

NATIONAL ASSEMBLY

OFFICIAL REPORT

Thursday, 26th August, 2010

The House met at 2.30 p.m.

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

PRAYERS

QUESTIONS BY PRIVATE NOTICE

CRITERIA FOR IDENTIFYING BENEFICIARIES OF PRESIDENTIAL PARDON

Mr. C. Kilonzo: Mr. Temporary Deputy Speaker, Sir, I beg to ask the Vice-President and Minister for Home Affairs the following Question by Private Notice.

(a) Is the Vice-President and Minister for Home Affairs aware that the recent wave of armed robberies within Matuu Town has been due to the recent release of hardcore criminals from prison through a Presidential pardon?

(b) Could he indicate the criteria used to identify the beneficiaries of Presidential pardon?

(c) What measures is the Government taking to ensure that only petty offenders benefit from Presidential pardon?

The Vice-President and Minister for Home Affairs (Mr. Musyoka): Mr. Temporary Deputy Speaker, Sir, I beg to reply.

(a) I am aware of the alleged wave of armed robberies in Matuu Town. However, I am not aware that the said wave is attributed to recent release from prison of hardcore criminals through Presidential pardon. It should be noted, however, that the regulations for presidential amnesty provide for the release of only petty or minor offenders, who have good conduct and who were convicted to serve sentences not exceeding six months, and reformed offenders who have good conduct and have a balance of nine months to serve. Hardcore criminals are, therefore, completely excluded from consideration for Presidential pardon.

(b) The criteria used to award Presidential pardon include the following: All prisoners convicted of petty or minor offences, who are sentenced to serve jail terms of six months or less as at stated date of amnesty, star class prisoners, who are first offenders with a balance of nine months or less to serve as at stated date of amnesty, and ordinary class prisoners, who are called “repeat offenders”, with a balance of nine months or less to serve as at the stated date of amnesty.

However, dangerous criminals are ineligible for Presidential amnesty. These include criminals convicted of, amongst these crimes; murder or manslaughter, robbery

or attempted robbery, rape or attempted rape, sexual exploitation-related charges, indecent assault, incitement, taking of unlawful oath, arson, corruption, stock theft, possession of firearms or ammunition and drug trafficking. Others include escape or attempted escape from prison, aiding a prisoner to escape, theft of motor vehicle, fraud, membership of unlawful sect, promoting war-like activities, illegal collection of money, unnatural offences, defilement or attempted defilement, incest, causing grievous harm, attempting to cause abortion, concealing birth, infanticide, child theft and abduction or kidnapping, among others.

(c) The Vice-President and Minister for Home Affairs oversees the strict application of the procedure and criteria for award of Presidential amnesty and ensures that only eligible inmates – that is petty offenders, star class offenders and others as indicated above, benefit in accordance with the established regulations. The Ministry has not received any report of re-arrested prisoners following the Presidential pardon.

Thank you, Mr. Temporary Deputy Speaker, Sir.

Mr. C. Kilonzo: Mr. Temporary Deputy Speaker, Sir, I am at a loss with the Government. In the first place, in Yatta, and particularly in Matuu Town, which is an area that the Vice-President and Minister for Home Affairs knows very well, is now one of the areas with the highest rate of crime. When this Question came up on Wednesday, on the following day, an armed gangster was shot dead within the town. Do you know what they did on Friday? They actually visited my Parliament Office and my Constituencies Development Fund (CDF) Office and swept away all the computers.

While answering another Question on the same matter on Wednesday, last week, the Minister of State for Provincial Administration and Internal Security, had the following to say:-

“The recent wave of armed robberies within Matuu Town has been due to the recent release from prison of hardcore criminals through Presidential pardon.”

Mr. Temporary Deputy Speaker, Sir, do you know what the Vice-President and Minister for Home Affairs has just told us? Part of his answer is as follows:-

“Hardcore criminals are, therefore, completely excluded from consideration for Presidential pardon.”

So, I am trying to figure out whether this is the same Government or two different Governments. This House cannot accept to be misled by the same Government on different days. I am, therefore, pleading with the Chair to make a ruling, because we cannot have a Government which says one thing today and another thing tomorrow. Obviously, this answer cannot be accepted. On Wednesday, the information came from the Government. It did not come from us. Now, the Government comes back and gives a different answer. So, I need you to look at the answer and guide the House.

The Temporary Deputy Speaker (Mr. Ethuro): Mr. Vice-President and Minister for Home Affairs, since you are also the Leader of Government Business, could you address this matter?

The Vice-President and Minister for Home Affairs (Mr. Musyoka): Mr. Temporary Deputy Speaker, Sir, first of all, I would like to give my sympathies to the Member of Parliament for Yatta, because his CDF Offices were visited the wrong way. Those are not the type of visitors he would wish to receive at his CDF Offices. We all know that he is doing a brilliant job with the CDF funding.

Be that as it may, there is no contradiction in the Government. Since receiving this information about the answer given before the House by the Ministry of State for Provincial Administration and Internal Security, I have since checked with them. The issue here is who is a hardcore criminal. Of course, they are very apologetic, because they had not checked with the other side of the Government.

So, the true picture is what I have given here. I concluded by saying that we have not received any report whatsoever, of people who can be categorised as hardcore criminals. On the other hand, in the whole, I think there was commitment by the Ministry of State for Provincial Administration and Internal Security to ensure that the residents of Matuu, and everywhere else, live peacefully as Kenyans. As we prepare to usher in the Second Republic tomorrow, we expect that there will be absolute peace in Matuu and everywhere else.

Dr. Nuh: Mr. Temporary Deputy Speaker, Sir, we have already felt a lot of criminality because of miscarriage of justice due to poor police prosecution and gathering of evidence where criminals who should have been behind bars are let go just because the police are not able to avail before the judges, enough evidence to have them jailed. We get even more worried if the fact comes out that these same hardcore criminals are pardoned to come and cause havoc within our society. Maybe, they are driven by the fact they have been behind bars for very many years and after coming and getting into these hard conditions, they do not have a way to sustain their livelihoods. Does the Ministry have any plans where it gives would be, pardoned criminals some resources to sustain their livelihoods in the society so that they do not come to raid our offices?

Mr. Musyoka: Mr. Temporary Deputy Speaker, Sir, I thank the hon. Member for Bura for that question. Let him know that since I was appointed Vice-President and Minister for Home Affairs, this House would recall that prison officers actually went on strike and there were reasons as to why they did that. I promised this House that we would do certain things which we did. So, we appointed a special Commission led by an eminent Kenyan, Maj, (Rtd) Marsden Madoka who compiled a report because the Office of the Vice-President and Ministry of Home Affairs has to deal with prisoner rehabilitation and what might be a hardcore criminal today, will come out as a very useful citizen. You may not know but previously, it has been that everyday served in prison, an inmate would only have to his credit some 10 cents or thereabout. This is a thing that has been there since colonial times. One of the recommendations is that we should be able, by the time an inmate is released to go home, he/she should get tools that will sustain his/her livelihood. Therefore, the allowance that one is entitled to should be slightly increased. Those are some of the things that we are trying to do so that we succeed in our efforts in making sure that we rehabilitate these Kenyans in prisons. Therefore, I think that what we call a hardcore criminal will end up being a very useful citizen if we succeed as the Office of the Vice-President and Ministry of Home Affairs. That is our intention. We have carried out many reforms and we will continue to carry them out according to the recommendations of the Madoka Report.

Mr. Ruto: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for the Vice-President and Minister for Home Affairs to beat about the question as to exactly who is a hardcore criminal? The hardcore criminals have terrorized Matuu. That is on the authority of the Ministry of State for Provincial Administration and Internal Security. He is now telling us that the hardcore criminals are not exactly hardcore and

that they can also be tamed. The Minister in-charge of the police told us that the Office of the President released hardcore criminals. Could the Vice-President and Minister for Home Affairs tell us exactly what is happening around this hardcore business? Could he also tell us what exactly is the definition of a “hardcore” criminal?

The Temporary Deputy Speaker (Mr. Ethuro): Mr. Vice-President, that is a valid point of order. I do recall the hon. Member for Yatta asking about the contradiction with the two answers coming from the same Government.

Mr. Musyoka: Mr. Temporary Deputy Speaker, Sir, I am not misleading the House on the hardcore business. The hon. Member for Chepalungu has been in this House for a very long time and he knows that I would be the last person to mislead him and through him, the people of Chepalungu. On the definition of hardcore criminal, I have actually listed a long litany of offences under the Penal Code which if one is convicted of one of the offences, qualifies to be a hardcore criminal. The people who have been released under the presidential pardon are not in that category. I had occasion to also point out that the Ministry of State for Provincial Administration and Internal Security has since accepted our position that the use of the word “hardcore” is misleading. On behalf of that Ministry and on behalf of the Government, I have to apologize to this House.

Mr. Ruto: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the Vice-President now formally tendering an apology on behalf of the Government that he misled this House and that the statement by the Assistant Minister, Ministry of State for Provincial Administration and Internal Security can now be expunged from the records of this House? Could we have that clearly? Will we, therefore, name the Minister who misled the House?

The Temporary Deputy Speaker (Mr. Ethuro): Order! You rise on a point of order to raise one matter.

Mr. Musyoka: Mr. Temporary Deputy Speaker, Sir, I encourage my friend, the hon. Member for Chepalungu, to cease from having that “lynch mentality” because if the House begins to lynch all of us here--- I have assured the House that we have synchronized and the correct position is as I have given it. Therefore, it should be taken firmly that the people who are released under the presidential pardon are not in the category of hardcore criminals. I started by accepting on behalf of the Government that we are aware of the wave of criminality and armed robberies in Matuu Town. The hon. Member for the area has done well to bring this matter to the attention of all of us. Therefore, it behooves all of us to act as a Government. That is what we are doing. We are stamping out the menace of armed robberies in Matuu and other places because the hon. Member belongs to my political party and he knows our commitment to a 24-hour working economy. People in Matuu should be able to enjoy working and shopping at midnight. This is derogatory.

The Temporary Deputy Speaker (Mr. Ethuro): Order! You are speaking as the Leader of Government Business and not as a political head of a political party.

Ask the last question, Mr. C. Kilonzo!

Mr. C. Kilonzo: Mr. Temporary Deputy Speaker, Sir, the case of insecurity, especially armed robberies, within Matuu Town is very worrying. Do you know that every supermarket in Matuu has a policeman? That is something that does not even happen in Nairobi. Even with the policemen, they are still stealing. Can you imagine

that? To show who is boss, when I brought this Question in this House, they even stole in my own office. I suppose they were asking: *Uta-do*”? Since the Government has denied that the crimes are not committed by the hardcore criminals, is it not possible when the first offenders go to prison, they are trained and graduate as hardcore criminals? Therefore, when they go out, they are able to commit offences. According to the police, these offences are being committed by the first offenders who were released. They may not have been released as hardcore criminals but when they are released, they graduate to hardcore criminals. Could the Government relook on the criteria used in releasing these criminals?

Mr. Musyoka: Mr. Temporary Deputy Speaker, Sir, I think the Member for Yatta has gone to the core of the problem. Our prisons are congested mainly by people in the remand prisons. On average, on a daily basis, prisoner population is about 50,000 and out of this, more than 25,000 of those are prisoners waiting for their cases to be mentioned in court. If they are criminal cases, then after every two weeks, they have to appear before a magistrate for the mention of their cases. During that time, the hon. Member for Yatta feels that they get training in a negative way. I assure this House that after the promulgation of the Constitution tomorrow, one of the things that my Ministry will do is to prepare to release many of these young men and women in remand prisons. This is because it is a requirement that within 48 hours, anybody serving less than six months charged with an offence whose punishment is by a fine of less than Kshs1,000 or has to serve a prison term of less than six months should be set free immediately. In fact, they will be given automatic bail. We think that, that will have the effect of decongesting our prisons. Then, there will be no possibility of people getting wrong training while in prison.

The Temporary Deputy Speaker (Mr. Ethuro): The next Question is deferred to Tuesday.

UNDER-RECRUITMENT OF TEACHERS AT TURKWEL
BOYS' SECONDARY SCHOOL

(Mr. Ethuro) to ask the Minister for Education:-

(a) Why the Minister has failed to consider employing more teachers at Turkwel Boys' Secondary School in Loima District in the current teacher recruitment exercise?

(b) What plans does the Minister also have to provide adequate teachers for Kerio, Loima and Lomil Secondary Schools built through CDF and which will open in January, 2011?

(c) What affirmative action is the Ministry considering to ensure that the ASAL areas are given more teachers, more boarding facilities and more infrastructural funds than the standard allocations per constituency in order to address marginalization?

(Question deferred)

REGISTERED OWNER OF LAND PARCEL LR.10743 IN THIKA

Mr. Odhiambo: Mr. Temporary Deputy Speaker, Sir, I beg to ask the Minister for Lands the following Question by Private Notice.

(a) Who is the registered owner of land parcel No.LR.10743 in Thika Municipality, previously owned by Samuru Gituto Farmers' Co-operative Society Limited?

(b) How was it transferred and who were involved in the signing of the transfer documents on behalf of the vendor?

(c) Is the Minister aware that the above property was previously charged to the Co-operative Bank of Kenya? If so, did the bank execute the discharge of charge to accompany the registration documents?

The Temporary Deputy Speaker (Mr. Ethuro): The Minister for Lands not in? We will come back to the Question later.

ORAL ANSWERS TO QUESTIONS

Question No 018

ACTION ON CORRUPTION AT HARAMBEE SACCO

Ms. Karua asked the Minister of State for Provincial Administration and Internal Security what action the Commissioner of Police has taken on the complaints lodged with him by members of staff of Harambee SACCO regarding the grand corruption at the SACCO.

The Temporary Deputy Speaker (Mr. Ethuro): The Minister of State for Provincial Administration and Internal Security not here? We will come back to the Question!

Next Question by the hon. Member for Laisamis!

Question No.069

PROVISION OF STATISTICS ON CHILD LABOUR IN KENYA

Mr. Lekuton asked the Minister for Labour-

(a) to provide the statistics of children currently engaged in child-labour in the country and indicate which areas in the country are most affected by the problem; and,

(b) what efforts the Government is making to eliminate child labour and punish the offenders.

The Temporary Deputy Speaker (Mr. Ethuro): The Minister for Labour not here? We will come back to the Question during the second round.

Next Question by hon. Mbai!

Question No.337

LACK OF POWER SUPPLY TO MASINGA-UNDWANI-KUTULYE POWER LINE

Mr. Mbai asked the Minister for Energy-

(a) whether he is aware that Masinga-Undwani-Kutulye power line was constructed in 2008;

(b) whether he is also aware that power has not been connected to the line; and,
(c) what urgent measures he is taking to ensure that power is connected to the lines along with others already constructed in the constituency.

The Temporary Deputy Speaker (Mr. Ethuro): The Minister for Energy not here? We will come back to the Question.

Question No.368

MEASURES TO EASE WORKLOAD
AT KIDNEY UNIT IN KNH

Mr. Warugongo asked the Minister for Medical Services-

(a) whether he is aware that due to cost implications and overloaded appointments at the Kenyatta National Hospital, patients from Central Province with kidney problems die either due to failed appointments or financial constraints;

(b) which provincial hospitals in the country have dialysis machines; and,

(c) whether he could consider equipping the Nyeri Provincial General Hospital with dialysis machines to ease workload at the Kenyatta National Hospital.

The Minister for Medical Services (Prof. Anyang'-Nyong'o): Mr. Temporary Deputy Speaker, Sir, I beg to answer.

(a) I am aware that some patients with kidney problems who seek treatment at the Kenyatta National Hospital die either from the disease itself or from complications of renal failure. Since there are only 13 functional dialysis machines at the hospital serving the entire Republic at a cost of Kshs36,000 per patient per month, it is possible that some patients' death may arise from delayed appointments and financial constraints.

(b) Presently, three provincial general hospitals have been equipped with renal dialysis machines as follows:-

(i) Nakuru Provincial General Hospital with four machines;

(ii) Coast Provincial General Hospital with four machines; and,

(iii) New Nyanza Provincial General Hospital with two machines.

(c) The Ministry's plan is to progressively equip all provincial hospitals with dialysis machines by the year 2012. Indeed, when we started in 2008, there were only five dialysis machines at KNH but we have increased the number both at KNH and at those three provincial Government hospitals that I have mentioned. So, three of these hospitals have already received some machines under this arrangement. The remaining provincial hospitals will similarly be equipped with dialysis machines within this planning period.

Mr. Temporary Deputy Speaker, Sir, while equipping hospitals with dialysis machines, we must also understand that dialysis machines need the service of nurses specifically trained in dialysis management. So, at the moment at KNH, we are training nurses who will proceed to work at the New Nyanza General Hospital. We hope we shall progressively do the same with the other hospitals as time continues.

But finally, it must be noted that a dialysis machine costs Kshs3 million to procure and install. However, the biggest cost goes to the consumables for dialysis and this averages Kshs4,00 per patient per session. If a patient gets at least two sessions per week, that translates into Kshs30,000 per patient per month. Due to this high cost of

dialysis, it is quite often very difficult to waive the cost to patients. It is, therefore, imperative that the patient should have insurance so that they can have access to health care. Hence, the need to up-scale the insurance given to patients in the National Hospital Insurance Fund (NHIF) to cover such costs.

Mr. Warugongo: I thank the Minister for giving us that answer. There are several cases of kidney problems, especially in Central Province which also includes my constituency Kieni. Recently, we lost a form two student called Dennis in a place called Belle View as a result of problems which affected his kidney. When is he going to install dialysis machines in the other provinces?

Prof. Anyang'-Nyong'o: Mr. Temporary Deputy Speaker, Sir, I am ready to install the machines as soon as possible, provided the funds are available. One of the problems we have in the Ministry of Medical Services is that even in this budget as I will present it today, our resources have been cut substantially by the Treasury. Of course, we also rely on the NHIF to help us buy the machines and wherever the Fund can manage, they do in fact help us. Of the eight dialysis machines installed at Coast and Nakuru provincial general hospitals, assistance was received from the NHIF. The two machines at the New Nyanza General Hospital were received through assistance from the Government of Taiwan. We have donors prepared to work with us to buy machines, provided we can train the nurses to use the machines because it is not a question of installing them. So, the constraint to us is resources. If we could find ideas from Members of Parliament of the extent to which we can access resources, it is my aim and belief that we can equip not just provincial Government hospitals with dialysis machines but also district hospitals.

Indeed, the construction of both Othaya District Hospital and the new district hospital in Kayole presupposes a renal unit. They are only making conditions or same work for renal units and it presupposes that we shall equip them with dialysis machines.

Dr. Eseli: Thank you, Mr. Temporary Deputy Speaker, Sir. As the nation develops, awareness of certain illnesses improves to the extent that what might be perceived as an increase in renal diseases is actually just increased awareness of the renal diseases. The Minister has just said that it costs Kshs3 million to buy a renal machine. When you look at the NHIF and the amount of money they generate and use for establishing themselves and not providing medical services, I think Kshs3 million is just peanuts. They should be able to buy more machines than that. What programme does the Ministry have in place to ensure training of the requisite personnel and provision of the requisite equipment in all major hospitals to reduce the burden on wananchi?

Prof. Anyang'-Nyong'o: Mr. Temporary Deputy Speaker, Sir, I am grateful to Dr. Eseli for that question and the ideas he has proposed to us. Indeed, I agree with Dr. Eseli that we should use as much resources available to us as possible, especially through the National Hospital Insurance Fund (NHIF) to help us in establishing appropriate and effective diagnostic services in all our hospitals and also equipment that can lead to the management of such diseases as renal failure.

In the new proposal that we have made and which I presented to the House yesterday, we are coming up with a programme in which the NHIF will not only be interested in insuring patients but also in making sure that those who are insured when they go to our facilities can be properly diagnosed and treated. I know that in the past, this has not worked. That is one of the reasons we have hired International Finance

Corporation (IFC) to do a proper management audit to ensure that what we do falls within our means and that we do not have idle funds which are not committed to the improvement of our health insurance lying around, so that all those who are insured can get effective services from our Ministry.

Finally, yes, I do agree that we are getting higher incidents of diseases like cancer and diabetes because of higher awareness. However, we are also getting these higher incidents because of changes in lifestyles among our people which lead to occurrence of these diseases. It is a two way thing. We should make people aware that they should prevent having these diseases themselves by having a proper lifestyle. However, when they come to our door steps for treatment, we should be in a position to treat them.

Thank you.

Mr. Shakeel: Mr. Temporary Deputy Speaker, Sir, I have been the chairman of the New Nyanza General Hospital for 11 years and I know those two dialysis machines. As the Minister says, it would cost over Kshs10 million a year to run the machines. What other plans does the Minister have to run those dialysis machines as he knows they are going to cost that much? Can we use a public/private partnership approach in each of these hospitals to run the machines? As you well know, buying the machines is the easiest bit. It will cost you about Kshs10 million to run it per year. Has the Minister investigated the possibility of having a private/public partnership approach?

Prof. Anyang'-Nyong'o: Mr. Temporary Deputy Speaker, Sir, indeed, we have a policy for private/public partnership. We now have a whole department or a section in the Ministry dealing with private/public partnership. Indeed, we have started programmes of private/public partnerships in putting up of our facilities and the financing of our facilities.

The next thing we are going to do which is very important is going towards having equipment that can be used in private/public partnership. For example, it does not really make sense to me that we need to buy MRI machines in all our hospitals. If we can make arrangements with the private sector to pay user fees for access to those machines and have access to them and we pay those who own and run them, it will reduce costs to the Government. These are ideas we welcome and, indeed, in the new health policy and financing of health care that we have put in place, private/public partnership is a core plank of our policy.

Mr. Mureithi: Mr. Temporary Deputy Speaker, Sir, I want to thank the Minister for addressing himself to this very dangerous disease which seems to be occurring in this country. However, is he aware that in order for a patient to have a dialysis at Kenyatta National Hospital (KNH), a patient is asked to buy the consumables he talked about? These consumables include distilled water. As a result, most of the patients die because they are not able to buy the consumables.

Prof. Anyang'-Nyong'o: Mr. Temporary Deputy Speaker, Sir, in dialysis, there are two important consumables that are used; distilled water and filament, as my friend Dr. Eseli would know. There are two ways of using that filament that purifies the blood; one, is to use and dispose of it, which makes it very expensive and the other is to make sure the patient uses the filament and it is stored at the facility. Every time the patient comes, it is cleaned and uses it again as is done in India and the United States of America (USA). I think that is the direction we are moving. However, it is important that we move away from patients buying bottled distilled water and have processed water within the

hospital which can be used by the patient when being dialyzed. I think that is the direction in which KNH is also moving. I think the more we improve our technology of dialysis and the more we employ nurses and service staff who know what they are doing, the more we shall avoid the kind of issue the hon. Member is raising.

I do understand that we must improve in the administration and management of our hospitals to provide proper health care and reduce costs. We are determined to do this. We know we are coming from a period when some of these things were not properly done. The aim of our hospitals, however, is for constant performance improvement.

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

Mr. Warugongo: Mr. Temporary Deputy Speaker, Sir, I have two last questions. One, can the Minister consider reducing---

The Temporary Deputy Speaker (Mr. Ethuro): Order, Mr. Warugongo! You have only one last question. Decide which one of the two you want to ask.

Mr. Warugongo: Mr. Temporary Deputy Speaker, Sir, could the Minister consider reducing the cost of use of dialysis machines from the current Kshs4,000 to Kshs5,000 to about Kshs500 so that members of the public who are very poor can afford instead of dying?

Prof. Anyang'-Nyong'o: Mr. Temporary Deputy Speaker, Sir, the hon. Member is right. In my visits to various places, particularly India; Bangalore and Hyderabad, I have confirmed that the cost of dialysis can be reduced to as low as Kshs1, 500. It depends on having some efficiency gains in employing the measures I have proposed. We have discussed with KNH. I have communicated this information to our specialist. I think if we work closely with those who have gone very far in dialysis like hospitals in India and again, if we adopt new policies of insurance that we are introducing, I am quite sure that the burden to the cost of health care will go down considerably to our patients. Indeed, if we adopt the new policy of NHIF in financing, the patient will bear no cost. You will get this dialysis without paying anything.

Therefore, we must enhance insurance through the NHIF and also have efficiency gains by using much more efficient systems in dialyzing patients. What the hon. Member is saying will indeed be realized. It can be done and we are determined to do it.

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

QUESTION BY PRIVATE NOTICE

REGISTERED OWNER OF LAND PARCEL
LR.10743 IN THIKA

Mr. Odhiambo: Mr. Temporary Deputy Speaker, Sir, I beg to ask the Minister for Lands the following Question by Private Notice.

(a) to indicate the registered owner of land parcel number LR.10743 in Thika Municipality, previously owned by Samuru Gituto Farmers' Co-operative Society Limited;

(b) how was it transferred and who were involved in the signing of the transfer documents on behalf of the vendor; and

(c) whether the Minister is aware that the above property was previously charged to the Co-operative Bank of Kenya and, if so, did the bank execute the Discharge of Charge to accompany the registration documents?

The Assistant Minister for Lands (Mr. Rai): Mr. Temporary Deputy Speaker, Sir, I seek your guidance on this particular Question because the matter is a subject of a court case. We have three cases filed in court in relation to this particular property. So I do not know whether it would be prudent for me to answer the Question at the moment because I find it *sub judice*. I need your direction.

The Temporary Deputy Speaker (Mr. Ethuro): Order, Assistant Minister! You owe an apology to the House because you were not there when this Question was called out the first time.

The Assistant Minister for Lands (Mr. Rai): Mr. Temporary Deputy Speaker, Sir, I beg to apologize to you and the House at large, I came late.

As I have explained, there are three cases pending in court with regard to this particular property. Therefore, I seek your guidance.

Mr. Odhiambo: On a point of order, Mr. Temporary Deputy Speaker, Sir. The Assistant Minister is not telling the truth because I have a written answer here. In that answer, there is nothing to show that there is a case pending in court.

The Assistant Minister for Lands (Mr. Rai): Mr. Temporary Deputy Speaker, Sir, I still beg your indulgence ---- Publication No.30 of 2009 in the High Court and Miscellaneous Application No.815/2008, judicial review application for orders against the Commissioner of Lands, Director of Survey, Chief Land Registrar and Commission of Co-operative and Marketing--- So, that was part of my supplementary information to explain to the House before I either answer the Question or you direct me.

Mr. Odhiambo: On a point of order, Mr. Temporary Deputy Speaker, Sir. I still want to remind the Assistant Minister that I have a written statement here from his Ministry and the answer does not indicate anywhere that this is the case in court.

The Temporary Deputy Speaker (Mr. Ethuro): Order Mr. Odhiambo! You cannot purport to be answering your own Question. Mr. Rai, you need to table the documents you are talking about and then we can decide.

(Mr. Odhiambo laid the documents on the Table)

The Assistant Minister for Lands (Mr. Rai): Mr. Temporary Deputy Speaker, Sir, I was going to explain to the House that there are three cases which my office had to advise me about. Despite the fact that the contents of the answer could be--- There are three cases in court and the Commissioner has also been served with notices by the court with regard to the same property. That is why I am trying to explain to you if you will be in a position to say, answer it, but the matter is actually *sub judice* because of the three cases which are pending with regard to the same property. The Commissioner has been restricted---

(Several hon. Members stood up in their places)

The Temporary Deputy Speaker (Mr. Ethuro): Order Mr. Rai! Before the Chair assists you, we need to see the documents you are talking about and determine; then you

can proceed. Why do we not leave it in abeyance for now and go to the next Question for the second time?

ORAL ANSWERS TO QUESTIONS

Question No.018

ACTION ON CORRUPTION AT HARAMBEE SACCO

Ms. Karua asked the Minister of State for Provincial Administration and Internal Security what action the Commissioner of Police has taken on the complaints lodged with him by members and staff of Harambee Sacco Society, regarding the grand corruption at the Sacco. I am asking this Question for the second time.

The Assistant Minister of State for Public Administration and Internal Security (Mr. Ojode): Mr. Temporary Deputy Speaker, Sir, let me apologize for coming in late. We were tied up in a meeting in my office at the Office of the President. However, I beg to reply.

On 28th November, 2008, the Director, Criminals Investigations Department (CID) received a written complaint from the Manager, Front Office Services Activities (FOSA) Harambee SACCO. The letter alleges that the management committee of the Harambee Sacco had irregularly granted themselves FOSA loans amounting to Kshs724,068,864 and compelled the staff to process and pay their loans against sitting allowances contrary to the Co-operatives Act. The letter further alleged that the management committee had taken advances amounting to Kshs67,200,000. On receipt of the complaint, a CID enquiry file No.53/2009 was opened and investigations carried out. All the 14 management committee members were interrogated and their statements taken. The case file was forwarded to the Attorney-General for perusal and advice. The file is still with the Attorney-General to date.

Ms. Karua: Mr. Temporary Deputy Speaker, Sir, on which dates were the investigations completed and the file taken to the Attorney-General? I am asking this because this is the third Question relating to Harambee SACCO that I have asked in this House; one to the Minister of Co-operatives and Marketing, one to the Attorney-General and one to the Minister in charge of internal security and it is quite apparent that nobody in the Government is willing to take any steps to rectify the grand corruption going on in Harambee Sacco. Could the Minister tell us what date?

Mr. Ojode: Mr. Temporary Deputy Speaker, Sir, it is true that the same Question had already been given to the Attorney-General and you can remember that is why the Attorney-General was asking which dates he should come to respond to; the 2003 one or the 2008 one. This one, unfortunately, is the 2008 one. We had asked for the advice from the Attorney-General, vide our letter here dated 21st October, 2009. We asked the Attorney-General when this Question came to our office, what he had so far done on our letter which we wrote on 21st and I wish to table the same letter for ease of reference.

(Mr. Ojode laid the document on the Table)

Mr. Mbadi: On a point of order, Mr. Temporary Deputy Speaker, Sir. As Ms. Karua put it, I think this House has received several Questions from her regarding the

Harambee Sacco. Harambee Sacco is the biggest savings and credit co-operative society in Kenya.

The Temporary Deputy Speaker (Mr. Ethuro): Order, Mr. Mbadi! You are on a point of order!

Mr. Mbadi: Mr. Temporary Deputy Speaker, Sir, I am developing my argument and I beg for your indulgence because this is a very critical matter.

The Temporary Deputy Speaker (Mr. Ethuro): Order, Mr. Mbadi! You know the rules! You do not develop arguments on points of order.

Mr. Mbadi: Mr. Temporary Deputy Speaker, Sir, my point of order is that I am asking for the ruling of the Chair that this matter should be referred to the Attorney-General to bring a comprehensive statement to this House because this issue – I would like to bring it to the attention of this House, that the membership of Harambee Sacco has a panic withdrawal. From May to date, the Harambee Sacco has received 1,115 members withdrawing from the society, amounting to Kshs109 million. If this co-operative society is brought down, chances are that it is going to have a serious multiplier effect on the co-operative movement in this country. Therefore, based on the answer from Mr. Ojode, I would request the Chair to make a ruling so that the Attorney-General can bring a comprehensive answer to this House next week so that this issue is finalized and disposed of.

Mr. Ojode: Mr. Temporary Deputy Speaker, Sir, I concur with the suggestion which is being made by the hon. Member. We have written to the Attorney-General to advice the Ministry on what we have to do next. There is nothing we can do because we have investigated the officers, we have interrogated them, we handed over the results to the Attorney-General and to date, we have not received even a reply to our letter which we wrote to them. So, I specifically think that the hon. Member is right by asking the Attorney-General to come up with an elaborate statement on this particular issue because it is true that, that is a lot of money which is being received corruptly.

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

The Temporary Deputy Speaker (Mr. Ethuro): Order, Mr. Kiuna, there is already a point of order on the Floor of the House. Do you want to add to it?

Ms. Karua: Mr. Temporary Deputy Speaker, Sir, in view of the fact that Office of the President, the Minister in charge of internal security and the police have finished their work and the letter tabled showed they wrote a reminder to the Attorney-General in October, is it in order to request that since the Attorney-General is still in the process completing his answer to a similar Question, that this Question be consolidated with that under the principle of collective responsibility and the Attorney-General now gives us answers as to what he is doing with the file since 2009; why he is sleeping on the job?

The Temporary Deputy Speaker (Mr. Ethuro): Order, hon. Members! I think this matter is serious enough and I think we have deliberated it in many ways through various Questions and Statements. It is in order, as the Assistant Minister himself, has admitted that he has played his role; so, this Question should be deferred for the Attorney-General himself to answer and be consolidated with other Questions.

(Applause)

Mr. Ojode: Much obliged, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Ethuro): Mr. Assistant Minister, you still have the responsibility of transferring it to the Attorney-General yourself.

Mr. Ojode: Mr. Temporary Deputy Speaker, Sir, I will do exactly that.

Ms. Karua: Mr. Temporary Deputy Speaker, Sir, which date will the Question be answered? Could the Question possibly be answered next week on Tuesday?

Mr. Ojode: Mr. Temporary Deputy Speaker, Sir, unfortunately, I have not consulted with the Attorney-General. Now that we are giving the Attorney-General the whole Question, it would be proper for me to consult with the Attorney-General. If we do not go on recess by Tuesday, I will be able to give an undertaking on Wednesday on when the Question should come to the House.

The Temporary Deputy Speaker (Mr. Ethuro): Mr. Assistant Minister, you stated to the House that you actually sent the letter to the Attorney-General. So, the Attorney-General is already alive to the matter. Under the circumstances, the Chair will rule that the Question will be answered by the Attorney-General on Tuesday next week.

Next Question. Mr. Lekuton for the second time.

Question No.069

STATISTICS ON CHILD LABOUR IN KENYA

Mr. Lekuton asked the Minister for Labour:-

(a) to provide the statistics of children currently engaged in child labour in the country and indicate which areas in the country are most affected by the problem; and,

(b) what efforts the Government is making to eliminate child labour and punish the offenders.

The Assistant Minister for Labour (Mr. Ojaamong): Mr. Temporary Deputy Speaker, Sir, I wish to apologise for coming late; we were being briefed in the office regarding tomorrow's occasion.

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

(a) According to the recent survey, that is the Child Labour Analytical Report of 2008, there were 773,696 child labourers in Kenya aged between five and 17 years.

Mr. Lekuton: On a point of order, Mr. Temporary Deputy Speaker, Sir. I do not have the written reply to this Question in order to follow what the Assistant Minister is saying. This is a very important Question. It is about statistics and I need to look at the figures.

The Temporary Deputy Speaker (Mr. Ethuro): Mr. Assistant Minister, the rules of the House provide that you should supply the hon. Member with a copy of your answer.

The Assistant Minister for Labour (Mr. Ojaamong): Mr. Temporary Deputy Speaker, Sir, I supplied sufficient copies last week to the Clerk's office. So, I do not know what happened in between, but I had over 10 copies.

The Temporary Deputy Speaker (Mr. Ethuro): Hon. Member, are you comfortable with this?

Mr. Lekuton: Mr. Temporary Deputy Speaker, Sir, since this Question is about numbers and I need to look at the answer, could we defer this Question to Tuesday, so that I can prepare myself?

The Temporary Deputy Speaker (Mr. Ethuro): Tuesday is already overloaded. I will go to the next Question as you look at the answer.

Question No.337

LACK OF POWER SUPPLY TO MASINGA-
UNDWANI-KUTULYE POWER LINE

Mr. Mbai asked the Minister for Energy:-

(a) whether he is aware that Masinga-Undwani-Kutulye power line was constructed in 2008;

(b) whether he is also aware that power has not been connected to the line; and,

(c) what urgent measures he is taking to ensure that power is connected to the lines along with others already constructed in the constituency.

The Assistant Minister for Energy (Eng. M.M. Mahamud): Mr. Temporary Deputy Speaker, Sir, I wish to apologize for coming late; I was engaged elsewhere. I seek your indulgence.

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

(a) I am aware that Masinga-Undwani-Kutulye power line was constructed in 2008.

(b) I am also aware that the line has not been energized.

(c) I have instructed both the Rural Electrification Authority and the Kenya Power and Lighting Company to have Masinga-Undwani-Kutulye power line and all other projects already constructed and completed in Masinga Constituency not only energized but commissioned by the end of September, 2010.

Mr. Mbai: Mr. Temporary Deputy Speaker, Sir, I want to thank the Assistant Minister for the answer. But it has been three years down the line since this line was constructed. I want to thank him because I have seen some officers working on Masinga-Undwani-Kutulye line, and I believe it will be commissioned soon. Could the Assistant Minister give us a time frame as to when he will commission the other five projects; that is, Kangonde, Kitangani, Mundwani, Iiani, Mananja and Kaseve?

Eng. M.M.Mahamud: Mr. Temporary Deputy Speaker, Sir, in my answer to part "c", I have said that we will endeavour to have Masinga-Undwani-Kutulye and all other projects already constructed within Masinga Constituency energized and commissioned by the end of September, 2010.

Mr. Ochieng: Mr. Temporary Deputy Speaker, Sir, this problem is very rampant. In my own constituency of Nyakach, I have five projects which have not been commissioned for the last two years. The reason we are given by the KPLC is that they do not have transformers. Could the Assistant Minister confirm when they will have sufficient transformers in order to commission all the projects that have been constructed in the country?

Eng. M.M. Mahamud: Mr. Temporary Deputy Speaker, Sir, I do agree with the hon. Member that there are problems. The REA has taken over a lot of projects. In fact,

they had problems with getting materials on time. We have now put in place, mechanisms to avail the transformers and other equipment on time so that projects are energized on time. As I said, the Ministry will endeavour to have all these projects energized without delay.

Dr. Eseli: Mr. Temporary Deputy Speaker, Sir, it is pretty obvious that this Ministry has some major problems. They have got power lines all over the country which are merely decorations. They are not functional. Unless somebody asks a question about his constituency, nothing happens. Is it right that the Ministry should wait for Members of Parliament to bring Questions here before they energize the power lines, hiding under the excuse that there are no transformers? Where do they get the transformers to energize the power lines when a hon. Member asks a Question?

Eng. M.M. Mahamud: Mr. Temporary Deputy Speaker, Sir, it is not true that we normally wait until a Question has been asked before we act and that we are decorating the country with power lines. We want Kenyans to get access to electricity, but there are challenges facing REA. The REA is an institution which is fairly new and it has taken on a lot of projects. So, we will bear with them and make sure that they get it right in due course.

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

Mr. Mbai: I am satisfied with the answer.

The Temporary Deputy Speaker (Mr. Ethuro): The hon. Member for Butula, we will need to determine the content of the proposed answer by the Minister under the *sub judice* rule. So, we will defer this Question to Tuesday.

QUESTION BY PRIVATE NOTICE

REGISTERED OWNER OF LAND PARCEL LR.10743 IN THIKA

Mr. Odhiambo: Mr. Temporary Deputy Speaker, Sir, I beg to ask the Minister for Lands the following Question by Private Notice.

(a) to indicate the registered owner of land parcel number LR.10743 in Thika Municipality, previously owned by Samuru Gituto Farmers' Co-operative Society Limited;

(b) how was it transferred and who were involved in the signing of the transfer documents on behalf of the vendor; and

(c) whether the Minister is aware that the above property was previously charged to the Co-operative Bank of Kenya and, if so, did the bank execute the Discharge of Charge to accompany the registration documents?

(Question deferred)

Question No. 069

PROVISION OF STATISTICS ON CHILD LABOUR IN KENYA

Mr. Lekuton asked the Minister for Labour-

(a) to provide the statistics of children currently engaged in child-labour in the country and indicate which areas in the country are most affected by the problem; and,

(b) what efforts the Government is making to eliminate child labour and punish the offenders.

The Temporary Deputy Speaker (Mr. Ethuro): The hon. Member for Laisamis, are you satisfied that now you can proceed with the answer?

Mr. Lekuton: Mr. Temporary Deputy Speaker, Sir, the answer that the Assistant Minister has given is very long and I need to compare my statistics with his. I do not want to debate without much knowledge. I would like to read well and I will be ready next week to counter his answer.

The Temporary Deputy Speaker (Mr. Ethuro): Fair enough. That Question is also postponed to Tuesday next week.

(Question deferred)

Next Order!

POINTS OF ORDER

ARREST OF KENYANS IN CONNECTION WITH KAMPALA BOMBING

Mr. Yakub: On a point of order, Mr. Temporary Deputy Speaker, Sir. I rise to seek a Ministerial Statement from the Minister of State for Provincial Administration and Internal Security.

Following the devastating Kampala Bombings which occurred on 11th July, 2010, the following Kenyans were arrested on suspicion of being connected with the attacks. They are: Mr. Idris Magundu, Mr. Hussein Hassan Agade and Mr. Mohammed Aden Abdul. The above named persons were later extradited from Kenya and handed over to the Ugandan Police on 27th July, 2010. On 14th August, 2010, another Kenyan Mr. Mohamed Hamid Suleiman was also handed over to the Ugandan Police.

Mr. Temporary Deputy Speaker, Sir, in the current Constitution, Section 77(2) states that:-

“Every person who is charged with a criminal offence shall be presumed to be innocent until he is proved or has pleaded guilty”.

In the statement, I want the Minister to address the following.

1. The rules of extradition as provided for in the Kenyan laws and whether the law was followed by the authorities in this particular case.

2. The authority through which the Kenya Police handed the above named to Kampala authorities.

3. To table the documents from the Ugandan Government acknowledging receipt of the four Kenyans in Uganda.

4. Whether they have been tried in a court of law and proven to be guilty. If not, why they are still under the custody of the Ugandan authorities and for how long they will be held there?

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Temporary Deputy Speaker, Sir, let me try to get the statement ready by Thursday, next week.

Mr. Lekuton: Mr. Temporary Deputy Speaker, Sir, I would like to ask for a Ministerial Statement from the Minister of State for Defence.

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

[Mr. Speaker took the Chair]

Mr. Speaker, Sir, there have been frequent complaints by the people of Laisamsi and Samburu East, regarding numerous deaths and injuries from the British Army exercising in Samburu East. I would like the Minister to answer the following:

1. To table in this House the contract between the Government of Kenya and the British Army to use part of Samburu East land exclusively for the British Army training.

2. The number of Kenyans working for the British Army in that area and also the number of local Samburu residents.

3. Social corporate responsibility by the British Army to the residents of Samburu East and its environs; that means tangible benefits.

4. The total number of people injured or killed since the British Army commenced their exercises.

5. Number of pending cases and when they will be compensated

6. Number of reported cases of women who have accused the British Army of rape.

7. The exact land which was allocated for exercise during the signing of the contract. We believe they have encroached into other areas such as Nokoljau and Kahuro and even Laismais Constituency. They fire live ammunitions and bombs while people graze their animals.

8. If there is a policy on compensation on deaths, injuries and rape. If not, if the Ministry, in conjunction with the British Army, will develop one.

9. If the Kenya Government gets any monetary value for the land leased to the British Army. If yes, he states the amount.

The Assistant Minister, Ministry of State for Defence (Mr. Musila): Mr. Speaker, Sir, as you will appreciate, the hon. Member has requested a statement which is very loaded. Therefore, we will require substantial time to be able to respond to each of the issues that he has raised. I, therefore, request the indulgence of the Chair and the House that we get not less than three weeks in which to provide this Statement.

Mr. Speaker: Very well, the Statement then can be given in three weeks.

Hon. Lekuton, is that fine to you?

Mr. Lekuton: Mr. Speaker, Sir, I have no objection.

Mr. Speaker: Then it is so ordered that the Statement be delivered three weeks hereafter.

In the absence of any other statement to be delivered under No.7, that brings us to the end of Statements.

Mr. Odhiambo: On a point of order, Mr. Speaker, Sir. I had asked Question No.3 by Private Notice. The Minister had said something that was contrary to his answer and the Chair promised to make a ruling.

Mr. Speaker: Member for Butula, if that is on Question, then I am afraid that Order is already passed.

We have just concluded with Order No.7 which pertains to Statements. A Question, whether by Private Notice or Ordinary, is a Question and it ought to come under Order No.6. So, I am afraid we cannot go back to Order No.6. But you are guided accordingly; you can raise it at the earliest opportunity under Order No.6, when the House sits next. Please, be guided accordingly.

Next Order!

PROCEDURAL MOTION

EXEMPTION OF BUSINESS FROM PROVISIONS OF S.O. 20(1) – SPECIAL SITTING

The Vice-President and Minister for Home Affairs (Mr. Musyoka): Mr. Speaker, Sir, I beg to move:

THAT, notwithstanding the provisions of Standing Order 20(1), this House resolves to hold a special sitting on Saturday 28th August, 2010, commencing at 9.00 a.m. in order to administer Oath of Allegiance to Members, pursuant to the provisions of the new Constitution of the Republic of Kenya.

Mr. Speaker, Sir, in moving this Motion, I am aware of the provision of the Sixth Schedule of the Draft Constitution. I assume it is still in a draft until it is promulgated tomorrow. But we all know that it is already the Constitution of the Republic. The Sixth Schedule deals with transitional and consequential provisions. Sections 7 and 13, which deal with Oath of Allegiance to the Constitution read as follows:

“That on the effective date, the President and any State Officer or other person who had before the effective date taken and subscribed an oath of affirmation of office under the former Constitution or who is required to take and subscribe an oath of affirmation of office under this Constitution shall take and subscribe the appropriate oath or affirmation under this Constitution.”

Mr. Speaker, Sir, in other words, within the same day, read 24 hours from the time the Constitution gets promulgated tomorrow and I imagine this will be about 10.00 a.m. or 11.00 a.m. or thereabout, all of us are supposed to have been sworn in as Members in accordance with that requirement of the Constitution. Yet, the reason it was felt necessary that we do go out of the normal Standing practice which clearly indicates that the sitting under Standing Order No.21, the sittings of the House are normally Wednesday morning, 9.00 a.m., Tuesdays, Wednesdays and Thursdays from 2.30 p.m. It has now been deemed necessary---

Mr. Imanyara: On a point of order, Mr. Speaker, Sir. The Vice-President and Minister for Home Affairs has began by stating that he is aware of the provisions of the new Constitution which requires the oath to be taken in his own word within 24 hours. Therefore, is he in order to move this Motion which on the very face of it and by his own admission, is in breach of the same provision that he is citing?

The Vice-President and Minister for Home Affairs (Mr. Musyoka): Mr. Speaker, Sir, my learned friend and Member for Imenti Central Constituency will appreciate the fact of intellectual honesty and that is what I am addressing myself to. It is important to begin by acknowledging that fact. Therefore, really within the framework of 24 hours, we begin to see what is practicable. So, I hold the view that if within 24 hours of the promulgation, assume it is at 11.00 a.m. tomorrow, by 11.00 a.m. the following day, then one can say we are in violation of the new Constitution.

However, if the process would have started, it is clear to me that we will be within the provisions of the new Constitution. Therefore, if you can allow me---

(Mr. Ruto stood up in his place)

Mr. Speaker: Order, the Member for Chepalungu! The point of order raised by the hon. Member for Imenti Central is significant, except that it goes to the details as to why this Motion is being moved. However, the Motion, as it is, is quite in order. It complies with the Standing Orders that Members can seek by a Motion which may be followed by a resolution of the House to sit on a day other than a sitting day. So, that is perfectly in order. In those circumstances, hon. Members, we will allow the Vice-President and Minister for Home Affairs as the Leader of Government Business to move the Motion which technically as it is on the Order Paper, actually passes the test of a Motion and any issues that we have can be taken after he moves the Motion.

The Leader of Government Business, you may proceed.

The Vice-President and Minister for Home Affairs (Mr. Musyoka): Thank you, Mr. Speaker, Sir, for that brilliant ruling.

(Laughter)

It is actually one that saves my energy and that is why I have to congratulate the Chair.

Mr. Speaker, Sir, we are all at the dawn of the rebirth of this nation. I think all of us are truly excited about what will happen tomorrow. Therefore, I want, in that spirit, to appeal to hon. Members to really support this Motion of Adjournment. I joined this House when it was the Fifth Parliament. I have seen a lot of work within the precincts of this House. However, I have never been as excited as I am today as I move this Motion because I cannot recall any other time when a Procedural Motion of this nature was moved so that the House can sit on a Saturday. Therefore, extraordinary circumstances of the type that our nation is faced with are the type that bring jubilation, hope, re-birth and renewal of a nation. Those special circumstances do require that even as Members of this House, we rise to the occasion and agree to sit on Saturday morning which I believe will be within the law as provided under the Constitution.

More than ten Heads of State confirmed this morning that they will attend the promulgation of the Constitution. We have so many others who are not in that category, for example, Kofi Annan, who came to our help when this country was seriously hurting. There is also the former President of Ghana, Mr. Kufuor. It is in order that after promulgation we, at least, afford them some lunch. I think it is in order that we continue to celebrate. If we start swearing in each of the 210 Members, we will not have time even to see off our visitors tomorrow. These are the reasons.

We all know that unless you are sworn in, you cannot even travel out of this country as a Member for your constituency. This is why it is important for us to get together and approve this Procedural Motion so that by 9.00 a.m. on Saturday, we start the process of swearing in. I think it is important. I have just been given a note that it is not even explicit to talk about 24 hours. It is important to note that the Constitution talks about the effective day. We have to be realistic about the effective day. We also have to be a little flexible because we know that if we are sworn in on Saturday morning, many of us who will travel out of this country and others who will go about their business will do so, having been properly sworn-in, in accordance with the requirements of the new Constitution.

Mr. Speaker, Sir, I beg to move.

The Minister for Energy (Mr. Murungi): Mr. Speaker, Sir, I beg to second the Motion.

(Question proposed)

Mr. Ruto: On a point of order, Mr. Speaker, Sir. The Procedural Motion moved by the Leader of Government Business contradicts the Constitution that was passed by Kenyans a few days ago. In particular, it talks about an effective date and not day. If the Leader of Government Business looks at Article 263, he will find that it is sub-titled: "Effective Date". I would like the Vice-President and Minister for Home Affairs to note the word; "date" and not "day". A date is a numerical assignment to a day in a month which has a very clear beginning and a very clear ending. This Constitution shall come into force on the promulgation by the President which is tomorrow. It will be promulgated and, therefore, become effective.

The Sixth Schedule (13) states:-

"On the effective date (not day) the President and any State Officer or other person who had before the effective date taken and subscribed on an oath of affirmation of office under the former Constitution or who is required to take and subscribe an oath or affirmation of office under this Constitution shall take and subscribe the appropriate oath or affirmation under the Constitution."

This same Constitution continues to give Parliament its responsibility to protect the Constitution against impunity which apparently, we seem to want to carry over from the old Constitution to the new Constitution. We appear to want to carry over our bad habits.

Article 94 under Chapter VIII states: "Parliament shall protect this Constitution and promote the democratic governance of the Republic." We shall protect. We cannot start by flouting the Constitution on day one. I expect the Vice-President and Minister for Home Affairs will respect the fact that the State Officers are listed. If you check the definition, you will find that a State Officer includes the President, the Deputy President, Cabinet Secretary, Member of Parliament, Judges, and others. Therefore, the Motion before the House actually contravenes this Constitution because it purports to request Parliament to come here on a day after the effective date. We know that 28th August, 2010 is after the effective date. The Constitution says; "on the effective date."

I beg your guidance, Mr. Speaker, Sir.

Further to this, a stranger has been going around announcing that even you, you will be sworn in at Uhuru Park and yet, the standing orders are very clear. Standing Order No.5 states that the Speaker shall be sworn-in, in an assembly of the House. Is Uhuru Park an assembly of the House? This stranger, otherwise known as the Permanent Secretary, Secretary to the Cabinet and Head of Public Service has actually put you on an itinerary to be sworn-in, in a place other than Parliament.

Mr. Speaker, Sir, I have those two issues under Standing Order No.5, which I wish to invite you to rule on so that we can proceed.

(Applause)

Mr. Speaker: Order! Order! I will only allow further points of order which relate to the matters canvassed by the Member for Chepalungu. The matters canvassed by the Member for Chepalungu are that this Motion is seeking to have the House sit away from the effective date as captured by the new Constitution. The second one is that there have been allegations or rumours which are unfounded because there is no authority which has been tabled. But that notwithstanding, I will have to make a finding on that, that the Speaker is set to be sworn at Uhuru Park. So, restrict yourselves to those matters.

I have notice that the Member for Ikolomani has other issues, but I may not want to deal with those issues at this point in time. But I will, obviously, address them as soon as I make findings on the matters raised by the Member for Chepalungu.

Mr. Imanyara: Mr. Speaker, Sir, as you rule, and I fully associate myself with the submissions of the Member for Chepalungu, I would like to invite you to look at Standing Order No.47(2) which reads:

“Before giving notice of Motion, the Member shall deliver to the Clerk a copy of the proposed Motion in writing and signed by the Member, and the Clerk shall submit the proposed Motion to the Speaker.”

Standing Order No.47(3)(b) reads:

“If the Speaker is of the opinion that any proposed Motion is contrary to the Constitution without expressly proposing appropriate amendment of the Constitution”---

Mr. Speaker, Sir, to add on to what the Member for Chepalungu has said and what I said earlier, clearly, moving the effective date upon which the Members of Parliament will swear is contrary to the Constitution, because Saturday is not the effective date.

Ms. Karua: Mr. Speaker, Sir, I will be very brief. The effective date, no doubt, will be tomorrow 27th. The moment the Constitution is promulgated, it becomes the law of the land and it will emphatically, in Schedule VI, Clause 13, be decreeing that Members of Parliament be sworn in on the same day. We cannot extend the day to mean 24 hours stretching it to the next day. The “effective date” means 27th. Immediately the new Constitution is promulgated, 27th will begin at midnight and will end tomorrow midnight. Therefore, if we hold any sitting thereafter, we will begin by subverting this very Constitution. We are conscious that tomorrow there will be festivities and we have no intention of disrupting them. This Motion can be cured by amending it for this Parliament to sit at 2.30 p.m. tomorrow, so that we are sworn in within the effective date. We also support the promulgation of the new Constitution. I am aware that there is a colleague ready to do that, but we are urging him to rule that the Motion as it stands is

totally out of order and is encouraging subversion of the Constitution on the very day of its promulgation.

Mr. Speaker: Order! Order, hon. Members! Please, be guided as follows: The Speaker, as your Chair, this afternoon, has notice of a proposed amendment to the Motion which the Member for Ikolomani is going to be moving a little later this afternoon. So, perhaps, Members who want to address certain aspects of the Motion will have to wait for the amendment and canvass their concerns. But with respect to the matters raised by the Member for Chepalungu, we could take one more intervention, but you may want to consult the Member for Ikolomani, so that you know what his amendment, as proposed, is about. But with respect to the matters that have been raised by the Member for Chepalungu, yes, you may do so. Otherwise, I am ready to make my findings on the objections by the Member for Chepalungu.

Mr. Mbadi: On a point of order, Mr. Speaker, Sir. The point of order raised by the Member for Chepalungu is a very weighty matter. I also wanted just to add a point to it, based on what the Leader of Government Business said about the effective date.

Mr. Speaker, Sir, I wanted to ask those who are doubting the effective date of the new Constitution that ten years from today, if you ask: "When was the effective date of the Constitution of Kenya?" It will be 27th August 2010. So, there is no doubt about the effective date. What is the 27th? So, 27th August starts from midnight of Thursday and ends of midnight of Friday. So, beyond midnight of Friday we are passed 27th August, which is the effective date of this Constitution and there should be no doubt about that. It is plain English and we will be violating the law. We voted for a new Constitution to stop impunity, Mr. Vice-President! Thank you very much.

Mr. Speaker: Order! Hon. Members, I have heard the concerns raised by the Member for Chepalungu as supplemented by the contributions by other Members, including the Member for Imenti Central and Member for Gichugu. I want to address those matters in the order in which they were raised by the Member for Chepalungu.

The first matter is on the effective date; that the Motion which is now before the House seeks to have the House sit on a date that would be in contravention of the Constitution because then, Members would be sworn in on a date outside the date provided for by the new Constitution. The starting point is obviously to understand; that the new Constitution is not yet the law of Kenya. As we sit in this House this afternoon, the Republic of Kenya has a Constitution and our Standing Orders, as they are, emanate from the provisions of the Constitution. They have their anchoring in the Constitution and not the new Constitution, because the new Constitution is not law yet. As I understand it, therefore, the objection of the hon. Member for Chepalungu will be based on Standing Order No.47(3)(b). I want to revisit that. It provides as follows, and I think this was also ably canvassed by the Member for Imenti Central: If the Speaker is of the opinion that any Motion, among others, infringes the Constitution and so on, then the Speaker may direct either that the Motion is inadmissible or that notice of it cannot be given without such alteration as the Speaker may approve.

Hon. Members, I applied my mind to this Motion and, indeed, it accords with the provisions of the Constitution that serves this country today and accords with the Standing Orders. So, hon. Members, the essence of the objection to the Procedural Motion is that it seeks to have the House convene on a date other than the effective date, which is 27th August, 2010, on which the new Constitution requires all Members of the

National Assembly to swear allegiance to the new Constitution. This is because the Procedural Motion is brought under the current Standing Orders which are, in turn, founded on the Constitution which will lapse upon the promulgation of the new Constitution tomorrow, 27th August, 2010. The Constitution that serves this country today has not lapsed. The new Constitution is not in force at this moment. Any objection that a Motion is unconstitutional, therefore, must cite the provisions of the Constitution rather than the Constitution that is yet to be promulgated. It must cite the provisions of the Constitution that have been contravened.

The Chair cannot sustain an objection based on a provision of a constitution that is not in force. Similarly, an objection is not tenable if its effect is to claim that the Motion will become unconstitutional at some future date. Hon. Members, in view of the fact that the Motion before this House is in keeping with the Constitution as it is now, I rule that the point of order raised in respect of the constitutionality or otherwise of the Motion is unmeritorious.

(Applause)

Hon. Members, with respect to the rumors that the Speaker will be sworn-in at Uhuru Park, for whatever that may be worth, I will want to refer you to the provisions of the Standing Orders with respect to the election and swearing in of the Speaker thereafter. I think it is Standing Order No.5.

Hon. Members: It is not Standing Order No.5.

Mr. Speaker: It is Standing Order No.5. Indeed, those who are seeking to mislead me, please, take time to read the Standing Orders. It says this:-
“Immediately following the election of a Speaker after a General Election, the Clerk shall administer the Oath or Affirmation of Allegiance to the Speaker in the presence of the assembled House and the Speaker shall then administer the Oath or Affirmation of Allegiance to all the other Members present.”

The key words there are “immediately after the election of the Speaker”. Your current Speaker today was elected on 15th January, 2008. He was, in accordance with the law and, indeed, the Constitution, sworn in. What the new Constitution seeks to do is to have State Officers who are in place at the time that new Constitution takes effect, to swear allegiance to the Constitution. So, the Speaker is not expected to be sworn in into the Office of the Speaker because the Speaker has already been sworn in. But, as and of when the new Constitution takes effect, then the Speaker will be bound, so as to implement and apply that new Constitution, to swear allegiance to it. What governs us then will be the Provision under Article 13 of the Sixth Schedule. Those of you who have the proposed Constitution will find that on page 197. It provides as follows:-

“On the effective date, the President and any State Officer or any other person who had, before the effective date, taken and subscribed an oath or affirmation of office under the former Constitution---”

This Constitution does not become former until tomorrow. The Article continues to say:-

“Or who is required to take and subscribe an oath or affirmation of office under this Constitution, shall take and subscribe the appropriate oath or affirmation under this Constitution.”

Mark those words! It says: “He shall take or affirm to the new Constitution.” It does not say where that officer shall take the oath. However hard you read it, you will not find it there. What is important is that the officer swears allegiance to the new Constitution, and the Speaker will do so. The Speaker will not be an officer who has been elected pursuant to the new Constitution. The Speaker was elected under the Constitution that applies today. So, again, assuming that those rumours are true, I will find nothing wrong in those rumours. I find the objection, therefore, on that ground, unmeritorious.

Dr. Khalwale: On a point of order, Mr. Speaker, Sir. I want to appeal to the Chair that hon. Members who are in this House are not only leaders of this Republic, but they are also friends of democracy and friends of Kenyans, who gave us this Constitution. I am, therefore, asking the Chair to guide this House and the Republic on whether the expectation by the public that the list of Ministers who will be sworn tomorrow under the new Constitution should not be made public before the day of swearing, as is the tradition in the governance of this country.

Secondly, how will the Chair afford Parliament an opportunity, on behalf of all Kenyans, to be satisfied that the letter and spirit of Chapter 6 of the New Constitution on Leadership and Integrity is upheld? It will be total betrayal to the 6 million Kenyans who voted for the new Constitution. They wanted to have a new order in this country. They wanted to see, in the new Cabinet – and with all due respect - officers who have been adversely mentioned in matters of corruption ranging from the Goldenberg saga, Anglo Leasing, the maize scandal, the Grand Regency Hotel scandal, the Free Primary Education Scandal and the Ndung’u Commission Report on abuse of public land.

The Minister for Energy (Mr. Murungi): On a point of order, Mr. Speaker, Sir.

Dr. Khalwale: Mr. Speaker, Sir, I am on a point of order.

Mr. Speaker: Hon. Murungi, the Member for Ikolomani is on a point of order. However, I have permitted your point of order because I have discretion to do so, where perhaps the Member on a point of order is sliding out of order. So, you better be very careful because this is going to be a very high standard.

The Minister for Energy (Mr. Murungi): Mr. Speaker, Sir, I thought the hon. Member was moving an amendment to this Motion. Even in the context of moving an amendment, I think the manner in which he is moving it, he is moving beyond the amendment.

Mr. Speaker: Order, hon. Murungi! The Member for Ikolomani has not stood to move an amendment. Perhaps, you were anticipating, but he has not done so.

Dr. Khalwale: Thank you, Mr. Speaker, Sir, for the protection. I am very clear at this stage that I am standing on a point of order. But after we start debate, with the permission of the Chair, I will move my amendment.

So that I am not cut short from my list of concerns on behalf of Kenyans, Kenyans will be wondering who these people are. Could they be the same ones who are also involved in the Triton Oil Saga?

The Minister for Energy (Mr. Murungi): On a point of order, Mr. Speaker, Sir.

(Loud consultations)

Mr. Speaker: Order, hon. Members! Please, lower the level of your consultations because the Members contributing must be heard. The Member for Ikolomani Constituency is entitled to be heard, so is the Minister for Energy.

The Minister for Energy (Mr. Murungi): On a point of order, Mr. Speaker, Sir. The hon. Member is very sly in the manner in which he is making his contribution. But it is quite clear that the innuendos are being directed to matters which have been fully investigated. Who else in this House is referred to in connection with the Triton Oil Saga and such things? I have been through a lot of investigations, which have cleared me and my question is: Is the Member in order to continue poisoning the minds of Kenyans about these alleged scandals which have been investigated and found not to be true?

Mr. Speaker: Order! Member for Ikolomani, that is a valid concern. Please, try and restrict yourself to the core of the matter that you are addressing. As I understand it, on this point you started off very well; that you would want the list of those who are going to serve in the Cabinet made public and further as to whether or not they will take their oath. So, restrict yourself to that, and try not to wander too much.

Dr. Khalwale: Thank you very much, Mr. Speaker, Sir. Hon. Kiraitu knows me very well that if I intend to mention him, I will definitely come on this Dispatch Box with a substantive Motion, that time is yet to come.

Chapter Six of the new Constitution on Leadership and Integrity should touch the hearts of us Kenyans, if, indeed, as leaders of this Republic, we answer to the call of being friends of democracy.

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

Mr. Speaker: Order, Member for Chepalungu! Let us hear the Member for Ikolomani.

Mr. Ruto: On a point of information, Mr. Speaker, Sir.

Mr. Speaker: Order, Member for Chepalungu! You were heard for ten minutes. Just remain sitting. Please, hear others.

Dr. Khalwale: Mr. Speaker, Sir, I was saying that if we were to humble ourselves and submit to the expectations of Kenyans, that we be seen and remain to be friends of democracy and friends of the Kenyans who voted, especially the Kenyans who made sacrifices, including losing their lives.

This Chapter on Leadership and Integrity Article 73(1)(a)(ii) says as follows:-

“A public officer should be seen to demonstrate respect for the people.

(iii) Should be seen to bring honour to the nation and the dignity of that office. (iii) He should be seen to promote public confidence in the integrity of the office that he has been recommended to.”

When I look at this and at Article 73(2)(c)(i) and (ii) and 77(1) and (2), on behalf of Kenyans, I request the Speaker, who has, at this moment, successfully carved a niche for himself in this country as a man who stands out and stands on the side of the law, to guide the country as to whether we can just allow the country to wake up tomorrow not knowing who is about to be sworn in. Can we allow Kenyans to wake up tomorrow not knowing whether the people who do not meet that high standard will find their way in office in spite of their famous history or if I may call it, infamous?

Mr. Ruto: On a point of information, Mr. Speaker, Sir.

Mr. Speaker: Order, Member for Chepalungu! The Member for Ikolomani Constituency has concluded. You cannot inform him after the event.

Hon. Members, the point of order raised by the Member for Ikolomoni has been addressed fairly ably and exhaustively. With respect to whether or not the list of the Members of the Cabinet that will be sworn in on the promulgation of the new Constitution should be made public is a matter that is neither here nor there. As to whether or not it should be made public, is not a matter that is obligatory until the new Constitution takes effect.

Under the current Constitution, His Excellency the President still enjoys the prerogative to appoint Ministers. This House is not about to interfere with that authority which is currently vested in His Excellency the President.

As and when the new Constitution is promulgated and, therefore, takes effect, then this House will have a right to question appointments or even vet appointments of Ministers, or as they are referred, Principal Secretaries, that will serve in the Government.

With regard to the second limb, which is whether or not this House can, in fact, recognize or swear in those Members of the Cabinet, namely, Ministers and Assistant Ministers, who are in breach of the provisions of Chapter Six of the new Constitution, yes, that is a matter that the Speaker will have authority to give directions on. But that I can only do after the new Constitution takes effect.

So, as and when it takes effect, Dr. Khalwale, if you want that matter re-visited, I undertake to give directions on the occasion of the swearing-in of hon. Members of the House.

With respect to the legality or otherwise of having certain Ministers sworn in under the new Constitution, hon. Members, you may want to be guided by Section 258 of Proposed Constitution. Section 258 is clear. I want to read it in extenso. Section 258 of the Proposed Constitution says:-

“258(1). Every person has a right to institute court proceedings, claiming that this Constitution has been contravened or is threatened with contravention.”

So, you can institute proceedings not only when it has been contravened, but even when there is a threat that it will be contravened. This Section goes further to say as follows:-

“(2)(a) In addition to a person acting in their own interest, court proceedings under Sub-Section (1) may be instituted.”

Dr. Khalwale, you have, indeed, rightly said that Members of this Parliament represent Kenyans, and you are speaking for Kenyans. Then, indeed, Sub-Section (2) gives you room to do so. It provides, under Sub-Section 2(a), that a person acting on behalf of another person who cannot act in their own name---

So, you can actually come up with that complaint on behalf of your constituents and be a person acting as a member of, or in the interests, of a group or class of persons.

Sub-Section (2)(c) is about the person acting in the public interest; Sub-Section (2)(d), an association acting in the interests of one or more of its members.

So, the Member for Ikolomani and other Members, be guided that in so far as administration of the Oath in this House is concerned, I shall give directions on the occasion when the ceremony takes place.

Thank you.

Mr. Ruto: On a point of order, Mr. Speaker, Sir. I thank you for the ruling you have just made. Would I be in order to suggest that since you will give guidance on Chapter 6, you also include those who have actually been known to have participated in coups, sedition, stealing of elections; those who have asked Kenyans to participate in

mass action, and thereby caused many deaths and Internally Displace Persons (IDPs). I suggest that you add those to your list.

Thank you, Mr. Speaker, Sir.

(Laughter)

Mr. Speaker: Order! Order, hon. Members! I confirm that I shall do so.

Mr. Ethuro: On a point of order, Mr. Speaker, Sir. I would like to refer to Part IV of the Standing Orders, page 11, on Leader of Government Business and Government Panel. I want to appreciate that this is the first Motion by the newly appointed Leader of Government Business, a responsibility you discharged honourably for long.

However, Standing Order No.11(1) says that the Leader of Government Business shall be appointed in accordance with Standing Order No.2, which you communicated. My interest is on paragraph 2 of Standing Order No.11, which says as follows:-

“11.(2). At the commencement of every Session, or from time to time as necessity may arise, the Leader of Government Business, with the approval of the Government, shall nominate two Members (being Ministers) who shall be known respectively as the First and Second Deputy Leader of Government Business”.

Mr. Speaker, Sir, in your communication you only indicated one other Member. If we are really talking about implementing a new Constitution, then we must also respect our own Standing Orders.

Paragraph 3 of Standing Order No.11 requires the Leader of Government Business to ensure that he and two other Members constitute the Government Panel, so that a Motion like this, coming to you, would have an indication that there was actually a Government Panel that approved it for your consideration.

Paragraph 4 of the same Standing Order, for those of us who are still doubting your consideration, this House thought it wise to make sure that in appointing the Government Panel, the Leader of Government Business shall have regard to gender.

Mr. Speaker, Sir, what I am asking your direction on is, given the failure by the Leader of Government Business – who is a good friend of mine and whom I respect – to adhere to that Standing Order, what is the standing of this particular Motion?

Thank you.

Mr. Speaker: Leader of Government Business, do you want to make response at all before I give directions?

The Vice-President and Minister for Home Affairs (Mr. Musyoka): Mr. Speaker, Sir, my response can be very brief. First of all, he talked of “newly appointed”. Just to remind him, this appointment was at the beginning of this Parliament. It is only that there were difficulties and the House is pretty aware of those difficulties, which have since been resolved happily.

I am aware of the provisions of the Standing Order to which the hon. Member, who is my good friend, has referred. We are just in the process. It is not too late. I do not think we have time lines with regard to making sure that the Government Panel is properly constituted. Therefore, we will do that in due course.

Mrs. Odhiambo-Mabona: On a point of order, Mr. Speaker, Sir! On a point of order!

Mr. Speaker: Order, hon. Millie Odhiambo-Mabona! When you rise on a point of order, you speak once and the Chair will normally notice you. After that, you do not persist in standing, because it is against the Standing Orders for two hon. Members to be on their feet at the same time. That notwithstanding, you may now proceed.

Mrs. Odhiambo-Mabona: I am much obliged, Mr. Speaker, Sir. Is the Vice-President and Minister for Home Affairs in order to dispute your own ruling that the Leader of Government Business was not properly before the House, because the two Principals had not agreed? Is he, in essence, challenging your own ruling, which you made before this House?

Mr. Speaker: Order, hon. Members! With respect to compliance with Standing Order No.11, Paragraphs 1, 2, 3 and 4, it is my finding that the Leader of Government Business was not appointed in accordance with the Constitution and, indeed, the ruling of the Chair until 10 days, when I received a letter signed by the two Principals to the National Reconciliation Accord Act, which is, indeed, part of the Constitution.

The Communication which I received – indeed, I did communicate it to the House – was properly signed in accordance with the Constitution, in as much as it bore the signatures of His Excellency the President, and the Right Hon. Prime Minister. So, as far as the Chair is concerned, and I did say that I do not wish to repeat that, it complied with the communication which I had made to the House. I was, therefore, satisfied that the Leader of Government Business was properly and constitutionally appointed and, indeed, in conformity with our Standing Orders.

However, the Leader of Government Business has not had adequate time to constitute a Government Panel. I want, therefore, to allow him reasonable time to do so. He is himself a seasoned lawyer. He knows what “reasonable time” entails. I am certain that he will comply.

On the point of order that has been raised by hon. Odhiambo-Mabona, I have addressed myself to it; I believe, I have adequately answered it.

Thank you.

Order, hon. Members! Let us try and settle down so that we can proceed with the Motion that is under Order No.8. So, I would like to take contributions on the Motion.

Mr. Oyongo Nyamweya: Thank you, Mr. Speaker, Sir, for giving me a chance to contribute to this Motion. The first point I want to make is that the Motion is very clear. The Leader of Government Business is a Christian and he knows that on Saturday 28th is a Seventh Day Adventist day. The new Constitution is very clear. It protects us as Christians and I urge the Leader of Government Business to look at the welfare of Christians. Apart from it not being the right day for the new Constitution, it violates the day of worship for the Seventh Day Adventists. I do not want to speak much on this Motion and I oppose it.

Dr. Khalwale: Mr. Speaker, Sir, I rise to support this Motion with an amendment. My amendment has duly been forwarded to you.

I beg to move that the Motion be amended as follows:-

By deleting the words “Saturday 28th August, 2010 commencing at 2.00 a.m.” and substituting therefor the words “Friday 27th August 2010 after Promulgation at 5.00 p.m.

Mr. Speaker, Sir, the first reason why I am prompted to move this amendment is that this Motion as it is, if not amended, would be unconstitutional in respect of the new

Constitution which provides under Schedule 6 (3)(iii) that the effective date shall be on 27th August, 2010 and not on the purported 28th August, 2010.

Mr. Speaker, Sir, my second reason for this amendment is that by allowing this Motion to go through and allowing hon. Members to be sworn in a day after other Constitutional Office holders have taken their oath would be sending a very dangerous statement. The statement is that Members of this House may be some rank lower than other Constitutional office holders. It is a fact that we are not any rank lower than any other Constitutional office holder. Therefore, if the oath is being taken tomorrow by the President, the Prime Minister and the Ministers, so must be ours. The reason why we must emphasize this is that originally Kenyans had expected that the Constitution would be promulgated on 20th August, 2010 but that was changed. The change was not just amorphous. The Interim Independent Electoral Commission (IIEC) went on and gazetted 27th August, 2010 as the day in which the country should be on the highest alert for this momentous occasion. I now ask hon. Members that if you refuse to take advantage of the heightened alertness in the country for purposes of security that will be provided tomorrow, under what law would you blame the Commissioner of Police if on 28th August, 2010 when you belatedly come to be sworn in you find that there is no sufficient security in Nairobi and you have not succeeded in being sworn in and you lose your seats as Members of Parliament? You will have no reason to walk in your constituency purporting to be a Member of Parliament when you have not taken an oath. So, let us not make it any more expensive or burdensome for the Commissioner of Police by expecting that he is under any obligation on a day outside the gazetted day to provide security for us.

Mr. Speaker, Sir, so that I am not seen to be commenting on what you have ruled or contravening what you have just said, you seem to be in the dark about your swearing in tomorrow. I want you to make your considered opinion on the fact that the swearing in has been kept a secret to you but an innocent member of the public has given it to us---

Mr. Speaker: Order, the hon. Member for Ikolomani! You certainly cannot think for me and you cannot say what is within my knowledge because I know what is within my knowledge. So, please avoid that area.

Dr. Khalwale: Mr. Speaker, Sir, I apologise for the way I have introduced it but all I wanted to say; the long and short of it is that there is a copy here of the programme for the swearing in tomorrow and there are two points to read---

Mr. Speaker: Order, Dr. Khalwale! Please stick to relevance to your Motion of amendment.

Dr. Khalwale: Mr. Speaker, Sir, I move that the Motion as amended be supported and I request Mr. Imanyara to second it.

Mr. Imanyara: Mr. Speaker, Sir, I rise to second the proposed amendment. For a long time we have been fighting the so called culture of imperial presidency where the President controlled all affairs of citizens including this House. We are going to a new dispensation where institutions of Government must respect each other. If you look at the proposed programme for tomorrow, you notice that it is as if it is designed for the protection of one arm of the Government and, the appropriate times that are given is like the National Assembly is playing a secondary role. As one of my friends has said, under the proposed Constitution, particularly Article 94 Sub-article 4 states:-

“Parliament shall protect this Constitution and promote the democratic governance of the republic.”

Mr. Speaker, Sir, in doing so we must ensure that the provisions of the Constitution that come into force tomorrow are adhered to at all times. When the new Constitution talks about the effective date, there is no doubt at all that the effective date means 27th August, 2010 and not a date 24 hours after 11 a.m. on Saturday. So, we are obliged under the new Constitution to ensure that those provisions are adhered to. If that is to happen then we must comply strictly with the provisions of the Constitution with regard to taking the oath that we are due to take. Therefore, in order to be seen to be starting on a right footing and on a sure foundation where Parliament is respected as an institution, we must take our oath tomorrow. I would have preferred that instead of going for lunch at State House tomorrow, we all come here to be sworn in but I notice that my friend has amended time to 5.00 p.m. I would have preferred that we come back here at 2.30 p.m. I would be quite happy as long as the swearing in takes place tomorrow.

It is for those reasons that I second the proposed amendment.

*(Question of the first part of the amendment,
that the words to be left out be left out, proposed)*

The Minister for Lands (Mr. Orengo): On a point of order, Mr. Speaker, Sir. I started listening to this debate elsewhere and I was agonizing over this issue. It is important that as a Parliament that will exist in two republics; the First Republic and the second Republic, that, that transition is managed in such a way that shows the road map that the era in which anything goes is over and done with. When I was reading the provisions as read out by hon. Ruto, as a lawyer, I am bound to read those provisions for what they mean rather than what I want them to mean. The fact of the matter is that we cannot run away from those very clear words that the effective date is the effective date. It depends on how we start. What Kenya becomes in the next 10,20,30,40, 50 years depends on how we start. So if we start on the wrong note, then I can tell you, Mr. Speaker, Sir, we will be committing the same mistakes that many generations made. So I am speaking having been guided - I was whispering to the Vice President - I do not think this is the matter in which there is opposition. I think when the law says what it says, we must be seen to obeying it.

With those few remarks, I beg to support the amendment.

Mr. Speaker: Member for Gichugu!

(Mr. Ole Metito stood up in his place)

Mr. Speaker: Order, hon. Ole Metito! I have already given directions and indeed pleaded with Members that we must make business flow. This is a Supply Day, we are running out of time and it is the last day, hon. Members. So, please, note.

Ms. Karua: Thank you, Mr. Speaker, Sir. I rise to support the Motion and also to propose an amendment to the amendment in terms of time. I am proposing that the time 2.30 p.m. be substituted for 3.00 O'clock---

Mr. Speaker: Order, Member for Gichugu! I do not have a written amendment as you are proposing.

Ms. Karua: Mr. Speaker, Sir, somebody else will come and do that. I will support the Motion. So I am saying that I will not belabor the point but effective date means 27th August, 2010. Once the Constitution starts applying, which will be tomorrow, if we are not sworn in tomorrow, we will begin by subverting the new Constitution. If you read Section 21 of the current constitution, we swear to the oath of office. We will actually be sworn in as Members of Parliament. Although you have already be sworn in, Mr. Speaker, under this Constitution, you will be swearing as Speaker of the National Assembly. It is an oath of office and any of us who does not take oath tomorrow will be a stranger until such time as they take oath. Therefore, it is important that we comply in so far as is possible.

Mr. Speaker, Sir, although we were elected in 2007, and although the place of being sworn in is not indicated on Clause 13 of Schedule 6, the place of being sworn must be where we are normally sworn which is Parliament. I, therefore, would want to opine that even for Mr. Speaker, a precedent of being sworn in, in any other place other than Parliament would be a contradiction of the tradition that has been observed. That is just an opinion and it is up to those doing it to decide how to do it. But if the Speaker of the National Assembly can be sworn at Uhuru Park, then there is nothing stopping Members of Parliament from being sworn in the very same Uhuru Park. But because this is a separate institution from the Executive, we normally are sworn in our place of business which is the Parliament of the Republic of Kenya.

I would support the Motion and say that since whatever we do will stand for posterity, let us honour this arm of Government which is independent from the Executive by having all of us sworn in tomorrow in compliance with the new Constitution which will become effective tomorrow. We have to decide today and I urge that we all support this Motion and hope that somebody will amend the time to 3.00 p.m. We recognize that our Muslim brothers and sisters are fasting and 6.00 p.m. is when they break the fast. So if we put it to 5.00 p.m., we will not only be going too late, we will also be ignoring that there are other people in special circumstances which we should note.

I beg to support.

Mr. Mbadi: Mr. Speaker, Sir, I also stand to support the amendment but also want to move an amendment to the amendment by substituting or deleting the word 5.00 p.m., and replacing it with 3.00 p.m. I think the point of swearing in Members of Parliament tomorrow has been talked about and has been addressed adequately, I think we are now not in doubt on which is the effective date of the new Constitution. The main reason why I am amending the time is as hon. Ms. Karua put it, to take care of the interests of our Muslim brothers and sisters. But besides that, I also want to address the issue that later in the day, the Ministers and Assistant Ministers will be sworn in. The main reason why the Ministers or members of the Cabinet will still be appointed from Parliament is because we are transiting. There is a transition clause. Therefore, before these Members are sworn in as Members, I think we will be violating the same constitution by swearing in Ministers who are Members of Parliament and who have not been sworn in as Members of Parliament. So I think this will remove any doubt of who is supposed to be sworn in as a Minister because otherwise if you swear in the Ministers yet they have not been sworn in as Members of Parliament, I think that is still debatable and somebody can still challenge it.

Mr. Speaker: Order, hon. Mbadi! Are you moving a further amendment? You have done so.

Mr. Mbadi: Mr. Speaker, Sir, I did just one amendment. Thank you.

Mr. Speaker: It is a further amendment!

Mr. Mbadi: Yes, it is a further amendment of the amendment and I ask Dr. Nuh to second.

The Minister for Medical Services (Prof. Anyang'-Nyong'o): On a point of order, Mr. Speaker, Sir. I do not know whether it would not be proper to dispose of the first amendment first.

Mr. Speaker: It is an amendment to the amendment. So, we must dispose of---

The Minister for Medical Services (Prof. Anyang'-Nyong'o): I know that, but Mr. Speaker---

Mr. Speaker: Order, Prof. Anyang'-Nyong'o! We must dispose of the amendment to the amendment first and depending on whether the further amendment is carried, then we will revert to the Motion as further amended. That is how we will do it.

Dr. Nuh: Thank you, Mr. Speaker, Sir. I would advice Prof. Anyang'-Nyong'o---

Mr. Speaker: Order, Dr. Nuh! Proceed!

Dr. Nuh: Thank you, Mr. Speaker, Sir. I think the reasons thereof as to why we are seeking to amend the amendment suggested by Dr. Khalwale to push the time to 2.30 p.m. has been elucidated by hon. Mbadi to 3.00 p.m.

Mr. Speaker, Sir, besides the reasons that we should accord our Muslim brothers and sisters enough time to go and break their fast, besides the reasons that Members of Parliament should be sworn in before they are sworn in as Cabinet Ministers, I think the Vice President had advanced the issue that we would have very many visitors and we would want to see them off. I do not think we would be seeing off the visitors at midday. If all of us in this House would want to see off the presidents and all those people who are coming from abroad to grace this occasion, it would be good time for us to be sworn in as Members of Parliament and then we give them a gallant send off as MPs who have been sworn in under this new constitution after 5.00 p.m. or after 6.00 p.m., or if they wanted to leave the next day.

With those few remarks, I beg to second the amendment by hon. Mbadi.

(Question of the further amendment to the amendment proposed)

(Question of the further amendment to the amendment put and agreed to)

Mr. Speaker: Order, hon. Members! We will revert to the Motion as further amended!

The Minister for Medical Services (Prof. Anyang'-Nyong'o): Mr. Speaker, Sir, while I will abide by the House' decision to respect the amendment to bring the hour forward to 3.00 p.m., I want to draw the attention of the House to the important ceremony that we are going to have tomorrow and the fact that we shall be having several dignitaries in town who are the guests of His Excellency the President, and to the fact that

His Excellency the President is also the Member for Othaya who will have to be the first Member of Parliament to be sworn in as the tradition always is.

Mr. Speaker, Sir, as the House is making this decision, the House should be aware that we might not be respecting the solemnity and dignity of the ceremonies tomorrow, to give His Excellency the President adequate time, not only to give lunch to the dignitaries after the ceremony of swearing in and promulgation at 12.30 p.m. so that he can find enough time to come to the House for the swearing in.

The wisdom in the proposal by my friend Dr. Khalwale of putting this at 5.00 p.m. was obviously to give enough time for the ceremonies at Uhuru Park to end and the so many thousands people to be moved out of Uhuru Park, including ourselves to go for the luncheon and then for His Excellency the President to see off some of the dignitaries or accord them the necessary dignity they need to retire to their hotels and places of rest at that hour.

Mr. Speaker, Sir, one of the reasons I was reluctant to accept 3.00 p.m. as an hour of swearing in is that we shall turn the solemnity and dignity of tomorrow's ceremonies to a job that is being done hurriedly and quickly and, therefore, not to show our guests the need to show dignity and solemnity of the occasion.

I would have wanted these Members of Parliament not just to think of themselves but also to think of others as well. We need to know that we are also our brothers' keepers. Therefore, whereas I respect that decision, I would like to caution the House that it will make it very difficult to perform the ceremonies tomorrow and for ourselves to be in this House at 3.00 p.m. and ensure that the President will himself be here. I am just cautioning the House. You may---

Mr. Ethuro: On a point of order, Mr. Speaker, Sir. Is the Minister in order to keep cautioning the House when the House is telling the Executive to be more efficient in the utilization of time? Do your ceremony at Uhuru Park in the morning and come to Parliament in the afternoon!

Mr. Speaker: Prof. Anyang'-Nyong'o, will you please proceed to conclude?

The Minister for Medical Services (Prof. Anyang'-Nyong'o): Mr. Speaker, Sir, I am one of those who are not given to histrionic hyperboles.

Obviously, we shall indeed swear at 3.00 p.m. and I respect the fact that we need to be sworn on the date as constitutionally provided and we shall do that.

I therefore, lend my support to the Motion but I would like to say that one Member of Parliament said that if we do not swear in tomorrow, there may not be security for us on Saturday. I want to assure Members that security will be there and that the city of Nairobi will remain secure from tomorrow onwards because the ceremonies will not necessarily end tomorrow but will continue until next week as we celebrate the victory of the YES over the NO.

Mr. Speaker, Sir, could I also say that it is in the interest of Dr. Khalwale to have Saturday free because that day is very important for bull fighting in Kakamega.

I beg to support

(Laughter)

(Question of the first part of the amendment, that the words to be left out be left, put and agreed to)

(Question of the second part of the amendment, that the words to be inserted in place thereof be inserted, proposed)

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

(Question of the Motion as amended proposed)

(Question of the Motion as amended put and agreed to)

Resolved accordingly:

THAT, notwithstanding the provisions of Standing Order 20(1), this House resolves to hold a special sitting on Friday 27th August, 2010, commencing at 3.00 p.m. in order to administer Oath of Allegiance to Members pursuant to the provisions of the new Constitution of the Republic of Kenya.

COMMUNICATION FROM THE CHAIR

TRANSPORT FOR MPs TO UHURU PARK FOR THE PROMULGATION OF THE NEW CONSTITUTION CEREMONY

Mr. Speaker: Hon. Members, allow me to communicate the following: So as to be present at the right time during the ceremony tomorrow, Members will be expected to be in Parliament at 7.45 a.m. tomorrow so that they can be transported to the venue of promulgation of the new Constitution, to be seated by 8.00 a.m.

Please, note that we will provide transport for all Members to leave together.

(Applause)

Next order!

Mr. Speaker: Order, hon. Members! Before we move to the Next Order, I want to draw your attention to the fact that today is the last allotted day and we will, therefore, have to continue with the transaction of business until all the business on the Order Paper is completed. That may entail sitting beyond 7.00 p.m., if that is warranted. It will largely depend on how much interest hon. Members have in the business before the House. We will move and start with the first Vote which is on Medical Services, and the Minister moving that Vote together with contributions from hon. Members will have one hour. So, we must finish that business on medical services by 6.00 p.m. Then, we will move on and depend on that Minister to move the balance of the Votes until completion.

COMMITTEE OF SUPPLY

*(Order for Committee read being the
Tenth and last Allotted Day)*

MOTION

THAT THE SPEAKER DO NOW LEAVE THE CHAIR

Vote 11 - Ministry of Medical Services

The Minister for Medical Services (Prof. Anyang'-Nyong'o): Mr. Speaker Sir, I beg to move that the Speaker do now leave the Chair to enable me to initiate debate on Vote 11 - Ministry of Medical Services.

Mr. Speaker, Sir, health is now worldly recognized as a basic human right. Further, good health defined in terms of state of complete physical, mental and social wellbeing is a prerequisite for socio-economic development of the country. The importance of health is also reflected in specific measurable targets declared at the UN Millennium Declaration of September 2000. The Millennium Development Goals (MDGs) represent a vision based on an internationally agreed set of time-bound goals for reducing extreme poverty, extending gender equality and advancing opportunities for health and education. It is in that regard that in the year 2000, when the Government passed the Economic Recovery Strategy (ERS) for wealth and employment creation, the Government committed itself to a policy whose key pillars were: Improving health infrastructure, strengthening regulatory agencies in the Ministry, strengthening and streamlining the supply chain mechanism and improving health financing; incorporating therein a competent and professional workforce that can deliver good health services.

[Mr. Speaker left the Chair]

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

Mr. Temporary Deputy Speaker, Sir, Kenya had recorded positive health indicators after Independence due to the progress that was made in the provision of health care services, but began deteriorating in the mid 1990s. One of the reasons why health services deteriorated is inefficient and ineffective Government investment in health care. Currently, trends in health indicators are, however, optimistic. Infant mortality has declined from 77 per 1,000 in 2003 to 52 per 1,000 in 2008/2009. During the same period, under five mortality rate declined from 115 per 1,000 to 74. The overall HIV prevalence rate among adults of ages 15 to 49 years has decreased slightly from 6.7 per cent in 2003 to 6.3 per cent in 2009. Kenya had relative success in scaling up access to anti-retroviral treatment. Those gains are believed to be due to improved curative service delivery, among other interventions. If these gains can be sustained, Kenya could be on track to reach the under five and infant mortality MDGs, hence the need to invest in human resources, commodities and infrastructure to improve accessibility and the quality of routine services, while sustaining targeted interventions that have demonstrated positive impact.

A high disease burden is a barrier to economic growth. Most sicknesses are caused by preventable conditions. The top five causes of outpatient morbidity are

malaria, diseases of the respiratory system, particularly upper tract infections, diseases of the skin, diarrhoea and accidents. They account for about 70 per cent of total causes, with malaria contributing a third of total morbidity. Hence the importance of investing heavily in proper diagnostic facilities and proper financing for both out-patient and in-patient care to deal with this high rate of morbidity.

The vision of my Ministry is to have an efficient and cost effective medical care system for a healthy nation. Further, the Ministry's mission is to promote and participate in provision of integrated quality curative and rehabilitative services. The goal of the Ministry is to contribute to the reduction of health inequalities and improve the health impact and outcome indicators. The Ministry's vision, mission and goal translate into strategic objectives which are the following:-

(i) Increased equitable access to health services particularly by establishing a universal social health insurance scheme guaranteeing access to health care to all Kenyans, particularly the poor, as envisaged in the Constitution we are promulgating tomorrow.

(ii) Improve the quality and responsiveness of services in the sector.

(iii) Improve the efficiency and effectiveness of services delivery.

(iv) Enhance the regulatory capacity of the Ministry.

(v) Foster partnerships in improving health and delivering services.

(vi) Improve the financing of the health sector.

(vii) Build the capacity to achieve the Ministry's mandate.

Among the functions of the Ministry of Medical Services as outlined in Presidential Circular No.1 of 2008 include:-

1. Medical services policy.

2. Curative services.

3. Treatment and management of HIV/AIDS and other Sexually Transmitted Infections (STIs).

4. Maternity services.

5. Rural Medical Services

6. Clinics and hospitals.

7. Registration of doctors and paramedics.

8. Parastatals such as the Kenyatta National Hospital (KNH), the Moi Teaching and Referral Hospital, the Kenya Medical Training Colleges (KMTC), the National Hospital Insurance Fund (NHIF) and the Kenya Medical Supplies Agency (KEMSA).

My Ministry is implementing reforms and flagship projects to meet the objectives of Vision 2030, as well as the sector objectives. These include:-

First, in infrastructure improvement, the Ministry is implementing 39 large to medium scale projects with partner support. Some of those projects stretch from 2009 to 2014. They include 23 Dutch supported projects, the Kisii and Kericho district hospitals improvements supported by JICA and the Kayole/Embakasi Hospital supported by the Chinese. Let me say that projects in Kisii and Kericho are already complete. The Kayole/Embakasi Hospital will be ready in November and on the 23 Dutch supported projects, the work is already in progress. In addition, more than 40 construction and renovation projects wholly funded by GOK are being undertaken, one of which I visited in Othaya on Monday.

Mr. Temporary Deputy Speaker, secondly, my Ministry is working to strengthen hospitals management. Training in leadership targeting top and middle level managers in hospitals has been undertaken. Our aim is to move rapidly towards the professional management of hospitals by professionally qualified managers.

Our second object is to strengthen the referral strategy and communication across all levels of the healthcare delivery system from dispensaries to the national referral hospitals. In that regard I am in the process of putting in place a task force to review and revamp our referral strategy nationally. The report should be ready in three months for further action by the Ministry.

Three, we will roll out the Hospital Management Services Fund with effect from 1st July, 2010 to improve financial management according to Legal Notice No. 155 of 16th October, last year. The National Hospitals Committee has been gazetted and launched and training is ongoing.

Mr. Temporary Deputy Speaker, Sir, the fourth thing that we are doing is to enhance periodic supportive supervision to hospitals and improve the environment and quality of services being offered within the existing financial resources. However, there are challenges of poor infrastructure and lack of basic medical equipment. One area in which this Ministry is facing a lot of challenges is the need to acquire modern diagnostic equipment and services to improve health delivery, because without proper diagnosis no proper healthcare can be undertaken.

Five, restructuring of hospital management structures is underway with a view to strengthening administrative and technical structures. This will entail creation of positions of hospital CEOs, technical directors and administrative directors, among other positions.

Six, as part of strengthening the public-private partnership in the health sector, the Ministry has been engaging various stakeholders in developing mechanisms for engagement such as the Inter-Agency Co-ordinating Committee on Public Private Partnership (PPP) that brings together all stakeholders to address issues of common interest. Areas identified for partnership include sharing of personnel, health commodities, hospital equipment, training and management, some of which I referred to when answering a Question today in this House.

Mr. Temporary Deputy Speaker, Sir, the other responsibility that the Ministry is carrying out is strengthening the procurement and supply of health commodities. The Kenya Medical Supplies Agency, KEMSA, is mandated to procure and supply drugs and medical supplies, establish warehouse facilities for storage, packaging and sale of drugs and medical supplies to health institutions, conduct analysis of drugs and medical supplies to determine their suitability, advise consumers and health providers on the national cost-effective use of drugs and make available facilities for use by educational institutions.

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

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

In order to strengthen KEMSA to undertake its mandate, a number of reforms have been implemented including:

1. a new board has been formed and it is operational;
2. the Chief Executive Officer has been appointed;
3. procurement of commodities for both Ministries by KEMSA is going on; commodities are no longer procured by the Ministry;
4. further restructuring is ongoing under the new board and capitalization funds are being sought to enhance drugs availability;
5. improved planning and management of drugs at all levels, including training of facility managers and procurement officers.

Mr. Temporary Deputy Speaker, Sir, let me add that in order to have more autonomy for KEMSA the board has prepared a draft Bill, which is being studied by the Treasury. That will complete the report of the task force that we set up in the year 2008 to ensure that the supply chain mechanism works effectively.

Mr. Temporary Deputy Speaker, Sir, in terms of human resource management we are decentralizing the recruitment of personnel and developing the social health protection policy. One of the most important issues in terms of financing health care is the National Hospital Insurance Fund. Yesterday, I gave a comprehensive brief to the House on the NHIF. I need not repeat it here today. But let me say that the NHIF continues to mobilize funding for the health sector, with members' contributions increasing from Kshs4 billion in 2006/07 to over Kshs5 billion in 2009/10. They are further expected to increase to approximately Kshs14 billion as a result of the implementation of the revised rates.

In addition, the NHIF claims payout ratio has risen to 56 per cent of contributions. Formal sector membership has reached almost 100 percent, while informal sector membership has risen to nearly 500,000 against a target of 7 million. We still have a long way to go.

The NHIF has piloted an outpatient coverage in Nairobi and Mumias, and is preparing a roll out to all members once the newly revised contributions are implemented. This is an ongoing process that I explained to the House yesterday. I do not want to repeat it here today.

More important is the operationalisation of the Hospital Management Services Fund. This Fund will go a long way to improve the financing of health services; to decentralize them and ensure that there is greater participation of consumers in the process of health financing. In terms of emergency response, the Ministry is moving ahead to ensure that we have an effective system of emergency response by establishing an ambulance referral strategy nationally to move away from having ambulances stationed in every health facility, and, therefore, their under-use and quite often mismanagement, which is costly to both the consumers of healthcare and the Government.

Mr. Temporary Deputy Speaker, Sir, in order to streamline management and move towards paperless administration in health services the Ministry is moving fast towards e-health, that is ICT-based management system and administration.

Let me now talk about budgetary allocation. For the year 2010/11 the Ministry resource allocation has been well below what we need. It is about Kshs52,275,000,000. However, Kshs32,583,000,000 was provided in the Printed Estimates for the current

financial year, resulting in a shortfall of Kshs19,692,000,000. This is a major shortfall. Of the total budgetary allocation, Kshs25.6 billion will be utilized to cover current expenditure, while Kshs6.9 billion will go towards development expenditure. Under the Recurrent Vote, the Treasury has included for the first time, cost-sharing user fees from Kenyatta National Hospital, Kshs1.9 billion; Moi Teaching and Referral Hospital – Kshs831 million; Kenya Medical Training College – Kshs1.069 million. It is, therefore, noted that the actual amount from the Treasury is only Kshs21.86 million.

The allocated funds are not adequate to address the many challenges facing my Ministry. However, the available resources will be used efficiently for the intended purposes as follows. Personnel emoluments – Kshs11.341 million, and that falls far short of what we need to have adequate personnel for our Ministry. My Ministry delivers healthcare services. In order for us to deliver health services effectively, we require additional 20,000 nurses, 2,500 doctors, 3,800 clinical officers, 2,400 medical laboratory technologists, 2,500 medical records officers, 1,200 plaster technicians and 300 radiographers.

To respond to the human resources challenges, my Ministry intends to progressively recruit 750 health workers annually for the next two financial years.

Mr. Temporary Deputy Speaker, Sir, I beg to move, and ask Ms. Mbarire to second.

The Assistant Minister for Tourism (Ms. Mbarire): Mr. Temporary Deputy Speaker, Sir, I rise to second this very important Motion. I am doing so, against the backdrop of the fact that tomorrow we will witness the beginning of a new dawn in Kenya where medical care is a right that is enshrined in the Constitution. Article 43(i)(a) says:

“Every person has the right—

(a) to the highest attainable standard of health, which includes the right to health care services, including reproductive health care.”

It further goes in sub- article (2) to state that:

“ A person shall not be denied emergency medical treatment”.

Mr. Temporary Deputy Speaker, Sir, we will have a new country where medical care is a right that is enshrined in the new Constitution. It is, therefore, important that as we pass this particular Vote of the Ministry of Medical Services, we look at what we will be able to achieve as a nation in terms of ensuring that we have proper health care. The major challenge now is meeting this particular human right need that is enshrined in the new Constitution.

Mr. Temporary Deputy Speaker, Sir, we should allocate more funds to this Ministry if we want it to achieve its mandate. This Ministry is grossly underfunded and it may not meet its target. The purpose of this Ministry is to reduce the burden on our people in terms of healthcare provision. I am aware of the health inequalities that lie in our country. Any Member of Parliament here will attest to the fact that many families are impoverished by the burden of diseases. Therefore, we need to look at what we must do to ensure that Kenyans are able to achieve these highest attainable standards. We must really be able to define what these “highest attainable standards” are.

One of the things we must start to look at very seriously and I am happy the Ministry is already addressing it, is the issue of social health insurance. I know the

Ministry is already thinking of revising the rates that we pay to the National Hospital Insurance Fund (NHIF). This can be done through a consultative process. This is very critical towards reducing health inequality that we face in this country.

The second issue which the Ministry should achieve is to see how we can improve on the workforce. I think the Minister has clearly stated that we need about 20,000 nurses and 2,500 doctors. If there is a country that invests heavily in the training of its health workers, it is Kenya. However, most of these health workers are either unemployed or end up working in other countries. I hope that the Government will in future address this issue of the workforce in the Ministry, so that we resolve it.

With those many remarks, I beg to second.

(Question proposed)

Dr. Monda: Mr. Temporary Deputy Speaker, Sir, I thank you for allowing me to support the Vote for the Ministry of Medical Services as presented by the Minister.

Mr. Temporary Deputy Speaker, Sir, we know that good health is a prerequisite to the social economic development of any country as already alluded to by the Minister. When we have poor health then we do not expect this country to grow economically. The Minister has already indicated that his budgetary requirements for effective delivery of health services in this country amount to Kshs52 billion. When you look at the allocation of Kshs32 billion, you will find a shortfall of Kshs20 billion. How do we expect him to deliver services as expected by Kenyans and as stipulated in the new Constitution that we will promulgate tomorrow?

Mr. Temporary Deputy Speaker, Sir, allow me to observe that the Departmental Committee on Health noted with concern that the estimates of this Ministry were not based on its strategic plan nor were they based on the Medium Term Expenditure Framework. This does not meet the needs of the Vision 2030. If we want this country to develop in the health sector, we have to change the way we address budgetary allocation from the Treasury. Only when this is done will the Minister speak with confidence that what the Ministry has set out to achieve will be achievable.

The Committee also noted that the allocation of the district health services has been declining. In 2009/2010, the district budget dropped by 20.3 per cent. This financial year it went down by Kshs1.3 billion. We know there has been an increase in the number of districts in this country, therefore, an increase in the creation of district hospitals. We do not expect the Minister to avail sufficient resources to these newly created hospitals. There is need for infrastructure in these young hospitals. Provision of sufficient services is, therefore, not practical. It is not possible to provide wards, theatres and kitchens in the health centres.

Mr. Temporary Deputy Speaker, Sir, in the infrastructure of hospitals starting from sub-district hospitals right to referral hospitals such as Kenyatta National Hospital (KNH), we have a big shortfall. The KNH was created long ago. Until now, we are still depending on the same infrastructure. There should be an increase in budgetary allocation to this Ministry to enable it to take KNH to where it is supposed to be. The rest of regional referral hospitals should also be improved.

Mr. Temporary Deputy Speaker, Sir, in our mandate as a Committee, we have come to the realization that the hospitals we have in our country were developed before

Independence. From Central Province to the lowest part of Western Province, the Coast Province, North Eastern Province, Rift Valley Province, the infrastructure in our hospitals is wanting. There is reason for the Treasury to allocate sufficient funds for infrastructural development.

We were in Mwingi District Hospital which has well-trained personnel. However, if you look at the infrastructure where the staff work, you will realise that the hospital is wanting. This is the picture all over. The location of the mortuary in this hospital is right in the midst of the wards and yet this is where the Vice-President and Minister for Home Affairs comes from. So, whenever Kenyans go to remove the bodies of their loved ones, they must walk through the wards carrying coffins. We want to address this. Unless we do that by giving sufficient allocation, it is not possible for the Ministry to achieve the Vision 2030 that we are yearning for.

I want to touch on supply of commodities and in particular the Kenya Medical Supplies Agency (KEMSA). The Ministry needs to press for sufficient allocation. When KEMSA requested to be allocated Kshs1.9 billion, it was allocated Kshs1.1 billion. It becomes difficult to understand how else KEMSA will supply the necessary commodities for hospital operations. Are we waiting for shortages and then cry in the middle of the year that there are no drugs? We cry having known that from the outset we created a problem when allocating funds for the supply of commodities such as medicines, non-pharmaceuticals and equipment. We cannot talk of development in our medical sector if we do not change the way we allocate our funds. The Kenyatta National Hospital (KNH) has the highest trained people in this country. Those people are technically qualified to perform any technical procedure. However, if you walk into the KNH, you will find obsolete equipment and patients sharing beds. One wonders how we can consider the KNH to be a referral hospital when patients share beds in this century.

We appeal to the Government to change the way it allocates funds to our hospitals. The Minister has alluded to the fact that there was reason to capitalize the KEMSA so that it can operate without necessarily waiting for funds from the Treasury and the Ministry of Medical Services. This has not been considered and we expect the problem to continue. There is need for consideration of emergency operations in the hospitals. The Minister has talked about the procurement of ambulance services, which is important.

The fact that was alluded to in the Budget speech that we shall lease 300 ambulances instead of purchasing them is not the right way of procuring ambulance services. We need to procure the ambulances but do it the way the Minister put it. Ambulance services should be centrally placed so that we call the ambulances when we are in need in whichever region. As a Committee, we advise the Ministry to consider piloting this programme on ambulances and then roll it out in the entire country if it works.

Mr. Temporary Deputy Speaker, Sir, issues of personnel have been talked about. The Kenya Medical Training College (KMTTC) of many years ago is the same today. We are talking about increasing the number of medical personnel in this country, but how can we do that unless we expand the KMTTC? There should be special consideration for the expansion of infrastructure for the KMTTC to increase the number of medical personnel trained.

We want to point out that the Ministry should look at the cost-sharing funds. This is because the collection has not been captured in this Budget. We cannot assume that the collection from cost-sharing cannot be factored in this Budget so that we can provide for it. Therefore, it is important that the Ministry factors the cost-sharing funds into this Budget.

These are the many challenges faced by the Ministry. In as much as the Ministry has very good ideas on what should be done to change the scenario in the health sector that rests with the Treasury, we urge the Government to look at the way the funds are allocated so that we improve on service delivery rather than talk about it.

With regard to the Anti-retroviral Drugs (ARVs), we are depending too much on donor funds and yet this is our responsibility. It can no longer be a donor issue. If we get donor fatigue, this country will have a problem. When the Minister made a request for Kshs1.1 billion, he was given Kshs903 million. It should not surprise Kenyans when many eligible people do not access the ARVs.

In conclusion, the Committee appreciates the Minister and his staff for highlighting some of these issues when we required them to come before the Committee. On behalf of the Committee, I want to recognise Parliament, the Budget Office, the Speaker, the Clerk of the National Assembly and all those who supported the Committee to arrive at the issues we have raised. I commend this Committee for its participation in the discussion on the Vote of the Ministry of Medical Services.

With those remarks, I support the allocation to the Ministry of Medical Services.

The Temporary Deputy Speaker (Mr. Imanyara): I want to give the first opportunity to hon. Members professing the Islamic faith. So, I will start with Dr. Nuh. It is for a good reason because they are---

Dr. Nuh: Thank you, Mr. Temporary Deputy Speaker, Sir. I think wearing the hat as the Vice-Chairman of the Departmental Committee on Health, I would also wish to contribute to this very important Motion. From the outset, I would like to say that while we support this Motion, how we wish the Minister would up his skills on issues in departments within which he commands!

Mr. Temporary Deputy Speaker, Sir, for the benefit of all Members so that they have ample time to contribute, I would want to stick to three issues. One is KEMSA. While we decry the underfunding that is given to KEMSA and maybe the budget recycle that comes with the Government systems in terms of the allocation, I think a lot needs to be done in reforming KEMSA. We have said this time and again. The Committee visited several hospitals and health centres way back in 2008. When we complained about the efficiency of KEMSA and the supply chain of drugs, which is a very essential commodity when it comes to the health sector, we were simply told by the Minister that he had appointed a taskforce and he was thinking of reforming KEMSA into an institute or entity that was going to perform better and deliver services in a way that would be appreciated by most Kenyans. But this is yet to happen. Every circle and season we have shortages of essential drugs in our health centres. You would not imagine that a member of the public can call you to say: "I have visited the dispensary and there are no drugs. I have been given prescription and I want you to pay for the drugs." It is painful. Here is a constituent who is terribly sick, crying to Members of Parliament to go and purchase drugs from the pharmacy for them. It is deplorable. The KEMSA should improvise a way which they can institute the procurement process way ahead of getting funding, if they

can get commitment from the Treasury that money will be availed. They should not wait for July, September or October to go the newspapers to advertise for a company to supply drugs, when Kenyans are suffering. I think something ought to be done.

Mr. Temporary Deputy Speaker, Sir, the second thing is about funding systems within the Government. When we put Kenyans who are sick at the mercy of donors, we are committing a very grave mistake. We have several other departments of other Ministries, put them under donor funding so that when donors fail, then something happens, but not something terrible to happen within the Ministry of Medical Services, that is very essential. How will we perform with a workforce that is terribly sick and cannot attend office 24 days in a month? How would we expect to reap into a growing economy when we cannot attend to our sick personnel and we would want to cry that the ARVs and medication are in short supply just because donors have failed to honor their commitment? I think that should be addressed and Treasury should think of channeling the funds from the Government, which we are quite sure will come in some way to Ministries which are essential, like the Ministry of Medical Services.

Mr. Temporary Deputy Speaker, Sir, the third and final thing I would want to talk about is donor commitment. I think this goes a long way on how we negotiate with donor partners. It is we, Kenyans, and the Ministry specifically who know which drugs are essential and how much quantity is needed. But when a donor comes and says that he will supply Malariaquin in tonnes and millions and they go and rot in Government dispensaries and health centres at the end of the day, when other essential drugs are out of supply, are we really doing due diligence? Will we just allow donors to support any entity of their wish, even when we know very well that there is another sector or critical aspect within the Ministry of Medical Services that is in dire need? Even though we are borrowing and begging, we ought to demand that sometimes we live to direct what needs to be supported. If our good friends would want to support us, they ought to do so in a way that will make us happy and not in a way that would make them happy and make us paupers.

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

The Minister of State for Development of Northern Kenya and Other Arid Lands (Mr. I.E Mohamed): Mr. Temporary Deputy Speaker, Sir, I rise to support the Vote. I want just to remind the hon. Members that we have just passed a new Constitution which makes healthcare a right.

Mr. Temporary Deputy Speaker, Sir, this is a very important Ministry and it deserves all the necessary support and resources. For us to achieve Vision 2030, one of the key foundations is skilled, educated and healthy workforce. That cannot happen if we continue to treat the Ministry of Medical Services as a Ministry of hospitals, where a few activities happen in a few hospitals and we do not go beyond that.

Mr. Temporary Deputy Speaker, Sir, I would suggest to the Minister that we start telemedicine particularly in Arid and Semi-Arid Lands (ASALs) where distances are long and population scarce, so that specialist input can be gotten by junior officers in the remote areas.

Mr. Temporary Deputy Speaker, Sir, I would also commend the Minister for the recent rates he has put up on the National Hospital Insurance Fund (NHIF) and trying to modernize and make sure that all Kenyans are reached. I would also urge the Minister to

include the mobile population of this country; the nomadic people. They have goats and cattle and are able to pay. I hope we can work together and ensure that we have a special package for that particular group.

Mr. Temporary Deputy Speaker, Sir, I think additional resources are required and the aggregated approach to health services for the whole of this country is required. I know that the Ministry of Finance has suggested that ambulances be hired. I would like to urge the Minister to look at the special needs of the long distances where there are no roads and really look for appropriate ambulance services for those areas.

Mr. Temporary Deputy Speaker, Sir, lastly, I want to support those who said that we must increase the money allocated to this Ministry in order to put infrastructure in place that meets the modern healthcare services that are needed. The new Constitution insists on equity and we cannot have equity where the best services are only provided where the political elites are, like Nairobi and the major capitals of this place. Every citizen of this country requires that and we do not expect the Ministry, however diligent the Minister and his staff may be, to be able to do that with bare hands and no money.

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 rise to support the Motion.

Mr. Temporary Deputy Speaker, Sir, many things have been mentioned here, especially on infrastructure. If you look at most of the hospitals that we have, their infrastructure is very bad. I know that the Government has tried to rehabilitate the Kenyatta National Hospital and other hospitals like the Machakos General Hospital, but the Government needs to put more money, at least, to bring these hospitals to the standards that are required. In very home even if you are not infected with HIV/AIDS, you are affected. We have many people in this country who are suffering from HIV/AIDS. We are depending on development partners to help us to take care of our people. We should be a responsible nation and have our own resources to take care of our own people. If you look at the other nations, they are doing that. The Treasury should set aside money to take care of our sick.

Mr. Temporary Deputy Speaker, Sir, there are also some health centres that have been promoted to district hospitals. These health centres do not even have the basic necessities. Some of them do not have theatres, mortuaries, incinerators or even medicine. The Treasury really needs to look into this. Without a healthy nation, we will get nowhere. We have got to take care of our own people. There is no Government without people. Whether sick or healthy, everyone needs to be taken care of.

Mr. Temporary Deputy Speaker, Sir, in some hospitals, we have pending bills of over Kshs800 million. People go to hospital and they are not able to pay their bills. I have gone so many times to the Kenyatta National Hospital to pay bills for some of my constituents. I think the Government needs to look at what is happening because Kshs800 million is a lot of money. This is not helping the hospitals. Something needs to be done about that. As I finish, I would not forget that I come from Athi River, Kathiani Constituency, Athi River District. Athi River is the most industrialized town in this country. I have over 60 factories there and yet, there is no hospital. We have had cases where factories have caught fire and burnt some people. The nearest hospital where those people can be taken is Machakos District Hospital or Kenyatta National Hospital. The Minister is here. My CDF team and I have set aside Kshs10 million to start the

construction of a hospital. We would like the Government to come in and assist us, even with our development partners. We have companies and factories in Athi River District which are willing to partner with the Government to help us build a hospital there. I think that should be taken as a matter of priority. I have talked about lack of hospitals in Athi River. I will not forget to talk about my area. I would like to talk about Kathiani District Hospital. The hospital was built long time ago. If you go there, you will see that the buildings are in a very bad condition. I mentioned about the infrastructure. We need more money. I know that the hands of the Minister for Medical Services are tied. The Treasury should release more money to the Ministry so that our people can get the services that they require.

I support.

Mr. Chanzu: Thank you, Mr. Temporary Deputy Speaker, Sir for giving me the chance to support the Vote of the Ministry of Medical Services. If I was the Minister for Finance or the PS, I would have taken the page where we have put the guillotine procedure, I would not have looked at all of it, but I would have taken the figure of Kshs12 million which is under Vote 8. I would have closed my eyes and given it to the Ministry of Medical Services. When you compare the Kshs23 billion that has been allocated to the Ministry of State for Defence with Kshs12 million that has been allocated to the Ministry of Medical Services, you do not understand how they work out those figures. If we had a sick nation, we would not have people work even in the Ministry of State for Defence. I hope they will take this into account when they will be doing the Supplementary Estimates or next year's Budget.

The greatest achievement we have made in the new Constitution is where we have fixed the Ministries to be between 14 and 22. I think that is a great thing for this country. When a Ministry is split, it is very difficult to understand how it works. The only thing that the proposed Constitution did not do is to fix the Ministries the way they should be. I hope we can put these Ministries together. For example, we can merge the Ministry of Medical Services with that of Public Health and Sanitation. When you go to the constituencies, you will find a different person dealing with dispensaries and another one dealing with clinics. Things have been very chaotic and I hope this will be corrected.

I do not know what the Minister will do with private chemists. I hope the Minister continues to stay in the Ministry. I had a problem one time where some people were bitten by wild dogs. We were not able to get medicine at Vihiga District Hospital. But we were able to get medicine from a private clinic. I had to negotiate because the drugs were costing about Kshs8,000 per person. I had eight people who had been bitten. That was going to cost me Kshs64,000 from my pocket. I had to negotiate with the private clinic's owner and convince him that when we get suppliers in the Government, we would--- That would not work anyway. We must have drugs in our hospitals. The drugs are there, but I believe they are taken to some places. That is why you find chemists built very close to hospitals. That way, when you have got a problem, you have no choice but to go to the private pharmacy. I want to support what the Minister was saying yesterday about the National Hospital Insurance Fund (NHIF). That is something that was started a long time ago, but it was "killed" by the same Government. I am happy that it has been re-introduced. The only thing people are worried about is how the funds will be managed. The people who go competing for jobs like that of Chief Executive Officer do not do so because they want to manage the Fund well. They do so because they think it is lucrative.

I talked about the NSSF yesterday. The NHIF ended up adopting the same system. The Minister answered this yesterday and said that the law allows the Fund to invest. However, we must deal with the core business first before we go to spend surplus money. How do you go and spend surplus money putting up office buildings when the Kenyatta National Hospital has a lot of problems with patients whom they cannot deal with, treat and finance? Where would you get surplus money to spend on buildings when you do not have money to support a big institution like Kenyatta National Hospital? So, those are some of the things that we are questioning.

With those few remarks, I beg to support.

The Temporary Deputy Speaker (Mr. Imanyara): Unfortunately, there are only two minutes remaining and I am going to give them to Mr. Musila.

The Assistant Minister, Ministry of State for Defence (Mr. Musila): Mr. Temporary Deputy Speaker, Sir, I want to utilize these two minutes by saying that I fully support the Vote of the Ministry of Medical Services. This is one Ministry which is facing many challenges. My heart goes to the staff who work out there under very difficult conditions. Any hospital must have some basic things. It must have an X-ray unit, a doctor, a technologist and an ambulance. However, our hospitals lack all those things. I want to urge that, that be considered because some of those hospitals exist only by name.

The Kenya Medical Supplies Agency (KEMSA) is one institution whose performance must be critically looked at. I have talked to the Minister and told him that the capitalization of KEMSA is necessary, if we have to improve the institution. I support that. I want to go further and say that the Treasury should allocate money to KEMSA directly, so that, that important institution can deliver drugs to hospitals. We should not wait until hospitals have exhausted their drugs and then embark on the rigorous process of procuring drugs which takes a very long time.

Finally, we want to see KMTC taking people from all over the Republic. Recently, we commended the Ministry for recruiting nurses. However, many of those nurses are being recruited from some areas and taken to other areas. It is not that those areas do not have qualified people to join the KMTC and become nurses, but it is because certain Ministers have over-trained people in their own areas and, therefore, they have to export nurses. I want to appeal to the Minister to, in the exercise that is going on now, take stock of the requirements of districts and allocate training vacancies at KMTC depending on need. If a district has more nurses, it should be allocated zero. If it is like Mwingi, it should be allocated more.

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Minister, unless you want to give any of your colleagues a minute, it is time for you to reply.

The Minister for Medical Services (Prof. Anyang'-Ny'ong'o): Mr. Temporary Deputy Speaker, Sir, I will give Prof. Kamar two minutes---

The Temporary Deputy Speaker (Mr. Imanyara): The Chairman of the Budget Committee would have been a good person.

The Minister for Medical Services (Prof. Anyang'-Ny'ong'o): But he did not tell me. That is your point to me.

The Assistant Minister for Environment and Mineral Resources (Prof. Kamar): Mr. Temporary Deputy Speaker, Sir, I want to thank the Minister for giving me two of his minutes. I just want to put in a few words in support of this Vote, which has

been well articulated. Tomorrow, we will promulgate the new Constitution. When that is done, Kenyans will expect a lot from us. They will expect, especially from this Ministry, an expanded service. Because of lack of proper road networks, they will expect maternities and well stocked pharmacies within their reach. They will also expect improved services.

We also have the Vision 2030 and we are saying that we want to fulfill a lot of things, but there is no agenda that can be fulfilled by a non-healthy society. So, there is need for us to re-look at our priorities. I join my colleagues who have said that the Budget for this Ministry should have been prioritized from the word go. We have problems because we do not obey our Budget process. Our Budget process requires that in March, the Minister for Finance comes forward with a policy statement that shows us the priorities of this country. I used to sit in the Committee on Budget and we expected the Minister for Finance to come out with priorities. We were expecting this Ministry to be prioritized, especially in areas that will bring improvement in our health sector. But until we obey our Standing Orders, we will put ourselves in problems.

Finally, there are internal checks that are required in this Ministry in its various sectors right from procurement to supervision of development projects. I want also to refer to the African Development Bank (ADB) funded projects, where I benefit. However, there is need for closer supervision from the Ministry.

With those remarks, I beg to support.

Mr. Ogindo: Mr. Temporary Deputy Speaker, Sir, I want to thank the Minister for his one minute. I want to say two things. We have now allocated money for administration. However, supervision is very critical. No work gets done without supervision. In the rural areas, nurses and doctors report very late. I want to urge the Minister to ensure that there is supervision, so that *wananchi* can get services.

Secondly, I want to touch on KMTC. The reason why Rangwe could not raise 20 nurses is because we do not get people admitted to KMTC. I want to urge him to consider allocating development money that can expand Homa Bay Medical Training College, so that it can admit students from all over Kenya. Lastly, I urge him also to consider converting the New Nyanza Provincial Hospital into a referral hospital. This will enhance research.

With those remarks, I beg to support.

The Minister for Medical Services (Prof. Anyang'-Ny'ong'o): Mr. Temporary Deputy Speaker, Sir, I would like to thank all the Members who have contributed, particularly the Chairman of the Committee on Health. Those contributions have been very good and we take them into account. I would also like to thank the Ministry officials and the parastatal heads who have done very well in running the Ministry with me, particularly, my Permanent Secretary, Ms. Mary Ngari, CBS, the Director of Medical Services, Dr. Kimani and all the officials of the Ministry.

I just want to mention a few things that have been mentioned here. I will take hon. Ogindo's point and the New Nyanza General Hospital will definitely be transformed into a referral facility along with the other eight Government provincial hospitals and about five heavy volume district hospitals. We have a committee working on that and very soon, we shall inform the House what we have done.

Dr. Monda mentioned a very important issue about cost sharing. We intend to make sure that this is administered properly through ICT, so that accountability can be

enhanced. Where we have done this, the revenue has increased tremendously. We have learnt good reasons and we shall do that.

Dr. Nuh raised very important issues. One of them is about essential drugs. We are recommending to KEMSA that we should move rapidly towards contract manufacturing for essential drugs, so that we are self-reliant. We do not have to do these things every year leading to shortages. I hope that will be implemented. Along with that, a call in this House that KEMSA should be capitalized is essential. We, indeed, have gone ahead and the Board has prepared a Bill that will make it possible for the Treasury to capitalise KEMSA, so that the money goes there directly and they can procure drugs and non-pharmaceuticals in good time.

I agree with my friend, hon. Elmi, that telemedicine is important tool that we must use, especially in such distant areas as the ASAL regions in northern Kenya. This is one of the planks in our policy and our ICT Department is working very hard towards this and the roll out must be done soon. In that regard, pastoralists and others should be allowed to contribute to National Hospital Insurance Fund (NHIF) in kind, so that livestock can be capitalized and can be used as contribution to the NHIF. The Catholic Church does it very well in its micro-credit facilities and we should do it.

I agree with Ms. Ndeti that we need, indeed, to rehabilitate our district hospitals. That process is going on, but it requires a lot of budgetary allocation from the Government and donor support.

Finally, I would like, through you, to request that this House doth approve a gross total of Kshs32,583,754,893 for Vote 11 for the Ministry of Medical Services. Of this amount requested, Kshs25,629,898,713 will go towards supporting the Recurrent Expenditure while Kshs6,953,874,170 will go towards Development Expenditure.

With those remarks, I beg to move.

(Question put and agreed to)

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

IN THE COMMITTEE

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

GUILLOTINE

APPLICATION OF GUILLOTINE – LAST ALLOTTED DAY

Vote 11 – Ministry of Medical Services

THAT, a sum not exceeding Kshs12,058,533,585 be issued from the Consolidated Fund to complete the sum necessary to meet expenditure during the year ending 30th June, 2011, in respect of:-

Vote 11 – Ministry of Medical Services.

(Question put and agreed to)

Vote 02 – State House

THAT, a sum not exceeding Kshs. 540,200,000 be issued from the Consolidated Fund to complete the sum necessary to meet the expenditure during the year ending 30th June, 2011 in respect of:-

Vote 02 - State House.

(Question put and agreed to)

*[The Temporary Deputy Chairman
(Mr. Imanyara) left the Chair]*

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

Vote 05 – Office of the Vice-President and Ministry of Home Affairs

THAT, a sum not exceeding Kshs. 5,974,611,500 be issued from the Consolidated Fund to complete the sum necessary to meet the expenditure during the year ending 30th June, 2011 in respect of:-

Vote 05 - Office of the Vice-President and Ministry of Home Affairs.

(Question put and agreed to)

Vote 08 – Ministry of State for Defence

THAT, a sum not exceeding Kshs. 23,273,338,050 be issued from the Consolidated Fund to complete the sum necessary to meet the expenditure during the year ending 30th June, 2011 in respect of:-

Vote 08 - Ministry of State for Defence.

(Question proposed)

Mr. Ogindo: Mr. Temporary Deputy Chairman, Sir I appreciate the fact that we are in Committee Stage, but I think this is one Vote that would have warranted much more scrutiny than we are according it now. I just want to give notice that at the point of reporting, I will have issues to raise.

The Temporary Deputy Chairman (Prof. Kaloki): Thank you.

(Question put and agreed to)

Vote 09 – Ministry of Regional Development Authorities

THAT a sum not exceeding Kshs3,096,248,700 be issued from the Consolidated Fund to complete the sum necessary to meet the expenditure during the year ending 30th June, 2011 in respect of:-

Vote 09 – Ministry of Regional Development Authorities.

(Question put and agreed to)

Vote 15 – Ministry of Labour

THAT a sum not exceeding Kshs780,390,550 be issued from the Consolidated Fund to complete the sum necessary to meet the expenditure during the year ending 30th June, 2011 in respect of:-

Vote 15 – Ministry of Labour.

(Question put and agreed to)

Vote 16 – Ministry of Trade

THAT a sum not exceeding Kshs995,974,000 be issued from the Consolidated Fund to complete the sum necessary to meet the expenditure during the year ending 30th June, 2011 in respect of:-

Vote 16 – Ministry of Trade.

(Question put and agreed to)

Vote 17- Ministry of Justice, National Cohesion and Constitutional Affairs

THAT, a sum not exceeding Kshs1,171,352,500 be issued from the Consolidated Fund to complete sum necessary to meet the expenditure during the year ending 30th June, 2011 in respect of:-

Vote 17 – Ministry of Justice, National Cohesion and Constitutional Affairs.

(Question put and agreed to)

Vote 18 – Ministry of Gender, Children and Social Development

THAT, a sum not exceeding Kshs2,475,852,950 be issued from the Consolidated Fund to complete the sum necessary to meet the expenditure during the year ending 30th June, 2011 in respect of :-

Vote 18 – Ministry of Gender, Children and Social Development.

(Question put and agreed to)

Vote 22- Ministry of Co-operative Development and Marketing

THAT, a sum not exceeding Kshs576,000, 260 be issued from the Consolidated Fund to complete sum necessary to meet the expenditure during the year ending 30th June, 2011 in respect of:-

Vote 22 – Ministry of Co-operative Development and Marketing.

(Question proposed)

Mr. Ogindo: Thank you, Mr. Temporary Deputy Speaker, Sir. I rise to support but I want to persuade the Minister to consider using part of this money to help bring up the small co-operative societies that are coming up particularly in Rangwe Constituency. They are really struggling.

(Question put and agreed to)

Vote 23 – Cabinet Office

THAT, a sum not exceeding Kshs498,170,000 be issued from the Consolidated Fund to complete the sum necessary to meet the expenditure during the year ending 30th June, 2011 in respect of:-

Vote 23 - Cabinet Office.

(Question put and agreed to)

Vote 25 – State Law Office

THAT, a sum not exceeding Kshs485, 718,620 be issued from the Consolidated Fund to complete the sum necessary to meet the expenditure during the year ending 30th June, 2011 in respect of:-

Vote - 25 State Law Office.

(Question put and agreed to)

Vote 26 – Judicial Department

THAT, a sum not exceeding Kshs1, 379,720,535 be issued from the

Consolidated Fund to complete the sum necessary to meet the expenditure during the year ending 30th June, 2011 in respect of:-

Vote - 26 - Judicial Department.

(Question put and agreed to)

Vote 27 – Public Service Commission

THAT, a sum not exceeding Kshs198,564,500 be issued from the Consolidated Fund to complete the sum necessary to meet the expenditure during the year ending 30th June, 2011 in respect of:-

Vote 27 – Public Service Commission.

(Question put and agreed to)

Vote 28 – Kenya National Audit Office

THAT, a sum not exceeding Kshs698,672,550 be issued from the Consolidated Fund to complete the sum necessary to meet the expenditure during the year ending 30th June, 2011 in respect of:-

Vote 28 – Kenya National Audit Office.

(Question proposed)

Mr. Ogindo: Mr. Temporary Deputy Chairman, Sir, I rise to support, but I want to point out that contrary to the requirement, the Vote was slashed. This will go a long way in undermining audit which is very critical for the oversight role of this House.

(Question put and agreed to)

Vote 29 – National Assembly

THAT, a sum not exceeding Kshs3,539,554,950 be issued from the Consolidated Fund to complete the sum necessary to meet expenditure during the year ending 30th June, 2011 in respect of:-

Vote 29 – National Assembly.

(Question proposed)

Mr. Ogindo: Mr. Temporary Deputy Chairman, Sir, I want to also say that in the Budget Committee, we noted that the allocation to Vote 29 was also slashed contrary to the law. This is going to undermine the functions of Parliament especially in the face of

the new Constitution. The Minister for Finance should consider enhancing its allocation during its Supplementary Estimates.

(Applause)

(Question put and agreed to)

Vote 32 – Ministry of Information and Communications

THAT, a sum not exceeding Kshs3,409,488,900 be issued from the Consolidated Fund to complete the sum necessary to meet the expenditure during the year ending 30th June, 2011 in respect of:-

Vote 32 – Ministry of Information and Communications.

(Question proposed)

Mr. Njuguna: Mr. Temporary Deputy Chairman, Sir, I rise to highly commend the Minister for Information and Communications for improved television services and news coverage.

(Question put and agreed to)

Vote 33 - Interim Independent Electoral Commission

THAT, a sum not exceeding Kshs2,672,750,000 be issued from the Consolidated Fund to complete the sum necessary to meet the expenditure during the year ending 30th June, 2011 in respect of:-

Vote 33 – Interim Independent Electoral Commission.

(Question put and agreed to)

Vote 34 - Kenya Anti -Corruption Commission

THAT, a sum not exceeding Kshs 780,500,000 be issued from the Consolidated Fund to complete the sum necessary to meet the expenditure during the year ending 30th June, 2011 in respect of:-

Vote 34 - Kenya Anti-Corruption Commission.

(Question proposed)

Mr. Ogindo: Mr. Temporary Deputy Chairman, I want to persuade the Minister for Justice, National Cohesion and Constitutional Affairs to make a point of bringing the Report of the Kenya Anti-Corruption Commission for debate in this House, so that we can see whether we are really getting value for money, starting with the latest.

(Question put and agreed to)

Vote 35 - Ministry of State for Special Programmes

THAT, a sum not exceeding Kshs 3,701,014,958 be issued from the Consolidated Fund to complete the sum necessary to meet the expenditure during the year ending 30th June, 2011 in respect of:-

Vote 35 - Ministry of State for Special Programmes.

(Question put and agreed to)

Vote 40 - Ministry of State for Immigration and Registration of Persons

THAT, a sum not exceeding Kshs1,164,405,150 be issued from the Consolidated Fund to complete the sum necessary to meet the expenditure during the year ending 30th June, 2011 in respect of:-

Vote - 40 Ministry of State for Immigration and Registration of Persons.

(Question put and agreed to)

Vote 41 - Ministry of State for National Heritage and Culture

THAT, a sum not exceeding Kshs1,046,509,350 be issued from the Consolidated Fund to complete the sum necessary to meet the expenditure during the year ending 30th June, 2011 in respect of:-

Vote 41 - Ministry of State for National Heritage and Culture.

(Question put and agreed to)

Vote 42 - Ministry of Youth Affairs and Sports

THAT, a sum not exceeding Kshs4,584,701,800 be issued from the Consolidated Fund to complete the sum necessary to meet the expenditure during the year ending 30th June, 2011 in respect of:-

Vote 42 - Ministry of Youth Affairs and Sports.

(Question put and agreed to)

Vote 43 - Ministry of Higher Education, Science and Technology

THAT, a sum not exceeding Kshs16,819,631,250 be issued from the Consolidated Fund to complete the sum necessary to meet the expenditure during the year ending 30th June, 2011 in respect of:-

Vote 43 - Ministry of Higher Education, Science and Technology.

(Question put and agreed to)

Vote 44 – Ministry of Housing

THAT, a sum not exceeding Kshs1,501,886,950 be issued from the Consolidated Fund to complete the sum necessary to meet the expenditure during the year ending 30th June, 2011 in respect of:-

Vote 44 – Ministry of Housing.

(Question put and agreed to)

Vote 45 – National Security Intelligence Service

THAT, a sum not exceeding Kshs4,858,000,000 be issued from the Consolidated Fund to complete the sum necessary to meet the expenditure during the year ending 30th June, 2011 in respect of:-

Vote 45 – National Security Intelligence Service.

(Question put and agreed to)

Vote 46 – Ministry of Tourism

THAT, a sum not exceeding Kshs1,189,255,450 be issued from the Consolidated Fund to complete the sum necessary to meet the expenditure during the year ending 30th June, 2011 in respect of:-

Vote 46 – Ministry of Tourism.

(Question put and agreed to)

Vote 48 – Office of the Prime Minister

THAT, a sum not exceeding Kshs1,069,449,250 be issued from the Consolidated Fund to complete the sum necessary to meet the expenditure during the year ending 30th June, 2011 in respect of:-

Vote 48 – Office of the Prime Minister.

(Question put and agreed to)

Vote 56 - Ministry of Fisheries Development.

THAT, a sum not exceeding Kshs2,086,895,750 be issued from the Consolidated Fund to complete the sum necessary to meet the expenditure during the year ending 30th June, 2011 in respect of:-

Vote 56 - Ministry of Fisheries Development.

(Question put and agreed to)

Vote 57 - Ministry of Nairobi Metropolitan Development

THAT, a sum not exceeding Kshs. 738,434,500 be issued from the Consolidated Fund to complete the sum necessary to meet the expenditure during the year ending 30th June, 2011 in respect of:-

Vote 57 - Ministry of Nairobi Metropolitan Development.

(Question put and agreed to)

Vote 58 – Ministry of Development of Northern Kenya and Other Arid Lands

THAT, a sum not exceeding Kshs1,680,277,380 be issued from the Consolidated Fund to complete the sum necessary to meet the expenditure during the year ending 30th June, 2011 in respect of:-

Vote 58 - Ministry of Development of Northern Kenya and Other Arid Lands.

(Question put and agreed to)

Vote 59 - Ministry of Public Works

THAT, a sum not exceeding Kshs3,252,307,950 be issued from the Consolidated Fund to complete the sum necessary to meet the expenditure during the year ending 30th June, 2011 in respect of:-

Vote 59 - Ministry of Public Works.

(Question put and agreed to)

Vote 60 - Ministry of Industrialization

THAT, a sum not exceeding Kshs2,141,852,350 be issued from the Consolidated Fund to complete the sum necessary to meet the expenditure during the year ending 30th June, 2011 in respect of:-

Vote 60 - Ministry of Industrialization.

(Question put and agreed to)

Vote 61 – Interim Independent Boundaries Review Commission

THAT, a sum not exceeding Kshs190,483,000 be issued from the Consolidated Fund to complete the sum necessary to meet the expenditure during the year ending 30th June, 2011 in respect of:-

Vote - 61 Interim Independent Boundaries Review Commission.

(Question proposed)

Mr. Imanyara: Mr. Temporary Deputy Chairman, Sir, this being the very last Vote of the financial year under the outgoing Constitution, may I take this opportunity to thank and congratulate the Interim Independent Electoral Commission for a job well-done not only in the by-elections but also in the just concluded referendum.

I would also like to thank the Independent Boundaries Review Commission for the work they have done towards creating new constituency boundaries and assuring us that within the next three months, we shall have the 290 constituencies.

Mr. Temporary Deputy Speaker, Sir, may I also thank the Minister for Medical Services for avoiding scenic hyperbolism and moving the Votes of all these Ministries without getting carried away.

Thank you.

The Minister for Nairobi Metropolitan Development (Mr. Githae): Thank you, Mr. Temporary Deputy Chairman, Sir. We are on the verge of voting for the Interim Independent Boundaries Review Commission. I request the Chairman of the IIBRC to bring the proposals to this House, so that we can enrich them and advise him, in case he has made some fundamental errors, because they have been reported in the media as having said that they will not bring their Report to Parliament. We can enrich his proposals. So, I am requesting them to bring them here, even if it is informally, so that we can enrich them.

(Question put and agreed to)

The Minister for Medical Services (Prof. Anyang’-Nyong’o): Mr. Temporary Deputy Chairman, Sir, I beg to move that the Committee of Supply doth report to the House its consideration of the Resolutions on the various Votes as listed in the Order Paper and its approval of the same without amendment.

(Question put and agreed to)

[The House resumed]

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

REPORTS

REMAINING VOTES IN COMMITTEE OF SUPPLY ON TENTH AND LAST ALLOTTED DAY

Prof. Kaloki: Mr. Temporary Deputy Speaker, Sir, I beg to report that the Committee of Supply has considered the various Votes as listed in the Order Paper and approved the same without amendments.

VOTE	MINISTRY/DEPARTMENT	TOTAL AMOUNT (KSHS)
11	Ministry of Medical Services	12,058,533,585
02	State House	540,200,000
05	Office of the Vice-President & Ministry of Home Affairs	5,974,611,500
08	Ministry of State for Defence	23,273,338,050
09	Ministry of Regional Development Authorities	3,096,248,700
15	Ministry of Labour	780,390,550
16	Ministry of Trade	995,974,000
17	Ministry of Justice, National Cohesion & Constitutional Affairs	1,171,352,500
18	Ministry of Gender, Children & Social Development	2,475,852,950
22	Ministry of Co-operative Development & Marketing	576,000,260
23	Cabinet Office	498,170,000
25	State Law Office	485,718,620
26	Judicial Department	1,379,720,535
27	Public Service Commission	198,564,500
28	Kenya National Audit Office	698,672,550
29	National Assembly	3,539,554,950
32	Ministry of Information & Communications	3,409,488,900
33	Interim Independent Electoral Commission	2,672,750,000
34	Kenya Anti-corruption Commission	780,500,000
35	Ministry of State for Special Programmes	3,701,014,958
40	Ministry of State for Immigration & Registration of Persons	1,164,405,150
41	Ministry of State for National Heritage & Culture	1,046,509,350
42	Ministry of Youth Affairs and Sports	4,584,701,800
43	Ministry of Higher Education, Science & Technology	16,819,631,250
44	Ministry of Housing	1,501,886,950
45	National Security Intelligence Service	4,858,000,000
46	Ministry of Tourism	1,189,255,450
48	Office of the Prime Minister	1,069,449,250
56	Ministry of Fisheries Development	2,086,895,750
57	Ministry of Nairobi Metropolitan Development	738,434,500
58	Ministry of Development of Northern Kenya & Other Arid Areas	1,680,277,380

59	Ministry of Public Works	3,252,307,950
60	Ministry of Industrialization	2,141,852,350
61	Interim Independent Boundaries Review Commission	190,483,000

The Minister for Medical Service (Prof. Anyang'-Nyong'o): Mr. Temporary Deputy Speaker, Sir, I beg to move that the House doth agree with the Committee of Supply in the said Resolutions.

The Minister for Roads (Mr. Bett) seconded.

(Question proposed)

Mr. Ogindo: Mr. Temporary Deputy Speaker, Sir, I rise to agree with the House in the said Resolution. However, I want to point out something which is very fundamental to this House. This House plays an oversight role over the Executive. A trend has emerged where the Department of Defence is perpetually under Guillotine. I have noticed that advantage has been taken of that fact. I have been looking through the past records to see how the Department of Defence budget has been growing. It would be important for this House to note that from 1990 to date, this budget has been doubling after every five years. In the 1990/1991 Financial Year it was Kshs3.7 billion, in the 1995/1996 Financial Year it was Kshs6 billion, in the 1999/2000 Financial Year it was Kshs13 billion and in the 2007/2008 Financial Year it doubled to Kshs26 billion. In the 2008/2009 Financial Year it doubled to Kshs42 billion. This is a very serious trend given the fact that over that period Kenya has not had any external aggression. This compares very unfavourably with the food Ministries such as the Ministry of Agriculture, the Ministry of Livestock Development and the Ministry of Fisheries Development put together. I think it is important that in view of the new Constitution, this House takes a serious look at the Department of Defence budget knowing very well that when we go to the internet we are able to see what stock of arsenals Kenya has. I think we do not want to know the details but it is important for us as people's representatives and a watchdog body to have abroad breakdown and know where this money goes to.

Mr. Temporary Deputy Speaker, Sir, these figures compare very badly with our neighbours. Ethiopia and Uganda have had war but their expenditure on defence is less than that of Kenya when you combine them and that is a worrying trend.

Mr. Njuguna: Mr. Temporary Deputy Speaker, Sir, I would like to thank the Minister for Medical Services for the manner in which he has handled those Motions this afternoon. Secondly, I urge the Minister for Youth Affairs and Sports to start recognizing the athletes who have brought glory to this nation. He should honor them with monetary award. He should have started with Daniel Rudisha who broke the world record in 800 metres.

Thank you, Mr. Temporary Deputy Speaker, Sir.

(Question put and agreed to)

ADJOURNMENT

The Temporary Deputy Speaker (Mr. Imanyara): Hon. Members, that concludes the business on the Order Paper. Therefore, the House stands adjourned until Tomorrow Friday, 27th August, 2010 at 3.00 p.m.

The House rose at 7.15 p.m.