

NATIONAL ASSEMBLY

OFFICIAL REPORT

Thursday, 16th June, 2011

The House met at 2.30 p.m.

[Mr. Deputy Speaker in the Chair]

PRAYERS

PAPERS LAID

The following Papers were laid on the Table:-

Report of the Departmental Committee on Labour and Social Welfare on the Study Visit to Thailand from 7th November, 2010 to 14 November, 2010.

Report of the Departmental Committee on Labour and Social Welfare on the Study Visit to South Korea from 2nd October, 2010 to 12th October, 2010.

Report of the Departmental Committee on Labour and Social Welfare on the Ordinary Question No.626 by Mr. William Kabogo, MP, on the dismissal of 250 workers of Thika Municipal Council.

(By Mr. Magwanga)

Financial Statement of the Kenya National Assurance Company for the year ended 31st December, 2003 and the Certificate thereon by the Controller and Auditor-General.

Financial Statement of the Kenya National Assurance Company for the year ended 31st December, 2005 and the Certificate thereon by the Controller and Auditor-General.

Financial Statement of the Kenya National Assurance Company for the year ended 31st December, 2006 and the Certificate thereon by the Controller and Auditor-General.

*(By the Assistant Minister for Information
and Communications (Maj. Godhana) on behalf of
the Deputy Prime Minister and Minister for Finance)*

Balance Sheet and Accounts of National Cereals and Produce Board for the year ended 30th June, 2009 and the Certificate thereon by the Controller and Auditor-General.

*(By the Assistant Minister for Information and Communications
(Maj. Godhana) on behalf of the Minister for Agriculture)*

Financial Statement of the Kenya Airport Authority for the year ended 30th June, 2009 and the Certificate thereon by the Controller and Auditor-General.

*(By the Assistant Minister for Information and Communications
(Mr. Godhana) on behalf of the Minister for Transport)*

Financial Statements of the Kenya Utalii College for the year ended 30th June, 2010 and the Certificate thereon by the Controller and Auditor-General.

*(By the Assistant Minister for Information and Communications
(Mr. Godhana) on behalf of the Minister for Tourism)*

Financial Statement of Rivatex East Africa for the year ended 30th June, 2010 and the Certificate thereon by the Controller and Auditor-General.

*(By the Assistant Minister for Information and Communications
(Mr. Godhana) on behalf of the Minister for Industrialization)*

Financial Statements of Kenya Tourist Development Corporation for the year ended 30th June, 2010 and the Certificate thereon by the Controller and Auditor-General.

*(By the Assistant Minister for Information and Communications
(Mr. Godhana) on behalf of the Minister for Tourism)*

Annual Report and the Accounts for Masinde Muliro University for the years ended 30th June, 2008 and 2009 and the Certificate thereon by the Controller and Auditor-General.

*(By the Assistant Minister for Information and Communications
(Mr. Godhana) on behalf of the Minister for Higher Education)*

NOTICES OF MOTIONS

Mr. Magwanga: Mr. Deputy Speaker, Sir, I beg to give Notice of the following Motions:-

ADOPTION OF REPORT ON STUDY VISIT TO SOUTH KOREA

THAT, this House adopts the Report of the Departmental Committee on Labour and Social Welfare on the Study Visit to South Korea from 2nd October, 2010 to 12th October, 2010 laid on the Table on Thursday, 16th June, 2010.

ADOPTION OF REPORT ON STUDY VISIT TO THAILAND

THAT, this House adopts the Report of the Departmental Committee on Labour and Social Welfare on the Study Visit to Thailand from 7th November, 2010 to 14th November, 2010 laid on the Table on Thursday, 16th June, 2010.

ADOPTION OF REPORT ON QUESTION NO.626

THAT, this House adopts the Report of the Departmental Committee on Labour and Social Welfare on Ordinary Question No.626 by Mr. William Kabogo, MP on the dismissal of 250 workers of Thika Municipal Council laid on the Table on Thursday, 16th June, 2010.

QUESTION BY PRIVATE NOTICE

EXTRADITION OF BISHOP G. DEYA/Y. DEVANI FROM UK

Mr. C. Kilonzo: Mr. Deputy Speaker, Sir, I beg to ask the Attorney-General the following Question by Private Notice.

(a) Why has the Government not been able to secure the extradition of Bishop Gilbert Deya and Mr. Yagnesh Devani from the United Kingdom?

(b) How many arrest warrants from Kenya are with the Interpol for the arrest of persons who have fled the country after committing crime and could the Attorney-General table the details of the arrest warrants mentioned above?

The Attorney-General (Mr. Wako): Mr. Deputy Speaker, Sir, I beg to reply.

(a) Bishop Gilbert Juma Deya who is a resident in the United Kingdom was charged with five counts of child stealing contrary to Section 174(1)(b) of the Penal Code before the Chief Magistrate in Nairobi, Kenya. On 17th July, 2006, the Government of Kenya made a request for extradition to Her Majesty's Government and Bishop Deya was arrested in London on 28th December, 2006. The extradition hearing took place before the District Judge Tubbs of Westminster Magistrate Court and on 7th November, 2007, the District Judge Tubbs sent the case to the Secretary of State for Home Affairs for a decision to be made.

On 18th December, 2007, the Home Secretary ordered the extradition of Gilbert Juma Deya but Bishop Deya appealed against the decision and on 31st October, 2008, Bishop Deya's appeal was dismissed. At that stage, there are two processes. You either go to the House of Lords or you continue with the Secretary of State for Home Affairs. Bishop Deya chose to continue making protestations with this Secretary and since that time, his lawyers have been making a number of representations to the Secretary of State for Home Affairs. However, I am glad to say that the Government of Kenya has supplied the necessary information and given the necessary undertakings required and now expect the Secretary of State for Home Affairs to make his decision very soon. I would like to remind the House that the Secretary of State for Home Affairs in making a decision is exercising a *quasi-judicial* function.

Mr. Deputy Speaker, Sir, as relates Mr. Yagnesh Mohanlal Devani, he was charged in three criminal cases, that is, Chief Magistrate (CM) Case Nos.1150 and 1151 of 2009 and Nairobi Anti-Corruption Case No.18 of 2009. Warrants of arrest were

secured on 21st July, 2008 and the extradition request was received in the UK Home Office on 13th August, 2010.

Since then, the Department of Public Prosecutions has worked closely with the UK Home Office and the Crown Prosecution Services and has given the necessary clarifications and information. At the time of drafting this reply, I was only aware that the case was pending before Her Majesty's Court in the UK. However, I am pleased to inform this House that since then, I have formally received information from Her Majesty's Government through the Home Office as follows:-

(i) On 9th June, 2011, Yagnesh Mohanlal Devani appeared at court for a bail application hearing and he was granted conditional bail until 11th July, 2011 when a review hearing will commence before the court. The conditions are as follows:-

(a) That Mr. Devani provides a security of Sterling Pounds 120,000 to be deposited with the court;

(b) That he surrenders his passport;

(c) That he remains at an address known to the police between 10.00 p.m and 6.00 a.m.;

(d) The curfew to be electronically monitored.

(e) Not to apply for any international travel document.

Those were the conditions that were attached to the application for bail. As I stated, the hearing will commence on 11th July, 2011.

(b) The matter falls within the police department. We received this Question on the evening of 14th June, 2011 which is the day before yesterday, but it came to our attention yesterday morning. So, we informed the police to give us information and they have requested that they be given more days to be able to give us comprehensive information on that matter. When I receive it, I will table it.

Mr. C. Kilonzo: Mr. Deputy Speaker, Sir, the practice over the years to those people who steal from the Government or those who commit crimes in Kenya has been that they steal and go to Europe. We know very well that the Government is not keen about bringing them back for very obvious reasons. My question to the Attorney-General is; what pressure has the Government put over the last five years when this case of Mr. Deya started? Has there been any delegation of the Government going to the Home Secretary in the United Kingdom to pressure for the extradition of this one so-called Bishop Deya so that he can come and face criminal charges here?

Mr. Wako: Mr. Deputy Speaker, Sir, first of all, I must state that when the Government applies for extradition, it follows up the matter diligently with a competent authority of the country concerned. If there is any delay in the extradition proceedings, it is normally in that country rather than because the Government wants it. So, we do follow that very diligently. Mr. Deya was not accused of stealing from the Government. His charges are as I mentioned. I can confirm that in both cases there have been Government delegations to the UK. Even in Bishop Deya's case, there have also been delegations from the UK to examine some of our facilities here.

Mr. Kabogo: Mr. Deputy Speaker, Sir, I just want to ask the Attorney-General, being aware that there are so many people in the Republic of Kenya who have committed various crimes in Kenya and taken a flight to other countries like Dubai, Europe and other places, how many people has this Government been able to bring back here to face criminal charges over the years?

Mr. Wako: Mr. Deputy Speaker, Sir, that is a question that falls under the police department and as soon as I get that information from the police, I will table it.

Eng. Maina: Mr. Deputy Speaker, Sir, we are also aware that Britain is demanding some people to be extradited to that country. Could the Attorney-General tell us why he should even be listening to them when they do not seem to be acting on our issues? He should confirm that none of the Kenyans would be taken there until this kind of relationship is well sorted out? In fact what our people are being accused of is just having taken money there. The ones we are questioning him are those who stole money here. Are you fair to take that stand for this country?

Mr. Wako: Mr. Deputy Speaker, Sir, each case must be decided on its own merit. I must state here in this House that our relationship with the investigative agencies of Her Majesty's Government or the Government of the UK has been very good and they have co-operated well. As I have said earlier, they have, indeed, come here and we have gone there. We are working very well, not only in respect of our requests to the Government but also their requests to us.

Mr. Lessonet: Mr. Deputy Speaker, Sir, I would like the Attorney-General to tell us, if he has not been successful in bringing them back to Kenya, how far is he in attempting to bring back to Kenya the money they stole?

Mr. Wako: Mr. Deputy Speaker, Sir, the issue of bringing back the money that was stolen, as you know, is a matter which falls under the Anti-Corruption and Economic Crimes Act on the shoulders of the Kenya Anti-Corruption Commission (KACC) and I know that a lot of progress is being made in that area. I would not like to mention that progress now as it may prejudice what is happening.

Mr. K. Kilonzo: Mr. Deputy Speaker, Sir, could the Attorney-General confirm to this House that, indeed, there are discussions between the Kenya Government and the UK Government to swap Mr. Devani and Mr. Okemo who are required to answer charges in the UK? Are there such arrangements to swap and that is why the Home Affairs Secretary of the UK Government was here to personally serve documents and get both the former managing director of Kenya Power and Lighting Company (KPLC) and Mr. Okemo?

Mr. Wako: Mr. Deputy Speaker, Sir, the whole idea of swapping is what the Attorney-General of this country is reading in the newspapers. From what I know and I emphatically say, each case is decided on its own merit.

Mr. Langat: Mr. Deputy Speaker, Sir, there are former managers of Pan Paper Factory who fleeced the accounts of the factory up to its knees and they ran away. Has the Attorney-General commenced any action to bring those people back and bring back the money they took from Pan Paper?

Mr. Wako: That falls under part (b). We are waiting for a comprehensive list from the Commissioner of Police.

Mr. Shakeel: Mr. Deputy Speaker, Sir, could the Attorney-General inform the House whether he is aware that Yagnesh Devani and Bishop Deya have claimed in their defense that the prisons in Kenya are death traps? Has the Attorney-General done anything to assure the Government of Britain that they are not death traps and that we will give them VIP treatment even in Kamiti as long as they come back?

Mr. Wako: Mr. Deputy Speaker, Sir, I can see the hon. Member for Kisumu is well informed but I do not want to go into those details except to say that there have been

visits here. They have examined all these places and have confirmed that the prison conditions and the manner in which these people will be detained will not be a violation of Article 3 of the European Convention on human rights.

Mr. Lessonet: On a point of order, Mr. Deputy Speaker, Sir. Today is really a very special day especially in the sense that the President was just going through a review of performance contracts. Would I be in order to request the Attorney-General to tell us how he fared in the performance contract today considering that all his answers under interrogation by Members of Parliament have been in the negative? He has really not scored anything. Can you tell us how he fared in the performance contract?

Mr. Deputy Speaker: Order! You must maintain relevance. The issue is on Bishop Deya. Mr. Attorney-General, do you wish to answer the question?

Mr. Wako: Mr. Deputy Speaker, Sir, could he tell me how I fared because I do not know? I was busy preparing the question asked by Mr. C. Kilonzo.

Dr. Machage: On a point of order, Mr. Deputy Speaker, Sir. Is the hon. Member in order to demand a discussion of the person of the Attorney-General without a substantive Motion in the House?

Mr. Deputy Speaker: Let us have the last supplementary question, Mr. C. Kilonzo!

Mr. C. Kilonzo: Mr. Deputy Speaker, Sir, since criminals have known that it is very difficult to process extraditions, could the Attorney-General consider using existing international laws to have these people charged there? Some of these crimes are now recognized as crimes in money laundering because they steal the money and take it elsewhere to hide it. Could he consider them to be charged under international laws in the countries they are, as opposed to wasting time trying to get them back here? It appears very clearly that he will not get them and there is no goodwill from the Government to get them here.

Mr. Wako: Mr. Deputy Speaker, Sir, let me state again that Government through the Attorney-General is determined to get the people here for trial. As to whether they should be tried here or there, if the crimes have been committed both here and there, a matter that is applicable to this nature is always discussed and considered.

Mr. Deputy Speaker: Next Question, Mr. Kabogo!

Question No.798

PAYMENT OF COMPENSATION TO LANDOWNERS IN JUJA/RUIRU

Mr. Kabogo asked the Minister for Lands when the Government will compensate owners of all the land compulsorily acquired in Juja and Ruiru areas by the Government for the purposes of construction of Nairobi Northern by-pass.

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

The Government through Gazette Notice No.2240 of 2nd March, 2010 gave intention of notice to acquire land for the Nairobi northern by-pass and also through Gazette Notice No.2241 of 2nd March, 2010 gazetted inquiry dates for hearing of claims from the affected persons. The land has since been inspected, inquiries held, valuation completed and awards issued to *bona fide* interested parties for purposes of

compensation. The list of payees has been forwarded to the Kenya Urban Roads Authority to make payment. Bank account details of the parties were also forwarded to Kenya Urban Roads Authority and payment for compensation is on-going through Electronic Funds Transfer (EFT).

The Kenya Urban Roads Authority has confirmed that the money has been transferred to respective payees account except where individual payees personal and bank details have not been provided. Where there is no competent person to receive payment or the person entitled does not consent to receive the amount awarded or there is a dispute, the Commissioner for Lands will deal with such cases as provided for under Section 31(1) of the Land Acquisition Act.

In order to give the hon. Member further details on this, I wish to table the following documents:-

- (i) a list of names and details of persons who have been paid so far;
- (ii) a list of names and details of those whose payments have been returned; by various banks due to wrong accounts or personal details; and,
- (iii) a list of plots and their payment to the Commissioner.
- (iv) A list of quotes and their payment to the Commissioner in regard to Section 31(1) of the Land Acquisition Act.

Mr. Deputy Speaker, Sir, I, therefore, beg to lay on the Table the three documents. The list is rather long and I cannot read all those who have been paid.

(Mr. Orengo laid the document on the Table)

Mr. Kabogo: Mr. Deputy Speaker, Sir, I want to thank the Minister because he has been in this House for the last three days ready to answer this Question. However, you will notice that the land was acquired by a notice of one year and three months ago. The documents that the Minister has tabled indicate that payments are going on but he has purposely left out the dates of payment. That is because if the dates are indicated as this month, then we will be asking for payment with interest. That is because the law requires that payments are made promptly. Section 40(3)B of our Constitution requires payments to be done promptly. Could the Minister confirm that payments are being done one and half years later and whether he will compensate those people with the interest and added value? That is because they are being given money now for land that was acquired one and half years ago.

Mr. Orengo: Mr. Deputy Speaker, Sir, if you look at the Question asked by the hon. Member, the context was that no payment had been made at all. All I was required to respond to was whether or not they had been paid but the hon. Member is aware---

Mr. Kabogo: On a point of order, Mr. Deputy Speaker, Sir. If the Question is asking when they will be paid, does it bar the Member for Juja to ask why they are being paid one and half years later when the Constitution guarantees prompt payment? Would I be in order to tell the Minister to stop misleading the House that the question I am asking is not relevant to the Question that is being answered?

Mr. Orengo: Mr. Deputy Speaker, Sir, I am just saying that if the hon. Member really wanted us to haggle over that one, then he should have taken a little bit of time to make the appropriate inquiry and, in my answer, I would have included when they were paid in respect to the time when the award was made. But that, notwithstanding, under

the Land Acquisition Act, where interest is claimed – and the interest should not be less than 6 per cent – then the party who is claiming has then to make a claim of that interest on the basis of the law. No claim has been made to pay interest, which means the claimants are satisfied with the payments. I would probably ask the hon. Member to put anything on the Table to show that, in fact, there has been a demand for payment of interest on account of the payment.

Eng. Maina: Mr. Deputy Speaker, Sir, here is a case of the Government, deliberately or otherwise, delaying payment to ordinary people. Some of the people whose houses were destroyed are very ordinary and for one and half years, they have been struggling. Could the Minister confirm that those people will be paid the value of the land or property today, which is nearly more than ten times? Could he also consider paying them for damages, as requested by the hon. Member?

Mr. Orenge: Mr. Deputy Speaker, Sir, if I paid the money in terms of what the hon. member is saying, then I will be under scrutiny by this Parliament. The law says how to pay and what a man should be paid and, if there is a claim for interest, when and how it should be paid. But so far, as matters stand now, no single claimant has come or approached the Government to decline payment on account of either not adequate compensation or because there is a claim of interest. I think it is better not to speculate about that. If there is such a justified claim, then it will be paid. The law is very clear. It is not just in accordance with the Constitution, but with Section 8 of the Land Acquisition Act.

Eng. Maina: On a point of order, Mr. Deputy Speaker, Sir. The person speaking is a lawyer of very competent calibre. He also believes in justice and human rights. We are discussing about ordinary people and their Government. Now, you cannot put the onus on those people; that they are supposed to do this or that. Could the Minister consider really initiating that? Otherwise, he will be deliberately misleading the House that the reason is because they have not asked, when he should be the one who should really be acting.

Mr. Orenge: Mr. Deputy Speaker, Sir, I would ask Eng. Maina, who is a contractor and has built roads on land which has been compulsorily acquired and has never taken mercy on the people who are in the neighbourhood--- When his tractors are rolling, he has no sympathy at all! I think he should be the last person to talk about sympathy!

Mr. Deputy Speaker: Order! Order, hon. Minister! Do not impute improper motive on the person of hon. Maina! He is talking about the common people. Proceed and answer the question.

Eng. Maina: On a point of order, Mr. Deputy Speaker, Sir. I wish to correct the insinuation by the hon. Member. In fact, I am an engineer by profession. He is also a lawyer by profession. What you do today is called business. He should not describe me as a contractor for roads! I have built about 30 water supplies in this country, for your information! In fact, the roads are being built by the Chinese according to your Government policy, which is rendering the youth of Kenya jobless!

Mr. Orenge: Mr. Deputy Speaker, Sir, I know that the hon. Member has a company. It is not called Kirinyaga Engineering Company, but Kirinyaga Construction Company. I have looked at its Memorandum and Articles of Association and part of the

objectives of that company is to contract works, including the buildings of roads. So, I have done a little bit of homework and I think we should stop there.

Mr. Deputy Speaker, Sir, with regard to the question that the hon. Member has put forward, the money that is being paid to any claimant is not a figure that you will pull out of the heart. The manner in which that figure is determined is provided under the Land Acquisition Act, Section 10, which spells out the manner in which the claim and awards are made, valuation and acreage. Once the sum is determined, if any party is unhappy with the sum awarded, it can make an appeal to the high court. So far, what we are talking about is mere speculation. I want the hon. Members to show me anything to suggest, on record, that anybody has made any claim of interest and has not been in justified circumstances.

Mr. K. Kilonzo: On a point of order, Mr. Deputy Speaker, Sir. The Member of Parliament who asked the Question referred to the compensation to the people who lost their land. In response, the Minister said that this Member of Parliament owns Kirinyaga Construction Company. Is he in order to bring in the firm of the Member of Parliament whereas the issue we are discussing is compensation to the people whose land has been acquired compulsorily by the Government? Is he in order to bring in the name of the company of the Member of Parliament?

Mr. Deputy Speaker: Certainly! You should not address it!

Mr. Orengo: Mr. Deputy Speaker, Sir, I do not know. I think the hon. Member has been asleep! I did not raise that issue!

Mr. Deputy Speaker: Order! That had been put to rest! The Chair ruled the Minister to be out of order to discuss the person and the business of hon. Ephraim Maina without a substantive Motion. I thought that was put to rest.

Mr. Kigen: Mr. Deputy Speaker, Sir, Road 104, from Nakuru to Eldoret, was upgraded two to three years ago. In the course of that upgrading, a number of parcels of land were acquired by the Ministry jointly with the Ministry of Roads. Could the Minister inform the House how long it will take him to compensate those people considering that the road is now almost complete and nothing has happened after he took away the land?

Mr. Orengo: Mr. Deputy Speaker, Sir, I must confess that I am being confronted---

Mr. Deputy Speaker: That is a different Question!

Mr. Orengo: Yes, that is a different Question. If it was put to me substantively, then I would answer it.

Mr. Deputy Speaker: Order! Hon. Kigen, other than on matters of policy, on specific matters you file your own Question. Do not hijack the Question of another hon. Member and expect the Minister to have that information when on his feet! The last supplementary question on the same is by hon. Kabogo!

Mr. Kabogo: Mr. Deputy Speaker, Sir, I think the Minister is slightly avoiding the real issue. The issue here is about when compensation will be given; the payment is being made one and a half years later. We have cited the law, Section 10 of the Compulsory Acquisition Act, Cap.295, where the process of acquiring land is defined. In the same spirit, the law provides in Section 8 that payment is prompt. The same law provides that interest is payable. All I am asking of this Minister is: Now, that he knows that payment is one and a half years late, why does he have to wait for the 900 people

who were affected to initiate a one-on-one on the issue of interest? Could he undertake to pay interest if these people ask for it? Could he undertake that to the House?

Mr. Orengo: Mr. Deputy Speaker, Sir, I cannot undertake because it is not my money. I can only pay where there has been a claim of interest. As we speak now, there has been no claim for interest on account of late awards and compensation.

Mr. Kabogo: On a point of order, Mr. Deputy Speaker, Sir. The Minister is avoiding a very sensitive issue. The facts are bare. Compensation is being paid one and half years later, and the law gives the Minister the position on interest. I am only asking: Could he give the House an undertaking according to the law, and not for illegal interest, that he will pay interest on amounts that are being paid one and a half years later? I am not asking for rocket science.

Mr. Orengo: Mr. Deputy Speaker. Sir, what I am saying is simple. Interest will be paid when claimed and when justified. So far, there has been no claim for payment of interest. I cannot give an undertaking where there is no—

Mr. Deputy Speaker: Order! Hon. Kabogo, you are not saying that So-and-so needs interest. You are not giving facts to the House here, and indicating examples of landowners who have been denied interest. You are making a blanket claim! As the Minister puts it, it has to be on a case-by-cases basis. If it is in the law, then it is obvious that you do not have to say it here.

Next Question by Mr. Langat!

Question No.981

RESETTLEMENT OF SQUATTERS IN KERICHO TOWN

Mr. Lang'at asked the Minister for Lands:-

(a) what the status of the planned resettlement of members of the Talai Community, as well as other squatters, residing in the outskirts of Kericho Town is; and,

(b) what he is doing to fast-track the resettlement process.

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

(a) In collaboration with the Kericho District Plot Allocation Committee, the Ministry has identified a number of plots currently occupied by the Talai Community; these specifically are Block 5 and in Block 6 in an area known as a “deferred zone” neighbouring Kericho Prisons Annex for the resettlement of the Talai Community.

(b) I have directed the relevant Government department, the Director of Physical Planning, to immediately commence the process of planning of the identified plots to enable a formal allocation process to commence. It is expected that this process will take some three months to complete. I have previously held discussions with the civic leaders from Kericho, the District Commissioner, other public officers and stakeholders on this matter. The action I have taken on this matter is a result of these consultations. I may add that the community is already on this land, and so the exercise will be simple. It will not be complicated in any sense of the word.

Mr. Lang'at: Mr. Deputy Speaker, Sir, I thank the Minister for that answer. Part “a” of my Question was about the Talai Community as well as other squatters residing in the outskirts of Kericho Town. We have other squatters in a place called Koita, who were

pushed away by the amalgamation of tea companies when they were planting tea. They have been squatters since those days. Is the Minister aware of the existence of these squatters and what action has he taken on the same?

Mr. Orenge: Mr. Deputy Speaker, Sir, I have a big problem nationally with resettlement of squatters; over the last four financial years, we have not received a single cent from the Treasury for the resettlement of squatters who, under the framework under which we settle squatters, they must be defined as poor and landless. However, I have begun an exercise of audit in several areas of the Republic. If we identify land that was either grabbed or given out, and not used in the manner in which the grant stated, we will try to recover some of this land in order to resettle squatters. I think we have identified some pieces within the Kericho area, which may be used for the purpose of settling the squatters in Kericho. The Member for Ainamoi knows that the issues around Kericho are very close to my heart because I am a child of Kericho.

Mr. Ethuro: Mr. Deputy Speaker, Sir, I sincerely wish to thank the hon. Minister for his text. I just want the Minister to know that this is a pre-independence matter. Independent governments have promised to resettle the Talai Community. In fact, they were taken to his neighbourhood. The Talai were moved by the British colonialists from Kericho Town to Gwassi, where they were rejected and they were brought back on the promise that they would be given land. I am only stating facts.

Mr. Mbadi: On a point of order, Mr. Deputy Speaker, Sir. Is it in order for the Member to insinuate that the Talai were rejected in Gwassi yet they were brought there in 1934? We welcomed them and they lived with us until when there was population explosion, when we asked them kindly to go back to where they had come from. They had been brought there to die. There were a lot of tsetse flies in Gwassi, and they were brought there to die. We welcomed them and gave them land until when they felt they wanted to go back because of population explosion. We did not reject them!

Mr. Koeh: On a point of order, Mr. Deputy Speaker, Sir. With due respect to my brother here, Mr. Mbadi, is it in order to claim that because of population explosion in that area, they asked these people to go away, yet the Constitution allows every Kenyan to live in any part of this country?

Mr. Mbadi: Mr. Deputy Speaker, Sir, I need to clarify the history a bit just in one minute. The colonial Government brought the Talai Community to Lambwe Valley in Gwassi Constituency to die because there was a lot of tse tse fly. These people were warriors. So, we accommodated them with our tse tse fly and they did not die. Then later on after the colonial Government became a bit friendly to them, they decided to come back to Kericho. We did not chase them. That fact needs to be put correctly.

Mr. Ethuro: Mr. Deputy Speaker, Sir, you will notice one thing from the point of order hon. John Mbadi. First, he has made me a Minister. Secondly, I want to agree with him that actually they did not reject. I was only stating the same facts. These were fighters against colonialism. They were taken to Gwassi to die, as he has correctly put, and they received them well. Now, when they came back, they were promised to be settled.

The population is also important. They were taken there at 700, they are now about 6,000 in terms of population and about 2000 households. This is not a contentious matter. I just want the good Minister to appreciate the role of these people played to fight for the Independence of this country. What assurance could he give to this House that all

the 6,000 individuals of the Talai Community will be settled? Could he also compensate them for the lost time in terms of money?

Mr. Orenge: Mr. Deputy Speaker, in terms of compensation, it is very difficult for me to do anything without the authority of this Parliament.

If you look at legislation in this Parliament, which targets particular community such as the Mazrui Act was to deal with a specific situation and the Isaack Okwiri Act, was compensation to an individual.

So, I would ask hon. Ethuro, probably, we can work together and come out with legislation to deal with some of these issues that you have raised. This is one of the reasons the problems of the Talai Community found favour with me. As a fighter like them, I truly believe that these are people who did a good service to this country. However, over 40 years, they have been left in a situation like they are not part of this country. I have ordered as this exercise is going on that they should remain where there. The land they are staying on in Kericho will become part of their land.

I am aware that the community is not just in Kericho alone. They are all over the Rift Valley. We will to deal with that issue. Under framework of historical injustices, I think we can address the issues of the Talai Community. It is a serious matter that those who stood and fought continue to suffer, while those of us who, probably, never have been in any battle have the privileges that we enjoy. So, I find that hon. Langat you have done a good thing to bring this Question because the community was forgotten in every sense of the word.

Mr. Deputy Speaker: Last supplementary Question, hon. Langat.

Mr. Lang'at: Mr. Deputy Speaker, Sir, in his answer the Minister said the exercise of giving them land would take three months. Could he confirm that they will give them land within three months with effective from this month? Is it effective from this month? Could he also assure this House that he will also consider giving land to squatters residing near tea estates in Kericho?

Mr. Orenge: Mr. Deputy Speaker, Sir, my answer is dated 8th June, 2011. So, it is effectively from 8th June. I am going to invite hon. Langat to go with me in three weeks' time to Kericho as part of an exercise of ensuring these things move with the necessary speed. What we are aiming at is not three months. If we can do it in less than three months, so be it.

Dr. Kones: On a point of order, Mr. Deputy Speaker, Sir. This is also a subject matter that also touches on me. May I be allowed to just ask one clarification from the Minister?

Mr. Deputy Speaker: I thought you want to raise a point of order but you cannot ask a question at this juncture.

Dr. Kones: It is related to this matter, because the Minister has---

Mr. Deputy Speaker: Is it on Talai?

Dr. Kones: It is Talai and other squatters in the outskirts of Kericho.

I wanted to know from the Minister, whether he has taken into consideration the squatters who were evicted by the white settlers who planted tea in the estates, particularly the ones who are settled at Chepchabas? He is aware of this matter because I have been talking with him for a long time.

The Assistant Minister for Higher Education, Science and Technology (Mr. Kamama): On a point of information, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Does he want your information? Fair enough go ahead and give him the information.

The Assistant Minister for Higher Education (Mr. Kamama): Mr. Deputy Speaker, Sir, I come from this community called Talai. Those are my descendants. So, I want to sympathetically request the Minister to fast-track their case. I have a personal interest!

Mr. Deputy Speaker: Given the sensitivity and emotional attachments all Kenyans have, the Chair has given that leeway to hon. Kones's question. Could you, please, answer, Dr. Kones question on the same? He is asking whether you will do the same for many other Kenyans whose land were confiscated.

Mr. Orenge: Mr. Deputy Speaker, Sir, under the Constitution, all public land, except those that are specified in the Constitution will vest in the Counties. I believe that in the County from which my brother comes from, Bomet County, there are large expanses of land which were acquired. Some of them, leases have expired and some which are about to expire. There are pieces of land which were, probably, grabbed and which are not being used. So, I would urge my colleague that, probably, in the next elections, he should become the Governor. Since the land would vest in the County Government, then he can deal with the matter even more perpendicularly than I can deal with it.

Mr. Deputy Speaker: Next Question, Question No.988

Question No.988

LACK OF BOARD AT CENTRAL BANK OF KENYA

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

(a) whether he is aware that the Central Bank of Kenya is operating without a properly constituted board, and if so, what are the reasons for the anomaly, and,

(b) when he will ensure that the Board is properly constituted.

The Assistant Minister, Office of the Deputy Prime Minister and Minister for Finance (Dr. Oburu): Mr. Deputy Speaker, Sir, I beg to reply.

(a) I am not aware that the Central Bank of Kenya is operating without a properly constituted Board.

(b) In view of the response to "a" above, "b" does not arise.

Mr. Mbadi: Mr. Deputy Speaker, Sir, from the face of it, the answer sounds very nice. However, I want the Assistant Minister to tell this House between October 2010 and January 2011, how many positions were filled, what the total membership of the CBK is. He should also tell us between January and April, how many of those positions were filled. I am aware these positions were filled in April this year. How many were filled before April?

Mr. Ethuro: On a point of order, Mr. Deputy Speaker, Sir. May be I did not hear the Assistant Minister properly. If you look at the Question asked by Mr. Mbadi, you will find that part "a" asks whether the Minister is aware that the Central Bank of Kenya (CBK) is operating without a properly constituted board, which he says he is aware. Part

“a” of the same question further asks: “If so, what are the reasons for the anomaly?” I do not think the Assistant Minister has answered that bit.

Dr. Oburu: Mr. Deputy Speaker, Sir, I said that I was not aware.

Mr. Deputy Speaker: Which means that the Assistant Minister confirms that there is a board in place?

Dr. Oburu: Yes, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Mr. Assistant Minister, could you answer the supplementary question by Mr. Mbadi?

Dr. Oburu: Mr. Deputy Speaker, Sir, I said that I was not aware. The term of the directors of CBK was staggered.

Mr. Deputy Speaker, Sir, the term of the two directors expired at the end of September, 2010. That is the non-executive directors. The term of the other two directors expired in October, 2010. The term of the last director expired at the end of January, 2011. So, by the end of January, 2011, the five non-executive directors had not been appointed because their terms had expired.

Thank you, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Ask the last supplementary question, Mr. Mbadi!

(Dr. Kones stood up in his place)

Order! What is it, Dr. Kones? Is it on the same issue?

Dr. Kones: Yes, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: What is your question?

Dr. Kones: Mr. Deputy Speaker, Sir, we also know that the CBK, for some time now, has been operating without a substantive Deputy Governor because of the illness of the current Deputy Governor. From inside sources, this has to some extent affected the operations of CBK. When will the Government appoint a substantive Deputy Governor?

Dr. Oburu: Mr. Deputy Speaker, Sir, as the hon. Member has said, the Deputy Governor has been sick for some time and it is being considered very seriously to replace him. His Excellency the President will replace him very soon.

Mr. Deputy Speaker: Very well! Ask the last question on the same, Mr. Mbadi!

Mr. Mbadi: Thank you, Mr. Deputy Speaker, Sir. I want the Assistant Minister to answer this specific question. From January to April, how many board members were in service and if there were vacancies, how could the CBK operate for about four months without a full operating board?

Dr. Oburu: Mr. Deputy Speaker, Sir, the Board of the CBK meets quarterly. So, the Board does not meet on a day to day basis. From January when we did not have the five substantive directors, I issued a Statement on 1st March, 2011, and the three directors were appointed on 28th March. The last two of the five directors were appointed last week. So, the Board is now fully constituted.

Thank you, Mr. Deputy Speaker, Sir.

(Several hon. Members stood up in their places)

Mr. Deputy Speaker: Order, hon. Members! You will realise that we have the Finance Bill today and the Committee of Supply - Vote on Account. Under the

circumstances, we will have to defer the rest of the Questions. Question No.993 by Nelson Gaichuhie, Question No.916 by Mr. Isaac Muoki; Question No.763 by Mr. Abdul Bahari, Question No.936 by Mr. Ababu Namwamba, Question No.933 by Mr. Joseph Gitari, Question No.878 by Ms. Peris Chepchumba and Question No.887 by Mr. Boaz Kaino are all deferred and will take priority over other Questions in the manner and in the sequence I have mentioned them.

Question No.993

DISMISSAL OF JOSEPH K. NJOROGE

(Question deferred)

Question No.916

INCLUSION OF PRIMARY SCHOOLS
IN SCHOOL FEEDING PROGRAMME

(Question deferred)

Question No.763

LEVEL OF GIRL-CHILD ENROLMENT
IN MARSABIT/ISIOLO COUNTIES

(Question deferred)

Question No.936

FATE OF CONTRACT TEACHERS
EMPLOYED BY TSC

(Question deferred)

Question No.933

LACK OF SEWERAGE SYSTEM
IN KERUGOYA TOWN

(Question deferred)

Question No.878

MEASURES TO CONSERVE THE
ENVIRONMENT IN KENYA

(Question deferred)

Question No.887

LACK OF MOBILE PHONE COVERAGE IN MARAKWET WEST

(Question deferred)

Mr. Deputy Speaker: Let us move on to the next Order!

POINTS OF ORDER

FATE OF WORLD BANK-FUNDED
FLOOD MITIGATION PROJECT

Mr. Namwamba: Thank you, Mr. Deputy Speaker, Sir. I wish to seek a Ministerial Statement from the Minister of State for Special Programmes. In that Statement, I wish to request her to clearly and substantively respond to the following questions.

(i) What is the fate of the World Bank-funded Western Kenya Community-Driven Development and Flood Mitigation Project which stalled about two years ago?

(ii) Why is it taking the Government forever to get this project back running over two years since it stalled?

(iii) Aware that the Kshs6 billion provided by the World Bank for this project is a loan and not a grant, why does the Government continue to dilly dally over this project and thereby waste public resources on loan interest repayment in the absence of any benefits to the people of western Kenya and the country?

(iv) Could the Minister tell this House whether the project staff continue to draw salaries under the project and, if so, why? While on that, the Minister should provide a list of all staff that have continued to be retained on this project and tell us exactly how much they are drawing out of the project.

(v) How does the Government respond to concerns that this inexplicable delay could be a calculated move to sabotage the economic interest of the western region?

[Mr. Deputy Speaker left the Chair]

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

(vi) The Minister should indicate very clearly measures the Government is taking to ensure that this project is restarted without any further delay.

Thank you, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Ethuro): Is anyone here from the Ministry of State for Special Programmes?

Yes, Deputy Leader of Government Business!

The Minister for Transport (Mr. Kimunya): Mr. Temporary Deputy Speaker, Sir, could we make the Statement two weeks from today?

The Temporary Deputy Speaker (Mr. Ethuro): Mr. Namwamba, you will have the Statement in two weeks time!

Mr. Namwamba: That is good enough, Mr. Temporary Deputy Speaker, Sir. Thank you.

(Several hon. Members stood up in their places)

The Temporary Deputy Speaker (Mr. Ethuro): Order, hon. Members! We will take the requests and deal with the Ministers.

Proceed, Mr. Mbadi!

CONTINUED DEPRECIATION OF THE KENYAN SHILLING

Mr. Mbadi: Thank you, Mr. Temporary Deputy Speaker, Sir. I rise to seek a Ministerial Statement from the Deputy Prime Minister and Minister for Finance with regard to the continued recent depreciation of the Kenyan shilling. Indeed, the shilling has continued to depreciate from a mean of Kshs80.8 to the dollar on 3rd January, 2011 to a 17-year low exchange rate of Kshs89.4 on Tuesday, 14th June, 2011.

This turn of event is likely to affect the manufacturing sector, could fuel further inflationary pressures and erode expected gains of boosting import of maize, wheat and rice with the consequence of terminating the envisaged reduction in prices of these essential commodities. To this end, could the Deputy Prime Minister and Minister for Finance undertake the following? There are three issues that I want him to clarify.

(i) To highlight the key process of the depreciating Kenya Shilling.

(ii) Give an account of the impact of the depreciating shilling to the economy at large.

(iii) To detail specific possible interventions the Government plans to put in place to reverse the trend.

Thank you, Mr. Temporary Deputy Speaker, Sir.

The Deputy Prime Minister and Minister for Finance (Mr. Kenyatta): Mr. Temporary Deputy Speaker, Sir, could I respond next week on Thursday?

Eng. Gumbo: Mr. Temporary Deputy Speaker, Sir, I rise on a point of order as the Chair of the House Broadcasting Committee. Standing Order No.195 (2) gives the House Broadcasting Committee the mandate to consider and report matters relating to broadcasting of parliamentary proceedings. It also gives the Committee the mandate to assess and analyze parliamentary information released to the public by the media.

Under Standing Order No.34 (2), the House Broadcasting Committee is allowed as per the First Schedule of our Standing Orders to publish broadcasting regulations and part of those regulations deal with parliamentary privileges.

No.2 of those privileges says that audio and visual digital footage shall be covered by the laws relating to parliamentary privilege and shall be kept as part of the records of the House under custody of the Clerk.

On relations with external media, the First Schedule seeks:-

Under the regulations, external media house refers any media house other than the Parliamentary Broadcasting Unit. It also states that no external media house or other person may broadcast any proceedings of the House except as received from the broadcasting feed provided by the Parliamentary Broadcasting Unit or with the permission of the Speaker.

Subsequent to these Standing Orders, we, as the House Broadcasting Committee, developed operating procedures relating to external media houses. The procedures were given to all media houses. Yesterday, during debate, the Deputy Speaker clearly pronounced himself on a matter which he considered to be obnoxious and unbecoming of the privileges and dignity of this House. I specifically quote from Mr. Deputy Speaker's ruling where he said:-

"I am also going to direct that proceedings relating to all those obnoxious aspects of the proceedings itself be expunged from the records of the House."

What that meant clearly is that the proceedings upon which the Deputy Speaker pronounced himself were not permitted to be broadcasted to the country. Notwithstanding that, in today's issue of *The Star Newspaper*, the same exact proceedings that the Deputy Speaker expunged from the records have been lined up as the headline story.

Mr. Temporary Deputy Speaker, Sir, engagement cannot be possible if the rules of coverage are clearly ignored. Clearly, the action by *The Star* is in breach of the rules of coverage and privileges granted by this House to the media houses. It is important that media houses know that breaching such regulations draw penalties and those penalties are clearly stated in the operative procedures for external broadcasters, which all media houses have. You have clearly pronounced yourself on this matter. You have clearly stated that the proceedings which were obnoxious were not supposed to be broadcast. I, therefore, seek your direction, ruling and guidance on this matter where, clearly, one media house has breached the rules of coverage of proceedings of this House. I seek your direction.

Mr. Mbadi: On a point of order, Mr. Temporary Deputy Speaker, Sir. Whereas I do not really agree with the headline on today's issues of *The Star*, and whereas I do agree that you made that ruling yesterday, in your consideration of this matter, I would urge that this House exercises tolerance especially to media houses. If you look at media houses in other countries, they report certain serious issues that one would expect that they will be reprimanded. However, as country, I think we are moving forward. Some of these stories could just be thought-provoking. I do not see the damage that it has caused to this House. Whatever was said was covered live and Kenyans had already seen it. I would urge tolerance and ask that the Speaker asks the media houses to exercise caution in future. But, I would persuade this House not to take punitive measures on the media house.

I request my colleague, who is also my brother in law, to reconsider his stand.

The Temporary Deputy Speaker (Mr. Ethuro): Order, hon. Members. Hon. Eng. Gumbo was addressing the Chair in his capacity as the Chair of a House Committee. He has stated the Standing Order and regulations that govern broadcasting. The Chair will take into account all the issues that he has sought and make a ruling on the matter by notice, maybe, next week.

TABLING OF LETTER APPOINTING MR. GITARI

TO A COMMITTEE OF THE HOUSE

Mr. Gitari: On a point of order, Mr. Temporary Deputy Speaker, Sir. Yesterday, I rose on a point of order and promised this House that I will table a letter. I wish to lay it on the Table today. It is with regard to my appointment to a House Committee.

(Mr. Gitari laid the document on the Table)

Mr. Namwamba: Mr. Temporary Deputy Speaker, Sir, I am seeking your indulgence that you allow me, most kindly, to add my voice to this very important matter. I know that you have already indicated that---

The Temporary Deputy Speaker (Mr. Ethuro): What important matter?

Mr. Namwamba: The one regarding the media.

The Temporary Deputy Speaker (Mr. Ethuro): Order! Hon. Namwamba, the Chair has already given direction on that matter. I am sure that when the Chair makes a ruling, it is at liberty to entertain you. For now, that matter has been disposed of.

Mr. Namwamba: Mr. Temporary Deputy Speaker, Sir, most obliged. I was pleading for magnanimity from a Chair; that I have confidence in his every broad capacity to be magnanimous.

The Temporary Deputy Speaker (Mr. Ethuro): That will not pass, hon. Namwamba. I am magnanimous, but I will not allow that.

Mr. Namwamba: Most obliged, Mr. Temporary Deputy Speaker, Sir.

MINISTERIAL STATEMENTS

AVAILABILITY OF SEED MAIZE FROM THE KENYA SEED COMPANY

The Assistant Minister for Agriculture (Mr. Ndambuki): Thank you, Mr. Temporary Deputy Speaker, Sir. On 31st May, hon. Nyamweya requested a Ministerial Statement regarding availability of seed from Kenya Seed Company. The Kenya Seed Company is the main seed maize producing company in the country with an estimated market share of 85 per cent. I wish to assure the House that, while we experienced a deficit of seed in the country last season due to drought and planning error on the part of Kenya Seed Company, we have now made arrangements to ensure that such a situation is not repeated. We have also instructed the Kenya Seed Company to expand the area under irrigation to mitigate the cases of drought, so that we do not depend on rainfed seed production. We are in the process of assisting Kenya Seed Company to contract more land from ADC or acquire more land to breed seed to boost commercial seed production. The total number of farmers contracted by Kenya Seed Company to grow seed maize during the Year 2011/2012 is 250, and they are covering 42,318.50 acres.

I hereby table the list.

(Mr. Ndambuki laid the document on the Table)

Kenya Seed Company pays contracted farmers Kshs47 per kilo for clean maize seed, and sells one kilogramme of seed maize at Kshs115 to farmers.

I hereby table seed maize price determined.

(Mr. Ndambuki laid the document on the Table)

Kenya Seed Company has in stock 3,351 metric tonnes, mid and low attitude 500 series, seed maize for planting during the 2011 short rains which accounts for 88 per cent of the 4,000 metric tonnes total requirement.

Mr. Temporary Deputy Speaker, Sir, the balance of 12 per cent is normally supplied by the private sector, which includes local and foreign seed companies. With regard to the 600 series, a total of 800 metric tonnes is required and the Kenya Seed Company will supply 1,000 metric tonnes although it might be slightly late in the short rains season.

I wish to ensure that we have made arrangements to have enough seed during the long rains in 2012.

Thank you, Mr. Temporary Deputy Speaker, Sir.

Mr. Oyongo Nyamweya: Mr. Temporary Deputy Speaker, Sir, I thank the Assistant Minister for the elaborate answer he has given---

Mr. Mututho: On a point of order, Mr. Temporary Deputy Speaker, Sir. Listening to the Assistant Minister, he is reading verbatim from the report. He has just tabled a report on seed shortages. Would I be in order, therefore, to seek your direction because this would amount to anticipating debate since the report is already tabled and the Motion is already properly moved and is still before the House Business Committee? If the matter is very urgent, we would be happy to discuss the Report even tomorrow, or Tuesday.

The Temporary Deputy Speaker (Mr. Ethuro): Mr. Assistant Minister, what do you have to say?

The Assistant Minister for Agriculture (Mr. Ndambuki): Mr. Temporary Deputy Speaker, Sir, by the time we were preparing this Statement, the Committee had not tabled their report. This request of the hon. Member was done on 31st May. I have been coming with this Statement on a daily basis and not getting an opportunity to issue this Statement.

As I speak, I have not even seen the Report by the Chairman of Departmental Committee on Agriculture, Livestock and Cooperatives. So, I do not know what they have tabled.

Mr. Mututho: Mr. Temporary Deputy Speaker, Sir, the purpose of laying papers here and giving Notices of Motion is for the Executive and everybody else interested to notice. We did table. We gave notice of Motion. That Report is available in Room No.8, if the hon. Assistant Minister, so desires to see it. I find it---

The Temporary Deputy Speaker (Mr. Ethuro): When did you table it?

Mr. Mututho: Mr. Temporary Deputy Speaker, Sir, it was tabled on Tuesday.

The Temporary Deputy Speaker (Mr. Ethuro): Hon. Members, the rules of the House are clear. You do not anticipate debate. So, if that material has been covered appropriately in a report tabled before the House, then we do not proceed with that Ministerial Statement.

Mr. Oyongo Nyamweya, you will look at the Report and maybe solicit that the House Business Committee prioritizes it for debate.

Mr. Oyongo Nyamweya: Mr. Temporary Deputy Speaker, Sir, I brought this issue in May. The Committee has tabled its report much later. The issue of availability of seed maize is so critical, especially in Nyanza where I come from. The farmers need to know whether the seeds are available. We need an assurance from the Assistant Minister that these seeds are available. This is a question I asked earlier. What happened here is that because of other business which came up in the House, last week, that Statement was deferred. That is why there has been a delay on delivery of this Statement. So, I really ask for your indulgence to allow me ask a few clarifications from him.

The Temporary Deputy Speaker (Mr. Ethuro): Order, Mr. Oyongo Nyamweya. I really sympathise with you. I wish that Statement was sought last week. Unfortunately, it is coming this week after another report has been tabled. So, according to our Standing Orders, I cannot help you for now.

(Mr. Ndambuki stood up in his place)

What is it, Mr. Assistant Minister?

The Assistant Minister for Agriculture (Mr. Ndambuki): For record purposes---

The Temporary Deputy Speaker (Mr. Ethuro): Let us not use valuable time on just points of orders!

The Assistant Minister for Agriculture (Mr. Ndambuki): Mr. Temporary Deputy Speaker, Sir, for record purposes, I just want it to be put on record that I have not seen his Report, but I will go with your ruling. This was the Ministerial Statement which was requested by the hon. Member.

The Temporary Deputy Speaker (Mr. Ethuro): Mr. Assistant Minister, if you had told me that, it would have helped somewhat. That is why I was giving you the opportunity to respond to Mr. Mututho.

Mr. Oyongo Nyamweya: I am not challenging your decision.

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

Mr. Oyongo Nyamweya: Just a minute, Mr. Temporary Deputy Speaker, Sir!

The Temporary Deputy Speaker (Mr. Ethuro): Order, Mr. Oyongo Nyamweya! You cannot rise and say you are not challenging my ruling and yet, you are even challenging my ability to give you the opportunity to speak!

Next Statement, hon. Mudavadi!

STATUS OF MAKADARA ECONOMIC STIMULUS PROJECT

The Deputy Prime Minister and Minister for Local Government (Mr. Mudavadi): Mr. Temporary Deputy Speaker, Sir, I wish to make two Statements. The first one which is to do with the Makadara Economic Stimulus Project.

Mr. Temporary Deputy Speaker, Sir, on 14th June, serious allegations were made against my Ministry on the Floor of this House and I wish to give a Ministerial Statement as follows:

One, the Makadara ESP Market is among the 180 markets advertised by the Ministry of Finance on 25th, 2009 and 14 bidders bought the tender documents. I will be tabling the documents to show who the bidders were.

According to the tender evaluation report conducted at the constituency level, 12 bidders responded. The evaluation report is dated 20th November, 2009. I would like the House to note that M/s Pansi General Construction was not among the bidders listed by the Makadara Constituency evaluation report. Even if M/s Pansi applied, the firm could not have been considered for reasons I shall shortly explain.

Three, the Makadara Constituency Tender Committee, through the CDF Board Secretariat, forwarded the documents together with the valuation report to the Ministry on 22nd March, 2010. According to the evaluation criteria contained in the first advertisement by the Treasury, bidders had to satisfy, among others, the following conditions:

(a) Registration as building contractors. Such registration is done by the Ministry of Public Works.

(b) They must be tax compliant. The attached letter from the Ministry of Public Works clearly shows that M/s Pansi Construction is not registered and, therefore, not allowed to bid for construction projects. There is also a letter from the KACC which says that M/s Pansi is not tax compliant and is, therefore, not eligible to bid for such works.

(c) A firm complying with the above would automatically be registered with the Attorney-General's office as a business entity where the two conditions above are not met. It may be necessary to enquire on the registration of the status of the company. We have done so. The letter from the Registrar of Companies also shows that the firm is not registered and, therefore, not a legal entity hence not a person that we will be dealing with.

Mr. Temporary Deputy Speaker, Sir, I wish to also point out that when these documents came, the evaluation process was done and a company called M/s Wedco Construction Company was awarded the construction of Makadara Market. This was on 23rd April, 2010. The letter of award was dated 27th May, 2010 and it was sent to the winning bidder. The allegation by M/s Pansi Contractors of unethical demands even before the tendering process begins are dated 2nd February, 2011; almost one year after completing the tender process.

I want to table these documents.

(Mr. Mudavadi laid the documents on the Table)

Mr. Ruto: On a point of order, Mr. Temporary Deputy Speaker, Sir. Although the Minister has given this Statement almost to the end, would it not have been prudent if the Member who requested for the Ministerial Statement would have been present so that he could interrogate the Statement appropriately?

The Temporary Deputy Speaker (Mr. Ethuro): Mr. Minister, did you agree to present the Statement today?

The Deputy Prime Minister and Minister for Local Government (Mr. Mudavadi): Mr. Temporary Deputy Speaker, Sir, I consulted with the Speaker and I said that I wanted to make this Statement. We are dealing with a situation where documents are being tabled here making allegations against individuals---

The Temporary Deputy Speaker (Mr. Ethuro): Order, Mr. Minister! I have confirmed that the Member was actually here and so, you are perfectly in order to proceed!

The Deputy Prime Minister and Minister for Local Government (Mr. Mudavadi): Mr. Temporary Deputy Speaker, Sir, I, therefore, want to state that it has come to light that this person who was supposedly making allegations is not a registered company under the Companies Act and there is a letter from the Registrar of Companies to prove that. They are not a registered contractor under the Ministry of Public Works and there is a letter which I am going to table to indicate this from the Ministry of Public Works. They also do not appear on the KRA tax records as being a registered company.

So, the point I am trying to put across as I table this document is that, the House should not be used to malign other individuals when somebody has not verified the facts. The issue here is that even if an ESP project is worth Kshs10 million and somebody alleges that the Minister and the Permanent Secretary are demanding Kshs8 million of the Kshs10 million, it is ridiculous. Then, where would the money to implement the project be found? So, as I table this document, I appeal to the House and, indeed, to the Committee that will be looking into this matter to come up with very clear guidelines so that people can be sanctioned if the game is to malign individuals here. We must fight corruption, but let us fight it with facts and not just maligning people's names.

(Mr. Mudavadi laid the document on the Table)

The Temporary Deputy Speaker (Mr. Ethuro): Have you finished presenting your Statement, Mr. Minister?

The Deputy Prime Minister and Minister for Local Government (Mr. Mudavadi): Mr. Temporary Deputy Speaker, Sir, yes, I have finished with that particular one. Maybe, there could be some questions before I deal with the second one.

The Temporary Deputy Speaker (Mr. Ethuro): That is not for your convenience. For the convenience of the House, you must be interrogated!

Eng. Gumbo: On a point of order, Mr. Temporary Deputy Speaker, Sir. This is a very serious matter in my view. It borders on the dignity of the House. When this matter came, I took it upon myself. We are all individuals here and we represent people. We have families and above all, we are leaders of our country. I took it upon myself to talk to the Minister because I was concerned. From the outset, the letter looked fake. I know that to authentic documents, you need a Commissioner of Oaths. I cannot authenticate my own certificates and purport to say that they are authentic. It is the duty of the Members of Parliament who are representatives of the people of Kenya to take full responsibility when they mislead the House. Would I be in order to ask the Chair to take sanctions on a Member who deliberately misled this House by bringing fake documents?

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

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

The Temporary Deputy Speaker (Mr. Ethuro): Order, Members! Why are you seeking points of order when it is an opportunity to seek clarifications from the Minister? What Eng. Gumbo has sought should have been a clarification, but I also want to say something because the Minister had also made a statement to that effect. Really, it is the role of the Chair to admit documents. We have the criteria for admitting those documents.

So, that matter should have been sorted out even before the Minister could respond to that matter.

Secondly, all is not lost. If any Member of this House brings certain allegations, they are being addressed to a particular Minister and the Minister also in the same forum, can come and allay and confirm the correct position. But I think the country will be advised by the correct position rather than relying on the rumours out there.

Dr. Nuh: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the Member for Rarieda, who is a very good friend of mine in order to mislead the House that when documents are presented to the Chair or to the Speaker, they have to be authenticated by a Commissioner of Oaths? All that is required for a document to be authentic is the signature of the originator. So, it is not a must for a Member to bring documents that have been signed by the Commissioner of Oaths for them to be received by the Chair. I think that he is misleading this House and setting standards which are not within the Standing Orders.

The Temporary Deputy Speaker (Mr. Ethuro): Order, Dr. Nuh! You are perfectly in order in terms of admissibility of documents. We just need to make sure that there is a proper address and the document is signed.

Mr. Mbadi: On a point of order, Mr. Temporary Deputy Speaker, Sir. This document was accepted as admissible by the Chair on the strength of the signature. The Chair was perfectly in order to accept that letter as admissible. However, given that the letter is turning out not to be authentic, it appears to me that the Member deliberately misled the Chair and the House to accept a letter as admissible yet in the real sense it was a forgery. The integrity of this House, not of the Minister alone, and that of the Chair is going to be at stake. I will agree with the point of order raised by Eng. Gumbo that some action needs to be taken against the Member who misled this House into accepting a letter which he knew was not a genuine letter. You will remember that the following day--

The Temporary Deputy Speaker (Mr. Ethuro): Order! You are on a point of order, hon. Mbadi! You are not making a contribution and the Chair has heard you. I will respond to your point of order, but let us have hon. Ruto and then hon. Nuh to seek clarifications.

Mr. Ruto: Mr. Temporary Deputy Speaker, Sir, my clarification from the Minister is basically on his management of the Economic Stimulus Project under his docket. Could he tell us the reasons which have made the ESPs under his charge difficult to implement and very slow? The projects are managed in Nairobi when all other similar projects are managed in a more orderly manner through the ESP Management Committee as stipulated by the Treasury. It has become very difficult to follow who awards these contracts, how and when they are paid for. The contractors on site work for three weeks and disappear for another three months before they are paid, so that they can continue. So, they are on and off. The projects under the Minister's charge are not being monitored and appraised closely by anybody.

The Temporary Deputy Speaker (Mr. Ethuro): Members, you will remember this Statement arose from a Question which had been answered except for the element of bribery allegations which the Minister was responding to specifically. So, the Chair will not entertain more interrogations in terms of performance of the ESPs. While the Chair appreciates the importance of those particular questions, really, they are not for now. We

need to be relevant to the matter under interrogation. So, I will disallow hon. Ruto to continue and give a chance to Dr. Nuh.

Mr. Kioni: On a point of order, Mr. Temporary Deputy Speaker, Sir. I do not wish to take you back, but you have clarified that this issue arose out of a Question and the issue that the Minister needed to clarify was on the allegations of bribery. The Member who alleged that there was bribery walked out just before the Statement was read. What is coming out from the Minister now is that even the documents that were tabled were fake. We were all in the House and supported this because there was documentary evidence. He has misled this House. He took us for a ride and we cannot allow him to continue. I think it will be wrong to allow Members to ruin the integrity of this House using some Standing Orders. The fact that the Chair was also misled in accepting the document as genuine, makes it difficult for us next time to bring documents and you accept them on the strength of signatures because we have not acted as hon. Members. It will be very unfair to allow this Member to get away with this.

Standing Order No.97 and Standing Order No.98 allow a Member who misbehaves that way to be named. Am I in order, given what this Member has done, to ask for his naming by this House so that these things are not repeated again?

Dr. Nuh: Mr. Temporary Deputy Speaker, Sir, I do not purport to speak for Mr. Mbuvi but I think we will be setting a very bad precedent in this House if we want to condemn Members before hearing them. We cannot know why Mr. Mbuvi walked out. He could have been pressed for other issues. So I think until and unless he comes to either substantiate or support his documentary evidence to show whether it was forgery or not, this House cannot take any allegation. This issue was not listed on the Order Paper, so you cannot say that he had the hindsight on whether the Statement would be delivered or not.

Besides that, I want to request that even when we were asking these questions, I think the Chair will recall there were many upstanding Members. This is because this issue of stimulus has evoked many emotions. In fact, because of the benefits we expect it to trickle down to our constituencies. It is a matter we cannot leave uninterrogated. I would want to ask the hon. Minister that the fact that the stimulus projects as regards market stalls has been lagging behind all other stimulus projects, it has been attributed to the fact that they have centralized all the systems of encashment of vouchers and everything else. Contractors have to travel all the way from Turkana with vouchers to come and get payments in Nairobi for them to go back and complete projects. What action is the Minister taking to ensure that because they must lead by example - and the fact that we are going to county governance where his docket is - that they will decentralize the management of these funds including the payment of contractors at the constituency level if not at the district level?

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

The Temporary Deputy Speaker (Mr. Ethuro): I thought you had another one which needed to be disposed of? What is it?

Eng. Gumbo: Mr. Temporary Deputy Speaker, Sir, with all due respect, I appreciate and respect the right of Dr. Nuh to seek clarifications. However, my fear is that we are going to cloud a matter that impacts directly on the dignity of the House. Could I kindly request you to pronounce yourself on this matter?

The Temporary Deputy Speaker (Mr. Ethuro): Order, Eng. Gumbo! The Chair was just going to pronounce itself and you demanded to be heard. Both cannot be done simultaneously!

Hon. Members, this is a fairly straightforward matter. The position of the Chair is that the Member brought the documents and the Chair admitted them on the basis we admit documents; that they were signed. The Minister has responded to the allegations and demonstrated that those documents were a forgery. This is a word between one Member of the House and another. I appreciate it raised those kind of issues whether the Member acted in good faith or he was also misled. I think we must give the benefit of the doubt to the Member for now because he is not in the House. The Chair also needs time to interrogate the documents that were submitted by the Member and the position the Minister has taken. A ruling will then be made by the Chair by notice.

Secondly, I also want to make it very clear to the House, as Members have sought. The Standing Orders are very clear that it is our responsibility to communicate matters that we are fully aware to be true. So even before you bring the matter to the House, crosscheck to make sure that it is the correct position and that you are seeking issues from the Executive that you know are correct.

So, Eng. Gumbo, bear with the Chair we will deal with it. Mr. Kioni has raised the Standing Order that will be appropriate when the Chair establishes and determines that, indeed, the Member misled the House. We will invoke our Standing Orders. Let it be very clear.

So, we rest that matter!

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

The Temporary Deputy Speaker (Mr. Ethuro): On the same or a different matter?

The Deputy Prime Minister and Minister for Local Government will have the last word on the last clarification.

Mr. Kabogo: On a point of order, Mr. Temporary Deputy Speaker, Sir. I just want to bring to your attention what you said, that this is a matter between one Member and another Member. There are documents which have been brought to the House from departments of Government, like the Registrar of Companies and the Kenya Revenue Authority (KRA). Therefore, it is not really an issue of one Member versus another Member. It is a matter of one Member versus the Minister and departments of Government.

The Temporary Deputy Speaker (Mr. Ethuro): Order, Member for Juja! You are reading the Statement by the Chair selectively. The issue was one Member who brought certain allegations. The other Member who happens to be a Minister has now brought the proper documentation. We are all hon. Members and I want to appreciate that we look at both issues and make the proper ruling.

Mr. Namwamba: Mr. Temporary Deputy Speaker, Sir, I am concerned. Indulge me to express this concern by your Statement that the Member may have himself been misled by way of the information he tabled in this House. This is a political arena but it is also an arena that is governed by rules; rules of decorum, rules of fair play. When I read Standing Order No.82, it is very specific; a Member shall be responsible for the accuracy of any facts which the Member alleges to be true and may be required to substantiate such facts. This Member cannot be excused that he himself may have been misled.

Mr. Temporary Deputy Speaker, Sir, Standing Order No.97 which describes disorderly conduct includes persisting in making serious allegations without adequate substantiation. Therefore, I think we have witnessed in this House repeatedly too much latitude in terms of Members bringing documents here or making allegations which cannot be substantiated. I think this is an opportunity to make an example in terms of the application of Standing Order No.82 and Standing Order No.97.

Also, take into account the fact that the Member who raised this matter and made this very serious allegation against a senior Member of this House and a senior of Government, walked out of this Chamber aware that the Minister was going to respond to this matter. This matter must be dealt with the seriousness it deserves in accordance with the Standing Orders, without any prevarication.

The Temporary Deputy Speaker (Mr. Ethuro): Order, Mr. Namwamba! You are even challenging the Chair's capacity. You are quoting the same Standing Orders that the Chair had already invoked. Addressing an issue does not mean that it must be on demand. I have said that the Chair must uphold the Standing Orders. The Chair must ensure that both sides are properly heard. When you look at the issue of persistently making allegations, the Member has been absent and cannot even make one allegation. Therefore, he cannot be persistently making the allegations. So let the Chair interrogate the issues you have sought and make a considered ruling.

Let us be patient, that ruling will be made and the necessary Standing Orders of the House will be invoked.

The Deputy Prime Minister and Minister for Local Government (Mr. Mudavadi): Mr. Temporary Deputy Speaker, Sir, I take it that I do not have revisit that for now.

Mr. Temporary Deputy Speaker, Sir, I also wish to make a Ministerial Statement.

Mr. Ruto: On a point of order, Mr. Temporary Deputy Speaker, Sir. I thought it would be courteous for the Minister, notwithstanding the fact that he had been interrogated at length previously to, at least, respond to the two clarifications that were sought from him. I do not think they were entirely irrelevant to the matter that was before us.

The Temporary Deputy Speaker (Mr. Ethuro): Order, hon. Ruto! You must learn to listen to the Chair. I disallowed yours! The Minister actually sought from the Chair whether or not to respond and the Chair said that we must remain relevant. The question had been answered and the issue of allegations was the one that was outstanding and that ruling will be made. It shall be so.

Mr. Minister, proceed with the second Statement!

UNAUTHORIZED DEVELOPMENTS IN THE CITY

The Deputy Prime Minister and Minister for Local Government (Mr. Mudavadi): Mr. Temporary Deputy Speaker, Sir, I wish to make a Statement on the unauthorized developments in the City and, in particular, the collapsed building in Embakasi Pipeline Area.

Mr. Temporary Deputy Speaker, Sir, I wish to make the following Statement following the collapse of a building on Plot No.7107/2, located off the North Airport

Road in Pipeline Area of Embakasi, owned by the late Joseph Maingi Mureithi. We wish to bring a number of pertinent issues to the attention of the public.

Mr. Temporary Deputy Speaker, Sir, first, the City Council has endeavoured to enforce its by-laws, the Physical Planning Act and other laws related to the management of the built environment strictly to the letter. The reason for enforcing these laws is to ensure that urban developments are orderly and sustainable. As the hon. Members will appreciate, developers construct houses and business premises which are to be used by other Kenyans who have rights to safe, secure and quality accommodation, whether for residential or business. Developers are required by law to seek permission from the City Council before commencing any construction. This is to ensure that construction work is regulated for the greater public interest as regards habitability and safety of the structures undeveloped. This is not oppression as some of our residents tend to think. Unfortunately, when the Council has taken enforcement actions on unauthorized constructions, the public has, on a number of occasions, risen to protect the developers who violate the law and rights of the citizens. This is unfortunate, given that those are the people who, ultimately, use the unauthorized developments without assurance of safety, habitability and reliability.

Mr. Temporary Deputy Speaker, Sir, in the case of the collapsed building in Pipeline, the Council detected the illegal development on Plot No.L.R7107/2 on 31st March, 2009. It duly issued enforcement notices against the developments. That illegal structure was initially commenced way back in 2009. At that time, the Council moved to enforce its by-laws by issuing enforcement notices. I will table copies of the enforcement notices to show that this was done. Unfortunately, the enforcement notices issued in 2009 triggered the filing of a matter in court, under Case No.155 of 2009, which sought for the restraining orders against others, the City Council of Nairobi and four other defendants. Interim orders were issued on 8th April, 2009 by the hon. Justice Dullo. The court order is attached for the record of the House.

Mr. Temporary Deputy Speaker, Sir, the interim orders in place were extended until 17th June, 2009 and further extended and, thus, they are still in force. It is worth noting that owing to the existence of the interim orders, the council's hands were tied against moving to execute the enforcement notices. On 16th July, 2009, the plaintiff's advocates advised the court of the filing of a contempt application against all the four defendants, including the Council. It was alleged that the Council and the other three defendants had attempted to demolish the illegal structures. An application for contempt was filed and fully canvassed and a ruling was eventually delivered on 25th November, 2010 when the Town Clerk and other defendants in High Court Civil Case No.155 of 2009 were ordered that they be committed to civil jail for a period of 21 days from the date of their arrest. The Council's advocate, on record, proceeded and moved with speed to file a notice of appeal against the order and an application seeking stay of order dated 25th November, 2010 was issued by Justice Sitati. Interim orders were also issued by Justice Mbogholi on 29th November, 2010, which stopped the arresting of the Town Clerk. However, the other three defendants were jailed and they served the sentence.

Mr. Temporary Deputy Speaker, Sir, the City Council has filed an appeal against the High Court decision seeking to challenge the order issued by Justice Sitati. In the meantime, the proceedings seeking stay of execution are pending determination at the High Court's Environmental Division. This matter comes up on 28th July, 2011 for

mention and further direction. Under the prevailing circumstances, the City Council cannot be blamed for the recent tragedy, owing to the fact that its hands have been tied by the earlier restraining orders issued on 8th April, 2009. That has made it impossible for the Council to move in and demolish the illegal structures.

Mr. Temporary Deputy Speaker, Sir, developers have used the courts as a means to avoid meeting the standards set out in relevant legislations. With the current rate of abuse of the courts by developers, the Council finds it difficult to execute its mandate. This is most unfortunate as it leads to tragedies like the one in Pipeline. Given this situation, the Council is appealing for support in order to address similar illegal structures, particularly in Embakasi Pipeline, Kahawa West Phase II, Tassia, Umoja Zones 8 and 9, Kayole, Roysambu, Utawala and Mwiki, where many unauthorized constructions are taking place under the cover of hired gangs. Unfortunately, our people neither demand records of approval of the structures from the landlord or their agents, nor verify the information with the Council before they take occupancy.

Mr. Temporary Deputy Speaker, Sir, the Council has now been co-opted into the Provincial Security Committee and can look for support in enforcing its by-laws and other laws related to construction and the built environment. With the assurance of support, the Council will ensure that illegal developers face the full force of law. With adequate support, there will be no mercy, sympathy and complacency. Any structures that will fail the integrity tests during City Council's assessment will come down. The only option available to developers is to co-operate and exercise civility.

Mr. Temporary Deputy Speaker, Sir, finally, we appeal for support from hon. members, particularly those who represent constituencies in Nairobi and other urban areas. I wish to table all the documents showing the court proceedings and also the enforcement orders to show that the Council had, indeed, detected this problem, but the courts were used to block it from enforcing its orders.

(Mr. Mudavadi laid the documents on the Table)

Mr. Temporary Deputy Speaker, Sir, as it stands now, the exercise of rescue is going on, but indications are that close to seven people may have perished so far. We can only give details when the exercise is complete. We will give the actual number of casualties.

Mr. Kabogo: Mr. Temporary Deputy Speaker, Sir, it is quite sad that Kenyans have to lose lives because of illegal constructions. The Minister has said in this Statement that there will be no mercy on people who are constructing illegal structures in various parts of the country. Yet, he knows that in Thika - and I have written to him - there are several four or five storeyed buildings that have not been approved or inspected. They are deaths-in-waiting for members of the public. What is the policy of the Ministry in as far as approvals of the buildings are concerned? What is the policy on demolition in circumstances where buildings have been erected without due process in terms of inspection and quality of construction? Some of them are being constructed on public land.

Eng. Gumbo: Mr. Temporary Deputy Speaker, Sir, while I send my condolences to the families that lost their loved ones in this tragedy, I want to make it known that as it stands, we can only delay the occurrence of such tragedies but we will not stop them. The

only way in which we will be able to get to the bottom of these problems is to address the overwhelming lethargy at City Hall. I am not afraid to say that right from the top management of City Hall, we have officers who are not interested in doing their work and the Minister has to address the problem of capacity at City Hall. For example, in Karen Triangle Estate---

The Temporary Deputy Speaker (Mr. Ethuro): Order, hon. Gumbo. Seek a clarification and do not cite examples here. You have asked about capacity at City Hall and that is enough.

Eng. Gumbo: Mr. Temporary Deputy Speaker, Sir, in Karen Triangle Estate, for example in Nairobi, it was demarcated for single dwellings. According to the Director of Planning, it was resolved. How can you resolve to allow high rise buildings when you have not provided sewage and roads? Already constructions are going on which have no regard to road coverage? What is the Minister doing to make sure that the offices--- Members of Karen Triangle have written to the Town Planner. He has ignored all the letters. A tragedy is waiting to happen. How are these assurances going to help the people of Kenya when the officers are not taking action?

Mr. Kioni: Mr. Temporary Deputy Speaker, Sir, our problem in this country is not the absence of law but the absence of the rule of law. The Minister has said that any action they intended to take on this illegal construction was frustrated by the court process, and in a sense he sounded very helpless. I would want a clarification from the him. Given the case that you have within the court and the reality that we have continued to lose lives in this country because of these illegal constructions falling to pieces, what is the Ministry intending to do? Is there any amendment to the law that you intend to have or in the immediate, what is the Ministry doing to about those structures that are in place, even though illegal?

Mr. Njuguna: Mr. Temporary Deputy Speaker, Sir, while commending the Deputy Prime Minister and Minister for Local Government for this very broad statement on these collapsing building, I would urge him to indicate to this House when the Ministry is going to mount a serious inspection on the bending structures in Nairobi, and particularly in Kayole where you see a building occupied but it is structurally bending.

The Deputy Prime Minister and Minister for Local Government (Mr. Mudavadi): Mr. Temporary Deputy Minister, Sir, as we move along, I must admit that, indeed, there are some weaknesses in our local authorities across the country when it comes to the issue of enforcing by-laws; by-laws are there but we have had a major weakness either due to corrupt practices or through politicization at local levels. This has, indeed, had an impact on the efforts of local authorities to enforce the law. However, on record, we have been consulting with other relevant Ministries and as I speak now, we have already submitted a new set of regulations to the Attorney-General's Chamber for approval. Once they are through, they will be gazette; there are a lot of stakeholders consultations within the building industry as a whole to try and improve enforcements, and make it more difficult for somebody to engage in illegal construction. So, we have submitted draft regulations and we are waiting for the clearance from the Attorney-General's Chamber. The regulations are very bulky and they to be gazetted.

Mr. Temporary Deputy Speaker, Sir, I wish to also state that we have, indeed, had capacity problems in our local authorities. In fact, by and large, only the big local authorities like Nairobi, Kisumu, Mombasa and so forth have the capacity to employ

planners. Most other people in these local authorities are not qualified planners; they are works officers. Therefore, the issue of enforcing parts of the Physical Planning Act has been weak. This is as a result of the issue of remuneration for the physical planners and the professionals in this area by these local authorities. Some of these people are too expensive to maintain and they go for greener pastures as private consultants or to other organizations; we hope to address this. We are in touch with the Department of Personnel Management (DPM) to see how they can support us so that we can retain some professionals in these areas to help in the enforcement process.

On the issue of Thika, as has been raised by hon. Kabogo, I wish to say that I will send a team to look at these specific areas because he says he has written formally. I will make sure that I send a team of professionals and qualified people to go and inspect these structures, so that the necessary action can be taken.

Mr. Temporary Deputy Speaker, Sir, I also want to agree with Mr. Kioni that one may need to have a very special process. The issue of zoning and rezoning our areas has been undertaken clandestinely, so to speak. Sometimes residents in a given area are not appropriately consulted when a rezoning exercise is taking place. Either notices are hidden in very strange corners of a newspaper and later you just find a structure coming up at your place. So, some of the issues we are dealing with is making the process of zoning and rezoning more transparent, and more consultative with the various stakeholders, so that nobody can be taken by ambush as seems to be happening in some parts of our towns.

With regard to the Member for Lari, I wish to take on board the suggestion that you have put across. As I said in my statement, we are working with the Provincial Administration and on the basis of that, we shall be able to develop a system which requires consultation, dialogue and at the same time enforcement of the law, so that these structures that are becoming risky to our citizens can be demolished and reconstructed; this is something that requires a lot of consultation.

Eng. Gumbo: On a point of order, Mr. Temporary Deputy Speaker, Sir. The Minister did not address my concern on the illegal structures coming up at Karen Triangle Estate, which I said was for single dwellings, but multi-storied buildings are coming up with sewer systems, roads and water.

The Deputy Prime Minister and Minister for Local Government (Mr. Mudavadi): Mr. Temporary Deputy Speaker, Sir, I will look at that specific area and will be able to respond separately. With your indulgence, I will need to take note of that and follow up.

The Temporary Deputy Speaker (Mr. Ethuro): Okay, hon. Members, you will appreciate that we are really behind schedule, and we have two statements. One is from the hon. Minister for Education; before I invite him, there is a letter tabled by hon. Gitari, which is about House committee membership. He has signed his own letter asking the Speaker how long a Member is supposed to take before being nominated to the House committees. He has also attached a letter that is supposed to be coming from the Acting Government Chief Whip. But the one from the Acting Government Chief Whip is not signed. So, I will request him to go and look for that signature, if the Chair is to consider his request.

Hon. Prof. Onger!

LOSS OF KSHS4.2 BILLION FOR FREE
PRIMARY EDUCATION

The Minister for Education (Prof. Ongeru): Mr. Temporary Deputy Speaker, Sir, yesterday, I was requested to make a Ministerial Statement on the loss of Kshs4.2 billion for the Free Primary Education (FPE).

Mr. Temporary Deputy Speaker, Sir, the Education Sector Support Programme was started in 2005 and involved the Government of Kenya and various partners, namely Department for International Development (DFID), World Bank, the United Nations Children's Fund (UNICEF), Canadian International Development Agency (CIDA), Government of Belgium, Organization of Petroleum Exporting Countries (OPEC), World Food Programme, United States Agency for International Development (USAID) and the Government of Japan. The contributions of each of these organizations other than the USAID and the Government of Japan were pooled in one basket and managed through the Joint Financing Agreement (JFA). The implementation of this programme has been carried out with close co-ordination and co-operation of all the above stakeholders. The annual budgets were jointly discussed and approved. Quality consultative meetings were held and monitoring and evaluation was also jointly conducted.

By December, 2009, a total of Kshs464,860,106,029 had been disbursed by all the stakeholders in Kenya Education Sector Support Programme (KESSEP), the Government of Kenya having contributed the larger share of Kshs438,788,188,700. The genesis of the problem; this arose out of misappropriation of imprest that had been given to the officers in the Financial Year, 2008/2009. Following this, I initiated an audit, in conjunction with the Permanent Secretary, to verify these misappropriations. This represented 0.5 per cent of the targeted population at the Ministry headquarters. On receipt of the report, it was discussed and agreed that there was a need to conduct an extended audit because the fiduciary audit by the internal audit department concentrated on a small sample. The scope of the extended audit was captured in the audit, which was laid before this House by Rt. Hon. Prime Minister on 15th June, 2011, at paragraph 4, which states as follows:-

1. The extended forensic audit was to cover a period between 1st July, 2005 and June, 30th 2009.

2. It was to be undertaken in two stages, the first stage desk or offsite reviews and focus on tracking of disbursements for FPE funds, from the Consolidated Fund to the Ministry of Education, then to commercial banks up to the respective schools bank accounts. If you examine that report, which was tabled yesterday, it will give schematic representation on the flow of funds.

3. The second stage involved making physical on site visits---

The Temporary Deputy Speaker (Mr. Ethuro): Mr. Minister, how long is your document?

The Minister for Education (Prof. Ongeru): It is just two pages, I will summarise it! It is very important that I make this point very clear, on the basis of flying stories all over the place!

The Temporary Deputy Speaker (Mr. Ethuro): You can still make it clear in a summarised form!

The Minister for Education (Prof. Ongeru): Mr. Temporary Deputy Speaker, Sir, I became the Minister for Education in 2008. Less than 12 months despite the preoccupation with the Serena National Accord and Reconciliation talks and students strikes, I was able to detect this discrepancy in accounting procedures leading to the extended forensic audit, together with the support of the development partners.

It is important to note that the draft report was given to my Ministry on 10th November, to respond to key issues that had been raised by the audit team. Originally, the figure queried by the auditors stood at Kshs8.2 billion. This was scaled down to Kshs4.2 billion following admission of the relevant supporting documents by the staff of the Accounts Department. The Kshs4.2 billion that has been declared unaccounted for by the forensic audit report, comprises of Kshs2,274,629,818 arising out of discrepancies in the financial monitoring reports, popularly known as the FMRs, and Kshs1,936,000,000 disbursed to schools for development of physical infrastructure.

FMRs are the standard documents used by the World Bank to capture the funds available for a programme and the application of the funds to various activities within the programmes. It also serves as the basis for further disbursement of funds to a programme. In respect of KESSEP, FMRs were prepared from 2005 to 30th of June, 2009. The preparation was jointly done by the officials from my Ministry and the World Bank. The FMRs would then be submitted to both the Ministry of Finance and the World Bank.

It is important to note that the FMRs were prepared on an annual and cumulative basis for the entire period of the programme.

The discrepancy in the FMRs remain outstanding due to the fact that officers who were involved in preparing the FMRs were all transferred between September and December, 2010. That is limiting our ability to reconstruct the FMRs. I am summoning through the Treasury, because they are basically Treasury officers seconded to the Ministry, that they should avail themselves on this issue.

As mentioned above, the FMRs were prepared by officers from accounts and finance departments and there is no way I could have controlled or participated, whatsoever in this process, which commenced in 2005, when I was not the substantive Minister for Education.

With regard to the Standard Chartered Bank SKE payments of Kshs1,936,000,000, the Ministry disbursed Kshs1,936,000,000 to 26,000 primary schools for infrastructure developments. The forensic auditors queried the disbursement of these funds to schools due to non-availability of relevant documents. The auditors sampled out 512 schools out of the 26,000 schools and confirmed that there were anomalies in some of these schools regarding receipt of funds as follows:-

- (i) Documentary evidence from various banks indicated that whereas funds were remitted to school accounts, they were banked in different bank accounts;
- (ii) Beneficiary schools did not have TSC codes.
- (iii) Payment to schools which are not TSC registered,
- (iv) Similar beneficiary bank account numbers, but different schools. One beneficiary account number, but different schools.

All these details are contained in the fiduciary audit report tabled here yesterday. It is important to note to the hon. Members that forensic auditors recommended that the entire disbursement of Kshs1,936,000,000 to 26,000 primary schools be entirely set aside for further investigations. Treasury has seen it fit to refer the matter to the Director of

Criminal Investigation Department for further investigations and co-relation. It is the CDI which has competent jurisdiction to release the final list of officers who, at any rate, have been captured in the audit report which has been tabled.

In conclusion, in 2008, together with the Accounting Officer and in conjunction with the Treasury and the development partners, I initiated the audit investigation at two levels. One was internal audit and the other one was extended audit. Following the findings of the interim report, I implemented the key recommendations, among them being the overhaul of the entire finance and accounts departments. We now have a completely new team of officers in the two departments. I have also insisted all along that the previous officials occupying these positions before the new ones came in must be brought to account for this omission in the accounting processes.

Further to this, when the Prime Minister's final audit report was brought to my attention on 10th June, 2011 with regard to the loss of Kshs4.2 billion, it became obvious that it requires another level of operation, hence handing over to the police for further action. As I am now talking to you, the police have swung into action to get to the bottom of this matter. As regards the initial audit report, the Kenya Anti-Corruption Commission (KACC) was invited to carry out extensive investigations and as a result 15 officers have been charged in court. The KACC should play its rightful role as an investigative arm of the Government. This is a matter that I have all the time dutifully engaged my mind to resolve and it would appear like the proverbial saying, that the hunter has now become the hunted. This matter has now been referred to competent agencies who should bring to book those who are involved. This is the best that any leader can do under these circumstances.

Mr. Temporary Deputy Speaker, Sir, if you peruse through the entire audit report, nowhere – not even one iota of a page – does my name appear as having been involved in any scam of any nature contrary to what the newspapers generate to the public to the detriment of my personality. I plead with humility that we should stop the blame game that has currently emerged even in a situation where action has been generated and taken.

The Temporary Deputy Speaker (Mr. Ethuro): Order, Prof. Onger! Are you concluding?

The Minister for Education (Prof. Onger): Yes, I am concluding, Mr. Temporary Deputy Speaker, Sir.

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

The Minister for Education (Prof. Onger): Mr. Temporary Deputy Speaker, Sir, my conscience is free and clear because I have done my duty to the best of my ability. I realise that this being an election year, some people would like to engage in smear campaigns. I continue to remain committed to the sacred duty of discharging my responsibility with commitment and dedication without fear or favour.

Thank you, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Ethuro): Order, hon. Members! This is advice from the Chair. First, we have Finance matters before us and we have already exceeded the time limit from 3.30 p.m. to about 5.00 p.m. Indeed, that business requires a maximum of three hours. Secondly, the matter the Minister for Education has raised today was actually dealt with exhaustively yesterday during the Prime Minister's Time.

An hon. Member: No! No!

The Temporary Deputy Speaker (Mr. Ethuro): Order, hon. Members! Are you disputing the facts? I do appreciate the public interest in the matter, and that is why I allowed the Minister to also pronounce himself on the same. I wish there was a way of deferring clarifications, but since I allowed the Minister to make the Statement, I must also allow some few clarifications.

(Several hon. Members stood up in their places)

Those are not few hon. Members! I will give a chance to four hon. Members to seek clarification from the first row, one from the second, one from the other end and then this one. Just raise one issue and do not explain!

Proceed, Mr. Mbadi!

Mr. Mbadi: Thank you, Mr. Temporary Deputy Speaker, Sir. I listened to the Minister and, to me, it appears that the problem in this Ministry was reconciliation. Otherwise, this thing would have been discovered long time ago.

I would like to ask the Minister categorically and I am speaking to him as an accountant, what has he done to the senior staff in the internal audit and finance departments? This is because he will, otherwise, carry the cross of some rogue staff in his office. I bet he has no capacity to even know that things like these happened in his Ministry. I am not exonerating him but I am speaking the facts.

Finally, I wonder whether he got management letters from the external auditor; that is the Controller and Auditor-General. Was there any mention of such an anomaly from 2005 to 2009? I find negligence also on the part of the external auditors, but could the Minister clarify whether there was any mention of such an anomaly in the management letters which come out every year?

Mr. Oyongo Nyamweya: Mr. Temporary Deputy Speaker, Sir, could the Minister come out clear and tell us when he detected the anomalies? At what time did he detect the anomalies? Secondly, what were the authorization levels of the officers who were concerned? Normally, if money is sent through Electronic Funds Transfer (EFT)---

The Temporary Deputy Speaker (Mr. Ethuro): Order! Do not explain! You have sought two clarifications!

Yes, Mr. Letimalo!

Mr. Letimalo: Thank you, Mr. Temporary Deputy Speaker, Sir. If I got the Minister correctly, he said that---

The Temporary Deputy Speaker (Mr. Ethuro): Order, Mr. Letimalo! Seek your clarification. Do not restate the facts!

Mr. Letimalo: Mr. Temporary Deputy Speaker, Sir, mine is a clarification. The Minister has said that Kshs1 billion was set aside for physical infrastructural development in schools. Could he tell us how many schools have been affected as a result of this loss? What arrangements has he put in place to ensure that school programmes are not affected as a result of this loss?

Dr. Kones: Thank you, Mr. Temporary Deputy Speaker, Sir. First, I want to inform the House that the Public Accounts Committee resolved this morning that we will also take up the report, study it and make a report to this House on that matter. One of the problems which has been highlighted in audit reports is lack of proper financial system to

monitor funds. What has the Ministry done to ensure that proper financial system is in place?

Mr. Kombo: Thank you, Mr. Temporary Deputy Speaker, Sir. I heard the Minister say that the matter has now been referred to the police to investigate. He has also talked about rogue officers in the department. How will the police investigate when the rogue officers are still on their desks doing their job? How will the police get the chance to investigate those officers? I thought the Minister would tell us that he will make sure that the rogue officers are out so that investigations can take place effectively.

(Applause)

The Temporary Deputy Speaker (Mr. Ethuro): We will have the hon. Member for Kiharu, then hon. Kioni and finish with hon. Dr. Nuh.

Mr. Mwangi: Mr. Temporary Deputy Speaker, earlier on in this House, the Minister stated that the infrastructure in our schools and, more so, in our primary schools, were not affected. Today, he said that the loss would affect the infrastructure. Could he clarify the effects that, that kind of abuse will have on infrastructure and, more so, with regard to improvement and construction of primary schools?

Mr. Kioni: Thank you, Mr. Temporary Deputy Speaker, Sir. I would like the Minister to clarify - because he has said that, that money was released from banks - whether there was a schedule prepared by his Ministry for the money to be released to 26,000 schools and who prepared the schedules. That is because banks can only release the money against a schedule from the Ministry? Which are those banks? Is it one bank? He knows the names of those banks. It would be important if he could tell us the banks involved. Finally, was he in charge when the schedules were being prepared by the Ministry?

Dr. Nuh: Mr. Temporary Deputy Speaker, Sir, we are disappointed not with hon. Ongeru, but with the whole Government. That is because it was none other than the Prime Minister who categorically stated yesterday that they were forced to release the report to public domain by the World Bank. They had the report since October last year. More importantly, I want to ask the following: Since the Minister has said that the infrastructure of some schools was affected, what affirmative action has he put in place to ensure that the schools that were affected by the embezzlement have been compensated?

Mr. Kabogo: On a point of order, Mr. Temporary Deputy Speaker, Sir. We have been told here, time and again, about collective responsibility. The Minister has given information to the House that it was between 2003 and 2005 that certain things happened. Has he recommended to His Excellency the President that the Minister then takes responsibility and be investigated? We know that he was not the Minister then.

The Temporary Deputy Speaker (Mr. Ethuro): Order! You have sought your clarification. Proceed, Mr. Minister and you summarize.

The Minister for Education (Prof. Ongeru): Mr. Temporary Deputy Speaker, Sir, I will pick up the questions by hon. Dr. Nuh, hon. Kioni and the Member for Kiharu because they are more or less similar. I will answer them in one round.

The infrastructure money of Kshs1.9 billion was going to 26,000 primary schools in the Republic of Kenya. The audit covered 512 schools. There is something here that hon. Members want to appreciate, that, indeed, the discrepancy occurred in 512 schools.

The money actually went to the schools. What now needs to be verified is whether there was any money that was taken back to the Ministry. The money went to the schools. However, out of those 26,000 schools, 512 were found to have anomalies. Those are the ones we have zeroed in, based---

The Temporary Deputy Speaker (Mr. Ethuro): Order! Mr. Minister. Just a clarification; there are 26,000 schools and only 512 were affected. It is not 512,000?

The Minister for Education (Prof. Ongeru): That is correct, Mr. Temporary Deputy Speaker, Sir. Only 512 schools were affected. That is where the anomalies are and that is where the police are zeroing in. There is an impression being created that, that money was never sent to the schools. This is another thing that I want to pursue further.

Dr. Kones: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the Minister in order to mislead this House that only 512 schools were affected, when we know that the 512 were just a sample of the ones that were investigated out of the 26,000?

Mr. Magwanga: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the Minister in order to mislead this House by stating that, out of the total amount in question of Kshs4.2 billion, Kshs1.9 billion was transferred to 26,000 schools? Here is a case where the amount in dispute is affecting 520 schools. That figure does not actually add up.

Dr. Nuh: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the Minister in order to mislead the House that the monies were, indeed, sent to schools when he, himself, on the Floor of the House, pronounced that monies were sent to schools that do not exist as per the TSC rules?

The Minister for Education (Prof. Ongeru): Mr. Temporary Deputy Speaker, Sir, if hon. Members listened to me---

(Ms. Karua stood up in her place)

The Temporary Deputy Speaker (Mr. Ethuro): Let us finalize with Ms. Karua. That is because, Mr. Minister, when you were responding, the figures sounded quite conflicting.

Ms. Karua: On a point of order, Mr. Temporary Deputy Speaker, Sir. Due to the enormity of the matter and the interest the House has shown, is it in order for the Chair to direct the Minister to go back and reconcile the figures and come to explain?

The Temporary Deputy Speaker (Mr. Ethuro): Order! Mr. Minister, you know that the Chair has been agonizing and I am happy that this is coming from the Members side. That is because they are deferring their right to interrogate you. I think you should be happier because you have pronounced yourself. That is what we needed more. Due to time considerations, let us leave that matter in abeyance so that you get another opportunity when you can do justice to it.

The Minister for Education (Prof. Ongeru): Mr. Temporary Deputy Speaker, Sir, because this is likely to cause tremendous confusion out there, the figure that we are talking about is Kshs4.2 billion. If you listened to my Statement very carefully, the FMR represents Kshs2.2 billion. It is not reconciled. I think we must get that clear. If you add Kshs1.9 billion for infrastructure, that comes to Kshs4.1 billion. So, the question of reconciling this figure later--- This can cause tremendous confusion. There is no need to

go further because that is a clear message. That is what is contained in the audit report. It is exactly what I have stated in my Statement. When we talk about the 512 schools, that is the methodology that was used by the internal auditors who did the forensic audit. They looked at the greatest risk which, according to them--- That is not my report. According to them, it represented 75 per cent of the risks that they wanted to assess throughout the country. So, that is what I am talking about. If you take Kshs1.9 billion on infrastructure and Kshs2.2 billion on Financial Monitoring Report which is not reconcilable so far until they reconcile it, that adds up to Kshs4.1 billion. That coincides with the audit report which is here.

Yes, the report talked about Kshs4.6 billion. However, they had not taken into account money that was transferred to the Ministry of Higher Education, Science and Technology, the Teachers Service Commission and the Kenya National Examinations Council. It netted Kshs600 million, leaving a balance of Kshs4.2 billion, which is the subject of my Statement today. If I could clear everything, yes, the officers were involved. First of all, the Chief Finance Officer, the Principal Accountant, the number two accountant and the number four were all removed as soon as we did the first audit. That action was taken. What now needs to be done---

The Temporary Deputy Speaker (Mr. Ethuro): Order, Minister! You are not supposed to number your officers. They occupy certain positions.

The Minister for Education (Prof. Ongeru): Mr. Temporary Deputy Speaker, Sir, I have just said the Chief Finance Officer, the Principal Accountant I in the Ministry, the deputy to the Principal Accountant and the Internal Auditor. They are four. I think, as clearly stated out, those officers, including the clerks---

Mr. Kabogo: Mr. Temporary Deputy Speaker, Sir, the Minister wants to give an impression that things are okay. He says Kshs2.2 billion is unreconciled. It could be stolen or wherever it is. He says Kshs1.9 billion from banks has been sent to schools that, probably, are not known. I would want to urge the Chair to see what Ms. Karua had asked for, a situation where he goes and finds out the exact position in terms of reconciliation of Kshs2.2 billion and authority of Kshs1.9 billion and in which schools. This is Kshs4.2 billion of taxpayers' money.

The Temporary Deputy Speaker (Mr. Ethuro): Hon. Minister, the Chair now directs you, for your own good--- You know it is very clear in your head, but you are responding to clarifications from hon. Members and they do not seem to get your figures. The Chair is also cognizant that the answers coming from your Ministry this week have been wanting in terms of the arithmetic.

This is an opportunity the House has given you to take your time. You have pronounced yourself and I think that was the most important contribution you needed to make and be satisfied that we will leave this matter in abeyance and we will bring it when there is sufficient time to prosecute the matter and also to allow you to reconcile the figures. They may not be clear to you, but I am sure it is in the HANSARD. You can look at what the hon. Members have sought and then you can try to report accordingly, so that we can make progress.

The Minister for Education (Prof. Ongeru): Mr. Temporary Deputy Speaker, Sir, I will do so, provided I have protection from this hon. House because the figures being quoted outside there are erroneous figures. They are meant to injure my character. I need protection from this House.

The Temporary Deputy Speaker (Mr. Ethuro): Order, Mr. Minister! The Chair will definitely protect each and every hon. Member. You have already put a report. I am sure you have put the figures that you consider to be the correct figures. Those figures will be carried in the HANSARD and, hopefully, even the media will capture your figures.

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

The Temporary Deputy Speaker (Mr. Ethuro): Mr. Mbuvi, you do not have the Floor. Your matter was disposed of by the Chair. You will have an opportunity to respond when the Chair will be making that ruling.

Mr. Mbuvi: Mr. Temporary Deputy Speaker, Sir, the Minister never alerted me that he was---

The Temporary Deputy Speaker (Mr. Ethuro): Order, Mr. Mbuvi! Your matter was deliberated on quite at length. I think you should be very appreciative of the Chair for giving you time and an opportunity to be able to make your representations to the Chair, not on the Floor of the House before the ruling is made. That matter must rest there.

BUSINESS FOR THE WEEK

The Minister for Transport (Mr. Kimunya): Mr. Temporary Deputy Speaker, Sir, pursuant to provisions of Standing Order No.36(4) I take this opportunity to make the following Statement with regard to the business for the week.

Mr. Temporary Deputy Speaker, Sir, first allow me to congratulate Members of this House for their untiring spirit that was demonstrated yesterday where hon. Members sat past 9.00 p.m. This allowed hon. Members to ventilate adequately and eventually approve the nominees for the offices of the Chief Justice, the Deputy Chief Justice and the Director of Public Prosecutions. This unprecedented process has placed Kenya ahead in the league of other nations in setting up of one of the most credible judicial systems in the world. Having stayed without a Chief Justice for almost four months, we hope that once gazzetted, these officers will hit the ground running and provide service to Kenyans.

Mr. Temporary Deputy Speaker, Sir, hon. Members also deliberated and passed the critical Second Reading Stage of the Independent Offices (Appointment) Bill, Bill No.11 of 2011 which is listed today for debate and consideration in the Committee of the whole House. I would like to say there was unanimity in terms of the amendments that were required and they will be coming at the Committee Stage.

Mr. Temporary Deputy Speaker, Sir, on Tuesday, 14th June, 2011, the House Business Committee, during its sitting, resolved that the House should go on a short recess. This recess is obviously to facilitate the work on the Budget by the various committees and to allow the public to participate through public representation. Without anticipating debate on this Motion which is listed on the Order Paper and which will be coming later, the month-long adjournment will allow Committees to scrutinize the annual estimates and also seek public representation on them before making these reports to the House. The reports will then be used in consideration of various Votes in the Committee of Supply.

Given these circumstances and if the House so decides today, you appreciate that we have not anticipated any business next week because we expect to be on recess

participating in this crucial process of the Budget hearing for which dates have been scheduled and which we need to give the Budget Committee adequate time to consult with the public and report back before the financial year begins.

Thank you, Mr. Temporary Deputy Speaker, Sir.

PROCEDURAL MOTION

EXTENSION OF SITTING TIME

The Minister for Transport (Mr. Kimunya): Mr. Temporary Deputy Speaker, Sir, I beg to move the following Procedural Motion:-

THAT, notwithstanding the provisions of Standing Order No.20(2); this House resolves that the Sitting Time of the House today, Thursday, 16th June, 2011, be extended until the Business as set out in the Order Paper is concluded.

Mr. Temporary Deputy Speaker, Sir, let me, once again, congratulate hon. Members for having agreed yesterday to stay on and we were able to finish the business that was there on the Order Paper. As you will notice, it is now 5.15 p.m. and we need three hours for the various financial Bills that are with us, the Vote on Account and the guarantee which is required for support of the Budget. We also need to pass the Independent Offices (Appointment) Bill which we need, so that we can start the new financial year with the offices. Another three hours will be required for the Motion for Adjournment to facilitate us to go on the one month break so that we can go and sort out our Constituencies Development Funds and get the Committees moving. Hence we cannot package all that within the one and a quarter hours that is remaining. So, I really want to ask hon. Members that we do as we promised Kenyans to do; we add extra time to sit. We dispose of this business in the House today and then we can all go home feeling we have achieved.

I beg to move. I would like to ask the real stakeholders in this matter of adjournment and in terms of wanting to conclude business today, Mr. Ogindo to second.

Mr. Ogindo: Mr. Temporary Deputy Speaker, Sir, I second.

(Question proposed)

(Question put and agreed to)

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

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

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

The Temporary Deputy Speaker (Mr. Ethuro): Order! Members, first you need to know that Order No.9 should take a maximum of three hours. So, be prepared. We have just passed a Motion that we must conclude all business on the Order Paper. So, as you raise your points of order, take that into account.

Mr. Oyongo Nyamweya: On a point of order, Mr. Temporary Deputy Speaker, Sir. I do not want to interrupt the Deputy Prime Minister and Minister for Finance before

he starts to move the Motion, but when I check what I have on page 2503, I can see the Civil Service for which the Vote on Account required---

The Temporary Deputy Speaker (Mr. Ethuro): Order, hon. Oyongo Nyamweya! Let us have the matter properly before the House. I thought you were raising a different point of order. What is it, hon. Mbadi? I hope you are listening!

Mr. Mbadi: On a point of order, Mr. Temporary Deputy Speaker, Sir. I wish to ask for your direction believing that this Motion that is before us is unconstitutional. I contend that this Motion is unconstitutional because if you go to the Constitution and the Minister has quoted, “preparing this Vote on Account in accordance with Article 222”, that Article envisages or presupposes that Article 222(1) is complied with. So, if you read Article 222(1), it says:-

“If the Appropriation Act for a financial year has not been---“

The Temporary Deputy Speaker (Mr. Ethuro): Order, hon. Mbadi! I had made a ruling to hon. Oyongo Nyamweya’s point of order that we should have the Motion itself before the House, then you will have a matter to raise. You will, but let us get the Minister, at least, attempt to move the Motion.

COMMITTEE OF SUPPLY

(Order for Committee read)

MOTION

VOTE ON ACCOUNT

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

THAT, in accordance with Section 222 of the Constitution of Kenya, the withdrawal of Kshs368,316,172,939, representing one-half of the total net estimates of Recurrent and Development Expenditures made up in the manner set out in the Vote on Account Schedules laid in the House be authorized for the purpose of meeting expenditure necessary to carry out the services of the Government of Kenya during the year ending 30th June, 2012, until such time as the Appropriation Act for the year comes into operation.

(His Excellency the President has given his consent to this Motion)

VOTE ON ACCOUNT SCHEDULE (RECURRENT) FINANCIAL YEAR 2011/2012

Estimates Showing The Several Services For Which A Vote On Account is Required for the Year Ending 30 th June, 2011			
Vote No.	Services	Total Net Estimates 2011/2012 Kshs	Vote on Account 2011/2012 Kshs
R01	Ministry of State for Provincial Administration and Internal Security	55,945,951,660	27,972,975,830
R02	State House	1,275,000,000	637,500,000
R03	Ministry of State for Public Service	5,085,121,840	2,542,560,920
R04	Ministry of Foreign Affairs	7,275,006,500	3,637,503,250
R05	Office of the Vice-President and Ministry of Home Affairs	13,868,010,000	6,934,005,000
R06	Ministry of Planning, National Development and Vision 2030	2,856,791,140	1,428,395,570
R07	Office of the Deputy Prime Minister and Ministry of Finance	22,943,165,480	11,471,582,740
R08	Ministry of State for Defence	45,230,144,830	22,615,072,415
R09	Ministry of Regional Development Authorities	809,665,000	404,832,500
R10	Ministry of Agriculture	8,513,466,850	4,256,733,425
R11	Ministry of Medical Services	23,725,974,090	11,862,987,045
R12	Office of the Deputy Prime Minister and Ministry of Local Government	1,111,379,700	555,689,850
R13	Ministry of Roads	2,336,010,630	1,168,005,315
R14	Ministry of Transport	4,034,424,100	2,071,212,050
R15	Ministry of Labour	1,695,290,000	847,645,000
R16	Ministry of Trade	1,645,362,310	822,681,155
R17	Ministry of Justice, National Cohesion and Constitutional Affairs	1,955,146,616	977,573,308
R18	Ministry of Gender, Children and Social Development	3,996,810,000	1,983,405,000
R19	Ministry of Livestock Development	3,718,517,700	1,859,258,850
R20	Ministry of Water and Irrigation	4,136,401,450	2,068,200,725
R21	Ministry of Environment and Mineral Resources	2,398,769,150	1,199,384,575
R22	Ministry of Cooperative Development and Marketing	1,148,000,000	574,000,000
R23	Cabinet Office	1,355,614,140	677,807,070
R24	Ministry of East African Community	1,057,499,300	528,749,650
R25	State Law Office	1,387,640,470	693,820,235
R26	The Judiciary	6,807,000,000	3,403,500,000
R27	Public Service Commission	662,550,180	331,275,090
R28	Kenya National Audit Office	1,437,660,000	718,830,000

R29	National Assembly	6,496,000,000	3,248,000,000
R30	Ministry of Energy	2,432,249,800	1,216,124,900
R31	Ministry of Education	33,910,263,420	16,955,131,710
R32	Ministry of Information and Communications	1,942,895,570	971,447,785
R33	Interim Independent Electoral Commission	12,075,010,000	6,037,505,000
R34	Kenya Anti-Corruption Commission	1,609,030,000	804,515,000
R35	Ministry of State for Special Programmes	4,093,985,800	2,046,922,900
R36	Ministry of Lands	2,200,974,430	1,100,487,215
R38	The Commission on Revenue Allocation	400,100,000	200,050,000
R40	Ministry of State for Immigration and Registration of Persons	4,048,038,040	2,024,019,020
R41	Ministry of State for National Heritage and Culture	1,783,000,000	891,500,000
R42	Ministry of Youth Affairs and Sports	5,936,368,290	2,968,184,145
R43	Ministry of Higher Education, Science and Technology	25,959,216,860	12,979,608,430
R44	Ministry of Housing	1,221,127,810	610,563,905
R45	National Security Intelligence Service	13,146,113,300	6,573,056,650
R46	Ministry of Tourism	1,623,294,180	811,647,090
R47	The Teachers Service Commission	103,407,925,010	51,703,962,505
R48	Office of the Prime Minister	1,810,994,950	905,497,475
R49	Ministry of Public Health and Sanitation	10,698,637,030	5,349,318,515
R55	Ministry of Forestry and Wildlife	4,083,111,210	2,041,555,605
R56	Ministry of Fisheries Development	1,350,803,710	675,401,855
R57	Ministry of Nairobi Metropolitan Development	312,847,250	156,423,625
R58	Ministry of Development of Northern Kenya and Other Arid Lands	332,692,760	166,346,380
R59	Ministry of Public Works	1,613,074,120	806,537,060
R60	Ministry of Industrialization	1,838,927,800	919,463,900
R61	Interim Independent Boundaries Review Commission	-	-
R63	Directorate of Public Prosecutions	355,000,000	177,500,000
R64	Human Rights and Equality Commission	324,500,000	162,250,000
R65	Commission for the Implementation of the Constitution	524,000,000	262,000,000
R66	The National Police Service Commission	250,000,000	125,000,000
	SUB TOTAL Kshs	474,162,554,476	237,081,277,238

**VOTE ON ACCOUNT SCHEDULE (DEVELOPMENT)
FINANCIAL YEAR 2011/2012**

Estimates Showing The Several Services For Which A Vote On Account is Required for the Year Ending 30 th June, 2011			
Vote No.	Services	Total Net Estimates 2010/2011 Kshs	Vote on Account 2010/2011 Kshs
D01	Ministry of State for Provincial Administration and Internal Security	4,584,470,000	2,292,235,000
D02	State House	423,000,000	211,500,000
D03	Ministry of State for Public Service	690,055,460	345,027,730
D04	Ministry of Foreign Affairs	870,032,000	435,016,000
D05	Office of the Vice-President and Ministry of Home Affairs	1,918,000,000	959,000,000
D06	Ministry of Planning, National Development and Vision 2030	24,479,214,914	12,239,607,457
D07	Office of the Deputy Prime Minister and Ministry of Finance	35,888,442,260	17,944,221,130
D09	Ministry of Regional Development Authorities	2,652,000,000	1,326,000,000
D10	Ministry of Agriculture	8,750,896,480	4,375,448,240
D11	Ministry of Medical Services	2,036,000,000	1,018,000,000
D12	Office of the Deputy Prime Minister and Ministry of Local Government	5,471,140,000	2,735,570,000
D13	Ministry of Roads	41,612,101,790	20,806,050,895
D14	Ministry of Transport	6,346,000,000	3,173,000,000
D15	Ministry of Labour	555,838,000	277,941,500
D16	Ministry of Trade	430,000,000	215,000,000
D17	Ministry of Justice, National Cohesion and Constitutional Affairs	114,850,000	57,425,000
D18	Ministry of Gender, Children and Social Development	4,128,470,690	2,064,235,345
D19	Ministry of Livestock Development	4,008,836,530	2,004,418,265
D20	Ministry of Water and Irrigation	19,771,482,986	9,885,741,493
D21	Ministry of Environment and Mineral Resources	3,951,867,685	1,975,933,843
D22	Ministry of Cooperative Development and Marketing	368,000,000	184,000,000
D23	Cabinet Office	185,000,000	92,500,000
D24	Ministry of East African Community	9,000,000	4,500,000
D25	State Law Office	42,810,000	21,405,000
D26	The Judiciary	2,519,000,000	1,259,500,000
D29	National Assembly	1,600,000,000	800,000,000
D30	Ministry of Energy	23,424,291,950	11,712,145,975
D31	Ministry of Education	7,069,000,000	3,534,500,000

D32	Ministry of Information and Communications	5,359,008,186	2,679,504,093
D34	Kenya Anti-Corruption Commission	200,000,000	100,000,000
D35	Ministry of State for Special Programmes	3,559,606,200	1,779,803,100
D36	Ministry of Lands	1,172,944,125	586,472,063
D40	Ministry of State for Immigration and Registration of Persons	2,387,400,000	1,193,700,000
D41	Ministry of State for National Heritage and Culture	686,000,000	343,000,000
D42	Ministry of Youth Affairs and Sports	3,753,230,000	1,876,615,000
D43	Ministry of Higher Education, Science and Technology	6,714,000,000	3,357,000,000
D44	Ministry of Housing	2,319,353,300	1,159,676,650
D46	Ministry of Tourism	1,209,000,000	604,500,000
D48	Office of the Prime Minister	670,165,560	335,082,780
D49	Ministry of Public Health and Sanitation	13,254,515,110	6,627,257,555
D55	Ministry of Forestry and Wildlife	3,004,912,000	1,502,456,000
D56	Ministry of Fisheries Development	2,946,105,175	1,473,052,588
D57	Ministry of Nairobi Metropolitan Development	1,980,700,000	990,350,000
D58	Ministry of Development of Northern Kenya and Other Arid Lands	2,130,684,000	1,065,342,000
D59	Ministry of Public Works	4,961,000,000	2,480,500,000
D60	Ministry of Industrialization	2,261,322,000	1,130,661,000
	SUB TOTAL Kshs	262,469,791,401	131,234,859,701
	GRAND TOTAL Kshs	736,632,345,877	368,316,172,939

Can I make an attempt to move?

The Temporary Deputy Speaker (Mr. Ethuro): Hon. Minister, you should never anticipate! You are supposed to act as if there is no objection.

Mr. Mbadi: On a point of order, Mr. Temporary Deputy Speaker, Sir. As I stated earlier, this Motion is moved on the basis of Article 222 of the Constitution which provides that there is a possibility that the financial year can come to an end before the Appropriation Act is passed or assented to. In the old order which we have left, it was proper and appropriate to bring the Vote on Account even before the Revenue and Expenditure Estimates are approved. But right now, it should be understood that it is the responsibility of Parliament to have the final say in the Budget making process. It is no longer an Executive's exclusive role. So, if you go to Article 221(6), it says :-

“When the estimates of national Government expenditure and the estimates of expenditure for the Judiciary and Parliament have been approved by the National Assembly, they shall be included in an Appropriation Bill, which shall be introduced into the National Assembly to authorize the withdrawal from the Consolidated Fund of the money needed for the expenditure, and for the appropriation of that money for the purposes mentioned in the Bill”.

This Article makes it mandatory that Parliament has to first of all approve the estimates of revenue and expenditure before the Appropriation Bill is passed. That being

the case, before the Vote on Account is granted, this Parliament must approve the revenue and expenditure estimates. According to the current Constitution, it is the responsibility of Parliament to engage in the Budget making process. It is no longer an exclusive of the Executive.

Finally, I want to ask that if we are going to authorize money, for example, under the Ministry of State for Public Service and then Parliament decides that that Ministry does not even require a third of what is provided for, how will we then deal with that if already the Vote on Account has been given to that Ministry, say, 50 per cent? This is why the Minister should have brought the Budget Estimates two months before the end of the financial year, so that this House could have passed the Revenue and Expenditure Estimates before the end of the financial year, to allow us to authorize the Government to withdraw from the Consolidated Fund. Given that the Government has failed to do that, I want to suggest a cure for this, if you so rule. I am one who does not just give problems. I want to offer solutions.

The Temporary Deputy Speaker (Mr. Ethuro): Order, hon. Mbadi! You cannot purport to give problems and solutions at the same time. This is not a debate when you can provide cures. You rose on a point of order and so, you can only state which order was breached. When you state an order that is breached, you cannot purport to be curing the same order. Others will do it.

Mr. Ogindo: On a point of order, Mr. Temporary Deputy Speaker, Sir. I rise on a point or order pursuant to Article 222 of the Constitution, which says that---

The Temporary Deputy Speaker (Mr. Ethuro): Order! Hon. Ogindo! I hope you will stick to Article 222 because your predecessor spoke of Article 222 and then Article 221.

Mr. Ogindo: Mr. Temporary Deputy Speaker, Sir, Article 222 provides that the Government will have an authority on Vote on Account of not more than 50 per cent. Looking at the Schedule given here, the total Vote is Kshs736,632,345,877.

The Temporary Deputy Speaker (Mr. Ethuro): Order! Hon. Ogindo, let us be together. You are on which page?

Mr. Ogindo: Mr. Temporary Deputy Speaker, Sir, I am on page 2505. The 50 per cent of that is Kshs368,316,172,938.50. This is a constitutional matter. I had raised this point of order before and I am raising it again. The materiality of the issue notwithstanding, if we go ahead with this Motion, we shall have breached this Constitution. On that account, I ask for your ruling that this Motion be declared unconstitutional.

Dr. Nuh: On a point of order, Mr. Temporary Deputy Speaker, Sir. While I consider the gravity of the matter as to whether the Government should run or not and that we need the money, I think the Treasury's failure cannot be used to hoodwink this House to circumvent the law when they think it is necessary. Time and again, the Budget Committee has been making recommendations and appeals, letters and all sorts of cajoling for the Ministry of Finance to ensure that they are able to table the estimates in good time. This is because we would not have been into this trouble they have taken us today. But, I think maybe they knew the goodwill of this House, whatever they will bring that entails money; and that the Government has to run then we would approve it. I do not think this is the basis on which we made laws for us to follow.

More importantly, Article 221(4) of the Constitution says that before the National Assembly considers the estimates of revenue and expenditure, a Committee of the Assembly shall discuss and review the estimates and make recommendations to the Assembly. This shows that we have not even considered the estimates that were tabled, let alone the approval. So, how then would a Minister of the Government come to ask for approval of half a Budget that we have not even considered and that the public has not even made disposition?

Mr. Temporary Deputy Speaker, Sir, even with the effect that we still need money to run, I think you should declare this Motion unconstitutional until such a time it complies with whatever laws we put in place.

The Temporary Deputy Speaker (Mr. Ethuro): Order, hon. Members! We need to make use of the time of this House. I would really entertain as many points of order as possible and as necessary. I think I like the word, “necessary”. The point of order from Mr. John Mbadi on Article 221(6) of the Constitution and the one from Dr. Nuh from Article 221(4), I think are not reading the Motion before us. The Motion before us has correctly reflected Article 222. It says, “Before the Appropriation Bill”. Mr. Mbadi, you are making references to what should be done in the formulation of the Appropriation Bill. That time will come and I will grant you your wish that time. What Dr. Nuh is also suggesting in terms of the Committee, indeed, the estimates are already before the House Budget Committee. So they will be prosecuted.

So, hon. Members, the only issue that is relevant is the one raised by Mr. Martin Ogingo on 50 cents.

The Minister for Nairobi Metropolitan Development (Mr. Githae): Mr. Temporary Deputy Speaker, Sir, I wish to thank you for that wonderful and very wise ruling that the Motion before us is properly before the House. I will address myself on the issue of 50 cents.

It is normal Government regulation and ---

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

The Temporary Deputy Speaker (Mr. Ethuro): Mr. Sambu, he is already on a point of order! I know you are the Vice Chairperson of the Budget Committee and by virtue of that position, you will always be considered. Therefore, relax for now.

Mr. Githae, please, proceed!

The Minister for Nairobi Metropolitan Development (Mr. Githae): Mr. Temporary Deputy Speaker, Sir, I will not address the ruling you have made because I think it is right. We accept it and clearly people were jumping the gun.

I will address myself to the issue of the 50 cents. According to Mr. Ogingo, the last figure should be 938.50---

Mr. Ogingo: On a point of order, Mr. Temporary Deputy Speaker, Sir. For the information of the hon. Member, my name is “Ogingo” and not “Ogingo”.

The Minister for Nairobi Metropolitan Development (Mr. Githae): That is exactly what I said, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Ethuro): Order, Minister! You may not have heard what came from your mouth. The Member is right. Just take that as good advice and proceed!

The Minister for Nairobi Metropolitan Development (Mr. Githae): I stand corrected, Mr. Temporary Deputy Speaker, Sir. It is normal Government policy that

when we are doing estimates in these large figures fractions--- Even in your own small calculator if you try to put 50 cents at the end, it will show you “error”. We cannot shut down the Government because of 50 cents. We can amend the 50 cents here.

Mr. Mbadi: On a point of order, Mr. Temporary Deputy Speaker, Sir. I do not know why the Government is contesting this. That should be rounded down because it is not more than--- With your permission please, I ask that the point of order that I raised be understood.

The Temporary Deputy Speaker (Mr. Ethuro): Order, Mr. Mbadi! You cannot be persistent in raising points of order on a matter the Chair has disposed of. If you did not formulate your point of order in a better way, it is not the problem of the Chair. I am only entertaining the issue of 50 cents. I think Mr. Martin Ogindo is correct because Article 222 (2) (b) talks about “Not exceeding”. So, anything that exceeds is unconstitutional! So that is what we should cure.

Mr. Githae, you had the Floor, please proceed!

The Minister for Nairobi Metropolitan Development (Mr. Githae): Mr. Temporary Deputy Speaker, Sir, to err is human and anybody can err. We are saying that we cannot shut the Government because of 50 cents. We can amend the figures. They are not cast in stone. This is an error. I think what the Treasury has done is that instead of rounding down, they have rounded up. To that extent---

The Temporary Deputy Speaker (Mr. Ethuro): Hon. Members, we are not going to debate this matter. The only matter I will entertain is the one remedying the 50 cents business.

Mr. Midiwo: Mr. Temporary Deputy Speaker, Sir, so that we can move forward, the Minister has agreed to round up the figure downwards. We accept that so that we can move and go to the debate. I beg you to allow the Minister to move an amendment.

The Temporary Deputy Speaker (Mr. Ethuro): Minister, can you move the amendment?

Mr. Oyongo Nyamweya: On a point of order, Mr. Temporary Deputy Speaker, Sir. I have gone through page 2505 where it is written in small letters:-

“Estimates showing the several services for which a Vote on Account is required for the Financial Year ending 30th June 2011”.

That is what is stated here. One can say that, that is a complete error. If you go to the next page 2504 it repeats the same thing; 30th June 2011.

Mr. Temporary Deputy Speaker, Sir, We need your guidance. What are we doing in this House? The people at the Treasury have done the Budget, how do we trust the figures they have given us? How do we trust what is written here?

The Temporary Deputy Speaker (Mr. Ethuro): Hon. Members, the submission by Mr. Oyongo Nyamweya is actually right. Our Standing Orders are very clear; we must be very accurate with the information we give. You cannot tell me that it was just an oversight. Therefore, that must also be corrected. Since the Minister has already started moving the Motion and, therefore, cannot make an amendment, the Secunder can make the necessary amendments to reduce the 50 cents.

The Deputy Prime Minister and Minister for Finance (Mr. Kenyatta): Mr. Temporary Deputy Speaker, Sir, I think I need to move, then you put the Question in order for the amendments to apply.

Mr. Temporary Deputy Speaker, Sir, I take this opportunity to first thank hon. Members for--

The Temporary Deputy Speaker (Mr. Ethuro): Order! You know we have procedures and that is my job. One, the issues raised are weighty matters on small points but they are still weighty because we are talking about the Constitution. You cannot also tell me that you can just round up figures. We are also talking about money matters. It has two decimal places and not one or four. You can reduce it to the necessary decimal places, especially when the provision is so expressed “not exceeding.” So, anything on top is exceeding. I also appreciate that the business before us is very critical. So, we should not also destroy the matter on the basis of technicalities which can be redeemed.

Ms. Karua: On a point of order, Mr. Temporary Deputy Speaker, Sir. While the Minister looks at his figures, is it in order to ask that the Committee of the whole House, of the one-page Bill be entertained?

The Temporary Deputy Speaker (Mr. Ethuro): Order! Order! I am actually trying to assist because even to get to another Order when another one is in the middle requires another procedure. I, therefore, want to rule under Standing Order No.48 that the Minister may move the Motion as amended.

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

THAT, in accordance with Section 222 of the Constitution of Kenya, the withdrawal of Kenya Shillings 368,316,172,938 representing one half of the total net Estimates of Recurrent and Development Expenditure made up in the manner set out in the Vote on Account Schedules laid in the House, be authorized for the purpose of meeting expenditure necessary to carry out the services of the Government of Kenya during the year ending on 30th June, 2012, until such time as the Appropriation Act for the year comes into operation.

(His Excellency the President has given consent to this Motion)

Mr. Temporary Deputy Speaker, Sir, the schedules, as I have stated, will be amended to read “2011/2012 Financial Year”. Indeed, the vote on the Ministry of Transport will be reduced by one shilling from Kshs2,017,212,050 to 2,017,211,050. I want to thank hon. Members especially for their attention in the minor details. It is their job and, indeed, we encourage them to continue in that manner.

Mr. Temporary Deputy Speaker, Sir, having finalized and formulated the Budget, the real challenge really lies in its implementation. Line Ministries are, therefore, expected to efficiently implement the planned programmed, to ensure that they are completed within the sector and schedules.

Mr. Mbadi: On a point of order, Mr. Temporary Deputy Speaker, Sir. The Minister has done well in amending the figure in the Motion on the totals on page 2505. But there is one line, Ministry of Fisheries Development, which has caused that. The figure should have ended with 87, but that has not been amended. Could he amend that?

The Deputy Prime Minister and Minister for Finance (Mr. Kenyatta): Mr. Temporary Deputy Speaker, Sir, I am grateful for the input.

Mr. Temporary Deputy Speaker, Sir, the Budget which we presented to this House amounted to Kshs1,154.9 trillion and comprised of the following Ministerial Recurrent Expenditure of Kshs544.9 billion. These include expenditures financed through Appropriations-in-Aid, Development Expenditure amounting to Kshs398.6 billion and the Consolidated Fund Services amounting to Kshs209.5 billion, including domestic and external debt redemptions amounting to Kshs95.3 billion. The total expected receipts amount to Kshs970.7 billion, including loans and grants. The overall deficit is Kshs184.3 billion.

Looking ahead towards realization of Vision 2030, allocation of resources has been shifted from low priority to high priority areas, and we expect that to form the backbone for the achievement of our ultimate goal. To ensure growth and sustainable development, the Budget for the Financial Year 2011/2012 has continued to focus on key priority areas as a basis for allocation of resources. These include improving access and transition rates, quality of education, enhancing efficient and high quality health system and ensuring security for all persons as well as empowering our youth.

Mr. Temporary Deputy Speaker, Sir, I also do believe that Members have their copies of their Vote on Account, which they have, indeed, amended today and we are grateful for that. I am sure that they will also pay attention, as they have done, indeed, to the Estimates books and schedules which indicate the net allocation for each vote.

Mr. Temporary Deputy Speaker, Sir, taking cognizance of the fact that the Financial Year 2010/2011 will be coming to an end on 30th June, 2011, the authority that was granted to this House to withdraw funds from the Consolidated Services and apply those funds towards the provision of goods and services will, accordingly, end. In compliance, therefore, with the Constitution, the Government of Kenya is expected to continue to provide services and carry out other essential functions without interruption. It is, therefore, in this regard that, in accordance with the stipulation of Article 222 of the Constitution, Parliament is now being requested to authorize the withdrawal from the Consolidated Fund monies not exceeding in total one-half of the total net sums included in the estimates of Recurrent and Development Expenditure for the Financial Year 2011/2012, in order for the Government to continue to provide services required until such time as the Appropriations Act is enacted by Parliament.

Mr. Temporary Deputy Speaker, Sir, the funds sought will be used for payments of salaries to public servants, meet operational and maintenance expenses under the Recurrent Vote, while those under Development Vote are to be used to implement development programmes. I would like to assure hon. Members that funds shall be utilized efficiently to achieve the purposes and provide services for which this House has approved. Financial discipline and economy will be our guiding principle to achieve macro-stability and facilitate the achievement of our development goals.

Mr. Temporary Deputy Speaker, Sir, this Motion, which we are calling upon Members to support and pass, will enable the Government to access funds that will be required by Ministries, departments and agencies to finance their operations at the commencement of the next Financial Year, 2011/2012 on 1st July, 2011.

Mr. Temporary Deputy Speaker, Sir, I would like to thank the hon. Members again for their support and co-operation and, indeed, all the corrections that they have made.

Mr. Temporary Deputy Speaker, Sir, I beg to move and ask hon. Kimunya to second.

The Minister for Transport (Mr. Kimunya): Mr. Temporary Deputy Speaker, Sir, I rise to second this very important Motion. In seconding this Motion, I really want to appreciate the sharp eyes that we have in the membership of hon. Ogindo and hon. Mbadi. I can see that our Budget will be safe in terms of really looking into the figures.

Mr. Temporary Deputy Speaker, Sir, it is obviously very clear that even if the estimates had been tabled two months before, given the calendar of events in terms of all the public participation that is required and the preparation of the Bill, we would not have come up with an Appropriation Bill by 1st July, 2011. So, the framers of our Constitution were very clever and did anticipate that even with the best of intention, there will come a time when 1st July comes and we do not have an Appropriation Bill ready and yet, the Government must continue. People must be paid their salaries, but more importantly, there must be a very clear signal to the people that services will not be disrupted. That is because that could send signals that could get our exchange rate going up and our markets collapsing. It has happened in the US when we had that impasse between the Senate and White House.

Mr. Temporary Deputy Speaker, Sir, this is a very straightforward Motion. I know that Members have looked at it and going by the intervention that came before, it is obviously very clear that the scrutiny will continue. But for that to happen and for us to ensure that all technical officers will be paid and the Constituencies Development Fund (CDF) monies will be released, I imagine that we are all very keen to ensure that we give the Minister the authority to start spending and planning on the disbursement of those monies so that, come 1st July, the monies will be in the counties and that all the Ministries are ready to start implementing. This will ensure that even me at the Ministry of Transport, I do not end up becoming the last one among the Ministries next time round.

Mr. Temporary Deputy Speaker, Sir, as I stand here and I am feeling very bad that the Ministry of Transport was last on the rankings today for the 2009/2010 Financial year; now that I am there, I hope to turn it round. I am told that if you are last and everyone says about turn, then the last shall be the first. So, I am hoping that, that will be the situation. So, let us move with speed. Let us have this money and start making progress, so that those who are last can be first and those who are first can try to retain their position.

With those words, I beg to second.

(Question proposed)

Mr. Sambu: Thank you very much, Mr. Temporary Deputy Speaker, Sir. I have no problem with the Vote on Account, but I have only a problem with the Constitution. We are actually not complying with the Constitution from time to time. Article 221(1) gives the way forward for preparing the Budget and it was not followed. We also told the Minister to come to the House and render an apology for not following the Constitution but that was not done. The apology was not forthcoming. We are even now breaching the Constitution, because, to me, Article 221(6) is very much linked to article 222 that has been quoted. For the purpose of clarity, let me read Article 221(6) which says:

“When the estimates of the national Government expenditure and the estimates of the Judiciary and Parliament have been approved by the National Assembly, they shall be included in the Appropriation Bill---”

That is the law.

Now, when you look at article 222(1), it says:

“If the Appropriation Act for the financial year has not been assented to, or is not likely to be assented to by the beginning of that financial year, the National Assembly may authorize the withdrawal of money from the Consolidated Fund.”

But you see we do not have the Appropriation Bill because the estimates have not been approved, and we have the 21 days in which they have to follow all the rules of the Constitution, come back, report to the House and have the estimates approved. Once they have been approved, then we are talking of the Appropriation Bill. With that, if we do not have to go through the Appropriations Bill first, we can still approve 50 per cent of the estimates. Now we are talking of 50 per cent; but it is 50 per cent of what? It should be 50 per cent of the approved estimates but they are not there. That is my worry otherwise I have no problem with the Vote on Account; that is the reason why I am opposing this Motion.

Ms. Karua: Mr. Temporary Deputy Speaker, Sir, I rise to support the Motion. I want to say from the outset that the points of order and the problems hon. Members are having arise from the failure initially by the Minister to comply with the Constitution, and table the estimates two months before the date when they were presented to Parliament. I am hoping that the Government will learn its lesson and, henceforth, present the estimates in accordance with the Constitution, so that all these queries come up during the hearings, including the 50 cents or one shilling. That would have been adjusted during those hearings.

We do need the money nevertheless. We are aware that there is drought and hunger in several parts of the country. We have seen pictures or images of people who are really suffering. We just hope that once this is passed, this money will be put to good use and the people who are dying of hunger will be rescued.

I am looking at the allocations for water, and priority should be given to those areas because even after they receive relief food, there is no water to cook it. They still have to suffer looking for water. We expect that this Vote on Account will really have a meaning to the people of Kenya.

I am looking at the allocation to the National Intelligence Security Service (NSIS), which is a whopping Kshs6 billion and I am thinking that this is where the leakages occur. These monies are not audited. This Constitution does not exempt any single Ministry from audit. As a Parliament, we will be failing if we do not now start insisting on audited accounts of all Votes, including the so-called “confidential Votes”. A committee of this Parliament is capable of scrutinising anything that belongs to the Republic of Kenya. We do not want to sit and imagine that the Kshs6 billion is going to partisan political campaigns when people are dying of hunger.

Mr. Temporary Deputy Speaker, Sir, I have seen the huge allocation to the Ministry of State for Provincial Administration and Internal Security. It is now the chance of that Ministry to demonstrate that it can give security to all areas, especially the areas that have suffered from invasions from outside the country.

Mr. Temporary Deputy Speaker, Sir, there is also good allocation to the Ministry of State for Defence. It is time the Commander-in-Chief gave orders to the defence forces to do some of their exercises along the border, or somewhere near there – a buffer zone. We need to put to good use our human and financial resources, so that we can secure our borders and also keep our people secure.

I notice the allocation to the Ministry of State for Special Programmes once again, and I am saying make haste. Reach every corner of Kenya; even the areas that do not look obvious, there are pockets of poverty, but first make a quick dash to those areas that are really needy and rescue our people from hunger.

With those very few remarks, I beg to support.

Mr. Mbadi: Mr. Temporary Deputy Speaker, Sir, initially I wanted to oppose this Motion. However, looking at the wider interests of this country, I beg to support it very reluctantly.

The first issue I raised is with regard to the constitutionality. I want the Government to listen and understand that the budgeting making has shifted from the Executive to Parliament. That is the Constitution that we passed. Therefore, the Budget Estimates need approval by this House before we allow even one cent to be spent. We can wait for the Appropriation Bill, yes, but we cannot spend before the Budget Estimates are finally approved. That is the spirit of this Constitution. That is why the Constitution provides that the Minister should table Budget Estimates in this House, at least, two months before the end of financial year. By tabling these estimates, various Committees of the House will have enough time to look the Budget Estimates, revenue and expenditure proposed. If there any changes, they can propose those changes to Parliament. Then Parliament debates and approves the Budget. The only thing that is envisaged in this Constitution with regard to Vote on Account are circumstances where the end of financial year comes, and the Appropriations Bill has not been passed or has been passed but has not been assented to, to become Appropriations Act. I hope and believe with your ruling, we have not violated the Constitution, But I fear that we have. Having said that, I find it difficult to give this Government authority to spend up to 50 per cent of the Budget; yet it has not been able to explain the various revenue collections in previous years.

Mr. Temporary Deputy Speaker, Sir, you remember, I sought for a Ministerial Statement in this House from the Deputy Prime Minister and Minister for Finance with regard to discrepancies under various revenue heads. The Government, up to now, has failed to offer an explanation to this country on why the Treasury has been giving conflicting figures to this House. I just want to refresh the minds of Members of this House that this same Government brings two different sets of account for the same revenue head. This issue has not been addressed. Therefore, I find it a bit difficult to support this Motion. Moreover, the Controller and Auditor General has been certifying our accounts. In accounting terminology, the Controller and Auditor-General has been qualifying our accounts all through. Out of about 14 revenue heads, only one was certified in 2007/2008 Financial Year. Only three were certified in 2008/2009 Financial Year out of 13. How are we sure that the money the citizens of this country pay in form of taxes go to the right account? What is in Consolidated Account is different from what is collected. The Kenya Revenue Authority reports different figures; figures that are tabled in this House. What the Controller and Auditor-General find in the Exchequer

Account is different. So, I want to ask the Minister to make sure that he streamlines the Treasury. I do not think we lack professionals in this country. I am seeing professionals from the Treasury sitting here. They are letting us down. I want them to listen that they should be accurate. They should give us the correct figure. This Parliament is a supreme authority in terms of approving taxation. We cannot tax the people of Kenya until this House gives the authority. We cannot mislead this House persistently. It is criminal act. Very soon, we will sue the entire Treasury if they do not change the way they conduct their affairs. I wish there was law that we could take the staff of the Treasury to jail if they mislead Parliament. I think that law needs to be brought to this House.

Finally, I can see the Deputy Prime Minister and Minister for Finance really wants me to stop my contribution---

The Temporary Deputy Speaker (Mr. Ethuro): Hon. Mbadi, you are at liberty to make use of your good time!

Mr. Mbadi: Mr. Temporary Deputy Speaker, Sir, I am just about to finalize because I am mindful of other people's welfare and rights to speak as well.

Mr. Temporary Deputy Speaker, Sir, my final comments is that we have spoken about this before. There is no rational in the Treasury always bringing to us 50 per cent of every line. What is the justification? We keep on repeating this. Minister, when you are seeking approval for Vote on Account, please, explain to us, why, for example, the National Intelligence Security Services (NSIS) needs Kshs6 billion. We just gave them Kshs5 billion the other day. Why do they need Kshs6 billion now? Why can it not wait? If there is some urgent payment to be made like maybe for road construction, we would understand. But if you are giving us just 50 per cent of everything this, to me, is a lazy way of bringing figures in this House. Please, let us improve in the way we do things. Let us change. Let us not just do things, because they have always been done. This country is changing. So, next time, I hope my plea will be heeded. Next time, we want variation in figures and explanatory notes, explaining to us that, "on this line, we are asking for this because we want to do, 1, 2, 3 and 4, between these two or three months," so that we are sure that we are exercising our oversight role effectively.

Otherwise, as I said, I reluctantly support this Motion.

Mr. Kathuri: Mr. Deputy Speaker, Sir, let me start by saying that while it is very important for us to pass this Vote on Account, there are quite a number of issues that we must raise concern about. I want to support the Vote on Account, but I cannot fail to mention that on some issues, I wonder why we have to give 50 per cent, yet we know that they will not be able to do anything significant with that 50 per cent. For salaries, we can understand. There must be money to pay salaries. However, for some issues on Development Expenditure, I do not see why we should pass some of these figures. We know that even after we pass them, there is very little they would do, other than to wait for the other monies. Even if they undertake construction or purchase of whatever equipment, they will not be able to finish the process until they receive the full amount. In a way, this tends to push the price of projects upwards. A good example is when the Ministry procures goods from suppliers. They always procure them on credit. Very many simple items such as ball points are sold for Kshs100, when we know that they cost only Kshs20. To me, this is because goods are accessed on credit.

If you look at some of the construction works that have been going on, for example Embu Provincial General Hospital, there are many ghost projects. Most of the

buildings are not completed. You can even find a tree growing inside a building. When a contractor comes on site, he first does clearing work. This adds up extra expense. At the end of the day, much as the contract may have started with a very small amount, it will end up being higher than the original figure.

Mr. Temporary Deputy Speaker, Sir, it is also important to know that while we pass the Vote on Account--- I wonder what happened to the Appropriations-in-Aid. They still collect money, but part of it is never remitted to Treasury because they spend it on the ground. This means that they will end up with more than 50 per cent of what we are allowing them to spend. This is an issue I think is worth noting. In future, we would like to see a situation whereby we only Vote on Account the specific votes which should be spent as we wait to peruse through the whole Budget through the Committees of the various Ministries so that we can be able to know that we are allowing the Ministry to spend what is necessary. Otherwise, if we continue with this trend, we will always be having unnecessary expenditure and it will be very difficult for us to reverse it. It will be very difficult to reverse the situation even when we realise later on that the Ministry has spent on unnecessary items.

I want to go on record as saying that as we pass this Vote on Account, it is good for us to be aware that we do not want to pass Vote on Account when we are including the development budget in it.

With those remarks, I support the Motion.

Mr. Kioni: Thank you, Mr. Temporary Deputy Speaker, Sir. I want to support this Motion and as I do so, I agree with the direction of the Speaker that this Motion is actually constitutional. The heading of Article 222, and I believe there is no one Article that is superior or inferior to the other in this Constitution is: “Expenditure before Annual Budget is Passed.” I think the argument that we have not done what others have been saying is not accurate because Article 222, in my opinion, clearly allows the Deputy Prime Minister and Minister for Finance to do what he has done.

Secondly, I want to thank and congratulate the Judicial Service Commission (JSC) and the President for the quick action in appointing Judges of the Supreme Court because this will now bring to an end issues of interpretation of the Constitution. Whatever it is that we are in doubt then, other than for purposes of allowing us to move on, where we want to know exactly what the Constitution provides, we should be able now to refer it to the Supreme Court.

Mr. Temporary Deputy Speaker, Sir, I support this Motion for many reasons, many of which have been mentioned by the speakers before me. First, hunger is looming in the country and it is important that the Government has the capacity to mitigate or ensure that none of our own dies because of hunger.

Secondly, the Member for Turkana Central who is now occupying the Chair has on many occasions complained and urged the Government to ensure that the continued killing of our people along the border is stopped. For the Government to be able to ensure that security is available to all Kenyans, especially within the areas that border countries that are to some extent, unstable, there is need for money and that money cannot be available if we do not pass this Motion.

Thirdly, we have issues of defence which have been mentioned. I sit in the Departmental Committee on Defence and Foreign Relations and I know, as a Member of that Committee, that – without any defence to the Department of Defence – there is

urgent need to allow this Ministry funds so that they are also comfortable. They are doing it but we have had an opportunity to visit many of these areas and there is need to ensure that there are funds within the Ministry of State for Defence and other such agencies.

Mr. Temporary Deputy Speaker, Sir, I think it is also important to mention that one of the reasons that Ministries gave when they took back almost Kshs134 billion to Treasury was because the procurement procedures are such that they go beyond the time that they have the money in account. For us to ensure that, in the coming year, the money allocated to the Ministries is spent instead of it being sent back to the Treasury, it is important that we allow them to start procurement procedures and start spending this money even as we approve the Budget later on.

Finally, I just want to mention that as we continue – and I know that we have read and re-read the Constitution and especially whenever we have the opportunity to discuss matters relating to Treasury – it is important that we also remain awake to the fact that we are also within a transitional period. If we do not allow ourselves to transit smoothly we can get antagonized unnecessarily.

Mr. Temporary Deputy Speaker, Sir, this Constitution has areas that we have also not looked at. Now - and I do not want to go back to debates that we have crossed – we are talking about the positions of a Cabinet Secretary. If we were to go through that route, then we would actually say there are only a maximum of 24 Cabinet Secretary positions in this country. If we have to interpret the Constitution, then the Cabinet should have been condensed and a number of our colleagues will find themselves useful at the Back Bench. We need to look at the piece meal implementation of the Constitution and allow it because we are within the transition. I can see my Whip, Mr. Midiwo, is in agreement partially and in disagreement partially.

I also want to say that Article 210 calls on all of us to pay taxes. We have also not allowed it to come into place because there is a bit of transition that we must accommodate as we go on. There is the tax that is anticipated that we are to pay. I also pay tax, but there is more that Kenyans would like us to pay. I know Mr. Githae pays taxes, but the Constitution says that we should pay more.

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

Mr. Jirongo: Thank you, Mr. Temporary Deputy Speaker, Sir. At the outset, let me start by supporting the Motion, but I wish the Deputy Prime Minister and Minister for Finance was around because there are certain developments that are very disturbing. Maybe the technocrats seated at the other end will be able to explain certain things to Kenyans. Six months ago, inflation in our country was just at about 3.8 per cent and within six months, we are talking about inflation being at 13 per cent.

Mr. Temporary Deputy Speaker, Sir, if you remember very well the time we experienced that kind of instant jump in inflation, you will find that it is during the Goldenberg time when some very strange money came into the market. We would like the Office of the Deputy Prime Minister and Ministry of Finance to physically look at various Ministries and find out exactly what is happening because that graph is all of a sudden. From 3.8 per cent inflation and within six months, we are talking about 13 per cent, definitely, there is something wrong somewhere and I wish the Deputy Prime Minister and Minister for Finance was here. Of course, we know there are two issues that

we are talking about, like what is being stolen through the Ministry of Education and other places, but that jump in inflation is suspect because it is just too high!

The other issue we would like the Office of the Deputy Prime Minister and Ministry of Finance to look at very seriously is the actual expansion of the economy. We have talked about opening up the northern corridor for a very long time. You heard yesterday that the first attempt to try the project was already meeting a lot of complications where the consultancy company was being paid billions of shillings that forced the Minister for Transport to now sit down with the consultant to negotiate the figure downwards. Definitely, something is wrong and we are starting on the wrong footing. Let me take this opportunity to extend my congratulations to the Minister for Transport. For once, that is a trial because you started by saving a whopping Kshs1 billion of tax-payers' money.

Mr. Temporary Deputy Speaker, Sir, the other issue I have with this Budget is the *Kazi kwa Vijana* (KKV). This is one loophole where the Government is sinking money and nobody can see anything tangible. There is no proper accounting system that can confirm that, that money goes to create temporary employment for the youth of this country. I would wish the Deputy Prime Minister and Minister for Finance relooked at the way they disbursed the KKV money because people just come up with lists and claim to employ certain number of youths who were paid a certain amount of money. When you go to the ground, those youths are never employed. Many hon. Members will tell you that they see very little KKV in their constituencies. That is a loophole that the Ministry needs to look at very seriously.

Another issue in this Budget is the distribution of infrastructure, particularly roads. I believe that equitable distribution of infrastructure is paramount if this country has to move in the same pace. If you scrutinize this Budget very seriously, you will see that it is basically two areas that have been looked at heavily when it comes to infrastructural development. Let me hasten to mention that most infrastructural development is in Nyanza and Central provinces. In Rift Valley, Coast, North Eastern and Western Province, there is very little infrastructural allocation. I think when we are looking at the Budget; we should introduce amendments to equitably cater for development across the country, so that even North Eastern and other areas can also be served and be part of our country.

The losses we are witnessing in some of the Ministries are unacceptable. Losing Kshs4 billion is not the same as losing Kshs1 million. Kshs4 billion is a lot of money. Even if someone was stealing Kshs1 million per day, he would require a whopping 4,000 days to steal that money. It is not a joke when you are told that a Ministry has stolen Kshs4.2 billion. There is definitely something extremely wrong with that.

I want to urge the Deputy Prime Minister and Minister for Finance that he is responsible for all our funds and the entire taxes that Kenyans pay. He should coordinate seriously, with the Auditor-General and the Internal Audit Office to ensure that there are proper procedures so that we do not end up, all the time, dealing with what was done yesterday. But above all, I wish to support this Vote on Account and remind the Treasury that they need to come and explain to us this very sudden rise in inflation, from 3.8 per cent to 13 per cent. The only time it happened is when we had the Goldenberg Scandal. Do we have another Goldenberg going on that we are not privy to? I want to urge the

Deputy Prime Minister and Minister for Finance to come and tell us why the cost of living has, all of a sudden, risen to levels that are totally unacceptable.

I wish to support.

(Mr. Midiwo moved to the Dispatch Box)

Mr. Ogindo: On a point of order, Mr. Temporary Deputy Speaker, Sir. I would not wish to disrupt this debate and, particularly, the Chief Whip. However, I would like to seek your guidance. Article 221(6) says that when the Estimates of the national Government Expenditure and Estimates of Expenditure for the Judiciary and Parliament have been approved by the National Assembly, they shall be included in an Appropriation Bill which shall be introduced into the National Assembly to authorize the withdrawal from the Consolidated Fund of the money needed for the expenditure, and for the appropriation of that money for the purposes mentioned in the Bill.

After they have been approved by the National Assembly, then they should be authorized for withdrawal from the Consolidated Fund. We are just about to do that. The guidance I want from you is: At what point will we do the approval of the expenditure estimates? It is critical that, that is clarified. This is a House. We are in a hurry. I know that the money is needed even in Rangwe, as much as it is needed in Othaya, but, it is important that we follow the law. Further to that, the Speaker ruled in his earlier ruling that the Budget Committee had 21 days to present a report here. That was in view of the fact that we needed the House to approve the estimates so that a Vote on Account could follow. So, now that we are moving ahead, at what point will we do the approval?

(Mr. Midiwo stood up in his place)

The Temporary Deputy Speaker (Mr. Ethuro): Hon. Midiwo, you will allow the Chair to discharge its obligation. The Chair has been invited to make a ruling. This is not a matter that is contentious. First and foremost, the Chair gave a Communication from the Chair yesterday on the process that we are going to follow. The estimates were committed to the Budget Committee and that, to me, is according to part 4. The Chair also gave a time-table on how we will go to receive public recommendations. That will be part 5 of 221. The Chair also gave you 21 days to complete all that you needed to complete so that, by the end of those 21 days, you are supposed to be ready and bring your report to the House. The House, in part 3, shall consider the estimates submitted under Section 1.

That is the procedure, hon. Ogindo. Today, we are not approving the Budget. We are allowing Government to run. We are giving them 50 per cent of the money and that really applies to part 2. They are not contradictory. That is the Considered Ruling of the Chair. This is very openly expressed. So, hon. Ogindo, I know that you are a very good Member of the Budget Committee and I appreciate your enthusiasm and interest in this matter. Let us dispose this matter because we have already proceeded with it. We will have the opportunity to bring the estimates for approval.

Mr. Midiwo: Mr. Temporary Deputy Speaker, Sir, I wish to support this Motion. In so doing, I would like to plead with my friends, hon. Ogindo and hon. Sambu that, the new Constitution envisages the current circumstances. I think we are in this scenario

because we are trying to implement the new Constitution. We are in the process of just trying. So, I would like to plead with you to let the process continue. I think we all understand. I believe that in the substantive Speaker's original ruling, he said that the fear that the Government would stop if the Minister for Finance did not read the Budget was remedied by Article 222 of the Constitution. I think we all agreed that through that ruling, the Budget was sent to the Budget Committee. I want to plead with the Ministry of Finance that we have some serious issues going on in our country that need urgent remedies. Because of drought I want to plead that monies be disbursed very quickly to the Ministry of Agriculture and approvals be given for the Ministry of Agriculture to allow importation of grain on emergency basis, so that the milling companies can access grain and provide food which I am sure will reduce the concerns of the rising inflation by Mr. Jirongo.

Mr. Temporary Deputy Speaker, Sir, in the drought-hit areas, the Government needs to take some measures. Issues of school fees need to be suspended, so that our children stay in school as we try to mitigate the problems of drought and hunger.

I want to also urge the Minister that as he considers this issue of maize importation, in the six months which he suggested, he should temporarily zero-rate the importation of maize not at 10 per cent, so that we can begin to feed our people. We need not turn a deaf ear to the issues of hunger in our country.

The Government needs to change tact in the issue of relief food. The issue of the Government being involved in distribution of relief food is an issue which is archaic. It needs to take this money and give it directly to our people, so that they have a choice of what to eat. This is because the relief food which goes to somebody in Garissa or Pokot, when you give somebody one *gorogoro* it is not enough. However, if you give them money they will decide whether they want to eat cassava or potatoes. The reason why the Government is hung up on distributing food is because people are making money on the distribution channel. That ought to happen.

I am pleading with the Treasury to make a decision over this issue. This is because half of the money they are giving for relief is going to the pockets of a few in the name of distribution, including some people I know around us. The most important thing is for us to be concerned; are our people getting food? If they can access food, how will they buy the food? Give them money.

The same applies to this issue of IDPs. The Government is over-obsessed with this issue of looking for land. There is evidence to show that most of this land which is given to IDPs is being sold by the so-called IDPs. Give them money. Let people choose where they want to go and buy their land. It is easy on the Government. It reduces avenues of corruption.

I think when we begin to do that accountability becomes easy. Kenyans are still living in IDP camps since they were evicted from the Mau Forest. Give them money. Let them go and look for land wherever they want. Some people do not want land in the 21st Century. They just want to have a roof over their heads. They may want to come and live in Nairobi. Give them this money. Stop being obsessed with giving them land. I want to say that Kenya is the only country I know where the whole population from a 90 year old to a one day old person is obsessed with owning land. Some of us want to live in towns and not to go and live on land in villages. Let others who can produce live on that land because our land policy is archaic.

I want to say that Economic Stimulus Package which this Ministry thought so well to institute last year is a failure. The money is not getting to the people. I am the MP for Gem. There is nothing I can show for any work done through *Kazi Kwa Vijana* (KKV) programme. That money needs to be channeled through proven channels of development, particularly the CDF. If the Government is not interested in dealing with the CDF, it needs to form constituency committee where leaders are involved. Right now, these people are duplicating a road which has already been done by the Kenya Roads Authority (KERA).

I go home a lot, but not a single weekend passes without crowds of people coming to my home saying they want to dig fish ponds. They tell me that they have not been paid and they do not know you gave them that job. Form constituency-based committees if you want to alleviate poverty, please, use the CDF formula which has proven to be a working formula.

Fisheries programme is a failed one. If I wanted to stimulate the economy, I would have taken that money which was given to the Ministry of Fisheries Development and divided it. I would have gone to Central Province and given people money to stimulate the coffee industry. I would have gone to Kericho area and given people money to work on their tea farms. I would have taken money to Lake Victoria to take away the hyacinth which is impeding work and do it manually. You will employ people. To me, that will work.

I want to talk as the MP of Gem. It does not help that several fish ponds have been dug in Gem and they have now matured and there is no market. In fact, we have impoverished our people by trying to get them out of poverty. Discuss it with Members of Parliament. There is no market to sell their fish.

With those very many remarks, I wish to support.

Mr. Baiya: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity. I also want to support this Motion.

Everybody agrees that we need to have a Budget. We are not ready for a shut-down come the end of the financial year. The new Constitution is not a recipe for anarchy and chaos, but it is meant towards improving financial management of the country. Even though there has been controversy about the transitional process for the implementation; if any clarity was needed, the recent Speaker's ruling was clear on the point; namely that the Minister for Finance or the Cabinet Secretary in charge of finance must present estimates before the House at least two months beginning in the future. But in the circumstances that we are in today, given that period had already lapsed, it was proposed that we still go ahead to refer the Budget Estimates by the Finance Minister to the same Budget Committee to work on them and present its own report before the House.

In those circumstances, Parliament will still have to proceed to ensure that come the end of the financial year, Government functions continue to run and that all the services that are needed to be given to Kenyans and continue.

The country is in the middle of serious economic challenges. We have a lot of development programmes and efforts that are going on that need to be sustained. We have social services, as other hon. Members have mentioned, that need to be sustained as part of our social existence.

Mr. Temporary Deputy Speaker, Sir, at the constituency level, secondary and primary schools heads are complaining that the Government's contribution to the free

secondary and primary education is lagging in arrears. They are, therefore, eagerly awaiting the Government's contribution which this Motion is meant to facilitate. This is not simply in education, but the same thing has also happened to the security systems. The same thing goes for the development programmes that are going on. We cannot bring everything to a hold until the transition process, which might delay this, is rolled out in the pace at which we are moving. Even the food situation and all the other development activities that are part of the performance of our economy are all very essential. Therefore, even those concerns that have been expressed notwithstanding, there is need to allow continuity and ensure that the country continues to run.

Article 221 of the Constitution has laid down the set of procedures that must be complied with as part of a normal budgeting process, but Article 222 takes care of a situation which, notwithstanding the provisions of Article 221, calls for the Government to resort to this measure of Vote on Account. Therefore, even if anybody were to think that there was a contradiction, that contradiction has been provided for and is well taken care of by the law. It is, therefore, not a contradiction. It is the position in law. Therefore, this Motion is prudent and is the right thing to do.

I beg to support.

Mr. Letimalo: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to support this Motion. I just want to talk on one main issue, namely, drought, which I believe really affects other sectors. I know that Kenya as a country has experienced drought, but it is more severe in the ASAL areas.

I wish the Deputy Prime Minister and Minister for Finance and by extension the Cabinet Ministers listen to us when we talk about the effects of drought, mostly in the ASAL areas. Kenyans have witnessed the disturbing pictures on television of people who are affected by drought. These are hungry people fighting over resources. This is really a matter of concern because it creates instability among these communities. While I appreciate that the Government provides relief food to these affected communities, we are equally concerned that the distribution of this relief food is wanting. It is easy for the Ministry of State for Special Programmes to distribute food just by giving figures, but not ensuring that food is available at the National Cereals and Produce Board depots. We get copies of letters showing that, for example, Samburu East has been allocated 1,000 bags of maize, so many bags of beans and several cartons of cooking oil. But when you go to the depot, the food is not available. This is just what the people depend on.

Mr. Temporary Deputy Speaker, Sir, we are talking of people whose livelihood is livestock. Once it is dry, livestock is the first lot to suffer because there will be no water and pasture. This is what people depend on. So, in the absence of the produce from livestock, the people depend on the relief food that comes from the Government. So, what happens when these letters are written, you see the figures, but the food is not available in the depots. So, we are making an appeal to the Government and more specifically to the Ministries concerned, namely, the Ministry of State for Special Programmes and the Ministry of State for Provincial Administration and Internal Security, to ensure that once this food is distributed, then they ensure that the food is available at the depots, particularly, maize.

Secondly, it is not just enough that food is distributed, but there is no means of transport to transport this food to the needy people. You will find that in a county, you have only one lorry that goes round the districts that are in that county. So, people have to

wait for many days before getting food. Therefore, it is not a surprise when you are told that people are dying of hunger. These are the cases we have witnessed in Samburu County. We cannot deny it. It has also happened in Turkana. We are appealing to the Government that as it allocates food, it is also important to ensure that transport is available, so that this food reaches the people in time.

Thirdly, drought also affects education, particularly in the ASAL areas. Pastoralists have to sell their animals to raise money to pay school fees. In the absence of the livestock, they will not get money and children will drop out of school. I appreciate what the Government has done because in one of our sessions, the Prime Minister made a Statement here that the Government had consulted and decided to waive school fees in drought stricken areas. I go to my constituency and as I speak, school principals are still chasing students out of school. I understand the situation they are in because they also keep the students in school, particularly in boarding schools, from the fees they generate from the students. I am appealing to the Government that now that there is this provision in the Budget Estimates, it should give priority to this issue, so that schools in the drought stricken areas get funds, so that they can retain the students in school and ensure that their programmes run without being affected.

Thirdly, drought affects livestock. The movement of pastoralists in search of water and pasture has its own problems. The communities converge in places where water is available and because of the scarcity of this resource, certainly, people fight over it. It is good because my brother hon. Bahari is here. Yesterday, we had a meeting of five communities, namely, Isiolo South, Isiolo North, Samburu East, Laisamis and Laikipia because people are fighting over resources.

Mr. Kizito: On a point of order, Mr. Temporary Deputy Speaker, Sir. Looking at the mood in the House, I think we are in consensus. Will I be in order if I requested you to call upon the Mover to respond?

Mr. Letimalo: Mr. Temporary Deputy Speaker, Sir, I can wind up because I am about to.

The Temporary Deputy Speaker (Mr. Ethuro): Order, Members! I would like to invite hon. Kizito to Standing Order No.155(9) which spells out the procedure in the Committee of Supply.

It says that:-

“On any day upon which the Chairperson is under this order directed to put forthwith any question, the consideration of the business of Supply shall not be anticipated by a Motion for the adjournment of the House, and no dilatory Motion shall be moved in relation to that business, and the business shall not be interrupted under any Standing Order”.

So, I cannot sustain your point of order. It is up to the Members if they feel so, to ensure that no other person contributes because there will be another opportunity to do so, but to allow that, I cannot.

Proceed, hon. Letimalo!

Mr. Letimalo: Mr. Temporary Deputy Speaker, Sir, I was saying that in the process of movement of livestock in search of water and pasture, there are bound to be conflicts over these resources. It is very possible to forestall these conflicts if only the Government can deploy security personnel in these areas. I know in a series of meeting with the Ministry of State for Provincial Administration and Internal Security we have

been able to identify strategic places where security posts can be set up. It is possible to deploy security personnel but without transport they cannot manage it. This has been mentioned on the Floor of the House; you may have an Officer Commanding Police Division (OCPD), the District Commissioner (DC) but without the transport they will not be able to do much.

We appreciate the efforts that have been made by the Government particularly in assisting livestock keepers. When drought gets so severe instead of letting the animals die, the Government has always come up with a programme of off take or buying of livestock. We appreciate this.

Mr. Temporary Deputy Speaker, Sir, pastoralists do not require seeds when rains come. Pastoralists do not plough or carry out cultivation at all. It will just be a question of trying to build their stock. We are appealing to the Government that just as you consider the provision of seeds and fertilizers to farmers, it is also important to consider pastoralists so that when the situation improves we can do restocking. You cannot force them to carry out agricultural activities which they do not know anything about. I want to appeal that as much as we do the off-take exercise during drought, we can also be assisted to do restocking when conditions improve.

With those few remarks, I beg to support.

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

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

The Minister for Nairobi Metropolitan Development (Mr. Githae): On a point of order, Mr. Temporary Deputy Speaker, Sir. I am just following the ruling by the Chair that unless and until there is no Member willing to contribute we proceed with the debate. I just want to draw the attention of Members that we have got two more Motions; the one on guarantee and the one on adjournment. You can actually say anything you want under those two Motions.

Mr. Temporary Deputy Speaker, Sir, I am just besieging my fellow colleagues that we follow what the Chief Whip instructed us to do and not stand.

The Temporary Deputy Speaker (Mr. Baiya): So, can you come up and invite a speaker---

Hon. Members: There is nobody to speak! There is nobody!

The Temporary Deputy Speaker (Mr. Baiya): In that case can the Mover reply?

The Deputy Prime Minister and Minister for Finance (Mr. Kenyatta): Mr. Temporary Deputy Speaker, Sir, I want to take this opportunity to thank hon. Members for their contributions.

I also once again wish to put on record that I appreciate the corrections that they made and the comments with regard to the new Constitution. Indeed, we do intend going forward to ensure that we all abide and live not just to the letter but to the spirit of the new Constitution.

Ms. Karua mentioned the issue of ensuring that funds are put to proper use. I want to assure her that, that shall be the case. I also call upon Members of Parliament and the

various Committees to play their role to make sure that these funds are put into their intended purposes.

Mr. Mbadi talked about the need of going forward to have allocations done on the basis of priority as opposed to a lump sum of 50 per cent. The same was said by Mr. Kathuri. We take that into consideration.

Mr. Temporary Deputy Speaker, Sir, Mr. Jirongo talked of inflation. Inflation is indeed an area of concern. I want to assure him that the days of Goldenberg are over and there is no such intention of going back to such days.

The others were all about the Constitution. If, as the Chief Whip has said, there are problems with the implementation both of *Kazi kwa Vijana* and the stimulus programme, we need to work together. This is because the framework especially for the ESP was developed jointly with Members of Parliament.

Mr. Letimalo talked on the issue of additional funds, I think once he goes through the estimates he will see that we have indeed provided additional funds for School Feeding Programmes in ASAL and drought hit areas. He will also take note that with regard to water, which we also have considered a priority in this Budget, this is the largest allocation for water ever made in any Budget in the Republic of Kenya. Again, we have given priority to ASAL areas.

As he said, there is need to establish the resource for an allocation of about Kshs400 million for the Livestock Fund, again, aimed at ensuring that communities hit by drought are able to restock at a later date.

With those few remarks, I want to thank Members for their contribution and to say that their comments will be taken fully into account.

I beg to move.

(Question put and agreed to)

Mr. Temporary Deputy Speaker, Sir, on 12th July, 1993, pursuant to Section 3B of the Guarantee---

Mr. Oyongo Nyamweya: On a point of order, Mr. Temporary Deputy Speaker, Sir. I really do not want to interrupt the Minister for Finance, but there is an Act which he is quoting. That is Guarantee (Loans) Act, Chapter 461, which clearly states the manner in which the Minister for Finance is supposed to bring the Motion to ask the House to increase the national debt. I want to read Section 3 of the Act. It says:-

“The Minister shall prepare and lay before the National Assembly, the Sessional Paper specifying the covenant, the due performance of which is to be guaranteed, and where the covenant is for the repayment of a loan, the amount of the loan, terms and conditions as to the interests and repayment in respect of the loan, the Government total contingent liability under guarantee given under this Act, and any further information which the Minister considers relevant.”

Mr. Temporary Deputy Speaker, Sir, this Motion is not properly before the House.

The Temporary Deputy Speaker (Mr. Baiya): Order! The Minister has not yet moved the Motion. So, there is really no Motion on the Floor.

Proceed, Mr. Minister!

APPROVAL OF INCREASE OF TOTAL CONTINGENT
LIABILITY OF GOVERNMENT

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

THAT, pursuant to Section 3B of the Guarantee (Loans) Act (Chapter 461 of the Laws of Kenya); this House approves the increase of total contingent liability of the Government for the time being outstanding in respect of principal amount of money borrowed or credit under the Guarantee given under Section 3(1) or referred to in Section 8 of the Act from US\$ 1 billion (Kenya Shillings eighty billion i.e. Kshs80 billion) to US\$ 2.5 billion (Kenya Shillings two hundred billion i.e. Kshs 200 billion).

As I move the Motion, first and foremost, I want to make it quite clear to the hon. Member that this Motion is properly before the House. First and foremost, it has been approved by the Speaker and, therefore, it is properly before the House.

Mr. Temporary Deputy Speaker, Sir, the issue that he was just---

Mr. Wetangula: On a point of order, Mr. Temporary Deputy Speaker, Sir. Having ruled hon. Oyongo Nyamweya out of order, is the Minister in order to respond to a no point of order? That is because there is nothing to respond to.

The Temporary Deputy Speaker (Mr. Baiya): That is the true position.

The Deputy Prime Minister and Minister for Finance (Mr. Kenyatta): Mr. Temporary Deputy Speaker, Sir, that is, indeed, a good point. I will come back to that later.

The Assistant Minister for Public Works (Mr. Kiunjuri): On a point of order, Mr. Temporary Deputy Speaker, Sir. Would it be in order also for the Minister not to really lay ground on why he is coming up with the Motion? In the process of moving, he has to convince the House and therefore, he is not only doing it to clarify that point to the hon. Member, but to all us. Therefore, is he in order to continue with the clarification?

The Temporary Deputy Speaker (Mr. Baiya): I am sure if it is relevant, the Minister can make those clarifications.

The Deputy Prime Minister and Minister for Finance (Mr. Kenyatta): Mr. Temporary Deputy Speaker, Sir, I hope that through my presentation, I will, indeed, clarify.

Mr. Temporary Deputy Speaker, Sir, on 12th July, 1993, pursuant to the same Section 3B, of the Guarantees Act, Cap.461 of the Laws of Kenya, this House, indeed, did approve the increase of total contingent liability from Kshs40 billion to Kshs80 billion. At the time of setting the ceiling, the Government guaranteed debt stood at US\$992 million, equivalent to Kshs57.5 billion at the rate of Kshs58 to the US Dollar prevailing at the time.

Mr. Temporary Deputy Speaker, Sir, since that time, repayments have been effected and new loans have been contracted under the Guarantee Loans Act and, as at the end of May, 2011, the guaranteed debts disbursed and outstanding on contractual basis stood at US\$874 million, equivalent to Kshs75 billion.

The outstanding guarantees on a contractual basis as at 31st May to the Republic or to the Government of Japan was a total of Kshs822 million; that is

Kshs70,438,000,000; the United States, US\$3 million, which is about Kshs291 million; Canada, US\$4 million, which is about Kshs394 million; the World Bank, US\$45 million, which is about Kshs3.856 billion.

Mr. Temporary Deputy Speaker, Sir, the state corporations guarantees as at the end of May 2001 are as follows---

Mr. Oyongo Nyamweya: On a point of order, Mr. Temporary Deputy Speaker, Sir. The Motion should not be debated because--- I am looking at the Act; let us be guided on this. The Act is very clear on how this should be read in the House. It does not matter. The House Business Committee (HBC) can make a mistake and we should not go by it. I am asking for your guidance.

The Temporary Deputy Speaker (Mr. Baiya): Order, hon. Oyongo Nyamweya! I think we have already had a ruling on this matter; there is no Motion on the Floor of the House until the Minister has moved the Motion and it has been seconded. Secondly, this Motion has already been approved by the Speaker and the HBC. So, you can only raise those issues later but not now.

The Deputy Prime Minister and Minister for Finance (Mr. Kenyatta): Thank you, Mr. Temporary Deputy Speaker, Sir. The state corporations guaranteed as at the end of May 2011 are as follows: Kengen to Japan, Kshs29.37 billion; Kenya Ports Authority to Japan, Kshs28.185 billion; Kenya Broadcasting Corporation to Japan, Kshs6.756 billion; Tana and Athi Rivers Development Authority again to Japan, Kshs2.791 billion; East Africa Portland Cement Company to Japan, Kshs3.468 billion; Telkom Kenya to Canada, Kshs394 million; Nairobi City Council to the United States of America, Kshs291 million; Kenya Railways Concessioning again to World Bank, Kshs3.856 billion, giving a total contractual debt guaranteed at Kshs74,979,000,000. The total effective outstanding guarantees on a contractual basis at the end of May 2011 stood at Kshs75 billion.

Mr. Temporary Deputy Speaker, Sir, it is, therefore, observed that there is little room for additional guarantees, hence the urgency of enhancing the limit from the current ceiling of Kshs80 billion. New projects are to be covered by the new ceiling's intended borrowing over the next remaining two years of the Medium-Term Plan 2010/2011 and the first plan under Vision 2030. As part of the efforts to sustain the economic growth over this period, and to continue to fight poverty, the Government plans to enhance investment in physical infrastructure, especially in the energy sector. Therefore, public corporations implementing the infrastructure projects need to borrow approximately Kshs115 billion externally under a Government guarantee over the two year period.

Mr. Temporary Deputy Speaker, Sir, the Government policy on external borrowing is to guarantee loans on concessional terms, and I would like to inform the House that except for very special cases, the policy has been maintained. Over 70 per cent of the projected external borrowing to be guaranteed will be on concessional terms. The quantum and terms will be reported to this House in accordance with the requirements of the Public Audit Act, 2003, as well as the Public Finance Management Bill, 2011, which will be tabled in this House soon.

Mr. Temporary Deputy Speaker, Sir, in reviewing the ceiling, we also need to consider the fact that the guaranteed debts will be denominated in all major world currencies, but mostly in Euros, Yen and US Dollars. Exchange rates between these countries and the shilling fluctuate, mostly upwards. To avoid the need to review the

ceiling frequently on account of exchange rates alone, we are factoring in the ceiling an allowance for currency fluctuations amounting to Kshs5 billion.

Mr. Temporary Deputy Speaker, Sir, as I conclude, I want to clarify, as much as I have been told I do not need to clarify since there is no Motion. I think for the importance of us being able to go ahead, the Motion before the House is to increase the ceiling. What the hon. Member is referring to in No.5 of the Guarantees and Loans Act is basically referring to the guarantee for specific projects. As we stand right now, there are three Sessional Papers, which cannot come before the Floor of the House until we have raised the ceiling for Kindaruma Hydro, at about Kshs5 billion. That will be a Sessional Paper that will be brought before the House, drilling of wells in Olkaria for about Kshs7.7 billion, with the KFW of Germany and another Kshs33 billion, again, for Olkaria, with JICA for Kshs33 billion.

Mr. Temporary Deputy Speaker, Sir, those individual Sessional Papers will come. But they cannot come before the House unless the ceiling has been increased. So, we are here to increase the ceiling in order for the respective individual Sessional Papers to be brought before this House for approval.

With those few remarks, I beg to move that pursuant to Section 3(b) of the Guarantee Loans Act, Cap.461 of the laws of Kenya, the ceiling of total indebtedness in respect of principal amount borrowed or credit obtained under Section 3(1) of the Act, be raised from Kshs80 billion or approximately \$933 million at current exchange rates to Kshs200 billion or \$2.33 billion at current exchange rates.

I would request hon. Murungi to second this Motion.

The Minister for Energy (Mr. Murungi): Mr. Temporary Deputy Speaker, Sir, I rise to second this important Motion.

As the Mover has already explained, the purpose of this Motion is to increase the ceiling of contingent liability to enable the Government to guarantee the borrowing for various development projects in this country.

Mr. Temporary Deputy Speaker, Sir, as is quite obvious from the estimates that have been tabled before this House, about 95 per cent of our revenue is being used for recurrent expenditure. Only five per cent is being used to support our development expenditure.

Under Vision 2030, we have very ambitious development targets. Within my own sector, you know there is chronic shortage of power in this country. We are not generating enough electricity. We cannot hope to industrialize this country in darkness. We cannot hope to industrialize this country while generating just 1,300 megawatts. Even small towns in Europe are generating 5,000 megawatts or 10,000 megawatts. We have been complaining about high electricity costs, which are making us uncompetitive, increasing the cost of production, and also hurting our consumers.

Mr. Temporary Deputy Speaker, Sir, we have analysed our problems and discovered that the greatest challenge we are facing in our sector is gross and chronic under investment within the energy sector. We want to generate 5,000 megawatts from geothermal alone.

The Ministry of Energy has secured concessional funding from various international donors, including the World Bank, JICA, European Investment Bank and others. However, we cannot access this funding because we are not able to get Government guarantees. Right now, we are working on a 280 megawatts geothermal

power plant at Olkari. We have secured funding for it from the following banks: European Investment Bank US\$168 million, from JICA we secured \$323 million and US\$120 from World Bank.

The total cost of these projects will be about Kshs80 billion which is about US\$1 billion. Without us raising this ceiling, we will not be able to construct these power plants and we will not be able to access this funding because the Government will not be able to support it with guarantees.

Mr. Temporary Deputy Speaker, Sir, we are also doing the 300 megawatts Lake Turkana Power Plant which is the biggest wind power plant in Africa. The cost of that power plant is US\$700 million. We have already secured funding for it but the investor cannot move without Government guarantee.

We are talking about US\$247 million which is being provided to strengthen our transmission backbone. As we know, we are constructing a 400 KV double circuit line from Mombasa to Nairobi to evacuate power that we will generate in Mombasa to reduce the blackouts within Nairobi and the Central Kenya area and we cannot access this money without increasing this guarantee.

I would like to put the concerns of hon. Members to rest because what we are approving today is a ceiling. It is expanding flexibility. When we come to individual guarantees, like when I will require the guarantee for the Lake Turkana Wind Power Plant, a Sessional Paper will be prepared and we shall come to this House for specific approval for that project. On each of the borrowing, including the 280 Megawatt power plant for Olkaria, we shall also come to this House to seek approval for that specific guarantee under the Act. So, I do not think Parliament or the Government is running any risk by raising this ceiling. It is merely to help us access long-term concessional funding from international finance organizations.

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

(Question proposed)

Mr. Njuguna: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this chance to very briefly contribute to this Motion. At the outset, let me say that it is important to recognize the contribution that was made earlier on in identifying some mathematical errors by Messrs Martin Ogindo and John Mbadi. These were critical errors and I urge the very hard working Deputy Prime Minister and Minister for Finance to make sure that the Treasury being the nerve centre of our nation---. He should make sure that those errors, be they computer errors or mathematical errors, are not repeated in future. If there are some senior officials or workers who are not committed to their call, then serious action should be taken against them to avoid that happening in future.

Mr. Temporary Deputy Speaker, Sir, we cannot request for those huge grants to invest in our country if the nation is not stable. Therefore, national security is a major concern to this nation because recently, our borders were exposed. We need to have adequate security at our borders. You will realize that even our homes are well fenced and strong gates fixed. The same should apply to the borders of this nation. No corner of this nation should be left insecure. Marking of our borders should be done so that people of this country can feel proud and move about their activities without any fear.

We recognize the recent statement by the President of this country on the reclamation of Migingo and Ugingo. It is important that faster action is taken to reclaim those two islands. The Ethiopian invaders in Turkana Central must also be evicted immediately, so that we can secure that area. We should not allow foreign forces to occupy any part of this country.

Our waters are also threatened by piracy, insurgency and, therefore, shipping and maritime business is also affected. I wish to, in addition thank the international creditors, the World Bank and the International Monetary Fund (IMF) and the Japanese and the Chinese for the way they have given roads to our country. It is, therefore, important that those loans are distributed properly in this country. I will take this opportunity to thank the Minister for Energy who, through REA, has done a commendable job in this country. We should not forget the Minister for Nairobi Metropolitan Development for street lighting in this region. Businesses have already increased. Employment has also increased and that should be the way forward.

Finally, we urge our Government to make sure that our international debt obligations are well met and maintained. We do not want our Government to be threatened the way the Greek Government is being threatened. Most likely, a part of that nation may be taken away by international debtors. I hope that with a credible leadership, the Grand Coalition Government will take their position to make sure that all the resources that we get are fairly distributed in all the areas of this country.

With those few remarks, I support.

Mrs. Shebesh: Thank you, Mr. Temporary Deputy Speaker, Sir. I rise to support. I must say that my conviction has become more clear when the Minister was explaining what those particular guarantees would be for. We have spoken too long in this House about disaster management, disaster preparedness and the green energy - which is the alternative energy. We need to invest in it in this country. It is an investment that is never light. So, we must take responsibility and I am glad that the Government is doing this. Even as we give these guarantees, I would like to urge the Ministry of Finance and, especially, the Ministry that will be in charge of the loans that we are going to guarantee not to allow that money to create new cartels. For example, we already know that in the fuel sector, cartels are frustrating the work of the Ministry. Please, do not allow the green energy alternative to become a cartel. I beg you to look after that money because we are guaranteeing it knowing that it will safeguard the future of this country.

I support.

Mr. Wetangula: Thank you, Mr. Temporary Deputy Speaker. This is a very straightforward Motion, very clear and simple. What the Minister is asking is consistent with the provisions of the law and it is, in fact, expected to come before this House. The Treasury, as the custodian of public debt, must come to this House and be given a legal backing to cap the ceiling on what our national debt should be. Hereafter, the Constitution and the law requires that then every individual debt that requires the Government guarantee must come to this House on its own merit, be debated as a Sessional Paper and be approved or rejected.

Mr. Temporary Deputy Speaker, Sir, we know that this country is on a fast lane for development. We have given ourselves Vision 2030. We have to increase our energy production from the paltry 14,000 megawatts to about 70,000 megawatts in the next couple of years if we have to catch up with those ahead of us.

We have to get our infrastructure moving. We have to get Lamu Port on track. We have to open up the rail lines to the north for livestock development. We have to exploit our wind energy. We have to secure our borders. We have to do so many things.

Now with devolution, if we read our Constitution carefully, it also provides that the counties have the constitutional responsibility to borrow externally, provided the Central Government gives them a guarantee.

There are some ambitious counties that will want to industrialize. There are some ambitious counties that will want to develop a niche in the economy of this country. They will make merited efforts to borrow externally. When they do so, this House must rise to the occasion and give them the guarantee.

If the ceiling we have capped is so tiny that the county of Murang'a, Bungoma or Siaya cannot even borrow US\$2 billion to develop whatever economic activities they want, then we will not achieve what we are looking for. I want to urge the House and allay the fears of the new hon. Member for South Mugirango that what he is fearing is actually misplaced. We are not giving the Minister for Finance any blank cheque to go and borrow. We are not telling him to go and borrow from anybody and everybody or from anywhere and everywhere. We are simply saying that now the Ministry of Regional Development can bring a Sessional Paper here and borrow. The Ministry of Livestock Development can bring a Sessional Paper here and borrow. The Ministry of Energy can bring a Sessional Paper here and borrow. Each will be scrutinized and rejected or approved on merit. That is what it is all about.

I want to urge the House that this is something necessary if this economy has to grow. If we had enough domestic resources, it is not an advisable thing to do. But we have to borrow because we do not have enough domestic resources.

Mr. Temporary Deputy Speaker, Sir, we are all crying for a dual carriage road from Mombasa to Busia via Kisumu; from Mombasa to Malava via Eldoret. We do not have enough local money for that. We want a highway to Addis Ababa. We do not have enough local money for that. We want so many things. I urge the House to approve this Motion so that we encourage Ministries to come up with their individual target borrowing programs.

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

Mr. Oyongo Nyamweya: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me a chance to contribute to this Motion. I am not against increasing the Government's ceiling. However, I would like to know whether this Government borrows money without seeking the approval of this House. If they have done so, how can we give them a credit limit to go and borrow? How can Parliament guarantee such money? In the past, this has happened. That is why we have had so many scandals. That is why there was a scandal in the energy sector.

That is why we have had scandals because people were using money without seeking the Government approval. It is an abuse and, therefore, my question is; as things stand now, we can pass this, but what guarantee can the Deputy Prime Minister and Minister for Finance give this House that he is not going to do what has happened in the past? The Government has borrowed without coming to Parliament and every Kenyan is paying for that loan. That is why I am raising the issue that this new borrowing ceiling must be accompanied with responsibility. If you are borrowing a shilling, what is it for? If you go to a bank and ask for money, the bank must know the purpose for that money.

The bank must be convinced of the reason why it should give you the money. It must be satisfied with the reason why it is giving you the money. It must be satisfied that the money is going to be put into good use. It cannot give you the money for the sake of giving you. So, as far as I am concerned, it is critical that as we read Section 3, it should go together with Section 5, which states that:-

“The manner of obtaining approval of the National Assembly to guarantees---“

It specifies and says why. I support this. I support the expansion of this country. I support the growth of the energy sector. The roads should expand, but the Government must be more accountable by following the right procedures, so that we can know what we are approving. We cannot say that we are approving just for the sake of approving. Yes, they need the guarantee for development. The Minister for Energy has seconded the Motion and has talked about the project that he has. Why has he not come up with a Sessional Paper to be debated at the same time, so that it is passed and we know what he is going to do with the money?

Mr. Temporary Deputy Speaker, Sir, in the past, we had a Government which was very irresponsible in the use of funds. We are not giving a small expansion. It is from Kshs80 billion to kshs200 billion. It maybe in shillings, but when you look at it in dollars, we are increasing it more than twofold. I am not against that, but they say that they will come with Sessional Papers to show what they want to do. They should have brought those Sessional Papers here, we discuss them and pass them. I do not trust what this Government is doing.

With those remarks, I oppose the Motion.

Mr. Ogindo: Thank you, Mr. Temporary Deputy Speaker, Sir. I stand to support the Motion. It is with a heavy heart that I support this Motion on account of the fact that I know that no economy grows without borrowing. But this House risks being labeled “a reckless House”. We have passed several laws here that we cannot live with. We have just gone through the Budget process, namely, the Vote on Account, and I have reservations in the manner in which we passed that.

Among the documents that were read by the Deputy Prime Minister and Minister for Finance when he read his Budget was the Medium Term Debt Strategy Paper. Going through that document, you will see that the Government is slowly regretting the amount of borrowing it has engaged in. Examples abound over the world. We know of Spain and Greece. These are economies that have over-mortgaged themselves. You will appreciate that the increased borrowing normally reduced the fiscal space for service delivery because every loan is a first charge on the Consolidated Fund. But more fundamentally, I want to raise some issues. Every time money issues come to this House, the speed is normally astronomical. We have just done with the Vote on Account and you saw the speed. With hindsight, I remember that sometime back, we attempted to increase this ceiling and it was not successful. Previously before that, there was a Sessional Paper that was brought to this House by the then Acting Finance Minister, hon. Michuki. The Sessional Paper was seeking to get authority of the House to guarantee borrowing by the National Cereals and Produce Board (NCPB). Around that time, the talk was that Kenyans were dying and we must not stand in their way. We need money to borrow. The Executive is very good at dramatizing these things. This House gave the authority to guarantee. However, no borrowing took place and no maize was imported.

Mr. Temporary Deputy Speaker, Sir, the second one was when this House gave authority to the Government to guarantee borrowing by the Kenya Ports Authority (KPA). Two to three years down the line, the docking is still as small as it was. This was meant to expand the Port of Mombasa. Sometimes it leaves us amazed at the speed with which these things are done and at the end of it, you wait for results, which you do not see.

I think it is critical that at this point in time that we start asking ourselves what value we are getting from these debts. I want to refer you to Article 201(c) of the Constitution.

It says that:-

“The burden and benefits of use of resources and public borrowing shall be shared equitably for present and future generations”.

Right now, we have accumulated a lot of debts from past generations. It is really heavy on the present generation. We are just about to expand the ceiling for increased borrowing. It is important that we have it on record what these borrowings are going to do, that is going to benefit future generations.

Mr. Temporary Deputy Speaker, Sir, I always admire the Speaker because he has two ears; one for consultation and one for listening to the debate. I would appreciate it if I could get both. Nonetheless, I will do with what is there.

(Laughter)

Mr. Temporary Deputy Speaker, Sir, you remember I brought a Motion in this House that was seeking the resolution of the House so that we could get details of certain debts. Namely; the KenRen Fertilizer and also---

The Temporary Deputy Speaker (Mr. Ethuro): Order, Mr. Ogindo! I see the Government side seems to be appreciating what you are saying but the Chair does not have the same appreciation. What was it?

(Laughter)

Mr. Ogindo: Mr. Temporary Deputy Speaker, Sir, I was made to do with none of your ears and I was looking for at least one. Now that I have both, may I proceed?

To date, this House has not been favored with those records. It is imperative that this is done in view of the transparency that we need in this country. If only there was luxury of time, it would have been my humble suggestion that this issue be dealt with at the Committee level. Nonetheless, I think the relevant Committee is at liberty to look at this thing much more deeply.

With those few remarks, I beg to support.

Eng. Rege: Mr. Temporary Deputy Speaker, Sir, thank you for giving me the opportunity to support this Motion.

I would like to urge the Ministry to be more cautious in future. In the past, some money was borrowed to put up CDMA in the rural areas. The Ministry owned the project yet this money was guaranteed by the Government. This money was in the tune of Kshs384 million which is yet to be paid off. After the money is paid, who is going to own

the project? When Telkom Kenya was sold, the buyer refused to take over the projects. It would be prudent that the Ministry explains who will own the projects.

Secondly, when we do budgeting, for example, for the Geothermal Development Corporation (GDC), there is so much to be gained. Money can be borrowed to any amount because once the GDC gets the money, the benefits that the project will give to the country are enormous. For example, arid areas like Turkana will get enough water to do irrigation and feed the animals. Even in the production of electricity of over 500 megawatts, there will be green money benefit to the tune of over Kshs2 billion. These are the issues that the Ministry, when doing budgeting, needs to look at effectively.

Mr. Temporary Deputy Speaker, Sir, the Japanese Government sold to this country lots of dilapidated equipment that we now have, and is giving a hell of a problem at KBC. As the Chairman of the Committee on Energy and Communications, we did instruct – and you were there - the Ministry of Finance to talk to the Japanese Government to write off that loan. To date, that has not been done. This equipment is occupying so much space and consumes over Kshs32 million worth of power. We do not need that kind of equipment. It will be prudent that the Minister for Finance looks into this issue effectively and as soon as possible.

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

The Minister for Regional Development Authorities (Mr. Gumo): Mr. Temporary Deputy Speaker, Sir, thank you very much for giving me a chance to also support this Motion.

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

*[The Temporary Deputy Speaker
(Dr. Laboso) took the Chair]*

Madam Temporary Deputy Speaker, as one of my colleagues has said, there is no way a country can develop without borrowing. Although we have been borrowing in the past, I think it is now that we need to even borrow more. That is because the ceiling that was there was too small and we need to increase. This country is in need of enough food, power, transport and many other infrastructural developments. My Ministry has a few integrated projects which really need a lot of money. We have a few projects like the high grand falls which is supposed to produce, at least, 600 megawatts of electricity and irrigate more than 150 hectares. We have always talked of shortage of food. Such projects should be financed. They are so big that the Government cannot finance them on its own unless it borrows. There are quite a number of projects that before other countries lend you money, they must know how much the Government is going to put in. So, unless we put in---

Ms. Karua: On a point of order, Madam Temporary Deputy Speaker. It appears now that almost every other contributor is supporting the Motion. Would I be in order to ask that the Mover be called upon to reply?

The Temporary Deputy Speaker (Dr. Laboso): Okay, hon. Members. I will then put the question.

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

The Deputy Prime Minister and Minister for Finance (Mr. Kenyatta): Thank you very much, Madam Temporary Deputy Speaker. Let me take this opportunity to thank all Members who have contributed. I have taken note of all the issues that they have mentioned. I especially really emphasize once again that when Sessional Papers are brought before the House on specific projects, that will be the time for Members to thoroughly interrogate them and to ensure that the monies that will be guaranteed will be put to use and will ultimately be for the benefit of this Republic and for the people of this country.

With those few remarks, I beg to move.

(Question put and agreed to)

COMMITTEE OF THE WHOLE HOUSE

(Order for Committee read)

(The Temporary Deputy Speaker (Dr. Laboso) left the Chair)

IN THE COMMITTEE

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

THE INDEPENDENT OFFICES (APPOINTMENT) BILL

The Temporary Deputy Chairman (Mr. Ethuro): Order, hon. Members! We are in the Committee of the whole House. We will be considering The Independent Offices (Appointment) Bill, Bill No.11 of 2011.

(Clauses 2 and 3 agreed to)

Clause 4

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. M. Kilonzo): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 4 of the bill be amended by inserting a new subparagraph (e) immediately after paragraph (d) as follows:-

(e) is a member in good standing of a professional body for accountants recognized by law.

(Question of the amendment proposed)

(Question, that the words to be inserted, be inserted,

put and agreed to)

(Clause 4 as amended agreed to)

Clause 5

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. M. Kilonzo): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

- (i) THAT, Clause 5(4) of the Bill be amended by inserting a new paragraph (f) immediately after paragraph (e) as follows:-
 - (f) Institute of Certified Public Accountants of Kenya.

Mr. Temporary Deputy Chairman, Sir, these are proposals made by hon. Members on the Floor, which I respect as they add value to the Bill.

Ms. Karua: Mr. Temporary Deputy Chairman, Sir, I wish to propose a further amendment to the amendment proposed by the Minister on Clause 5, and this is on Clause 5(4) the proviso---

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. M. Kilonzo): Mr. Temporary Deputy Chairman, Sir, with your permission, for the benefit of my good learned friend, I have only moved Clause 5(i). The proviso would come under (ii).

The Temporary Deputy Chairman (Mr. Ethuro): Sorry, Minister!

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. M. Kilonzo): I moved the amendment of Clause 5(i), which is limited at this point to only Article 5(4). I will be moving the proviso later.

Mr. Temporary Deputy Chairman, Sir, I can also move that, if you allow me.

The Temporary Deputy Chairman (Mr. Ethuro): Why do you not do all of them together?

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. M. Kilonzo): Thank you very much, Sir. I beg to move:-

- (ii) THAT, Clause 5(4) be amended by inserting a proviso immediately after the following fullstop as follows:-
 - provided that for the purposes of selection and shortlisting of said three persons, the Public Service Commission shall hold its proceedings in public.

Mr. Temporary Deputy Chairman, Sir, that is informed by the debate from hon. Members; after the experiences we have had, where bodies charged with the responsibility of this selection have been known to do this quietly in camera.

I also want to further move:-

- (iii) THAT, Clause 5(7) be amended by deleting the words “within fourteen days of receipt of the nominees under subsection (6)”, appearing after the words “ the National Assembly shall”.

Mr. Temporary Deputy Chairman, Sir, again, that is informed by the CIOC. The Chairman has seen me and it adds value. This is because we have also learnt out of experience.

I beg to move the above amendments.

(Question of the amendment proposed)

Ms. Karua: Mr. Temporary Deputy Chairman, Sir, while supporting the amendments by the Minister I wish to propose a further amendment to Clause 5(4)(ii) to strengthen the clause.

I beg to move:-

THAT, Clause 5(4)(ii) be further amended by deleting the fullstop after the word “public”, at the end of the provision and inserting the following words; “and submit to Parliament a report of the interviews, which should include *inter alia*, scores of each candidate interviewed by individual members of the interviewing panel together with the criteria used in selecting the names forwarded.

Mr. Temporary Deputy Chairman, this is in line with the recommendation of the Committee yesterday when it was presenting its report. This will further enhance transparency, so that we know what the scores are and the criteria used. We will also be able to know the conduct of the proceedings and this will improve the transparency of the process.

I beg to move.

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. M. Kilonzo): Mr. Temporary Deputy Chairman, Sir, I accept.

The Temporary Deputy Chairman (Mr. Ethuro): Order, Minister, I appreciate your enthusiasm. But you wait for your opportunity.

(Question of the further amendment to the amendment proposed)

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. M. Kilonzo): Mr. Temporary Deputy Chairman, Sir, thank you very much for your guidance. I now support the further amendment as proposed by Ms. Karua.

Mr. Abdikadir: Mr. Temporary Deputy Speaker, Sir, it is just a suggestion that instead of getting the report of the interviews, the amendment should read; “a report of the proceedings”. That will ensure that you have the interview plus any other proceedings. This is wider because there might be deliberations and not just the interview.

(Applause)

The Temporary Deputy Chairman (Mr. Ethuro): Order, hon. Members! For purposes of the proceedings, since you are looking for them, then Mr. Abdikadir should move a further amendment to the amendment by Ms. Karua.

Mr. Abdikadir: Thank you, Mr. Temporary Deputy Chairman, Sir. I wish to propose an amendment to the amendment by Ms. Karua so that her proposed amendment reads as follows:-

“And submit to Parliament a report of the interview proceedings, which should include *inter alia*, scores of each candidate interviewed by individual members of the interviewing panel together with the criteria used in selecting the names forwarded.”

*(Question of the further amendment to
the amendment proposed)*

Mr. Bahari: Mr. Temporary Deputy Chairman, Sir, this is a very standard procedure and it enhances and fortifies, perhaps, the issue of transparency. Therefore, I wish to support it.

Mr. Midiwo: Mr. Temporary Deputy Chairman, Sir, just a quick one. I wish to support the amendment as amended. I want to thank the Minister for listening to us yesterday because after what this country went through, we were only lucky that somewhat the Committee on the Implementation of the Constitution (CIOC) was competent. This amendment will cure this process of vetting in such a way that no candidate shall come to this Parliament without the public knowing what and who they are and any misgivings that anybody may have. The proceedings of the Committee chaired by Mr. Atwoli should have been done publicly. The hearings should have unearthed any controversies so that Parliament is not over-politicized over issues which should be sorted out somewhere else.

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

(Applause)

The Temporary Deputy Chairman (Mr. Ethuro): Order, hon. Members! We are at the Committee Stage and that amendment was just about the insertion of the word “proceedings.” So, if you are to remain relevant, it should be on how you justify the word “proceedings.”

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

(Sub-clause 5(4) as further amended agreed to)

An hon. Member: Be part of the Bill!

The Temporary Deputy Chairman (Mr. Ethuro): Order, hon. Members! The Chair has the capacity to proceed!

(Laughter)

There is another amendment by the Minister to Clause 5.

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. M. Kilonzo): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 5(7) of the Bill be amended by deleting the words “, within fourteen days of receipt of nominees under subsection (6),” appearing in the first line after the word “shall”.

That is a recommendation from the CIOC whom I thank. It adds value to the Bill and Parliament will deal with its functions in an orderly fashion without many restrictions.

(Question of the amendment proposed)

Mr. Abdikadir: Mr. Temporary Deputy Chairman, Sir, I would like to thank the Minister. If you recall, this Bill was committed to the Constitutional Implementation Oversight Committee (CIOC). But the Committee was very busy with the Chief Justice's and the other appointments. We did not have time to complete this. The amendments that Members had proposed were sent to the Minister and he was kind enough to take them all on board. We are grateful and this is one of them.

Recently, Parliament had to amend one of the laws that it had passed because we had given a seven day window and that window was breached. The work could not continue and we had to come back to Parliament. It is, therefore, important that the time be elastic.

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

(Sub-clause 5(7) as amended agreed to)

(Clause 5 as amended agreed to)

Clauses 6 and 7 agreed to)

Clause 8

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. M. Kilonzo): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 8 of the Bill be deleted.

This is a recommendation from the CIOC arising from recommendations from the CIC and which I accept. It will add value because the Constitution has sufficient provisions for temporary vacancy.

I beg to move.

(Question of the amendment proposed)

Mr. Abdikadir: Again, I just want to correct the Minister that it was not from the CIOC but from the Auditor-General who felt that this was a constitutional office and we could not really handle constitutional functions in an acting capacity. One has to be a substantive holder.

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

(Clause 8 deleted)

(Clauses 9, 10 and 11 agreed to)

(Schedule agreed to)

(Title agreed to)

(Clause 1 agreed to)

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. M. Kilonzo): Mr. Temporary Deputy Chairman, Sir, I beg to move that the Committee doth report to the House its consideration of the Independent Offices (Appointment) Bill, (Bill No. 11 of 2011) and its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

(The House resumed)

*[The Temporary Deputy Speaker
(Dr. Laboso) in the Chair]*

REPORT, CONSIDERATION OF REPORT AND THIRD READING

INDEPENDENT OFFICES (APPOINTMENT) BILL

Mr. Ethuro: Madam Temporary Deputy Speaker, I beg to report that a Committee of the Whole House has considered the Independent Offices (Appointment) Bill, (Bill No.11 of 2011) and approved the same with amendments.

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. M. Kilonzo): Madam Temporary Deputy Speaker, I beg to move that the House doth agree with the Committee in the said Report.

The Minister for Education (Prof. Ongeru) seconded.

(Question proposed)

(Question put and agreed to)

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. M. Kilonzo): Madam Temporary Deputy Speaker, I beg to move that the Independent Offices (Appointment) Bill, (Bill No.11 of 2011) be now read the Third Time.

The Minister for Education (Prof. Ongeru) seconded.

(Question proposed)

Mr. Wetangula: Madam Temporary Deputy Speaker, now that we have institutionalized public hearings in the recruitment of Kenyans to offices, I think it is

absolutely important from what we saw from the CIOC and other hearings we have had that the Minister for Justice, National Cohesion and Constitutional Affairs and all those involved move very quickly and develop a criteria of how public proceedings are conducted, how evidence is received, how allegations are received and rebutted, how serious allegations, some of which border on criminality, can be dealt with when they come up, so that we do not have Kenyans who aspire to high offices; either being blocked or maligned maliciously, or even sneaking through, when they have baggage behind them.

I believe the senior counsel and the Committees of Parliament that are vetting applicants for high offices do not have criteria. Anybody can walk in with a briefcase from the streets of Nairobi and say all manner of things and walk away. This will give us a very good near fool-proof process like it is done in other jurisdictions.

Thank you, Madam Temporary Deputy Speaker.

Ms. Karua: Madam Temporary Deputy Speaker, I wish to congratulate the Minister and remind him that he undertook, on the record of the HANSARD, that as requested by the Member who has just spoken before me, he will with great dispatch, bring a comprehensive law, because this law relates only to two offices. He will remember that we wanted to hold it to include other offices, but we have let it go. Let him now bring a comprehensive Bill that must include the protection of whistle blowers. Until an investigation is done and allegations are verified not to be true, a person should never be castigated or maligned for standing up. It should balance both ways. Parliament must assist in this. We too must have rules so that we do not overstep our mandate in the course of it. That Bill, we may wish to consider, as Parliament, having a specialized unit that can help us in certain areas.

I beg to support.

Mr. Abdikadir: Madam Temporary Deputy Speaker, I wish to join the Members in congratulating the Minister. There is a Bill published for vetting that had been proposed by hon. Mungatana. That Bill needs to be either taken up by the Minister or in conjunction with the Member, it needs a lot of effort for us to work seriously on that issue that hon. Wetangula pointed out.

In the other jurisdictions, this matter is very well regulated. Allegations against people who are aspiring for high office are not brought to any Committee until investigations are conducted about those allegations, so that they do not come to the public light if they are not of any substance. It is very critical that we develop those standards, so that we have a fair and adequate vetting procedure. It cannot be lynching and certainly it should not be a black spot.

On the second issue, you will now note that there is no Bill on the constitution implementation process before Parliament. We will have cleared with the last one this evening if we will be through with these proceedings in a few minutes time. It is now up to the Executive and the those other institutions, namely, the Attorney-General's office, the Kenya Law Reform Commission and the Commission on the Implementation of the Constitution, especially the CIC and the Attorney-General's office, to move with speed, so that this House can implement this process and enact these laws.

I beg to support.

Mr. Mututho: Madam Temporary Deputy Speaker, in support of my colleague who has just spoken, it should also be made mandatory that before you go for vetting,

you are trained on the basics of that vetting. What we are seeing now is far from what was anticipated in any law of procedure.

I thank and congratulate the Minister.

The Minister for Transport (Mr. Kimunya): Madam Temporary Deputy Speaker, I just want to thank the Members for the dedication they have shown in terms of fast-tracking this Bill in its First and Second Readings and now the Third Reading. I also want to thank the Minister and the Chairman of the CIOC for having captured the debate yesterday, bringing those amendments; and the Members for having taken them in especially ensuring that for us in the accounting fraternity, whoever comes to fill these vacancies, must be of good standing. This is already part of vetting by the wider body of accountants to ensure that no one person will come in when they have some excess baggage within the profession. I believe that that is a major step. I want to thank the Members for the manner in which this Bill has been disposed of.

I beg to support.

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. M. Kilonzo): Madam Temporary Deputy Speaker, I give a very firm and clear professional undertaking to bring this legislation on the Floor of the House. I will talk to hon. Mungatana immediately and seek to borrow as much of value from his proposals and then marry them, in consultation with the CIC and the CIOC. We will have this Bill, I hope, by the time Parliament resumes, if the adjournment proposed undertakes. I want to thank the Members.

I beg to move.

(Question put and agreed to)

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

MOTION FOR ADJOURNMENT

ADJOURNMENT OF THE HOUSE TO A DAY OTHER
THAN THE NEXT NORMAL SITTING DAY

The Minister for Transport (Mr. Kimunya): Madam Temporary Deputy, I beg to move the following Motion.

THAT, this House do adjourn until Tuesday 19th July, 2011.

Madam Temporary Deputy Speaker, in moving this Motion, I want to thank Members for their contribution in the session that we are just about to bring to a temporary break. It has been a very exciting time in the House. We have seen all manner of emotions and everything else. However, it has all been for the good of the country. I think all good things go through these turbulent times. The beauty of it is that, at the end of it all, we have agreed fundamentally and passed legislation, cleared names and started the journey of implementation of a new Constitution.

Kenyans wherever they are can be very proud of their Parliament and know that the Members of Parliament have been working hard. On several occasions, we sat here until midnight. We sat here until 9.00 p.m. yesterday. We are here today sitting to ensure

that we do not go on break before we clear the business before us. Hon. Members have reason to pat themselves on their backs.

I just want to thank Members and wish them the very best during their break. They should concentrate on their constituencies; supervising their CDF. I hope we will get them all back re-energized so that we can get to the second phase of the implementation of our Constitution.

With those words, I beg to move. I would like to ask Ms. Martha Karua to second.

Ms. Karua: Madam Temporary Deputy Speaker, I beg to second this Motion.

I once again call on the Government to ensure that there is food and water in Turkana, Samburu, Isiolo and other parts of upper Eastern and North Eastern areas.

I would also like to ask the Executive to expedite and bring the necessary legislation for implementing the Constitution. I would like to congratulate those who have been appointed but tell them that they are on notice. Kenyans are watching each and every step they make.

I would also like to remind us as Kenyans that it is our responsibility to see that proper implementation of the Constitution goes on.

Madam Temporary Deputy Speaker, my only regret as we go on recess is the intolerance that was exhibited in this House yesterday. The majority must have their way but the minority must have their say. I hope that after recess, we will come back with decorum and continue with business.

I beg to second.

(Question proposed)

Hon. Members: Put the question! Put the question!

The Temporary Deputy Speaker (Dr. Laboso): Hon. Members, let us allow a few Members to contribute. Let us allow at least five Members to contribute for a minute each.

Mr. Magwanga: Madam Temporary Deputy Speaker. From the onset, I am supporting this Motion of Adjournment. Let us go home and supervise our CDF funding.

Secondly, I would also wish to stress to Members that let us not go home and polarize this country. As much as we will be campaigning, let us campaign peacefully.

I want to stress this to the Ministry of Finance; that next year is an election year. We must do something for our youths. Our youths must get proper allocation in order for them to survive.

Lastly, energy in this country must be affordable to enable the economy to grow. The Ministry of Energy should lower the cost of energy. The allocation for Rural Electrification Programme (REP) should be increased in order to light the entire country as per their vision.

Thank you.

The Temporary Deputy Speaker (Dr. Laboso): Hon. Members, you will all have a chance to contribute. As I have been guided, this debate can last for three hours. Do not fear.

Mr. Affey: Madam Temporary Deputy Speaker, first of all, I want to thank you so much for giving me this opportunity. I also want to thank Parliament for what it did yesterday regarding the names of eminent Kenyans whose appointment has now been

confirmed by the President. This House has risen to the occasion and particularly – and I stated yesterday – all the three are names of Kenyans who come from backgrounds that you could say are minority in many ways. The Chief Justice who has now been confirmed by the President is a strong proponent of minority rights. The Deputy Chief Justice is a lady and Tobiko comes from a minority tribe. This House must never be used---. I saw a very strong temptation by the civil society to use this House to become a slaughter house for minority rights. This House cannot be used to slaughter the minority rights in this country. The House has stood firm.

Madam Temporary Deputy Speaker, all constitutions are meant to protect minorities. There is no constitution in the world that does not do that. The basis of a constitutional dispensation is to protect minority rights. I am glad that this House has risen to the occasion.

Madam Temporary Deputy Speaker, as I conclude, I want to say that the process that was used by the Constitutional Implementation and Oversight Committee (CIOC) of inviting everybody to appear before live television cameras and implicate Kenyans was wrong. The Judicial Service Commission (JSC) was more prudent because they had a vetting within a vetting. Therefore, we learnt from it and I want to congratulate the House for standing firm.

Madam Temporary Deputy Speaker, I beg to support.

Mr. Muthama: Madam Temporary Deputy Speaker, I also rise to support this Motion.

Madam Temporary Deputy Speaker, I want to start by thanking all members of staff of Parliament for the support that they have given me as a Whip for the period that I have been in office. Also, I wish to give credit to my colleagues for making sure that the nominees to the Judiciary have gone through. From what I have received from telephone and through 411, those three nominees will be sworn in tomorrow. I am very happy to go back home to tell my people that we have worked and have a judicial system that is in place. It will undertake the reforms in this country.

Madam Temporary Deputy Speaker, I also want to ask the Minister for Finance to kindly fulfill the promise that he made when he was reading the Budget. He should give us money to be able to, at least, complete the remaining projects, so that by the time we leave this Parliament next year, we do not leave pending issues to those who will come after us. I want that money to complete my projects. I want to work and leave a good reputation behind.

Madam Temporary Deputy Speaker, I also want to thank my colleagues who have given me support as a Whip.

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

The Minister for Regional Development Authorities (Mr. Gumo): Thank you very much, Madam Temporary Deputy Speaker for giving me this opportunity. I am very happy.

The Deputy Prime Minister and Minister for Finance (Mr. Kenyatta): On a point of order, Madam Temporary Deputy Speaker. Is the hon. Minister in order to speak from the Back Bench?

(Laughter)

(Mr. Gumo moved to the Dispatch Box)

The Minister for Regional Development Authorities (Mr. Gumo): Madam Temporary Deputy Speaker, the Deputy Prime Minister is not in order.

Madam Temporary Deputy Speaker, thank you very much for giving me an opportunity to also support this Motion. This Parliament has done so well in this Session. Most of the Bills that were brought here have gone through; now we are going to have the Judiciary led by people from outside; I am sure everybody wanted this. So, we hope they will perform better than the previous managers. It would be a very big disappointment if they got this opportunity and then they do not improve the Judiciary.

Madam Temporary Deputy Speaker, another thing that I wanted to say before I was, unfortunately, asked to sit down, which I did, was that we have just agreed that we are going to increase the ceiling of our borrowing capacity, but we have very many Kenyans who have a lot of money outside this country, which is more than what we want to borrow. We could ask the Minister for Finance to bring here a Motion to ask these people to bring that money back to this country, so that we can use it locally; this is because most of that money is rotting in foreign countries. When some of them die, it just remains there. This is because when you steal, you do not even tell your wife or children where that money is. So, you die with it. So, we should allow them to bring the money in and we do not take them to court. Let them use that money here locally. That would be much better than that money helping other countries. I hope when we come back, we will try to find a way of asking these guys to do so; I am sure some of them have a lot of money. Instead of being taken to court there, let them bring the money back here and we use it here.

With those few remarks, I beg to support.

Mr. Namwamba: Thank you, Madam Temporary Deputy Speaker. I take due note of the fact that there is the fairer type of humanity in the Chair; I take due cognizance.

Madam Temporary Deputy Speaker, I support this Motion and wish all hon. Members of this House well as we take this three-week recess. However, as we take this recess to interact with our constituents and members of the public, I want to remind ourselves that we enjoy this recess aware that there has been a fundamental paradigm shift in the manner in which the affairs of this country are supposed to be managed. It is said that never be afraid to take one giant leap if it is clear that you cannot cross a gulf in two little steps. The new dispensation that is anchored in the new Constitution has taken us to another level. It has taken us to another dispensation – a dispensation where we have to be tolerant and respect the rights of others.

Madam Temporary Deputy Speaker, I particularly want to applaud the legislative measures this House has taken in rolling out this new dispensation, and urge that even as we take this recess, we should respect every tenet celebrated by this Constitution. There have been sentiments expressed on this floor which have worried me, that perhaps we have not yet crossed the river in terms of some of the rights enunciated in this Constitution. Number one, we need to respect the rights of the media and appreciate that under Article 34 of this Constitution, freedom of the media is guaranteed; therefore, we must not behave in any manner that sends out the signal that this House may be interested in muzzling freedom of the media. There have been attempts recently in this House to

appear to muzzle rights, including the right of opinion polling in this country. As we pass legislation, we must be aware that any right and fundamental freedom guaranteed in this Constitution must be upheld and respected.

Madam Temporary Deputy Speaker, secondly, we must also be aware that this constitution has raised the bar in terms of leadership or anybody who seeks to hold public office. Article 10 sets out national values. Chapter Six speaks to the issue of leadership and integrity. It demands anybody who seeks to hold any public office must live up to the highest possible standards of integrity. This House must not be afraid or scared in applying those standards. Those standards are akin to the proverbial Caesar's wife who must, not only be clean, but must be seen to be manifestly clean.

Madam Temporary Deputy Speaker, as this House debated the issue of the three nominees to the key office of the Chief Justice, the Deputy Chief Justice and the Director of Public Prosecution (DDP), it is significant that it rose above partisan, political, ethnic, regional and other interests and lived up to the highest possible standards. I want to say that it was tragic; a tragedy of monumental proportions, indeed, that this House mutilated the report of the CIOC on the nominee for the DPP, which should have provided opportunity to clear the air on this matter. Therefore, we are sending a nominee to a key constitutional office with a dark cloud hanging over his head.

Mr. Langat: On a point of order, Madam Temporary Deputy Speaker. Is it in order for the Member to start debating the Motion that we resolved yesterday? Is it in order for him to take us back? We have already crossed the river and he is still taking us back to the river.

Mr. Namwamba: Madam Temporary Deputy Speaker, I think the Member is out of order and he is wasting my precious time.

Madam Temporary Deputy Speaker, let me conclude that whether this House likes it or not, whether we want to behave like the Mob of Rome, whether we want to behave like hecklers, we cannot diminish the values, principles of integrity and morality enshrined in this Constitution. We can shout at the top of our voices, but we cannot take away what has been enshrined in the Constitution.

The Temporary Deputy Speaker (Dr. Laboso): Hon. Namwamba, your time is up!

Mr. Namwamba: Madam Temporary Deputy Speaker, could you indulge me a minute to recover the time wasted---

The Temporary Deputy Speaker (Dr. Laboso): Hon. Namwamba, we do not use unparliamentarily language like wasting time. Hon. Members do not waste time.

Mr. Namwamba: Madam Temporary Deputy Speaker, may I, therefore, plead for indulgence of one minute to conclude?

I want to applaud the Treasury and the Deputy Prime Minister and Minister for Finance for the efforts he has taken to respond to the cry of the people of this country in terms of the cost of living. I want to plead with the Treasury, that the estimates he has tabled in this House, may we see it translated into real action, so that the people of this country can feel relief from the pain of the high cost of living.

With those few remarks, I beg to support.

Mr. Njuguna: Madam Temporary Deputy Speaker, let me start by thanking the Deputy Prime Minister and Minister for Finance for his revelation on the embezzlement of funds in the Ministry of Education.

As a deterrent measure, we want to see arrests and prosecutions of all those who have been involved in this scam. We also want to hear demotions of head teachers both in primary and secondary schools who have misappropriated these funds. We are in an era of accountability and we should not allow leaders in our institutions to enrich themselves through embezzlement of public funds. I would also urge the Ministry of Education to address itself to the frequent defilement of school girls by some teachers. That is a very serious matter because the education of our young girls is being ruined by these teachers.

*[The Temporary Deputy Speaker
(Dr. Laboso) left the Chair]*

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

Mr. Temporary Deputy Speaker, Sir, I also note with total dissatisfaction the return of massive funds to the Treasury by various Ministries. In my view, this should not happen in this country. Funds amounting to Kshs143 billion were returned to the Treasury when Kenyans have no food, when Kenyans are thirsty, when Kenyans have no medicine, when the cost of fuel is still rising and our roads are in very deplorable conditions. We also note that we have a serious shortage of teachers in our schools, not forgetting the resettlement of Internally Displaced Persons (IDPs). It is, therefore, important that action should be taken against the chief executive officers in various Ministries who have not taken their responsibilities seriously, so that we can improve the performance in our Ministries and again realize the desired goals by the wananchi of this country.

Without those few remarks, I fully support.

Mr. Kioni: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me an opportunity to support this Motion of Adjournment. As I do so, I want to congratulate the Minister for Justice, National Cohesion and Constitutional Affairs because in difficult times, he has struggled to continue bringing Bills to the House. I also want to thank and congratulate the Deputy Prime Minister and Minister for Finance for the Budget that he presented to this House. It is a Budget that will touch the lives of ordinary Kenyans in many ways. As I do that, I also want to say that we have to be careful even as we go on recess. We have seen how dangerous or damaging allegations can be made even in front of cameras. We must deal with this issue as a Parliament and also as a society. The culture of people going out and making outrageous allegations against others, allegations that one cannot substantiate out there and within this House, is a culture that we must be bold enough to deal with.

Mr. Temporary Deputy Speaker, Sir, we are not opposed to opposing values that Kenyans may be having. But it is important that we ensure that we do not sell the soul of this nation to values that we do not ascribe to because as a country we have values and aspirations that we aspire to---

The Temporary Deputy Speaker (Prof. Kaloki): Order, hon. Kioni! What is your point of order, hon. Chepchumba?

Mr. Kioni: Mr. Temporary Deputy Speaker, Sir, she is seated. She cannot be on a point of order when she is seated and you cannot persuade her to have one.

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

Ms. Chepchumba: Thank you, Mr. Temporary Deputy Speaker, Sir. Following the mood of the House, would I be in order to suggest that the Mover be called upon to reply?

Mr. Kioni: Mr. Temporary Deputy Speaker, Sir, I think it is only fair that I finish and then you can call the Mover to reply.

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

Mr. Kioni: Mr. Temporary Deputy Speaker, Sir, I am just about to conclude by saying that we are going on recess on a sad note.

It is important I note this. When we have an institution in the name of the Kenya Commercial Bank (KCB) laying off senior managers, eight of them from the same community, it will be wrong for us not to take note of that. The same is happening at the Multimedia University and also with the water boards. It is important that we take note of these things. As leaders, we need to let the country know that this cannot be allowed. Even as we are talking about regional balancing, the minority rights and everything else, it is not right for you to just get others out of employment for purposes of getting others into employment. This is also not right. I think it is a sad time that we have gone on recess before addressing these issues. But having said that, Mr. Temporary Deputy Speaker, Sir, I want to support this Motion and say that even as we deal with other appointments, respect for institutions is very important. Where Commissions such as the Judicial Service Commission (JSC) have been given an opportunity to do shortlisting, it is only courteous and respectful to allow the Office of the President an opportunity to pick from about three. When you send only one name it really does not show any amount of respect to these institutions. This is a culture that we must deal with. We can allow it to pass now, but it is not a culture that we would want to carry on and allow the future generations to take on.

With those remarks I beg to support.

Dr. Laboso: Mr. Temporary Deputy Speaker, Sir, I want to thank you for this opportunity to support this Motion very strongly. I believe hon. Members have had a very fruitful time. I want to congratulate them for the sacrifices that they have made during this session, including staying up to late to ensure that we pass all the Bills that we have passed. I also want to congratulate the Minister in charge of Finance. I want to particularly thank him for the amount of money he has allocated to the Mau evictees. We hope this time round, we will not have any more dillydallying and passing of the buck. I hope that money will be put in the basket it is supposed to go to so that those people are finally settled. I am not talking just about the people of Mau, but also the other evictees.

With regard to education, we desperately need teachers. Hon. Uhuru, this is a serious problem in the country. We know that education standards are not going to be met simply because our country lacks 28,000 teachers in our schools.

The amount of money that has been set aside for the purposes of energy in the Rural Electrification Authority (REA) will not be enough. If it is true that we can only access Kshs6 million per constituency, that is not enough. This is an area where we have felt the real meaning of equitable distribution across the country. So, I hope that we are going to see some readjustments in the Budget so that we get more funding in this line.

I want to congratulate all those who have been appointed to fill the recently contested offices, that is, the Chief Justice, Dr. Mutunga; the Deputy Chief Justice, Ms.

Nancy Baraza; and the Director of Public Prosecution, Mr. Tobiko. I want to ask them not to let Kenyans down. They should make sure that they perform to the best of their ability.

Mr. Bahari: Mr. Temporary Deputy Speaker, Sir, I want to thank the hon. Members for their hard work. We have been able to go through a lot and we have managed to accomplish quite a lot of serious assignments.

I want to pick on the issue of drought, but from a different angle. The level of malnutrition is very high. In places like Turkana, Isiolo, Marsabit and others this has reached alarming levels. This time round we are likely to lose lives because food has not been delivered on time. It is bad for money to be returned to the Treasury and yet our people are dying of hunger.

Mr. Temporary Deputy Speaker, Sir, I get mixed feelings when I see financial institutions like banks or a corporate institution like Kenya Airways making supernormal profits. A profit of over 50 per cent is very high and it should not have been made in a weak economy such as ours. It is, therefore, important that the Departmental Committee on Finance, Planning and Trade looks into the matter of supernormal profits that are declared by banks and other corporate institutions. Where are we getting it wrong?

With those remarks, I beg to support.

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

Mr. Gaichuhie: Thank you, Mr. Temporary Deputy Speaker, Sir, for finally noticing that I was around. I also rise to support the Motion on Adjournment and also thank the Minister for Justice, National Cohesion and Constitutional Affairs for the number of Bills that he has been able to bring to this House. I also want to urge him that we are going on recess and we would wish him to bring more Bills so that we do not have to shorten the publication period. This will enable us to participate fully and also give the public an opportunity to participate instead of reducing the number of days.

I also want to thank the Deputy Prime Minister and Minister for Finance because of the good Budget that he presented to this House the other day. I would also like to say that we have allowed him to borrow and we would urge him to ask the other Ministries that are supposed to bring the Sessional Papers to do so quickly enough so that we can be able to borrow and increase the amount of energy in this country because we are about to go on a 24 hour economy and we want to industrialize our country. I do not think we can do that without energy. Since Parliament has increased the ceiling, he should bring the Sessional Papers very quickly so that we pass them and have borrowings and be able to increase energy in this country.

I also want to thank the Constitutional Implementation Oversight Committee (CIOC) and the Judicial Service Commission (JSC) for the good work they have been doing; vetting the judges and right now, we have them in place. The Committee on Justice and Legal Affairs is having a problem because the work the CIOC is doing right now is supposed to be done by the Committee on Justice and Legal Affairs. I would urge Parliament and particularly the Office of the Speaker and the Office of the Clerk to ensure that we have the Committee on Justice and Legal Affairs running so that we do not overload the CIOC.

Finally, I also want to say that, yes, we are going on recess. But when we say we are going on recess, Kenyans out there think that parliamentarians are going home to sleep. I want to let our constituents know that this is the time that parliamentarians do a

lot of committee work. I just want to let them know that we are not going to be in the constituencies. We are going to be in Parliament working. This is the time we want to scrutinize this Budget and we want members of the public to participate in this Budget. So we urge them to attend those public hearings in their various provinces so that we can enrich our Budget. I also want them to know that parliamentarians will still be on duty. We are not going on recess to take a break. We are only taking a break from this House but we shall be in our committees.

With those very few remarks, I wish to support the Motion of adjournment.

The Assistant Minister for Higher Education, Science and Technology (Mr. Kamama): Mr. Temporary Deputy Speaker, Sir, first of all, I want to support this Motion of Adjournment. At the same time, I also want to thank the hon. Members for a job very well done. This Parliament will go into the annals of history as the most hardworking, the most prolific in terms of generating Bills and of course, it will be remembered for giving Kenyans the best Constitution in the entire African continent. I want to thank hon. Members for that and also wish them well as they go to their constituencies to deliver services to their constituents.

Mr. Temporary Deputy Speaker, Sir, I also want to thank the Minister for Justice, National Cohesion and Constitutional Affairs for coming up with the Bills which we have just passed recently, and especially the one on the vetting of the Chief Justice, the Deputy Chief Justice and the Director of Public Prosecutions; Mr. Keriako ole Tobiko. I think we have succeeded in overhauling the entire Judiciary. In fact, this is a real revolution. The entire Judiciary has been overhauled, so we expect Dr. Mutunga now to actually deliver justice to Kenyans because it had eluded Kenyans for a very long time. Justice has become the most expensive commodity in this country. We expect Dr. Mutunga with his team to ensure that justice is delivered to Kenyans, and Kenyans will actually be satisfied. So he should jail all the thieves and make sure those who do good work are given awards.

Mr. Temporary Deputy Speaker, Sir, I also want to thank my good friend, the Deputy Prime Minister and Minister for Finance for giving us one of the most ambitious Budgets in the entire East and Central Africa. For us to have a budget of more than Kshs1 trillion, I think the Minister is doing a good job. We also want to thank him for the many goodies that he gave us.

Lastly, I want to wish all the Members a best holiday until we meet next time. Thank you very much.

Mr. Oyongo Nyamweya: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me a chance to support this Motion of Adjournment. This is the first time I am participating in this Motion of Adjournment, this being my first year in this Parliament. But I feel very happy to associate myself with this Parliament, especially on what they have done for this nation. They have brought a new dawn in the Judiciary. This country is not going to be the same again. There was a surgery which was done in 2003. This is a true surgery that has taken place in the Judiciary. We trust that these men and women who have been bestowed with authority to run the Judiciary will be fair to Kenyans and they will move the Judiciary forward so that what we have done as Parliament is not in vain. We trust that they will be able to live to the challenges of their new responsibilities. They should not be talking, they should live with actions.

I also want to thank the Deputy Prime Minister and Minister for Finance because he has brought a very big Budget. This Budget can only be realized if there is forward planning especially on the issue of procurement of goods and services. Areas where Government equipment is required, the procurement process should start now and not when funds are available. We know that the funds will be available in November/December. There is nothing to stop the Government officers from starting the procurement process and prequalification now so that we do not have to return money to the Treasury. There will be no use of this money that the Deputy Prime Minister and Minister for Finance has given if the process on how to utilize it does not start now. The Deputy Prime Minister and Minister for Finance is responsible for collecting the money, disbursing it to various Ministries and making sure that it is properly used. I hope he will follow it up with his officers so that the procurements officers - because he is in charge of the procurement process and finance - so that the process can start and when the funds are availed, the projects are implemented. We do not want to reach a stage where the money comes, it becomes an emergency on how to spend it, it becomes an emergency on what to buy and yet we know our requirements.

I also want to talk about the CDF. We have been talking about devolved governments. CDF is already on the ground, it has got facilities and offices. As far as I am concerned, we have already a small pillar of devolved government which will link with the counties. So I expect the people concerned with devolution to incorporate the current system. I have no problem if they do not want Members of Parliament to be members of the CDF. But that particular fund which has started at the constituency level should be retained.

Finally, there is a growing concern for the Deputy Prime Minister and Minister for Finance to note.

Mr. Temporary Deputy Speaker, Sir, at the constituency level, there is a growing concern for the Deputy Prime Minister and Minister for Finance to note. There is serious depreciation of the Kenyan Shilling. In less than two months, the shilling has lost more than 15 per cent to the US Dollar. Really, this issue needs to be addressed and we need to be told what is wrong with the economy. We also need to be told whether there are repayments which have been done out of the country because if you look at the economic indicators, there is nothing which shows why the shilling is depreciating. I hope that when we come back from recess, we will find a better situation.

With those few remarks, I support the Motion for Adjournment.

Thank you, Mr. Temporary Deputy Speaker, Sir.

The Minister for Water and Irrigation (Mrs. Ngilu): Thank you, Mr. Temporary Deputy Speaker, Sir. I rise to support this Motion. Hon. Members have really worked hard during this Session and the Bills that we have passed will make a difference in this country.

However, I want to particularly speak about the Ministry of Water and Irrigation. I had talked to the Deputy Prime Minister and Minister for Finance and told him that the Ministry of Water and Irrigation should be allocated more resources or funds so that we can deal with the drought situation in the country.

Mr. Temporary Deputy Speaker, Sir, year in, year out, this Government imports food into the country and yet we are capable of irrigating our farms. We must start

moving away from rain-fed agriculture and this can only be done if we invest more in dam construction.

With all the problems and challenges that the Ministry of Water and Irrigation has gone through, can you believe that we were number six?

(Applause)

All the others did not do as well as we did. Therefore, I have every reason to believe that there are those people who have not been very kind to the Ministry of Water and Irrigation. There are also those people who may have not been very happy and may even be envious of the work that we have been doing. I want to say that the Office of the Deputy Prime Minister and Ministry of Finance has to increase the budget of the Ministry of Water and Irrigation so that we do not import food.

Mr. Temporary Deputy Speaker, Sir, the other issue is about procurement and I am really happy with what Mr. Oyongo Nyamweya has just talked about. Procurement challenges in all Ministries are many and we have to get real training and education for procurement officers so that they can know what is expected of them. This will also ensure that whenever there is a problem in procurement in a Ministry, it is not the Minister and the Permanent Secretary who are attacked and told to carry the political responsibility. Until we go to the next level next year when we change systems to have Cabinet Secretaries and Ministers who will be strictly responsible for the resources that will be allocated to their Ministries--- Right now, Ministers do not handle resources in their Ministries. With the changes that we will go through in this country, we need to ensure that people are thoroughly trained and educated so that they can know what will be expected of them.

Mr. Temporary Deputy Speaker, Sir, with these few remarks, I beg to support the Motion for Adjournment.

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

Mr. Minister, would you like to respond?

(Mr. M. Kilonzo said something off-record)

All right, hon. Members! I will now put the Question.

(Question put and agreed to)

ADJOURNMENT

The Temporary Deputy Speaker (Prof. Kaloki): Hon. Members, the House now stands adjourned until Tuesday, 19th July, 2011, at 2.30 pm.

The House rose at 9.05 p.m.