. I am contributing from where I left.

As in all Committees of Parliament, our Committee derives its mandate from Standing No.198. This Standing Order mandates us to investigate and inquire on all matters of management, operation and administration. These are matters to do with the public. It is extremely important for this House to realize that it is the engine of our nation. Our primary duty is to ensure that fairness, accountability and transparency are practised in our public institutions.

Those of us who hold positions of power must continue to fight for those basic needs which form the fabric of the society. Parliament must be seen to be in the front line in accomplishing this task. It is, therefore, important that this House, at all times, takes the interest of Kenyans at heart. It must give all qualified Kenyans an opportunity to serve in public institutions. For this reason, this Committee is asking this House to support adoption of the Report of the Departmental Committee on Transport, Public works and Housing.

As I was saying yesterday, there was no fairness practised in the process. We are talking about the process and not the individual. The Government must take note that if this House does not practise fairness or is not seen to give Kenyans an equal opportunity then we have no business being here. That fairness must start here. We are saying that fairness must be practised. I want to give an example.

An advert to hire one of the most important Chief Executive Officers of our parastatal lasted only five days until the day of the interview. There must have been something seriously wrong. If you are given five days to apply and then called for the interview on the fifth day, surely there is something seriously wrong. If anybody in his right mind can really support this kind of propagation, I do not know where this country is heading to. We must give Kenyans be it our children or citizen equal opportunity so that a Borana, Luo, Kisii, Kamba and so on can apply for the job if he or she is qualified. We should not be seen to be giving opportunities selectively to certain individuals. I want to stress that it is the wish of this Committee that this process starts again so that fairness is seen to be done and there is accountability. Every Kenyan who wishes to participate should be given an opportunity to do so.

This process, if you look at the Report had many controversies. From the word go, the Board had a problem with the way it was done. The first advert was done without consulting the Board, and the Board had to cancel it. If you look at the marking system that was employed, you will realise that it was totally wrong. If, indeed, proper short-listing was done, then you would not find the first candidate getting 90 marks and the next one getting 50 marks or 60 marks. It means something was seriously wrong. We do not want to tailor opportunities for individuals. We want to make sure that Kenyans are given equal opportunity to participate in whatever public appointments there are in this country. The Executive must take note that this country is yearning for fairness. This country is crying for equal opportunities. We must give this to our children.

Mr. Temporary Deputy Speaker, Sir, I support the Motion.

**Mr. Waititu:** Mr. Temporary Deputy Speaker, Sir, I rise to oppose this Motion. I want to start by stating clearly that the airport is in my constituency and 80 per cent of the people who work there are my constituents. Therefore, the welfare of the airport is of great concern to the people of Embakasi and the truth must be stated.

Cap. 395 of the Laws of Kenya clearly states that the Minister has the right to appoint the Managing Director with the advice from the Board which has its own criteria of appointing someone. It is not a condition that they must do interviews. However, in this case, the Board decided to conduct an interview and 152 people turned up for the interview. The person who got 91 points and succeeded was an engineer who was employed in that parastatal 31 years ago as a junior engineer. He rose through the ranks to become the Chief Engineer of the Kenya Airports Authority (KAA). By any standard, that person is the right candidate for that job. If we want to practise fairness, we can only respect what was done in that parastatal. I wish this Committee could get the information from the ground. The staff of the KAA supports the new Managing Director because they strongly believe that he is the right person for that job. Recently, we witnessed the staff of the Nairobi Water Company go on strike in order to stand with their Managing Director. We do not want to see that happening at the KAA. It will be a big embarrassment to Parliamentarians because of interfering in the affairs of the KAA.

Mr. Temporary Deputy Speaker, Sir, perhaps, this Committee did not have all the information. They could backtrack on what they intend to do and remove that notion that maybe they are fighting this person because of ethnicity. Why should they refuse somebody who has an experience of 31 years and was employed as a junior engineer and rose through the ranks? Is it just because a certain name did not succeed?

**Mr. Nyambati:** On a point of order, Mr. Temporary Deputy Speaker, Sir. I think it is wrong for the Member to mislead this House. There is nowhere we have insinuated the issue of ethnicity. What this Committee is saying is that we give fairness to all Kenyans. Is the hon. Member in order to bring in tribal sentiments in order to garner support?

**The Temporary Deputy Speaker** (Prof. Kaloki): Mr. Waititu, I think that is a valid point of order. Could you, please, withdraw that remark?

**Mr. Waititu:** Mr. Temporary Deputy Speaker, Sir, I withdraw and apologise.

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

**Mr. Waititu:** Mr. Temporary Deputy Speaker, Sir, considering the fact that 152 people attended the interview, it shows that everybody knew that there was an interview. Honestly speaking, what better interview do people want and yet 152 people attended the interview? The interview was advertised in the newspapers. Furthermore, that was not even a condition for the Minister to appoint the Managing Director.

The law was not broken in the appointment of the current Managing Director. CAP.395 properly states that the Minister is supposed to appoint the Managing Director with the advice of the Board. That is exactly what he did. What law was broken? The Departmental Committee should be stating that a certain law was broken and this-and-that should be done. Honestly, we want to tell this Committee that we must respect the fact that other people are sometimes qualified than others and they are the right persons to take the job. In this case, the right person took the job and we appreciate it. We wish him well and I think after some time the Committee will appreciate the good work of that Managing Director. Otherwise, I oppose the Motion.

**Mr. Mbadi:** Mr. Temporary Deputy Speaker, Sir, usually, I like supporting the reports of Committees of Parliament, because they are part of us, but I have a difficulty in supporting this Report. Actually, I have to oppose it. Why do I say so? If you look at the recommendations of

the Committee, they talk about violation of the law. If you read the entire Report, there is nowhere they have cited the specific provisions of law that were violated. As a House, I believe it is important that if you are making recommendations, especially touching on a major decision as this one, you need to be specific about the law that was violated and explain how it was violated.

Mr. Temporary Deputy Speaker, Sir, if you read the Kenya Airports Authority (KAA) Act on the appointment of the Managing Director, it only says “there shall be a Managing Director of the Authority who shall be appointed by the Minister after consultation with the Board.” The question which arises is: Did the Minister appoint a Managing Director? If yes, was it in consultation with the Board? There is no specification on how this consultation should be arrived at. So, if the Committee wanted us really to support this Report, they should have told us specifically how the law was violated. We have had similar cases before in this House, where this Parliament has questioned appointments, many of which we have recommended and even challenged the Chief Executive of this country, but rightly so, backed by specific provisions of the law. We have even in the recent past – I think one week ago – recommended the reappointment of a Managing Director of a parastatal under the Ministry of Medical Services, but you could see from the Report of the Committee that they specifically provided the law that was violated. But in this case, there is lack of that provision.

Mr. Temporary Deputy Speaker, Sir, the arguments advanced by my colleagues, especially from that Committee, do not convince me, as a Member of Parliament. First, about the number of days of the advertisement, I thought that this was a re-advertisement. Even so, you could see from the number of applications. A total of 152 applications for such a senior position are sufficient to arrive at a qualified person to man the parastatal. So, I have no problem with the five days, because this is a position of a Chief Executive Officer. It is not a position of a cleaner whom you are going to get from Gwasi Village or in the village where there are no newspapers or radios. A person who is supposed to apply for the position of Managing Director, KAA, should be someone who has a laptop for 24 hours, unless you do not know the position that was being advertised.

Mr. Temporary Deputy Speaker, Sir, secondly, someone talked about a telephone interview. Some of us have gone through so many telephone interviews even from outside the country for equally very senior positions. I think we need to live with the current human resource practice in this country. This is a current trend. We are moving away from physical presence. We are towards Information Technology way, as Eng. Rege would tell you. There are various ways of interviewing.

Mr. Temporary Deputy Speaker, Sir, the one that really has not gone down well with me is the one that touches on ethnicity. I think it is not my mistake to be born a Luo or Suba for that matter. If we are only going to sacrifice Mr. Gichuki because of some ethnicity--- Personally, I believe that I am a young and progressive leader and I would not support that. Thank God I do not share a tribe with Mr. Gichuki, because if I did somebody would have accused me of doing the same. I do not share that ethnicity and because I am seeing some trends that probably will haunt us even for a long time in this country. I would urge this House to delink ethnicity from our work, if we want to maintain the respect as the supreme organ of this country. Let us try as much and possible to do this.

Mr. Temporary Deputy Speaker, Sir, lastly, I am one of those people who do not support sentiments from the Executive; that the Legislature is interfering with the work of the Executive.

But in the process of discharging our duties, we should also try to be within our mandate, or else we result in what would be termed as witch-hunt and not Parliamentary work. Thank you.

Mr. Temporary Deputy Speaker, Sir, I beg to oppose.

**The Assistant Minister, Ministry of State for Defence** (Mr. Musila): Thank you, Mr. Temporary Deputy Speaker, Sir. From the outset, I want to say that I have a lot of respect for the Committees of this House and moreso, this particular Committee knowing the calibre of hon. Members of this Committee, headed by my very good friend, Mr. Were.

Mr. Temporary Deputy Speaker, Sir, having said that, I have problems, like hon. Mbadi, in supporting the recommendations of this Committee. I say so because I am on record as a man who does not favour any side in as far as these things are concerned. If there was a case, as the Committee was making it, I would be the first person to support it. In fact, I read this Report three times to try to understand the issues the Committee was raising, but I could not get them. The process that was used by the Board was very clear. Through Manpower Services Limited, they advertised the position. It was a re-advertisement. The Committee argues that it was done for five days, but as it has been argued by hon. Mbadi, five days are more than enough today. We have moved from the old days where you had to advertise for 14 days, because they were days of newspaper advertisements. We are told that this job was actually available in the KAA website. Therefore, five days was obviously more than sufficient. We are also told in the Report that the Board had instructed Manpower Services Limited, which by the way is a professional firm that has been properly contracted by the KAA Board to recruit staff for them, to select six. They received over 150 applications. So, when the Committee says that it wants all Kenyans to be given an opportunity, 150 applicants for a Chief Executive Officer's job are all Kenyans. The Manpower Services Limited was told to select six but since there were two members of staff who were interested in this position, they increased the number to eight. That was not enough. They set the questions and the Board said that every applicant must be asked the same questions to be fair. On the day of the interview, only four candidates were present. Again, the Board, to show that it was concerned about fairness, postponed interviews until the following day when all candidates would be available. So, the Board was very keen to conduct a very fair selection.

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

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

Mr. Temporary Deputy Speaker, Sir, the Committee has said that it suspects that the markings were skewed in favour of one candidate, but this man called Mr. Gichuki – and I want to declare here that I do not know him – scored 91 per cent. That is the only mistake he made, because the one following him scored 61 per cent. Are we going to penalize Mr. Gichuki because he outsmarted all the other candidates and got 91 per cent? I do not think so. It appears to me, without going very far, that the Board went even beyond the requirements because they wanted, when the Minister appoints an MD of that important parastatal, to have good reasons to recommend that candidate.

The Committee recommends that this exercise be repeated. What purpose would it serve? What are we going to achieve by repeating the exercise? The same directors will conduct the interviews. Probably, the same candidates will be interviewed. Hopefully, Mr. Gichuki will score

more than 91 per cent. So, with a lot of respect to my very good friends, I think proper procedure was followed in appointing the CEO. I understand that since then, the Minister has followed the Board's recommendations and appointed Mr. Gichuki as a substantive CEO.

That is a very important parastatal as the Committee has said. At the moment, our gateway and the hub of Nairobi is suffering from infrastructural development. I think it is high time that this House supports the appointment of that apparently bright CEO so that he can carry out the programmes geared towards the improvement of the Jomo Kenyatta International Airport and other airports in this country. That way, we will move forward. Therefore, I humbly ask the Committee to see the sense and let the House allow the appointment of Mr. Gichuki to stay, so that he can carry out the work that he has been mandated to do.

I, therefore, regret to say that I do not support the Committee's recommendations.

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

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

**Eng. Rege:** Thank you, Mr. Temporary Deputy Speaker, Sir for giving me the opportunity to oppose this Motion. I have very few words to add. If the Board recommended Mr. Gichuki to be the MD and the Minister concurred, I do not see any problem with that. That is what the Prime Minister talked about yesterday. He talked about hon. Members interfering with the Executive. If the Committee Members thought that the law was inadequate, they should proceed to amend it.

Therefore, I oppose the Motion and things should remain the way they were decided by the Minister.

**Ms. Abdalla:** Thank you, Mr. Temporary Deputy Speaker, Sir. As my colleagues have done, I beg to regrettably oppose the Report from the Committee on the recruitment of the Kenya Airports Authority (KAA) Director. The question I asked myself was answered by the Mover of the Report when he told the House that it was clear that the law was not broken, and that the Minister had a choice to promote someone internally.

This is the first time some resemblance of transparent recruitment is happening at KAA. The last three directors have been political appointees. Due to the transition that this country is going through, where we are now going through transparent processes of recruiting our CEOs, we are bound to have some teething problems. But, nonetheless, that does not nullify the fact that the law was not broken. We have enough cases of Ministers flouting recruitment procedures as stipulated in the law. In this case, the law was not broken. In fact, the only argument that the Committee put forth was the five days which was thoroughly demolished by hon. Mbadi. These days, you are called on interviews depending on the level of the job you are applying. So, the argument of five days does not hold water and more so, this is a repeat advert.

One of the functions of a human resource firm is to keep a data base of the caliber of people you are looking for. So, the firm would have communicated to those who did not see the advert to apply. So, I believe that the five day issue does not hold any water. I am concerned about the recommendation that was made by this Committee on the competence of Manpower Services. Manpower Services is the firm that gave us all the members of the Commissions that this House passed. So, in that sense, you are saying that their competence is in question. You are



saying that all the Commissions that are going to carry out the referendum and the proposed Constitution are incompetent.

However, more importantly, I served in the Parliamentary Select Committee on the Review of the Constitution (PSC). One of the things that we noticed is that when we advertized for an HR firm to do the recruitments that we were dealing with, among the top five, only two applied. When they were asked, they told us that they were fearful of dealing with processes that have political involvements, especially from politicians. So, when we are criticizing a HR firm, we better have more strong arguments against their actions that would be used to discredit their credibility and put them out of business; that, recommendations need to be looked at afresh.

The Seconder of the Motion dealt with another matter which was totally unacceptable and which I support. He said that eight out of 11 members of the Board come from one region, and he had an issue with that. Yes, that is an equal opportunity issue and it should be addressed. That Board needs to show the face of Kenya. However, that is separate from when somebody has gone through an interview process and scores 90 per cent. It is obvious that when you have been a teacher in a certain school and you know everything that is wrong in that school, you will definitely be able to answer questions better than outsiders or people with less experience. However, for you to say that the current MD scored 90 per cent shows that we got an extremely qualified person and meritocracy is what has been used to appoint the person.

On a larger scale, if the new Constitution passes and I hope it does, we will be doing a lot of vetting. We should not start shooting ourselves in the feet by showing that we do selective vetting by coming up with recommendations that are not supported even in the body of our Report.

With those few remarks, I beg to oppose.

**The Assistant Minister for Higher Education, Science and Technology (Dr. Mwiria):** Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to also oppose the recommendations of this Committee. I have several reasons for that. First, although it is good for parliamentary committees of this House to raise issues on matters that relate to transparency, especially with regard to recruitment to senior positions in this country, we also have to be careful about the implication of politicizing some of the decisions.

Firstly, I think there have been complaints about lack of stability at KAA. If you remember, the former MD's contract was renewed twice or thrice. There was anxiety and Kenyans were saying that it is good to deal with the issue once and for all, so that we can have stability at KAA. We are not making that stability possible by continually, as Members of Parliament, delaying the process of identifying the person who would comfortably sit on the seat.

Secondly, I think we should also ask ourselves what are the implications of that to the Board that did the appointment. Again, there are issues of stability, confidence and also in terms of the feeling that they can comfortably sit down and perform the duties for which they were appointed.

Mr. Temporary Deputy Speaker, Sir, thirdly, there is the whole issue of experience. There is no doubt that at this time in this country, if we have people who have the experience that is required to perform a task, and if they happen to have the qualifications, it is important that we support them, especially if they have not been beneficiaries of a process that is fraud.

Fourthly, it is important for us also not to view everything from the point of vested interests. I am not saying that these vested interests are ethnic or gender related. There could be vested interests in terms of us wanting to have certain candidates to have applied for the job and push them. This is a disease that has become very common in this country. So, if a particular

candidate for whom we have vested interest in, did not qualify or did not apply for the position, it is unfair to penalize those who went through the process.

Fifthly, I have a quarrel, like some other Members of Parliament about the duration of the advertisement of five days. But I have learnt from the Minister and others who are familiar with the process of this recruitment that, in fact, this advertisement was posted on the website from January. So, although the actual physical advertisement in the newspapers was five days, those who were interested and are familiar with matters at the KAA - and I am sure people must have known because the issue about the renewal of the contract has been a subject of debate for the last four years - already had the opportunity to know and to respond to that advertisement. These days, if you are not IT complaint and you are not able to go to the website and follow advertisements and any other information, then I must say that you would be the wrong person for this kind of job.

Finally, it is important to ask whether the person has the minimum qualifications. It is clear he has. I must say that I am lucky that I met him sometimes over another matter regarding an airport that is being built in Isiolo. He seems to be the kind of person that we would like for this kind of job. He is professionally qualified, articulate and he clearly knows what he is talking about when it comes to matters of the KAA.

I would like to propose, therefore, that we get ahead with the business of confirming this Managing Director, but ask issues about amending the law to be similar to other laws related to the recruitment processes where we do not leave it to politicians to decide who has to occupy senior positions in this country. As it has been said before, the Constitution will take care of this. So, for the time being, because the law allows the Minister to do it as he did, we should just approve this, but insist that, in the future, or as soon as we are done with this matter, we amend the law accordingly.

With those few remarks, I oppose.

**Dr. Monda:** Thank you very much, Mr. Temporary Deputy Speaker, Sir. I stand also to air my views in opposing this report. This is not common with my conduct of business in the House. However, when I look at this report, I find for once, the Executive has acted within the guidelines stipulated in the law. I do not find anywhere in the report where the State Corporations guidelines or the law being broken. Therefore, there is clear indication that the Executive and the Minister followed the correct procedure in advertising this position. Interviews were done and consultations with the Board were held as the procedure stipulates. Therefore, the Minister appointed the Managing Director within the law.

Allow me to indicate that if there are any shortcomings in the law with regard to the appointment of chief executives of parastatals and, in particular the KAA, then we need, as Parliament, to come up with proposals for amendment of the law and do not base our recommendations in our reports on any other issues. Allow me to talk about the five days. If the five day period of the advertisement was good enough to attract over 150 candidates and this is not stipulated in the law, then, even if the period was one day, it does not affect the procedure. The procedure was followed and the appointment, according to my position, was procedural.

**Mr. Magwanga:** On a point of order, Mr. Temporary Deputy Speaker, Sir. By gauging the mood of the House, would I be in order to ask that you call the Mover to reply?

**The Temporary Deputy Speaker** (Mr. Ethuro): I am also aware of the same mood, but the Minister is always at liberty to contribute and he has been standing up. So, after Dr. Monda, then I will give the chance to the Minister.

**Dr. Monda:** Thank you, Mr. Temporary Deputy Speaker, Sir, for protecting me, so that I can conclude. Allow me to talk about the kind of direction the country is taking. We, as Parliament, divide ourselves in the middle, in the sense that we tend to lean towards ethnicity and regional reactions. I want to be very clear here that we, as a Parliament, should show independence and transparency that is expected of a Parliament, so that our debates here do not reflect where our roots are.

Mr. Temporary Deputy Speaker, Sir, the appointment of the current Managing Director is within the law and I want to oppose this report.

**The Minister for Trade** (Mr. Kimunya): Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to join the Members in, sadly, opposing the report of the Committee. I wish to thank the various Members who have contributed. It is very clear that Members are not quite happy with the report. I really want to thank them for the manner in which they have articulated the issues in the report.

I also want to thank the Committee for having taken the issue seriously when it was raised before it. The Committee did not just come from the air and start investigating the issue. The matters were raised before the Committee and it took them seriously. The Committee conducted meetings with the management and the Ministry and has, as a result, come up with this report. The only issue that we have is really what the Committee was investigating. That is the point of departure because the Committee seems to have started interrogating a process of identifying names to then be used as part of the consultation. The Board of the KAA does not have the mandate to appoint a Managing Director. So, even the process they had started was purely to generate a list of potential candidates to be considered in the consultation process with the Minister. At that point when the confusion came, we started interrogating a consultative process rather than a recruitment process. Then the report that has come has been premised on the wrong assumptions.

Mr. Temporary Deputy Speaker, Sir, just for the record, the KAA was set up by the Government through this Parliament. So, it is this Parliament that defined, through Cap.395, how the KAA will be run, how it will function and, indeed, how its offices will be filled. Section 6 of the Act is very clear. As it has been articulated by the Members, that appointment of the Managing Director shall be by the Minister after consultation with the Board. This consultation could take many forms. The Minister could well have called the Board and said: "I would like to appoint Mr. So and So, as the Managing Director. Does any of you have an objection?" If there is no objection, it will be documented that consultation has taken place. But in this situation, the Board, in its wisdom, decided to start looking for candidates to present to the Minister as the Minister was also looking for candidates.

I really want to thank the Members because they have covered everything. I do not want to add, but I want to confirm that the following actions have taken place since then. The Minister has appointed a Managing Director (MD) for Kenya Airports Authority (KAA) after consultation with the Board, in accordance with Article 6 of the Act. I also want to confirm to this House that those consultations were extended within the wider Government, including the Office of the Prime Minister, where we also received concurrence. The new MD has already assumed office. I am happy that hon. Members are wishing him well in this endeavour.

Mr. Temporary Deputy Speaker, Sir, if you consider the sentiments that came up yesterday on this Report, you will realise that the quality of this Report is raising a more fundamental question. We do not want to continue blaming the Committee that they have exceeded their mandate. This Report raises a question on the technical support that Committees

are receiving. Had these issues been brought up at the technical support by the Clerk's Office and the Speaker's Office, the Committee would not have been taken through this wild goose chase. It would have been advised: "We are doing the wrong thing. Let us stop here and concentrate on other matters."

The Committee has spent a lot of time and energy, and we are all feeling bad that we have to ask that this Report be rejected because there is no alternative to its withdrawal. I want to thank the Committee for having done what it did. I wish that the Speaker's Office takes the Committees seriously and gives them the technical advice they need, so that we do not challenge Reports of Committees because of their quality. This is something which should have been averted by being given the correct technical advice.

Against this background, I want to, again, thank the Members of the Committee and wish to sadly beg that we reject this Report. I hope that doing so will not stop us from addressing the issues that have been raised, particularly that of ensuring regional balance in the membership of the Boards. I will consider that particular issue as the term of some Board members expire, to ensure that Kenya, the skills and age groups are represented within the various Boards.

With those remarks, I beg to oppose.

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

**The Temporary Deputy Speaker** (Mr. Ethuro): Do you want to reply, Mr. Chairman?

**Mr. Were:** Yes, Mr. Temporary Deputy Speaker, Sir.

**The Temporary Deputy Speaker** (Mr. Ethuro): You are the only one. So, you will reply but, first, I want to assure the Minister that the Chair and the Office of the Speaker always avail opportunities to the Committees. Committees are at liberty to even source expertise from outside Parliament.

Proceed!

**Mr. Were:** Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to respond.

From the outset, I would like to thank all the hon. Members who have contributed to this Motion in either way. I would also like to thank the Minister for his closing remarks. I would want to say that our intention in carrying out the work that we did was purely on the basis of the information that was brought to the Committee to the effect that the process of recruitment of an MD at the KAA had started.

Mr. Temporary Deputy Speaker, Sir, you will agree with me that the KAA is a strategic parastatal in this country. It is a security-related parastatal. It would be very wrong for this Committee of Parliament, which is supposed to be looking into such matters, to hear of an issue of appointment of an MD of a major parastatal like this one and just keep quiet.

We carried out this inquiry because information came out that as the recruitment process had begun, already there was somebody who was earmarked for the job. That is what we were trying to find out. Is it fair to carry out a process when there is already somebody who has been earmarked for the vacancy? That was the question that was disturbing us. Why continue with such a process when there was somebody who was qualified, and who had already been identified for the job?

Why subject Kenyans to interviews when there is already somebody who is earmarked to take the job? That is what was in our mind. If at all there was already somebody who had been identified, why stage-manage an interview? What was the purpose of the interview? Was it

necessary? Was there any necessity to advertise the vacancy and pay Manpower recruitment agency when we already had a candidate? That was the basis on which we were trying to do what we did. That is why we were saying: If that be the case, then the process should be stopped. That was the issue. So, as much as the Board was actually operating within the law, “they were being within the law”.

Mr. Temporary Deputy Speaker, Sir, when the Minister appointed the MD, we expected that the first thing that he would have done would have been to engage the Committee and just find out for himself. Without even being told to do so, he would have engaged the Committee in one meeting and asked: “What is this problem.” Maybe, we would not have reached this stage, if he had engaged the Committee immediately he appointed the MD.

Mr. Temporary Deputy Speaker, Sir, I have heard the Minister and other people say that the KAA is a very strategic parastatal which cannot afford to have an Acting MD. I would want to remind the Minister that even the Kenya Ports Authority is very strategic. I wonder why up to now, he has not done anything. With that kind of speed, we would have expected many other things, including the rise in the number of road accidents to be addressed.

On Madaraka Day, the President said that he was alarmed by the increase in the number of accidents in the country. He even gave orders to the police to ensure that the trend reversed. I have not heard the Minister talk about it. So, if he had handled all other issues with the seriousness he has acted on the issue of appointment of the KAA MD, he would have done very well.

Mr. Temporary Deputy Speaker, Sir, I would like to assure hon. Members that we did not have any specific problems with Mr. Gichuki. Personally, I do not even know him, and I do not have any problem with him. What we were trying to do at that time was meant for that time. Even when I was moving the Motion, I asked: Why did the Minister not just appoint the MD? After all, it had been done in the past. Why stage-manage an interview process and make us believe that there was something going on? That was the issue.

I am very grateful to all the hon. Members who have contributed to the Motion. As it stands, this Report has been overtaken by events but, looking at the issue at that time, I still request the hon. Members who are here to support the Report as it was.

With those remarks, I beg to move.

*(Question put and negatived)*

**The Temporary Deputy Speaker** (Mr. Ethuro): Next Order!

## **MOTION**

ADOPTION OF REPORT ON APPOINTMENT OF DIRECTOR/  
ASSISTANT DIRECTORS TO KACC

**The Temporary Deputy Speaker** (Mr. Ethuro): Chairman of Departmental Committee on Justice and Legal Affairs!

**An hon. Member:** He is not here!

**The Temporary Deputy Speaker** (Mr. Ethuro): Vice-Chairman!

**An hon. Member:** Absent!

**The Temporary Deputy Speaker** (Mr. Ethuro): Do we have any Member of the Committee here?

Hon. Nyamweya!

**Mr. Nyamweya:** Mr. Temporary Deputy Speaker, Sir, I am a Member of the Committee but I am in a bit of a dilemma because I will be opposing this particular Motion. So, I do not see how I can move debate on it.

**Mr. Ethuro:** Order, Ms. Odhiambo, are you moving the Motion on behalf of the Committee? Do you have authority to that effect or are you just filling the space? This is a serious Motion. If you are not ready, there is no harm. We can just conclude the business and move on to the next Order.

Ms. Odhiambo, proceed!

**Ms. Odhiambo:** Mr. Temporary Deputy Speaker, Sir, I beg to move the following Motion:-

THAT, this House adopts the Report of the Departmental Committee on Justice and Legal Affairs on the appointment of the Director and two Assistant Directors to the Kenya Anti-Corruption Commission (KACC) laid on the Table of the House on Thursday 17<sup>th</sup> June, 2010.

Mr. Temporary Deputy Speaker, Sir, I wish to note that the Committee met and looked at the persons that had been presented before it and it passed the report with a minority objection from Mr. Nyamweya. In the process of passing the names of persons who had been forwarded, namely Dr. Patrice LO Lumumba, Mr. Pravin Bowry and Prof. J. K. Onsongo, the Committee sought the advice and opinion of the respective legal entities that are directly concerned with the respective persons. In the case of Patrice Lumumba and Pravin Bowry, we got a report from the Law Society of Kenya (LSK). In the case of Prof. J. K. Onsongo, we got a report from the university. Based on the reports that we received, the Committee decided that they were qualified for the positions that had been advertised. Therefore, the Committee recommends:-

(i) That pursuant to Section 8(3) of the Anti-Corruption and Economic Crimes Act, Act No.3 of 2003, this House approves the following three persons for appointment by His Excellency, the President to the respective positions: Dr. Patrice L.O. Lumumba as the Director; Mr. Pravin Bowry as the Assistant Director - Legal Services; Prof. J. K. Onsongo as the Assistant Director – Education, Research, Policy and Preventive Services.

(ii) That this House urges the Attorney-General to propose appropriate amendments to the Anti-Corruption and Economic Crimes Act No.3 of 2003 and any other relevant statutes to provide for vetting of appointment to senior positions by the National Assembly.

I hereby beg to move.

**The Temporary Deputy Speaker** (Mr. Ethuro): You are seconded by?

**Ms. A. Abdallah:** Mr. Temporary Deputy Speaker, Sir, I beg to second that Motion.

Mr. Temporary Deputy Speaker, Sir, the Committee received the report and one of the issues that---

**The Temporary Deputy Speaker** (Mr. Ethuro): Order! I suppose this is a learning opportunity for some hon. Members. It is in order that Ms. Odhiambo as the Mover of the Motion to also indicate who is seconding. While that is optional and she decided that she will not do it, at least the Mover should indicate it if she does not want to explain more.

**Ms. Odhiambo:** Mr. Temporary Deputy Speaker, Sir, thank you for your direction. The Motion shall be seconded by Ms. A. Abdallah who is a Member of the Committee.

**Ms. A. Abdallah:** Mr. Temporary Deputy Speaker, Sir, the Committee reviewed the report received from the KACC Advisory Board. We asked some questions that would come out

during this debate. One of the questions that we asked on the candidature of Dr. PLO Lumumba was his involvement in seeking for elective office. The Committee concluded, with the exception with the dissent that was recorded that life must go on for people who try to seek for political office and meritocracy should be the deciding factor and not the past of the person, unless that person's action during the process would jeopardize his or her new role. So, the Committee did not find any conflict between the candidate's interest in politics with the position that he was vying for.

Mr. Temporary Deputy Speaker, Sir, on Mr. Pravin Bowry's representation of persons accused of corruption, the Committee felt that the experience that the person would be bringing to the KACC would be an advantage rather than a disadvantage. As a person who has been in each Committee either in recruiting or vetting, one of the things that I personally support for the three candidates is the low level of lobbying in the whole exercise. The issues that we have been dealing with are whether they are competent or not, rather than where they come from. There was no political heavyweight calling Members telling them that this is the right person. Because these people have reached this far and the low levels of lobbying for the support of their candidature, I believe that this is the way we should go. Persons who seek for offices should not lobby so that we are not confused with the extra information that sometimes comes up during the process and is not helpful.

I also want to note that even our colleague who registered dissent did not provide us with information to contradict the competence of the persons involved. Unless the hon. Members laid that information on the Table, we did not have the extra wisdom from any information that would be against the candidature of any of the three persons.

Mr. Temporary Deputy Speaker, Sir, the third recommendation that I truly think that the House needs to look at seriously is the issue of amending this law. This process looks upside down. For example, the first time we did the KACC appointment, there was a candidate who was not appointed. That is an upside down process. If you look at the letters that we received from the security agencies to clear these individuals, you will find that they are not in-depth because it is not a member of the Executive requesting for the same. So, I propose that in order for processes to be more transparent---

*(Loud consultations)*

Mr. Temporary Deputy Speaker, Sir, I cannot even hear myself.

**The Temporary Deputy Speaker** (Mr. Ethuro): Order, hon. Members! I agree with Ms. A. Abdallah. We are consulting too loudly. Let us listen to the hon. Member.

Proceed, Ms. A. Abdallah!

**Ms. A. Abdallah:** Mr. Temporary Deputy Speaker, Sir, on the issue of the vetting process as stipulated in the KACC Act, I understand the mood of the House when we were passing the Act in 2003. It was such that anything to do with the Executive was wrong and we ended up giving ourselves and the Board, responsibilities that are actually upside. This is because we should have in-depth reports from the security agencies on candidature of this calibre. If you look at the reports we received from those agencies, it is clear that they would have been more comfortable and comprehensive if the proposed nominees were coming directly from the Executive. So that Parliament can do its actual work, which is vetting, so that we can deal with candidates that have already been cleared by the executive, so that when we are vetting them, we are vetting them on the issues that the authorities have over- looked, we would not be doing our

job well. The processes that we have been doing will be more recruitment and rubberstamping the proposals that have been brought to Committees and House rather than doing actual vetting. I would really urge this House to pass this Report and the Attorney General to expeditiously take recommendation number three about proposed amendments to the Act, so that we can really take our role of vetting rather than the activities that we have been engaging in.

With those few remarks I beg to second.

*(Question Proposed)*

**The Temporary Deputy Speaker** (Mr. Ethuro): I am torn between hon. Nyamweya with a dissent opinion and the Chairman. Let us give hon. Nyamweya.

**Mr. Nyamweya:** Thank you, Mr. Temporary Deputy Speaker, Sir. I think what we are dealing with here is a bit more important than the apparent way it has been moved. If we are going to do vetting as Parliament whether we have a new constitution or not, it is necessary that we set the ground rules very clearly from the beginning. There is, currently, some difficulties from the executive that they have difficulties with Committees. I want to agree with my colleagues that perhaps, the process should be the other way; that the executive should be doing the sourcing and proposing for Parliament to approve as opposed to what we are doing now; that, Parliament is choosing, vetting and then in a sense, approving and subjecting it to the executive purely for a formal appointment.

The reason why I differ with my colleagues in respect to these appointments, particularly that of the director and the assistant director for investigations is on three very broad grounds. The first one in respect of the director, who is a very good friend of mine and I believe he is a competent and capable person and qualified, is that, one; he has had a job on the constitutional process when we were at the Bomas of Kenya. His handling of that particular assignment led, in my view, and I was a member of that executive committee in Bomas, to the collapse of that process and led to the walk-out of the deliberations when they were at the very final point. On that score, to be fair to all of them, I have brought the HANSARD report of those proceedings both of the technical committee and the plenary session, which I wish to lay on the Table.

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

We are in the middle of another process which requires really strict compliance with the law. Part of the problem we may have now is because, perhaps, we are not complying even with the law.

**Mr. Mbadi:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Hon. Nyamweya has presented documents here with regard to the Bomas Conference, but these documents are so bulky. I would have wished that we benefitted from the information that he has, because he has only said that “he mishandled”, but I do not think this House will find time to read these documents and see how Mr. Lumumba mishandled that conference. Could we benefit from the information that he has by him telling us, in a summary, how he did mishandle the Bomas Conference?

**The Temporary Deputy Speaker** (Mr. Ethuro): I thought, hon. Mbadi, you talked too soon. I want to believe that even hon. Nyamweya was about to expound on that. The Chair is guided that the Motion may not be terminated this morning. So, you will get enough time in the normal way, because those documents will be available in Room 8.



Proceed, hon. Nyamweya!

**Mr. Nyamweya:** Thank you, Mr. Temporary Deputy Speaker, Sir. Perhaps, just for the comfort of everyone, I can, in fact, summarize. I was a member of the Executive Committee in Bomas and in the deliberations of that Committee, there were very heated discussions; there were difficulties in exchanging views amicably and fairly. We were advised by the proposed director that we were at liberty to file and hold minority views, which were going to be recorded and which were going to be presented to the plenary itself for deliberation and discussion. We acted along those lines.

Mr. Temporary Deputy Speaker, Sir, when we did get to the plenary, unfortunately, we were then denied an opportunity by the same Secretary and Chairman to present those views. Now, in my humble submission, a behavior such as that, where you are entrusted with giving a fair hearing and justice to all people involved in whatever you are doing--- If it was not possible for him to at that point ensure that we were given a fair hearing, that is to ensure that the minority were also heard, and change the rules in the middle of those proceedings---

Now, Mr. Temporary Deputy Speaker, Sir, the question, therefore, is; is this same person going to be entrusted with an equally delicate task? How can we be comfortable that once he is appointed as the Director, he will comply strictly with the rules, since he has before exhibited that sort of character?

Mr. Temporary Deputy Speaker, Sir, if you want the pages, I think it is not very particularly necessary; they are not very difficult proceedings to follow, but it led to a walkout because many people felt that the rules had been infringed and the law was not complied with, and you know the consequences of that. Now, that is one of the reasons why I oppose this Motion.

The second reason, Mr. Temporary Deputy Speaker, Sir, is that it is not a secret that the proposed director is or has been the head of a political party, and participated in the 2007 election in Kamukunji as a candidate. The other day when we were, in fact, discussing an aspect of the report on the cemetery saga to which, indeed, even the Deputy Prime Minister and Minister for Local Government took exception, about the Kenya Anti-Corruption Commission being politicized – I think that is on record, that it was being politicized – I felt it would be most uncomfortable to then put in place a politician to head that Commission.

Mr. Temporary Deputy Speaker, Sir, for the record and so that nobody doubts what it is that we are trying to do, I myself, was appointed by His Excellency the President as a Commissioner to the Electoral Commission of Kenya (ECK) in 2003. I declined to take up that position because I was the Deputy Secretary General of the Democratic Party of Kenya and I had been a candidate in Nyaribari Masaba parliamentary election in 2002. I felt and still feel now that it is wrong for politicians to be entrusted with things which require the person to appear and be seen to be above board and non-partisan. I was not pushed by anybody to decline. I chose it because it would not be proper. I pointed this out to the appointing authority. Even if I was not going to be biased, anybody would be open to say, elections were going to be rigged because an official of a party has been appointed as a commissioner. Subsequently, as you know, from 2007, part of the challenge in the elections was that the people who were appointed as Commissioners were from one side.

Therefore, I think it would be improper for this House to suggest and propagate that people who have participated actively in politics and who are still actively in politics to be entrusted with responsibilities where just recently, we were saying this body has been politicized. How would I not be able to say this is the chair of this political party? I think it is Chama cha

Uzalendo and it has two Members of Parliament here. If the same Director was called to investigate somebody from Kamukunji Constituency, would that person not be able to say he is picking on him because he has been his opponent? Surely, we cannot say, let bygones be bygones and set precedence where we appoint anybody because they qualify for the job. This is not purely on academic qualifications.

Mr. Temporary Deputy Speaker, Sir, thirdly this goes to the Director Dr. P.L.O Lumumba and my good friend Pravin Bowry. When we were grappling with this issue in the Committee, we looked at the vetting procedure, particularly our predecessor in this Committee had looked at the US Congress process of vetting, particularly when appointing judges or such people. It is a requirement that you look at the portfolio that, that particular person has handled before you can approve the appointment of that person to be judge or in our case, the Director of such a sensitive position. It is important to look at the number or the sort of cases that the person has handled. Both Dr. P.L.O. Lumumba and Mr. Pravin Bowry have handled a large number of cases involving some of our largest financial scandals in this country. Speaking as a lawyer, one of the first things I would do for one of the people who are taken to court by the Director and Assistant Director would be to say to the court that the evidence the Director is about to adduce against me may be evidence he obtained from me when I was his client. How would I be able to say the cut-off; what investigations have you done which are independent from what I supplied to you as your client? I am reasonably sure the judge will say strike off that particular evidence.

Therefore, if we were to appoint these people, we would actually be hampering the work of that body. Do you want to appoint people when the first task taken in the courts is to disqualify and strike out evidence? If we want to fight corruption, then we should put in a situation where that body is able to carry out its work without the officials themselves being an impediment. On that particular ground, I also find it very difficult to bring it to my conscience that this should be a good way forward.

Mr. Temporary Deputy Speaker, Sir, there has been a bit of concern about other things. I also wish to put it on record that the recent annulment of the re-appointment of the previous Director, Justice Ringera by the Departmental Committee on Justice and Legal Affairs--- I was one of the hon. Members who went out publicly, boldly and very early on to say that the process which was followed by His Excellency in appointing Justice Ringera was wrong. It was, indeed, wrong and the House confirmed that. So, when I stand here, I would like to make it very clear to my colleagues in the House that I have no particular quarrel with any of those individuals who are highly qualified. There is no question about their qualifications. But this is a standard that we are setting. How do we manage the affairs of our country? We must put in place officers, particularly in such delicate positions, who we are all comfortable with; that nobody can challenge that you are there because you are from one side or the other. It should be somebody that we can say: "This is the best qualified Kenyan. We have no quarrel with the way the process has been done. They will discharge their duties without other difficulties." I wish to table, just for record, that I was appointed to the Electoral Commission. It was gazetted, but I did not take up the position for those reasons that I have given.

*(Mr. Nyamweya laid the document on the Table)*

For those particular reasons, I urge the House to, perhaps, require that this process be redone to be certain. I also wish to concur with my colleagues that, perhaps, the Act was not properly designed in terms of how we carry out that process. Perhaps, the Attorney-General

would find time to move some amendments and ensure that Parliament is not asked to do some work which it is not suited for.

Thank you!

**Mr. Abdikadir:** Mr. Temporary Deputy Speaker, Sir, indeed, Mr. Nyamweya dissented in the Committee and we have a minority report in the report which gives his views. The Kenya Anti-Corruption Commission (KACC) is a special entity. It is an entity that was set up by this House because of an emergency that we had in the country in tackling corruption. Typically speaking, the functions of KACC are to be done by the police and the Office of the Attorney-General. In other words, investigations ought to be the preserve of the police and the prosecution ought to be the preserve of the Attorney-General. Then, the courts do the adjudication. But because of the emergency problem that we had, we set up an entity to deal with this issue specifically. We set it in such a way that it was shielded from the other branches of the Government. It was shielded from the Executive. The Executive cannot directly get involved with the running of that institution. It was also supposed to be independent from Parliament. It is only accountable to the House and Parliament. The entity is made up of two parts; the Advisory Board and the Commission. The Advisory Board is set up under Clause 16 of the Act. It reads:-

“The Advisory Board shall be an incorporated body consisting of the following members:-

One member nominated by each of the following people.

- (i) The Law Society of Kenya.
- (ii) The Institute of Certified Public Accountants of Kenya.
- (iii) The International Federation of Women Lawyers, Kenya Chapter.
- (iv) The Kenya Association of Manufacturers.
- (v) The Joint Forum of Religious Organizations described in Sub-section 3.
- (vi) The Federation of Kenya Employers the Kenya Bankers Association,
- (vii) The Central Organisation of Trade Unions
- (viii) The Association of Professional Societies in East Africa,
- (ix) The Architectural Association of Kenya,
- (x) The Institution of Engineers of Kenya
- (xi) The Kenya Medical Association, plus the director.

Mr. Temporary Deputy Speaker, Sir, the reason why I read that long list of institutions is that the advisory body is made up of one person nominated by each of those organizations. Typically, they send either a very senior member, the chief executive or the chairperson to represent them on the advisory body. It is this body that is then charged with hiring the director and the four assistant directors. What they do is to advertise for the job through a competitive process and then undertake interviews. They undertook that function. They advertised for the posts and then they interviewed.

That is the advisory board that is then mandated to send to Parliament one person for each of those posts. It is not supposed to send two or three people, just one person. They did that also. They sent us one person for each of those posts; one for the Director, Mr. Lumumba and one each for the assistant directors.

The function of the parliamentary committee is to process that for Parliament so that Parliament can approve those names. That is the function of Parliament, as given by the Act; it is to approve those names.

As a Committee, we went ahead and processed that. We held five meetings as a committee to process this matter. We decided that we should not just rely on the fact that

however respectable these institutions were, they would send us the names and we would bring them forward. We decided to go ahead and do our own further detailed work.

Mr. Temporary Deputy Speaker, Sir, the first thing we did, as Mr. Nyamweya said, was to look at the fact that Parliament's vetting process needs to be structured. The committee came up with a manual for vetting, which looked at a very detailed information questionnaire, including financial information, conflict of interest and earlier work done by each of the individuals involved in this issue. All that is part of the records.

Thereafter, we wrote to all their former employers or people who were associated with these people, including the Law Society of Kenya and the university as far as the lady is concerned. We wrote to independent organizations, including government agencies to give us background information.

All the information we received was in the positive. The Law Society of Kenya gave us good reports as far as the individuals were concerned. The Advocates Complaints Commission returned a clean bill of health. The NSIS gave background reports that were positive. All the background information came out positive.

The questionnaires also gave us detailed information. Thereafter, as a Committee, we processed this information, so that we could give Parliament our views. In moving forward, a number of issues came up. These issues were pointed out by Mr. Nyamweya.

One, as far as the director is concerned, did the board consider the political colour of his past? As far as Mr. Bowry is concerned, did they consider the fact that he was an advocate for a number of accused people? Because of that, we called the board to our meeting, so that they could come and talk to us and we could assure ourselves that in making this decision, they had taken into account all those issues.

They said they had taken those issues into account, and that they were unanimous that these were the right people for various reasons. One, each of these people was the top candidate in his or her interview and those interviews were structured professionally. Two, as far as the political issue was concerned, one of the members of the advisory board, the gentleman who was sent there by the Institute of Certified Public Accountants, was a former Member of this House.

A number of the anti-corruption entities around this region, including the Rwandan and Ugandan entities, are all headed by former members of parliament. In their opinion, the law did not require that you did not have to be a former member of parliament, or that you did not have to be a former politician.

Two, having looked at this particular issue, they did not see how that would colour the judgment of Mr. Lumumba. Indeed, Mr. Lumumba is not just a person who had political backgrounds. He was a lawyer of standing. He was a former Professor of the University of Nairobi's Law School. His public figure is of repute. Therefore, in the total of the circumstances, they were sure that he would be more an asset and that political part of his experience would not hinder that process. Our Committee accepted those explanations.

Indeed, in this country, we have judges who were former politicians. The fact that one was a former politician does not in and of itself, bar one from holding a post. Indeed, there are certain posts that the law itself says that one should not have active involvement.

**The Minister for Lands** (Mr. Orenge): On a point of information, Mr. Temporary Deputy Speaker, Sir.

**The Temporary Deputy Speaker** (Mr. Ethuro): Do you want to be informed, Mr. Abdikadir?

**Mr. Abdikadir:** Absolutely, Mr. Temporary Deputy Speaker, Sir.

**The Minister for Lands** (Mr. Orengo): I like the point that the hon. Member is making. I just want to remind the House that one of the best ever parliamentarians in this House was former Chief Justice Madan. He was not only a Member of this House; he was a Cabinet Minister and one of the best legal brains in the bench. The statement is not without justification.

**Mr. Abdikadir:** Indeed, Mr. Temporary Deputy Speaker, Sir, I did not know that. I am grateful for the information.

Justice Madan in the legal circles is the most revered in this country. I am happy that the Minister has provided that. We were happy that they had considered that and that was their considered opinion and we are willing to go. As the report indicates, hon. Nyamweya needed that to be indicated as an objection.

The second issue was the issue of the fact Mr. Pravin Bowry was an advocate for a number of individuals and institutions that were on the receiving end. We wanted to know; did they consider in handling these matters, whether that was a bar to his acting? It is important to know that Mr. Bowry acted in a professional capacity. He was not himself accused of corruption. He was not himself an accused person. He was acting as a lawyer for people who were accused of these things. It is the law that one is entitled to representation by a lawyer. Indeed, in certain cases, the State is obliged to give you an advocate on public finances. So, we wanted to see whether that was going to be bar for him to act in this matter. Did they take into account, what hon. Nyamweya had said? They said they were, indeed, aware. They were so much aware that the case that sent the earlier Kenya Anti Corruption Commission (KACC) home was actually handled by Mr. Bowry. They said it is specifically for that reason that they needed him. They have so many constitutional applications to try and stop the Commission from doing its work, that they needed an advocate of the standing of Mr. Bowry, who knew the workings of the anti corruption regime to assist the Commission in building up its legal portfolios.

Mr. Temporary Deputy Speaker, Sir, secondly, it is important to note that the Commission does not prosecute. It is not true that the Commission will go with an advocate who says: I am a prosecutor and the judge says: No, you cannot prosecute. Prosecution is the preserve of the Attorney-General. What the institution does is the research in terms of the legal research and investigations, prepare the files for the Attorney-General and the Attorney-General moves forward in terms of the case. The other issue is the issue of their qualifications. We looked at actual qualifications of these individuals. Two of them hold Doctorate of Philosophy PhD. Dr. Lumumba holds a PhD in law. Those come very rare anywhere in the world, but especially so in this country and the good lady holds a PhD in Education. We noted that they were experienced or educated in issues of public administration and therefore, their qualifications were set.

Mr. Temporary Deputy Speaker, Sir, our role as a Committee was to approve or disapprove and we had to have basis for those things; not rumours, not perception, but actual basis. Reports of Parliamentary Committees must be based on facts, law and substance. Therefore, we needed to have substance to go one way or the other. There is an institution that this House set up; the Advisory Board that was made up of credible Kenyans. They are Kenyans who have applied for these jobs.

With those few remarks, I beg to support.

## ADJOURNMENT

**The Temporary Deputy Speaker** (Mr. Ethuro): Order, Members! Hon. Abdikadir, you would have continued for seven minutes, but you have opted to conclude.

**The Minister for Lands** (Mr. Orengo): He has not concluded!

**The Temporary Deputy Speaker** (Mr. Ethuro): Hon Orengo, I did not seek for your information. I was going to give hon. Chairman seven more minutes because he is entitled to the balance of his time. But he had opted to conclude. He concluded his contributions by saying: “I beg to support.” That is the rule. The Chair, hon. Members, is under obligations to observe the rules and procedures of the House and should remain faithful to such. On that note, the Motion continues.

It is now time for the interruption of business. The House is, therefore, adjourned until this afternoon, 23<sup>rd</sup> June, 2010, at 2.30 p.m.

The House rose at 12.30 p.m.