

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 27th October, 2010

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

PAPER LAID

The following Paper was laid on the Table:-

Report of the Departmental Committee on Finance, Planning and Trade on the appointment of the Director-General of the Public Procurement Oversight Authority

(By Mr. Okemo)

NOTICE OF MOTION

ADOPTION OF REPORT ON APPOINTMENT
OF THE DIRECTOR-GENERAL OF PPOA

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

THAT, this House adopts the Report of the Departmental Committee on Finance, Planning, and Trade on the appointment of the Director-General of the Public Procurement Oversight Authority laid on the Table of the House, today Wednesday 27th October, 2010.

QUESTIONS BY PRIVATE NOTICE

PREVIOUS/CURRENT FEES CHARGED TO TTC STUDENTS

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

(a) Could the Minister provide the previous and current fees being charged to students of Teacher Training Colleges (TTCs)?

(b) Could he confirm that the Ministry has increased fees for students of colleges by 20 per cent and, if so, how many installments are the students required to pay to clear their fees in a year of study?

(c) Could the Minister consider setting up a loan scheme for students in these colleges to assist those who are unable to raise fees?

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

(a) The current fees being charged to students of TTCs is as follows:-

(i) First years pay Kshs38,000 which is inclusive of uniforms, computer charges and rehabilitation fund.

(ii) Second years pay Kshs27,775.

The fees is payable in two installments in the first and second term of each year. This fees structure has been in existence for the last 16 years.

(b) The Ministry of Education has not increased fees charged by primary TTCs. It is only in 2008 when the Ministry increased the Boarding, Equipment and Stores popularly known as (BE&S) Vote from Kshs9,000 to Kshs17,375 per year. This was due to the increased cost of living and also to be in tandem with what is charged to secondary school students.

Dr. Eseli: Mr. Speaker, Sir, I would like to thank the Minister for this comprehensive answer. I would like him to understand that most students who go---

(Prof. Ogeri stood up in his place)

Mr. Speaker: What is it Mr. Minister?

The Minister for Education (Prof. Ogeri): Mr. Speaker, Sir, I have not completed reading the answer. It was an oversight. Could I go ahead and complete reading the answer?

Mr. Speaker: You may do so, Mr. Minister.

The Minister for Education (Prof. Ogeri): Mr. Speaker, Sir, a task force comprising of key stakeholders has been set up by the Ministry to review fees charged and ways of assisting the vulnerable students among others and report back by December, 2010.

(c) The Ministry has no loan scheme for assisting the students who may not be able to raise the fees charged. However, Kshs10 million Bursary Fund is shared by 18 PTTCs and two Diploma Teacher Education Colleges every financial year.

Dr. Eseli: Mr. Speaker, Sir, again, I would like to thank the Minister for the comprehensive answer. Understanding that most of our children who go to the TTCs come from very poor background and since the TTCs are the only colleges they can afford, could the Minister confirm to this House whether increasing the BE&S Vote from Kshs9,000 to Kshs17,000 – almost double – has not had an adverse effect on these students? Could he also assist by clarifying to the colleges that they could charge in three installments rather than two installments? Could he also urgently consider further bursaries to these poor students?

Prof. Ogeri: Mr. Speaker, Sir, the hon. Member may wish to know that one of the major guidelines in giving the Kshs10 million to all the 18 TTCs is to have the target groups reached out. In reaching out those target groups, the determining criteria must be orphans; that is, total or partial, self-sponsored students without guardians or parents, socially and economically disadvantaged students including vulnerable students from the ASAL areas, urban slums and needy students. The amounts must be allocated in consonance with these needs which have been clearly specified in the guidelines to all TTCs.

With regard to increasing the bursary beyond Kshs10 million, that may be carried out by the Ministry in conjunction with the Departmental Committee on Education, Research, and Technology and the Treasury. This will enable us to cater for these children.

Mr. Koech: Mr. Speaker, Sir, while I thank the Minister for the bursary of Kshs10 million which comes to approximately half a million per college, I wonder whether the Minister is aware that most of the students who are supposed to join colleges, especially those who come from vulnerable families are forced to pay the fees in full before admission and thus, very many of them are locked out of these colleges. What structures has the Minister put in place to ensure that this bursary reaches the students who deserve it?

Prof. Ongeri: Mr. Speaker, Sir, I am aware that some colleges are asking for full payment. I am one of the victims as a Member of Parliament for Nyaribari Masaba. I was faced by a poor child who told me that he could not be admitted to a college without the full payment. Consequently, we called all the Principals of TTCs. We discussed this matter which again was raised by the head teachers of various institutions in the country during the KEPISA meeting held in Mombasa. We have set up a task force over this issue and it will report in December, 2010 on how to deal with this matter. We have, first, to determine the unit cost of training a P1 teacher for two years and a Diploma Teacher for three years.

Secondly, we have to determine the amount of fees subsidy that a teacher trainee should pay for P1 Diploma Course considering the rise in cost of living. Thirdly, we have to recommend the Vote Heads that the fees subsidy should meet and those that should be taken care of by the Ministry of Education. Fourthly, it should establish the percentage of needy students and recommend ways of cushioning them in case of fees increase. Fifthly, it should develop a harmonized scheme of service for the non-teaching staff in these TCs. Sixthly, it should establish the individual infrastructure needs for all the PTTCs and recommend courses that can run concurrently with the P1 courses.

I am very much alive to that situation and that is why we have established a task force to specifically address this matter.

Mr. Kizito: Mr. Speaker, Sir, I wonder whether the Minister knows that the requirement for the students who join the PTTCs in terms of books and what they are supposed to buy is far much heavier than the money they pay. Is there a way the Ministry could spread across the fees so that they can pay in lighter installments since most of them come from very poor families? Is that possible?

Prof. Ongeri: Mr. Speaker, Sir, one area I am considering is that you cannot ask poor students to pay this money in one installment. They will either not attend the colleges and therefore, they will lose that opportunity or they will simply fall out of those colleges. Therefore, I instruct all the principals of the TTCs that the minimum we can live with at this stage is two installments. As for the unit cost of training a P1 teacher and which will have direct relevance to the amount of books and educational materials required for training, this will have to wait for the task force report which will submit a report not later than December, 2010. After that, I will make an informed decision.

Mr. Mwangi: Mr. Speaker, Sir, the cost of education in this country is getting very high. If you take the example of training a P1 teacher for two years, you will realise that the cost of buying material is more than the tuition fees. This is the case and yet these

teachers get out of college and stay for three or four years before they are employed. What can the Ministry do to reduce the extra expenses, make it more conducive and relevant, considering the fact that those students spend a lot of money? We know it is not the responsibility of the Government to employ them directly---

Mr. Speaker, Sir, some of the trainees, have been funded with money from the CDF. When investment is very heavy, some of them would easily drop out because of the extra expenditure. How can the Ministry step in to reduce this cost?

Prof. Ongeri: Mr. Speaker, Sir, the Government does not guarantee job entry at the end of training of any profession. What the Government guarantees is a requisite, tacit and candid professional training like the P1 teachers. Moreover, it is not only the Government that trains teachers. There are other private institutions that train teachers at a much higher cost than the Government.

With regard to what we can do to alleviate the suffering of some of the teachers who are out there after completing their professional training, we have already employed, through the Economic Stimulus Package (ESP), between 19,000 and 20,000 teachers. We intend to improve on this figure next year so that the shortage which stood at 66,000 teachers in both secondary and primary schools stands at 48,000. Hopefully, in the next financial year, we should be able to cascade this downwards to a manageable level and by 2012, we will be at a zero-rated level in terms of the provision of teachers to our institutions. It is my expectation that some of the teachers out there will be comfortably absorbed in their teaching profession.

Mr. Koech: On a point of Order, Mr. Speaker, Sir. The question asked by the hon. Member was very clear; that, apart from the school fees that the students pay in colleges, they are asked to carry many other things that are more expensive than the fees itself. Is the Minister in order to avoid answering the question? Could the Government provide some of those requirements?

Prof. Ongeri: Mr. Speaker, Sir, it is our intention to reduce the work load of students carrying heavy materials. That is why it is now compulsory in all our TTCs that we use the ICT as a vehicle of training. They should be able to reduce the bulkiness of the materials by using the ICT.

Dr. Eseli: Mr. Speaker, Sir, I made the Minister aware that many of the children who joined the TTCs did so purely because they charged low fees. The TTCs were the only colleges they could afford to join. If you add the amount of money that the Minister has mentioned here for First and Second Year and the BE&S, it means that these students are expected to pay Kshs83,450 per year. All we have requested the Minister to do is to see if he can stagger the amount into three installments to ease the burden or else since the Government started offering Free Primary Education and subsidises secondary education, could he find a way of subsidizing education in the primary TTCs?

Prof. Ongeri: Mr. Speaker, Sir, first of all, let me disabuse the notion that we are paying Kshs78,000 in a year. The first year is Kshs38,000 and the second year is Kshs27,000. That is what adds up to Kshs70,000. So, you cannot compile first year to second year and put it in one installment. All we say is that, given the amount of money - there is no change in fees for the last 16 years except for the boarding fees - we have not changed the structure nor the amount of money payable as school fees by teachers being trained in our teacher training colleges. What has changed is the boarding fees and the other facilities that are important in maintaining these students. That is not by choice. It is

because of the cost escalations that have necessitated these increases. By the way, these are also in tandem with the students in the secondary schools who are also enjoying free day secondary education tuition.

Thank you.

STATUS OF CONSTITUENCIES COMPUTERS PROJECT

Dr. Monda: Mr. Speaker, Sir, I beg to ask the Deputy Prime Minister and Minister for Finance the following Question by Private Notice: -

(a) What is the progress on the 300 computers project allocated to each constituency in the Budget of 2010/2011 Financial Year?

(b) Could the Minister consider channeling the money through the Constituency Development Fund (CDF) mechanism?

The Deputy Prime Minister and Minister for Finance (Mr. Kenyatta): Mr. Speaker, Sir, I beg to reply.

(a) The Treasury has finalized discussions with the Ministry of Education on the modalities of implementing this program and it was found necessary to develop comprehensive guidelines for implementation of the program before these funds are disbursed. Given that this program was brought to Parliament and passed under the budget Vote of the Ministry of Education, I did not consider it prudent to channel the funds through the Constituencies Development Fund (CDF) mechanism since the Ministry of Education is obliged to carry out the critical co-ordination role. A change of mechanism of disbursement of funds will result in unnecessary delay in implementing this program.

(b) Discussions are ongoing between the CDF Committee of Parliament and the Ministry of Education on the modalities of implementing the program and we are awaiting the outcome of these deliberations.

Thank you.

Dr. Monda: Mr. Speaker, Sir, while I appreciate the answer given by the Minister, in preparedness for this program to take off, what is the Minister doing to avail funds for capacity building for principals, heads of schools, tutors, school boards and all other stakeholders in the school management?

Mr. Kenyatta: Mr. Speaker, Sir, whereas I appreciate the question by the hon. Member, it is the Ministry of Education that will really look into these particular modalities and not the Ministry of Finance. I think that question would be more appropriately directed at the Ministry of Education as they continue with their discussions with the CDF Committee.

Dr. Monda: On a point of order, Mr. Speaker, Sir. You heard in the answer by the Minister that discussions are complete. You are through with discussions on the computer program and you have given the guidelines on how to roll out this program for computers. Is the Minister in order to again direct the question I am asking to the Ministry of Education when it is him who has allocated funds and they have discussed with the Minister for Education?

Mr. Kenyatta: Mr. Speaker, Sir, what I said is that we have discussed this issue with the Ministry of Education and we have agreed that the Ministry of Education, in consultation with the CDF Committee, will deliberate on the modalities of implementing

this program. I think that is what I said; that, we have agreed with the Ministry of Education that they will agree on the modalities of implementation with the CDF Committee

Mr. Olago: Mr. Speaker, Sir, the Question that has been asked by hon. Monda is about the delay of the 300 computers per constituency project. But the fundamental question that I wish to ask the Minister is this: Why have you not released funds for this year's CDF allocation until now?

Mr. Kenyatta: Mr. Speaker, Sir, that is a different Question.

Mr. Speaker: Very well!

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

Mr. Speaker: Order, honorable Member for Kisumu Town West! I have agreed with the Minister that it is a different Question.

Proceed, honorable Member for Kisumu Town East!

Mr. Shakeel: Thank you, Mr. Speaker, Sir. The Minister for Finance has said that they are working with the Ministry of Education. However, if the Minister will remember, initially, this was an Economic Stimulus Program (ESP) which was somehow under your Ministry and the provision of those mobile computers that we rejected. You have now come back, *Bwana Waziri* and now brought another proposal which was again, approved, but you have changed the rules again because this was an ESP project and was meant to be under the ESP criteria. Why have you changed that? Why did you change the rules again?

Mr. Kenyatta: Mr. Speaker, Sir, there are no rules that have been changed. Precisely, for the same reason of our inability to implement the previous one as a result of the fact that hon. Members did not particularly like the way we had designed the last one. This is why we agreed with the Ministry of Education that they should work with the relevant Committee in order to come up with a proper modality that is agreed upon by all hon. Members through the relevant Committee.

Dr. Kones: Mr. Speaker, Sir, one of the problems the Ministry of Finance has is making late decisions. Six months after the financial year started, we are still talking about putting in place mechanisms for disbursement. That was the problem which we had with the ESP. What is the Ministry doing to ensure that, in future, you plan well ahead of the Budget so that by the time you are bringing the Budget here, you already have the modalities of disbursement in place?

Mr. Kenyatta: Mr. Speaker, Sir, while I appreciate the question, the key issue we need to recognize is that we designed this particular program in a manner that creates involvement at the grassroots level. This is why we may have our own way of doing it, but we thought that it is wise to consult hon. Members through their Committee so that we can have a framework that is acceptable. It has taken time, but I appreciate the fact that, that is an ongoing discussion and I really do not want to terminate that discussion. I think that for us, it is a question of the Ministry of Education and the Committee to really finalize as soon as possible. We are ready to disburse the funds once we have the framework that is acceptable so that we can all move together.

Dr. Monda: Mr. Speaker, Sir, could the Minister confirm that the constituencies will receive 300 computers as contained in his Budget Speech and when will the computers reach the schools?

Mr. Kenyatta: Mr. Speaker, Sir, the amount of money allocated is there. The decision, like I am saying, is awaiting those discussions that are ongoing between the Ministry of Education as the implementing agency and the CDF Committee. So, once those deliberations are over, we will know the process and when this will actually happen.

ORAL ANSWERS TO QUESTIONS

Question No.479

DELAY IN DISCHARGING HIGH COURT JUDGEMENTS

Mr. Olago asked the Deputy Prime Minister and Minister for Finance:-

(a) whether the Minister is aware that on 31st July, 2000 and 18th August, 2004 in Kisumu High Court Suit Nos. 127 of 2000 and 235 of 2001, the judge ordered the Attorney-General and the Director of Pensions to pay the Plaintiffs, Erned Onduso Obwocha and Harrison Buyuka Ateyi, Kshs.845,335/- and Kshs.639,882/- respectively, being accrued pensions not paid to them on their respective retirement dates;

b) to explain the justification for delayed payment of pensions to the successful plaintiffs; and,

(c) what urgent steps he is taking to comply with the rule of law and discharge these judgments.

The Deputy Prime Minister and Minister for Finance (Mr. Kenyatta): Mr. Speaker, Sir, I beg to reply.

(a) I am aware that Mr. Erned Onduso Obwocha and Mr. Harrison Buyuka Ateyi filed court cases against the Government and the court ruled that they be paid Kshs845,335 and Kshs639,882, respectively. However, I am also aware that the court ruling goes against the Cabinet decision of 18th May, 1998, which directed that the Judiciary pensions be paid based on the prevailing civil service salaries.

(b) There was no inordinate delay in the payment of the two successful plaintiffs' pensions. Mr. Obwocha retired on 1st July, 1997, and his pension was paid with effect from 25th July, 1997, whereas Mr. Ateyi retired on 1st July, 2000 and his pension was paid with effect from 9th October, 2000. Those payments were made in accordance with the existing regulatory framework, which the Pensions Department is expected to comply with. The two continue to earn their monthly pensions to date.

(c) The Judiciary has now established its retirement benefits scheme and is in the process of preparing a Cabinet memorandum on the matter for further consideration by Cabinet. Once the Cabinet approval is obtained, revised pensions will be paid as directed.

Thank you, Mr. Speaker, Sir.

Mr. Olago: Mr. Speaker, Sir, I feel alarmed by the answer given by the Deputy Prime Minister and Minister for Finance because of the way it perpetuates impunity by the Government and disregards court judgments. He has conceded that, indeed, Mr. Obwocha and Mr. Buyuka went to court and were successful in the years 2000 and the year 2004, respectively. These were court judgments. There have been no appeals.

These are two old men who served in the Judiciary all their lives, and are now living in destitution in Kisumu. This answer means that the Cabinet can disregard a court judgement. Since when did that happen?

Mr. Kenyatta: Mr. Speaker, Sir, whereas I sympathise – and I appreciate the concern – the Pensions Department basically acts on delegated authority from the Treasury and also the Cabinet, and it could not pay beyond the mandate it had been given. However, to address this particular issue, as I stated in my answer, the Judiciary has since formed its own retirement benefits scheme, and as is required, is now processing a Cabinet memorandum, so that the Cabinet can review the decisions that were made on 18th May, 1998. Once the Cabinet approval is received, the revised pensions will be paid as directed.

Mr. Olago: On a point of order, Mr. Speaker, Sir. The Deputy Prime Minister and Minister for Finance is explaining what the Judiciary and the Cabinet are doing to enhance pensions, but my question was fundamental: Since when did the Cabinet start disregarding a court judgement?

Mr. Kenyatta: Mr. Speaker, Sir, the Cabinet is not disregarding a court judgement. The situation, as it prevails, is that we need to ensure that there is some kind of uniformity in what we do. So, this was done in agreement with the Judicial Service Commission. As I said, the Cabinet memorandum is ready. So, I hope that we will be able to process the pension in accordance with what hon. Olago has just mentioned. So, I beg his indulgence that we allow this process to move to its logical conclusion.

Ms. Karua: Mr. Speaker, Sir, the Deputy Prime Minister and Minister for Finance may wish to agree with me that failure by the Government to obey a court order seriously undermines the rule of law, which we want to enhance in the new constitutional dispensation. What is he doing to ensure that alongside whatever else the Government is doing, this court order is obeyed without any further delay?

Mr. Kenyatta: Mr. Speaker, Sir, I appreciate the question and, once again, taking cognizance of the fact that, indeed, there is a court order, I will endeavour to work again, through the Attorney-General's Chambers, to ensure that we get a speedy resolution to this particular situation, which I agree is not appropriate.

(Mr. Mungatana stood up in his place)

Mr. Speaker: What is it, Member of Parliament for Garsen?

Mr. Mungatana: Mr. Speaker, Sir, I have a lot of respect for the Minister. I know that he is not a lawyer, and all that, but I am seeking your direction on this matter, whether all answers that are brought before this House, really are constitutional. If a Minister can come here with an answer which says; “yes, there is a court judgement, but there is a Cabinet decision which disallows the respect of that court judgement”, is such an answer really acceptable in this House? This is a grave matter. The Deputy Prime Minister and Minister for Finance must tell us that this is unconstitutional. In fact, I am inviting the Chair to find that this answer is really not constitutional, because a Cabinet decision cannot overrule a court order.

In fact, there is a fundamental question here. We are in a new constitutional dispensation. The Judiciary must be respected by Parliament and by the Executive. I was inviting you to an interpretation that this answer cannot be accepted in this House. It is

unconstitutional. I was also inviting you to give a ruling that this is an unconstitutional answer, and that the Deputy Prime Minister and Minister for Finance must go back and bring us a constitutional answer, which will be to pay those people in accordance with the court judgement. There is no appeal.

Mr. Speaker: Deputy Prime Minister and Minister for Finance, what is your reaction?

Mr. Kenyatta: Mr. Speaker, Sir, I would plead with the hon. Member that whereas I appreciate his concerns, we are trying to speed up this particular process, so that this particular situation can be resolved in an amicable manner.

Mr. Imanyara: On a point of order, Mr. Speaker, Sir. With tremendous respect to the Minister, this is a matter of principle. We cannot accept the position that we give them more time in order to decide whether or not to comply with a court order. Each one of those sitting on the Front Bench was required, under the new Constitution, to take an oath, which required each of them to commit themselves to observance of the rule of law. It is not right that he should be seeking time rather than acknowledging that what the Cabinet did was wrong. It is unconstitutional. In fact, he ought not to even be allowed to address this House, unless he purges that extreme contempt and disregard of the Constitution.

Mr. Speaker: Deputy Prime Minister and Minister for Finance, maybe, I can offer you some help. If the position is that there are court judgments, which, among other things, have ordered that payments be made to the plaintiffs, who are named in this Question, then, really, you must comply. The only way so that you do not comply is by following due process. In other words, the Government, through the Attorney-General, ought to have preferred an appeal or applied for stay of execution, pending determination of the appeal. If that has not happened, then the common sense position, really – not even a matter of law – is that you ought to comply. So, indicate what you are doing to ensure that you comply.

Mr. Kenyatta: Thank you, Mr. Speaker, Sir, for your guidance. I cannot say I will comply but I will seek guidance from our legal advisor being the Attorney-General--

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(Several hon. Members stood up at their places)

Mr. Speaker: Order! Order! Please, give the Deputy Prime Minister and Minister for Finance some space.

Mr. Kenyatta: On that basis, be able to come back to this House and say what you have done to deal with this particular situation.

Mr. Speaker: I want you to give clear indication to the House within 14 days from today.

Mr. Kenyatta: Thank you, Mr. Speaker, Sir.

Mr. Speaker: Fair enough! What is it Member for Kisumu Town West?

Mr. Olago: On a point of order Mr. Speaker, Sir. Thank you very much for your intervention Mr. Speaker, Sir. But under the circumstances, would it be in order for the hon. Minister to give a specific date when he intends to come back to Parliament with an answer? He can do it within two days!

Mr. Speaker: Order! Order! Hon. Olago, you should learn to relax. I know some of these things can be very passionate but in my direction, I asked the Deputy Prime Minister and Minister for Finance to come and indicate to the House within the next 14 days from today on the position of compliance. Is that clear?

(Laughter)

Next Question, Mr. Nyamai!

Question No.432

FAILURE BY TARDA TO TAP RIVER ATHI

Mr. Nyamai asked the Minister for Regional Development Authorities -

(a) whether he is aware that Tana and Athi River Development Authority (TARDA) has not undertaken any projects to tap the waters of River Athi;

(b) what steps the Ministry is taking to ensure that TARDA taps the potential of the river; and,

(c) if he could consider establishing River Athi Development Authority to undertake development projects along the River Athi Basin.

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

(a) TARDA has taken the following initiative to tap the waters of Athi River;

(i) Through KKV programmes, constructed water pans at Ngama in Mashuru area in Kajiado District covering 5,200 square metres, Nyangatha area in Mwala District covering 5,200 square metres, Ithaeni in Kathiani District covering 5,200 square metres and Ndithini area in Yatta District covering 5,200 square metres.

(ii) Construction of pans is ongoing at TARDA Kibwezi Farm on Kibwezi River for irrigation expansion for fruit and tree exploration up to 24 hectares.

(iii) Through promotion of resource investment, proposals have been initiated for the Munyu Multi-purpose dam in upstream of Athi River.

(b) To ensure that TARDA taps the potential of Athi River, the Ministry has successfully ensured that there is regular flow of financial resources to undertake the activities envisaged in the strategic plan. Such activities include institutional capacity building, catchment conservation, utilization of basin's natural resources and community development.

(c) TARDA area of jurisdiction covers approximately 138,000 square kilometers comprising a 100,000 square kilometers for Tana Basin, and 38,000 square kilometers of Athi Basin. Tana River Development Authority was created through an Act of Parliament in 1974, Cap. 443. In 1981, it was changed from Tana River Development Authority to Tana and Athi River Development Authority, currently TARDA, by an Act of Parliament, Cap.443, thereby assuming responsibility for both Tana and Athi rivers.

TARDA liaises with the line Government Ministries, the private sector, foreign agencies in the matter of development of TARDA area with a view to limiting duplication of efforts and to assuming the best use of available resources. Therefore,

development of Athi River basin can be effectively carried out through the existing framework.

Mr. Nyamai: I thank the Assistant Minister for his answer. However, the development authorities when they were established by the Government, they were meant to address development along certain river basins. The one I am asking about was supposed to do development along River Athi. The Assistant Minister has said they have done five water pans, what at an average of Kshs3 million comes to Kshs15 million for the last 36 years. Is he convinced that they have done enough for those 36 years to develop the River Athi basin?

Mr. ole Metito: I fully agree with the hon. Member that the efficiency of the Regional Development Authorities in the past have not been to their potential or maximum capacity. That one has been attributed to the fact that the source of funds has totally been through the Treasury or the Exchequer but we have brought a new dimension whereby all regional development authorities have been told by the parent Ministry that they should now expand their sources of revenue. They should outsource using even private sector and also engage in Private Public Partnership. I am sure with our current strategic plan and with the new dimension we have taken as a Ministry, very soon, they are going to maximize their potential.

Mr. Nyamai: In view of what the Assistant Minister has said and given the fact that TARDA has been getting substantial funding from the Exchequer and nothing much has gone to the river basin, the reason for this for the constituencies which are served by the Athi, which are about eight including mine, is because the appointment of directors to TARDA has not taken care of regional interests. Currently, we have only one director who was appointed the other day. What is the Ministry doing to ensure that stakeholders' interests are taken care of in terms of appointing the board of directors?

Mr. ole Metito: Mr. Speaker, Sir, TARDA covers an area of approximately, slightly over eight constituencies. If you really think of the composition of the board and you consider all constituencies, you cannot take 82 directors in the board. But even, currently, we have 29 members in the Board of TARDA which at the Ministry level we are really thinking it is so big. More importantly, however, is really to distribute resources equitably even if the board is lean and takes only nine directors. The principal issue is to equitably distribute resources to the area that is covered by the regional development authority and not only to the regions where directors come from. They come to represent the entire area of jurisdiction.

Mr. Speaker: Next Question.

Question No.435

PROVISION OF COMMISSIONS' REPORTS

Ms. Karua asked the Minister of State for Provincial Administration and Internal Security if he could provide the "Report of the Kiruki Commission of Inquiry on the Artur Brothers"; the Report of the Cockar Commission on the Sale of Grand Regency Hotel; the Report of Inquiry into the Raid on Retired Archbishop Gitari's House in Kirinyaga on 21st of April, 1999; the Report of the Akiwumi Commission of Inquiry into

the Tribal Clashes and Report of the Chesoni Commission of Inquiry into Kirinyaga/Embu Land Dispute.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Speaker, Sir, I wish to seek the indulgence of the Chair to allow me to respond to this Question in seven days' time. This is so because I have to find out where some of the inquiries are. I also have to talk to the appointing authority in order for us to get them released.

Ms. Karua: Mr. Speaker, Sir, although these reports are also old and therefore they should have been somewhere where they can be presented, one week is not too long. I would urge you to give a definite date maybe, Wednesday next week when Parliament can have the pleasure of examining these reports.

Mr. Speaker: Order, hon. Members! This matter has been pending for some time but so that you do not have any further excuses, I will allow you 14 days from today to avail the reports or an explanation as to why you cannot do so 14 days from today.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Speaker, Sir, I agree with your ruling. But in the event that I will not be able to see the appointing authority within 14 days, I will come back to this House and request for more time.

Hon. Members: No!

Mr. Speaker: Order, Mr. Ojode! Indeed, in my directions in terms of the time allowed to the Assistant Minister, I had indicated that this matter has been pending before the House for quite some time and so as to allow no further room for excuses, I gave him 14 days. The House will not accommodate any further excuses.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Speaker, Sir, most obliged; I will do the same!

Mr. Speaker: Thank you, Mr. Ojode!

Mr. Mungatana: On a point of order, Mr. Speaker, Sir. On the same issue, and without challenging your ruling, I want to request the Assistant Minister to note that under the new Constitution, Chapter 15 on Commissions and Independent Office Holders, particularly Section 254, you do not need to beg the appointing authority to release the reports. The reports must be released to either the President or Parliament and that must be complied with. This is a new Kenya!

(Laughter)

Mr. Speaker: That is fine! But as I heard the Assistant Minister, he did not say that he will need to beg the appointing authority. He said that he will consult with the appointing authority but, as far as this House is concerned, he must comply with the directions that I have given as the Speaker of the House on behalf of the House.

(Applause)

Question No.487

NUMBER OF OFFICERS RECRUITED INTO ARMED FORCES

Mr. M'Mithiaru asked the Minister of State for Defence:-

(a) what is the total number of armed officers recruited under the recent recruitment exercise for the armed forces;

(b) how many officers were to be recruited from Igembe North District and how many were recruited from the district on 4th October, 2010; and,

(c) whether he is aware that two of those recruited do not come from Igembe North District and, if so, what immediate action he will take to correct the anomaly.

The Assistant Minister, Ministry of State for Defence (Mr. Musila): Mr. Speaker, Sir, I beg to reply.

(a) The total number of personnel recruited in the countrywide exercise was 1,800.

(b) Eight candidates were recruited from Igembe North District and the breakdown is as follows:-

Mutuati got two; Ndoleli got two; Lare got three and Igembe North got one, making a total of eight.

(c) I am not aware that two of those recruited do not come from Igembe North District.

Mr. M'Mithiaru: Mr. Speaker, Sir, the recruitment into the armed forces is district based and each district has its own recruiting centre. I would like the Assistant Minister to table the list of those recruited from Igembe North District which has only three divisions; Mutuati, Lare and Ndoleli. The Igembe North he is mentioning is not part of Igembe North District. I would like the Assistant Minister to table the list and confirm that one Mike Thuraira does not come from Igembe North District. Is that information with the Assistant Minister. If I prove to them that those people did not come from Igembe North, what immediate action will he take to ensure that the rightful sons and daughters of Igembe North get their rightful share?

Mr. Musila: Mr. Speaker, Sir, first and foremost, I want to inform this House that the military personnel who go to recruit only use ID cards as a means of identifying the candidates and knowing where they come from. The House will appreciate that, recently, there has been reorganization of administrative areas and, therefore, what we did was to recruit people based on their ID cards. I want to confirm to the House that the eight people recruited had their ID cards showing clearly that they came from the area. As the hon. Member has requested, I have the pleasure to lay on the table of this House the number, names and ID numbers of the people recruited. We stand by that position that the eight people we recruited are from Igembe North District.

Mr. M'Mithiaru: On a point of order, Mr. Speaker, Sir.

Mr. Speaker: Order, Mr. M'Mithiaru! You actually have yet another opportunity to interrogate this matter. So, let us take any hon. Member who may be interested.

Mr. Chepkitony: Mr. Speaker, Sir, the Assistant Minister has said that they recruited eight people from Igembe North. You will find that other districts, like my district, got five slots. There are other districts which got three slots while others got 20 slots. Why this big variation in the numbers recruited from various districts?

Mr. Musila: Mr. Speaker, Sir, this is a good question. I also want to inform the House that the number of recruits from the districts depended on the number of people

from those communities currently serving in the armed forces. You will appreciate that the new Constitution states very clearly that the number of people employed in the armed forces must be proportionate to the population. Therefore, the number of people to be recruited per district was based on the number of personnel from communities in Kenya. We are able to determine the number every community will get regardless of the number of districts they have. That number is divided by the number of districts that are there. Then we arrive at the number to be recruited. That way, eventually, the armed forces will be clearly representative of the population of this country.

Mr. Murgor: Mr. Speaker, Sir, how can the Assistant Minister ascertain that because in some of the recruitment centres, a lot of money changed hands. The people who were recruited are the ones who have money. So, the children of poor people were not recruited. How can the Ministry and the department ascertain that such practices do not go on?

Mr. Imanyara: On a point of order, Mr. Speaker, Sir. I think it is only to the advantage of the House that the hon. Member substantiates. He has said a lot of money changes hands. I think it is important that he substantiates. It is a corrupt practice and it is only important that he lays that information rather than alleges it. This is a new Kenya and the rules cut both ways; the Front Bench and the Back Bench. Making allegations such as that against members of the armed forces without substantiation, I think, is wrong and the hon. Member is under obligation to lay before the House, evidence of how much money changed hands and how many people were recruited so that we can see that.

Mr. Speaker: Mr. Murgor, that is a genuine concern! What is your response to that point of order? I have said that it is genuine?

Mr. Murgor: Mr. Speaker, Sir, I said that because many poor children continue to be left out and do not get those opportunities and, therefore, this matter should be taken up---

Mr. Speaker: Order, Mr. Murgor! You just need to be concise and deal with that point of order. You have made a sweeping statement to the effect that a lot of money has changed hands. Do you have any evidence that you can tender before this House that a lot of money has changed hands?

Mr. Murgor: Mr. Speaker, Sir, I am not ready to substantiate now; so, I will withdraw.

Mr. Speaker: You should withdraw and apologize.

Mr. Murgor: Mr. Speaker, Sir, I withdraw and apologize.

Mr. Speaker: Very well.

Mr. Ruto: Mr. Speaker, Sir, I think around 1974 a precedent was set in this Parliament that you do not have to substantiate the obvious. It is obvious across the country that a lot of money has been changing hands in this recruitment exercise. Some of the people were being asked---

Mr. Speaker: Order, Member for Chepalungu. I will not allow you to go that way. That again is a generalized aspersion. It is a sweeping statement. It may be obvious to you, but it is not obvious to the Member for Imenti Central. That is why he rose on that point of order. So, I am afraid the statement that you are making cannot apply to all Members of this House; the Member for Imenti Central, for instance, is not aware, neither am I, as the Speaker, aware that it is obvious. Could you please withdraw?

Mr. Ruto: Mr. Speaker, Sir, it is so obvious to me and a number of others that there has been a lot of money changing hands.

Mr. Speaker: Order, Member for Chepalungu. It is not obvious to everybody. Member for Chepalungu, you are a fairly senior Member of this institution.

Hon. Members, am afraid, given the conduct of the Member for Chepalungu, I will invoke the provisions of the Standing Orders, because that is grossly out of order. I have asked that you withdraw because you made a generalized statement which all hon. Members are not prepared to live within. Now, that you are reluctant to withdraw, I am afraid you will have to leave for the rest of this sitting.

(Mr. Ruto withdrew from the Chamber)

Mr. Kigen: Mr. Speaker, Sir, in Rongai, we had six recruits taken by the military on 18th. Those six had passed all the tests that were carried out and they were asked to report at Moi Barracks Eldoret, where another set of tests were carried out. One of those young men was sent back on the basis that the fingerprints taken at the recruitment centre were different from the ones that were taken in Eldoret. This young man was sent back without any other reason, thus denying Rongai a chance.

Secondly, he was called to collect the money through an agent who had been sent to collect money, so that he could be recruited. It is obvious that this issue of money collection has been going on. It has been an allegation. I did not see it happen but he came to me and told me that they paid Kshs150,000. It is so difficult to know exactly when a corrupt activity is taking place---

Mr. Speaker: Order, Member, for Rongai. It is Question Time. What is your question?

Mr. Kigen: My question is: What is the Assistant Minister going to do to ensure that this young man who had succeeded will be taken back, because he was sent away at a stage when he had passed everything, and had been given Service No.35894?

Mr. Musila: Mr. Speaker, Sir, maybe because the Chair was consulting, it did not hear what the hon. Member said. The hon. Member made a generalized allegation that money changed hands and he is unable to substantiate that allegation. I want to persuade this House to avoid tarnishing the good names of officers of the military purely on allegations. I want to confirm that if any allegations are proven or evidence is given, action is always taken.

Having said that, I want to confirm also that even when medical examinations and other verifications are done in the field, there is a final examination and verification that is done at the college on entry. If something is found to have gone wrong, scores of people are sent away and they are not replaceable. Therefore, in the case of the hon. Member, he just told us that the candidate in question had different fingerprints than the ones that had been taken previously. Therefore, that, perhaps, was impersonation. Therefore, that is why that person was not recruited.

Mr. Joho: Mr. Speaker, Sir, we realize that the numbers that are recruited in the districts are too small. What is the Ministry doing to ensure that they work hand in hand with the Ministry of State for Immigration and Registration of Persons, so that they have modes of verification at the points of recruitment to avoid issues where people from other districts benefit from districts which are not theirs?

Mr. Musila: Mr. Speaker, Sir, as I said earlier, the re-organisation of districts and the additional districts did not mean that the numbers to be recruited were to be increased. We have 284 districts from the original 41, but the numbers to be recruited are the same. The number per the old districts is the same and, therefore, you divide the number for the old district into many new districts. That is why districts are getting smaller numbers. This is because we are not increasing the number to recruit. We are only recruiting to replace those who have retired and those who have died. As a result, the numbers are the same but the districts are many. Therefore, you will continue to find fewer numbers being recruited as long as we are not increasing the numbers.

Mr. M'Mithiaru: Mr. Speaker, Sir, having looked at the list that the Assistant Minister has tabled, it is clear from the outset, I can see that one of the candidates is not from Igembe North. The recruiting officers were not doing this exercise for the first time, and they knew that my district has only three divisions. So, what is the Assistant Minister doing to address this anomaly and ensure that this slot, which was meant for a son or daughter of Igembe North is properly awarded?

Mr. Musila: Mr. Speaker, Sir, the one the hon. Member is alleging that does not belong to Igembe North belongs to Igembe South. These two districts were one district before. Therefore, people might have taken identification cards from another area. I want to emphasise that the people we recruited are from Igembe North District.

Mr. M'Mithiaru: On a point of order, Mr. Speaker, Sir.

Mr. Speaker: Order, Member for Igembe North. You do not start addressing the House before I permit you to.

You may now proceed.

Mr. M'Mithiaru: Mr. Speaker, Sir, the Minister has said that Igembe North and Igembe South were one district, but for the last two years, Igembe South has had its own recruiting centre, which is Maua, and Igembe North at Lare. Why should he recruit somebody from another district which has its own recruiting centre?

Mr. Musila: Mr. Speaker, Sir, the hon. Member alleges that Mike Thurairu Mugambi, I.D No.27821881 is not from Igembe North. It may be so physically, but his ID card was taken in Igembe North and, therefore, by virtue of him having an ID card from Igembe North, he is from Igembe North.

Mr. Speaker: Very well! Hon. Members, that then brings us to the end of Question Time.

COMMUNICATION FROM THE CHAIR

DEFERMENT OF BUSINESS ON PRIME MINISTER'S TIME: MAU FOREST DEVELOPMENT

Mr. Speaker: Hon. Members will note that according to our Standing Orders, we are well into the Prime Minister's Time. The Rt. Hon. Prime Minister had indicated that he will issue a Statement pertaining to the Restoration of the Mau Forest Complex, but as things stand now, we are unable to transact that business productively because the time left on the balance for the Prime Minister is just under ten minutes. So, hon. Members, we will defer that business on Prime Minister's Time to next week. The Prime Minister has clearly indicated that he will then make that Statement and hon. Members who may

be interested will be allowed to seek clarifications and make any interventions as necessary.

Next Order!

POINTS OF ORDER

INTRODUCTION OF TEA-PICKING MACHINE IN TEA GROWING AREAS

Mr. Wamalwa: Mr. Speaker, Sir, I rise to seek a Ministerial Statement from the Minister for Labour in respect of the ongoing strike by members of Kenya Tea Growers Association (KTGA) in protest against the introduction of tea picking machines in Sotik, Kericho and other tea growing areas.

Mr. Speaker, Sir, I would like the Minister, in his Statement, to clarify the following:-

- (i) whether he is aware that after the promulgation of the new Constitution, every worker has a right under Article 41(2) to go on strike and participate in activities of a trade union. Pursuant to the said provision and that of Section 76 of the Labour Relations Act, a strike was declared after a seven days' notice was issued on 11th October, 2010 by the Kenya Plantation and Agricultural Workers Union; and,
- (ii) whether he is aware that in total violation of the said workers' right to strike, the Government has sent in police officers to arrest union leaders at Sotik Tea Company and harass and intimidate workers generally in order to frustrate and unlawfully break the strike.

Mr. Speaker, Sir, I would also like the Minister, in his Statement, to confirm whether the Government is aware that the intended mechanization of tea picking in this region has deprived and put a risk to thousands of jobs by Kenyans, hence the protest.

Mr. Speaker: Minister responsible, when will you deliver that Statement?

The Minister for Transport (Mr. Kimunya): Mr. Speaker, Sir, the Government will deliver a Statement on Thursday next week.

Mr. Imanyara: Mr. Speaker, Sir, you must be aware as the Speaker and I am also aware as a Member of your Speaker's Panel, that the Minister for Labour has made it a habit not to appear in this House. In fact, I do not know how many years ago he appeared here last. Under those circumstances, is it not right for the Prime Minister who supervises and co-ordinates Government business, to take it upon himself to ensure that the Minister for Labour does appear in the House?

The Assistant Minister for Labour (Mr. Ojaamong): Mr. Speaker, Sir—

Mr. Speaker: Order, Mr. Assistant Minister! Hon. Members, we already have an undertaking from a colleague of the Minister for Labour that this Statement will be delivered on Thursday next week. That being the position, I think we have to await and see if there is default. If there is failure, then the matter raised by the Member for Imenti Central may arise and we will deal with it at that point. For the Assistant Minister, please, note – and this matter had been addressed in this House constantly – that Assistant Ministers are also Ministers. So, when the Minister for Labour is called, then the

Assistant Minister really, in the House, ought to have been on his feet immediately. So, please, note and be more active next time.

The Assistant Minister for Labour (Mr. Ojaamong'): Mr. Speaker, Sir, I think somebody was obstructing you. I was just exactly right here and the Minister moved very fast. But all along, we have been coming here very regularly. I do not think we have---

Mr. Speaker: Order, Member for Amagoro! If anything, the Minister for Transport, from my records, is supposed to be older than you are. So, you should have been faster than him.

Let us proceed!

SAFETY OF KENYANS IN SOUTHERN SUDAN
AHEAD OF THE JANUARY 2011 REFERENDUM

Mr. Mungatana: Mr. Speaker, Sir, I rise to seek a Ministerial Statement from the Ministry of Foreign Affairs regarding the safety of property and lives of Kenyan citizens in Southern Sudan.

Mr. Speaker Sir, there is a pending Referendum in Southern Sudan which is expected to take place on 9th January, 2011. In keeping with the Comprehensive Peace Agreement that was signed here in Kenya, there were a number of things that needed to have been accomplished before that Referendum took place. Among some of the things was an agreement on the demarcation of the borders between the North and the South, the sharing of the oil and how the integrated army would operate in the new Southern Sudan, amongst other things.

Mr. Speaker, Sir, we are aware that none of these things have been achieved, including the preparation of the voters' register. The tensions are rising as we are aware of. I would like to seek the following clarifications from the Minister for Foreign Affairs:-

- (i) whether he could tell this House how many Kenyans are resident in Southern Sudan;
- (ii) whether he could also tell this House how much is the worth of Kenyan business investments in Southern Sudan;
- (iii) what preparations are there to protect the people of Kenya and their property in the event of things going differently;
- (iv) what diplomatic efforts Kenya is making to ease the tension, so that our people and investments can be protected in Southern Sudan.

The Minister for Transport (Mr. Kimunya): Mr. Speaker, Sir, in view of the developments taking place in the Ministry and the amount of information that the hon. Member has requested, which includes visits and ascertaining the amount of business being carried on in Sudan, I would request your indulgence that this matter be responded to, at least, after 14 days.

Mr. Gabbow: On a point of order, Mr. Speaker, Sir. I wish to seek a Ministerial Statement from the Deputy Prime Minister and Minister for Local Government on the parking fees---

Mr. Speaker: Order! Mr. Gabbow, just resume your seat for a moment.

With respect to the request by the Member for Garsen Constituency, I direct that statement be availed in the next ten days. Mr. Minister, you requested for 14 days.

However, the Member has indicated that there was absolute urgency in this matter in view of the pending referendum in Sudan. So, it is necessary that the air is cleared earlier than 14 days. We have accommodated you by splitting the difference. The difference between a week and two weeks is roughly ten days, which is fair. So, I direct that you deliver the statement within ten days.

The Minister for Transport (Mr. Kimunya): Mr. Speaker, Sir, we will attempt to do so, even if it is to give the assurances, while the rest of the information about the businesses and the level of investment, is being collated.

Mr. Speaker: That is fine. Give us as much information as you can within ten days.

Mr. Gabbow, you may now proceed!

HIKING OF PARKING FEES BY NAIROBI CITY COUNCIL

Mr. Gabbow: Mr. Speaker, Sir, I wish to seek a Ministerial Statement from the Deputy Prime Minister and Minister for Local Government on what necessitated the sharp increase of parking fees up by 114 per cent by the Nairobi City Council (NCC).

He should also tell this House why the NCC is increasing this fee, while concern has already been raised on its deteriorating services to the City residents. I also wish to know why this increase and yet, there are not enough parking lots within the CBD. This increase has been imposed without any consultation. Therefore, it will be a deterrent to business. Does the NCC have designated parkings where sick people may be dropped? Will the people in transit pay the same fees?

Mr. Speaker, Sir, I would like him to issue a Ministerial Statement, considering that I am the Chairman of the Departmental Committee on Local Authorities.

The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Local Government (Mr. Nguyai): Mr. Speaker, Sir, we will give the Ministerial Statement on Tuesday afternoon, next week.

DISSEMINATION OF ALARMING SHORT MESSAGES SERVICE (SMSS)

Dr. Nuh: On a point of order, Mr. Speaker, Sir. I had sought for a Ministerial Statement from the Minister for Information and Communications before this House adjourned last time. However, I have been getting promises that are never forthcoming. Could I get an indication when this Statement can be ready?

The Minister for Information and Communications (Mr. Poghio): Mr. Speaker, Sir, the subject matter was covered in a statement on the day it happened. I thought that took care of it. If I get the statement now, it will not pass the test of relevance.

Dr. Nuh: On a point of order, Mr. Speaker, Sir. The Minister, in his contribution to the Motion for Adjournment, said something about what happened on telecommunications and the SMSs I referred to. However, that does not amount to him issuing a Ministerial Statement which he owes to this House.

His Assistant Minister made an undertaking that they were to issue a Ministerial Statement on Wednesday. Therefore, for him to say that his contribution to the Motion for Adjournment is equivalent to him giving a Ministerial Statement is to ridicule this House; he wants to take this House for granted.

Mr. Speaker, Sir, when we seek Ministerial Statements in this House, they are standing and they do not lapse with time. So, he has to make an undertaking on when he will issue a Ministerial Statement.

The Minister for Information and Communications (Mr. Poghio): Mr. Speaker, Sir, the Ministerial Statement is a statement by a Minister. The subject matter was covered that day. I can repeat the subject matter.

Mr. Speaker, Sir, with your permission, I thought we had cleared this matter. The relevance of it will not carry today as it did on that day. That day, it was a critical moment for Kenya, it was about these threatening SMSs. We covered the subject matter on that day. It was a statement by the Minister for Information and Communications. If the hon. Member wants another one, it can still be delivered. However, it will not pass the test of relevance at all.

(Dr. Nuh stood up in his place)

Mr. Speaker: Order, Member for Bura Constituency! That is not the way we do business in this House.

I will look at the HANSARD record and I will then give directions on this matter on whether or not the matter is spent or if there is need for a further Ministerial Statement. I will do so, on Tuesday, next week. So, Member for Bura Constituency, please, note.

The Assistant Minister, Ministry of State for Defence (Mr. Musila): On a point of order, Mr. Speaker, Sir.

Mr. Speaker, Sir, I am seeking the guidance of the Chair. There is a Statement that was requested by the hon. Lekuton way back on 1st September, before we went on recess.

The Ministry of State for Defence has been coming with this statement, but for one reason or the other, we have been unable to deliver it because the hon. Member is not there or something. May I request the Chair to give a definite date, so that we can dispose of this matter, preferably Tuesday, next week?

Mr. Lekuton: Mr. Speaker, Sir, I had a talk with hon. Musila on this issue.

This specific case touches on hon. Letimalo and myself. The land that is in question here is where the British army trains their forces in Samburu East. So, I have requested the Assistant Minister to give us time for hon. Letimalo to come back from his Parliamentary duties outside this country next week so that at least we can exhaust this issue and the hon. Members of this House get the gist and the whole package about this issue which is very crucial for our country.

Mr. Speaker, Sir, I have no objection for Tuesday, next week.

The Assistant Minister, Ministry of State for Defence (Mr. Musila): Mr. Speaker, Sir, the hon. Member has stated that he will be prepared to receive the statement on Tuesday, next week. Therefore, I would like you to state that from the Chair so that it will be definite on Tuesday, next week.

Mr. Speaker: I so direct. That brings us then to the end of Order No.7.

The Minister for Lands (Mr. Orengo): On a point of order, Mr. Speaker, Sir. Mr. Lekuton is sitting outside the Bar and there is no way a hon. Member can transact business in that position, unless he has been engaged by the Parliamentary Service Commission (PSC) as part of the Serjeant-At-Arms office. He is sitting at the wrong place.

Mr. Speaker: That is a legitimate concern by the hon. Member for Ugenya; Mr. Lekuton, the Member for Laisamis, will you please ensure that you sit within the debating Chamber which must be in the confines of the Bar.

Mr. Lekuton: Sawa Mr. Speaker, Sir.

MOTION

ADOPTION OF REPORT ON PROPERTIES BELONGING TO KENYA'S DIPLOMATIC MISSIONS

THAT, this House adopts the Report of the Departmental Committee on Defence and Foreign Relations on the Procurement, Disposal and Construction of properties of Kenya's Diplomatic Missions in Egypt, Japan, Nigeria, Belgium and Pakistan laid on the Table of the House on Tuesday 12th October, 2010.

(Mr. Keynan on 21.10.2010)

(Resumption of Debate interrupted on 26.10.2010)

Mr. Speaker: Order, hon. Members! We will proceed from where we adjourned business yesterday which is on the Motion. The hon. Member for Mukurweini had the Floor and he had done 6.30 minutes.

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

Mr. Speaker: Order! Let us clear with the hon. Member for Mukurweini first. Did you conclude?

The Assistant Minister for Sports and Youth Affairs (Mr. Kabando wa Kabando): No, Mr. Speaker, Sir.

Thank you for giving me the opportunity to conclude my remarks.

Mr. Speaker: Please, do so expeditiously, noting that all these hon. Members are interested in this matter and must be accorded an opportunity.

The Assistant Minister for Sports and Youth Affairs (Mr. Kabando wa Kabando): Mr. Speaker, Sir. I rise to oppose the amendment by Dr. Eseli on the basis that it was targeting to exclude a total solution to the issue before the House. It is important for us to continue appreciating that when issues are tabled before the House, they are the property of the House and we discuss them impartially, fairly and interrogate to the detail. The moment we say that the political arm in issues concerning their Ministries would be excluded from interrogation by the House, we are making the statement that this House comprising of politicians is potentially remaining in the past where the political leadership enjoyed impunity while the civil servants or the bureaucrats are

targets and, therefore, the casualties in the war against graft. I also thought that it was not fair to isolate one singular office from a very important matter of very international dimensions.

As I rise to contribute, I am happy to note that since the introduction of this amendment, the Permanent Secretary in that Ministry has graciously accepted to step aside to allow for fair and just investigations. I am also happy to note that the Minister in charge, Mr. Wetangula, has also graciously agreed to step aside so that this matter can be interrogated fairly and justly.

Mr. Speaker, Sir, it is important for us to do things openly. This is an issue that brings forth the question of financial management and we have a law. This is an issue that brings into focus the law---

Mr. Imanyara: On a point of order, Mr. Speaker, Sir. As far as I recall, the Minister did complete his contribution and now, we are being informed that he has stepped aside. How did that information get relayed to the hon. Member and why is it not being shared with the rest of the House?

Mr. Speaker: That point of order is legitimate. I do not know what capacity you have to know.

The Assistant Minister for Sports and Youth Affairs (Mr. Kabando wa Kabando): Mr. Speaker, Sir, I am an Assistant Minister in the Government and I relate with my colleagues well. I have reliable information---

Mr. Speaker: Order! What reliable information? Can you table that information in the House?

The Assistant Minister for Sports and Youth Affairs (Mr. Kabando wa Kabando): Mr. Speaker, Sir, I rely on a very credible source---

Mr. Speaker: Order, hon. Member for Mukurweini. That certainly would not be acceptable.

The Assistant Minister for Sports and Youth Affairs (Mr. Kabando wa Kabando): Mr. Speaker, Sir, would you allow me to table my breaking news text message as part of my---

(Laughter)

Mr. Speaker: Order! That is not good enough!

The Assistant Minister for Sports and Youth Affairs (Mr. Kabando wa Kabando): Mr. Speaker, Sir, I withdraw that very important information and continue with my contribution.

It is important for us when we pass laws--- We have the Financial Management Act, the Disposal and Procurement Act, the Powers and Privileges Act and the Public Officer Ethics Act---

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

Mr. Speaker: Order! Mrs. Odhiambo-Mabona, please let us allow the hon. Member to conclude.

Will you do that quickly?

The Assistant Minister for Sports and Youth Affairs (Mr. Kabando wa Kabando): Mr. Speaker, Sir, the message that should be sent heavily, consistently and clearly is that no one is indispensable or beyond reproach. That pertains more importantly

to Members of the Government where I sit. When there is a question of audit, probe or that there is an issue that has galvanized the nation, we do not wish it away. We should not push it to sidelines or generate sideshows. This being a very important matter, I felt very strongly that a mischievous amendment as tabled before the House to exclusively deal with one office while subjecting all the other offices to scrutiny will subject this House to question. It also risks telling the country that we are yet to open our eyes above dawn and agree that the new dispensation will call for total accountability and responsibility, particularly in the offices of Ministers.

Mr. Speaker, Sir, I conclude by saying that even as we sit in the Government, we must not have unity of impunity or collectivity of impunity. A word of caution is that we must not agree to be rolled out and be proxy to issues that alienate the country. This is not Kenya of before 4th August. You may regret why you passed this Constitution but this is the panacea or the solution. This is what Kenyans were yearning for. The *Katiba* that we passed will whip you and make some of us happier because we may be complaining when some basic issues or responsibilities are not adhered to. Therefore, in the eyes of some colleagues or the public, we appear that we are malcontents and we cannot work. The new dispensation calls for objectivity, patriotism, responsibility, accountability and zero-tolerance on corruption. The roll out is on. Be cautious because the hammer is on.

I beg to oppose the amendment.

The Prime Minister (Mr. Raila): On a point of order, Mr. Speaker, Sir. Actually, I wanted to make a contribution. However, my point of order is that I would like to inform the House that the Minister, after consultations with His Excellency the President and myself, he informed us that having made his contribution yesterday and having listened to hon. Members' views, he has decided to step aside to allow for a thorough investigation into this matter.

May I go on and make a small contribution?

Mr. Speaker: Yes, but first, you will resume your sit.

Mr. Farah: On a point of order, Mr. Speaker, Sir. In all democracies where issues are with the government and concern ethics, you hear of somebody resigning or somebody being sacked. Where is the stepping aside in the law?

(Loud consultations)

Order!

(Laughter)

Mr. Speaker: Order, hon. Members! Let us hear the hon. Member for Lagdera!

Mr. Farah: Mr. Speaker, Sir, we are making a mockery of the practice of democracy and governance. What authority in law do we have of saying that a Minister has stepped aside? I only know of stepping aside when it comes to a corporate organization where you are a shareholder. Could the Prime Minister kindly explain that?

Mr. Speaker: Hon. Members, I have listened to the point of order raised by the hon. Member for Lagdera very carefully and with all the attention that it deserves. I also take cognizance of the fact that he is the able Deputy of the Speaker but unfortunately, the matter that he has raised does not quite fall within the parameters of the Standing

Orders. In as much as the honorable Member for Lagdera seems to ask the Prime Minister a question after the Prime Minister has addressed the House on a point of order.

Hon. Members, if you peruse the Standing Orders carefully, you will find that, that is not quite there; it is not quite provided for, although it is a genuine legitimate concern. But the contribution can be made when you have an opportunity to rise and contribute to the Motion. You will then say what your opinion is with respect to the recommendations of the Committee. Because the Committee in their report have used the words “step aside.” So, if you are querying the usage of the words “step aside”, then the right thing to do is to incorporate that into your contribution.

Please, be guided and, I do this with a lot of humility.

(Laughter)

Dr. Eseli: On a point of order, Mr. Speaker, Sir. In view of what the Prime Minister has just informed the House and in view of what the last contributor, hon. Kabando wa Kabando, said, I beg your indulgence that you allow me to withdraw this proposed amendment to the Motion.

This is because history is reminding me the events of Bungoma County in the 1970s when the predecessor of my constituency, Elijah Mwangale, presented a report on the murder of J.M. Kariuki, and Masinde Muliro and Kibisu voted with him and they were hence thought to be malcontents in the Government and were sacked. In the process, they thought they would get a more compliant person and appointed Munoko, who ended up damaging his political career. The fact that the hon. Members of this Committee who brought this report are some of the best brains we have in this House, it even includes my neighbor, hon. Eugene Wamalwa, and I would not like to amend anything that would be in that Report.

Thank you.

(Laughter)

The Assistant Minister for Lands (Mr. Bifwoli): On a point of order, Mr. Speaker, Sir.

Mr. Speaker: Order! What is it, Mr. Bifwoli?

The Assistant Minister for Lands (Mr. Bifwoli): Mr. Speaker, Sir, is the hon. Member in order to single out one of our great leaders from the greater Bungoma? If I may remind the hon. Member, Munoko was the clerk of Bungoma County when my father was the President and he was very able. Hon. Munoko was elected to this House for more than four terms. Is he in order to drag the name of hon. Munoko here, instead of withdrawing?

Mr. Speaker: Order, hon. Members! Dr. Eseli, do you want to make any response to the concerns by the hon. Member for Bumula?

Dr. Eseli: Mr. Speaker, Sir, I had no intention to offend hon. Wakoli, but if he feels offended, then I am willing to withdraw that part of my statement but still ask your indulgence that I beg to withdraw this amendment because now it serves no purpose. And as to what hon. Kabando wa Kabando said, definitely, if I pursued to prosecute this amendment, I would be causing more damage than good to this country.

Mr. Speaker: Very well!

(Mr. Bifwoli remained standing in his place)

Order, hon. Bifwoli! Order! The offensive part that the hon. Member for Bumula is concerned over, stands withdrawn in the words of the hon. Member for Kimilili. So, that must rest that part of the matter.

The Minister of State for Immigration and Registration of Persons (Mr. Kajwang): On a point of order, Mr. Speaker, Sir. I am standing up on a matter of procedure. When a matter has already been moved and seconded by an hon. Member, like this amendment was moved, seconded and even debated for a while, does it still remain the property of the hon. Member who moved it so that the hon. Member can withdraw it at any time he pleases or is it now the property of the House and the House must dispose of it in the normal manner?

Mr. Speaker: Order, hon. Members! The point of order by hon. Kajwang is, indeed, significant, but it is a matter that the House has previously considered and, indeed, addressed. So, it is not altogether new. And the position is; yes, he is correct to the effect that once a Motion has been moved, seconded and proposed, it becomes the property of the House in the sense that it is deemed to be in the possession of the House. That notwithstanding, the hon. Member who sponsored the Motion has the latitude to withdraw that Motion but with leave of the House. And as I sense the mood, the hon. Member stood on a point of order just about five minutes ago to withdraw and I did not see that there was any resistance. You know what leave of the House amounts to. I want to believe that, that leave is granted. So, the Motion of amendment stands withdrawn. We will now go back to the Motion in original form.

(Motion for amendment withdrawn)

Proceed, the honorable Member for Imenti Central!

(The Prime Minister stood up in his place)

I am sorry, but the honorable Member for Imenti Central was actually first on his feet, Right Hon. Prime Minister!

Mr. Imanyara: Thank you, Mr. Speaker, Sir. With your indulgence, if the Prime Minister wants to speak before me, I will gladly defer to him; otherwise I am ready to make my contribution.

Mr. Speaker, Sir, I stand here to support---

Mr. Speaker: Order, the honorable Member for Imenti Central!

COMMUNICATION FROM THE CHAIR

RESIGNATION OF FOREIGN AFFAIRS MINISTER AND HIS PERMANENT SECRETARY

Hon. Members, just as we continued with Business this afternoon, I have received communication from the Minister for Foreign Affairs to the effect that this afternoon at 3.15 p.m. after due consultations and concurrence with His Excellency the President, he has opted to step aside from his appointment to the Office of the Minister for Foreign Affairs to give way to investigations into allegations of wrongdoing by the Ministry. This position was further alluded to by the Prime Minister earlier this afternoon when he stood on a point of order to indicate that after consultations took place between the Minister, His Excellency the President and the Right Honorable Prime Minister, the Minister opted to step aside to allow investigations to proceed.

Hon. Members, I also have received confirmation this afternoon from the Permanent Secretary and Secretary to the Cabinet and Head of Public Service, Amb. Francis Muthaura, in a letter dated 27th October, 2010, ascertaining that the Permanent Secretary in the Ministry of Foreign Affairs has stepped aside while investigations on the issues raised in the parliamentary Committee's Report are carried out.

Hon. Members, arising from these developments, I want to advise that consideration of the Report by the Committee, as captured under Order No.8, will proceed but that hon. Members should be awake to the fact that it may negate the rule of natural justice and may be prejudicial to both the Minister and the officer for debate to continue in a manner that will touch on their personal conduct, more so, given that they have stepped aside to let investigations continue.

Hon. Members, therefore, the Motion and the debate thereon will proceed, but be conscious that these persons have complied with the recommendations of the Committee. So, do not dwell so much on their personal character. This is a matter of advice. So, we may proceed,

Yes, Member of Parliament for Imenti Central!

(Several hon. Members stood up in their places)

Member of Parliament for Imenti Central, please, proceed. Member of Parliament for Limuru, be governed by the terms of the directions that I have given, which are largely advisory in nature.

Mr. Imanyara: Mr. Speaker, Sir, I will bear in mind your advice.

The Assistant Minister for Lands (Mr. Bifwoli): On a point of order, Mr. Speaker, Sir.

Mr. Speaker: What is it, Member of Parliament for Bumula?

The Assistant Minister for Lands (Mr. Bifwoli): Mr. Speaker, Sir, given the fact that the Minister for Foreign Affairs and the Permanent Secretary in that Ministry have stepped aside as recommended by the Committee, would I be in order to move that the Mover be called upon to reply?

(Applause)

Mr. Speaker: Order! I will put the Question.

Ms. Karua: On a point of order, Mr. Speaker, Sir. I am just seeking your direction. The Report is not about two officers. It contains more than that, and I plead.

Although we ought to abide by the guidance of the Chair, there may be one or two points that may need stressing.

(Mr. Kajwang stood up in his place)

The Minister of State for Immigration and Registration of Persons (Mr. Kajwang): On a point of order, Mr. Speaker, Sir. Following your directions and advice to the House, it becomes very difficult to continue with this debate, because we really do not know the parameters within which we can debate it. We do not know where we can offend the rules of natural justice or where we can hurt somebody's rights. So, it becomes extremely difficult. So, I think you should put the Question to the House, so that the House can consider whether to terminate this debate or not.

(Mr. Mbadi stood up in his place)

Mr. Speaker: What is it, Member of Parliament for Gwasi?

Mr. Mbadi: On a point of order, Mr. Speaker, Sir. If you really took your time to read this Report---

Hon. Members: Aah!

Mr. Speaker: Order! Order, Member of Parliament for Gwasi! That, you will have to withdraw! I had the time to read this Report, and I know everything in it. So, you must withdraw the words "if you took your time".

Mr. Mbadi: Mr. Speaker, Sir, I withdraw that statement.

Mr. Speaker: Withdraw and apologise!

Mr. Mbadi: Mr. Speaker, Sir, I apologise.

I wanted to say that this Report also touches on policy issues on procurement, construction and disposal of assets. This is a very crucial Report. I now understand why some of us were very emotional. It was because we personalised this Report. It is important that you give us time to canvas, discuss this Report and endorse it, so that we can have policy changes in this Ministry.

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. M. Kilonzo): On a point of order, Mr. Speaker, Sir.

Mr. Speaker: What is it, Minister?

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. M. Kilonzo): Mr. Speaker, Sir, I would like, with your permission, to plead with the House to note that the reasons advanced by these two Kenyans are that they ceded ground for investigations. Our country has changed, and the sooner we realise it, the better. The Article on leadership and integrity in the new Constitution is complemented by the Article creating an independent anti-corruption commission. To debate this matter when an independent constitutional institution is going to be charged with the responsibility of investigations on matters that the Committee has already aired, may very easily compromise that investigation, and adversely affect the rights of those who may be subjected to a fair trial and a fair hearing.

It is my submission, without hesitation, that the Mover be asked to reply, so that we can put this matter to rest and leave the investigation to the organs which are charged with that responsibility without tainting it with politics, although I agree that there are

policy issues in the Report. Even the policy issues require to be interrogated, so that when the Report comes out, Parliament can take over.

Thank you, Mr. Speaker, Sir.

Mr. Speaker: Order! Order! Hon. Members, I have allowed interventions on this matter, but it is a matter which is properly provided for in the Standing Orders, under Standing Order No.86, which you will find on page 51 of the red book. It pertains to closure of debate, and provides as follows:-

“86(1). After the question on a Motion, the Mover of which has a right of reply has been proposed, a Member rising in his or her place may claim to move “That the Mover be now called upon to reply” and, unless the Speaker is of the opinion that such Motion is an abuse of the proceedings of the House, or an infringement of the rights of Members, the Question “That the Mover be now called upon to reply” shall be put forthwith---”

That is what I was actually proceeding to do, because the Standing Orders provide as such. However, you should note that the Standing Orders give the Speaker some discretion, because it is the prerogative of the Speaker to decide whether or not the Motion is an abuse of the proceedings of the House or it amounts to an infringement of the rights of hon. Members.

So, doing the best I can, weighing one thing against the other and exercising my discretion as fairly as I should, I will allow 30 minutes of further debate, and I will put the Question.

(Applause)

Please, note the advice that I have given – that you must refrain yourselves from indulging in the personal characters of the officers concerned.

RESUMPTION OF DEBATE ON THE ORIGINAL MOTION

Mr. Imanyara: Mr. Speaker, Sir, I will take only two minutes to support this Motion. I begin by thanking both the Permanent Secretary and the Minister in the Ministry of Foreign Affairs for taking this bold decision of stepping aside in order to allow for an investigation.

(Loud consultations)

Mr. Speaker: Order! Order, hon. Members! Those who are withdrawing, please do so quietly, so that we can hear those who are left in the House and want to contribute to this Motion.

Mr. Imanyara: Mr. Speaker, Sir, I congratulate the two gentlemen, who have seen it fit to step aside in order to facilitate investigations. Given that there are many other similar scandals and similar investigations that are due, it is my hope and prayer that those others, who were hoping that the House will not be able to get the benefit of debating those issues, will take heed. We know that there is a lot of pending business.

(Loud consultations)

Mr. Speaker: Order! Order, hon. Members! Please, lower the level of your consultation, so that we hear the Member of Parliament for Imenti Central.

Mr. Imanyara: Mr. Speaker, Sir, it is a matter of public record that Mr. Wetangula is not the only Cabinet Minister who has been named in scandals. In fact, yesterday was a very interesting day to see the whole of the Front Bench full of Ministers, who hardly appear even to answer their own Questions. I hope that they will take heed. Soon enough, those who were mentioned in Goldenberg, Anglo Leasing and Triton scandals, and all those other scandals which have come before this House, will follow in the footsteps of Mr. Moses Wetangula and resign to enable investigations to take place.

We are living in a new dispensation, and the new dispensation, as Mr. Kiunjuri said yesterday, is not about individuals. It is not about Mr. Moses Wetangula or the Permanent Secretary of the Ministry of Foreign Affairs. It is about institutional change in the manner that this country is administered. Those looking at the new Constitution will not have failed to see that we have a whole chapter on leadership and integrity. It is important to remind us what the constitution, which is the supreme law of the land, now requires in terms of leadership and integrity.

Mr. Speaker, Sir, in Article 73, it says that authority assigned to a state officer is a public trust to be exercised in a manner that is consistent to the purposes and objects of this Constitution. The values of this Constitution are set out in Article 10. If you look at Article 10 (2)(c), among those values is good governance, integrity, transparency and accountability. We are not personalizing these issues---

(Mr. Shakeel stood up in his place)

Mr. Shakeel: On a point of order, Mr. Speaker, Sir. Since you suggested that we have 20 minutes to discuss and contribute, would I be in order to ask that we limit the contribution of each Member to three or five minutes?

Mr. Speaker: Very well! We will allow each Member to contribute to a limit of three minutes.

Mr. Imanyara: Since so many Members want to speak within the given time you have allowed us, I congratulate those who have resigned and call upon Prof. George Saitoti---, that the Goldenberg report be brought here. We want the Artur Brothers report that has yet to be debated to be brought to this House and those named in the raid of the East African Standard to be held to account. That is the Minister of internal security at the time. I do not see hon. Michuki here but we need to point out that it is not Mr. Wetangula alone who stands accused. Mr. Wetangula has done the right thing and it is not right for Mr. Kimunya was only the other day here defending himself---

(Mr. Kimunya stood up in his place)

The Minister for Transport (Mr. Kimunya): On a point of order, Mr. Speaker, Sir. Our Standing Orders are very clear. Is it in order for the hon. Member to cast aspersions on the Members that he has named without bringing a substantive motion on them?

Mr. Imanyara: Mr. Speaker, Sir, I was referring to reports of this House that have not been debated which make certain recommendations. I have not cast aspersions. I said those mentioned in those reports should emulate the example of Mr. Wetangula and do the needful; resign and let the Kenyan people have an opportunity to see an investigation. It is a matter of knowledge that the report on the raid of the Standard has never been debated in this House. We know what it is because it has been circulated and we know what is contained therein. So I am not casting any aspersions when I say that the hon. Minister who was then in charge---

Mr. Speaker: Member for Imenti Central, are those reports pending business before this House?

Mr. Imanyara: They had been tabled on the table of the House---

Mr. Speaker: Not that I am aware!

Mr. Imanyara: The reports were tabled but the time lapsed. In relation to the Standard raid, I re-introduced it here, I tabled the report, and it was not debated; time lapsed. It is a document that has not been debated but is available. Your staff can find it--

Mr. Speaker: Order! In view of what you have said then, I would accept the report on the raid on *The Standard* Newspapers. This has given you room to mention the concerned Minister but the others you must withdraw because I am not aware that during the 10th Parliament, that other report had been tabled.

Mr. Imanyara: In that case, Mr. Speaker, Sir, I will go with your direction and I will withdraw my contention with respect to other reports except the one on the raid at *The Standard*.

Mr. Speaker: Correct!

Mr. Imanyara: I hope that one day the Front Bench will be able to stand up even before a report comes to this House and say, "my name has been mentioned adversely and I would like to enable His Excellency the President to carry out investigations, or the relevant arms of the Government to carry out investigations with me outside." It is absolutely unnecessary to have spent so much time even debating this particular Motion when it is clear to everybody that in terms of the new Constitution, a person ought to step aside even before a report comes to the House. We need not to have sent all these people to the various missions abroad. If the information that is contained in the Report was known to them, they would not have allowed the expenditure of public funds to extent that we debate a Motion before they step aside.

So in supporting this Motion I am urging that all those reports which have not been laid on the table of this house be laid before the House and let the Members who are mentioned, all of them resign so that we can get a new lease, so that we can get a new breathe of leadership that is not tarnished by a corrupt past.

With those few remarks, I beg to support.

The Prime Minister (Mr. Raila): Thank you, Mr. Speaker, Sir. I am a very happy man today. The debate that has taken place in this House since yesterday confirms that Kenya has moved on.

Mr. Speaker, Sir, this House has seen some very sad moments in as far as the issue of corruption is concerned. The one that easily comes to mind is that of the late hon. George Moseti Anyona who carried out investigations about the procurement of the

rolling stock of railways where there was massive fraud involving some companies outside the country.

When Mr. Anyona was then asked to substantiate, he asked for time to come with evidence. The day that he came back to the House with evidence, he was arrested in the precincts of Parliament and was taken to detention. So that was the level at which the impunity had reached. In other words, a Member of Parliament could easily be arrested within the precincts of this House merely because he had evidence that he was coming to table in this House regarding corruption.

Mr. Speaker, Sir, we want to create a culture of probity, a culture of honesty in deliverance of public service. We also want to be honest and own up if we have made mistakes. I want to say that the period before the corruption reached the level that it has reached, at its peak, immediately after independence, there were men and women who were serving this Government with honesty and diligence. A case in hand was an engineer with the Nairobi City Council. He was a European. It was found that under his watch, the City Council had lost a lot of money and that he himself was completely in the fraud and the matter was raised in this House. Rather than face the probe because of shame, this engineer went along the railway line going to Nakuru near the golf course, off Uhuru highway and he slept there and he was run over by a train. He committed suicide.

Mr. Speaker, Sir, I am not suggesting that those who have been involved in corruption and those who have been accused should commit suicide. That is because there are cases where people are wrongly accused of being involved in graft. We need to develop a culture of accepting that; "I am being suspected of a wrongdoing and, therefore, I am prepared to step aside so that proper investigations can be carried out to clear my name".

Therefore, I am happy that the Minister has led by example and has accepted to step aside to allow for thorough investigations. I want to say that, as the Prime Minister of this country, we are not intending to condone corruption in the Government. I want hon. Members to honestly believe that we are not just talking, but we want to act to see that there is probity within the Government. We also want to establish a good working relationship with the Legislature. Therefore, whereas Parliament has a very important role to play as a watchdog organ, this role should not be pushed to the level of a witch-hunt because if it reaches there, then we will instill fear in the public officers. The result will be inaction or lack of proper service for the country. So, we want to urge that Committees of the House have a responsibility but if it is information that they seek, there are institutions which we have within the Government which are willing to provide that information. But when it reaches a level where somebody is wrongly accused and becomes defensive, then fear is sent across the Government itself. But I want to say that if we have information, even we ourselves are willing to co-operate. If we are asked for information, we are willing to provide that information. Therefore, I want to offer this House a hand of co-operation but let us not act the role of the shylock in *The Merchant of Venice* where we want a pound of flesh all the time; you must get a pound of flesh without blood.

I want to thank Members of this Committee for the work that they have done. I think it has been a very good job traveling around the world to go and seek this kind of information. It is a good exercise!

(Applause)

I am sure that it has jolted other civil servants who are asleep that a new Kenya has dawned; Kenya has changed and, therefore, it is time for us to begin to act in accordance with the new Constitution.

With those few remarks, I beg to support.

Mr. Farah: Mr. Speaker, Sir, I also join the other speakers in saying that the two members of the Government and the Cabinet did the right thing. But they should have done that much earlier than they did. But, nonetheless, we are here to reform the Government and Parliament. We have always campaigned on the platform of zero tolerance to corruption. If we were really for zero tolerance to corruption, we would not be the 154th most corrupt country in this world. We know that the amount of money that has been lost through corruption runs into billions and, over the years, into trillions. That money should have been used to offer services to Kenyans. My position is only one thing: Any impropriety on the part of the Government itself at all levels; at the President's, Prime Minister's, Minister's or Permanent Secretaries, we do not have to prove something beyond any reasonable doubt because this is not a capital offence in a court of law like murder. This is governance! All that needs to be proven is reasonable doubt. The moment reasonable doubt itself has been proven, it is upon that Government to instantly act with speed so as to maintain the confidence of the people of Kenya. If you look at the papers that have been exchanged, there is a whole trail of papers that I do not have time to go through. Those papers relate to this saga. We should not be accused, as Parliament, of becoming a clearing house of corruption where there is *quid pro quo* everywhere. We have to show value for the money that is invested in us as Parliamentarians and the Government by the people of Kenya. My parting word is this: It is not only two members who have been mentioned in this Report. It is a whole lot of other officers who have been mentioned. The adoption of the Report entails, in my opinion, that the Report's provisions and recommendations will be adopted wholesale.

(Applause)

Under those circumstances, the other two officers, one who is supposed to be an ambassador somewhere--- Muchiri in Libya and Allan Mburu who have been mentioned in this Report need to do the needful as a matter of urgency.

(Applause)

Finally, Mr. Speaker, Sir, it is only in this country where you tell a politician to step aside. Stepping aside in the rest of the developed world or rather developing world where there is dignity and integrity does not exist; you resign or you are sacked. If you are found to be innocent, the same appointing authorities have still got the powers and the authority to appoint you to a position where they feel you can serve the country in a manner that is going to be beneficial to the country.

With those few remarks, I beg to support.

Mr. Njuguna: Mr. Speaker, Sir, very briefly, I take this opportunity to, first, thank the Prime Minister who made a very inspiring speech during the Mashujaa Day at Nyayo Stadium. That was very good, indeed!

Secondly, I wish to thank the Chairman of this Committee for the manner in which he presented this Report. I also appreciate the contribution that was made by the Secunder of this Report.

(Applause)

Finally, I wish to urge all the leaders in this House and outside that we need to exhibit mashujaa spirit in leading Kenyans. The spirit of impunity and corruption must be buried in this country, if we need to instill confidence in the youth of this country, now and in future.

With those few remarks, I fully support the Report.

Mrs. Odhiambo-Mabona: Mr. Speaker, Sir, first of all, I just want to thank the Committee for a very good Report. The Report is very comprehensive and clear. I also want to say that the Minister and the Permanent Secretary have done a very honourable thing by stepping aside. I want to say a few brief things.

One, that we have to be very careful as a House. What is the threshold of culpability? We might set precedence that will come and haunt us in future as a House. The reason I am saying that – and I know it is not popular now – is that when a matter comes before us and we are looking at issues of probity especially of an hon. Member, this Report is very clear on what we are going to discuss. But what if it did not even reach the Committee level? Is it at the point that somebody mentions your name? I know that when Mr. Farah was speaking, he talked about reasonable doubt which is good. But it is reasonable doubt at what level? When we started vetting as a Parliament, some of us were accused of using political leanings and because of that, we have cleaned up the vetting process. We are coming up with a clear system so that we do not have our Ministers living in perpetual fear that they may be haunted. We must put a clear threshold of culpability. Otherwise, I support and thank the Committee for a very good Report.

Ms. Karua: Mr. Speaker, Sir, very briefly, I want to join those congratulating the Permanent Secretary and the Minister for putting the country above self. That is an act of patriotism and it is never late to do the right thing. I want to say that stepping aside is the opposite of being suspended; you voluntarily go before your employer acts and you say; “because of your honour---“ It is like what Mr. Mwiraria did in order to clear his name; in order to maintain the integrity of the country and its institutions. So, it is putting the country before self. I also want to say that, as Members of Parliament, we are not angels.

Mr. Speaker, Sir, we therefore, must quickly review the Powers and Privileges Act to put very stiff penalties for hon. Members who misconduct themselves in the course of committee work. There must be a co-relation between the standards we expect of the Government and our standards as hon. Members. We must be ready to bite the bullet and we need to develop together.

The other point I would like to state is that I want to believe the Prime Minister, the President and the Government when they say they are ready to fight corruption and impunity. This is a new dispensation. We said this before promulgation. Look at the

Cabinet and anyone who does not pass the test set by Chapter 6, let them go. There are other men and women in your ranks who can occupy those posts.

I want to say, Mr. Prime Minister, through Mr. Speaker, that if you and the President look hard enough, you will notice that there are people about whom reports of this House, investigations of the various bodies have put questions marks on. Please do not let us have to mention names here. Please, take action. If action is not taken, then Parliament must rise up and do its duty.

Reform is a painful process and we all have to leave our comfort zones. Let us move together. let us usher in the new dawn, otherwise we will be seen as fraudsters who told Kenyans on promulgation day that it was a new dawn while we were living in our comfort zones.

Mr. Speaker, Sir, I beg to support.

Mr. Konchella: Thank you, Mr. Speaker, Sir, for the opportunity. I want to congratulate the committee for the honourable job they have done. My own committee on local government did our job. I am happy that action is being taken by the Government regarding the findings by my committee.

I also wish to commend the Prime Minister for coming out today, loud and clear, that he is happy because he has suffered for so many years trying to put Kenya where it is today. I now want to tell him: Do not let your hands be tied by the old order. You must move on because you have a lot of troops behind you who will make sure this country is free from corruption and impunity. A very clear example is the issue of the Mau Forest. People are still there destroying the forest, yet the Prime Minister cannot give his statement here, I believe, because of the old order tying his hands. He must move away from the old order and do something to save the country. We should save the Mau for the sake of mankind.

When you move out of this country and see what is going on in the rest of the world, particularly in Eastern Asia, you will feel sorry when you come to this country. We have more resources than most countries, yet we cannot use our resources the way we are supposed to because of corruption. People have held these offices from the time of Independence. They are still there, maintaining the status quo. They do not want the country to go forward; it is an issue of handing over from one generation to another, leaving our people on the roadside. The Internally Displaced Persons (IDPs) are still there, suffering, yet they were born in this country. They have equal rights as all of us here.

Mr. Speaker, Sir, we want to see a Kenya in the next year or two, where nobody is living on the roadside. We do not want to see children walking around and begging on the streets; we have enough money that is now being wasted by people buying property and paying themselves cash. That is money that belongs to the people of this country.

The issue in this report is the hallmark of corruption. Global corruption is the worst thing we have ever seen; it is what we have seen in this report. While I am happy, and congratulate the Minister for stepping aside, stepping aside is a continuation of a culture of impunity. Stepping aside is impunity. If you are honest and you know you have not stolen, why do you not resign, so that the country can believe in you and tomorrow you will be the President of Kenya?

Stepping aside allows you to use the millions you have to buy people around. Some of us are not here to be bought. Some of us do not know what buying is all about, because my conscience does not allow me to do that. This is because I have a

responsibility to my constituents and the people of Kenya; as their leader I will stand by them and fight for them.

Thank you, Mr. Speaker, Sir.

The Minister for Transport (Mr. Kimunya): Thank you, Mr. Speaker, Sir, for this opportunity. Let me join my colleagues in congratulating our two colleagues, the PS for Foreign Affairs and the Minister for Foreign Affairs for taking that very difficult and decisive action of stepping aside to facilitate the investigation, so that the allegations that have been put across against them can be grounded on facts. I do hope that we will actually get to that situation where allegations will be proved to have been facts and not mere allegations.

Mr. Speaker, Sir, let me also echo the words of Mrs. Odhiambo-Mabona and Ms. Karua in terms of the thresholds of proof that we need in this House. I have had the misfortune of going through this experience. It is painful. I can tell you that it is painful. Everywhere you go, people look at you as the person who was discussed in Parliament. Afterwards, two or three years down the line, there is simply not a shred of evidence to support what was being discussed.

We need to rise above the issues of trying to hound one another out of office. The Prime Minister used the words “committees of the House are watchdogs”. The difference between a watchdog and a bloodhound is that a watchdog is put out there. If there is a stranger at the gate, it will bark. Its barking signifies to the owner whether it is a friend to the person, whether it is a hostile person for the owner to then go out and see who is at the gate, and what action he needs to take. On the other hand the bloodhound will follow the scent and say there are narcotics in that bag, or a person disappeared through this route. Those are the investigation agencies that we have set up in this House. So, by trying to combine the two roles of investigation and the watchdog, we are, perhaps, going over the line. Perhaps, it is something we need to look at in terms of how we are operating committees, so that we bring out the issues without necessarily almost making the whole country to believe that somebody has done something wrong when, indeed, we do not have a matter grounded on facts.

We must remember our rallying statement in this House: “For the welfare of society and the just government of men”. It is very important---

Mr. Gunda: On a point of order, Mr. Speaker, Sir. Is the Minister in order to mislead the House about the roles of committees? Role number one is to investigate, inquire into and report on all matters. So, what is a watchdog?

Mr. Speaker: Your point is made.

Proceed, Mr. Minister.

The Minister for Transport (Mr. Kimunya): Thank you, for clarifying what I said earlier. The point I am making is that we owe the country a duty. There is more responsibility being given to this House. This House will set the pace for the 11th Parliament, which will even have a bigger role to play as the sole legislative agent of the nation, without the presence of the Government.

It is important that perhaps between now and the year 2012 we start implementing ahead of schedule some of the requirements, for example, what is contained within Clause 122 of the new Constitution in terms of the manner in which you move a Minister out of office; we have some due process that sets out clearly what will happen in Parliament: Take a matter through the Committees of Parliament and by the time

somebody is told he needs to resign or to step aside, it is very clear that the due process has been followed.

I am happy that the House is unanimous on this issue. I would like to say that one of the fundamental contents of committee reports should be the legal reforms that are required to seal the loopholes that have facilitated the misuse or loss of any funds. We expect at the end a committee report to say that we need to amend chapter this or clause this or this law; we can then put part of the report in a miscellaneous amendment bill. That way we can amend laws and continuously close gates, so that no horses bolt and then we come looking for them long after they have gone.

I could go on and on, but with those remarks, I beg to support.

Mr. Oyongo Nyamweya: Thank you, Mr. Speaker, Sir, for giving me time to support this Report. But it makes me feel sad that this House has to sit and start discussing a Report before a Minister or a Permanent Secretary resigns. I find it that there is no political goodwill to fight corruption in this country.

Mr. Speaker, Sir, first, I want to say that the Ministry of Foreign Affairs wrote a letter – and it is in the Report – to the Director of Procurement, asking for exemption to do single-sourcing. The Public Procurement office replied to that letter. It reads:

“You are also reminded to adhere to the Procurement and Disposal Act and its regulations in this procurement.”

It was very specific that the process they were using to acquire the property in Tokyo was irregular. They were asked and requested to follow the Public Procurement Act, which I am sure, the entire Cabinet is aware it should be followed, when public money is used to procure any goods. In this case, the Act was ignored in its entirety. When you look at the disposal of Government property in Nigeria, the Public Procurement Act was never used, yet they have it and know it. That is impunity of the highest order.

Mr. Speaker, Sir, when you go to Belgium, the Act was very clear. They knew of it, but ignored it. The worst one is the money which was transferred from the Ministry, and the evidence was given by the Governor of the Central Bank of Kenya. The Governor of the Central Bank of Kenya said that the money was credited to the Development Account of the Ministry of Foreign Affairs. It means, in this case, that the Ministry of Foreign Affairs allocated itself development funds without the approval of Parliament and support from the Minister for Finance. The record is here.

Mr. Speaker, Sir, the worst situation here is that after the Ministry got a report that they cannot procure the plot and Embassy without a report. They went ahead with the purchase of a chancery and an Ambassador’s residence in Tokyo. They wrote to the Ambassador in Tokyo giving details and approved the purchase without regard of the procedures and clear guidelines.

Mr. Speaker, Sir, the worst one was the payment. The payment was made in the form of cash.

Mr. Speaker: Order, Member for South Mugirango! Your time is up!

The Minister for Lands (Mr. Orengo): Thank you very much, Mr. Speaker, Sir, for giving me this opportunity.

Mr. Speaker, Sir, I have a few things to briefly say on this Motion. I want us to go back to the Constitution. This Constitution that we enacted was enacted not just by the people of Kenya, but it went through this august House. We had opportunity to look

through this Constitution and approve it without amendment. In this Constitution, we have set ourselves very high standards. In fact, if you compare it with many constitutions in the world, including that of South Africa, we went a notch higher so that principles that include integrity and transparency are entrenched in the Constitution. The only point that I really wanted to make today is that, having established this very fundamental principles and high values, it is wrong that when you are in a problem, then you run back into some kind of caucus, saying that our people are being targeted. I think to demonstrate that we are going to live by the spirit of this Constitution and enact the law in accordance with this Constitution, as a legislature, we must learn to bear our crosses. As Minister for Lands and Member of this Parliament, I would want to put myself in a position and make it clear that this House has a responsibility to look into my conduct as a leader, because that is what the chapter on integrity and leadership requires. It requires that so long as you want to be a leader in this country, then you must live by those principles. It is wrong for me that when I am being inquired into, then I run back to my political party, tribe or ethnic group. This is the beginning of undermining the Constitution. This happens time and again. It is a big disappointment that after passing this great document, then you see people going into caucuses and instead of living the spirit and the word of this Constitution, you begin to say that our people are being targeted. I think the first thing that you should say is that you made a mistake in passing this Constitution.

Mr. Speaker, Sir, these national values require that we are accountable and accountability is through Parliament. The Executive in this Parliament is living on borrowed time. We are in this Parliament by dint of the transitional and consequential provisions, otherwise, the Executive has got no business being in this House. In two years' time, there will be more problems because the Executive will not have a position to defend itself here. So, it will require of us to be like Ceaser's wife; beyond suspicion. That is the only way we can ensure that this Constitution works and the people of this country can move forward to the future.

Mr. Speaker: Order! Your time is up!

Mr. Kioni: Thank you, Mr. Speaker, Sir, for granting me this opportunity to contribute. I stand here as a Member of the Committee and support the Report that we did. I want to single out the Chairman for the zeal with which he guided us and was able to obtain documents, and also the clarity and focus that he had through and through.

Mr. Speaker, Sir, as we continue judging others, because that is what we are doing – it is part of our role – it is important that we know that it is not those whom we are judging that we are defining, but we are actually defining ourselves. As we go through this process, it is important that we know that the only factor or useful thing that should guide us, and the goal that should be in front of us is establishing the truth, and nothing else but the truth.

Mr. Speaker, Sir, I want to support the statements by the Member for Ugenya, who is also the Minister for Lands. It is important that we note that it is just a matter of time before that which we are doing to others can also come and haunt us. It is for that reason that everytime we get to do these things, we need to be very objective and guided by nothing else but by facts. That guided us in our Committee.

Mr. Speaker, Sir, perceptions have been used in this country to attain different objectives. We must make sure that the perception of a person coming from this area or the other, does not earn him a tag of being corrupt. We have seen, just like the Minister

said, time and again, Members of Parliament, especially Members of the Cabinet, being mentioned but because perhaps a shade of a political divide has no capacity to push as hard as the other, stepping aside has been left a prerogative of one side. It is important that these things cut across the board. It is important they do so.

Mr. Speaker, Sir, just as I finish I am happy with the sentiments expressed by hon. Karua that even as we move to shape up the Government, we also need to be careful of the way we do it. In a short while, we, as hon. Members, are all managing the CDF accounts in our constituencies. These accounts are also being audited. When our names are mentioned as having misused the CDF funds, I think we should also take the honourable position and step aside from managing these funds just like we are doing with the Executive. This is a two-way thing and it cannot be one way.

With those few remarks, I beg to support.

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. M. Kilonzo): Mr. Speaker, Sir, I will be very brief. This is the first post-promulgation report of a parliamentary Committee touching on these matters. This is very important document. I agree with hon. Members who are pointing out that this document is beyond the two individuals who have graciously stepped aside today. This report touches on issues of procurement, disposal of public assets and public trust.

Mr. Speaker, Sir, as Parliament is debating this very important report, it is very embarrassing to see a report from an organization such as the Transparency International ranking Kenya together with Afghanistan, Somalia and other countries where perception on corruption continues to sink our image and yet, this is appearing exactly 60 days after our country promulgated the current Constitution.

Mr. Speaker, Sir, allow me to put on record the words in Article 73 of our Constitution. It says:

“Authority assigned to a State officer—

(a) is a public trust to be exercised in a manner that—

(iv) promotes public confidence in the integrity

of the office; and ,

(b) vests in the State officer the responsibility to serve the people rather than the power to rule them”.

Mr. Speaker, Sir, these are fundamental provisions. Those in this House or outside in the country who think that this country will continue with the practices of the past are mistaken. Therefore, in joining hon. Karua in seeking higher parity of standards--- When time comes, we will be recommending investigation such as this has occurred, be done on oath. Evidence or other materials presented to Committees be done on oath. I am speaking as the line Minister for integrity. We will recommend that the persons appearing before the Committee be subjected to the law of perjury if they give false information.

Mr. Speaker, Sir, you noticed when my good friend, hon. Keynan and when the Minister stood up to respond, as well as my good namesake, hon. C. Kilonzo, that there were varying correspondences and various records. The seller producing a record; a Member standing here and giving us a tabulation of how much the value of the land ought to have been and so on. The Parliament envisaged by the new Constitution is a Parliament beyond that sort of thing. It is Parliament whereby evidence presented to a Committee will be taken on oath and under acceptable rules of evidence taking, as well as governance of issues such human rights, rights of privacy and so on. Otherwise, if you

look at the materials tabled both by the Committee as well as the Minister, they appear contradictory. That is why I stood up and said that a debate that goes to the roots of what has been presented, goes to the roots of what has been said on the facts, if permitted to go beyond a certain line, may easily undermine the investigation that is envisaged to be undertaken. Therefore, I think the House should take charge of this report very careful and very advisedly because it is the one which will set the standard of what we will be doing, not only after 2012, but also between now and 2012, so that we can bring back public trust and perception of trust.

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

Mr. Speaker: Order, hon. Members! Endeavoring to keep within the directions that I gave 35 minutes ago, I call upon the Mover to reply.

Mr. Keynan: Mr. Speaker, Sir, I am being requested to donate two minutes of my time to Mr. Mbadi.

Mr. Speaker: Indeed, you have the liberty to do so.

Mr. Mbadi: Mr. Speaker, Sir, I want to thank the Chairman of the Committee for donating his time to me.

I also want to be on record that, honestly, this is a very good time for this country. This House is stamping its authority. As we move forward, we must realize that the Tenth Parliament will have a more serious responsibility to keep the Executive on its toes.

I want to quickly say that those honest officers need not fear. Unfortunately, the Prime Minister has left, but I would like to thank him for extending his olive hand to this august House. We want to assure him that this House will not witch-hunt. Those honest officers need not worry.

Mr. Speaker, Sir, I want to also put it very clearly to my colleagues, we need to look at ourselves; the membership of the Committees. Committees are also like public offices. If you have been adversely mentioned, please, step aside. Let us not look at what is in other people's eyes. We should also look at what is in our eyes. Some of us sit in crucial watchdog Committees, yet we are under investigation. Please, consider this and step aside.

Mr. Speaker, Sir, I want to conclude by saying that we will not compromise the integrity of public officers for political reasons. My request to my colleagues who spoke before me is that I hope we were not just being so vocal about this because, maybe, hon. Wetangula comes from a party that has no strength in this Parliament; Ford Kenya. I hope we did not condemn him because, probably, his value in PNU has gone down. Why am I saying this? I say this because some of the hon. Members who talked here yesterday with a lot of emotion defended other Ministers when they were asked to step aside. They came out and said: "No, Ministers are not involved in the day to day running of the Government affairs." Today, we are telling hon. Wetangula to step aside and he has done so. Please, tomorrow, make sure you do not repeat the same. For all these MPs who were shouting their voices hoarse about hon. Wetangula, we would like to see what they will say if such a thing affects one of their own.

Mr. Speaker: Order, hon. Member for Gwassi. Withdraw the word "shouting". Hon. Members do not shout!

Mr. Mbadi: Mr. Speaker, Sir, they do not shout here, but they shout outside.

Mr. Speaker: Order, Member for Gwassi. Withdraw the word "shouting" and apologise.

Mr. Mbadi: Mr. Speaker, Sir, I withdraw and apologise, but I replace it with the words “talk loud”

Mr. Speaker: That is fine!

(Laughter)

Mr. Mbadi: So, if Members who talk loudly about hon. Wetangula--- I repeat this if, probably, hon. Wetangula was considered to be having a lot of political weight in his political party, we would have seen a different scenario.

With those few remarks, I beg to support.

Mr. Keynan: Mr. Speaker, Sir, I rise to respond to a number of issues in the light of what you have said. Taking into account the submissions made by the Minister for Foreign Affairs, I do not know whether to put the records straight on a number of issues or just to comment. But, generally, I want to say that Kenya is a premier nation. It is a premier nation in the context of the regional politics, economic and circumstances.

Kenya is a humanitarian hub and that is why it is a premier nation. That must be respected at all times. The Ministry of Foreign Affairs is the face and the heart of the Republic of Kenya and the people of Kenya. That is why the core values of this Ministry are, first, to promote the image of the Republic of Kenya and secondly, to protect the image of Kenya and thirdly, to protect the image of the Republic of Kenya. Given the circumstances, this is a critical Ministry which is totally different from any other Ministry. To that extent, all the activities of this Ministry must, as much as possible, be transparent and adhere to the rule of law.

Constitutionalism is totally different from having a Constitution. I am not a lawyer. Constitutionalism is an offshoot of having a good Constitution. I want to pay tribute to those gallant Kenyans who fought for the advent of multipartyism. I had the privilege of serving in this Parliament before. Every aspect was clearly under the ambit of the Executive. In the eighth Parliament where I served, this Parliament was listed as one of the departments of the Office of the President. Constitutionally, we are three arms of Government namely the Judiciary, the Executive and the Legislature. However, the Legislature was a small Department with a tiny one line budget under the Office of the President. We struggled in our own way, first and foremost, to have the Parliamentary Service Commission. I am proud to be a Member of the Tenth Parliament because under your leadership, we have changed the face of the Kenya National Assembly. We have changed the legislative history of the Republic of Kenya. I want to tell my colleagues that without a Speaker who sees beyond the noose of justice managing parliamentary debates, even the report we did would not have been possible. I must admit this because it involved going to different continents and having a lot of logistics. Without the Clerk, yourself, the Committee and the generosity of the Liaison Committee, what we did would not have happened. To that extent, I want to take this opportunity to thank all of you who have contributed in one way or the other in making sure that the Committee lived up to its expectation.

Mr. Speaker, Sir, I want again, for purposes of those doubting Thomases, repeat what Standing Order No.198 says about the mandate and functions of Committees. This is not the first report that my Committee has done. It is almost the fifth or sixth. One of the things that we adhered to is what is clearly stipulated under the Standing Order

No.198. The functions of this Committee is to investigate, inquire into and report on all matters relating to the mandate, management, activities, administration, operation and estimates of the assigned Ministries. This does not need any interpretation because it is clear. The second function is to study the programmes and policy objectives of Ministries and departments. That is why we have performance contracts. This is something new in the context of public management. These are not issues that we have created. The third function is to study and review all legislation referred to the Committee. We can initiate that as a Committee or it can also come from the Ministry concerned. The fourth function is to study, assess and analyze the relative success of Ministries. Ministries have their own benchmarks. It is up to us in line with this to look at the effectiveness of those policies. We can also have issues referred to us. Finally, we have to make reports.

Mr. Speaker, Sir, before I move to other areas, I want to appeal to the Attorney-General, taking into account the circumstances under which our property in Tokyo was bought, to move with speed and secure that property. Legally speaking, that property is not ours. We want him to move with speed and secure that property so that even if there are other issues, the property remains the property of the people of Kenya.

The other issue I would like to comment on is that criminal responsibility is not a communal issue. Criminal responsibility is an individual issue. When one is faced with an issue, for heaven's sake, let us not involve our communities, regions or parties because criminal responsibility is an individual event. In this report, we did not convict anybody and we did not say anybody is culpable. We said that there are issues which need to be investigated further by competent investigative arms of the Government, and it becomes an inter-governmental issue. That is why in all our conclusions, we said that this issue requires further investigations.

Under the rule of natural justice, one cannot investigate himself or herself. This is a common practice. That is why we said in our recommendations that all the individuals who were adversely mentioned must step aside. That does not mean that those individuals have been convicted. It just says that there are issues and allegations and one is supposed to pave way for investigations. That is one of the processes that one can use to vindicate himself or herself.

Mr. Speaker, Sir, as we look forward on this particular issue, the cumulative loss that took place in this particular area would have been avoided, first of all, if there was clear adherence to the rule of law and proper adherence to the Government Financial Management Systems and to the Procurement Authority Regulations and to our own statutes. We met a number of groups. We had 33 teams from the Ministry. The Kenya Anti-Corruption Commission (KACC) has also visited some of the missions that we visited. If we look at the amount of money that we are likely to lose, it is not only limited to what was lost in the purchase of property. The other Government agencies also use a lot of money. That would have been avoided. Also look at the opportunity cost and the image. I started by saying that Kenya is a premier nation. How are we perceived by the international community? This is something that is critical.

Mr. Speaker, Sir, the essence of having diplomatic relations in today's world is because, currently, the emphasis is on economic diplomacy, parliamentary diplomacy or environmental diplomacy. Taking all this into account, I plead with my colleagues or our colleagues who are in the Executive that we are nurturing a new constitutional dispensation. In the next two years, just as Mr. Orendo has put it, all of us will be purely

legislative or purely executive. To that extent, whatever parliamentary committees do today must be seen and must be supported by the Executive so that we nurture an effective committee system. That is what will assist our country.

Finally, on the individuals who have been mentioned in the Report, there was nothing personal. It is not about Keynan or about the membership of the Committee. It is about a task that we were given. It is fate that brought us together. I chose to be elected. I consciously chose to join politics and I knew that in that line there will be issues. I will serve in a committee. We do not want our work to be politicised or to be reduced to issues that would have been avoided if So and So was there.

I want to sincerely thank the Members of my Committee. Among the group, we have had lawyers, established public administrators, land economists, quantity surveyors and so on. All of us, in one way or the other, participated in collecting and finally, in preparing this report. To that extent, I can vouch for every Member of that Committee to the extent of their involvement in this Report.

I want to take this opportunity, finally, to thank all hon. Members for their patience, support and encouragement and I hope that we will be up to the task because this is not the end. Committee issues are evolving every day. Even as we conclude this, there are other issues as a Departmental Committee on Defence and Foreign Relations that we must handle. I can assure you that we will not shy away and we are up to the task. We will inquire into the issues and bring a conclusive report to this Tenth Parliament.

With these remarks, I plead that this report is adopted.

(Question put and agreed to)

COMMITTEE OF THE WHOLE HOUSE

(Order for Committee read)

[Mr. Speaker left the Chair]

IN THE COMMITTEE

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

THE MUTUAL LEGAL ASSISTANCE BILL

The Temporary Deputy Chairman: (Prof. Kaloki): Order, hon. Members! The House will now go to the Committee of the Whole House and we will be looking at issues pertaining to the Mutual Legal Assistance Bill, Bill No. 5 of 2009, and the Animal Technicians Bill, Bill No. 18 of 2009.

Mrs. Odhiambo-Mabona: On a point of order, Mr. Temporary Deputy Chairman, Sir. I know that the Committee on Justice and Legal Affairs was seized of the Mutual Legal Assistance Bill and that we have had a transition of leadership. Because of

that, there may not be a report, but a report was being considered. Would I be in order to request that this matter be deferred?

The Temporary Deputy Chairman: (Prof. Kaloki): Okay; just a minute!

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. M. Kilonzo): On a point of order, Mr. Temporary Deputy Chairman, Sir. This Bill, as you can see, is Bill No. 5 of 2009, and it has been outstanding for a very long time.

Mr. Temporary Deputy Chairman, Sir, we are suffering enormous difficulties as a country even with the new Constitution. Particularly, you have noticed reports of renditions of Kenyans arrested and then taken to other countries partly because we do not have a mutual legal assistance law that would be able to bind the State organs. Therefore, with utmost respect to the Committee on Justice and Legal Affairs, I would suggest that even with the change of leadership in that very important Committee, we go ahead with this so that we can enact this law. The sooner the better!

Thank you.

QUORUM

Ms. Karua: On a point of order, Mr. Temporary Deputy Chairman, Sir. I am sad to draw your attention to the fact that there is no quorum.

The Temporary Deputy Chairman: (Prof. Kaloki): Okay, Sergeant-at-Arms, determine whether the House has the required quorum!

We do not have a quorum. Ring the Division Bell.

(The Division Bell was rung)

[The House resumed]

*[The Temporary Deputy Speaker
(Mrs. Odhiambo-Mabona) in the Chair]*

PROGRESS REPORTED

Prof. Kaloki: Madam Temporary Deputy Speaker, I beg to report that a Committee of the whole House was not able to consider The Mutual Legal Assistance Bill due to lack of quorum.

ADJOURNMENT

The Temporary Deputy Speaker (Mrs. Odhiambo-Mabona): Hon. Members, there being no quorum, the House stands adjourned until tomorrow, Thursday, 28th October, 2010, at 2.30 p.m.

The House rose at 5.45 p.m.