

NATIONAL ASSEMBLY

OFFICIAL REPORT

Tuesday, 25th November, 2008

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 Finance Bill, 2008.

(By Mr. Okemo)

COMMUNICATION FROM THE CHAIR

UNITED KINGDOM DELEGATION
IN SPEAKER'S ROW

Mr. Speaker: Hon. Members, I wish to introduce to you, and welcome this afternoon, a delegation from the Parliament of the United Kingdom who are seated in the Speaker's Row.

They are:- Mr. Nigel Evans, MP, leader of the delegation and Member of the Conservative Party; Mrs. Ann Cryer, MP, and Member of the Labour Party; Lord Dholakia, MP, and Member of the Liberal Democratic Party; Mr. Mark Oaten, MP, and Member of the Labour Party; Mr. Andrew Mackinlay, MP, and Member of the Labour Party and Earl of Sandwich, Crossbench. They are accompanied by Mr. Andrew Tuggey, who is the Secretary of the Commonwealth Parliamentary Association (CPA), United Kingdom Branch, and Secretary to the delegation.

Hon. Members, they are visiting the country as guests of the CPA, Kenya Branch. Note that this is a return visit following a similar visit by a delegation from the CPA, Kenya Branch, in 2006. Let me take this opportunity on your behalf and on my own behalf to wish them a fruitful and enjoyable stay in Kenya.

(Applause)

QUESTIONS BY PRIVATE NOTICE

ALTERNATIVE BUSINESS PREMISES
FOR BEACH OPERATORS

Mr. Joho: Mr. Speaker, Sir, I beg to ask the Minister for Tourism the following Question

by Private Notice.

(a) Could the Minister confirm that beach operators at the Coast Province have been issued with notices to vacate the beaches?

(b) Could the Minister provide an alternative place for the beach operators to conduct their businesses, considering that the beaches have been their place of work since time immemorial?

(c) What plans does the Minister have to ensure that the beach operators do not lose their source of employment?

Mr. Speaker: Is the Minister for Tourism here? He does not seem to be in the House yet. We will revisit the Question a little later. Let us move on to the next Question.

CERVICAL CANCER MACHINES
FOR KNH/KISUMU HOSPITAL

Mr. Washiali: Mr. Speaker, Sir, I beg to ask the Minister for Medical Services the following Question by Private Notice.

(a) Is the Minister aware that the only cervical cancer radiotherapy machine at Kenyatta National Hospital has been inoperative for the past four years and that cervical cancer patients are now referred to Uganda for treatment?

(b) What urgent steps is the Minister taking to purchase other machines and to repair the machine at Kenyatta National Hospital?

(c) Could the Minister also put to use the idle cancer machine at Kisumu?

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

(a) I am aware that the cervical cancer radiotherapy machine at the Kenyatta National Hospital became non-functional in 2007.

(b) As a short-term measure, Kenyatta National Hospital has plans to procure a Cobalt 60 Radiotherapy Machine at a cost of Kshs70 million. In addition, the hospital, through collaboration with the International Atomic Energy Agency (IAEA), has already acquired a Gamma Camera worth Kshs24 million used for detecting cancerous diseases using nuclear techniques. Under the same collaboration, the hospital has also acquired a new Simulator Machine worth Kshs36 million used for planning of administration of radiotherapy.

As regards the repair of the cervical cancer radiotherapy machine, Kenyatta National Hospital has contacted the manufacturers in the Netherlands and the company engineer is being awaited to fix the machine.

(c) The idle cancer machine at New Nyanza General Hospital was acquired in 1992 but, due to lack of technical personnel, the computer became obsolete. However, it has now been replaced and a technical assessment of the equipment was carried out early this month by Ministry officials. Presently, the IAEA technical team is being awaited to commission the machine.

Mr. Washiali: Mr. Speaker, Sir, while I thank the Minister for that answer, it is disheartening to know that a cervical cancer radiotherapy machine broke down in 2007 and nothing has been done to date. Cervical cancer patients have to go all the way to Uganda, where they are charged Kshs45,000 instead of the Kshs5,000 which they were being charged here when those machines were operational. The other disheartening thing is that many of the cervical cancer doctors in Uganda were trained in this country. What is the Ministry doing to address this issue immediately?

Prof. Anyang-Nyong'o: Mr. Speaker, Sir, the hon. Member is perfectly right. It is a shame that we should be sending our cancer patients to Mulago Hospital in Kampala, Uganda, for treatment. The fact of the matter is that this machine broke down; it is non-functional. I have been

to both the New Nyanza General Hospital, in Kisumu, and the Kenyatta National Hospital. We have to take urgent measures, not only to restore the machine at Kenyatta National Hospital, but to ensure that we have a competent and adequate cancer programme in our hospitals.

We are even going further now. We are proposing to the Cabinet to establish a medical centre in Nairobi with advanced equipment in key areas of medical services, so that our patients do not have to go abroad either for cancer treatment or other specialised treatments like hipbone replacement. All being well, we should, in the near future, be in a position to respond to urgent advanced medical treatment in this country rather than depend on facilities abroad.

Mr. Wamalwa: Mr. Speaker, Sir, the Minister will agree with me that cancer cases are on the rise in Kenya, yet many hospitals lack the necessary equipment. For example, at Kitale, Kapenguria and Lodwar district hospitals, patients have to go all the way to Eldoret or to Uganda to access medical attention.

What is the Ministry doing to ensure that such equipment is availed to all district hospitals?

Prof. Anyang-Nyong'o: Mr. Speaker, Sir, we should have early detection of cancer cases because the treatment gets expensive and complicated with time. We should have advanced machines to deal with cancer cases in our referral hospitals. Diagnosis can take place in low level facilities. That is one reason we are upgrading the provincial hospitals to referral facilities. We are upgrading equipment in health centres and sub-district hospitals throughout the country.

In the near future, we shall have ultrasound machines in health centres, so that diagnostic services can be received at these facilities. We want to be responding to cancer cases much earlier in the spirit of making medical services accessible to our people. I share the concerns of hon. Wamalwa. However, I have to be honest with him; that not all cancer machines can be available at the low level medical facilities. We can have diagnostic services that can prevent cancer cases from advancing, detected in those facilities. I agree with him that this requires much more complicated equipment than we have at the moment. I am prepared to respond to his concerns. I want to assure him that once we upgrade provincial hospitals to referral hospitals, other things will follow *mutatis mutandis*.

Mr. Mututho: Mr. Speaker, Sir, it is a very painful experience for a poor person to be told to go to Uganda for treatment. If the Minister cannot purchase the equipment straightaway, could he lease the equipment from the suppliers, so that these patients can have some hope and are attended to?

Prof. Anyang-Nyong'o: Mr. Speaker, Sir, I have already said that Kenyatta National Hospital and New Nyanza General Hospital are at an advanced stages of making these two equipment operational. We are also working very closely with the International Atomic Energy Agency to make sure that what we put in place will be serviceable on a long-term basis. We are concerned that our patients do suffer by going so far to Uganda for cancer treatment. We also need a cancer research centre in this country so that we can deal with cancer in a much more broader fashion.

It is also true that there has been tremendous deterioration in our medical services during the last 20 years. So, we need tremendous resources to put in medical services to bring them up-to-date. I hope that in the next financial year when the Vote of the Ministry of Medical Services comes to this House, hon. Members will be vigilant enough to provide us with enough money to respond to the needs of the Kenyan people and the concerns of hon. Members of Parliament.

Mr. Washiali: Mr. Speaker, Sir, I do not know whether the Minister is aware that, in this country, we have only four oncologists; doctors dealing with cases of cancer. Three of them deal with adult patients and one doctor deals with children. What is the Minister doing to improve the number of doctors who are attending to these cancer patients?

Prof. Anyang-Nyong'o: Mr. Speaker, Sir, I thank the hon. Member for drawing our attention to that issue. That is one of the reasons why we are proposing to the Cabinet to establish a

medical centre in this country so that we can have training for such specialised services. We do not only lack oncologists but we also lack very many specialised services in this country including the geriatric medicine.

Mr. Speaker: Next Question!

INSTITUTION OF TECHNICAL AUDIT
ON E.A. AIRLINES AIRCRAFT

(Mr. Shakeel) to ask the Minister for Transport:-

(a) Could the Minister explain why the East African Airlines aircraft destined to Kisumu on Thursday, 31st July, 2008, at 5.45 p.m. failed to take off on the runway at Jomo Kenyatta International Airport?

(b) Could the Minister take urgent action to ground this Fokker (Registration No.5Y-EEE) before a major disaster?

(c) Could the Minister order an urgent technical audit to ensure that the airline does not flout established air safety regulations and rules?

Mr. Speaker: Mr. Shakeel is away with the leave of the Speaker. So, this Question is deferred until his return.

(Question deferred)

ORAL ANSWERS TO QUESTIONS

Question No.313

NON-ISSUANCE OF TITLE DEED TO
MWICWIRI FARMERS COMPANY

Mr. Warugongo asked the Minister for Lands:-

(a) whether he is aware that Mwicwiri Farmers Company has not been issued with the title deed for LR.9620, which it has owned for the last 38 years; and,

(b) when he will issue the title deed.

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

(a) I am aware that Mwicwiri Farmers Company has not been issued with a title deed for LR.No.9620 which it has owned for the last 38 years.

(b) The Commissioner of Lands will issue the title deed once the court cases involving two sets of directors for the same has been concluded.

Mr. Warugongo: Mr. Speaker, Sir, the Minister's answer is not bad but I would say that, since this case has been going on, there are two sets of directors in this farm. They have been engaged in court battles, one trying to outdo the other for the last 30 years. Could the Minister assist these two groups to bring the case to a close? As they continue fighting, the members are suffering because they cannot use the title deeds although they have had the pieces of land for all that time. Could the Minister do something about it although there is a court case?

Mr. Speaker: Order, Mr. Warugongo! This is Question Time!

Mr. Orengo: Mr. Speaker, Sir, the parties have chosen the forum of the courts as the basis for settling their dispute. If the Commissioner of Lands or I intervened, then we would be caught up in the law of contempt of court. If the parties are willing to withdraw the cases in court, I am quite ready to intervene like we have done in some other cases; to try and bring the dispute to an end. Sense should prevail because 38 years is a long time. So, the hon. Members should talk to the

parties. If they agree, we can try and resolve the dispute with his assistance and that of the Ministry.

Mr. Imanyara: Mr. Speaker, Sir, given that the Minister is not a party to the proceedings, why does he feel that his hands are tied when he can take an independent action? He can actually move in, notwithstanding the court proceedings, because he is not bound in taking executive decisions on the basis of proceedings to which he is not a party.

Given the time it takes, why can he not move in and effect the registration of this piece of land notwithstanding the case that is in court because he is not a party to the proceedings?

Mr. Orenge: Mr. Speaker, Sir, I cannot intervene because I would not want to undermine the authority of the court. The parties have chosen the court as the appropriate forum for settling the dispute. They have not come to the Ministry to resolve the dispute. In any case, what is in dispute is the ownership of the land and who the directors are. If that is not resolved by the court, if we have two parallel processes, we will end up in a legal log jam.

Whereas I respect what Mr. Imanyara is saying, I almost think that it is better to exercise authority and make a decision. Many a time, the offended party will not be happy with my decision either. Let us give the court appropriate time and space to settle the dispute. If the parties choose to come to me, I can assure you, I will make the appropriate decision in good time.

Mr. Warugongo: Mr. Speaker, Sir, the Minister visited the farm in 2006 and ordered a comprehensive report to be prepared. That was done and it was presented to his office. We thought that a solution would be forthcoming after 38 years. I am surprised that the court cases will go on, if nothing happens, for another 30 to 40 years! When will the members receive their title deeds?

Mr. Orenge: Mr. Speaker, Sir, I think the hon. Member is being unfair to me. The report may be there for record purposes but, at the end of the day, if the parties have gone to court, I cannot enter into the dispute without being invited either as an arbiter or as a party to the dispute. Let us await for the decision of the court. If they think that the court has taken 38 years to determine the case, they can withdraw the case and come to us.

Mr. Speaker: Next Question, Mr. Gaichuhie!

(Mr. Waititu stood up in his place)

Order, Mr. Waititu! You are not the Member for Subukia!

That is something you can do and it is permitted by the rules. Our practice in the House is such that if you are going to do so, you must notify the Speaker so that I know that you have consent from the hon. Member to ask the Question on his behalf. I do not have any evidence that you have that consent. Do you?

Mr. Waititu: Mr. Speaker, Sir, sorry for not being aware of the fact that I had to get that consent and inform you but I have the consent and an interest in the Question because I suffer from the same problem.

Mr. Speaker: Where is the evidence that you have the consent?

Mr. Waititu: I do not have it, Mr. Speaker, Sir. But he told me!

Mr. Speaker: Has the hon. Member talked to you?

Mr. Waititu: Yes, Mr. Speaker, Sir.

Mr. Speaker: So, you have oral evidence?

Mr. Waititu: Yes, Mr. Speaker, Sir.

Mr. Speaker: Very well! Ask the Question!

Question No.527

SUB-DIVISION/ALLOCATION OF
SUBUKIA/SUBUKIA BLOCK 1584

Mr. Waititu, on behalf of **Mr. Gaichuhie** asked the Minister for Lands:-

(a) whether he is aware that a piece of land, Subukia/Subukia Block 1584 (KIANWE), bought by Nakuru County Council for public utility, has been subdivided and allocated to private individuals who already have title deeds; and,

(b) what action he will take to safeguard public interests and ensure that the said parcel is reserved for the intended purpose.

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

(a) I am aware that Land Parcel No. Subukia Block 13/1584, (KIANWE) previously held in the name of County Council of Nakuru, has been transferred to a private developer by the said council. Since it is the County Council of Nakuru that effected the transfer, I am unable to take any action.

Mr. Waititu: Mr. Speaker, Sir, hon. Members are suffering because of lack of public utilities. We want to develop schools and hospitals in our public utilities but some people have grabbed those public utilities. We wish the Minister could protect public utilities. Could he guarantee to this House that public utilities are the property of the Government?

Mr. Orengo: Mr. Speaker, Sir, unfortunately, my hands are tied by the Local Government Act which states that every local authority is a legal entity. They have a right to own, transfer and deal with property as they deem appropriate.

I am also aware that no local authority can dispose of any interest that they have on any asset without the consent of the Minister for Local Government. I am trying to liaise with the Minister for Local Government to ensure that before we can transfer any property of any local authority, that particular local authority provides evidence that the Minister has consented to that transaction; be it a sale or mortgage on any property which is the property of the local authority.

Mr. J.M. Kamau: Mr. Speaker, Sir, the culture of using Government land meant for development of social amenities and facilities is an act of impunity, especially after what we saw in January, 2008. When will the Minister revoke all such title deeds to ensure that land meant for development is actually used for that particular purpose?

Mr. Orengo: Mr. Speaker, Sir, I think we already have a standing rule in the Ministry, that any public land which is not available for alienation cannot be transferred or sold, if it is a road reserve or land meant for any public utility. We are taking a very firm decision that no such land can be transferred. However, if there is anything that relates to what happened in the past, we are looking at them on a case by case basis. We have revoked title deeds for public utilities in Mombasa and other places that were corruptly or fraudulently transferred to private developers or speculators.

Mr. Bett: Mr. Speaker, Sir, I am happy to note that title deeds do not appear to be mere papers to this Minister. They appear to be real documents of ownership. It is common knowledge, in parts of Nakuru, that there is a general caveat on title deeds in Nakuru. I wonder how this transaction took place with that general caveat imposed on Nakuru District.

Mr. Orengo: Mr. Speaker, Sir, first of all, not all title deeds, as the Member presumes have sanctity. If a title deed was issued fraudulently, the Titles Act states very clearly that its registration can be questioned. So, I think the hon. Member is wrong on his first premise, that every title deed, no matter how it was obtained, has the stamp of sanctity. However, in places like Nakuru District and the Coast Province where we had problems of double allocations and registration, there has been a need to have a general caveat as we deal with those cases to ensure that the rights of those who had acquired pieces of land legally and legitimately, are not compromised.

Mr. Magerer: Mr. Speaker, Sir, the Minister seems to be telling us that he has no control over land within the local authorities. In Londiani Town Council, the land was actually allocated to people who are well known to us. These people had letters of allotment from the Commissioner of

Lands. They were given land which belonged to Londiani Town Council. Is he, therefore, telling us that there is confusion when it comes to who allocates land in this country?

Mr. Orengo: Mr. Speaker, Sir, I am grateful to the hon. Member and I hope that hon. Bett was listening to what you were saying. First of all, let me make a definitive statement, that letters of allotment are not documents of titles. They are just an invitation to treat. Therefore, no one should treat a letter of offer as a legal document or contract that is binding on the Government of Kenya.

I have talked to the hon. Member about the case about the case of Londiani Town Council where land was alienated or allocated fraudulently. It was not land that was available for alienation. To that extent, the Commissioner of Lands and the Minister have a right to question any such title deeds and take an appropriate action under the relevant law.

Mr. Waititu: Mr. Speaker, Sir, some of the problems with public utility land as a result of sub-divisions, especially here in Nairobi. There has been some misconception among the directors of land buying firms that they still have control over public utility that they have already surrendered to the Government. Could the Minister inform the House whether once public utility land has been surrendered to Government, it belongs to the councils and not the directors?

Mr. Orengo: Mr. Speaker, Sir, any sub-division that is undertaken without the sanction of the Commissioner of Lands cannot be proper and legitimate. In the past, there has been a lot of malpractices where public utility land which had been vested in the hands of the local authorities was used by some elements in the local authorities to give to individuals who eventually use it for purposes of speculation. However, I want to assure the hon. Member for Embakasi Constituency that if he has any specific cases involving sub-division of land which is described as public utility, then he should come to my office and I will deal with it appropriately. We are not allowing such sub-divisions to take place at all.

Question No.424

LACK OF ICU FACILITIES AT MERU
GENERAL HOSPITAL

Mr. Ruteere asked the Minister for Medical Services when the Government will construct an Intensive Care Unit (ICU) facilities at Meru General Hospital.

The Minister for Medical Services (Prof. Anyang'-Nyong'o): Mr. Speaker, Sir, I beg to reply as follows:-

I am aware that Meru General Hospital does not have an ICU. This is very regrettable because the hospital has a bed capacity of 328, an occupancy rate of 160 per cent and ten wards. Therefore, for it not to have an ICU is a tragedy. Nonetheless, the fact of the matter is as follows:

The Lions Club International, a development partner working with my Ministry, took up construction of the ICU in 2006 at an estimated cost of Kshs5.5 million. Construction was done up to the slab level at a cost of Kshs1 million. Unfortunately, the development partner ran short of funds causing the project to stall. However, Lions Club International has plans to revive the project.

Mr. Speaker, Sir, on 17th October, 2008, club officials visited the hospital and confirmed that they are in the process of mobilizing funds to complete the project. In the event that they will not have mobilized funds to complete the project by the end of the current financial year, my Ministry plans to factor its completion in the Development Vote for the 2009/2010 Financial Year.

Mr. Ruteere: Mr. Speaker, Sir, I thank the Minister for being honest because having no ICU in that hospital is a tragedy. Now that he is not sure whether the Lions Club will raise the necessary funds to complete that ICU, could he consider liaising with them to see how much they have and how much they do not have so that it is completed within the year?

Prof. Anyang'-Nyong'o: Mr. Speaker, Sir, the hon. Member is right. The hospital has already indicated to us that it can allocate Kshs500,000 from its cost-sharing fund in the current financial year to supplement what the Lions Club International will do. Lions Club International have said that they are willing to complete the project. We want to take their word. However, in the event that Lions Club International disappoints us, we will factor in the Budget the full cost of the ICU, so that Meru District Hospital can have an ICU.

Mr. Speaker, Sir, yesterday, I was in Meru visiting the Meru Central District Hospital at Githongo. This is a new district hospital. The issue of having proper facilities at every level of medical services is something we are taking very seriously. There is no need of calling these hospitals district hospitals when they do not have mortuaries, incinerators and ICUs. Mere buildings do not treat people. People are treated by human resources and the necessary equipment.

Mr. Lekuton: Mr. Speaker, Sir, the lack of medical equipment is a countrywide problem that needs urgent attention. Could the Minister tell this House how many facilities outside Nairobi have the capacity to handle major disasters with a magnitude of the 1998 bomb blast?

Prof. Anyang'-Nyong'o: Mr. Speaker, Sir, there is absolutely no facility outside Nairobi that can handle a medical disaster or a disaster like the bomb blast we had in 1998. Even in Nairobi, we do not have adequate facilities to handle disasters of that magnitude. Recently, we opened a new Emergency and Accident Unit at the Kenyatta National Hospital which can handle disasters, but not of the magnitude we had during the bomb blast. That is why we are proposing to build a medical centre equipped with a trauma unit that will be capable of handling such traumas and disasters. At the moment, unfortunately, we do not have such facilities in the Republic of Kenya.

Mr. Ruteere: Mr. Speaker, Sir, I appreciate the answer given by the Minister. I only appeal to him to make sure that, when he builds the ICU, he also sets up a dialysis machine to go with it.

Prof. Anyang'-Nyong'o: Mr. Speaker, Sir, let me assure the hon. Member that renal services, including dialysis machines will be available at district hospitals. At the moment, we only have such services at the Kenyatta National Hospital, Moi Referral Hospital, the New Nyanza General Hospital and the Coast Provincial General Hospital. We intend to increase the availability of renal services in our district hospitals, so that patients can be properly treated. These are some of the shortages that this country has had for quite long. We intend to do away with them, so that we have proper medical services.

Question No.447

COUNTRYWIDE SHORTAGE OF DRUGS
/KITS IN HEALTH FACILITIES

Mr. Nyamai asked the Minister for Medical Services:-

- (a) whether he is aware that the country's health facilities are faced with a serious shortage of drugs and kits due to lack of funds to pay suppliers;
- (b) how much money was allocated in the 2007/2008 and 2008/2009 financial years for procurement of the above items;
- (c) out of the funds allocated in 2007/2008 for drugs, kits (dispensary and hospital), ARVs, Anti-TB and contraceptives in each category, if he could state what value was delivered to KEMSA as well as the amount already paid for by the end of the 1st quarter of 2008/2009 Financial Year; and,
- (d) what steps the Ministry is taking to ensure that the country does not face a shortage of these essential medical supplies.

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

reply as follows:-

(a) Health facilities in the country are not facing a shortage of drugs and kits. Hospitals are supplied with drugs every two months, while health centres and dispensaries are supplied quarterly. So far, all facilities had been supplied with the first cycle, with the second cycle being expected to be completed in early December this year.

(b) Allocation for procurement of drugs and kits for the year 2007/2008 and 2008/2009 were as follows:-

A sum of Kshs3,028,355,182 was allocated in the 2007/2008 Financial Year. In the 2008/2009 Financial Year, the allocation was Kshs3,133,264,149.

(c) Out of the funds allocated for the 2007/2008 Financial Year, the value of deliveries made in each category was as follows: Drugs, Kshs1,513,634,250; kits, Kshs500,619,760; ARVs, Kshs390,931,502; Anti-TB drugs, Kshs120 million; contraceptives, Kshs467,101,724. That makes a total of Kshs2.9 billion. The value of payment by the end of the first quarter of the 2008/2009 Financial Year per item was as follows: Drugs, Kshs832,869,865; kits, Kshs305,203,818, ARVs, Kshs84,064,502. Anti-TB drugs; and, Kshs11,588,474; and contraceptives, Kshs375,009,973. That gives a total of Kshs1.16 billion.

(d) To ensure that the country does not face shortages of medical supplies, the Ministry has initiated procurement of essential drug commodities from the 2008/2009 Financial Year. The procurement process is at an advanced stage and deliveries are expected to reach the Kenya Medical Supplies Agency stores from early January 2009.

Thank you.

Mr. Mututho: Mr. Speaker, Sir, if I got the figures right, this works out to approximately Kshs7.20 per Kenyan on drugs. This money is very little. Are they planning to increase it so that we can have at least Kshs100 per person per month on drugs?

Prof. Anyang'-Ngong'o: Mr. Speaker, Sir, the hon. Member has definitely a better computer in his head than mine. But what we are spending on medical services at the moment is way below the expectations of the Abuja Declaration which expects us to spend 15 per cent of our Budget on medical services. At the moment, we are spending only 7 per cent of the Budget. That is why I was appealing to hon. Members that, in the next financial year, during the Budget Session, to support us in asking the Government or the Treasury to give us more money to offer medical services, so that we can rise to the level that the hon. Member expects us to rise. But we cannot do that unless this House votes the money for the Ministry.

Dr. Eseli: Thank you, Mr. Speaker, Sir. The good Minister, whom we all know in this House as one of the people on top of his Ministry, might probably be misled by senior officers to believe that drugs have been delivered to health centres. I, for one, know that Ndal, Tongareni and Naitiri health centres in Kimilili North Constituency, in Bungoma North District, have not received any drug supplies for over six months now. When will the Minister send inspectors to ensure that those drugs are delivered, rather than the inspectors misleading the Minister? When they deliver those drugs, why are they still delivering sulphur-based anti-malaria drugs, which the Ministry has so far recommended not to be used for treating malaria? They are still supplying those drugs in the health centre kits!

Prof. Anyang'-Nyong'o: Mr. Speaker, Sir, the good hon. Member of Parliament happens to be a doctor. Therefore, he is quite informed about details of medical supplies. So, I thank him for that. Obviously, there may be mistakes here and there, and which I am not aware of. Obviously, there is a possibility that through the bureaucratic corridors, some information may not be passed to the Minister. That is quite possible. But, if that is the case, I am quite willing to work with the hon. Member of Parliament to correct the mistakes in his constituency.

But, in my experience, especially yesterday when I was in Meru visiting some health facilities, I am always confirming that drugs are there in time. But where mistakes are done, we are

willing to learn and correct them. As far as sulphur-based drugs are concerned, that is something that I will take up with KEMSA. They must ascertain that, that does not happen because it is definitely against what should be happening.

Mr. Bahari: Thank you, Mr. Speaker, Sir. One of the shortcomings of the Ministry in drug supplies is where drugs that are not required by dispensaries and health centres are supplied and, therefore, end up being of no use. What is the Minister going to do to ensure that drugs are supplied on the need basis, as has been recommended by a Committee of this House in the past?

Prof. Anyang'-Nyong'o: Mr. Speaker, Sir, there is what we call the Essential Kit Drug Supply. That is the kit that every dispensary and health centre needs for diseases that are most occurring such as malaria and the like. It is not possible for that kit to contain drugs that are not needed except in cases where kits meant to go to Otochorokuom in South Nyanza, land in Nyeri. That is because Otochorokuom is a malaria area which requires a lot of malaria medicine. The incidence of malaria cases in Nyeri is less than theirs. So, in the event that those kits find their way to the wrong destinations, that can be corrected. But kits are essentially meant to contain drugs that are basic in every health facility, so that those health facilities do not lack those drugs when patients go there. Where there is a mistake and that kit lands in the wrong place, we are prepared to correct those mistakes.

Mr. Chanzu: Mr. Speaker, Sir, could the Minister confirm or deny that the problems we have with the supply of drugs in hospitals is attributed to mismanagement and misappropriation by KEMSA and, if so, what strategy is he putting in place to ensure that those problems do not occur again?

Prof. Anyang'-Nyong'o: Mr. Speaker, Sir, a task force has just finished assessing the work at KEMSA and the report is out. We are implementing that report. Let me assure Members of Parliament that no misappropriation has occurred in KEMSA. Mismanagement, yes. Secondly, KEMSA is the most effective procurer of medical facilities in this country at the moment; better than even the Ministry. That is one of the reasons why I have decided that the procurement of pharmaceuticals and certain essential non-pharmaceuticals will be done by KEMSA from now on, under a management system that shall be effective, efficient and competent.

Mr. Nyamai: Mr. Deputy Speaker, Sir, whereas I appreciate the answer given by the Minister, the problems and challenges facing the distribution of essential drugs are basically because KEMSA is not financially independent. It has to rely on money coming from the Treasury and the Ministry. There is a lot of bureaucracy involving money going to KEMSA, so that they can purchase drugs and supply them on time. What is the Ministry doing to ensure that KEMSA is financially independent?

Prof. Anyang'-Nyong'o: Mr. Speaker, Sir, when KEMSA was gazetted as a procurer of medical commodities, a couple of years ago, one of its mandates was to become a commercially viable entity. Unfortunately, as the hon. Member said, that mandate has not been carried out because of the manner in which KEMSA was financed. The task force recommendation which we intend to implement is to make KEMSA commercially viable.

We want to make sure that the present "spaghetti way" of procuring drugs where the Ministry, donors and KEMSA are involved in the process is eliminated, so that the donors can put their money in a basket fund managed by KEMSA. From that fund, where the Government will also contribute, KEMSA will be in a position to run medical commodities procurement much more effectively, in line with the concerns of the Member of Parliament.

(Loud consultations)

Mr. Speaker: Order, hon. Members! Question No.1 by Private Notice is deferred to 2.30 p.m. tomorrow.

QUESTION BY PRIVATE NOTICEALTERNATIVE BUSINESS PREMISES
FOR BEACH OPERATORS

(Mr. Joho) to ask the Minister for Tourism:-

- (a) Could the Minister confirm that beach operators at the Coast have been issued with notices to vacate the beaches?
- (b) Could the Minister provide an alternative place for the beach operators to conduct their businesses, considering that the beaches have been their place of work since time immemorial?
- (c) What plan does the Minister have to ensure that the beach operators do not lose their source of employment?

(Question deferred)

Mr. Speaker: Next Question, Mr. Alfred Odhiambo, Member for Butula!

*(Resumption of Oral Answers
to Questions)*

Question No.381

CATEGORIES OF BUSINESS LICENCES ISSUED
BY NAIROBI CITY COUNCIL

Mr. Speaker: Question dropped!

*(Question dropped)
Question No.402*

CRITERIA FOR COMPUTATION
OF POVERTY INDICES

Mr. Ombui asked the Minister of State for Planning, National Development and Vision 2030:-

- (a) whether he could explain how the poverty index used for the allocation of Constituencies Development Fund (CDF) is computed as well as the reasons for changes in poverty indices in various regions over the years; and,
- (b) what the poverty index was in each of the divisions in North Mugirango/Borabu Constituency as at the end of the last financial year.

The Assistant Minister, Ministry of State for Planning, National Development and Vision 2030 (Mr. Kenneth): Mr. Speaker, Sir, I beg to reply.

(a) I have quite a long answer which I need to break down and give it to the hon. Member. The poverty index is generated by comparing what an individual consumes on basic needs and the minimum threshold for survival expressed as a poverty line. The consumption expenditure on basic needs has two components; food and non-food items. Through a household survey which is based on individual households, each has to report on its consumption of all food and non-food items.

The analysis of such data then provides information on what individuals consume for both food and non-foods, all expressed in Kenya shillings.

A poverty line is also generated to distinguish the poor from the non-poor as follows. First, a food poverty line is derived on the basis of energy needs of the human body as recommended by the World Health Organization (WHO) and the Food and Agriculture Organisation (FAO). Using a crisis, the minimum cost per basket of food item that provides this energy level is generated. That is the food poverty line. In Kenya, it is at Kshs988 per month in the rural areas, and Kshs1,472 per adult per month in urban areas.

Poverty is not static and could also vary by season. The index changes whenever a new survey data is collected to update the previous figures. There have been different indices for: 1994 which was 47 per cent, 1997 which was 52 per cent and the year 2005/2006 which was 46 per cent. Such changes may result from development initiatives in an area, as well as worsening or improvement of standards of living within an area that could be caused by various factors such as drought, poor harvest and cyclo-economic factors such as inflation, unemployment, interest rates and debts.

(b) Poverty estimates at the divisional level are not available for the last financial year for all constituencies. Poverty estimates are desegregated to the district level as allowed by the current national sample survey evaluation programme. Generally, unless it is a census, getting desegregated data to low levels is subject to very high sampling errors, which require large samples that are very expensive to run. The National Statistics Bureau used small area estimation techniques by combining the 1999 population and housing census and the welfare monitoring survey of 1997 to derive lower level poverty estimates. This formed the basis for lower level poverty estimates of 1999.

Mr. Ombui: Mr. Speaker, Sir, I thank the Assistant Minister for that lengthy answer. However, I would like to get this clarification from him. It is clear from the answer that the poverty estimates are desegregated up to the district level, and we usually get them at the constituency level at the same time. My constituency lies within two districts; so, which poverty index numbers does the Ministry use in allocating funds to the constituency?

Mr. Kenneth: Mr. Speaker, Sir, as I said, the figures that were used were those from the census of 1999 and 2007 household figures. So, it depends on where his constituency was lying in 1999. That was the district as per the census of 1999.

Mr. Chanzu: Mr. Speaker, Sir, considering that the figures that we have been given in the recent past have not been acceptable, and have caused a lot of outcry, could the Ministry consider using other parameters like inflows in terms of earnings to various constituencies? My constituency is among the poorest in our area but it is ranked as the richest.

Mr. Kenneth: Mr. Speaker, Sir, we will be carrying out a national census on 24/25 August, 2009. After the national census, there will be a household survey. We intend to combine those two so that we can come up with accurate figures that will suit the case that Mr. Chanzu is talking about.

Mr. Speaker: Last question, Mr. Ombui!

Mr. Ombui: Mr. Speaker, Sir, the Assistant Minister has indicated that they are using the 1999 estimates. My question is, in trying to establish the poor people in the community, are there enough assumptions made by the Ministry in the computation?

Mr. Kenneth: Mr. Speaker, Sir, I did say that for an exercise that deals with the magnitude of poverty index, you need a bigger sample. We do have samples but for us to have the real poverty index figures, we need to do a national census, which involves very big sampling; we also need to do a household survey. That is what I am telling the hon. Member. For us to be clear with the kind of figures we would like to have, we should be in a position, after the census next year, to come up with that, because we are going to deal with a bigger sample.

*Question No.460*RETARMACKING OF ELDAMA RAVINE-
NYARU-ELDORET ROAD

Mr. Lessonet asked the Minister for Roads:-

- (a) what short-term measures he has to ensure that Eldama Ravine-Nyaru-Eldoret Road, which is now in a pathetic state, is made motorable; and,
(b) what plans he has to re-tarmack the road.

The Assistant Minister for Roads (Dr. Machage): Mr. Speaker, Sir, I beg to reply.

(a) For the short-term measures, my Ministry has set aside Kshs19,565,000 in this financial year for patching up of potholes.

(b) Site rehabilitation of the road is in process. The road will be considered for rehabilitation once the Timboroa-Mau Sammit Road, which is currently being constructed, is completed and fully open to traffic.

Mr. Lessonet: Mr. Speaker, Sir, I am aware that the Kenya Roads Board (KRB) allocated Kshs70 million to this particular road in this financial year. Therefore, I am wondering whether the amount the Minister is talking about includes the Kshs70 million.

Dr. Machage: Mr. Speaker, Sir, the valuation of the proposal for the consultants for this road has actually been completed, and recommendations have been communicated to the Ministry's tender committee for the adjudication and award of consultancy of the design of this road for better rehabilitation thereafter. For now, as a short-term measure, I am allocating slightly over Kshs19 million for this purpose, but we are thinking of a better build-up of that road; that is why the money that he has seen is allocated for that purpose.

Mr. Speaker: Last question, Mr. Lessonet!

Mr. Lessonet: Mr. Speaker, Sir, the Assistant Minister has not responded to the issue of the Kshs70 million, which the Kenya Roads Board (KRB) has allocated to this particular road. He is only talking of Kshs19 million which, if you have to look at the condition of the road at the moment, is only enough to cover about five potholes, because they are so big that some of them even require a bridge to be built over them. So, Kshs19 million will not do much. Is he aware of the Kshs70 million?

Dr. Machage: Mr. Speaker, Sir, I am aware of the magnitude of the potholes problem on that road. I believe from my technical advice that the Kshs19 million that I have allocated will be quite adequate for that purpose. I have also assured the hon. Member that I am also doing a design for a later build-up of the road to better bituminisation. That is good news to him. That is why there is that money allocated for that purpose.

Question No. 406

TARMACKING OF MIGORI-MIHURU ROAD

Mr. Speaker: For Question No.406, the hon. Member for Nyatike is unable to be here, for reasons notice whereof has been given to the Speaker. So, the question is therefore, deferred to tomorrow at 2.30 p.m.

(Question deferred)

Next Question by Mr. Letimalo!

*Question No.558*KILLING OF CATTLE BY KWS RANGERS
IN SHABA NATIONAL GAME RESERVE

Mr. Letimalo asked the Minister for Forestry and Wildlife:-

(a) under what circumstances the five head of cattle were shot dead by a combined force of Isiolo County Council askaris and KWS rangers on 26th September, 2008 in Shaba National Game Reserve; and,

(b) what action he will take against the rangers, Isiolo County Council and the KWS Management and also to ensure that the owners of the animals are adequately compensated.

The Minister for Forestry and Wildlife (Dr. Wekesa): Mr. Speaker, Sir, I apologise. The Minister for Information and Communications was communicating with me. I did not realise that this Question had been called out.

However, I beg to reply.

(a) I am not aware that an incident of that nature took place because my Ministry is not party to whatever may have transpired.

(b) I do advise that the Question be directed to the relevant Ministry for necessary action.

Mr. Letimalo: Mr. Speaker, Sir, I seek your indulgence on this Question. I consider the reply given by the Minister to be sheer don't-care attitude because he has denied that the Question does not fall in his docket when he has a collective responsibility as a Cabinet Minister to answer it. He should have referred the Question to the relevant Ministry!

Mr. Speaker: Minister, can you be so kind as to be helpful to the House? Which Ministry should this Question be referred to?

Dr. Wekesa: Mr. Speaker, Sir, I think from some of the responses from the field, it looks like this Question should be directed to the Ministry of State for Provincial Administration and Internal Security.

Mr. Speaker: Very well! Hon. Members, I order that this Question be referred to the Ministry of State for Provincial Administration and Internal Security and to be answered on Thursday next week at 2.30 p.m.

(Question deferred)

Next Question by Dr. Otichilo!

*Question No.204*USE OF MASENO WATER SUPPLY
BY EMUHAYA RESIDENTS

Dr. Otichilo asked the Minister for Water and Irrigation:-

(a) whether she is aware that water generated from Maseno Water Supply, which is located in Emuhaya Constituency, is mainly pumped to Nyanza Province;

(b) whether she is further aware that although Luanda Town is connected to Maseno Water Supply, the town residents hardly receive the water; and,

(c) what action she is taking to ensure that people of Emuhaya benefit from the water from Maseno Water Supply and that Luanda Town receives steady supply of water from the same.

The Assistant Minister for Water and Irrigation (Mr. Kiunjuri): Mr. Speaker, Sir, I beg to reply.

(a) I am aware that 70 per cent of the water produced by Maseno Water Supply, which has its source at Emuhaya Constituency, is used in Emuhaya and the other 30 per cent is used in Nyanza Province.

(b) I am further aware that Luanda Town and other areas that are served by Maseno Water Supply do not receive adequate water due to demand outstripping the supply.

(c) Maseno Water Supply has been augmented over the years from the original capacity of 300 cubic metres per day to the present capacity of 2,400 cubic metres. However, this production is inadequate to meet the present water demand estimated at 5,000 cubic metres a day. My Ministry is carrying out studies to identify suitable water sources to supplement the existing sources for Maseno Water Supply. Rehabilitation work on the pipe network in Luanda and Kima zones in Emuhaya aimed at improving supply to these areas is ongoing.

(Loud consultations)

Mr. Speaker, Sir, you can hear the loud consultations going on.

Mr. Speaker: Order, hon. Members! Can you lower your level of consultation please!

Dr. Otichilo: Thank you, Mr. Speaker, Sir. As much as I would like to thank the Assistant Minister for answering this Question, I wish to differ with his answer, particularly when he says that 70 per cent of the water from Maseno Water Supply is consumed in Emuhaya. This is not true because the main pipe from Maseno Water Supply goes to Maseno University which is in Kisumu Rural and the rest goes to Chulaimbo which is in Kisumu West.

Could the Assistant Minister inform the House where this water in Emuhaya is being consumed? Secondly, could he also inform the House why the Ministry continues to do studies with regard to increasing the water supply, when Maseno Water Supply is on Jordan River which is too big and can even supply more water than we may require in Emuhaya and Kisumu Rural?

Mr. Kiunjuri: Mr. Speaker, Sir, the feasibility study we are carrying out is for the expansion because as you agree with me, the population has been growing very rapidly. I agree, the river can be able to supply water and that is why we are increasing. We want to make sure that by 2013, we shall be able to supply 8,600 cubic metres of water.

However, on the issue on whether Emuhaya is receiving 70 per cent of the water or 30 per cent, the issue here is where the pipe ends. Whereas the main pipe comes from Emuhaya and ends at Maseno, it does not mean that the distribution lines are in Maseno. The major distribution lines - those that are consuming the water - are in Emuhaya.

Mr. Speaker, Sir, I can give examples. The areas being served in Emuhaya Constituency include Emusire, Kima Complex, Luanda Township, Esirabe, Esibila, Ebwali, Emabungo and all those areas. There are 16 areas that are being served by the distribution pipes, which means it is true 70 per cent is being consumed by Emuhaya Constituency. If you really doubt this, you can go on the ground and do the evaluation for yourself.

Mr. Olago: Mr. Speaker, Sir, I appreciate that you would be interested in a proper answer to this Question because you live in Emuhaya. However, the Assistant Minister should appreciate that the correct name of this water project is not Maseno Water Project. It is Maseno-Kombewa Water Project. Both Maseno and Kombewa are in Kisumu Rural Constituency but because Kisumu Rural and parts of Kisumu Town West lie downstream from Maseno, the water comes to us by gravity. While the system is being augmented, could the Assistant Minister confirm that the

augmentation will include power to pump the water upstream so that parts of Maseno and Luanda can also be supplied? In the meantime, we enjoy through the rules of gravity.

Mr. Speaker: Mr. Assistant Minister, this seems to contradict your answer; that the water is flowing by gravity and unfairly so, since most of it is going to Mr. Olago's constituency.

(Laughter)

Mr. Kiunjuri: Mr. Speaker, Sir, Mr. Olago is the Member of Parliament for Kisumu Town West and I am the Assistant Minister for Water and Irrigation. I have more information than the Member of Parliament. I am even wondering where he got the information from. I am telling the House the truth and that is the position. However, if there are other areas that require to be served by the same water project and it is true that the project can have the capacity to supply, then the Ministry will do whatever is possible to make sure that we pump the water to those other areas.

Dr. Otichilo: Mr. Speaker, Sir, the Assistant Minister has said that the rehabilitation of the water network for Luanda is ongoing. Could he inform the House when it is going to be completed, given that Luanda Town is not expanding because of lack of water and given further that our Hon. Speaker comes from Luanda and he has no water?

(Applause)

Mr. Kiunjuri: Mr. Speaker, Sir, the truth of the matter is that the Speaker of the National Assembly should be served with water, so as to even make the running of Parliament easier. We are now supplying 2,400 cubic metres of water and the sufficient amount of water required is 8,600 cubic metres.

Mr. Speaker, Sir, so, the major work that is going to be done will be like almost removing the whole pipeline and having a new one. Let me not say what I do not have right here but I will be able to give the estimates any other time on how much we are going to spend and the duration of time.

Mr. Speaker: Hon. Members, we have run out of time but we will endeavour to do one more Question if both the hon. Member and the Minister will keep it brief!

Mr. Wamalwa, please, proceed!

Question No.396

UPGRADING OF KAMBIMIWA AIRSTRIP

Mr. Wamalwa asked the Minister for Transport what plans are in place to expand and upgrade Kambimiwa Airstrip to a full airport considering the frequent direct flights between Nairobi and Kitale.

The Minister for Transport (Mr. Mwakwere): Mr. Speaker, Sir, I beg to reply.

In view of the fact that Kambimiwa Airstrip in Kitale has began to attract larger aircrafts this year on account of increased number of passengers, the Kenya Airports Authority (KAA) intends to implement the following works during the next financial year:-

- (i) A new passenger waiting shade to protect passengers from elements of weather.
- (ii) A toilet block to enhance sanitation facilities.
- (iii) Provision of electric power by connecting to Kenya Power and Lighting Company (KPLC) mains.
- (iv) Rehabilitation of the access road and car park.
- (v) Acquisition of land adjacent to the airstrip to enable the extension of the runway.

Mr. Speaker, Sir, this will require assistance from both the Town Council of Kitale and the County Council of Kitale. Replacement of the old fence was recently tendered by the KAA at an estimated cost of Kshs5.5 million and the contractor is expected to be appointed before the end of November, 2008.

Mr. Wamalwa: Mr. Deputy Speaker, Sir, this airstrip is very strategic, given the importance of Trans Nzoia District in terms of our national food security. I am very pleased that the Government is taking the steps that the Minister has mentioned to upgrade it. I am more than pleased.

Thank you.

Mr. Speaker: Very well! That will rest the matter and give us a minute to do the last Question!

Mr. Chanzu, please, proceed!

Question No.577

RETIREMENT BENEFITS FOR FORMER
EMPLOYEES OF RIRUTA PRECIOUS
BLOOD SCHOOL

Mr. Chanzu asked the Minister for Education:-

(a) whether he could explain why Mr. Peter Ngugi Kamau and Ms. Nyambogi Masera, former employees of Precious Blood Secondary School, Riruta, who retired from employment in December, 2007, have not been paid their retirement benefits; and,

(b) what action he is taking to ensure that they are promptly paid their dues.

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

(a) Mr. Peter Ngugi Kamau and Ms. Nyambogi Masera retired from employment of the Board of Governors, Precious Blood Secondary School, Riruta, on 31st December, 2007. All the required documents have been received and service gratuity payments are currently being processed.

(b) As I have already mentioned, service gratuity payments are being processed and the cheques will be ready by 31st December, 2008.

Mr. Chanzu: Mr. Speaker, Sir, I appreciate the ease with which the Assistant Minister has been able to provide the answer. However, looking at the time between December, 2007 and now, it is almost a year. I would like the Assistant Minister to assure this House that he is going to shorten the time and pay earlier than 31st December. Secondly, he should communicate with the school to ensure that, that promise is going to be adhered to.

Prof. Olweny: Mr. Speaker, Sir, as a policy, we pay gratuity once a year. All the documents received within a given year are paid at the end of that particular calendar year; that is, 31st December.

Mr. Speaker, Sir, with regard to communicating with the two, they will get the information and will come for their money or the cheque will be delivered to them at the Precious Blood School, Riruta. However, as is the practice, they will get their cheques directly.

Mr. Speaker: There is nobody else interested in this Question. Ask the last question Mr. Chanzu!

Mr. Chanzu: Mr. Speaker, Sir, I have requested the Assistant Minister to communicate this information so that it can save these poor employees the trouble of travelling and spending money looking for this money. Let him communicate so that the matter can rest.

Prof. Olweny: Mr. Speaker, Sir, that will be done.

Mr. Speaker: That brings us to the end of Question Time---

POINTS OF ORDER

RULING ON JUDICIAL REVIEW: ECK CHAIRMAN *VERSUS* ATTORNEY-GENERAL

Mr. Olago: On a point of order, Mr. Speaker, Sir. On 12th November, 2008, when Mr. Deputy Speaker was presiding over the proceedings of the House, I raised an issue asking for direction and ruling in respect of a matter that High Court ruled on and which touches on the supremacy of Parliament.

The Deputy Speaker promised to make a ruling on 18th November. However, on that day, Parliament was not sitting because of the Inter-Parliamentary Union (IPU) Conference. In the circumstances, when will the ruling be delivered? There is some urgency because yesterday, the High Court extended those same orders.

Mr. Speaker: The Deputy Speaker, has had to go out of the country at very short notice. Actually, I would describe it as abrupt notice. He did not hand over that aspect of Parliamentary Business to me. However, I want to undertake to give a ruling on Thursday afternoon! I will take it upon myself to ensure that it is ready.

*(Mr. Wamalwa stoop up
in his place)*

Mr. Wamalwa, what is it?

REQUEST FOR STATEMENT ON MEASURES TO CONTROL FLOODS IN SEVERAL PARTS OF KENYA

Mr. Wamalwa: Mr. Speaker, Sir, I had requested for two Ministerial Statements, one from the Minister of State for Special Programmes on the floods that have ravaged the country and caused loss of live and property and another one from the Ministry of Foreign Affairs in relation to--

Mr. Speaker: Order Mr. Wamalwa! I do not have notice of your bid to request for those Ministerial Statements!

Mr. Wamalwa: Mr. Speaker, Sir, I had already requested for the Statements when you were away. Both the Ministers are here, probably they could give us an indication. One is very urgent. It relates to floods.

Mr. Speaker: Were they due today?

Mr. Wamalwa: Mr. Speaker, Sir, both Ministers were away and there was an undertaking that they would bring the Statements when we resume today.

Mr. Speaker: Let us begin with the Minister for Foreign Affairs.

Mr. Minister, all you need to do is indicate to the House when you can be ready with that Ministerial Statement!

*(Mr. Wetangula moved towards
the Dispatch Box)*

Will you, please, address the House, Mr. Minister? Do not talk across the Floor.

The Minister for Foreign Affairs (Mr. Wetangula): Mr. Speaker, Sir, I was walking to the microphone to address you and the House.

Mr. Speaker: No, I could see you gesturing at Mr. Wamalwa from your position there! Please, proceed!

The Minister for Foreign Affairs (Mr. Wetangula): Mr. Speaker, Sir, we can do that next week on Tuesday.

Mr. Speaker: Very well!

Mr. Wamalwa, the next one is from which Minister?

Mr. Wamalwa: Mr. Speaker, Sir, the Minister of State for Special Programmes.

Mr. Speaker: Dr. Shaban, when will you be ready with the Ministerial Statement?

The Minister of State for Special Programmes (Dr. Shaban): Mr. Speaker, Sir, I am actually ready.

Mr. Speaker: You are actually ready to give it now?

The Minister of State for Special Programmes (Dr. Shaban): Yes, Mr. Speaker, Sir.

Mr. Speaker: How long is it?

The Minister of State for Special Programmes (Dr. Shaban): Mr. Speaker, Sir, it is quite a long one.

Mr. Speaker: Then I am afraid you will have to deliver that Ministerial Statement on Thursday afternoon. I know you are normally fairly expensive!

(Laughter)

Eng. Gumbo, please, proceed!

UTILIZATION OF FREQUENCY SPECTRUM

Eng. Gumbo: Mr. Speaker, Sir, on the 12th this month, I rose in this House to request for a Ministerial Statement on a very important national issue which is the utilization of the frequency spectrum. I was given an undertaking by the Assistant Minister for Information and Communications that the Statement would be given on Wednesday last week. Unfortunately, the House did not sit that day. I would like to know when I can get that Statement.

Mr. Speaker: Order! I think the Minister is actually ready!

Mr. Minister, please, proceed and do it within ten minutes!

MINISTERIAL STATEMENT

INTERFERENCE WITH MOBILE COMMUNICATION FREQUENCY AROUND NAIVASHA

The Minister for Information and Communications (Mr. Poghio): Mr. Speaker, Sir, I wish to give the following Ministerial Statement.

The Government is aware of the matter of frequency interference to mobile communication services around Naivasha in the last two weeks or thereabouts. The Government has identified the cause of the problem and taken adequate remedial action to solve it. It is as a result of this that one of the affected service providers, MS. Safaricom Limited, put a public notice to this effect in one of the local newspapers on the 18th November, 2008, advising their customers that the problem had

been solved. The problem was not accidental or deliberate, and did not affect only one mobile service provider. It affected both Safaricom and Zain networks.

I wish to assure the House that appropriate mitigation measures have been put in place to ensure that, that problem does not recur in Naivasha or elsewhere in the country.

Thank you, Mr. Speaker, Sir.

Mr. Speaker: Very well. Let us have clarifications, beginning with Eng. Gumbo!

Eng. Gumbo: Mr. Speaker, Sir, while I wish to thank the Minister, I am sure he is aware that what he has given is just a general answer. To the best of my mind, we have a regulator of telecommunication services in Kenya. One of the key functions of the Communications Commission of Kenya (CCK), the way I know it, is to monitor frequency spectrum. This problem, from what I know, went on for more than one and half months. The Minister has said that it went on for two weeks or thereabouts. What was the Government and, in this instance, the relevant department of the Government, the CCK--- Why did it have to wait for a Question on the Floor of the House for CCK to identify a problem which could actually have security implications in this country, before the matter was addressed?

Mr. Speaker: Note that, Mr. Minister! Is there anybody else seeking clarification on this issue?

Proceed, Eng. Rege!

Eng. Rege: Thank you, Mr. Speaker, Sir. The question seems to stem from the frequency spectrum, indicating that there is a problem with the spectrum within the GSM network, not necessarily emanating from the frequency interference. The frequency interference could have been caused by another transmitter and, maybe, transmitted by somebody else. Could the Minister explain what actually happened?

Thank you, Mr. Speaker, Sir.

Mr. Speaker: Is there anybody else who is interested? Mr. Minister, you may respond!

The Minister for Information and Communications (Mr. Poghiso): Mr. Speaker, Sir, because you gave me only ten minutes, I will try and do this as briefly as I can---

Mr. Speaker: Yes, indeed, I did!

The Minister for Information and Communications (Mr. Poghiso): Mr. Speaker, Sir, first of all, I said in my statement that it was not by mistake nor deliberate. In other words, after the CCK had actually given out a notice and made everybody aware of the situation, we were not at liberty, at that particular time, to give the details. That is because what was happening around Naivasha was that, there was some jamming equipment which were being tested.

So, it had to interfere with the mobile service networks. That is the purpose of jamming! When we have a new tool and we want to find its strength, you can do it in an area. But we gave a notice of that interference to the people. I hope that we will not have to do it around Naivasha again.

Thank you, Mr. Speaker, Sir.

Eng. Gumbo: On a point of order, Mr. Speaker, Sir. I think the Minister has to give us more than he is giving. Who was testing the jamming equipment and why?

Mr. Speaker: Mr. Minister, are you able to respond to that question?

The Minister for Information and Communications (Mr. Poghiso): With all due respect, Mr. Speaker, Sir, it is not going to be a question and answer session! In fact, he is supposed to seek clarification only! But now, it is becoming a question and answer session. I can give him what I have here because of the time constraint that you have given me.

Mr. Speaker: Mr. Minister, your response is actually legitimate and adequate in the circumstances. That is because the hon. Member stood up on a point of order and, instead of indicating to the House what is out of order, he asked a question! So, you need not respond.

(Applause)

The Minister for Information and Communications (Mr. Poghisio): Thank you, Mr. Speaker, Sir.

Mr. Speaker: Minister for Special Programmes!

WORKSHOP TO UPDATE MEMBERS ON
NATIONAL RESPONSE TO HIV/AIDS

The Minister of State for Special Programmes (Dr. Shaban): Thank you, Mr. Speaker, Sir, for giving me this opportunity. Since 1999, the National Aids Control Council (NACC) has been hosting a workshop periodically on HIV/AIDS for hon. Members, with a view to briefing them on the national response to HIV/AIDS. That is because hon. Members represent constituencies and are patrons of the Constituency Aids Control Committees (CACCs), where most of the programmes for HIV/AIDS are carried out.

In addition, Mr. Speaker, Sir, hon. Members are lawmakers and the national response to HIV/AIDS requires the enabling legal framework to facilitate the environment in which stakeholders operate. The workshop on HIV/AIDS will be held on 28th and 29th November, 2008, in one of the hotels in Mombasa.

Mr. Speaker, Sir, in view of the role that hon. Members play as leaders, NACC has organised a workshop on HIV/AIDS for two days on 28th to 29th November, 2008, in Mombasa. That workshop is supported by the United Nations Development Programme (UNEP) and the International Aids Vaccine Initiative (IAVI). The objectives of the workshop will be:-

1. To update the elected leaders on the progress and challenges in the national response to HIV/AIDS.
2. To present to hon. Members the revised guidelines for field operations at the CACC and the District Technical Committees (DTCs).
3. To update hon. Members on the available funding for HIV/AIDS programmes for civil society organisations and the private sector implementors at KACC, DTCs and at the national level.
4. To brief hon. Members on the fight against drug and substance abuse at KACC and DTC level.
5. To inform hon. Members on research and development initiatives on infectious disease control, including progress towards the AIDS vaccine.

Mr. Speaker, Sir, the NACC is supported by the UNDP, IAVI, the National Campaign Against Drug Use Authority (NACADA) and the Association of European Union Members of Parliament (AWEPA) to organise the workshop. The NACC is also working with the Departmental Committee of Health, Housing, Labour and Social Welfare.

Mr. Speaker, Sir, this is an invitation to all hon. Members to the workshop in Mombasa. The plans are that hon. Members depart for Mombasa on the evening of 27th November, 2008, or the morning of 28th November, 2008, and return back to Nairobi in the evening of 29th November, 2008, or in the course of Sunday, 30th November, 2008. A detailed programme for the workshop is available for hon. Members.

Thank you, Mr. Speaker, Sir.

Dr. Eseli: On a point of order, Mr. Speaker, Sir. That is a very good initiative. But I am sure that, that conference was not planned on Saturday or Sunday!

Mr. Speaker, Sir, the fact that hon. Members arrive in the House, get a notice on 24th November to travel on 27th November--- Surely, can we not be given adequate notice to something that is very important that no hon. Member should miss? If we are given such a short notice,

surely---

(Laughter)

Mr. Speaker: Madam Minister, are you able to respond to that point of order?

The Minister of State for Special Programmes (Dr. Shaban): Mr. Speaker, Sir, we had asked for that workshop earlier on, but because of the workshop that was being carried out last week, it was very difficult for us to be given that opportunity. But when we discussed it at length, we saw that it was important for it to be done now because, in the course of December, it would be difficult to have it carried out. The people who are funding it have given us a deadline for using the funds.

Thank you, Mr. Speaker, Sir.

Mr. Speaker: Very well. Dr. Eseli, I think you will have to bear with the Minister and allow the Chair to say the following:-

COMMUNICATION FROM THE CHAIR

NACC-SPONSORED WORKSHOP TO UPDATE MEMBERS ON NATIONAL RESPONSE TO HIV/AIDS

Hon. Members, you have heard what the Minister of State for Special Programmes has said. I wish to reiterate that the HIV/AIDS scourge is a very serious issue facing our people across the country and, indeed, across the globe. As a matter of fact, the President did, some years back, declare HIV/AIDS a national disaster. So, we must give it due concern and attention. Hon. Members, participation in that workshop is, therefore, very important.

Nevertheless, I would like to add that the whole workshop is sponsored by the NACC. I repeat: The workshop is sponsored by NACC. That means that all the air tickets to Mombasa and back, including transport from the airport to the hotel and *vice-versa*, and the costs of boarding and lodging will be borne by NACC. May I wish you the best of luck during your Mombasa deliberations on the HIV/AIDS problem facing the country.

NOTICE OF MOTION FOR ADJOURNMENT UNDER STANDING ORDER NO.18

UNSATISFACTORY REPLY TO QUESTION No.213: CUSHIONING OF FARMERS FROM FLUCTUATION OF WORLD COFFEE PRICES

I have a further communication. I have received a request from the Member of Parliament for Mathira, Eng. Maina, of his intention to move a Motion of Adjournment under Standing Order No.18, which pertains to end of normal Sitting Day concerning an unsatisfactory reply to Question No.213 raised on Tuesday, 28th October, 2008 relating to the significant drop in world coffee prices, and the subsequent negative effects on the country's earnings.

I have considered the issues raised and the answer given by the Minister, and have acceded to the request by Eng. Maina. I will, therefore, call upon the hon. Member to move the Motion tomorrow, Wednesday, 26th November, 2008, during the Morning Sitting at the interruption of the

day's business. The timing, therefore, will be 12.30 p.m.

POINT OF ORDER

MISLEADING MEDIA REPORTS ON MEMBERS' FOREIGN TRIPS

Mr. Midiwo: On a point of order, Mr. Speaker, Sir. On the issue of the trip to the HIV/AIDS Conference, you have made some clarification but I wanted to request you to issue some clarification to the country and the media on the stories which appeared in *The East African Standard* yesterday regarding the travels of hon. Members, because it was full of untruths and innuendos.

Mr. Speaker: Order, Mr. Midiwo! You seem to make the premises of your point of order a report that was carried in the media. That is in breach of the Standing Orders! It cannot suffice as authority to make an assertion in the House. So, unless you do it differently, I am afraid you are out of order.

Mr. Midiwo: Mr. Speaker, Sir, let me not quote the media. I want to request the Chair to clarify that many hon. Members have travelled, indeed, and many of the trips that we undertake, I particularly, have been paid for by people other than Kenyan taxpayers. Recently, I was in the USA to participate in the Elections. My trip there, alongside you and Mr. Thuo, was paid for fully by the USA State Department.

Last week I went on Parliamentary duty to a meeting of the Whips of all East African countries, and the trip was also fully paid for by CIDA. I think to make unnecessary claims against hon. Members tarnishes their names, the Offices of Mr. Speaker and the Clerk of the National Assembly. We want to request you to, at least, issue some guidelines that the media can use to operate in relation to us as opposed to tarnishing our names.

Mr. Speaker: Very well put! I believe, as a matter of fact, you should have gone further that it tarnishes the name of the country, if unfounded. I will make exhaustive communication on this matter on Thursday at 2.30 p.m.

(Applause)

Mr. C. Kilonzo: On a point of order, Mr. Speaker, Sir. This is on the same line but from the Executive side. A Minister cast aspersions on the way the National Assembly is being run, thereby pointing directly to your office. This particular hon. Member, who is an Assistant Minister, implied that, indeed, we are making very many unnecessary trips abroad and the Chair is authorizing trips which are not supposed to be authorized.

The rule of separation of powers should be respected. We found it in bad taste for a junior Minister in the Government to criticise the running of this Assembly and, in particular, to criticise the Speaker of the National Assembly.

(Applause)

Mr. Speaker: Order, Mr. C. Kilonzo! You are referring to an Assistant Minister. Will you be so kind as to indicate which portfolio that Assistant Minister serves under?

Mr. C. Kilonzo: Mr. Speaker, Sir, he is in the Ministry of Foreign Affairs.

We are seeking your ruling on the conduct of the Executive - that is the Executive arm of the Government. The Executive criticised the Chair and hon. Members. Being a new hon. Member, he should have taken time to learn how business is conducted in this House.

(Applause)

Mr. Speaker: Order, hon. Members! That is a matter of grave nature from the manner in which the hon. Member has presented it. Indeed, the Chair has urged hon. Members, time and again, that they must learn to address their issues in the House. It does not benefit those hon. Members, the country or promote the agenda of this nation to address the media and do your piece in Press conferences and all manner of places.

Anybody who has substance, or matters that he thinks are important and ought to be ventilated, must be man enough - a leader enough - to express his views in the House. I will also be making exhaustive communication on this, and because of the gravity of the matter, I will give myself sufficient time and will do so on Wednesday next week.

(Applause)

Next Order!

COMMUNICATION FROM THE CHAIR

CIRCULATION OF SUPPLEMENTARY ORDER PAPER

Hon. Members, note that there is a Supplementary Order Paper, which has been circulated and all amendments pertaining to the Finance Bill are contained in it. So, for all practical purposes, you may discard the first Order Paper and look at the Supplementary Order Paper.

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 FINANCE BILL

(Clauses 2 and 3 agreed)

Clause 4

The Minister for Environment and Mineral Resources (Mr. Michuki): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 4 of the Bill be amended in the proposed Section 116B, by deleting subsections (1) and (2) and substituting therefor the following new subsections-

Excise stamps 116b(1) The Minister, may, by notice in the Gazette, specify the excisable goods to which the requirement for the affixing of excise stamps under this section applies.

(2) The Commissioner shall, by notice in the Gazette, specify the types and descriptions of excise stamps to be affixed on the goods specified under subsection (1)

(Question of the amendment proposed)

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

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

(Clause 4 as amended agreed to)

Clause 5

The Minister for Environment and Mineral Resources (Mr. Michuki): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

Amendment of THAT, the Bill be amended section 117 of by deleting Clause 5 and substituting therefor the following new Clause-

Cap. 472.

5. Section 117 of the Customs and Excise Act is amended in subsection (1) by-
(e) deleting the expression "fourth column of that" appearing in paragraph (d);
(f) deleting the proviso appearing immediately after paragraph (d).

(Question of the amendment proposed)

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

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

(Clause 5 as amended agreed to)

(Clauses 6, 7, 8, 9 and 10 agreed to)

Clause 11

The Minister for Environment and Mineral Resources (Mr. Michuki): Mr. Temporary

Deputy Chairman, Sir, I beg to move:-

THAT, the Bill be amended by deleting Clause 11 and substituting therefor the following new Clause-

Amendment of 13. The Fifth Schedule to
Fourth Schedule the Customs and Excise
to Cap. 472 Act is amended-

- (a) in the manner set out in item 1 of the First Schedule;
- (b) in the manner set out in item 1A of the First Schedule;
- (c) in the manner set out in item 2 of the First Schedule;
- (d) in the manner set out in item 3 of the First Schedule; and,
- (e) in the manner set out in item 4 of the First Schedule.

(Question of the amendment proposed)

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

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

(Clause 11 as amended agreed to)

(Clause 12 agreed to)

Clause 13

The Minister for Environment and Mineral Resources (Mr. Michuki): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 13 of the Bill be amended in subclause (b)(ii), by deleting the expression "Income Tax" and substituting therefor the expression "Value Added Tax."

(Question of the amendment proposed)

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

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

(Clause 13 as amended agreed to)

*(Clauses 14, 15, 16, 17, 18
and 19 agreed to)*

Clause 20

The Minister for Environment and Mineral Resources (Mr. Michuki): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 20 of the Bill be amended by deleting paragraph (c).

(Question of the amendment proposed)

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

(Clause 20 as amended agreed to)

(Clauses 21, 22 and 23 agreed to)

Clause 24

The Minister for Environment and Mineral Resources (Mr. Michuki): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, the Bill be amended by deleting Clause 24.

(Question of the amendment proposed)

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

(Clause 24 deleted)

Clause 25

The Minister for Environment and Mineral Resources (Mr. Michuki): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 25 be amended in Subclause (a) by deleting the expression "paragraph (i)" and substituting therefor the expression "paragraph (ii)".

(Question of the amendment proposed)

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

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

(Clause 25 as amended agreed to)

Clause 26

The Minister for Environment and Mineral Resources (Mr. Michuki): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 26 be amended-

(e) in Subclause (a) by inserting the words and the expression "and income which is chargeable under Section 3(2)(f)" immediately after the word "premises" wherever it occurs;

(f) in subclause (b) by deleting paragraph (i).

(Question of the amendment proposed)

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

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

(Clause 26 as amended agreed to)

(Clauses 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37 and 38 agreed to)

Clause 39

The Minister for Environment and Mineral Resources (Mr. Michuki): Mr. Temporary Deputy Chairman, Sir, the proposed amendment to this Clause arose out of a *kamukunji* held today 25th November, 2008. It has been handed over to the Chairman of the relevant Departmental Committee to move it because my conscience as the Acting Minister for Finance will not allow me to do so.

The Temporary Deputy Chairman (Prof. Kaloki): Very well, Mr. Okemo!

Mr. Okemo: Mr. Chairman, Sir, I am utterly surprised by the Minister's response. Until lunch time today, the Minister had no problem with this amendment. However, because there is so much public pressure, he has found out that it is too hot for his fingers.

Mr. Temporary Deputy Speaker, Sir, I, however, believe that if the Minister was really genuine, and if he really did not want this clause to exist, there are ways of doing [**Mr. Okemo**] it without leaving somebody else to carry the hot potato!

(Applause)

Be that as it may, there were reasons for---

The Temporary Deputy Chairman (Prof. Kaloki): Order, Mr. Okemo! Could you, please, move the amendment first?

Clause 39

Mr. Okemo: Mr. Temporary Deputy Chairman, Sir, I beg to move:-
THAT, Clause 39 be amended by deleting paragraph (a).

(Question of the amendment proposed)

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

(Clause 39 as amended agreed to)

(Clauses 40, 41 and 42 agreed to)

Clause 43

The Minister for Environment and Mineral Resources (Mr. Michuki): Mr. Temporary Deputy Chairman, Sir, on behalf of the Ministry of Finance, I really do not want to have altercations with my friend, the Chairman of the Departmental Committee on Finance, Planning and Trade.

The remarks I made in relation to Clause 39 also apply to Clause 43 which is that this amendment came from the *Kamkunji* where it was quite clear that those who attended the *Kamkunji* were determined to ensure that this clause is not part of the law. It is exactly for the same reasons that I gave that I have handed this amendment over to the other side so that they can move it. I cannot move this amendment. My conscience pricks; it bleeds. So, I do not want to argue any more because it is not a contest between me and the Chairman of the Departmental Committee.

The Temporary Deputy Chairman (Prof. Kaloki): Thank you, Mr. Minister!

Mr. Midiwo: On a point of order, Mr. Temporary Deputy Chairman, Sir. I think the Minister is not being sincere. I am a Member of the Departmental Committee on Finance, Planning and Trade. We have sat several times.

I thought that this morning, in the *Kamkunji*, the Minister, in the presence of the Speaker agreed that we must come out clearly that Members of Parliament want to pay taxes, but it is up to the Minister and the Speaker to agree on the implementation so that the negative coverage given to hon. Members is corrected. The Members of Parliament would then pay their fair share. Why is the Minister not being sincere?

(Applause)

The Minister for Environment and Mineral Resources (Mr. Michuki): On a point of order, Mr. Temporary Deputy Chairman, Sir.

The Temporary Deputy Chairman (Prof. Kaloki): Order, Mr. Minister! Mr. Okemo, could you, please, move the amendment?

Mr. Okemo: Mr. Temporary Deputy Chairman, I am actually very surprised following the explanation given by the Acting Minister for Finance. It is unlike Mr. Michuki. This is because when he appeared before the Departmental Committee on Finance, Planning and Trade, if you look---

The Minister for Environment and Mineral Resources (Mr. Michuki): On a point of order, Mr. Temporary Deputy Chairman, Sir. The *Kamkunji* that was called this morning, although the Chairman of the Departmental Committee had consulted me, it was his *Kamkunji*. I went to this meeting to hear explanations about what we had agreed upon. My last words, and the substantive Speaker will bear me out, were that the Government still believes that Members of Parliament should pay taxes. I did not go to the meeting to confirm anything.

The Temporary Deputy Chairman (Prof. Kaloki): Mr. Okemo, please, move the

amendment.

Mr. Okemo: Mr. Temporary Deputy Chairman, Sir, just before I do so, I would like to say that it is good for us to be honest. I am getting increasingly more intrigued by Mr. Michuki's remarks. When I went to the Treasury to do the final discussions with the Minister, it was his view and recommendation that we have a *Kamkunji* on Tuesday at 10.30 a.m. However, afterwards, the Minister changed his mind and said that let it be our *Kamkunji*. Why can you not tell all the facts, Mr. Michuki?

The Temporary Deputy Chairman (Prof. Kaloki): Order, Mr. Okemo! Could you, please, move the amendment?

Mr. Okemo: Mr. Temporary Deputy Chairman, Sir, having said that, I really leave it to everybody to make their conclusions. However, I beg to move the amendment as originally agreed between the Departmental Committee on Finance, Planning and Trade and the Acting Minister for Finance in his office, last week.

(Applause)

This is because if there had been any objections, they ought to have been raised in that meeting. I feel like this is some form of betrayal. I will, however, go ahead and move the amendment.

Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, the Bill be amended by deleting Clause 43.

(Question of the amendment proposed)

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

(Clause 43 deleted)

(Clauses 44, 45 and 46 agreed to)

Clause 47

The Minister for Environment and Mineral Resources (Mr. Michuki): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, the Bill be amended by deleting Clause 47.

(Question of the amendment proposed)

Mr. Mbadi: Mr. Temporary Deputy Chairman, Sir, I expected the Minister's conscience also to touch on this. Could he explain why his conscience has changed?

The Temporary Deputy Chairman (Prof. Kaloki): Mr. Minister, you do not have to respond to that.

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

(Clause 47 deleted)

*(Clauses 48, 49, 50, 51, 52,
53, 54, 55, 56, 57 and 58 agreed to)*

Clause 59

The Minister for Environment and Mineral Resources (Mr. Michuki): Mr. Temporary Deputy Chairman, I beg to move:-

THAT, Clause 59 of the Bill be amended by-

(f) deleting the expression "30th June, 2011" appearing in the proviso to the proposed Subsection (4) and substituting therefor the expression "31st December, 2009";

(b) deleting the expression "30th June, 2011" appearing at the end of the proposed Subsection (6) and substituting therefor the expression "31st December, 2009".

(Question of the amendment proposed)

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

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

(Clause 59 as amended agreed to)

(Clauses 60, 61 and 62 agreed to)

Clause 63

The Minister for Environment and Mineral Resources (Mr. Michuki): Mr. Temporary Deputy Chairman, I beg to move:-

THAT, Clause 63 of the Bill be amended-

(a) by inserting the word "any" immediately after the words "in at least" appearing in paragraph (a) of the proviso;

(b) by deleting the word "any" appearing in paragraph (b) of the proviso and replacing it with the word "every".

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

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

(Clause 63 as amended agreed to)

Clause 64

The Minister for Environment and Mineral Resources (Mr. Michuki): Mr. Temporary Deputy Chairman, I beg to move:-

THAT, the Bill be amended by deleting Clause 64 and substituting therefor the following new Clause-

Amendment to (64) Section 50 of the
 section 50 of Insurance Act is amended by Cap. 487. deleting subsection (10) and
 substituting therefor the following new subsection-
 (10) Where a company or group of related companies referred to in subsection (9) is
 a bank or financial institutions, the percentage under that subsection shall be ten per
 cent.

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

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

(Clause 64 as amended agreed to)

Clause 65

The Minister for Environment and Mineral Resources (Mr. Michuki): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 65 of the Bill be amended by deleting the proposed Subsection (1A) and substituting therefor the following new subsection-
 (1A). Every insurer who provides annuities and other insurance investment products shall publish information regarding such annuities and other products on quarterly basis in the manner specified by the Commissioner.

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

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

(Clause 65 as amended agreed to)

*(Clauses 66, 67, 68, 69
 and 70 agreed to)*

Clause 71

The Minister for Environment and Mineral Resources (Mr. Michuki): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, the Bill be amended by deleting Clause 71.

(Question of the amendment proposed)

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

(Clause 71 deleted)

(Clauses 72, 73, 74 and 75 agreed to)

Clause 76

The Temporary Deputy Chairman (Prof. Kaloki): Hon. Members, on Clause 76, there are two amendments, one is to be moved by Dr. Khalwale and the other one by the Minister. We begin with Dr. Khalwale. Is he in the House to move it? If he is not here, then let us just go to the Minister.

The Minister for Environment and Mineral Resources (Mr. Michuki): Mr. Temporary Deputy Speaker, Sir, I beg to move:-

THAT, the Bill be amended by deleting Clause 76 and substituting therefor the following-

Amendment of the Second Schedule to Cap 488. 76. The Second Schedule to the Banking Act is amended inserting a proviso immediately after paragraph (d) as follows-
Provided that the provisions of this paragraph shall apply in accordance with the following table-

Compliance Date	Minimum Core and Mortgage Finance Companies (Kshs. Million)	Capital, Banks
31st December, 2009	350	
31st December, 2010	500	
31st December, 2011	700	
31st December, 2012	1,000	

(Question of the amendment proposed)

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

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

(Clause 76 as amended agreed to)

*(Clauses 77, 78, 79, 80, 81
and 82 agreed to)*

New Clause 2A

The Minister for Environment and Mineral Resources (Mr. Michuki): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

Amendment to 2A. The Customs and Excise Act
section 90 of is amended in Section 90 by
Cap.472 inserting the following proviso
immediately after subsection (2)-

Provided that the Commissioner may license a person to manufacture plastic bags of not less than-

- (a) 10 microns, if satisfied that such bags are for export; or
- (b) 20 microns, if satisfied that such bags are for industrial use

(Question of the new clause proposed)

(New clause read the First Time)

*(Question, that the new clause be
read a Second Time, proposed)*

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

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

New Clause 7A

The Minister for Environment and Mineral Resources (Mr. Michuki): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, the following new Clause be inserted after Clause 7 -

Amendment to 7A. Section 134 of the
Section 134 Customs and Excise Act is
of Cap. 472 amended in subsection (2) by deleting the words "rectifier's warehouse and the duty shall
be paid by the rectifier" and substituting therefor with the words "rectifier's or
compounder's warehouse and duty shall be paid by the rectifier or compounder"

(Question of the new clause proposed)

(New clause read the First Time)

*(Question, that new clause be
read a Second Time, proposed)*

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

(The new clause was read a Second Time)

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

First Schedule

The Minister for Environment and Mineral Resources (Mr. Michuki): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, the First Schedule to the Bill be amended in the following manner -

(g) in Part I, by inserting a new item immediately after paragraph 1 as follows -

1. 1A. Delete the following tariff numbers, descriptions and corresponding rates of Excise duty -

Tariff No	Goods Description	Rate of ExciseDuty
3923.21.00	Sacks and bags (including cones) of polymers of ethylene.	120 %
3923.29.00	Sacks and bags of other plastics.	120 %

(h) in item 2, by deleting the proposed Part II and substituting therefor the following new Part -

<u>Category</u>	<u>Description</u>	<u>Rate of duty</u>
A	Plain cigarettes or cigarettes with RSP of up to Shs.2,500 per mille.	Shs700 per mille
B	Soft cap cigarettes of 72 mm or less, or soft cap cigarettes of 72 mm or less with RSP of 2,501 to Shs3,500 per mille.	Shs.1,000 per mille
C	Soft cap cigarettes of more than 72mm or soft cap cigarettes of more than 72 mm with RSP of 3,501 to Shs4,500 per mille.	Shs1,500 per mille
D	Hinge lid cigarettes or hinge lid cigarettes with RSP of more than Shs4,500 per mille.	Shs2,500 per mille

(RSP means Retail Selling Price)

(c) in item 3-

(i) by deleting the expression "Kshs36 per litre" appearing in paragraph 1(b) and substituting therefor the expression "Kshs45 per litre";

(ii) by inserting the words "of more than three years from the date of manufacture", immediately after the word "computers" appearing in paragraph 7;

(d) by inserting the following new item immediately after item 3 -

4. insert the following new paragraph immediately after paragraph 7-

8. Plastic shopping bags shall be charged excise duty at the rate of 50% of their excisable value.

(Question of the amendment proposed)

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

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

(First Schedule as amended agreed to)

(Second and Third Schedules agreed to)

(Title agreed to)

Clause 1

The Minister for Environment and Mineral Resources (Mr. Michuki): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 1 of the Bill be amended-

(a) in paragraph (a), by deleting the expression "11" and substituting therefor the expressions "11(a), 11(d)",

(b) by inserting the following new paragraph immediately after paragraph (d)-

(d) sections 2A, 7A, 11(b), 11(c) and 11(e), on the 1st December, 2008.

(Question of the amendment proposed)

Mr. Okemo: Mr. Temporary Deputy Chairman, Sir, I think we need a clarification on the legal implications of the Bill turning into law because we have made certain amendments which are different from the provisional collection of the Tax Order Act. According to what I see here in Clause 1(F), the effective date is 1st December, 2008 and from the legal interpretation that we got and I think we even discussed it with Mr. Speaker, the effective date must be the date when the Provisional Collection Order was effected. Therefore, this date should not be 1st December but 14th June.

The Temporary Deputy Chairman (Prof. Kaloki): Mr. Okemo, it should be June 13th.

Mr. Okemo: Mr. Temporary Deputy Chairman, Sir, I think that is the correct legal position.

The Temporary Deputy Chairman (Prof. Kaloki): Hon. Minister, can you give the clarification?

The Minister for Environment and Mineral Resources (Mr. Michuki): Mr. Temporary Deputy Chairman, Sir, this amendment deals with the dates on which some of the measures will come into effect. The unamended rates of tax were brought into effect by Provisional Collection Order which was tabled before this House during the time the Budget was read.

However, in our discussions with the Committee and, of course, having heard the views of the industry, we re-adjusted the rates. The rates which have been re-adjusted will come into effect as soon as the Provisional Collection Order or this law comes into effect. Therefore, you can see from the amendment that the dates vary. It is related to the authority that is existing and the filling of the void when that authority gives way.

The Temporary Deputy Chairman (Prof. Kaloki): I think that is clear. Mr. Okemo, are you satisfied?

Mr. Okemo: Mr. Temporary Deputy Chairman, Sir, I do not know whether the Minister has been able to consult with the Attorney-General on the interpretation. The legal opinion we have, as a Committee, is very different from what the Minister is saying. If you look at Section 3 of the Provisional Collection of Taxes and Duties Act, it limits the duration of the Minister's orders. As soon as Parliament passes the Bill and there is a difference between the provisional tax rate and what Parliament has passed, which we have just done, then inevitably, there must be a refund if the amount of tax that we have altered is lower than what he has been collecting through the Provisional Collection of Taxes and Duties Act. The law is very clear. If you look at Sections 3 and 4 of that Act, it clearly interprets when the effective dates are supposed to be.

The Minister for Environment and Mineral Resources (Mr. Michuki): Mr. Temporary Deputy Chairman, Sir, I just want to clarify the point which has been made here by Mr. Okemo about consultation with the Attorney-General. This Finance Bill and amendments have been produced by the Attorney-General.

The Temporary Deputy Chairman (Prof. Kaloki): I think because the Minister is here, he is clarifying those issues. He is the Minister and I think he has consulted. We, therefore, need to move on!

Mr. Okemo: On a point of order, Mr. Temporary Deputy Chairman, Sir. We can educate ourselves from previous practice. If you look at the Finance Bill 2006 and the subsequent Finance Act 2006 and look at the effective dates of these rates that are collected under the Provisional Tax Collection Order Act, it is always backdated. Even if you look at the Finance Bill 2007 and the Finance Act 2007, you will see that what I am saying is exactly what has happened. I have taken the trouble to check even with the Office of the Attorney-General. He shares my view and, therefore, I would like to recommend that the Minister does the same.

The Temporary Deputy Chairman (Prof. Kaloki): Mr. Okemo, I think you have the experience but since the Minister feels comfortable with his homework with the Attorney-General, we want to put a closure to this matter. I, therefore, want to put a closure to this---

The Minister for Environment and Mineral Resources (Mr. Michuki) I am closer to the Attorney-General than him!

The Temporary Deputy Chairman (Prof. Kaloki): Order, Mr. Minister!

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

(Question, that the words to be inserted in

*in place thereof be inserted,
put and agreed to)*

(Clause 1 as amended agreed to)

The Minister for Environment and Mineral Resources (Mr. Michuki): Mr. Temporary Deputy Chairman, Sir, I beg to move that the Committee doth report to the House its consideration of the Finance Bill and its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

(The House resumed)

[Mr. Speaker in the Chair]

REPORT, CONSIDERATION OF REPORT AND THIRD READING

THE FINANCE BILL

Prof. Kaloki: Mr. Speaker, Sir, I beg to report that the Committee of the whole House has considered The Finance Bill and approved the same with amendments.

The Minister for Environment and Mineral Resources (Mr. Michuki): Mr. Speaker, Sir, on behalf of the Ministry of Finance, I beg to move that the House doth agree with the Committee in the said Report.

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

(Question proposed)

(Question put and agreed to)

The Minister for Environment and Mineral Resources (Mr. Michuki): Mr. Speaker, Sir, I beg to move that The Finance Bill be now read the Third Time.

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

(Question proposed)

(Question put and agreed to)

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

BILLS

Second Readings

THE KENYA COMMUNICATIONS
(AMENDMENT) BILL

*(The Minister for Information and
Communications on 13.11.2008)*

*(Resumption of Debate interrupted
on 13.11.2008)*

Mr. Speaker: Who was on the Floor on this one? Hon. Affey, you have 27 minutes! Is hon. Affey not present? Is there anybody else who is interested?

(Mr. Affey entered the Chamber)

Oh! Hon. Affey, you have 27 minutes!

(Mr. Affey consulted with Mr. Speaker)

Hon. Affey submits that he has completed his contribution. Is there anybody else who is interested?

Mr. Minister, you may have to respond!

The Minister for Information and Communications (Mr. Poghisio): Thank you very much, Mr. Speaker, Sir. I would like to take this opportunity to thank hon. Members who overwhelmingly supported this Bill. Out of the 16 or so hon. Members who spoke, there was no dissenting voice. This Bill has received overwhelming support and, so, I do not have much to say in response.

Mr. Speaker, Sir, we set out to put forward, in this Bill, a proposal to create regulatory, advisory and district resolution bodies to support the implementation of the National Information and Communications Technology (ICT) policy. We also provided a regulatory framework for broadcasting which, hitherto, has been weak, if at all.

Mr. Speaker, Sir, we also provided for licensing of certification service providers and our country's top level domain administration. We also went ahead to provide electronic transactions in this Bill.

So, Mr. Speaker, Sir, it is a good Bill. It is going to be useful and I hope that the next stages of the Bill will be supported the way this has been supported.

Mr. Speaker, Sir, I am very pleased with the hon. Members and I do beg to move.

Thank you very much, Mr. Speaker, Sir.

(Applause)

(Question put and agreed to)

Mr. Speaker: Very well! Next Order!

THE BIOSAFETY BILL

The Minister for Higher Education, Science and Technology (Dr. Kosgei): Mr. Speaker, Sir, I beg to move that the Biosafety Bill be now read a Second Time.

Mr. Speaker, Sir, this Bill is both important and urgent for Kenya. A similar Bill was, indeed, presented before the last Parliament and almost went through the Third Reading, if only the elections had not caught up with us at that time.

Mr. Speaker, Sir, the passing of this Bill will be in compliance with an international obligation that Kenya is party to, which is the Cartagena Protocol on Biosafety to the Convention on Biological Diversity, which was finalised and adopted in 2000. Over 147 countries have ratified the protocol to date. Kenya ratified the protocol in February, 2002, and, therefore, is required to put in place a legislative and institutional framework for safe transfer and handling of genetically modified organisms.

Mr. Speaker, Sir, although a National Biotechnology Development Policy was put in place in 2006, we do not yet have a specific law on biotechnology and biosafety in this country. The Government has, however, allowed genetically modified materials into this country, only for the purposes of research and using the Science and Technology Act, Chapter 250 of the Laws of Kenya.

Mr. Speaker, Sir, the biosafety law is aimed at regularising the experiment process in biotechnology so that Kenya can make informed decisions on whether or not to accept any type of genetically modified products or products of Genetically Modified Organisms (GMOs). The new law aims at creating the necessary human resource in the area of science to enable Kenya filter all information on GMOs or products of GMOs. The law will also prevent the possibilities of importation, trafficking and trans-boundary movement of any GMOs or products of GMOs, without strict quarantine and supervision.

Mr. Speaker, Sir, the new law will create mechanisms for destruction of anything harmful to Kenyans and provide penalties for unauthorised importation, trans-boundary or trafficking of GMOs or products of GMOs.

Mr. Speaker, Sir, the new law does not seek to introduce any GMOs or products of GMOs without strict supervision and quarantine. The new law is, indeed, for the protection of Kenyans from careless escapes or presentation of GMOs or products of GMOs, in strict accordance with the Cartagena Protocol.

Mr. Speaker, Sir, the new law will legalise the entire existing and proposed infrastructure, like the quarantine facilities, monitoring and inspection equipment, specialised committees and the current National Biosafety Committee, as well as the Institutional Biosafety Committee. This will be in the interest, on average, of all Kenyans.

Mr. Speaker, Sir, the new law aims at protecting all our traditional crops, animals and natural biological diversity from adulteration by strange materials and organisms from within and outside the country. The new legislation will create a national authority that will be responsible for ensuring that the provision of the new law is followed.

Mr. Speaker, Sir, all stakeholders have been involved during the development of the Biosafety Bill. However, today, I saw a long advertisement on one of the dailies giving ideas of what we can do, and these ideas are welcome as, indeed, any other proposals, so that we can incorporate what we need during the Committee Stage.

Mr. Speaker, Sir, I beg to move. I would like to ask my friend and former Minister in this Ministry, Dr. Wekesa, to second this Bill.

Thank you, Mr. Speaker, Sir.

The Minister for Forestry and Wildlife (Dr. Wekesa): Mr. Speaker, Sir, I would like to second this very important Bill. You know very well that this Bill should have gone through last year and as the able Minister has said, it was just by bad luck that it did not go through. I remember that in the last Session, practically all the hon. Members then who contributed to this Bill supported it. That, in itself, goes to show that Kenyans have been waiting for this Bill for a long time.

We live in a technological world and it is technology that is now moving everything that is

around us. This Bill is a science-based law, aimed at regulating biotechnology research development and trade in a safe and responsible manner. The law is meant to comply with the provisions that the Minister touched on, that is the Catergena Protocol. In fact, Kenya was one of the first countries to sign the Convention. The Protocol requires that every country should have a biosafety law to facilitate and regulate its modern biotechnological activities. The policy was passed in 2006 and, therefore, it is now up to this House to make sure that we pass this law.

Having a framework of biotechnology ensures that we can deal with food security. Many people do not realise that the population in the world is increasing everyday, and farming through the old methods has not proved to be sufficient to provide food for the huge population that we have today. Therefore, biotechnology is one of the ways by which we can effectively produce enough food for this increasing population. Through biotechnological ways, it has been proved that we can produce more food.

Mr. Speaker, Sir, as people talk about biosafety; they focus on the dangers of genetically modified organisms (GMOs) as if this law that we want to pass is all about GMOs. It is a much bigger issue than just GMOs. If I may talk about food security, many countries today are producing food through biotechnological methods, and it has been going on for a long time, in fact, for over 20 years. Many countries are now producing biotech foods, or what we call GMO food. When you look at Europe, countries like Spain have been at it for over 25 years. Many countries in South America, Brazil, Argentina and India have recognized the importance of using biotechnological means of producing food. The acreage that is involved in growing biotech food is in millions. Well, over 22 countries are producing food this way. Indeed, half of the countries that are producing biotech food are developed countries. I want to share with you that even in Africa, Uganda which is our neighbour, did put a Biosafety Bill in place a number of years ago. Tanzania and Zambia have this law domesticated. Therefore, we are at the tail end of it, and I urge my colleagues that we cannot run away from biotechnology. It is here to stay and we have to go by it.

Those who oppose the Biosafety Bill talk about the dangers of GMO food. May I recall that in all the countries that have been growing technological food, there has been no scientific basis to establish the fact that there are dangers in GMO foods. Therefore, we cannot just talk without backing our reasoning with scientific facts. Those countries that have continuously produced soya beans, cotton seed cake and biotechnologically produced maize have not reported any dangers, whatsoever. Therefore, it is without any basis at all for people to go talking about the dangers of biotech foods.

Even if I talk about my own Ministry, the Ministry of Forestry and Wildlife, because we do not have a biosafety law, we have been hampered in many ways. In our national parks, we have fauna and plants that scientists from abroad come, use and take to their own countries for research purposes. Indeed, because we do not have a law, it has been impossible for us to control the people who want to do research.

Therefore, by having this law, it will be better for Kenya to make sure that our fauna and food, both exports and imports, are controlled. The Authority that the Minister wants to put in place will really regulate trans-boundary movement of food and even plants. Therefore, it is very important!

Another issue, Mr. Speaker, Sir, is if you look across the world, in those countries that have embraced the biosafety law, many trade issues have emerged. Many biotechnological companies have emerged and they are doing roaring business. It is only proper for us in Kenya to domesticate this proposed law, so that our own scientists can benefit by creating companies that will deal in biotech products.

It is important because in Kenya we are lucky that we have scientists in various fields, who play a major role in expanding research in biotechnology. Two years ago, I was in Geneva, and was very surprised that our own scientists, who used to work at Muguga Kenya Agricultural Research

Institute (KARI) station--- Since we do not have the law to protect our biodiversity, they found it necessary to go out there and work for countries in Europe. Once we pass this law, I want to assure this House that we are going to attract quite a number of scientists who are working out there because we do not have enabling environment for our scientists.

I want to share with you that the dry land wheat that one of our scientists developed in Muguga is now a basis for planting this variety all over the world, yet the research was actually done at Muguga. Now, our scientists who did that have had to leave the country and work out there. Therefore, I am appealing that once we pass this Bill, there will be a lot of interest in our scientists. We have talked for many years about our scientists in the diaspora. These people will be able to come back home and create employment.

In the health sector, nuclear energy is used. Even today, the Minister for Medical Services was trying to describe some of the equipment that is used at Kenyatta National Hospital (KNH). Now, nuclear energy is one of the issues that are important in bio-technology. Unless we have a law regulating the use of nuclear energy, again, you will find that hospitals will suffer. This is because some of the diagnosis within our hospitals depends on nuclear energy. So, while we talk about this Biosafety Bill, I want to impress upon my colleagues and tell them not to listen to what people are saying in the streets. Let us look at the Biosafety Bill in a broader way. Let us look at food security and creating more jobs for our own sons and daughters.

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

(Question proposed)

The Assistant Minister for Medical Services (Mr. Mungatana): Thank you, Mr. Speaker, Sir, for giving me the opportunity to also express my support to this Biosafety Bill.

First, I want to congratulate the Minister for taking the initiative to bring this Bill to this House at this time, when it has been the trend in this House, to try and keep pace with modern technology. I want to congratulate the Minister further, for taking this matter as seriously as she has done and laying the basis and even explaining to us in detail what the House needs to know regarding the reasons we need to pass this new law. A lot has been said outside there about the fears that this Bill will bring to the Kenyan population. In particular, there has been fear that if we pass this Bill, we are setting a basis for the importation of genetically-modified seeds into this country. So, the word out there in the streets is that, very soon, we will get maize which is highly productive from the type of seed that will come in and then, the same seed---

QUORUM

Mr. Ruteere: On a point of order, Mr. Speaker, Sir. We do not have a quorum.

Mr. Speaker: Must you do that? Yes, I note that we are below the requisite number. Please, ring the Division Bell.

(The Division Bell was rung)

ADJOURNMENT

Mr. Speaker: Order! Hon. Members, I am afraid, we do not have a quorum. Therefore, the House is adjourned until tomorrow, Wednesday, 26th November, 2008, at 9.00 a.m.

The House rose at 5.57 p.m.