

NATIONAL ASSEMBLY

OFFICIAL REPORT

Thursday, 24th June, 2010

The House met at 2.30 p.m.

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

PRAYERS

PAPERS LAID

The following Papers was laid on the Table:-

Abstract of accounts of the County Council of Taita Taveta for the year 2004/2005 and the certificate thereon by the Controller and Auditor-General.

*(By the Assistant Minister for Regional Development
Authorities (Mr. ole Metito) on behalf of the
Deputy Prime Minister and Minister
for Local Government)*

Annual Report and Financial Statement of Kikuyu Water Company for the year ended 30th June, 2009, and the certificate thereon by the Controller and Auditor-General.

Financial Statement of Karuri Water and Sanitation Company for the year ended 30th June, 2009, and the certificate thereon by the Controller and Auditor-General.

Financial Statement of the Tana Water Services Board for the year ended 30th June, 2009, and the certificate thereon by the Controller and Auditor-General.

*(By the Assistant Minister for Regional Development
Authorities (Mr. ole Metito) on behalf of the
Minister for Water and Irrigation)*

Financial Statement of the School Equipment Production Unit for the year ended 30th June, 2009, and the certificate thereon by the Controller and Auditor-General.

*(By the Assistant Minister for Regional Development
Authorities (Mr. ole Metito) on behalf of the
Minister for Education)*

Annual Report and Statement of accounts for the Capital Markets Authority for the year ended 30th June, 2009, and the certificate thereon by the Controller and Auditor-General.

*(By the Assistant Minister for Regional Development
Authorities (Mr. ole Metito) on behalf of the Deputy Prime
Minister and Minister for Finance*

Annual Report and Financial Statement of the National Communication Secretariat for the year ended 30th June, 2009, and the certificate thereon by the Controller and Auditor-General.

*(By the Assistant Minister for Regional Development
Authorities (Mr. ole Metito) on behalf of the
Minister for Information and
Communications)*

Annual Report and Financial Statement of the Energy Regulatory Commission for the year ended 30th June, 2009, and the certificate thereon by the Controller and Auditor-General.

*(By the Assistant Minister for Regional Development
Authorities (Mr. ole Metito) on behalf of the
Minister for Energy)*

Financial Statement of the Kenya National Commission on Human Rights for the year ended 30th June, 2009, and the certificate thereon by the Controller and Auditor-General.

*(By the Assistant Minister for Regional Development
Authorities (Mr. ole Metito) on behalf of the
Minister for Justice, National Cohesion and
Constitutional Affairs)*

Annual Reports and accounts for the Tea Board of Kenya for the year ended 30th June, 2009, and the certificate thereon by the Controller and Auditor-General.

*(By the Assistant Minister for Regional Development
Authorities (Mr. ole Metito) on behalf of the
Minister for Agriculture)*

Report of the Departmental Committee on Defence and Foreign Relations on the study visit to the Federal Republic of Germany between 16th to 20th May, 2010.

(By Mr. Keynan)

QUESTIONS BY PRIVATE NOTICE

SALE OF LUMUMBA ESTATE IN KISUMU BY NBK

Mr. Olago: Mr. Temporary Deputy Speaker, Sir, I beg to ask the Deputy Prime Minister and Minister for Local Government the following Question by Private Notice.

(a) Is the Minister aware that Auctioneers, acting under instructions from the National Bank of Kenya, have advertised the sale by public auction of Lumumba Estate in Kisumu on 2nd July, 2010, on account of an alleged default on repayment by the Council?

(b) Under what circumstances did the Minister authorize the grant of the commercial loan to either the Municipal Council of Kisumu and/or the National Housing Corporation and the deposit of title of the estate as security?

(c) What urgent steps is the Ministry taking to stop the intended auction, so that the residents are not rendered homeless?

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

(a) Yes, I am aware that auctioneers acting on instructions of the National Bank of Kenya have already advertised for sale by public auction of Lumumba Estate in Kisumu Municipality on 2nd July, 2010, on an alleged default of a loan repayment by the council.

(b) The National Bank of Kenya advanced the Council Kshs3 million overdraft in 1990 after the approval of such a facility by the Ministry and was advanced when the council had problems in paying salaries. The overdraft became unmanageable, then standing at Kshs11 million as at 1992 and the council changed it into a long-term loan facility which had the Minister's approval and was granted by the bank after registering a legal charge on the council property, block MCK/5/43 of Lumumba Estate. The bank is claiming Kshs103,598,063.50 as at 2nd February, 2010, which is due to accumulated accrued interest from the original debt of Kshs11 million. The amount currently claimed by the bank is in dispute and on receiving the notice from the bank on 6th February, 2010, the council went to the bank for negotiations. However, the bank surprised the council with the advertisement of the sale of houses before the negotiations were over.

(c) The Municipal Council of Kisumu has instructed her lawyers through letter dated 14th June, 2010, to take up and conduct this matter. I wish to inform Parliament that an injunction has been granted today, 24th June, 2010, against the sale of Lumumba Estate by the National Bank of Kenya. In addition, I have been directly in touch with the Managing Director of the National Bank of Kenya and he has accepted to have the matter renegotiated between the Municipal Council of Kisumu and the National Bank of Kenya for an amicable settlement. Further, I have directed His Worship the Mayor of Kisumu to set up a team to negotiate the settlement of the outstanding loan.

Mr. Olago: Mr. Temporary Deputy Speaker, Sir, I am dismayed by the facts outlined by the Assistant Minister. He must be aware that the original loan in 1990 by the Municipality of Kisumu was Kshs3 million. He is also aware that as at now, the council has paid close to Kshs29 million to the National Bank of Kenya. The *In duplum rule* was passed by this House in the last Parliament which provides that the bank cannot claim more than twice the original amount that was loaned. So, under what circumstances did this loan rise from Kshs3 million in 1990 to Kshs103 million now, when Kshs29 million has already been paid?

Mr. Nguyai: Mr. Temporary Deputy Speaker, Sir, the law is not applied retroactively. It is applied from the date on which it was passed. By that time, the loan had obviously accumulated to a certain amount. That is what eventually becomes the principal, that cannot be doubled over and above.

Mr. C. Kilonzo: Mr. Temporary Deputy Speaker, Sir, I am at a loss because my understanding is that the National Bank of Kenya is basically the Government. The Government

is the National Bank of Kenya, on one hand, and Kisumu Municipal Council, on the other hand. So, it is the right hand side of the Government that is stealing from the left hand side.

Mr. Nguyai: Mr. Temporary Deputy Speaker, Sir, while the Government has shares in National Bank of Kenya (NBK), we know that it is a listed company that works for profits. As such, it is focussed on making sure that it gives value to its shareholders, one of whom is the Government, including other investors who are likewise Kenyans who deserve a return on investments. However, as I have said, the point here is that we are in negotiations with the NBK. So, we should be given time to make sure that there are fruitful discussions that arise out of those negotiations.

Dr. Khalwale: Mr. Temporary Deputy Speaker, Sir, there are two sides of this problem. There is the blame that this House might wish to think should be apportioned to the bank but we should also accept that when people borrow money, they should be prepared to re-pay. In fact, NBK is one of those institutions in respect of which I remember hon. Michuki, when he was the Minister for Finance---

The Temporary Deputy Speaker (Mr. Ethuro): Order, Dr. Khalwale! What is your question?

Dr. Khalwale: Mr. Temporary Deputy Speaker, Sir, I am building the question, with your permission.

We release public funds to try and help NBK. Having rushed to negotiate with the bank manager, and also having talked to the Mayor, what steps has the Assistant Minister taken to order for a special audit into the accounts of the Municipal Council of Kisumu to make sure that men and women who are in charge of public funds are not misusing them and failing to service loans, which they should have serviced in the first place?

Mr. Nguyai: Mr. Temporary Deputy Speaker, Sir, first and foremost, we have the Inspectorate Department, which makes the checks. Also, there is always the routine annual audit. Unless there is a specific in-depth audit that we should gazette, I think this debt was the forecast, and that is a separate issue. We gazette in-depth audits.

Mr. Mututho: Mr. Temporary Deputy Speaker, Sir, this loan has risen to Kshs103 million from Kshs3 million. What interest rates are these, which compound a sum of Kshs3 million to Kshs103 million, having paid Kshs29 million?

Mr. Nguyai: Mr. Temporary Deputy Speaker, Sir, I am sure that the hon. Member is aware that in the early 1990s and mid 1990s there were interest rates that came as a result of the state of the economy and liberalisation. That was when it spiralled. It is possible for the interest to accumulate to that figure over a period of 20 years. Probably, what the hon. Member should be asking is the average rate of interest, which we would obviously have to sit down and re-calculate.

The Temporary Deputy Speaker (Mr. Ethuro): Last question, Mr. Olago!

Mr. Olago: Mr. Temporary Deputy Speaker, Sir, while I am satisfied and a little happy that Lumumba Estate is now not going to be sold, the answer given by the Assistant Minister raises very fundamental issues, which I want him to address.

Under what circumstances did the Ministry authorise the council to borrow on commercial terms to pay wages? What is the negligence that can be attributed to the successive Town Clerks and Treasurers who came to office but who did not service this loan? What action is going to be taken against them?

The Temporary Deputy Speaker (Mr. Ethuro): Order! Order, Mr. Olago! It is Question Time! You are supposed to ask one last question, but you have already asked two.

Mr. Olago: Mr. Temporary Deputy Speaker, Sir, allow me to ask one more question because this matter is very sensitive.

Under the circumstances, could the Assistant Minister give an undertaking to this House that while the team from the council is negotiating with the bank, they will have in mind the *in duplim* rule, so that what should be paid will be minimal?

Mr. Nguyai: Mr. Temporary Deputy Speaker, Sir, as we can all see, this is a debt that has been in existence for more than 20 years. For that reason, probably, even the officers we are talking about may have long retired. However, I would like to assure this House that we are having very high level negotiations. We are moving towards settling on a figure. We are certain that the rules of the last “Donde Bill” will be applied.

The Temporary Deputy Speaker (Mr. Ethuro): Next Question, Mr. Jamleck Kamau!

CIRCUMSTANCES SURROUNDING RELEASE
OF CIVIC EDUCATION MONEY TO COE

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

(a) Under what circumstances did the Government release Kshs553 million to the Committee of Experts (CoE) for civic education?

(b) Could the Deputy Prime Minister and Minister for Finance provide a detailed analysis of the source of the money, considering that Parliament has not approved the expenditure?

The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Local Government (Mr. Nguyai): Mr. Temporary Deputy Speaker, Sir, I would like to beg the indulgence of the House. We had made a request that this Question comes on Tuesday next week, and it was granted. I am surprised that it is here today. The Minister is still not available. So, I would request that we be given time until Tuesday.

Mr. Jamlek Kamau: Mr. Temporary Deputy Speaker, Sir, it is indeed true that yesterday the Deputy Prime Minister and Minister for Finance requested that he comes with answer next week, and I concurred with him. So, it is okay. We can have it on Tuesday next week, if it is okay with the Chair.

The Temporary Deputy Speaker (Mr. Ethuro): Was the Question to come up on Thursday or Tuesday next week?

Mr. Jamlek Kamau: Mr. Temporary Deputy Speaker, Sir, he requested for Thursday, but the Chair ruled that it comes up on Tuesday.

The Temporary Deputy Speaker (Mr. Ethuro): Very well. The Question will come up on Tuesday next week.

Dr. Khalwale: On a point of order, Mr. Temporary Deputy Speaker, Sir. It is just going through my mind that this money is being released for civic education and, according to the Constitution of Kenya Review Act, the civic education period is about to come to an end. So, if we do not tackle it now, what will be the use of tackling it when the civic education period is over?

The Temporary Deputy Speaker (Mr. Ethuro): Dr. Khalwale, you have raised a valid point but you will appreciate that the Deputy Prime Minister and Minister for Finance is not here, and that he had been directed to answer the Question on Tuesday. So, we cannot undo that ruling.

(Question deferred)

Let us proceed to Ordinary Questions.

ORAL ANSWERS TO QUESTIONS

Question No.046

NON-PAYMENT OF SHARE CONTRIBUTIONS TO RAILWAY SACCO MEMBERS

Dr. Otichilo asked the Minister for Co-operative Development and Marketing:-

(a) whether he is aware that most of the retired members of the Railway Co-operative Society have not been paid their share contributions to the society; and,

(b) when the members will be paid their money, particularly those from Emuhaya Constituency.

The Temporary Deputy Speaker (Mr. Ethuro): Minister!

Mr. Midiwo: Mr. Temporary Deputy Speaker, Sir, could we, kindly, skip the Question, so that we get a word from the Minister?

The Temporary Deputy Speaker (Mr. Ethuro): Very well! We will come back to the Question.

Next Question, Mr. Keynan!

Question No.116

MEASURES TO IMPROVE EDUCATION STANDARDS IN NORTH EASTERN PROVINCE

Mr. Keynan asked the Minister for Education what the Government is doing to improve the standards of education in North Eastern Province, in view of the poor education infrastructure in the region.

The Assistant Minister for Education (Prof. Olweny): Mr. Temporary Deputy Speaker, Sir, I beg the indulgence of the House to give me up to Thursday next week, so that I can come up with an answer. I do not have a proper answer yet.

The Temporary Deputy Speaker (Mr. Ethuro): Mr. Keynan, what is your reaction?

Mr. Keynan: Mr. Temporary Deputy Speaker, Sir, I appreciate the concerns of the Assistant Minister for Education. This Question has been here for quite some time, but I am still willing to give him the benefit of the doubt. I hope that the people of North Eastern Province will benefit from his background as an academician. The situation has been there for so many years and, I hope that the answer he is going to bring to this House will be different this time round.

The Temporary Deputy Speaker (Mr. Ethuro): The Question should appear on the Order Paper next Thursday.

(Question deferred)

Mr. James Kamau: On a point of order, Mr. Temporary Deputy Speaker, Sir. This is not the first time Questions put to the Minister for Education are not answered in this House. What could be happening?

The Temporary Deputy Speaker (Mr. Ethuro): The Minister gave some reason and the hon. Member agreed with him. So, for now, we will allow him. I am sure that the Assistant Minister has taken note of the concern you have raised.

Next Question, Mr. Letimalo!

Question No.147

ANALYSIS OF KCPE/KCSE PERFORMANCE IN SAMBURU EAST

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Lesrima): Mr. Temporary Deputy Speaker, Sir, Mr. Letimalo is overseas on parliamentary work. He is my neighbour, so I am aware of that fact.

The Temporary Deputy Speaker (Mr. Ethuro): Hon. Members, the Question will be deferred until when Mr. Letimalo comes back from overseas.

(Question deferred)

Question No.171

STALLED IRRIGATION PROJECT
FUNDED BY ISRAEL GOVERNMENT

Mr. Mwakulegwa asked the Minister for Regional Development Authorities:-

(a) whether he could reveal the circumstances that led to the stalling of an irrigation project to be funded by the Israel Government, which was meant to benefit farmers in Taveta, Mwatate, Voi and Kinango Constituencies;

(b) when the Government will actualize the project; and,

(c) how much it will cost.

The Assistant Minister, for Regional Development Authorities (Mr. ole Metito): Mr. Temporary Deputy Speaker, Sir, I beg to reply.

(a) In 1994, the Coast Development Authority sought assistance from the Israeli Government to carry out a pre-feasibility study on the utilization of Lake Chala Water Resources for domestic and irrigation purposes, as part of the development of the abundant Water Resources in the Taveta triangle. It is in this regard that an Israeli firm, Afrisco Limited, with funding from Israeli Export Institute, carried out a pre-feasibility study in the four parts focusing on the technical viability of the lake.

Three study reports were prepared, all of which found that the project would be economically viable. Following these studies, preliminary technical designs were prepared and the project was submitted to the Government for funding either through the Government of Kenya or donors, including Afrisco Limited which had shown interest in partnering and financing the project. However, this has not been realized to date leading to the stalling of the project.

(b) The Government is in the process of actualizing the project. Expression of interest for consultancy services to undertake the feasibility studies and environment impact assessment and detailed designs of the project were advertised in the *Daily Nation* newspaper of 19th April, 2010, and also in *The Standard* newspaper of 20th April, 2010, respectively.

The expressions of interest were received on 11th May, 2010 and short-listing carried out. The requests for proposals are in the process of being sent out to the short-listed consultants.

(c) The estimated cost of Phase I of the project covering Chala, Tindila, and Jipe and Maktau areas is Kshs1.14 billion.

(d) Phase II of the project will cover Buguta, Kasigau and Kilibasi, at a cost of Kshs2.5 billion. The total cost of the project is estimated to be Kshs3.64 billion.

Mr. Mwakulegwa: Mr. Temporary Deputy Speaker, Sir, I would like to thank the Assistant Minister for a very comprehensive answer. When will the feasibility study be completed and how much will it cost?

Mr. ole Metito: Mr. Temporary Deputy Speaker, Sir, we are just finishing the feasibility study and we are now in the process of short-listing the consultant who will undertake them. My Ministry has been allocated Kshs1.2 billion in the coming financial year for feasibility studies in the six regional development authorities. We will make sure that our agency, the Coast Development Authority, gets its due share to undertake the feasibility study for this project in the coming financial year.

Mr. Yakubu: Mr. Temporary Deputy Speaker, Sir, you have heard from the Assistant Minister that this project will cost about Kshs3.6 billion and it is a very old project. Could the Minister inform the House how he sourced those funds?

Mr. ole Metito: Mr. Temporary Deputy Speaker, Sir, the reason why this project stalled in 1994 was due to lack of funding. However, I can assure this House that my Ministry is committed to raising the Kshs3.64 billion through the Government of Kenya, bilateral and multilateral partnerships, that is, through donor funding and also through the Private-Public Partnership (PPP). I am sure we will find funds for under this project because it is very important for the people of Coast Province.

Mr. Mwadeghu: Mr. Temporary Deputy Speaker, Sir, is the Assistant Minister aware that in 1994, this project could not be continued because we shared the lake equally between Kenya and Tanzania and the Tanzanian Government objected to the utilization of the water without due consultation? Could he confirm that?

Mr. ole Metito: Mr. Temporary Deputy Speaker, Sir, I am very much aware of that fact. As a way forward, my Ministry, among other things, has initiated trans-boundary consultations with the Tanzanian Government in order to have a common understanding and agreement towards this project. That is why we are calling it a "triangle" because it cuts across the Tanzania border. As we try to enhance the East African Community partnership, this is a very important point for the people of the two countries to undertake development together. So, I am aware of that and we will reach an agreement.

Mr. Litole: Mr. Temporary Deputy Speaker, Sir, there is an irrigation scheme called "Amolem" that brought the Pokot and the Turkana together and it was viable. The Government abandoned it because it was not serving the canals. Could the Assistant Minister confirm now that this project will be revived?

Mr. ole Metito: Mr. Temporary Deputy Speaker, Sir, you will agree with me that this is a totally different Question. However, for the benefit of the hon. Member, I would like to inform him that yesterday there was a Question - and I do not want to pre-empt its reply - about that

area. The hon. Member who was to ask the Question, Mr. Murgor, was reported to be out of the country. So, let the hon. Member hold his horses and if by next week the hon. Member will be there, I will answer the Question comprehensively.

The Temporary Deputy Speaker (Mr. Ethuro): Last Question, Mr. Mwakulegwa!

Mr. Mwakulegwa: Mr. Temporary Deputy Speaker, Sir, first, I would like to thank the Assistant Minister for that comprehensive answer. Secondly, will the Government commit and ensure that this time round, they will not abandon the project? Could he also avail himself so that we can visit the Taveta Triangle together?

The Temporary Deputy Speaker (Mr. Ethuro): Order, Mr. Mwakulegwa! How many questions are those?

Proceed, Mr. Assistant Minister!

Mr. ole Metito: Mr. Temporary Deputy Speaker, Sir, my Ministry has put the Regional Development Authorities under the performance contracts. We are also going a long way to have capital projects which we also call “flagship projects” rather than spreading ourselves so thinly within the area of coverage. In Coast Province, through our agency, the Coast Development Authority, the Lake Chala Integrated Development Project and the other one at Mwaché are the main flagship projects for that province. I can assure the hon. Member that my Ministry will do it. I am also very much available to visit the area in the company of the hon. Member. We will organise and I am sure very soon we will tour the area.

The Temporary Deputy Speaker (Mr. Ethuro): Let us move on to the next Question by Mr. Nyamai!

Mr. Nyamai: Mr. Speaker, Sir, although I have not received a copy of the written answer, I beg to ask the Question.

Question No.193

FAILURE TO POST ASSISTANT CHIEFS TO MASIMBA AND SYOMUNYU SUB-LOCATIONS

Mr. Nyamai asked the Minister of State for Provincial Administration and Internal Security:-

(a) whether he is aware that Masimba and Syomunyu Sub-locations have not had Assistant Chiefs for over 8 years; and,

(b) what he is doing to ensure that the positions are filled without delay.

The Assistant Minister for Provincial Administration and Internal Security (Mr. Lestrina): Mr. Temporary Deputy Speaker, Sir, I seek permission from you to answer this Question on Wednesday, next week. This is because the answer I was given is totally unsatisfactory since it has many gaps. I want to collect more information from the field. We have just agreed with the hon. Member that that is the way we should go.

The Temporary Deputy Speaker (Mr. Ethuro): Order, hon. Members! The point of order raised by Mr. Kamau becomes pertinent; that Ministers seem to be in the habit of postponing answering of Question which is squandering valid time of the House. I do not know what Mr. Nyamai has to say to that.

Mr. Nyamai: Mr. Temporary Deputy Speaker, Sir, the Assistant Minister, at least, has had the courtesy to talk to me about this Question. He has explained to me what he calls

“unsatisfactory answer” and I am in agreement with him. It is okay. He can answer the Question next week without delay.

The Temporary Deputy Speaker (Mr. Ethuro): That is okay. Mr. Assistant Minister, the Question will appear on the Order Paper on Wednesday morning but the Chair is not taking kindly the desire by Ministers to postpone answering Questions. It is the business of the Executive to look for proper answers before they come to this House.

(Question deferred)

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

Question No. 197

CONSTRUCTION OF MAU-NAROK-ELEMENTAITA-NAKURU PIPELINE ROAD

Mr. Kiuna asked the Minister for Roads when the Ministry will start construction of the Mau–Narok-Elementaita-Nakuru Pipeline Road to bitumen standards.

(Mr. Bett stood at the Dispatch Box)

The Temporary Deputy Speaker (Mr. Ethuro): Order, Minister! As the Minister prepares to respond, it will be good and to save time if the Ministers who have Questions come nearer the Dispatch Box.

Proceed, Mr. Minister!

The Minister for Roads (Mr. Bett): Thank you, Mr. Temporary Deputy Speaker, Sir. I want to inform you that you are hardly heard at the far end.

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

My Ministry has scheduled to construct the above mentioned road in two phases. Work on phase 1, which is the section between Nakuru Pipeline, Lanet and Elementaita, a distance of 20 kilometres will begin early August 2010, since the contract for the said section has been awarded. Phase 2; Elementaita to Mau Narok, 26 kilometres is scheduled to commence in the year 2012/2013.

Mr. Kiuna: Mr. Temporary Deputy Speaker, Sir, as I thank the Minister, I hope he is aware that no vehicle can pass through that section from Elementaita all the way to Mau Narok. Could he release some emergency funds so that they can fill the potholes to ease communication between Elementaita and Mau Narok?

Mr. Bett: Thank you, Mr. Temporary Deputy Speaker, Sir. I hope the Member would really appreciate that we are putting in a lot of money to do the first section and that we are also putting in some holding maintenance money, about Kshs4 million, to do some patching on that section which he is talking about.

Mr. Mututho: I want to thank the Minister for promising that some work will be done on that particular road. But having said that, that section between Elementaita and Mau Narok has been neglected in total. It is not motorable. Four ladies have lost their lives on that particular section. Could the Minister consider sending his officers to do some patch up on that other section as we are waiting for the major construction?

Mr. Bett: I hope I answered that question earlier on that we have placed some funds aside for patching up of that road. The contractor has accepted the tender for Lanet-Elementaita and already he is being asked to mobilize to site. I believe the hon. Member for Naivasha will appreciate that I have indicated we are putting in money on that road. The fact that we have already identified that section as a problematic road is a clear indication of our concern as a Ministry.

Mr. Kiuna: Mr. Temporary Deputy Speaker, Sir, there is no vehicle which can pass through the section between Mwisho wa Lami and Tipis. My people have complained about the poor state of that road. Right now, all vegetables, potatoes and other farm produce from Tipis side are rotting in the farms. Although the Minister had told me that he had sent his officers to the ground, can he confirm to this House that there is some work which is going on right or will be done by next week, otherwise all the farmers produce will going to waste?

Mr. Bett: Mr. Temporary Deputy Speaker, Sir, I beg your indulgence. He talked of a road and I did not get the name of that road.

The Temporary Deputy Speaker (Mr. Ethuro): Hon. Kiuna, the Minister did not hear you, which road?

Mr. Kiuna: It is the same road from Pipeline to Mau Narok but there is a small section between Mwisho wa Lami and Tipis towards Narok. That is the section which is impassable.

Mr. Bett: That is another road all together but I am aware of the road. It runs from Mau Narok, Mwisho wa Lami up to Kisiriri where the tarmac has reached from that side of Narok. My officers have not come back to me. I dispatched them to look at that road and I am waiting for a report from the field.

The Temporary Deputy Speaker (Mr. Ethuro): Next Question, hon. Mwiru!

Question No. 198

UTILIZATION OF COMPLETED MEDICAL FACILITIES
IN MARIMANTI DISTRICT HOSPITAL

Mr. Muiru asked the Minister for Medical Services.

(a) when the Ministry will start utilizing the completed surgical theatre and a ward at Marimanti District Hospital; and,

(b) what plans the Ministry has to equip the hospital to avoid frequent referrals to hospitals in the neighbouring districts.

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

(a) The Ministry shall open the surgical theatre at Marimanti District Hospital from January 2012 after deployment of anesthetist to the hospital from the next batch of trainees graduating in December the 2010. In the meantime, the Ministry will carry out improvements on the theatre with the support of the Italian Co-operation. The pediatric ward is 90 percent complete and the Ministry plans to complete the remaining work and equip it by the end of the first half of 2010/2011 financial year to enable its opening from January 2011.

(b) Most of the referrals from Marimanti District Hospital are maternity cases and patients requiring x-ray investigations. In the next three years, the Ministry with the support of the Italian Co-operation, plans to construct and equip an x-ray block, a maternity unit and more

wards. This will ensure that only complex surgical and medical cases are referred out of the hospital.

Mr. Mwiru: Thank you, Mr. Temporary Deputy Speaker, Sir. I am really impressed with the answer that the Assistant Minister has already given. My only fear is that these people are likely to continue suffering for the next three years till the completion of the wards. Besides that, most of the funds allocations are usually based on bed occupancy. What interim measures will the Minister take to avail more allocations in terms of funds to this hospital to make sure that other services continue to be given, as they wait for the wards to be completed?

Mr. Kazungu: Mr. Temporary Deputy Speaker, Sir, my Ministry is aware of that problem and in this year's financial budget, we have allocated Kshs17 million to finish equipping this hospital.

Dr. Nuh: Thank you, Mr. Temporary Speaker, Sir. I am really shocked because when the Assistant Minister tells us that an anesthetist will be posted in 2012 January, from the ones who will be graduating sometime the end of this year, does he imply that we currently do not have an anesthetist that can be employed for the service?

Mr. Kazungu: Thank you, Mr. Temporary Deputy Speaker, Sir. I share the concern of the hon. Member. However, we have a shortage of this cadre of staff. In this case, therefore, we have started a program and the first batch will be completing their studies by the end of the said year.

Mr. Nyambati: Mr. Temporary Deputy Speaker, Sir, this is the situation throughout the country, that we do not have theatres in our district hospitals. What plans does the Ministry have, especially for my district hospitals in Manga, Keroka and the entire country? What plans do you have to give theatres to our district hospitals?

Mr. Kazungu: Mr. Temporary Deputy Speaker, Sir, as I have said earlier, we have a very big shortage, not only in his district but in the whole Republic of Kenya. However, if you look at this year's Budget, we have designed a programme to train this cadre because there is a shortage. Meanwhile, the few we have we are going to distribute them equally.

Mr. Njuguna: Mr. Temporary Deputy Speaker, Sir, with the allocation of Kshs17 million to this facility, could the Assistant Minister be specific as to when the works will start?

Mr. Kazungu: Mr. Temporary Deputy Speaker, Sir, as I have said, this is an on-going project and the Italian Government has partnered with our Ministry. So, this is an on-going project; it is almost 90 per cent complete. It is not a matter of when it is going to start. It is an on-going project and, sooner or later, it is going to be completed.

Mr. Mututho: Mr. Temporary Deputy Speaker, Sir, given that this hospital was opened by the Governor personally in 1959, can the Assistant Minister consider sending an anaesthetist there, even if it is on a weekly basis; since such an officer is very important to the lives of the people of Tharaka and Kenyans in general?

Mr. Kazungu: Mr. Temporary Deputy Speaker, Sir, I do not think it is possible because we have a shortage. The officers we have are operating in the district hospitals they were posted to. So, it will be inhuman to remove one of them from one facility and take him to another facility. However, as a Government and a Ministry---

The Temporary Deputy Speaker, Sir (Mr. Ethuro): Order! Order, Mr. Assistant Minister! The Question is if you could make arrangements so that, maybe, in some days of the week, doctors will be in that hospital; it is not about removing them completely!

Mr. Kazungu: Mr. Temporary Deputy Speaker, Sir, I do not have any problem with that. However, we need to have a programme to see how they can be rotating. We are going to consider his request.

Thank you, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker, Sir (Mr. Ethuro): Last question!

Mr. Mwiru: Mr. Temporary Deputy Speaker, Sir, we have seen some other areas where hospitals make some arrangements, so that on some days, an anaesthetist is in those hospitals on some specific days. I know that there is an anaesthetist at Chuka and Meru. Can there be an arrangement where such an officer can operate in Marimanti in one or two days to alleviate the problem that is there? I am also inviting the Assistant Minister in person to go and see the kind of problem that is there, because he is also my friend.

Mr. Kazungu: Mr. Temporary Deputy Speaker, Sir, I have no problem with that whatsoever. I am going to sit with my officers and I am sure something better is going to come out.

The Temporary Deputy Speaker, Sir (Mr. Ethuro): Next Question, Mr. Abdirahman!

Question No. 218

TENDER FOR REHABILITATION OF STAFF QUARTERS
AT GARISSA TEACHERS COLLEGE

Mr. Abdirahman asked the Minister for Public Works:

- (a) who was granted the tender for the rehabilitation of staff quarters at Garissa Teachers' Training College
- (b) what the total cost for the works was; and
- (c) what the level of progress to date is.

The Minister for Public Works (Mr. Obure): Mr. Temporary Deputy Speaker, Sir, I beg to reply.

- (a) The firm awarded the tender for the rehabilitation of buildings at Garissa Teachers' Training College is Castle Engineering and Construction Ltd.
- (b) The total cost for this phase of the works was Kshs55, 666,027.
- (c) The general progress stands at approximately 85 per cent complete. The 15 per cent outstanding works relate to mechanical and electrical installation, including plumbing and drainage works.

Mr. Abdirahman: Thank you, Mr. Temporary Deputy Speaker, Sir. I have had a chance to personally see the works that were undertaken at the Garissa Teachers Training College. I respect the Minister for Public works, but, unfortunately, the works that were undertaken are really sub-standard. I have a copy of the intended works and I would want an explanation on three items, and why the Ministry found it fit to actually allocate this amount of money. One, they have called something "preliminaries." These are not major works like roads and equipment, and can easily be sourced from within Garissa. I am surprised why Kshs3 million was allocated for this. Equally, for services, particularly on the kitchen equipment, there was an allocation of Kshs4 million. Finally, on something they call "price fluctuations," was Kshs5 million, spending about 25 per cent of the total money which was allocated. Can the Minister shed some light on why this had to happen?

Mr. Obure: Mr. Temporary Deputy Speaker, Sir, the provision for preliminaries is a standard arrangement, but it is intended to assist the contractor to move to site, and ensure that the project works commence. There is also a provision for price fluctuations and this is also normal. But in many cases, this expenditure does not have to be incurred, because if the prices remain stable, then it becomes part of the savings. I am not quite sure that I picked the question of services and I would like to request the hon. Member to clarify what he meant.

Mr. Abdirahman: Mr. Temporary Deputy Speaker, Sir, this is a copy of the intended works and I do not mind sharing it with the Minister, if you allow me. The intended services work included electrical installation, kitchen equipment, plumbing and drainage, gas, library--- I can give him the copy. But I am specifically questioning the one on the kitchen equipment. Honestly, if you have to repair, for instance, an oven or a fridge, these are exaggerated costs according to him. I can share this document with him, if you will allow me to do so.

The Temporary Deputy Speaker, Sir (Mr. Ethuro): Lay the document on the Table and then the Minister can access it!

(Mr. Abdirahman laid the document on the Table)

Mr. Obure: Mr. Temporary Deputy Speaker, Sir, I have not had enough time to read the document presented before the House. What I want to say is that the kitchen equipment – the liquefied petroleum gas stove and all that - have not been provided, because when we went to tender, all the tenders were not responsive and, so, we decided that we would go to re-tender. So, I want to assure the hon. Member that no expenditure has been incurred in this respect.

The Temporary Deputy Speaker, Sir (Mr. Ethuro): Hon. Bahari!

Mr. Bahari: Mr. Temporary Deputy Speaker, Sir, could the Minister explain the basis for setting aside Kshs5 million which he calls provision for the price fluctuation? What is the basis of that figure?

Mr. Obure: Mr. Temporary Deputy Speaker, Sir, as I said earlier, this is based on experience and the fact that in certain respects, prices continue to escalate. This provision is intended to cater for that eventuality. But as I said, we do not have to incur any expenditure if the prices continue to remain stable.

Mr. Temporary Deputy Speaker, Sir, I want to make reference to the document which has been presented by the hon. Member. I will find out the authenticity of this paper. It is not signed, there is no letterhead and we do not even know where it is coming from and who engineered it. I will have to find out the---

The Temporary Deputy Speaker (Mr. Ethuro): Order! Minister, I appreciate your keenness but that is not really for you. That is for the Chair to determine. I also think that that does not invalidate the questions. You have been given three specific issues in terms of contracting. Being the Minister responsible, I am sure you know those issues and you should be able to respond. I think they are valid. Respond even as we establish the authenticity of the documents. It was not necessarily related to the document. It is the question of how much was being allocated to particular items.

Mr. Obure: Mr. Temporary Deputy Speaker, Sir, I think I have tried to respond to all the three aspects that were raised. I have dealt with the question of preliminaries. I have dealt with the question on price fluctuation. I have said that this was a project that was designed. The Ministry went for a tender and opened tenders. All the provisions that have been made are in

accordance with the initial design and specification of this particular project. I do not believe that there is anything unusual in this particular tender.

Mr. Baharai: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the Minister in order to avoid answering my question which is very specific? As much as he is saying that this amount of money on price fluctuations may not be spent, I asked him what the basis for arriving at that figure was. He is the former Minister for Finance and, therefore, I expect him to come out with a very valid basis on which this figure was determined. Why was it not Kshs10 million or Kshs20 million or Kshs500, 000?

The Temporary Deputy Speaker (Mr. Ethuro): Minister, that is a valid question. What was the basis? You gave the reason.

Mr. Obure: Mr. Temporary Deputy Speaker, Sir, this is professionally done. It is done after taking all the various factors into account including costing of the various items and an accurate prediction of the trend of cost of building material. This is the basis on which these figures are arrived at.

Mr. C. Kilonzo: Mr. Temporary Deputy Speaker, Sir, the problem we have been having with the Ministry of Public Works is the inflated cost of construction. That is why we have a problem already with centres of excellence. What is the Ministry doing to ensure that the prices quoted by the Ministry of Public Works in their Bills of Quantities are realistic? What is being quoted today is not realistic. The biggest beneficiaries are the contractors.

Mr. Obure: Mr. Temporary Deputy Speaker, Sir, the issue of Bills of Quantities is a matter we have discussed at considerable length at various forums. The basis of arriving at these Bills of Quantities is drawn from a number of manuals, specifications and codes that were prepared very many years ago. I have given information to this House before that we are beginning to revise some of these manuals so that we can bring them to speed with the current situation.

As a matter of fact, this morning, we were at the Kenya School of Monetary Studies with professionals from the private sector, the building industry and my own Ministry. We are beginning to review some of these manuals. We hope that with the support of members of the general public we should be able to arrive at something more reasonable in due course.

The Temporary Deputy Speaker (Mr. Ethuro): I think the Minister has almost exhausted the question.

Minister, you know the mood of the House. When you have Kshs3 million preliminaries, that is money that is unaccounted for and Kshs5 million for price fluctuations is also money unaccounted for. So out of Kshs55 million, you already have Kshs8 million going to other things. Why do we not just leave it there and have the last question?

Mr. Abdirahman: Mr. Temporary Deputy Speaker, Sir, the response to the Question says 85 per cent of work is complete. Work may be complete but it is sub-standard. Could the Minister make an effort to send a team from his Ministry headquarters to assess the works that were undertaken physically? I have personally seen the works but it is sub-standard. I am not an engineer but I can be able to tell you that they are sub-standard. Can the Minister send a team to go and inspect the work and give him a report?

Mr. Obure: Mr. Temporary Deputy Speaker, Sir, as a matter of fact, right now there is a team comprising of professionals from various disciplines out in Garissa. They will be able to give us a report on the quality of works delivered so that we can proceed to complete the balance of the works.

The Temporary Deputy Speaker (Mr. Ethuro): Minister, the request is specific for this particular one. You know they could be there for Economic Stimulus Programmes (ESPs), so, can you direct that they also check this particular project?

Mr. Obure: Yes, Mr. Temporary Deputy Speaker, Sir. I oblige and will do that and even for ESPs.

Mr. Temporary Deputy Speaker (Mr. Ethuro): Question No.248 will be deferred to Tuesday next week in the afternoon!

Question No.248

MANDATE OF MINISTRY OF DEVELOPMENT OF
NORTHERN KENYA AND OTHER ARID LANDS

(Question deferred)

For the Question by Dr. Otichilo, is the Minister for Co-operative Development and Marketing available?

Yes, Dr. Otichilo!

Question No.046

NON-PAYMENT OF SHARE CONTRIBUTIONS
TO RAILWAY SACCO MEMBERS

Dr. Otichilo asked the Minister for Co-operative Development and Marketing:-

(a)whether he is aware that most of the retired members of the Railway Co-operative Society have not been paid their share contributions to the Society; and,

(b)when the members will be paid their money, particularly those from Emuhaya Constituency.

Mr. Temporary Deputy Speaker, Sir, note that this is the third time this Question is on the Order Paper. The Minister is not coming to answer it. So, I wish to get the answer to this Question now because I have waited long enough.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Temporary Deputy Speaker, Sir, let me undertake to inform the Minister to answer this question on Wednesday next week.

The Temporary Deputy Speaker (Mr. Ethuro): Order, Mr. Ojode! This is the third time the Question is on the Order Paper and it has not been answered. Most Ministers have requested for deferment of Questions so that they bring answers. It is the opinion of the Chair that the Minister for Co-operative Development and Marketing cannot transact any business in this House until they answer this Question.

The Question, will therefore, be on the Order Paper on Tuesday next week!

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

The Temporary Deputy Speaker (Mr. Ethuro): What is it hon. Member? We are done with Question Time!

Mr. Mututho: On a point of order, Mr. Temporary Deputy Speaker, Sir. Does that cover Committee activities because we are doing the budget for co-operatives tomorrow? I need your guidance on that!

The Temporary Deputy Speaker (Mr. Ethuro): That is a good one but, since it is already pre-arranged, we can give you an exception tomorrow but, definitely, not in the Plenary. We will not entertain any business. I am hoping that Mr. Ojode, who is purporting to be the acting Leader of Government Business, will avail the Minister. Failure by the Minister to be here on Tuesday, we will hold Mr. Ojode responsible for the answer.

Mr. Midiwo: Mr. Temporary Deputy Speaker, Sir, I am sorry, but I had just walked out to find out the whereabouts of the Minister. The Assistant Minister is abroad and the Minister is out of town on official duties. He has said that he had consulted the Office of the Clerk and asked for the Question to be deferred until Thursday next week.

The Temporary Deputy Speaker (Mr. Ethuro): I would like to commend the Co-chief Whip for the effort of locating the Minister. But I want it registered that the Chair has previously ruled that there is no other more important business than the business of the House. Any Minister can answer for another Minister! It is his responsibility to make the necessary arrangements, including you Deputy Leader of Government Business and the co-Chief Whip to get the answer to the House. It should also be noted that the Office of the Clerk cannot defer a Question. That request should have been put to the Office of Mr. Speaker and the Chair has not received such a request. So under the circumstances, my ruling still stands. This Question will be put on the Order Paper to be answered on Tuesday afternoon. Failure to provide the answer, you know the consequences!

Next Order!

POINTS OF ORDER

RECENT UPSURGE IN CRIME RATES AND VIOLENT ROBBERIES IN NYANZA PROVINCE

Mr. Mbadi: Mr. Temporary Deputy Speaker, Sir, I rise to seek a Ministerial Statement from the Minister of State for Provincial Administration and Internal Security with regard to the recent upsurge in crime and violent robberies in Nyanza Province in the past few months. Specifically, I would like to ask the Minister to explain the circumstances leading to the recent sharp increase in violent crime in the province and, especially, after the last changes in the top leadership of the provincial police force in the province.

Secondly, I also request the Minister to explain to this House what the Ministry is doing to curb cases of firearm robberies which have become common in Nyanza. At that point, I would pause to add that in the past three months, we have lost lives in Kombewa and, just yesterday, we lost lives in Nyakach. We have lost lives in Riyat in Kisumu. A doctor lost his life in Kendu Bay just a few months ago after seeing off his guests. The trend has been worrying.

Thirdly, could the Minister state the general policy on police road blocks which have, all of a sudden, cropped up in the province, specifically addressing the number that we need, the location and possible effects of those road blocks on the economy of Nyanza Province?

Finally, the Minister should state whether he is aware that the transport system and economy of our province is being adversely affected by the many unnecessary road blocks which do not bear any fruits in the general security of the area.

The Temporary Deputy Speaker (Mr. Ethuro): Mr. Ojode, you remember that yesterday you gave an assurance to this House that there will be no such incidents. When you were giving the assurance, those incidents were happening in your own backyard!

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Temporary Deputy Speaker, Sir, while I do not wholly agree with him on certain issues, I do not want to preempt what I am going to say. But I want to promise this House that once I come in with an elaborate Statement, you will see that the crime rate in Nyanza has gone down.

The Temporary Deputy Speaker (Mr. Ethuro): You are now responding? Are you responding now or you are telling us when you will respond? You cannot do both!

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Temporary Deputy Speaker, Sir, I want to come with a Statement on Thursday afternoon. That is because on Wednesday morning, I will be having another function.

Mr. Temporary Deputy Speaker (Mr. Ethuro): Mr. Ojode, matters of insecurity are grave. One week is too long and if you are almost certain of some issues, why do you not bring it a bit nearer, even Wednesday morning?

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Temporary Deputy Speaker, Sir, let me first-track so that I can bring it on Wednesday morning, if possible.

The Temporary Deputy Speaker (Mr. Ethuro): Well done!

ISSUANCE OF MR. SPEAKER'S RULING ON THE EXERCISE OF POWER TO WITHHOLD APPROVAL OF VOTES

Mr. Mungatana: Mr. Temporary Deputy Speaker, Sir, I rise to seek Mr. Speaker's Ruling on a matter that has brought a bit of lack of clarity in terms of the exercise of the power to withhold approval of Votes. From next week, we shall be considering Vote by Vote from each Minister. If you look at Standing Order No.155(4), it restricts the powers to withhold approval to 1 per cent of the total Estimates that have been laid. On the other hand, Section 16 of the Fiscal Management Act gives power to this Parliament to withhold approval of a whole department's Vote so long as the audit query has not been satisfied. At the same time, the Fiscal Management Act, Section 17(3) gives power to this Assembly to withhold up to not more than 25 per cent if the provisions of Section 18 are breached. We wanted guidance on the following issue. In exercise of these powers, are we restricted to 1 per cent or can we exercise the withholding of approval for a whole department? I seek your ruling because this is going to be relevant next week when we may or may not wish to exercise the powers to withhold approval.

The Temporary Deputy Speaker (M. Ethuro): Fair enough! Mr. Mungatana, the Chair will give a considered ruling on Tuesday afternoon. It is quite pertinent during the current budgeting cycle.

DELAYED MINISTERIAL STATEMENT ON THE PRESENCE OF OLF IN WAJIR NORTH CONSTITUENCY

Mr. Gabbow: Mr. Temporary Deputy Speaker, Sir, three months ago, I sought a Ministerial Statement on the presence of Oromo Liberation Front (OLF) in Wajir North Constituency. The Minister concerned assured the House that the OLF people will leave that constituency. However, after three months of waiting, there has been no action against OLF in Wajir North and they have kept on increasing in number. As it was reported yesterday, there are

now more than 100 people with guns and bombs. They are being supported by two ex-chiefs in my constituency and a lawyer who is based here in Nairobi. The Government is just looking at them and doing nothing.

The Temporary Deputy Speaker (M. Ethuro): Order, Mr. Gabbow! Ask specific issues that you would like the Minister to respond to!

Mr. Gabbow: Mr. Temporary Deputy Speaker, Sir, I thought I should, at least, give the background of this issue. That is because three months ago, I had sought a Ministerial Statement and I was promised that action will be taken. Those are foreigners and the Government keeps on giving information that they will be dealt with. But up to now, they have not done anything. What action is the Ministry of State for Provincial Administration and Internal Security taking to make sure that these people are out of Wajir North Constituency?

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Temporary Deputy Speaker, Sir, you will agree with me that the hon. Member asked for a Ministerial Statement from the Ministry of Foreign Affairs last time with regard to the same. Now that he has mentioned chiefs and security component in it, I will deal with the chiefs issue and the security component by next week. I will also consult with the Ministry of Foreign Affairs to give us their version on the issue of those who come from Ethiopia to Kenya.

The Temporary Deputy Speaker (Mr. Ethuro): When next week?

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Thursday next week.

Mr. Gabow: On a point of order, Mr. Temporary Deputy Speaker, Sir. We are talking of retired chiefs and not chiefs.

The Temporary Deputy Speaker (Mr. Ethuro): I am sure the Assistant Minister has noted that. Deal with retired chiefs.

Next Order.

COMMITTEE OF THE WHOLE HOUSE

(Order for the Committee read)

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

IN THE COMMITTEE

*(The Temporary Deputy Chairperson
(Ms. Odhiambo) in the Chair)*

THE ALCOHOLIC DRINKS CONTROL BILL

The Temporary Deputy Chairperson (Ms. Odhiambo): Hon. Members, we are now in the Committee of the Whole House to consider the Alcoholic Drinks Control Bill of 2009.

Clause 2

Mr. Mututho: Madam Temporary Deputy Chairperson, I beg to move:-
THAT, Clause 2 of the Bill be amended-

- (a) In the definition of “Accounting Officer” by deleting the words “Ministry for the time being responsible for matters relating to provincial administration” and substituting therefor, the words “the relevant agency”;
- (b) By deleting the definition of “relevant agency” and substituting therefor the following new definition-
“relevant agency” means the National Campaign Against Drug Abuse Authority or its successor in law as the public body or department responsible for matters relating to alcoholic drinks.

Madam Temporary Deputy Chairperson, all we are trying to do in that particular amendment is to define the relevant agency. In law, we cannot leave a lacuna. We must say who is currently the relevant authority. To the best of our thinking and information, the relevant agency is NACADA. That is what we are trying to do in this particular case.

This relevant agency will also be handling certain funds, and it is important that it too, be considered in that particular--- That is the whole purpose of this amendment to Clause 2.

(Question of the amendment proposed)

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

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

(Clause 2 as amended agreed to)

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

Clause 8

Mr. Mututho: Madam Temporary Deputy Chairperson, I beg to move:-

THAT, Clause 8 of the Bill is amended in sub clause (3) by inserting the words “at least two of whom shall be women” immediately after the word “Minister” appearing in paragraph (e).

Madam Temporary Deputy Chairperson, The purpose of this amendment is to have affirmative action by including women in the district committees.

(Question of the amendment proposed)

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

(Clause 8 as amended agreed to)

The Temporary Deputy Chairperson (Ms. Odhiambo): There was a proposal by Mr. Kapondi. Is Mr. Kapondi around? The proposed amendment is dropped.

(proposed amendment dropped)

Mr. Mututho: Madam Temporary Deputy Chairperson, we have had concurrence from the Committee that Mr. Kapondi's amendments are similar to mine. There is no need for him to rise. So, I will propose until we finish the exercise.

(Clauses 9, 10 and 11 agreed to)

Clause 12

Mr. Mututho: Madam Temporary Deputy Chairperson, I beg to move:-

THAT, Clause 12 of the Bill is amended by inserting the words "or any residential area as have been demarcated by or under the relevant written laws" immediately after the word 'schools' appearing in the proviso to paragraph (a) of sub-section (1).

This is just to amplify the demarcation between schools and other areas.

The Temporary Deputy Chairperson (Ms. Odhiambo) The Chairman of the Committee, do you have---

Kiilu: Mr. Temporary Deputy Chairperson, we have agreed.

(Question of the amendment proposed)

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

(Clause 12 as amended agreed to)

*(Clauses 13,14,15,16,17,18,19,
20, 21, 22, and 23 agreed to)*

Clause 24

The Temporary Deputy Chairperson (Ms. Odhiambo): There is a proposed amendment from hon. Kapondi.

Hon. Kiilu, I would request that you, please, put on record that you are withdrawing all the amendments proposed by hon. Kapondi.

Mr. Kiilu: Madam Temporary Deputy Chairperson, after consultation and after looking at what has been presented by the Mover, I have found that he has picked all what we wanted to amend. In the circumstances, it will be redundant to continue repeating the same process. I propose we move on without amendments.

(Amendments to Clause 24 withdrawn)

(Clause 24 agreed to)

Clause 25

Mr. Mututho: Madam Temporary Deputy Chairperson, I beg to move:-
THAT clause 25 of the Bill be amended by deleting the word Assistant” wherever it occurs in sub clauses (3) and (4).

The reason is that we do not want Inspector to be involved.

(Question of the amendment proposed)

*(Question, that the word to be left out be left out,
put and agreed to)*

(Clause 25 as amended agreed to)

(Clauses 26, 27, 28, 29 and 30 agreed to)

Clause 31

Mr. Mututho: Madam Temporary Deputy Chairperson, I beg to move:-

THAT clause 31 be amended-

(a) by inserting the words “manufacture, pack, distribute or” immediately after the word “sell” appearing in subsection (1);

(b) by deleting subsection (2) and substituting therefor the following new subsection-

(2) Notwithstanding the provisions of subsection (1),-

(a) no person shall manufacture, pack, distribute or sell an alcoholic drink in a container of less than 250 millilitre;

(b) the alcoholic drink previously known as chang’aa or any other distilled alcoholic drink shall only be manufactured, packed, sold or distributed in glass bottles of the kind specified in paragraph(a).

The rationale of this amendment is, the law should not target just the sellers, but also the manufacturers and distributors as defined there. Further, it is absolutely wrong and the Government has come in very strongly on this aspect, to continue dispensing alcohol in containers under 250 millilitre. That is the whole purpose of this amendment in this particular section.

(Question of the amendment proposed)

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

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

(Clause 31 as amended agreed to)

Clause 32

Mr. Mututho: Madam Temporary Deputy Chairperson, I beg to move:-

THAT clause 32 of the Bill be amended-

(a) by deleting the word “label” appearing in sub clause (3) and substituting therefor the word “package”

(b) by inserting the following new sub clause immediately after sub clause (3)-

(3A) All the warning labels specified in the Second Schedule shall be randomly displayed in each twelve-month period on a rotational basis and in as equal a number of times as is possible, on every successive fifty packages of each brand of the alcoholic drink and shall be randomly distributed in all areas within the Republic of Kenya in which the alcoholic drink is marketed.

(3B) The Minister may, by notice in the Gazette, prescribe that the warning, required under this section, be in the form of pictures or pictograms;

Provided that such notice shall come into operation upon expiration of six months from the date of its publication.

(c) by inserting the following new sub clause immediately after sub clause (6).

(7) This subsection shall come into operation upon expiration of six months from the date of commencement of this Act.

The reason for this amendment is that under the current dispensation, labelling of alcohol and the effects of alcohol is obscure. This Clause will make it mandatory that the labelling complies with the law. That is the reason behind this particular amendment.

(Question of the amendment proposed)

(Question that the words to be left out be left, put and agreed to)

(Question that the words to be inserted in place thereof be inserted, put and agreed to)

(Clause 32 as amended agreed to)

Clause 33

Mr. Mututho: Madam Temporary Deputy Chairperson, I beg to move:-

THAT clause 33 of the Bill be amended by deleting sub clause (3) and substituting therefor the following new sub clause-

(3) Any person convicted under subsection (2) on more than three occasions in any period of twelve months shall-

(a) be ordered by the convicting Magistrate to undergo at his own cost, such rehabilitation programme as may be appropriate in a public health institution;

(b) be forthwith reported by the convicting Magistrate to the District Committee, which shall inform such licensees as he deems desirable of such convictions, and thereupon, and until a period of twelve months has passed without any further such conviction in respect of that person, any licensee so informed who knowingly sells or supplies alcoholic drinks to or for delivery to that person commits an offence, and it shall furthermore be an offence for that person to be in possession of any alcoholic drink.

The reason for this amendment is people who are habitual law breakers in this particular law who continued being drunk and disorderly and causing a lot of harm will now have to be monitored and reported appropriately. Further, this amendment seeks to do rehabilitation of those particular people, so that they are not just left in the streets. That is the rational and principle behind this amendment.

(Question of the amendment proposed)

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

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

(Clause 33 as amended agreed to)

(Clauses 34, 35, 36, and 37 agreed to)

Clause 38

Mr. Mututho: Madam Temporary Deputy Chairperson, I beg to move:-

THAT, Clause 38 of the Bill be amended by deleting the word “five “wherever it occurs in sub clause (2) and substituting therefor with the word “ten”.

This amendment was proposed by the Committee, so that we are more punitive to people who flout the law.

(Question of the amendment proposed)

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

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

(Clause 38 as amended agreed to)

*(Clauses 39, 40, 41, 42,
43, 44 and 45 agreed to)*

Clause 46

Mr. Mututho: Madam Temporary Deputy Chairlady, I beg to move:-

THAT clause 46 of the Bill be amended by deleting sub clause (3).

The reason for doing this is to stop advertisers from enticing people that they can be rich by drinking too much. It is also to stop them from offering prizes against drinking and yet the more people drink the more they mess.

(Question of the amendment proposed)

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

(Clause 46 as amended agreed to)

*(Clauses 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60,
61, 62, 63, 64, 65, 66, 67 and 68 agreed to)*

New Clause 45A

Mr. Mututho: Madam Temporary Deputy Chairlady, I beg to move:-
THAT the Bill be amended by inserting a new clause immediately after clause 45 as follows-
Promotion at
underage
events.

45A.(1) No person shall promote an alcoholic drink-

(a) at any event or activity associated with persons under the age of eighteen years;

(b) using such things or materials that are associated with persons under the age of eighteen years.

(2) Any person who contravenes the provisions of this section commits an offence and shall be liable to a fine not exceeding five hundred thousand shillings or imprisonment for a term not exceeding three years or to both such fine and imprisonment.

The rationale here is that events which involve people who are under 18 years like the many people who are seated in the galleries today--- The under 18 years rule should apply to all advertisements so that we do not have many of our youth engaged in drinking especially during sports events.

(Question of the new clause proposed)

(New clause read the First Time)

(Question, that the new clause be read a Second Time put and agreed to)

(The new clause was read a Second Time)

(Question, that the new clause be added to the Bill, put and agreed to)

New Clause 45B

Mr. Mututho: Madam Temporary Deputy Chairlady, I beg to move:-

THAT the Bill be amended by inserting the following new section immediately after the proposed section 45B *Encouraging consumption*.

49. (1) No person shall promote any alcoholic drink in such a manner as to encourage more consumption of an alcoholic drink in order to win an award or prize.

(2) A person who contravenes any of the provisions of this section commits an offence and shall, on conviction, be liable to a fine not exceeding five hundred thousand shillings, or to imprisonment for a term not exceeding three years, or to both.

This amendment targets the people who may want to be rich by, for instance, becoming millionaires by participating in drinking draws. Such people would continue to drink and participate in the draws. We are trying to stop such adverts which encourage many people to drink one too many hoping to hit a jack pot.

(Question of the new clause proposed)

(New clause read the First Time)

(Question, that the new clause be read a Second Time put and agreed to)

(The new clause was read a Second Time)

(Question, that the new clause be added to the Bill, put and agreed to)

Second Schedule

Mr. Mututho: Temporary Deputy Chairlady, I beg to move:-
THAT the Second Schedule be amended by deleting paragraph 2.

The reason for this amendment is to have more appropriate warning messages pinned on all liquor containers or alcohol dispensing items.

(Question of the amendment proposed)

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

(Second Schedule as amended agreed to)

(Title agreed to)

(Clause 1 agreed to)

Mr. Mututho: Temporary Deputy Chairlady, I beg to move that the Committee doth report to the House its consideration of the Alcoholic Drinks Control Bill and its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

(The House resumed)

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

REPORT AND THIRD READING

THE ALCOHOLIC DRINKS CONTROL BILL

Ms. Odhiambo: Mr. Temporary Deputy Speaker, Sir, I beg to report that a Committee of the whole House has considered The Alcoholic Drinks Control Bill and approved the same with amendments.

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

Ms. Karua seconded.

(Question proposed)

(Question put and agreed to)

Mr. Mututho: Mr. Temporary Deputy Speaker, Sir, I beg to move that The Alcoholic Drinks Control Bill be now read the Third Time.

Mr. Kiilu seconded.

(Question proposed)

Ms. Karua: Mr. Temporary Deputy Speaker, Sir, I wish to congratulate the Mover of this Bill. Better regulation is, indeed, called for in the manufacture, advertisement and sale of alcohol. That is what is being provided for here. This Bill is so good because it focuses on the health and awareness of the consumer. It also protects our young and, indeed, all the consumers. It provides for rehabilitation of people adversely affected by alcohol. This Bill will help not only all Kenyans, but especially the boy-child in the Mt. Kenya area who is threatened by alcohol, to the extent that the next generation may not be forthcoming.

I congratulate the Mover and say that this is a Bill that deserves the support of all.

Ms. Odhiambo: Mr. Temporary Deputy Speaker, Sir, I want to thank hon. Mututho for bringing such a timely Bill. The issue of alcohol consumption, especially among the young people is on the increase. A lot of our children's lives are getting messed up because of consumption of alcohol, some through peer pressure, but others through no fault of their own. A lot of work that I have done with children in schools indicates that there are people who actually lace the drinks of children with alcoholic contents without their information. Many children without knowledge have become addicted.

Mr. Temporary Deputy Speaker, Sir, the other thing that I have seen in the Bill that I am happy about is that it has been given attention---

The Temporary Deputy Speaker (Mr. Ethuro): Order, hon. Odhiambo! This is the Third Reading. So, you must be very brief.

Ms. Odhiambo: Mr. Temporary Deputy Speaker, Sir, the other issue I want to laud the hon. Member for, is the mention of rehabilitation. The issue of lack of places for rehabilitation, especially for persons addicted to alcohol is a problem. I am very happy that the hon. Member is obligating the Government to ensure that we find places to rehabilitate, especially young people.

I support and thank the hon. Member for this timely Bill.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Lesrima): Mr. Temporary Deputy Speaker, Sir, I wish to join my colleagues in congratulating hon. Mututho for coming up with this Bill. We worked together very closely on this Bill.

Mr. Temporary Deputy Speaker, Sir, this Bill is very important because it provides for the funding of NACADA. As you know, NACADA does not have enough resources to deal with issues of rehabilitation. I am also, on behalf of the Ministry, happy to note that under Clause 66, there is room for a number of regulations to tighten up any loose ends.

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

Dr. Khalwale: Mr. Temporary Deputy Speaker, Sir, as I join the rest of the hon. Members in congratulating hon. Mututho, it reminds me of yesterday. From yesterday, good things seem to be happening in this country. This is because yesterday, we talked about price controls. That was, indeed, a Bill of the people.

Mr. Temporary Deputy Speaker, Sir, today, we are talking about this Bill which, in my view, again, is a Bill of the people for the following reasons. Now that this is going to become law, members of the Provincial Administration, who have taken upon themselves to create kangaroo courts in the pretext that they are trying to regulate alcohol, now, this is going to be something of the past. Alcohol will be regulated under this law properly. There will be no kangaroo courts and our women in the rural areas are not going to be harassed.

Mr. Temporary Deputy Speaker, Sir, the wisdom of this Bill is that anybody who continues to sell alcohol to a customer and he drinks himself silly will be blacklisted. This is very good because it means that people will now be assisted by law to regulate alcohol.

Mr. Temporary Deputy Speaker, Sir, finally, we have provided that people cannot be allowed to drink alcohol at any time. That, drinking hours will actually be clearly defined, it gives an opportunity for especially men of this country to spend morning hours on the farm before the law allows them to go and enjoy their traditional drink in the evening.

I beg to support.

The Minister for Lands (Mr. Orenge): Mr. Temporary Deputy Speaker, Sir, I also wish to congratulate hon. Mututho, particularly when I find myself sitting next to hon. Michuki. I remember he made a lot of efforts towards this course. Parliament was a little bit different those days, but now, hon. Michuki's dream has come true, thanks to hon. Mututho.

Mr. Temporary Deputy Speaker, Sir, in saying so and adding a word to what Dr. Khalwale has said, a gentleman may drink because he needs a reason to go to the club, but a perfect gentleman will only drink to have something little to put him to sleep. I hope we are all perfect gentlemen.

(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 Justice and Legal Affairs on the Appointment of Director and two Assistant Directors to the Kenya Anti-Corruption Commission laid on the Table of the House on Thursday 17th June, 2010.

(Ms. Odhiambo on 23.6.2010)

(Resumption of debate interrupted on 23.6.2010)

The Temporary Deputy Speaker (Mr. Ethuro): Order, hon. Members! Hon. Abdikadir misinterpreted the red light to mean termination of contribution. He made a representation to the Speaker and he was allowed. Apparently, he is still maintaining the position of yesterday. So, I will allow Dr. Khalwale to contribute.

Dr. Khalwale: Thank you Mr. Temporary Deputy Speaker, Sir. I rise, partly, as a Member of Parliament and mainly as the Chairman of the Public Accounts Committee to thank this Committee for attempting to bring this exercise to a closure because, in our discharge of our duties as Members of the Public Accounts Committee, we know what role the Kenya Anti-Corruption Commission plays. That we have been operating without that institution has been a big stumbling block.

I rise to support the report by this Committee that Patrick Lumumba, Pravin Bowry and Prof. Onsongo be nominated to that institution. As I do this, I asked myself last night; what really is our role as Parliament in this exercise? I found out that our role is very simple. It is clearly defined that our role is simply that one of vetting. If the role of hon. Members is that one of vetting, what does vetting entail? If we must be honest to our functions which we must discharge without fear or favour, then the process of vetting entails two things. This House must, this afternoon, satisfy itself that the due process of identifying those two men and one woman was above board.

Secondly, the House must satisfy itself, this afternoon that the characters of the candidates chosen are up to the task. If we want to question the due process, what are our tools? Our tool is the law which sets out the procedure. Our tools are the organs involved. To me, when I look at the law, I see no point at which due process has been breached. When I look at the organs which have been involved, I have no reason but to support. What do I mean? I looked at the Advisory Board. The Board was chosen very carefully. It brought on board men and women of impeccable character; people who would not be easily influenced to favour any of those three names. We have the Kenya Medical Association in there, engineers, architects, Law Society of Kenya and Federation of Women Lawyers, amongst others. That those people have done this work and we turn up this afternoon and say that they were all wrong, would be a self-defeating exercise. If we want to interrogate the character of those three people, we must go further and ask ourselves: What it is in character that we are looking for? In my mind, we want to question

the integrity and competence of those personalities. On the issue of integrity--- I am talking about Dr. Patrick Lumumba. If you go out there in the court of public opinion and you want to score P.L.O. on the issue of integrity, this House would find that in the court of public opinion, Dr. Lumumba would score very highly, indeed. He would not have scored because he has lobbied. Prof. Lumumba has a track record. Many of you know the role that Prof. Lumumba has played in advocacy for the fight against corruption. You know his role in advocacy for the need to have reforms in this country. You would find it very difficult to fault P.L.O. Lumumba on that particular score.

On the issue of competence, P.L.O. Lumumba is a lecturer at the University of Nairobi - the best university in the land; the best in East and Central Africa. He is a lecturer, not at some dubious discipline, but at the discipline of law. This is a man whose competence, in my mind, is not in doubt. As I support those three names---

The Temporary Deputy Speaker (Mr. Ethuro): Order, Dr. Khalwale! You and I do not belong to that particular discipline of P.L.O. Lumumba. Why do you refer to the rest as dubious? I think all disciplines, especially at the university level, are serious professional courses?

Dr. Khalwale: Mr. Temporary Deputy Speaker, Sir, I stand corrected. Several accusations have been raised by previous speakers against P.L.O. Lumumba. P.L.O. Lumumba is being accused of not deserving to take this job because he was the Secretary of the Bomas process that flopped. I want to liken P.L.O. Lumumba's job to the job of the people who used to drive us when we used to come to Nairobi by bus. Inside the bus, you would always have a very faithful turn boy and a very competent driver. P.L.O. Lumumba, at the Bomas Process, was merely a turn boy. The driver of that bus that did not make its journey was none other than the Chairman, Prof. Yash Pal Ghai. Therefore, the failings of Prof. Yash Pal Ghai, as the Chairman of the Bomas process, should not be blamed on P.L.O. Lumumba to the extent that we deny him an opportunity to serve his own nation.

P.L.O. Lumumba has been accused of being a politician, purely because he was a chairman of a party and a parliamentary candidate in 2007. Hon. Members, let us stop for a moment and think. As they say in English, what is good for the goose should also be good for the hunter. If you want to stop P.L.O. Lumumba from taking this job simply because he had that ambition, why did the previous Parliament not stop hon. Abuya Abuya from becoming a Commissioner of the Electoral Commission of Kenya when he had been a Member of this House? Why did this Parliament, last year, not stop hon. Andrew Ligale from becoming the Chairman of the Interim Independent Boundaries Review Commission when Ligale had been an active Member of this House? Why did the previous Parliament – and that Parliament had none other than James Orengo; a high profile politician in this country - not stop Mr. Kivuitu from becoming the Chairman of the Electoral Commission of Kenya (ECK) when he used to be the Member of Parliament for Parklands? Let us also remember that amongst the current serving high commissioners and ambassadors are former Members of Parliament who were our colleagues in the last Parliament. That was just the other day. So, we cannot deny P.L.O. Lumumba this job on that accord.

I heard hon. Nyamweya advance the theory that P.L.O. Lumumba and Bowry had been advocates in cases of corruption. I was listening to him because I thought he would go further. I would have liked Nyamweya, who is, himself, a lawyer, to show us evidence here that P.L.O. Lumumba and Bowry should be denied because if it was in the case of Anglo Leasing or Goldenberg--- Mr. Nyamweya should have gone further and shown us two cases where, either P.L.O. Lumumba or Bowry, or their law firms were used as conduits in the proceeds of

corruption. All they did was that they represented thieves. Are you telling me that thieves, murderers and rapists do not get representation from lawyers? They were representing clients who had been accused of those things. One of our very active Members of the Opposition Bench, Ms. Martha Karua, is a lawyer. I know for a fact that before she came to Parliament in 1992, she was a very strong lawyer advocating for the rights of all people and was accused of all manner of things. She was doing this because she was protecting their human rights. We are not going to stop young lawyers from defending clients who are accused of crimes like murder, rape and other forms of unacceptable human behavior, because they fear that ten years down their professional line, they will be denied to serve in a national institution.

Mr. Temporary Deputy Speaker, Sir, as I conclude my presentation, I want to appeal to Members that when we walk into this House, we do so, to make laws. For this particular case, we have not come here to make a law. We have come here to cast a vote on meritocracy. Is it possible that somebody who does not have a godfather, like Dr. Lumumba, can have his name in this House and people cast a vote purely because he is a good man? To me, the fact that Dr. Lumumba is not having a godfather, be it a strong politician or a strong principal in the Coalition Government, is in itself a pointer to the fact that this is an independent minded person. It will be very sad this afternoon if any Member of this House will be polluted or be guided by ethnic considerations to either give or deny Dr. Lumumba, Mr. Bowry and Prof. Onsongo this job. I would like, at the time of the vote, should we go into a division, to see as many people from the Luo community that Dr. Lumumba comes from vote against him. To see as many people from the Kikuyu and the Luhya community from which Lumumba does not come from, support him. If we continue being guided by this consideration, then where do you leave those applicants and candidates who, not because of their own doing, come from the so called "marginalized" or minority communities? Let us, brothers and sisters, hon. Members, take a vote to support Lumumba, Bowry and Prof. Onsongo.

With those remarks, I support.

The Minister for Lands (Mr. Orengo): Mr. Temporary Deputy Speaker, Sir, I wish to support this Motion and make very few remarks. When we are considering this issue, we should go back to the law that was enacted by this Parliament and ask ourselves: Do these three persons qualify in accordance with the statute that we enacted? In my humble submission, on all considerations and all imperatives that we can consider, they qualify.

Just as a matter of repeating, probably, what I tried to point out yesterday to hon. Abdikadir, Dr. Lumumba is not an isolated case where somebody can change from one profession to another or from one calling to another. During Independence, or the first years when this country gained Independence, there were very few people with qualifications who could be recruited in jobs in the Public Service. Over the years, you had a person like Chanoon Singh who was a very committed trade unionist who became a judge of the High Court of Kenya; one of the very good judges who served in the High Court during his later life. Of course, there is the case of Justice Madan, who was not only a Member of this House, but was a Cabinet Minister. In the later part of his life, he became a judge, not only of the High Court, but of the Court of Appeal and then he became a Chief Justice.

But the more important reason why I would want to support these three individuals--- I just want to take the case of Pravin Bowry. I have done several cases with Pravin Bowry. He is a man with a passion for the job that he likes. The kind of job that is required to be done under the Economic Crimes and Anti-Corruption Act requires committed people. I believe he is eminently qualified. I know he will be committed and will do this job with the zeal and passion that it

requires. Similarly, for Dr. Patrick Lumumba; he will do the job with passion and with commitment. In these public institutions, normally we get people who just want jobs for the sake of it. The reason why this Commission was created is because there was a lacuna that needed to be closed by having it in place. One of the failures on our part was to recruit men and women who will not do their job with the commitment that is required. Part of the mandate of the Commission is to let the people know why we must fight corruption and to conduct civic education. To let the country know the reason why impunity and corruption must be punished, we need somebody who can go out there in the public and say openly and loudly that this is a vice that must be fought and fought at all levels. He should speak clearly and with passion on this subject of corruption.

We do not want people who get these jobs and the moment they get these jobs, they sit back in their offices without letting the country know what the job is all about. I know that many people do not really know the appropriate mandate for the Commission.

There are a lot of things that this Commission can do, even in the area of trying to determine those who acquire property. Under the Act, if you have unexplained assets, they have mandate to require of you to explain how you have obtained those assets. There are many of us, and I want to say sometimes I may include even myself, who cannot account for everything that we have. We need some people checking on us, so that every single thing that we own as public officers, we can explain. That is the mandate that does not require the Commission to go to court because the richest in this country, and I want to say this without fear of contradiction, are people who have been in the Public Service or on account of being associated with the Public Service. They are richer than even the people in the corporate world because they use their offices for purposes of corruptly acquiring property. I can tell you that with these three individuals, whom I know can do this work with commitment and a sense of passion, we will begin to fight this thing called corruption.

This Act came into place in 2003. As I speak, there is nothing that the Commission can really show to have done in the last six or seven years. I am happy that today, I met with the Chairman and the members of the Advisory Board because we have been looking for support in the land sector. If it is demonstrated to the Ministry that if you have acquired land irregularly or corruptly, we should not take you to court, but get the land back. You can go to court and ask us why we have done that because fighting impunity cannot be fought with kid gloves, we must fight it uprightly. We got the assurance from the Advisory Board that they are going to help us in this fight of trying to get public property back to the public. I would not fail now to say, in this House, that I have an invitation from hon. Khalwale next Thursday to go with him to get back a piece of property that he is so much concerned about, so that the people of Kenya will know that we say what we mean and mean what we say.

With those brief remarks, I support.

Ms. Karua: Thank you, Mr. Temporary Deputy Speaker, Sir. I rise in support of the Motion.

These candidates were recruited through a very competitive process. All those who wished to have these jobs applied. They were interviewed by the Advisory Board with the help of a human resource consultancy. Parliament, through its relevant Departmental Committee, has gone through the names and accepted them.

Parliament is under scrutiny on how we deal with the processes that come before us; as to whether we do it with seriousness or whether we look for all reasons to throw mud at people who

are brought to the Table of the House for approval or disapproval. It is the right of Parliament to disapprove names, if hon. Members have good reasons.

Mr. Temporary Deputy Speaker, Sir, it is, indeed, our duty to give any reason that makes somebody unsuitable but that is accompanied by an equally important duty of only to speak when you have concrete reasons. Otherwise, we shall be mistaken for a lynch mob that destroys the character of professionals in this country. We must really take our duties seriously and only give indication when we have before us concrete evidence.

I listened to a professional colleague and an hon. Member of this House giving reasons as to why one Dr. P.L.O. Lumumba is not suitable for the job, and said that it is because he vied for a parliamentary seat in 2007. On my part, I beg to differ and say that this demonstrates the leadership that we are looking for. A chief executive officer must have the leadership ability. I want to say that I do not remember seeing him politically active during the last three years since the last general elections. If he was continuously politically active, then one would have doubts.

Mr. Temporary Deputy Speaker, Sir, it is also in the Report that one of the Members entered a minority pocket that Dr. Lumumba failed to present that particular hon. Member's views at a plenary debate during the Bomas constitutional review process. It would have been wrong for the Secretary of the Commission, as he then was, to represent the views of a member or group of people. It was the duty of that hon. Member, or any of us involved in that process, to stand and put our views forward. You cannot expect members of a commission or the secretary to become your mouthpiece. With respect to the hon. Member, these are flimsy grounds, and I urge hon. Members not to take them.

I have also seen the same objection entered against Mr. Bowry, because he has been representing various people. I am a lawyer myself. When I used to practise, I represented all manner of people. I used to practice, among others, criminal law. The fact that I represented criminals does not make me a criminal. I was merely doing my duty. So, unless we fail to capture the role of a professional, we should not take such flimsy grounds.

Mr. Temporary Deputy Speaker, Sir, if that were to be the case, then even Members of Parliament who now have criminal cases would have no lawyers to represent them, because every lawyer would fear being called a criminal. Mr. Pravin Bowry has been doing his work as a lawyer. What we should be looking for is whether, personally, we know of any instance where any of the three candidates before us has failed to display the highest standard of integrity in performance of their duties.

On my part, I know of no such incident with regard to the three, and I must confess that the lady is new to me, but I know both Dr. P.L.O. Lumumba and Pravin Bowry as fellow advocates of the High Court. I know them to be people who exercise the highest degree of professional probity. I know that they are suitable for this job.

Mr. Temporary Deputy Speaker, Sir, what if Mr. Bowry or Dr. P.L.O. Lumumba encounter their former clients? The Commission is not one person. Even here in Parliament, when we come across a matter where we have an interest, we are required by the Standing Orders to declare such interests. So, if any member of the Commission comes up against a case where he knows the litigant too closely, even a Judge of the High Court, because we are all human beings and we all know other people, and we have family members, all that is required is that you disclose your closeness and you let the file go to somebody else.

There are no grounds given before this House, or even in the Committee Report, which would make us reject any of these three eminent Kenyans. I want to remind Parliament that since this Parliament rejected the re-appointment of Justice Ringera, the Kenya Anti-Corruption

Commission (KACC) has been without substantive leadership. We cannot dither on this any longer, especially if we have no serious reasons.

Mr. Temporary Deputy Speaker, Sir, there is another thing bothering us as Parliamentarians. I think because of the events that have happened before, we agreed to buy fear of each other. If a person is unfamiliar to you, you reject him. You want your comfort zone. We start rejecting people not on any serious grounds, but because of our fears. If we continue treating each other with such fear, then we cannot be able to proceed. Perhaps, we cannot even get leadership. We ought to seek for someone to colonise us.

If we had accepted this fear, we would never have formed any of the Commissions we formed after the problems we underwent in the period January-March, 2008, but I am glad that this Parliament has overcome it. We were able to form the Interim Independent Electoral Commission (IIEC), the Disputes Resolution Tribunal, the Interim Independent Boundaries Review Commission (IIBRC), the Truth, Justice and Reconciliation Commission (TJRC) and the National Cohesion and Integration Commission (NCIC), which is now doing a commendable job.

Mr. Temporary Deputy Speaker, Sir, let us not also fear these three prominent and eminent Kenyans. Let us endorse them, and let the Commission begin its work. Let us release their energies to help us fight corruption. I want to borrow the words of my senior colleague and friend, Mr. Orengo, referring to the mandates of the KACC; they investigate, they institute proceedings for recovery of assets, they lay anti-corruption strategies and educate.

Just imagine the eloquence of Dr. P.L.O. Lumumba while educating the masses! This is talent that we are tapping. Let us not fear the talent we have in this country. I am also imagining Mr. Bowry evaluating a file. He is a very good criminal lawyer. I, first, encountered him when I was newly recruited as a magistrate in Nakuru. I know that he is a meticulous person who really prepares for his cases. This is the kind of talent we need in this Commission.

Mr. Temporary Deputy Speaker, Sir, after reading the CV of the lady, Madam Onsongo, I know that the qualifications she has will also add great value to this Commission under a dimension that is not strictly legal. We need all dimensions when we are dealing with cases. I want to persuade my colleagues that we allow this to move on.

Dr. Lumumba has also been in charge of a programme – and he still is – in the Ministry of Justice, National Cohesion and Constitutional Affairs called “Moving the Masses”. Those of us who watch that programme have seen the zeal with which he is approaching the issue of educating the masses on the dangers of corruption. We want this talent to be within the body charged with this job.

Mr. Temporary Deputy Speaker, Sir, without repeating what others have said, I just want to say that it is time we had leadership that is substantive at this very necessary body. Let us release the energies of these three eminent Kenyans to help us combat corruption at a time when, regrettably, the Government has become comfortable bedfellows with corruption.

The Assistant Minister for Livestock Development (Mr. Duale): On a point of order, Mr. Temporary Deputy Speaker, Sir. Could the hon. Member substantiate the claim that the Government has become bedfellows with corruption? We need that substantiation.

Ms. Karua: Mr. Temporary Deputy Speaker, Sir, I will gladly say so. There is the recent case of reinstating the Permanent Secretaries the wrong way. The law is very clear. The Anti-Corruption and Economic Crimes Bill clearly states that an investigation report from the Kenya Anti-Corruption Commission (KACC) must go to the Attorney-General who then advises the Government. This time round, it went directly to the Executive who then are advising Kenya and

the Attorney-General that they have found no offence. Irrespective of the contents of the report, we can only assume a cover-up. I am entitled to now say without fear of contradiction that the Government and corruption are comfortable bedfellows.

Mr. Temporary Deputy Speaker, Sir, my experience in the Government and also my reasons for resigning is knowing from inside, and I can even further substantiate that the Government has become comfortable bedfellows with corruption.

I beg to strongly support this Motion.

The Minister for Lands (Mr. Orengo): On a point of order, Mr. Temporary Deputy Speaker, Sir.

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

The Minister for Lands (Mr. Orengo): On a point of order, Mr. Temporary Deputy Speaker, Sir. *Kidogo tu!* I want to support what she is saying.

The Temporary Deputy Speaker (Mr. Ethuro): Order, Mr. Orengo! You approached the Dispatch Box without the Speaker's consent. Just by approaching it does not guarantee you the right to speak!

The Minister for Lands (Mr. Orengo): On a point of order, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Ethuro): Overruled!

Yes, Mr. Chanzu!

Mr. Chanzu: Mr. Temporary Deputy Speaker, Sir, I also rise to support the appointment of the two gentlemen and the lady into these positions. That is Dr. Patrick Lumumba as the Director of the KACC; Mr. Pravin Bowry as the Assistant Director, Legal Services and Prof. Jane Kerubo Onsongo as the Assistant Director, Education, Research, Policy and Preventive Services. We need to ask ourselves whether the due process was followed. Apart from what my colleagues have said, when I look at the educational background as a basic requirement, all these three qualify for the positions which they have applied and for which they are being recruited. If I look at the experience, I also find that they all qualify. Somebody had issued an anonymous document talking about the number of years somebody like Dr. Patrick Lumumba should have served. If you consider that he is a senior lecturer at the university, he worked for the Constitutional of Kenya Review Commission (CKRC) for four years as the Secretary and as an experienced lawyer, he is more than qualified. He has met the ten years we talked about.

Mr. Temporary Deputy Speaker, Sir, when I look at suitability I find that they are all suitable for the job which they have applied. Mr. Patrick Lumumba has a very good personality. We are looking at opening up offices. We are talking about transparency. We are talking about opening up our offices. I think somebody who is outgoing like Dr. Patrick Lumumba should be able to open up an office so that everybody can see what is going on. There are those who get appointed to these positions and then they enclose themselves in the offices.

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

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

The three positions are very important to this nation bearing in mind that we are fighting corruption at the moment and we are looking at people who can deal with these matters openly

and without fear. I feel that all these three qualify because of their openness and the experience they have. We are not looking for an angel in this country. We are looking for our own people. So, for somebody to think that we will be looking for somebody outside what we have is like daydreaming.

With those few remarks, I beg to support this Motion.

The Minister for Regional Development Authorities (Mr. Gumo): Mr. Temporary Deputy Speaker, Sir, I also rise to support this Motion.

Dr. Patrick Lumumba applied for this job just like anybody else and he is qualified. I am sure that the majority of us have seen his contributions generally. He has been acting as an advocate. He has also served as the Secretary to the CKRC where he worked very well. Dr. Lumumba is a very open-minded and independent person. I would not say that he would go and ask for anybody's support or influence. Although he is being accused for having vied for election in 1997, this is one person who decided not to align himself to any large political party. He decided to go it alone and convince people. He also bribed nobody. I remember when he was campaigning, he told men and women that whoever wanted to vote for him, then let him or her vote for him because of his own merit and not because he or she had been given money. That made me believe that Dr. Lumumba is a very able person who can do things on his own. In that election, very few people could vie on parties which were not known like his, but he did it. He could have aligned himself to any party. Some of our parties were very strong and very powerful in Nairobi but he never bothered. He stood on his own.

Mr. Temporary Deputy Speaker, Sir, Dr. Lumumba was brought up in Nairobi. He went to High School in Nairobi then to the University of Nairobi (UoN). Therefore, he has very little tribal affiliation. I do not even think that he is interested. That is why I feel he is the best for this job. In some cases, people support others because they come from their constituencies or their areas. Dr. Lumumba is one person you will never see trying to go into some of these big offices to get support. Since he was interviewed, I am sure and I can bet that he has never approached any of the top people to assist him because he knows that he is capable. When you have confidence and you know you are capable of doing a job, you do not have to go to anybody's office for assistance. Whoever is supporting him here, I am sure he or she is doing so on his or her own due to the way he or she knows him.

A position like this one requires people who are independent. You require people who can tell you off and make decisions without being influenced because corruption in this country is something that we have been fighting and we continue to fight. Unless we get people who are strong, can fight it and make sure that they do so independently without any tribal feelings like Dr. Lumumba, we will lose.

I do not want to take a lot of time but I have known Dr. Lumumba for a long time. He is a good advocate. I do not know the other candidates well. However, I have known Dr. Lumumba in my capacity as a Member of Parliament in Nairobi. He has never come to me for any assistance because he is capable.

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

The Assistant Minister, Ministry of Youth Affairs and Sports (Dr. Laboso): Thank you very much Mr. Temporary Deputy Speaker, Sir. I rise to support the report. A lot has been said. I will not say much, I would just like to add my voice to what has always been said that the Advisory Board went through these three candidates, they looked at their qualifications and they looked at all the criteria that had been put forth for these applications and found them fit to hold

these positions. If we are being true to ourselves, if we are being honest, and if we are being real MPs, I believe that we should pass these names as presented because due process was followed and the candidates were found fit.

We have heard arguments given that Prof. Patrick Lumumba is a quasi-politician but I am sure there have been many who have either stood for positions or are aspiring for those positions but that we cannot disqualify then on the account that at one time or another, he wanted to be a politician. I think it does not hold water and we must give him the opportunity to exercise what everybody knows about Prof. Lumumba. We all know him, it is in the public domain, the work that he has done in terms of anti-corruption and we do not want to deny him the opportunity to serve this nation.

Again, other arguments have been given about Mr. Bowry his professional qualification and representation of the clients that he has represented. We want to say the fact that he has in the past represented people who are supposed to be criminals again does not make him a criminal himself. Those clients are entitled to their human rights. Where do you draw the line between his professional qualification and qualification for the job that we are asking him to do? Do these three candidates qualify for the positions they have asked for? The answer is a big yes. I really want to say we do not want to create other qualifications which were not apparent in whatever was asked for so that we may be able to disqualify them on that account.

So, Mr. Temporary Deputy Speaker, Sir, I want to say that if these three men were found to be people of integrity, give them the opportunity to serve this country. Thank you.

The Assistant Minister for Livestock Development (Mr. Duale): Mr. Temporary Deputy Speaker, Sir, I stand to oppose this Report. I have all my reasons. The czar of KACC and the investigative assistant director we are looking for is not about eloquence. It is not about how you can be a good public speaker. It is about your integrity, your history. It is about the kind of person we want to give this job to. For you to assess the integrity of an individual, you must assess his history. We cannot, and I want Members to bear me out that the parliamentary legal committee did its part, the final group that will okay these three names rests with this House, the 222 Members of Parliament. The world over, if you look at the anti-corruption czars, they are people of high integrity. We are talking of one of the names here and noted that he has been the lawyer of the most corrupt individuals in this country. One of the worst corruption cases that KACC has been investigating for many years is the Goldenberg Scam. One of the individuals named here has been a lawyer for the most corrupt people in this country. And we know the bond that develops between a client and a lawyer. Here, there is a conflict of interest.

Mr. Temporary Deputy Speaker, Sir, we want a person we are going to give this job to have complete delineation from politics. If you could not convince a constituency for political leadership, then we cannot give you this job. If your history at the University of Nairobi is in doubt, if your involvement with past regimes is in question, it is not whether you sit on a TV station in a programme called "Moving the Masses". That will not make you the czar that we want. It is not how you speak, we do not want a good speaker. We want a person who is going to restore the confidence Kenyans have in the war against corruption. Let us not be carried away by friendship in the legal profession. Let us not be carried away because one of the names here, you come from the same club. Let us not be carried away because some of the names come from your region. The person we want to submit is bigger than the Head of State and bigger than this Parliament. The biggest problem we have in this country is corruption.

(Mr. Mbadi stood up in his place)

The Temporary Deputy Speaker (Prof. Kaloki): Order, hon. Mbadi! Proceed, on Mr. Duale!

The Assistant Minister for Livestock Development (Mr. Duale): Mr. Temporary Deputy Speaker, Sir, I think in the debate, this must be very clear and this House must take these three names very seriously.

(Ms. Ndeti stood up in her place)

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

The Assistant Minister for Youth Affairs and Sports (Ms. Ndeti): Mr. Temporary Deputy Speaker, Sir I think the Member of Parliament is very wrong by quoting somebody who is bigger than the President in this country, and the country itself. Nobody is bigger than the country itself.

The Temporary Deputy Speaker (Prof. Kaloki): Hon. Duale, do you want to clarify that?

The Assistant Minister for Livestock Development (Mr. Duale): I am referring to the institution called the Kenya Anti-Corruption Commission (KACC). It is a very important institution. We know the holder of that office enjoys security of tenure and a good package. This House has a moral obligation and history will judge you that one day, we gave a guy a job just because he is a political activist, just because he is eloquent, just because he represented the corrupt of the most corrupt, just because he slept in the same bed with the most corrupt governments. We must be serious and have integrity ourselves. Let us give this job to somebody who is qualified. There are many Kenyans out there and there is no rush.

Mr. Temporary Deputy Speaker, Sir with those few remarks, I oppose.

Mr. Muthama: Thank you, Mr. Temporary Deputy Speaker, Sir. I stand to support this Motion on the appointment of P.L.O. Lumumba. I have listened to the debate here and the issues which are coming up are that P.L.O. Lumumba was once a parliamentary candidate. We are referred to here as honorable Members. Lumumba wanted to be an honourable Member, so that he could command the respect as an honourable Member.

(Applause)

Mr. Temporary Deputy Speaker, Sir, for me to become a politician it does not mean that I have spoilt my curriculum vitae and that I have converted myself into a criminal!

(Applause)

Mr. Temporary Deputy Speaker, Sir, it is on record; if there is one person in this country who can, in fact, be associated with fighting and exposing corruption, then it is Lumumba!

(Applause)

Mr. Temporary Deputy Speaker, Sir, the National Security Intelligence Service gave a report approving this young man; five meetings were held by the Committee that was constituted

by hon. Members of this Parliament – honourable Members, we may doubt now the proposal for Lumumba to be the Director of the KACC, but are we also doubting our colleagues who actually approved the appointment of Lumumba?

(Applause)

If, truly, we are doubting those hon. Members, why can we not honourably also ask them to quit as Members of that Committee, because they made the wrong decision?

Mr. Temporary Deputy Speaker, Sir, we should not waste time. Let us not walk into this House with the mandate that we have been given by Kenyans and tarnish the names of those who cannot make it here; those who are outside there expect us to protect them, but instead of doing that, we are coming here to view every appointment that has been done by fellow Kenyans, negatively. Once an appointment is made, we are querying it. Who is going to serve this country?

Mr. Temporary Deputy Speaker, Sir, P.L.O. Lumumba should not be discriminated against because he was a parliamentary candidate, or because he comes from a certain part of this country.

(Applause)

Mr. Temporary Deputy Speaker, Sir, we must be Kenyans; let us give this young man an opportunity to prove what he has been saying.

(Applause)

Hon. Members: Yes!

Mr. Muthama: Mr. Temporary Deputy Speaker, Sir, he has said in newspapers and all over the media that there is corruption; he has actually given a great deal of confidence to this country for the future; why can we not give him the opportunity to do that?

(Applause)

Mr. Temporary Deputy Speaker, Sir, the reasons for blocking P.L.O. Lumumba from this position are political; it is hatred and tribalism! I stand here to say that I am a Kenyan and I support his appointment and I want him to ascend to that position!

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

(Applause)

Mr. Kombo: Mr. Temporary Deputy Speaker, Sir, I stand to support the appointment of P.L.O. Lumumba. My history in the fight against corruption is well known; I did produce the list of shame in this country. The history of P.L.O. Lumumba in those days is very well known to me. P.L.O. Lumumba is a man who has a very independent mind; he is a man of courage; he is extremely courageous and he will not be manipulated by the Executive at any one moment to say yes to things that he wants to move forward with.

Mr. Temporary Deputy Speaker, Sir, P.L.O. Lumumba's role in the second liberation in this country is also very well known. He played a part when we were fighting for the second

liberation. P.L.O. Lumumba has a role in Agenda Four. As we know, when we started the Constitution-making, he played a role. Now, Agenda Four is the only programme that will move this country forward, and P.L.O. Lumumba, in that position, will be able to assist this country to move forward with Agenda Four.

Mr. Temporary Deputy Speaker, Sir, as hon. Muthama has said, the Committee of Parliament, which is a creature of this House, has looked at the man, and said that he is a good person. So, if we respect our institutions, let us respect our Committee and accept its recommendations by supporting P.L.O. Lumumba to be the director of this organization.

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

Mr. Nyambati: Thank you, Mr. Temporary Deputy Speaker, Sir, for finally allowing me to catch your eye.

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

Mr. Nyambati: Mr. Temporary Deputy Speaker, Sir, when we got Independence in this country, we were far ahead of countries like Singapore, Thailand and even Korea. But, now, we are many years behind because of corruption. We must fight corruption in this country. If there is one person who can fight corruption in this country, it is Mr. Lumumba!

(Applause)

Mr. Temporary Deputy Speaker, Sir, may I tell this House that the exercise of appointing this young man was thorough. I am told that there were over 63 candidates who applied for this job, and eight of them were interviewed. I am told that during the background check, all the relevant bodies gave their green light to this candidate – the Law Society of Kenya (LSK), the Advocates Complaints Commission, the National Security Intelligence Service – all of them gave an okay for these candidates. Mr. Lumumba is a case study for this country. We must all accept that he is somebody who has come from nowhere!

(Applause)

He is somebody who has come from the poor of the poorest, and he has made it to the top. This is a case study in this country, that anybody who works hard, anybody who plays by the rules can be anything that he wants to be in this country. It is about time that we gave our children a chance to know that they can succeed even if they are nothing, and even if they come from poor families so long as they work hard and play by the rules.

Mr. Temporary Deputy Speaker, Sir, I am one person who can say that I know Lumumba because I was his student at the Parklands Law Campus. This is one person who has all the leadership qualities; this is one man whose integrity you cannot doubt; this is one man who is independent; this is one man whom this country wants if we must move forward as a country in terms of progress.

So, Mr. Temporary Deputy Speaker, Sir, when we come out and start saying that simply because he was looking for a political office, he is not qualified; that is neither here nor there! In fact, that gives him more credit: He knows even the political system of this country!

(Applause)

When we come out and start saying that these candidates were representing criminals, it is like saying that a doctor who is treating a patient who has HIV/AIDS or another disease should not be allowed to do something else! They were just doing their job!

(Applause)

So, Mr. Temporary Deputy Speaker, Sir, let us rise to occasion; this House is supposed to be the engine of the nation; this House is supposed to encourage our people, that if they work hard and if they are fair, they can be anything that they want to be. Let us not kill the talents that we have; let us promote those young people in this country who are set to help this country move forward. If we cannot have Lumumba as the Director of the KACC, then let us be prepared to go backwards, because I do not see any better candidate than Lumumba, who can fight corruption in this country.

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

The Assistant Minister for Youth Affairs and Sports (Ms. Ndeti): Mr. Temporary Deputy Speaker, Sir, I stand to support.

First I would like to make it very clear that I am a member of Chama cha Uzalendo (CCU). It is only Mr. Imanyara and I who are Members of Parliament on that party ticket. Dr. Lumumba resigned from the party. He was our Secretary-General not even the chairman. This shows that people have got very wrong information about P.L.O here.

Mr. Temporary Deputy Speaker, Sir, I see some discrimination here. We do not have to choose a leader because they come from a certain tribe. Patrick Lumumba is a Kenyan and he is a Kenyan by right. He is a man of integrity and he went through the necessary processes for him to merit being appointed as the Director. He went through the interview. Does it mean that the people who were interviewing him did not know what they were doing? Let us stop undermining each other. *Mtu akipatiwa kazi awachwe afanye kazi yake na akileta---*

The Assistant Minister for Livestock Development (Mr. Duale): On a point of order, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Prof. Kaloki): Order! Mr. Duale are you on a point of order?

(Mr. Duale resumed his seat)

Mr. Duale, you rose on a point of order and then you sat down, are you serious?

The Assistant Minister for Livestock Development (Mr. Duale): Mr. Temporary Deputy Speaker, Sir, I am very serious. In the middle of my colleague's contribution she switched the language. Is she in order to switch from English to Kiswahili?

The Temporary Deputy Speaker (Prof. Kaloki): Ms. Ndeti, I think you are okay, please, proceed!

The Assistant Minister for Youth and Sports (Ms. Ndeti): Mr. Temporary Deputy Speaker, Sir, I was just quoting. I think Kiswahili is also a Kenyan language.

Mr. Temporary Deputy Speaker, Sir, I am very saddened by Members of Parliament here who have been elected by the people. They have come here and started saying that because Lumumba vied for a seat and is a politician, he should not be given the job. I ask them; the day you retire from Parliament, are you saying that if you apply for any position you should not be

given the job? You see we are also digging our own graves. Therefore, we should be very careful with what we say and be fair in whatever decisions we make in this Parliament.

I know Dr. Lumumba and know he is a man of integrity. He is a man who is respected by the country. It is very bad for people to come here and start spoiling his name. Try to fit in other people's shoes. If you were in that position, would you like people to treat you the same way?

I stand to support this Motion.

Mr. Washiali: On a point of order, Mr. Temporary Deputy Speaker, Sir. Now that we can judge the mood of the House, would I be in order to request you to put the question?

The Temporary Deputy Speaker (Prof. Kaloki): The hon. Member says that he has looked at the mood of the House but I can see a few hon. Members who want to contribute.

Mr. Midiwo, please, proceed!

Mr. Midiwo: Mr. Temporary Deputy Speaker, Sir, I rise to support the Motion before the House. I want to say very little.

One of the qualifications that is required for the Director of the Kenya Anti-Corruption Commission (KACC) is that one must be a lawyer. P.L.O. Lumumba is a lawyer. It is also true that Patrick Lumumba may have been a lawyer to many criminals. If I were in danger with any crime, I would go to the best and P.L.O. Lumumba is one of the best lawyers in this country. You can, therefore, not criminalize Patrick Lumumba for representing people and doing his job which he went to school for.

I think even Pravin Bowry has represented many people, the Kuleis of the world but he is a good lawyer and that is why they pay him so handsomely. So he is a good Kenyan. I think lawyers go to school to be just that.

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

Mr. Midiwo: Accepted!

The Minister for Lands (Mr. Orengo): Mr. Temporary Deputy Speaker, Sir, I just want to inform the hon. Member that good criminal lawyers are good people. They got Mandela out. They got Kenyatta out and we did not stop there, we named a whole street; Dennis Pritt Road, after a good criminal lawyer. We also get Members of Parliament out. I have got out many Members of Parliament.

(Laughter)

The Temporary Deputy Speaker (Prof. Kaloki): Mr. Midiwo, please, proceed!

Mr. Midiwo: Thank you, Mr. Temporary Deputy Speaker, Sir. In fact, they are in the process of getting out some of us today.

The Floor of this House must not be used to malign Kenyans who have no ability or capability to be here to defend themselves. Yesterday, we had a case where one of our Committees was in the process of saying that the current boss of the Kenya Airports Authority (KAA) was not there regularly. I took it upon myself as the Whip and spoke to Members. I said this is a career civil servant who has been where he is for 30 years and it would look very bad just because he did not meet certain people's criteria or a certain tribal outfit, that we would go after him. It is good to go after the people who break the law not the people who are victims. I want to plead with this House that we use the Floor of this House correctly and we need to make a good example for our country.

Mr. Temporary Deputy Speaker, Sir, it is not a crime to be interested in politics. The more we say that P.L.O is not qualified simply because he was a candidate, that means some of us who have been candidates over and over do not have integrity. I think impression needs to be corrected. I think all of us here have credibility and would like, as young as some of us are, that even when we are not here, we still stay and get jobs which would be in the public service to serve our country, that we are trying to make good.

I beg to support.

Mr. C. Kilonzo: Mr. Temporary Deputy Speaker, Sir, I strongly support this Motion.

Mr. Temporary Deputy Speaker, Sir, I do not know whether you have been following this argument very keenly. There are three arguments for those against this House approving the appointment of the Director. Most of their arguments are comic. One of the arguments which is very comic is that we are not looking for an orator, the fact that he is an orator they are convinced he should not be given a job. It is true this brother is very eloquent.

(Applause)

Mr. Temporary Deputy Speaker, Sir, this man has a gift of language. Because of that, somebody feels he should not be given a job. I can remind you that this is one country where a particular politician is being accused of being very handsome. This happens only in Kenya. Should we deny people positions because they are handsome or they are good and eloquent?

Mr. Temporary Deputy Speaker, Sir, the other argument which is also very comic is that this man represented particular clients in Goldenberg cases. So, do we say that next time we have issues dealing with doctors and need this House's approval, if you are a doctor and you treated somebody with a case related to Goldenberg, then you are not qualified to hold an office? That is out of question. Are we telling professionals that before you handle any of your clients, you ask them to come with a certificate of good conduct? That is what we are telling our professionals. I am a professional and when you come to my office, I serve you as a client. They say that in life you need four people: A very good lawyer, accountant, doctor and a forgiving priest. Those are the people you need in life. There is no way a good lawyer will turn you down. In any case, you are innocent until proved otherwise.

Mr. Temporary Deputy Speaker, Sir, the last one which amounts to a joke is because we are moving very fast to condemn somebody. In this House, we are saying he is not qualified for any office because he vied for a parliamentary seat. How many have sneaked into this House and they have very many corruption cases? They have sabotaged the entire judicial system. They are the ones who are fronting to say that this young professional is not qualified for this job.

Mr. Temporary Deputy Speaker, Sir, there is a fourth argument which is a political one and hidden. I have always told Patrick Lumumba that he is a Nairobian from Jericho but they are bringing the argument that he comes from the wrong part of the country. That is not the country we want.

With these words, I support.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Thank you, Mr. Temporary Deputy Speaker, Sir. I also want to add my voice to what my colleagues have said about Prof. Patrick Lumumba. I will have no words to describe this gentleman because Ms. Karua and Dr. Khalwale had done it for me. They all said, including Mr. Orengo and Ms. Ndeti what they think about Prof. Patrick Lumumba.

Mr. Temporary Deputy Speaker, Sir, I want to say the following: If Kenyans want to fight corruption, this is the team. Forget about tribalism. Why is it that when certain people apply for jobs, there must be a commission of inquiry as to where the person is coming from and what he is doing?

If you go through this Report, it indicates clearly the institutions which verified and recommended the appointment of Prof. Lumumba. As Mr. Nyambati said, they went through the National Security Intelligence Service (NSIS), the Law Society of Kenya (LSK) and other institutions to verify the quality which we are going for.

There were 63 applicants for this job.

Dr. Otichilo: On a point of order, Mr. Temporary Deputy Speaker, Sir. Given that this matter has been discussed and now we only have repetitions, why do we not now go ahead and make the decision?

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Temporary Deputy Speaker, Sir, it is true that we have ventilated---

The Temporary Deputy Speaker (Prof. Kaloki): Order, hon. Ojode! There is a point of order there! Let me put the Question to see whether we can proceed or not.

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

Ms. Odhiambo: Mr. Temporary Deputy Speaker, Sir, I will be very brief. I want to say that a lot of the issues that I wanted to respond to have been responded to by other Members. However, I want to say that as the Departmental Committee on Justice and Legal Affairs, we went through a very rigorous and thorough vetting process. Even though the law did not require us to go through that high level of the process, we did. Even though we knew that the names that had been presented before us went through an interview, we still underwent a due diligence process and looked at not only the curriculum vitae but asked the respective professional bodies to give us a report on these persons. We got very good reports from NSIS, LSK and the Advocates Complaints Commission and I want to give a very brief highlight of the report that we got from the LSK.

It says the major attributes of Lumumba are, he is candid and frank, strict on professionalism and ethical standards, clarity of thought and articulate in communication, high integrity and intelligence, amongst many others that I do not have the time to give. Also, the same is said of Mr. Pravin Kumar Bowry who was born in Nakuru and has 38 years of experience, has adherence to the highest professional and ethical standards, logical and methodological, determined and decisive, reliable and dependent, high integrity, diligent and conscientious, amongst many other things that again I am not going to mention.

Mr. Temporary Deputy Speaker, Sir I would also want to say in response to the issue that Prof. Lumumba worked in the constitutional process; that as a technocrat he did what was required of him. We also got a letter from the Registrar of Societies that actually confirmed that he is no longer a member or even official of the party that is mentioned.

Finally, I would want to say that it is for Kenyans. We need to observe that he was a member of the party called Chama Cha Uzalendo (CCU) as P.L.O. Lumumba. I think that is very informative of his character.

I beg to move.

(Question put and agreed to)

The Temporary Deputy Speaker (Prof. Kaloki): Next Order!

BILLS

THE ANIMAL TECHNICIANS BILL

Second Readings

The Temporary Deputy Speaker (Prof. Kaloki): There is a report that hon. Joseph Lekuton is out of the country on official parliamentary matters. So, we will proceed to the next Order.

(Bill deferred)

THE WILDLIFE (CONSERVATION AND MANAGEMENT) BILL

The Temporary Deputy Speaker (Prof. Kaloki): Where is Mr. Kaino? He is not here! Next Order!

(Bill deferred)

THE MALARIA PREVENTION BILL

The Temporary Deputy Speaker (Prof. Kaloki): Mr. Kaino is not here. There is no other business!

(Bill deferred)

ADJOURNMENT

The Temporary Deputy Speaker (Prof. Kaloki): Hon. Members, that brings us to the end of business today. The House is, therefore, adjourned until Tuesday, 29th June, 2010, at 2.30 p.m.

The House rose at 5.42 p.m.