

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

**Tuesday, 16th August, 2011**

The House met at 2.30 p.m.

*[Mr. Speaker in the Chair]*

### PRAYERS

*(Eng. Rege stood up in his place)*

**Mr. Speaker:** Yes, Chair of Committee on Energy, Communications and Information!

### POINT OF ORDER

#### TABLING OF REPORT BY JOINT COMMITTEE OF FINANCE AND ENERGY TO BE DELAYED

**Eng. Rege:** Mr. Speaker, Sir, the Report by the Joint Committees of Finance and Energy that was supposed to come for discussion on the Floor this week is not ready until Thursday. That is because we received the files from the Ministry of Energy this morning. So, accordingly, the two Committees will again sit today to discuss the papers and we will bring the report on Thursday.

**Mr. Speaker:** Very well! It is so directed! The previous directions which were given are adjusted accordingly.

**Mr. Imanyara:** On a point of order, Mr. Speaker, Sir. Does the Chair of the Joint Committee not have an obligation to tell us what reasons the Minister for Energy gave for the delay, given that you had given clear instructions on what should be done, rather than take you for granted?

**Mr. Speaker:** Order! The Chairman of the Departmental Committee on Energy, Communications and Information, certainly, has not taken the Speaker for granted. But, maybe, he would want to give the reasons given to him by the Minister for Energy.

**Eng. Rege:** Mr. Speaker, Sir, we had to scrutinize the reasons and the expenditures that the Ministry needed in order to come up with the kind of budget that is in Sessional Papers Nos.1, 2 and 3. Accordingly, we had to have a meeting with the Minister, himself, and the parastatals that fall under the Ministry like KenGen and Geothermal Development Company (GDC). As instructed, we wanted those papers delivered to us last week on Thursday. But that did not happen until this morning.

**Mr. Speaker:** Mr. Ethuro!

**Mr. Ethuro:** Mr. Speaker, Sir, on behalf of the Chair of the Constitutional Implementation Oversight Committee (CIOC), I beg to lay the following Paper on the Table of the House today, Tuesday, 16<sup>th</sup> August, 2011.

The Rreport of the CIOC on the approval of Mr. Sharad Sadrashid Rao---

**Mr. Speaker:** Order! You definitely cannot proceed that way, Mr. Ethuro. That is because any Paper to be laid has to have the approval of the Speaker before you do so.

*(Applause)*

I am afraid that does not have my approval! So, until you secure that approval, you certainly cannot proceed.

**Mr. Ethuro:** Mr. Speaker, Sir, I was under the impression that the approval had been granted.

**Mr. Speaker:** It is a wrong impression!

**Mr. Ethuro:** Mr. Speaker, Sir, that is correct. I will stand guided! Now that you have clarified, I stand guided and I will seek that approval shortly after!

Thank you, Sir.

**Mr. Speaker:** Very well.

## QUESTIONS BY PRIVATE NOTICE

### MINISTRY'S REFUSAL TO AWARD SCHOLARSHIP TO MUGURE THANDE

**Mrs. Shebesh:** Mr. Speaker, Sir, I beg to ask the Minister for Energy the following Question by Private Notice.

(a) Why did the Ministry decline to award a scholarship to one Ms. Mugure Thande - who has been admitted to pursue a PhD in Oil and Gas Law at the University of Aberdeen, Scotland-from the Trust Fund established under the provisions of Section 11 of the Petroleum (Exploration and Production) Act, Cap 308?

(b) What measures will the Minister take to ensure that the applicant is considered to enable her pursue the studies which commence in October, 2011?

**The Assistant Minister, Ministry of State for Defence** (Maj-Gen. Nkaisserry): Mr. Speaker, Sir, I was requested by the Minister to request that this Question be deferred until tomorrow afternoon. The Minister has consulted the Questioner and they seemed to have agreed. The Minister said that the answer provided is not adequate.

**Mrs. Shebesh:** Mr. Speaker, Sir, this Question is carried forward, but I do agree until tomorrow afternoon, so that we can get a proper answer. I accept it!

**Mr. Speaker:** Very well! So directed!

*(Question deferred)*

### ELECTROCUTION OF JOE KIMANI GIKONYO

**Mr. Kabogo:** Mr. Speaker, Sir, I beg to ask the Minister for Energy the following Question by Private Notice.

(a) Is the Minister aware that one Joe Kimani Gikonyo, a student at Kahawa Garrison Primary School was electrocuted after stepping on a live wire at the gate of Kahawa Army Barracks on 28th June, 2011?

(b) Why was the live wire not covered?

(c) When will the Ministry compensate the family of the deceased?

**Mr. Kabogo:** I would also like to state that I do not have a written answer to this Question.

**The Assistant Minister, Ministry of State for Defence** (Maj-Gen. Nkaisserry): Mr. Speaker, Sir, let us deal with this Question the same way we dealt with the first Question. The Minister requested that it should come tomorrow afternoon.

**Mr. Speaker:** Mr. Kabogo, the Assistant Minister says that he has not had adequate time to prepare himself to answer the Question!

**Mr. Kabogo:** Mr. Speaker, Sir, I will stand guided by the Chair. But my worry is this: Is the live wire covered now, or are we going to wait until it kills more students for the Assistant Minister to take action? I stand guided!

**Mr. Speaker:** Mr. Assistant Minister, there should be, at least, some preliminary urgent action. Could you assure the House that, that action has either been taken or will be taken in the next 12 hours?

**The Assistant Minister, Ministry of State for Defence** (Maj-Gen. Nkaisserry): Mr. Speaker, Sir, we will take appropriate action to ensure that lives are not lost.

**Mr. Speaker:** Will you ensure that, that happens within the next 12 hours? So, tomorrow, you must report to the House that, that live wire is covered.

*(Applause)*

**The Assistant Minister, Ministry of State for Defence** (Maj-Gen. Nkaisserry): Mr. Speaker, Sir, I undertake to do that!

**Mr. Speaker:** Very well! The Question is deferred to Thursday afternoon. In the meantime, Mr. Kabogo, you may want to monitor to see that the Assistant Minister complies with that undertaking he has made.

*(Question deferred)*

#### OUTBREAK OF ANTHRAX IN KIRINYAGA CENTRAL

**Mr. Gitari:** Mr. Speaker, Sir, I beg to ask the Minister for Livestock Development the following Question by Private Notice.

(a) Is the Minister aware that there is an outbreak of Anthrax in Kirinyaga Central district and the District Veterinary Officer has issued a quarantine notice?

(b) Is the Minister also aware that farmers in Miringa-iri area and the outskirts of Kerugoya Town have lost all their pigs to the disease?

(c) What measures will the Minister take to contain the disease before farmers lose all their animals?

**The Assistant Minister for Livestock Development** (Mr. Duale): Mr. Speaker, Sir, I beg to reply.

(a) I am aware that there is an outbreak of Anthrax in Miringa-iri area within Kerugoya Municipality in Kirinyaga Central District. As a control measure, my Ministry imposed a quarantine notice in the area on 4<sup>th</sup> August, 2011 to prevent further spread of the disease.

(b) I am also aware that 11 pigs belonging to Mr. Munyagia Mbugi have been reported dead in the past few days, and their deaths have been attributed to the outbreak of Anthrax in that area.

(c) When my Ministry received a report of the dying pigs in Mr. Mbugi's farm in Miringa-iri area, the District Veterinary Officer quickly moved to the farm, carried out a preliminary investigation and carried the dead pigs to our Veterinary Investigation Laboratory in Karatina where, after intensive analysis, it was confirmed that the pigs had died of Anthrax.

My technical staff in the affected areas have sensitized the community not to consume un-inspected meat and to exercise extra care when handling infected pigs or carcasses. That is because Anthrax is contagious and is communicable from livestock to human beings. The veterinary officers have treated all the in-contact pigs in that area, and have also issued vaccines to carry out a ring vaccination of animals in the surrounding farms to safeguard against further infection of animals in that area.

Mr. Speaker, Sir, recently, my Ministry carried out a vaccination exercise in the Kirinyaga Central District where livestock were also vaccinated against the following diseases: About 3,775 head of cattle were vaccinated against Foot and Mouth Disease (FMD). A total of 562 cats and dogs were vaccinated against rabies.

As a control measure, the Ministry of Livestock Development has, up to date, vaccinated 1,188,317 animals against Anthrax in the whole country. Finally, my Ministry is carrying out ring vaccination in Kirinyaga Central District and, so far, over 300 pigs and 650 cattle have been vaccinated against the said disease.

Thank you.

**Mr. Gitari:** Mr. Speaker, Sir, while I appreciate the answer from the Assistant Minister, could he inform the House why he had to wait for all that to happen when the routine vaccination was done in November last year? Secondly, could he also inform the House what led to the shortage of the vaccine which forced the District Veterinary Officer (DVO) to wait and order the vaccine all the way from Nairobi, leading to the loss of 11 pigs by this farmer?

**Mr. Duale:** Mr. Deputy Speaker, Sir, the vaccines are in three different locations. The vaccines are available at the DVO's office, the Director of Veterinary Services (DVS) at Kabete and our main storage facility for all vaccines at the Kenya Veterinary Vaccine Production Centre at Embakasi. So, when this contagious disease struck, our officers were there the following morning, and that is why we have contained the situation so far.

**Mr. Mwangi:** Mr. Speaker, Sir, anthrax is a very dangerous disease that affects animals. Could the Assistant Minister inform the House what measures the Ministry, or the Government, has taken to control movement of animals within the region?

**Mr. Duale:** Mr. Speaker, Sir, yes, anthrax is a very sensitive trade related communicable disease, and it rarely attacks pigs; but as a Ministry and Government, we have started a major disease surveillance and vaccination programme. It is going on in the country in many areas where anthrax is predominantly found. In the last six months, from March, we have identified anthrax in Limuru, Nairobi, Kiambu, Eldoret West, and Kirinyaga. Our officers in the laboratory centres in all these regions have carried out diagnosis and surveillance and now we are carrying out vaccination.

**Mr. Ochieng:** Mr. Speaker, Sir, since there is an anthrax outbreak already, could the Assistant Minister inform the House whether he is doing everything possible to make sure the vaccine is taken to the relevant districts, including my district, Nyakach, where I know there is a possibility of an anthrax outbreak?

**Mr. Duale:** Mr. Speaker, Sir, there is a difference between a “possibility” and an “outbreak”. As of today, there is no anthrax outbreak in Nyakach, but I am sure the DVO in Nyakach has the vaccine in his office. If the worst comes to the worst, we have enough vaccines at our Vaccine Production Centre at Embakasi.

**Mr. Njuguna:** Mr. Speaker, Sir, while commending the Assistant Minister for the answer that he has given, could he consider paying prompt compensation to the farmers who lost their animals as a result of the outbreak of anthrax in that area?

**Mr. Duale:** Mr. Speaker, Sir, we have no budget available for compensation, but that is an issue we will discuss as a Ministry in the future to see if compensation will be available.

**Mr. Gitari:** Mr. Speaker, Sir, could the Assistant Minister inform the House why farmers were supposed to pay Kshs100 per head while last year, during the routine vaccination, they paid Kshs70 per head, yet it was an emergency?

**Mr. Duale:** Mr. Speaker, Sir, our prices for vaccines are known. If farmers are being told to pay more, then we want to get the information and we shall take all the administrative and disciplinary measures as a Ministry. We do not allow our DVOs to charge farmers above the price set by the Director of Veterinary Services.

#### PLIGHT OF REMANDEES IN PRISONS

**(Mr. Mureithi)** to ask the Attorney-General:-

(a) Is the Attorney-General aware that Mr. Joel Mbugua has been in remand in Industrial Area Prison for the last one year and two months?

(b) Is the Attorney-General also aware that the case has been adjourned 16 times and mentioned 12 times?

(c) What is the Attorney-General doing to deal with the plight of Mr. Mbugua as well as all persons held in custody in similar circumstances in line with the constitutionally guaranteed rights and fundamental freedoms?

**Mr. Speaker:** Hon. Members, Mr. Mureithi is away on official Parliamentary duty and, so Question No.4 by Private Notice is deferred until after his return.

*(Question deferred)*

#### ORAL ANSWERS TO QUESTIONS

*Question No.733*

#### ENFORCEMENT OF COURT ORDER IN CIVIL CASE NO.711

**Mr. Yakub** asked the Attorney-General:-

(a) whether he is aware of the judgement delivered in Civil Case No.711 of 1992 in the Principal Magistrate's Court at Mombasa on 11th October, 1994 and the court's ruling in favour of the Plaintiff; and,

(b) what steps he has taken to ensure the court's directive is complied with.

**Mr. Speaker:** Hon. Members, we have notification from the Attorney-General that he is away attending to a very urgent national duty at the coast, namely the vetting of the appointment of judges, which goes towards implementation of the Constitution, and for the time being, we are giving priority to matters pertaining to implementation of the Constitution. So, for that reason, Question No.733 will be deferred until ten days away, when it is expected that the Attorney-General can attend to it, either in the name of hon. Amos Wako or whatever the position will be.

*(Question deferred)*

**Mr. Speaker:** Next Question by Mr. Nyamai

*Question No.904*

NUMBER OF DISTRICTS COVERED BY SHDP PROJECTS

**Mr. Speaker:** Mr. Nyamai also not here? His Question is dropped!

*(Question dropped)*

**Mr. Speaker:** Next Question by Mr. Ethuro!

*Question No.922*

PROFILES OF GOVERNMENT WORKERS IN TURKANA

**Mr. Ethuro** asked the Minister of State for Public Service:-

(a) whether he could provide a list of names, title, positions, job groups, salary, academic qualifications and number of years worked of all persons employed in Ministries and other state corporations/Government agencies in each district of the Turkana County;

(b) whether he could also provide the details of all persons originating from Turkana County in all Ministries and State Corporations/ Government agencies including their names, titles, positions, job groups, salary, academic qualifications and number of years worked; and,

(c) what the Government is doing, under the Constitution, to accelerate development and requisite staffing levels in Turkana County.

**Mr. Speaker:** Is the Minister of State for Public Service not here? Could the Assistant Minister in the Office of the President try and find the Minister? We will come back to this Question.

Next Question by Mr. Muturi Mwangi

*Question No.977*

LACK OF TECHNICAL ASSISTANCE TO FARMERS

**Mr. Mwangi** asked the Minister for Fisheries Development:-

(a) whether he is aware that following the introduction of fish farming under the Economic Stimulus Programme, there is a shortage of trainers and quality control technicians to ensure farmers produce quality fish;

(b) whether he is also aware of the shortage of nets for the farmers engaged in aquaculture and lack of markets for fresh water fish; and,

(c) what measures the Ministry is taking to address 'a' and 'b' above and to ensure that the fish meet high standards for local and export markets.

**The Minister for Fisheries Development (Mr. Kingi):** Mr. Speaker, Sir, before I respond, this particular Question was supposed to be responded to last Wednesday. However, I was not in the House when it was called, the reason being that I was unwell and my Assistant Minister was out of town. I wrote a letter to your office explaining the circumstances. Indeed, I did seek your indulgence so that I might be allowed to proceed to answer this Question today.

**Mr. Speaker:** Yes, Minister, you may proceed and I will urge your colleagues on the Front Bench to emulate your example and be just as responsible when they are not able to be here.

*(Applause)*

**The Minister for Fisheries Development (Mr. Kingi):** Mr. Speaker, Sir, I beg to reply.

(a) I am aware that there is a shortage of staff.

(b) I am also aware that there was a shortage of nets.

(c) To address (a) above, the Ministry has done the following.

1. Recruited 100 fisheries officers during the 2009/2010 financial year;
2. The Ministry has advertised vacancies for additional fisheries extension officers in the 2010/2011 financial year. Following the advertisement, the Ministry recruited 287 of the anticipated 480 extension officers. This was due to shortage of applicants with the requisite qualifications. We have distributed the recruited staff to all the constituencies. The vacant positions will be readvertised this financial year.
3. The Ministry has procured and distributed 155 motor cycles to constituencies to enable the officers to cover more ground.
4. The Ministry has trained 60 farmers in hatchery management, so that they can produce good quality seeds.

To address (b) above; the shortage of nets, the Ministry has:

1. supplied 368 harvesting nets to farmers clusters;

2. trained farmers on collection by hand after draining the ponds;
3. linked net traders to farmers and trained farmers on modalities of acquiring the nets.

Mr. Speaker, Sir, the Ministry has gone ahead to put in place mechanisms that will ensure that the production of fish from ponds is of high standard. These measures include:

1. development of a draft Manual on Standard Operating Procedures (MSOP) for quality fish assurance; this has been completed. This draft can be used as a guide. The draft will be presented to stakeholders for comments before a final manual is produced.
2. Development of standards for fish feeds and seeds. These are in various stages of completion. This will ensure that our fish remains suitable for local and international markets. It will also enable farmers to trade in the regional markets.
3. The Ministry is in the process of providing marketing infrastructure. The process of construction of mini-processing and cold storage facilities is on course with award of tenders for constructions of four mini-processing plants at Rongo, Imenti South, Kakamega and Tetu. The construction will start as soon as the contracts are signed by the end of August this year.

A further nine processing plants have been planned for construction this financial year.

**Mr. Speaker:** Proceed, Member for Gwassi. Are you the owner of the Question?

**Mr. Mwangi:** Mr. Speaker, Sir, the Gwassi MP could wait for fingerlings.

**Mr. Speaker:** Carry on, Member for Kiharu!

**Mr. Mwangi:** Mr. Speaker, Sir, I want to congratulate the Minister for the efforts he has made in answering this Question exhaustively. However, I would like him to state which constituencies benefited from these 455 motorcycles? Is Kiharu one of them?

**Mr. Kingi:** Mr. Speaker, Sir, I do not have a list of the constituencies that benefited from these 455 motorcycles. This is because the ESP programme does not cover the entire country. Out of the 210 constituencies, it covers only 160 constituencies. Therefore, the 155 motorcycles were distributed to these 160 constituencies.

**Mr. Mbadi:** Mr. Speaker, Sir, I have always feared that this programme was brought to kill the fishing industry of my people. This has now been confirmed by the Minister. He even left my constituency out of the ESP. I have heard him say that the Ministry has supplied nets to these farmers. Why has he not supplied the same nets to fishermen in my constituency, instead of supplying them with nets to harvest this GMO fish?

**Mr. Mwangi:** On a point of order, Mr. Speaker, Sir. Is the hon. Member in order to refer to tilapia fish as GMO?

**Mr. Mbadi:** Mr. Speaker, Sir, as one who knows how fish grows, this fish which grows for one week can create suspicion; whether they are GMO or not. How do they just grow overnight and yet, there is a natural way of breeding them?

**Mr. Mwangi:** On a point of order, Mr. Speaker, Sir. The Member is not answering my question. This is very serious. Does he want to tell the nation that the fish that we are rearing is GMO? Is he in order?

**Mr. Speaker:** Order, Member for Kiharu! Did I hear you say that the Member for Gwassi is not answering your question? Please, withdraw that because it is the Minister for Fisheries, hon. Kingi, who is answering.



**Mr. Mwangi:** Mr. Speaker, Sir, I may withdraw that one. But could the Minister confirm whether the allegation made by the hon. Member---

**Mr. Speaker:** Order! A point of order is supposed to be raised against a transaction immediately preceding, so you cannot be raising a point of order to the Minister, when, in fact, the person who has been speaking is the Member for Gwassi. So, that is out of order!

Member for Gwassi, ask you question.

**Mr. Mbadi:** Mr. Speaker, Sir, why it is that the Minister is ready to supply nets to farmers to harvest fish under ESP and yet he has not supplied our fishermen with nets to harvest nutritious fish from Lake Victoria?

**Mr. Speaker:** Order! Mr. Minister, you need not answer that because, if I heard the Member correctly, he asked you why you were supplying nets to certain Kenyans, and you are not supplying the same to his men. Even those that you are supplying are Kenyans because the Member for Gwassi is a Kenyan citizen.

Anybody else interested? Member for Ikolomani!

**Dr. Khalwale:** Mr. Speaker, Sir, we want to thank the Minister for saying that they are going to put up cooling and processing plants for the fish in several counties.

Mr. Speaker, Sir, because of the increased production due to the ESP, farmers are now faced with a huge challenge of marketing. Could he tell us the capacity of these plants and where exactly, in vast Counties such as Kakamega, he intends to put up these plants?

**Mr. Kingi:** Mr. Speaker, Sir, originally, we had intended to put up, at least one, mini-processing plant in every County. However, that was reduced due to budgetary constraints. Some of the monies that were intended to go to this project were actually recalled for purposes of addressing the drought situation in the country. However, it remains the intent and dream of the Ministry to make sure that in every County, at least, we have one cold storage and mini-processing plant to make sure that fish harvested from these ponds do not go to waste as farmers wait to market them.

**Mr. James Maina Kamau:** Mr. Speaker, Sir, what is the Minister doing to make sure they send more officers to constituencies? In Kandara Constituency, for example, we have only one officer who has to close his office in order to attend other duties pertaining to fisheries with farmers.

**Mr. Kingi:** Mr. Speaker, Sir, shortage of staff, is, indeed, a challenge in the Ministry. But as I have already stated in my answer, we had intended to recruit 480 extension officers. But so far, we only recruited 87. The last batch will be recruited this financial year to cater for those areas that do not have adequate manpower.

**Mr. Ethuro:** Mr. Speaker, Sir, in 2009, the predecessor to the Minister, hon. Outuoma, visited our County. We worked out on a fishery management plan for Lake Turkana which required some money in order to boost fish production.

Why is the preference so far on the economic stimulus fish ponds, when natural body waters such as Lake Turkana and Lake Victoria require the same services? Why is he not extending these services to those areas? When will he do the same to the existing rivers and lakes?

**Mr. Kingi:** Mr. Speaker, Sir, the ESP programme was not intended to take away our attention from the natural fisheries. It is supposed to complement what is happening

in our natural water bodies. Therefore, it will be wrong to say that we have forgotten about the natural water bodies, including Lake Turkana and Lake Victoria.

The management plan that is intended for Lake Turkana is very much on course. I believe within this financial year, we should be able to finalize the management plan for Lake Turkana to enable us---

**Mr. Ethuro:** On a point of order, Mr. Speaker, Sir. Is it in order for the Minister to mislead this House that it is this year that they are finalizing the management plan? The management plan for Lake Turkana was finalized. The Government committed itself on the Floor of this House that this financial year, they will actually allocate the resources which they have not done. Is he in order?

**Mr. Kingi:** Mr. Deputy Speaker, Sir, if the hon. Member could look at the budget estimates that we sent to the Treasury, he will be more than glad to actually pat the Minister on the back and actually be very happy.

In our estimates to the Treasury this financial year, we actually captured the issue of Lake Turkana. Unfortunately, the only thing we can do is to forward our estimates. It is a different ball game all together to get whatever you want. However, though we never managed to get the finances to implement the management plan intended for Lake Turkana, that should not be considered as a dead end. We are very much committed to making sure that Lake Turkana gives us the best.

In fact, Lake Turkana is the best natural fishery in this country. Therefore, for us, as a Ministry, it is one of the management plans that once implemented, it will be able to give a lot of revenue to this country in terms of export earnings.

**Mr. Olago:** Mr. Speaker, Sir, I am very concerned about the last limb of this question about the Ministry's attitude towards improving fish for local and export markets. He must be aware that the export market for fish is very stringent and hygiene is very central. What is the Ministry doing to ensure that fish farmers around Lake Victoria are encouraged to meet the standards of fish exports required, particularly by the European market?

**Mr. Kingi:** Mr. Speaker, Sir, there are two types of fish that are supposed to meet the international standards. One is the catch fish; that is fish from lakes and oceans. The second is the farmed fish. We do not have any problem with catch fish. We have no problem with the European Union markets. Our fish is doing very well in the EU market. The only problem we have is on the farmed fish. That is the fish that is being fished from the ponds. This is the area where we intend to develop standards. As I have already stated, we have come up with a manual which will be presented to stakeholders very soon for comments before it is produced and finally presented to the international bodies for ratification.

**Mr. Chanzu:** Mr. Speaker, Sir, the Minister says getting adequate staff to man these fisheries in the districts is a big challenge. I would like him to tell this House and the public at large, what linkages he has with our universities to sensitize the youngsters who are there, so that he can recruit? If he does not do so, he will continue having the problem of staffing and yet I find this to be a very important industry in this country.

**Mr. Kingi:** Mr. Speaker, Sir, the reason why we were unable to recruit the 480 staff was due to the fact that many applicants did not meet the qualifications we were looking for.

First, we were looking for a holder of a KCSE certificate with a mean grade of C Minus and also someone who has a diploma in aquaculture or crab fisheries technology. It was very difficult for us to get this kind of people. That is why, out of the 480 that the Ministry intended to recruit, we only managed to recruit 287.

What we have advised the Public Service Commission (PSC) is to see if it can sort of vary and review the qualifications, so that we can get more young people applying. Thereafter, we can take them through training, so that they can qualify and take control of this particular project.

Mr. Speaker, Sir, aquaculture is a new venture in this country. Therefore, if we are going to be very strict on the requirements for one to be able to come in, we may actually hit a snag. That is why we have already advised the PSC, if they can review these particular qualifications, so that we can recruit the remaining number within this financial year.

**Mr. Mwangi:** Mr. Speaker, Sir, the programme is very good and it attempts to address number one of the Millennium Development Goals. Could the Minister tell this House what plans the Government has to sustain the programme, in order to not only produce the fish, but also train the communities on how to feed on the fish as a way of addressing the food security issue?

**Mr. Kingi:** Mr. Speaker, Sir, to sustain this particular programme, we have undertaken a training of the farmers on the issue of aquaculture and making feed for the fish, to the extent that we intend to supply a fish pelleting machine in each and every constituency that is under this programme. This will assist the farmers to make fish feed.

Therefore, it was not the intention of the Government to be able to hover around this particular project. We were to start this project, train the farmers, give them the technical know-how then after that, we leave the farmers to run with the project. This is exactly what the Ministry is doing. We are training the farmers, so that once they do their first harvest; they do not have to go back to the Ministry. They run away with the project and make sure that whatever comes out of that is actually within their technical know-how.

*(Mr. Mbuvi consulted the Chair and resumed his seat)*

**Dr. Khalwale:** On a point of order, Mr. Speaker, Sir. Did you notice that when Mr. Mbuvi approached the Chair he was wearing an earring on the left ear? This House remembers that the Chair ruled earlier on that earrings are not part of our attire in this House.

**Mr. Speaker:** Order, Member for Makadara! Could you, please, stand up? I want to look at you.

**Mr. Mbuvi:** Mr. Speaker, Sir, I think the hon. Member is daydreaming---

**Mr. Speaker:** Order, Member for Makadara! Just do as I say. Please, switch off the microphone. I want you to turn your head round.

*(Mr. Mbuvi stood in his place  
and turned round)*

*(Laughter)*

Very well. I have not seen any earring on him!

*(Laughter)*

You may resume your seat, Member for Makadara. I did not see an earring on you. I am afraid, I did not see it. If that escaped my attention, then so be it. Otherwise, the communication made by the Deputy Speaker in this House still stands; that Members of Parliament will not wear earrings to the House.

**Mrs. Shebesh:** Male hon. Members!

**Mr. Speaker:** Order! I have heard you, Mrs. Shebesh! I think the Member for Ikolomani was referring to a male Member of Parliament wearing an earring as part of his attire. That will still be out of order and it is not permitted in this House.

**Mr. Ethuro:** On a point of order, Mr. Speaker, Sir!

**Mr. Speaker:** Order, Member for Turkana Central. That matter must rest where it is.

Next Question, Member for Nyakach.

*Question No.1000*

CONSTRUCTION OF DYKES ALONG SONDU MIRIU/AWACH RIVERS

**Mr. Ochieng** asked the Minister for Water and Irrigation:-

(a) when the Ministry will open up the mouth of Sondu Miriu River at Adeera, in West Nyakach Location, in order to tame the annual flood menace; and,

(b) whether the Government could also construct dykes along the banks of Sondu Miriu and Awach rivers in North Nyakach Location.

**The Minister for Youth Affairs and Sports** (Dr. Otuoma): Mr. Speaker, Sir, in the spirit of collective responsibility, the Minister and her Assistant are not here and she had asked me to sit in for her.

I beg to reply.

(a) The de-silting of Sondu Miriu River is currently ongoing at Adeera in West Nyakach Location. The Ministry has been undertaking measures to control the flood menace in the flood prone areas of Kano Plains including Nyakach.

(b) In this Financial Year 2011/2012, a Budget of Kshs35 million has been allocated to extend the dykes downstream of Ahero. However, a total of 16 kilometres of dykes has been constructed along Nyando River and the Ministry's long-term plans to curb the flood menace in the region is for the construction of dykes along the lower parts of the major rivers which include Nyando, Ibos, Lalieng'o, Awach and Sondu.

**Mr. Ochieng:** Mr. Speaker, Sir, when I left the constituency yesterday, no works had started at the particular site. Could the Minister tell us how much they are going to spend on this particular exercise?

**Dr. Otuoma:** Mr. Speaker, Sir, as I have mentioned, this Financial Year 2011/2012, Kshs35 million has already been allocated for that work.

**Mr. Ochieng:** On a point of order, Mr. Speaker, Sir. Is the Minister in order to mention that they are spending Kshs35 million to de-silt the river mouth yet the Kshs35 million is meant for dykes downstream?

**Mr. Speaker:** That is not a valid point of order. You could do that as a supplementary question.

**Mr. Imanyara:** Mr. Speaker, Sir, I had the bad fortune of being in Ahero over the weekend when the rains had poured and I was stuck on the road for more than four and a half hours. So, I have first-hand knowledge of what these people face year in, year out. Given the magnitude of the floods this year, is the Minister satisfied that the Kshs35 million can prevent this misfortune from occurring next year? The area requires a lot more money than the Kshs35 million.

**Dr. Otuoma:** Mr. Speaker, Sir, there are both short-term and long-term measures. What I have just mentioned is a short-term measure. For long-term measures, a study was done and there is already a report by Inter Consult Consultant that has various recommendations which include construction of dams in the upper parts of River Nyando, construction of dykes along the lower parts of the major rivers, which I have already mentioned, excavation of a number of drainage channels, namely, Ibei - Miriu Channel and the western channel and, of course, the river trailing.

Those are the long-term measures that need to be put in place. What I mentioned are the short-term measures. Some of these problems are natural in terms of looking at the causes of floods in Kano. It is because of the low gradient of the area. There is also very high silt coming from the catchment area. About 3 million tonnes of siltation occurs every year. That is a very big activity. Then there is also the human activity like poor methods of irrigation and cultivation in the river reserve areas.

Previously, during the Chief's Act, this used to be enforced and people were not supposed to cultivate along the river catchment areas. This is not being observed in those areas and it needs to be done. There are also poorly constructed roads and irrigation structures, which are contributing to the floods in that area. For the long-term mitigation measures, even if the dykes are going to be constructed, there is need to also resettle people who are in lower areas.

**Mr. Ochieng':** Mr. Speaker, Sir, could the Minister tell us when the construction of the dykes and the de-silting of the river mouth end will begin?

**Dr. Otuoma:** Mr. Speaker, Sir, as I have mentioned, in this financial year, there are just the short-term measures which are basically to clear the bush, trail the river and, of course, excavate small areas for re-trailing or de-silting the river. With regard to the long-term measures which I mentioned earlier, these will be put in place when there will be a provision in the Budget to do so, which has not been provided for currently.

**Mr. Ochieng':** On a point of order, Mr. Speaker, Sir. Is the Minister in order to evade my question? I wanted to know the duration of the works.

**Mr. Speaker:** Minister, when?

**Dr. Otuoma:** Mr. Speaker, Sir, as a short-term measure, as I have said, already some work has been done, but no budget provision has been provided in this financial year. I will check with the substantive Minister as to when the money will be allocated.

*Question No.1077*

## REDUCTION OF REA BUDGET

**Dr. Otichilo** asked the Deputy Prime Minister and Minister for Finance:-

(a) why the budget allocation to the Rural Electrification Authority (REA) was reduced from Kshs3.574 billion in 2008/2009 to Kshs3.050 billion in 2009/2010 and Kshs1.142 billion in 2010/2011;

(b) whether he is aware that the reduction has led to a reduction in the constituency allocation by REA, from Kshs22.3 million in 2008/2009 to Kshs14.4 million in 2010/2011, hence stifling the Rural Electrification Programme and, consequently impeding the implementation of Vision 2030; and,

(c) whether he could confirm that there is a reduction in the 2011/2012 Budget allocation to an average amount of Kshs4 million per constituency after all expenditure consideration and, if so, what other plans the Government has to source funds for REA.

**Dr. Otichilo:** Mr. Speaker, Sir, I have not received a written answer to this Question.

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

**Mr. Speaker:** Order, Mr. Assistant Minister! The Member for Emuhaya claims that he has not received a written answer. Do you have an extra copy? Can you furnish him with it?

**The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Finance** (Dr. Oburu): Mr. Speaker, Sir, I am sorry I do not have an extra copy. I did not know that he has not received the written answer.

**Mr. Speaker:** Member for Emuhaya, are you comfortable proceeding with the Question or do you want it deferred so that you can have time to look at the answer?

**Dr. Otichilo:** Mr. Speaker, Sir, this Question is very important and has been pending for the last one month. Therefore, I am willing to listen to the Assistant Minister because it is a very important Question and I want to have the answer.

**Mr. Speaker:** You are willing to listen and even ask supplementary questions, are you?

**Dr. Otichilo:** Yes, Mr. Speaker, Sir.

**Mr. Speaker:** Assistant Minister, you may proceed!

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

(a) I wish to correct and state that there has been no reduction in the budgetary allocation to REA as indicated in the Question. On the contrary, the grants to REA grew from Kshs436 million in 2008/2009 to Kshs516 million in 2009/2010 and Kshs3.2 billion in 2010/2011. In view of (a) above, (b) and (c) do not arise.

**Mr. Olago:** On a point of order, Mr. Speaker, Sir. Is it in order for the Minister to talk about millions when the Question by hon. Ochieng is in billions? I heard him talk about millions.

**Mr. Speaker:** Mr. Assistant Minister, maybe you want to clarify that.

**The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Finance** (Dr. Oburu): Mr. Speaker, Sir, the allocation to REA is segmented into several segments. The ones I am talking about are the grants from the Government which increased in the manner that I have stated. If we have to state the total allocation in terms of gross expenditure, it includes donor funding. Because the other element includes donor funding, I did not include them. If they want me to include the donor funding---

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

**Mr. Speaker:** Order, allow the Assistant Minister to finish! If they want you to include donor funding, continue!

**The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Finance** (Dr. Oburu): Mr. Speaker, Sir, if we have to include donor funding, then the gross for the Financial Year 2008/2009 was Kshs8, 876,300,000 and in 2009/2010, it was Kshs5, 728,622,000. In 2010/2011, it was Kshs5, 071,200,000. I do not want to pre-empt the 2011/2012 Budget.

**Mr. Speaker:** You are entitled to that, Mr. Assistant Minister!

**Mr. Mbadi:** On a point of order, Mr. Speaker, Sir. The Question to the Assistant Minister was why the Budget allocation to REA was reduced. Is it in order for him to evade answering the Question by singling a particular allocation and leaving out others? If you listened to him very well, his second answer was a reduction, and that is exactly what the Member for Emuhaya was asking – why there has been a reduction of the total Budget allocation. He did not single out Government allocations. Is it, therefore, in order for the Assistant Minister to evade answering the Question by setting up his own “Question” and answering it, thereby leaving out the Question asked by the Member for Emuhaya, which is very clear?

**Dr. Oburu:** Mr. Speaker, Sir, you cannot call donor funding an allocation from the Government, because these are funds---

*(Several hon. Members stood up in their places)*

**Mr. Speaker:** Order! Order, hon. Members!  
Proceed, Assistant Minister!

**Dr. Oburu:** Mr. Speaker, Sir, what I am saying is that if you look at the schedule to the Budget, you will clearly see the amounts of money that have been allocated to the REA since it was established three years ago. What, perhaps, the hon. Member is talking about is the Budget, in respect of which we are awaiting approval of the Appropriation Bill. Otherwise, over the years---

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

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

**Mr. Mbadi:** Mr. Speaker, Sir, this Question is asking about allocations from the financial year 2008/2009 to the Financial Year 2010/2011. As far as I am concerned, the Budget before us is that for Financial Year 2011/2012. So, if the Assistant Minister is comfortable to give the figure for the 2011/2012 Budget, which relates to part (c) of the Question, why can he not answer the part of the Question relating to Financial Year 2010/2011? Is it in order for him to continue evading the Question? The Question is very

clear. It talks about Budget allocation. "Budget allocation" does not mean only the Government part of the Budget. It means the total Budget allocation.

**Mr. Ethuro:** On a point of order, Mr. Speaker, Sir.

**Mr. Speaker:** Order, Mr. Ethuro! There is already a point of order by the Member for Gwasi!

**Mr. Ethuro:** Mr. Speaker, Sir, my point of order is related to the one raised by Mr. Mbadi.

**Mr. Speaker:** Okay, let us hear you.

**Mr. Ethuro:** Mr. Speaker, Sir, the hon. Member for Gwasi is trying to exonerate the Minister from answering part (c) of the Question, appreciating the difficulties he has in answering parts (a) and (b). However, I want to put it to the Assistant Minister that he is completely misleading the House. Even for the Budget for this financial year, this House has approved the Vote On Account. So, this is a legitimate Question, which the Assistant Minister should answer.

**Mr. Speaker:** Assistant Minister, take the two points of order together.

**Dr. Oburu:** Mr. Speaker, Sir, in the first instance, I want to say that donor funds are funds which are negotiated. They are only incorporated into the Budget once they have been signed for by the Government. They do not depend on us, as the Government; it is the Ministry of Energy which---

*(Mr. Ethuro stood up in his place)*

**Mr. Speaker:** Allow the Assistant Minister to finish! Try and hear him first before you catch my eye on a point of order.

**Dr. Oburu:** Mr. Speaker, Sir, because of this, in the first year, it appeared as if there was a lot of money for REA because donor funds were quite substantial. However, in the subsequent years, donor funding kept on reducing. It was not Government allocation. The Government only allocates money on the basis of revenue it expects to receive. Donor funding depends on other factors, and not on the Government. The grants that we give to REA have been increasing from the time the Authority was established up to the last financial year. The Government has not reduced the grants it has been giving to REA. What has reduced is the donor funding component, which does not depend on the Government.

As for the Budget allocation for financial year 2010/2011, the Appropriation Bill has not been approved by Parliament.

**Mr. Speaker:** Assistant Minister, are you referring to Financial Year 2011/2012 or 2010/2011?

**Dr. Oburu:** Mr. Speaker, Sir, I am referring to financial year 2011/2012. That is what hon. Ekwe Ethuro was asking about.

Mr. Speaker, Sir, I do not know whether you would want me to go into that, given that the Appropriation Bill has not been approved?

**Speaker:** Member for Emuhaya, you have the first bite at the cherry!

**Dr. Otichilo:** Thank you, Mr. Speaker, Sir. The information I have from the REA clearly shows that their budgetary allocation has been reducing since financial year 2008/2009 to the present Budget. The allocation has reduced from Kshs23.3 million per



constituency since then to Kshs4 million per constituency in the current financial year. So, clearly, there is a reduction. I have the figures from the REA.

**Dr. Oburu:** Mr. Speaker, Sir, I have stated that those figures include the donor funding component. So, what the Government allocates to the Authority is not part of donor funding. I have said clearly that at the beginning, there was substantial donor funding.

**Dr. Otichilo:** On a point of order, Mr. Speaker, Sir. Is the Assistant Minister in order to say that the REA receives donor funding when it actually does not? The REA receives funds from budgetary allocations.

**Dr. Oburu:** Mr. Speaker, Sir, that is not true. What I have here is an extract from the Budget itself, which shows clearly that the REA receives donor funding.

**Mr. Ruto:** On a point of order, Mr. Speaker, Sir. It is very clear that the Assistant Minister has his figures wrong. It is very clear that, specifically, the funds that are allocated to constituencies are entirely from Government revenue. Is it in order for him to mislead the House? He can ask for time to come back with an appropriate answer because either he does not understand the Question, or he does not have his figures right.

**Mr. Speaker:** Assistant Minister, what is your reaction?

**Dr. Oburu:** Mr. Speaker, Sir, what does he mean by saying that everything which goes to the constituencies is from the Government, when we have donor funds which are specifically given to the REA? Where do those funds go? The REA undertakes the implementation of rural electrification programmes.

**Mr. Speaker:** Order, Assistant Minister! So that we resolve this matter satisfactorily, you can bring an answer which is clearer than what you have given so far. What you need to do is to go back to your office and come back with an itemised answer, which will show that during Financial Year 2008/2009, the total sum that went to the REA was so many billions of shillings, or whatever figure you will have, and that out of those billions, the Government's contribution was whatever millions of shillings it may be. You will do the same for the subsequent financial year, up to where we are. If you do that, it will be very easy. You can even prepare those schedules and just come and table them as you give the answer.

**Dr. Oburu:** Mr. Speaker, Sir, I have the schedule here. I can give the breakdown in the exact manner you have directed.

**Mr. Speaker:** Are the figures separated?

**Dr. Oburu:** Yes, they are separated, Mr. Speaker, Sir.

**Mr. Speaker:** Is there the total allocation?

**Dr. Oburu:** Yes, and the breakdown as well, Mr. Speaker, Sir.

**Mr. Speaker:** Okay, carry on. Maybe, if you do so, it will be clear.

**Dr. Oburu:** Mr. Speaker, Sir, in the financial year 2008/2009, grants to Government agencies and other levels of Government, which was specifically for the REA, was Kshs436,322,000. Capital Transfer to non-financial public enterprises, which was specifically for REA, was Kshs3,892,000,000. Funding for construction and civil works from various donors was Kshs4,528,978. Funding for research, feasibility studies, project preparations and design was Kshs17 million. The gross donor funding in the year was Kshs8,876,300,000.

In the Financial Year 2009/2010, grants to Government agencies and other levels of Government was Kshs516,322,000. The capital transfer to non-financial public sector

enterprises was Kshs1 billion. Funding for construction and civil works was Kshs4,212,300,000. Funding for research, feasibility studies, project preparation and design was zero shillings. The total donor funding for this year was Kshs5,728,622,000.

**Dr. Otichilo:** On a point of order, Mr. Speaker, Sir. Is the Assistant Minister in order to give us figures which are at variance with what I have been given from the Rural Electrification Board (REB)?

I beg your indulgence so that this Question can be deferred. I am not satisfied with what the Assistant Minister is reading.

*(Applause)*

**Dr. Oburu:** Mr. Speaker, Sir, I am an authority from the Treasury. These figures are from the Budget.

**Mr. Speaker:** Order, Assistant Minister! Perhaps it will help if you can table your answer so that Members have time to go through it and acquaint themselves with it.

We will defer this Question, not because you are unable to answer it, but because Members are not in step with you. You are reading out information which they are not conversant with. Table the answer and then on Thursday afternoon you will answer any questions that they might have.

*(Question deferred)*

Next Question by Mrs. Noor!

*Question No.1085*

#### POSTING OF MEDICAL PERSONNEL TO NORTH EASTERN PROVINCE

**Mr. Imanyara:** On a point of order, Mr. Speaker, Sir. The Assistant Minister has not yet tabled the answer to the Question and another Question is being asked. Is it in order?

**The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Finance** (Dr. Oburu): Mr. Speaker, Sir, I will table it in a moment because I have to photocopy it.

**Mr. Speaker:** Very well!

Mrs. Noor, please, proceed!

**Mrs. Noor** asked the Minister for Medical Services:-

(a) whether he could table a list of medical doctors, dentists and pharmacists who have been employed in the country since January 2009; and,

(b) how many of each category have been posted to North Eastern Province.

**The Assistant Minister for Medical Services** (Mr. Kambi): Mr. Speaker, Sir, I beg to reply.

Last week I did table a list of all the medical officers who have been posted to the North Eastern Province. The hon. Member had asked for some time for her to peruse and scrutinize the document. I am now ready if there is any query on the list I tabled earlier.

Thank you.

**Mrs. Noor:** Mr. Speaker, Sir, I was able to look at the list of the medical doctors, dentists and pharmacists who have been employed in this country since 2009 which was tabled. They were about 1,300 personnel. However, unfortunately only 34 of those were posted to North Eastern Province. Two dentists were posted to North Eastern Province. There are some hospitals in the whole of North Eastern Province that have never received any single personnel under those three categories. What is the Ministry doing to give fair and equitable distribution according to the spirit and the letter of our Constitution and Vision 2030 in which we want a healthy nation that is going to create jobs and growth in our country?

**Mr. Kambi:** Mr. Speaker, Sir, we realize that we have a shortage of medical personnel not only in North Eastern Province but the country at large. However, as a Ministry, we have put up a programme of recruitment of doctors. In the last financial year we indicated that we are going to recruit more doctors. However, we have a very big challenge because most of the doctors who are recruited leave Government hospitals as soon as they are employed. This is because of the issue of salaries.

However, we are discussing with the Ministry of Finance and in the next Budget I think we are going to sort out this problem once and for all.

Thank you.

**Dr. Nuh:** Mr. Speaker, Sir, it is well known that the medical personnel posted to far-flung areas of this country like North Eastern, Turkana and Tana River, leave and are transferred to other areas with better conditions. What guidelines has the Ministry put in place, similar to those by the Ministry of Education, such that medical personnel, once posted to these areas, should not leave until after five years?

**Mr. Kambi:** Mr. Speaker, Sir, we understand that problem. For doctors who have been posted to hardship areas, we have been giving them some inducement so that they stay in those places for long.

**Mr. Ethuro:** Mr. Speaker, Sir, if you look at the number posted to North Eastern Province – 34 medical personnel; the North Eastern Province has three counties namely; Mandera, Wajir and Garissa. Garissa has a provincial hospital which is Garissa Provincial Hospital. Under all these categories there is no single town. I want to agree with the Assistant Minister that to retain these members of staff is problematic. However, what is he doing in terms of doing something extra just like the Ministry of Education has done with teachers? Hardship allowance that is given by the Government to teachers is up to a maximum of 30 per cent. For medical doctors and surgeons you are still giving 30 per cent up to a cut of Kshs1, 200 for married officers. This is the same Government and you must employ the same tactics in those areas.

**Mr. Kambi:** Mr. Speaker, Sir, we have done the same. However, we have sent all these proposals to the Ministry of State for Public Service. We have discussed with them and they have agreed that the doctors serving in these areas should be given hardship allowance.

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

**Mr. Speaker:** What is it, Member for Bura?

**Dr. Nuh:** Mr. Speaker, Sir, I think the questions that Mr. Ethuro and I asked are more specific. Hardship allowance is usually given to all officers who are serving in respective areas in whichever Ministry. What we are asking is what regulations have they

laid out as a Ministry, that can be enforced, like what the Ministry of Education has done where they compel teachers, once employed in hardship areas, not to leave and it is mandatory for them to stay? That is what we asked.

**Mr. Kambi:** Mr. Speaker, Sir, we cannot force our medical personnel to stay in one area. However, for those people who are serving in hardship areas, we give some kind of---

**Mrs. Noor:** On a point of order, Mr. Speaker, Sir. We are not asking the Assistant Minister to force anyone. However, there are specific measures that the Government has put in place in the Ministry of Education. Is he in order not to tell us what the Ministry is doing in line with what the Ministry of Education has already done?

**Mr. Kambi:** Mr. Speaker, Sir, I have said that we have sent a proposal to the concerned Ministry and they are processing them. This is not only to medical doctors but even some junior officers. However, you realize that when it comes to allowances, that responsibility lies squarely with the Minister of State for Public Service.

**Dr. Eseli:** On a point of order, Mr. Speaker, Sir. Is the Assistant Minister in order to continue saying that they give some form of inducement instead of telling us how much that is? If it is peanuts, then you get monkeys.

**Mr. Kambi:** Mr. Speaker, Sir, it is not peanuts and that is why the doctors have been able to stay in those hardship areas.

**Dr. Khalwale:** Mr. Speaker, Sir, one of the reasons the doctors do not find it conducive to work in North Eastern Province is because of lack of housing and other social amenities. Could the Assistant Minister tell us what immediate and urgent investment the Government wants to do in terms of housing, hospitals and other social amenities in North Eastern Province, so that our doctors can be attracted to stay there?

**Mr. Kambi:** Mr. Speaker, Sir, apart from the hardship allowance that we give doctors who work in hardship areas, we also give them house allowance which is much higher than the ordinary doctors who stay here.

**Mr. Speaker:** Last question, Ms. Noor!

**Mrs. Noor:** Mr. Speaker, Sir, the 34 doctors who were posted between 2009 to date have all moved because of the very unfair conditions and hardships that are in place. What policy does the Ministry have in order to retain the doctors and dentists in those hardship areas? We want specific policies. We do not want him to refer us to proposals that he has given to the Ministry---

**Mr. Speaker:** Order, Mrs. Noor! The last part of your question is obviously not permissible by the Standing Orders. If you know the answer to the question, then do not ask.

Yes, Mr. Assistant Minister!

**Mr. Kambi:** Mr. Speaker, Sir, normally, the scheme of service is done by the Ministry of State for Public Service. We have done that and we are waiting---

**Mr. Ethuro:** On a point of order, Mr. Speaker, Sir. Surely, this Assistant Minister cannot run away on this issue. He keeps on referring to his neighbour, and yet we are talking about Government policy and a discriminatory policy where some civil servants earn 30 per cent of the hardship allowance to the maximum allowable, while others who are specialized, like surgeons--- That is why they cannot post a single surgeon to North Eastern Province. I have a cap of 1,200. Those are the incentives we are asking him. In

the same way another Ministry of Government did it, why can the Ministry of Medical Services not do the same? Is that asking for too much?

**Mr. Kambi:** Mr. Speaker, Sir, that is why we have schemes of service for all civil servants. It does not only apply to---

**Mr. Speaker:** Order, Mr. Assistant Minister! I have followed this Question very closely. Is the easiest answer not for you to say that you will consider and take steps to emulate the Ministry of Education?

**Mr. Kambi:** Mr. Speaker, Sir, we will compare notes with the Ministry of Education and the Ministry of State for Public Service so that we can come up with our scheme.

**Mr. Speaker:** How soon, Mr. Assistant Minister?

**Mr. Kambi:** Mr. Speaker, Sir, the soonest time possible.

**Mr. Speaker:** Order, Mr. Assistant Minister! Will you, please, ensure that you give a report to the House on this matter within the next six months?

**Mr. Kambi:** Much obliged, Mr. Speaker, Sir.

**Mr. Speaker:** Very well! Hon. Members, we have run out of time for further Questions. I notice that Question No.922 was deferred to be answered later when the Minister of State for Public Service is here. Perhaps, Mr. Minister, you can put on the record the reasons you were not here. Otherwise, we will defer the question until tomorrow morning.

The Member for Turkana Central, can you be here tomorrow at 9.00 a.m.?

**Mr. Ethuro:** As you direct, Mr. Speaker, Sir.

**Mr. Speaker:** Very well! Mr. Minister, just give an explanation on record as to why you were not here.

**The Minister of State for Public Service (Mr. Otieno):** Mr. Speaker, Sir, I am sorry that I was held up for five minutes and you cleared all the prior Questions pretty fast. Tomorrow, at 9.00 a.m. again, I will be serving in another urgent Cabinet Sub-Committee and so, will not be present in the House. However, this is the fourth time this Question will appear on the Order Paper. I did table a list of 104 pages---

**Mr. Speaker:** Can you be here tomorrow afternoon otherwise, we are being counterproductive? We are struggling to save time and now we are eating into that time.

**The Minister of State for Public Service (Mr. Otieno):** Mr. Speaker, Sir, it is okay in the afternoon.

**Mr. Speaker:** It is so directed!

### *Question No.922*

#### PROFILES OF GOVERNMENT WORKERS IN TURKANA

*(Question deferred)*

**Mr. Speaker:** Hon. Members, there are a number of Statements which were due today, including the one requested for by the Member for Juja in respect of children who were hospitalized at Level Five Hospital in Thika and passed on. The Minister indicates that he has agreed with the Member that this matter can come two weeks hereafter, because information which is supposed to be given in that Statement is not available.

There is a further Statement from the Minister, also, which should come today, but it will come on Thursday at 2.30 p.m.

That deals with the Ministry of Health. Is there any other?

## POINTS OF ORDER

### SECONDMENT OF STAFF TO COUNTY OFFICES

**Mrs. Shebesh:** Mr. Speaker, Sir, I would like to request for a Ministerial Statement from the Minister of State for Public Service with regard to a Memorandum Reference No.OPCAB17/90A dated 4<sup>th</sup> July, 2011, and signed by the Permanent Secretary, Secretary to the Cabinet and Head of the Civil Service, Ambassador Francis Muthaura, EGH, on seconding staff to county offices.

Mr. Speaker, Sir, in the Statement, the Minister should:-

(a) Confirm whether the decision to second staff to the counties was made by the Cabinet and if so, to state when.

(b) Clarify whether this is not in breach of provisions of Article 174 of the Constitution of Kenya which stipulates that counties should be in charge of their own staffing.

(c) Explain whether this decision does not pre-empt the proposed County Government Bill that is yet to come to the Floor of this House for debate and enactment.

**Mr. Speaker:** Mr. Minister, can you indicate when that Statement will come?

**The Minister of State for Public Service** (Mr. Otieno): Mr. Speaker, Sir, it will come on Tuesday, next week.

**Mr. Speaker:** It is so directed!

Yes, the Member for Makadara!

### MISMANAGEMENT OF MUSIC COPYRIGHT SOCIETY OF KENYA FUNDS

**Mr. Mbuvi:** Mr. Speaker, Sir, I rise to seek a Ministerial Statement from His Excellency the Vice-President and Minister for Home Affairs on corruption and mismanagement of the Music Copyright Society of Kenya funds.

Mr. Speaker, Sir, in the Statement, the Vice-President and Minister for Home Affairs should clarify:-

(a) whether he is aware that there is rampant corruption and mismanagement in the Society;

(b) whether he is aware that Kshs3 million was withdrawn from the Society account and cannot be accounted for;

(c) whether he is also aware that royalties collected last year amounted to Kshs185 million, and yet the society does not pay artists their royalties.

(d) further, whether he is aware that the Kenya Copyrights Board assigned to fight for the rights of the artists has only eight police officers countrywide to fight piracy; and,

(e) whether he is aware that popularly known songs like *Kigeugeu* by Jaguar, *Kadhaa* by Nonini, *Tobino* by Daddy Owen and *Chokoza* by Marya and Avril, among many others have never sold due to piracy.

What measures is the Government taking to ensure that this menace stops completely and artists benefit from their songs?

**Mr. Olago:** On a point of order, Mr. Speaker, Sir. Is it in order for the hon. Member to ask a question while he is wearing a stud in his left ear, which he has just removed?

**Mr. Mbuvi:** Mr. Speaker, Sir, I think the hon. Member is day dreaming. I do not have any earring. He can even search my pockets. *Iko wapi?*

**Mr. Speaker:** Order! Member for Makadara, obviously, to say that a fellow Member, who is an hon. Member of this House, is day dreaming is actually disorderly. It is unparliamentary. Members do not day dream. Under those circumstances, and since I take Members very seriously on any observation that they make, this is the second time that, that observation has been made. The first time, it escaped my attention. This second time, it is also possible that you are playing hide and seek with me like my children do. Since you are not my child, I will not allow you to play hide and seek with the Speaker. So, I am afraid I will order you to leave for the rest of the day. You have to withdraw.

*(Mr. Mbuvi withdrew from the Chamber)*

**Ruto:** On a point of order, Mr. Speaker, Sir. With due respect to your ruling, I wonder whether you cannot reconsider allowing the studs, considering that the Chief Justice---

**Mr. Speaker:** Order, Member for Chepalungu! That is not the way to do it. If you want a matter revisited, there is a procedure clearly laid out in the Standing Orders. Just invoke that procedure and I will be prepared to revisit the matter as necessary; if it is properly raised and not as an appendage after the Speaker has given directions. Please, take note. Because you appear to be humble today, I will not impose any sanctions on you.

**Dr. Khalwale:** On a point of order, Mr. Speaker, Sir. Last week, you ruled that the Minister for Medical Services responds to a Ministerial Statement in respect of Pumwani Maternity Hospital.

**Mr. Speaker:** As a matter of fact, I have just given direction on that, not very long ago; that, it should come on Thursday this week at 2.30 p.m.

## MINISTERIAL STATEMENT

### DISCIPLINARY ACTION AGAINST CHIEFS IN TURKANA SOUTH

**The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode):** Mr. Speaker, Sir, I have a small Statement to make, which was sought by hon. Rachel Shebesh with regard to the Chief of Kalapata. I request that I give it now.

**Mr. Speaker:** How long will you take?

**The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode):** Mr. Speaker, Sir, I will take two minutes. It is a small issue.

**Mr. Speaker:** Do it in two minutes. I am timing from now.

**The Assistant Minister, Ministry of State for Provincial Administration and Internal Security** (Mr. Ojode): Mr. Speaker, Sir, last week, hon. Shebesh rose on a point of order asking why the Chief of Kalapata was issued with a warning letter dated 3<sup>rd</sup> August, for gross misconduct, while two other chiefs in Turkana South received show cause letters; and, whether the Government would continue to deny that people have died due to drought in Turkana South.

I wish to state the following: The import of the letter addressed to the chief by the District Commissioner dated 3<sup>rd</sup> August was to ask the chief to explain why he had not briefed the office on the deaths he attributed to famine in his location; whether the chief had the competence to comment on the cause of deaths and why people were dying and yet the location was supplied with food during the period between April and July 2011 as per the supplementary information that I have.

The chief is responsible for the coordination of food supply and relaying drought information about vulnerable families in his location. The District Commissioner's letter was written against that background.

With regard to the Member's second part of the question, the Ministry wishes to state that it has not received any information of deaths that have been confirmed to have been caused by famine. The Government acknowledges that the current drought situation has severely affected the food situation in many parts of the country and has taken mitigation measures to cushion vulnerable families. The Ministry of State for Special Programmes is responsible for the supply of relief food and can give a report on the Government support to the affected population. The responsibility of the Provincial Administration is to monitor, report and coordinate Government efforts to mitigate against famine.

Thank you.

**Mrs. Shebesh:** Mr. Speaker, Sir, you heard the Assistant Minister clearly state, yet again, that according to the Government, no Kenyans have died due to starvation in Turkana. The letter that was written to the chief asked him to explain why disciplinary action should not be taken against him for gross misconduct. Could he tell us how a chief doing his work and reporting the people who are dying in his area can be termed as "gross misconduct" by the Assistant Minister?

**Mr. Imanyara:** On a point of order, Mr. Speaker, Sir. As I pointed out earlier, we have people in this Government who have not understood that we are in a new constitutional dispensation. The letter that has been referred to by hon. Shebesh is punishing the chief for keeping a death record book; a book in which he was maintaining the names of people who had died as a result of hunger. A chief is a member of the Provincial Administration. Is it in order that a person who is performing the job he or she was employed to do as a chief, by maintaining a register of those who had died as a result of hunger, should be punished by a Government that wants to suppress the truth even in the face of Article 35 of the new Constitution that requires one to share public information with all Kenyans?

**Dr. Nuh:** Mr. Speaker, Sir, if a chief in a location gives information that someone has died because of hunger, what other alternative source of information is the Government relying on, apart from its own chief, so as to deny the same?

**Mr. Murgor:** Mr. Speaker, Sir, I do not know whether the Assistant Minister has the correct name of the location because Kalapata is in Pokot North District. So, for it to



have been reported to be in Turkana is confusing to me. So, I do not know whether he has the right name.

**Mr. Ochieng:** Mr. Speaker, Sir, could the Assistant Minister also explain whether the same chief has had some previous cases of misconduct while executing his responsibilities to warrant that kind of punishment?

**Mr. Ethuro:** Mr. Speaker, Sir, you have heard the Assistant Minister, Ministry of State for Provincial Administration and Internal Security say that the job of a chief is to coordinate and, that, it is the Ministry of State for Special Programmes that gives food. I have a letter, from the District Commissioner that clearly states that the job of a chief is to inform the Government of a death. When he did it, he was punished.

Two, the letter says: "It is your responsibility to ensure that there are sufficient food distribution points in those areas so that people can access food more easily." The Assistant Minister is contradicting the same letter that was issued to the chief. Under those circumstances, we are talking about the Chief of Kalapata Location, Mr. Phillip Epimilim, the chief of Katulo Location, Mr. Henry Ekitela and the Assistant Chief of Kalemweluku Location. In all these letters, obviously, what the chiefs are being accused of is inconsistent with what the Assistant Minister has told us. Under those circumstances, may I ask him to lift these letters because they are completely unnecessary, uncalled for and they are meant to harass the chiefs not to tell the Kenyan public about the dire situation of the starving people of Turkana County.

**Eng. Maina:** Mr. Speaker, Sir, the Assistant Minister said that one of the wrong things the chief did was to conclude that this was out of hunger. This is a very remote area of Kenya. Could he inform the House what methods they have as a Government for determining people's deaths? I actually think that the chief and the local people have enough intelligence to know when somebody dies of hunger. Which doctors have you ordered to be conducting postmortem in this area in order to know the cause of death?

**The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode):** Mr. Speaker, Sir, the questions from my colleagues are more or less the same. I will start with the latest on whether the chief had the capacity to know whether one of his subjects had died as a result of hunger. Hon. Ethuro also said that he read from the letter that says that you have to inform the District Officer (DO) or the District Commissioner (DC) of the deaths recorded within a locality or sub-location. I agree with him. The letter says very clearly that he has to give information on those who have so far died, and not the cause of death because it will be difficult. The chief and the assistant chief do not have the capacity to determine that so-and-so has died as a result of famine, or because of hunger. They do not. We have so many death cases, some of which are registered. There is also registration of death which is done by the assistant chief. They only register those who have died without giving the cause of death, because they have no capacity to know that so-and-so has died as a result of hunger.

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

**Mr. Speaker:** Dr. Nuh, what is your point? Please, try to relax. I know it is a matter of life and death, but you must relax even as you interrogate this matter. Proceed.

**Dr. Nuh:** Thank you, Mr. Speaker, Sir. I stand guided. Is the Assistant Minister in order to mislead the House that a whole chief, whom the Government must have vetted well, and considered that he is someone who can look after a whole flock, would be unable to know that someone has died of hunger? Hunger is something that is so basic

that a chief would know who among his subjects have not had food for the last five to 15 days. Is he in order to mislead the House?

**The Assistant Minister, Ministry of State for Provincial Administration and Internal Security** (Mr. Ojode): Mr. Speaker, Sir, let us treat this matter seriously. I want to be on record by saying the following. It is not possible - it is good that Dr. Khalwale is here - for a layman to come up with the cause of death of a particular individual. That is the truth of the matter.

**Mr. Speaker:** Order, Mr. Assistant Minister! It is a matter of public knowledge, if not notoriety, that there has been shortage of food in North Eastern Province (NEP); as a result, some people had not eaten any decent meal until famine relief went to those areas for a period going over 14 days. Some of them had not received any drinking water until the rains fell the other day and swept them to death, because there were floods. So, can a human being live for more than two weeks without water and food?

**The Assistant Minister, Ministry of State for Provincial Administration and Internal Security** (Mr. Ojode): Mr. Speaker, Sir, I was coming to that. The reason why I was rejecting this report of the chief was because I wanted to table the supply of the relief food, which we have been doing since June last year. So, in other words, I am trying to say that your question whether somebody can stay without food for all that period is yes. Indeed, it is true that if there is no supply, one can die. But on this particular case, it was not possible because we have been supplying relief food and I want to table the dates---

*(Mr. Ojode laid the document on the Table)*

**The Assistant Minister for Wildlife and Forestry** (Mr. Nanok): On a point of information, Mr. Speaker, Sir.

**Mr. Speaker:** Order, Mr. Assistant Minister! There is information from your colleague, the Assistant Minister who happens to come from that area. Do you want that information?

**The Assistant Minister, Ministry of State for Provincial Administration and Internal Security** (Mr. Ojode): No, Mr. Speaker, Sir! I have a lot of information!

*(Laughter)*

**Mrs. Shebesh:** On a point of order, Mr. Speaker, Sir. Is it in order for the hon. Assistant Minister to speak about distribution of relief food when the very Minister of State for Special Programmes has admitted that lack of distribution of food was the reason for the crisis that led to many deaths in this area? Is he in order to mislead this House that there was proper distribution of relief food when the Minister herself has said that there was no proper distribution of food?

**The Assistant Minister, Ministry of State for Provincial Administration and Internal Security** (Mr. Ojode): Mr. Speaker, Sir, we are talking about this particular location where the chief alleged that there were some reported deaths. I am not talking about the whole country because that particular docket does not fall under me.

I am saying that, indeed, there was a letter which was released to the chief to show cause why disciplinary action should not be taken against him. That in essence does not necessarily mean that he has committed a mistake. He should tell us his side of the

story why disciplinary action cannot be taken against him. One of the disciplinary actions which can be taken against him is, if there is food, why did he not supply it? Two, there is no way that particular chief could ascertain the cause of death to have been due to hunger. Three, if there was shortage of food, it was the chief who was responsible for it because we had already supplied the food.

**Mr. Imanyara:** On a point of order, Mr. Speaker, Sir. When I stood up here, I read a letter which clearly gives the reasons why this chief is being interdicted, and one of them is talking to *Citizen* Television journalists. The letter, which I will table, says as follows:

“It has been noted with great concern that contrary to the official Government position on the current drought situation in the country, the code of conduct and ethics of public officers under Section G5 of the Code of Regulations that prohibit civil servants from talking to the Press---”

The issue is that the chief talked to the Press and gave a death book containing names of people who had died and identified their graves. He gave information that the Constitution permits chiefs to give as public officers. That is the reason why this chief is being interdicted. Is it in order for the Government to punish a civil servant for doing what the Constitution permits him to do – that is share information? Sharing information with the media cannot be contrary to the Constitution. I table the letter and it speaks for itself. He should stop denying the truth.

*(Mr. Imanyara laid the document on the Table)*

**Mr. Speaker:** Order! Let us, please, try to be calm about this matter. It is actually a very sensitive matter.

**The Assistant Minister, Ministry of State for Provincial Administration and Internal Security** (Mr. Ojode): Yes, it is. The letter which was written to the chief was to show---

**The Assistant Minister for Forestry and Wildlife** (Mr. Nanok): On a point of information Mr. Speaker, Sir.

**Mr. Speaker:** Order, hon. Nanok! Your colleague has declined your point of information.

**Mr. Ojode:** Mr. Speaker, Sir, the letter which was written by his senior says that he should show cause why disciplinary action should not be taken against him. That was the letter, which was written to the chief.

**Mr. Imanyara:** On a point of order, Mr. Speaker, Sir. I just read to you what the letter says in black and white for talking to a citizen television journalist, identifying graves. This is information that the chief was giving as a civil servant, as a public officer, and is permitted under Article 35 of the Constitution. Are we not undermining the very Constitution which we fought so hard against and which was passed in this country, so that people could share information?

*(Several hon. Members stood up  
in their places)*

**Mr. Speaker:** Order, hon. Members! Order, Member for Turkana Central! The Assistant Minister has to respond to the point of order by the Member for Central Imenti. After he does so, then maybe, we will take your point of order depending on the response.

**Mr. Ethuro:** Mr. Speaker, Sir, I am asking for your indulgence because it is along the same line and I have two letters. He is referring to one.

**Mr. Speaker:** Order, Member for Turkana Central! Please, let us take the response by the Assistant Minister.

**The Assistant Minister, Ministry of State for Provincial Administration and Internal Security** (Mr. Ojode): Mr. Speaker, Sir, I mentioned that this is a serious matter. Let us deal with it seriously.

Mr. Speaker, Sir, by showing the graves does not necessarily mean that those people died as a result of hunger. There are so many people who are dying in this country because of illnesses.

**Mr. Speaker:** Order! Order, Assistant Minister!

Assistant Minister, I think you are treading on very slippery ground. You are aware that people died. Obviously, that is a grave matter that must also concern you as an Assistant Minister in the Government; that the life even of a single Kenyan has been lost and one of the suspicions is that he may have died out of hunger. The only way you can dispute that position is to table evidence in the House that the cause of death was different from famine. If you are unable to do so, then I am afraid, you will be out of order, and you must find a better way of explaining this situation.

**The Assistant Minister, Ministry of State for Provincial Administration and Internal Security** (Mr. Ojode): Mr. Speaker, Sir, that is why at the very start, I mentioned that it is a sensitive issue. Let us be sober while discussing this issue.

Mr. Speaker, Sir, just as you have correctly said, that I must have some kind of evidence that these guys did not die as a result of hunger. Equally, there must be some kind of evidence---

**Mr. Speaker:** Order, Assistant Minister! It is not these guys. It is these Kenyans!

**The Assistant Minister, Ministry of State for Provincial Administration and Internal Security** (Mr. Ojode): Mr. Speaker, Sir, the Kenyans who are alleging that there are people who have so far died as a result of hunger should also give some evidence. What is the post-mortem saying? So, it is not easy to know.

*(Several hon. Members stood up  
in their places)*

**Mr. Speaker:** Order, hon. Members! I am going to defer further transaction on this matter because it is a very grave matter. Mr. Assistant Minister, I will direct that in the next four weeks, you table evidence in this House as to the cause of death for those Kenyans that the chief talked about. Please, do so, in the next four weeks.

*(Several hon. Members stood up  
in their places)*

Order! That matter must rest there!

*(Mr. Ethuro stood up in his place)*

Order! Let us hear the Assistant Minister.

**The Assistant Minister, Ministry of State for Provincial Administration and Internal Security** (Mr. Ojode): Mr. Speaker, Sir, that is agreeable. I will come up with the names of those who are being alleged to have died as a result of hunger. I will come with the list. Equally, I would also want whoever alleges that there were some people who died as a result of hunger to come up with some kind of proof. I am talking about post-mortem.

**Mr. Ethuro:** Mr. Speaker, Sir, I want to thank you for your ruling and for looking at this matter in a serious manner unlike this hon. Assistant Minister.

Mr. Speaker, Sir, hon. Imanyara was reading from one letter which was caution. The other letter is on gross misconduct to the Chief of Kalapatai, Lokichar Location.

Mr. Speaker, Sir, the District Commissioner has given these chiefs 21 days. I am just afraid with the four weeks, you have given the Assistant Minister, they would have taken action that maybe injurious to the reputation and employment of these chiefs. It is my considered submission that if the Assistant Minister thinks that he knows more than the chiefs, then he should be able to produce that information tomorrow.

**Mr. Speaker:** Order, hon. Members! Indeed, I have taken this matter very seriously. It is actually with a very heavy heart that I gave those directions to the Assistant Minister. He is on record now as saying that there is no evidence that those persons died of hunger. If so, then it would be implying that the chief actually gave false information, and the Assistant Minister knows that. If that is so, then the chief would be suspected of having committed a criminal offence. So, if the Assistant Minister knows his mandate well, then this becomes a criminal matter which must be properly and fully investigated. We cannot investigate it properly and fully, if we do not establish the cause of death. It is for that reason that I have made those directions, deliberately so, so that we can account to the country for the loss of those Kenyans. I think that then must rest the matter. I have indicated why I have made those directions. I have indicated what is expected out of the Assistant Minister's action. So, it must rest there.

*(Several hon. Members stood up in their places)*

On a different matter, I will. On this one, no! On this one, I will not allow. I am exercising my discretion correctly. If you are going to raise that point of order on the same matter, then you must be prepared to take the consequences. This matter is sensitive. We must bear in mind the interest of this country, including the rest of the citizens of this nation. We must handle this matter extremely responsibly.

**Eng. Maina:** On a point of order, Mr. Speaker, Sir. Sometime ago, you wisely said that this House has a very big schedule in front of it. You also advised that we avoid spending time unnecessarily.

Mr. Speaker, Sir, my observation today is that the Front Bench would have done much better to come to the point quickly. If they are not prepared, they admit so. We would have finished this matter. In that regard, I want to ask you whether the Front

Bench is in order to continue going round even on a straight forward matter which I have observed since your ruling.

Mr. Speaker, Sir, could you guide us on this matter, because we are ready, as Members of Parliament, to obey your rule for the sake of this country? However, the Front Bench tends to extend the same kind of superfluous luxury they are used to.

**Mr. Speaker:** Deputy Leader of Government business, do you have any reaction to that?

**The Minister for Transport** (Mr. Kimunya): Mr. Speaker, Sir, I will be consisted with what I said last week that the Government is serious to do business. We would appreciate if we could move with speed to dispose of the matters ahead of us. We would support any initiatives in that direction. I believe that I have made a ruling on the matter of the chief. If the matter could rest there, then we could move on with the other business as we wait for the four weeks to get the comprehensive report.

*(Mr. Ethuro stood up in his place)*

**Mr. Speaker:** Member for Turkana Central, I know that you still have issues, so does the Member for Chepalungu, but let us allow the Assistant Minister those four weeks, and let us see what outcome we would have. Thereafter, matters pertaining to whether or not the chief will, in fact, be interdicted have answers. I am convinced that even within the portfolio of this House, there are answers. We will all be facilitative in ensuring that those answers are forthcoming.

Hon. Members, that then must bring us to the end of Statements. I know that the Minister for Energy has a very urgent Statement which was requested by the Member for Rarieda that other Members are interested, and, indeed, the whole country, and specifically maybe the Member for Migori. We will defer this Statement to be issued tomorrow at 9.00 a.m. I think we will have more time then. It is important that we move on to Order Nos.8, 9 and 10 because of their nature, going through up to Order No.16.

## COMMUNICATION FROM THE CHAIR

DEFERMENT OF THE COMMITTEE STAGE:

THE KENYA NATIONAL HUMAN RIGHTS COMMISSION BILL &  
THE NATIONAL GENDER AND EQUALITY COMMISSION BILL

Hon. Members, before we do so, I wish to give guidance with respect to Order No.10, Paragraphs (ii) and (iii). In relation to matters appearing there at the relevant Parliamentary Committee, in fact, it was a joint Committee of Parliament; two Committees. They have not been able to finalize amendments that they were processing with respect to these two important pieces of legislation.

On that basis, we will defer Order No.10, Paragraphs (ii) and (iii) to tomorrow afternoon because the Committees have indicated that they will have their reports ready by then.

## DEFERMENT OF MOTIONS ON SESSIONAL PAPERS

ADOPTION OF SESSIONAL PAPER NO.1 OF 2011

ADOPTION OF SESSIONAL PAPER NO.2 OF 2011

ADOPTION OF SESSIONAL PAPER NO.3 OF 2011

With respect to Order Nos.14, 15 and 16, information I have received indicates that we under-estimated the quantum of work that was required to go into the Committees inquiring on these three matters. The Committee has received some information too late in the day. It has been very burdensome, if not, voluminous information that the Committee has not been able to go through timeously.

Once again, I think it is a joint Committee of the House between the departmental Committees on Energy, Communication and Information and Departmental Committee on Finance, Planning and Trade. They have pleaded in earnest that we accord them more time until Thursday afternoon. On Thursday at 2.30 p.m. they will be able to table their report with respect to these very substantive matters that appear at Orders No.14, 15 and 16.

So, in those circumstances, those Orders are also deferred, not to tomorrow afternoon, but to Thursday at 2.30 p.m. So, Order No.10, Paragraphs (ii) and (iii) is deferred to tomorrow afternoon at 2.30 p.m. and Orders No.14, 15 and 16 are deferred to Thursday this week, at 2.30 p.m. The rest of the business will proceed in the manner in which they appear on the Order Paper.

*(Motions deferred)*

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

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

**Mr. Speaker:** Order, hon. Members. Order, Member for Rarieda and Member for Chepalungu!

## DEFERMENT OF SECOND READING

### THE RATIFICATION OF TREATIES BILL

**Mr. Speaker:** With respect to Order No.9, and I am sorry that I did not recollect this, the sponsor of that business, this is a private Members Bill, Mrs. Odhiambo-Mabona is bereaved. She lost her mother and so she is mourning. For that reason, as a matter of courtesy by this House, that business is deferred until such time that Mrs. Odhiambo-Mabona will return. The rest then will proceed.

*(Bill deferred)*

**Eng. Gumbo:** On a point of order, Mr. Speaker, Sir. On 4<sup>th</sup> of this month, I requested a Ministerial Statement from the Minister for Justice, National Cohesion and Constitutional Affairs---

**Mr. Speaker:** Order, Member for Rarieda! We are now away from that business.

**Eng. Gumbo:** Mr. Speaker, Sir, you have not called the second Order.

**Mr. Speaker:** Even then, I have communicated with respect to the next business.

**Eng. Gumbo:** Mr. Speaker, Sir, I have been rising all the time.

**Mr. Speaker:** Even on the HANSARD, we cannot revisit it. But you can do something about it maybe by coming to the Speaker's Office after I retreat. Otherwise, for the sake of harmony, we really cannot record on the HANSARD in that matter. However, we will definitely listen to you and attend to you because I know you have a genuine concern on whatever matter it is.

**Dr. Khalwale:** On a point of order, Mr. Speaker, Sir. Considering the direction you have given with respect of Order No.9 that the hon. Member is bereaved, I noticed that also on Order No.10 paragraph (i), the same hon. Member has got substantive suggestions for amendments. So, I do not know how you will advise us to proceed.

**Mr. Speaker:** Let me just hear from the Clerk.

*(Mr. Speaker consulted with the Clerk-at-the Table)*

Member for Ikolomani, information given to me is to the effect that the amendments which are proposed in the name of Mrs. Odhiambo-Mabona on Order No.10(i) are Committee amendments. So, any other Member of the Committee can actually move those amendments on behalf of the Committee.

**Mr. Ethuro:** On a point of information relating to that ruling.

**Mr. Speaker:** Yes, please!

**Mr. Ethuro:** Mr. Speaker, Sir, the Committee has deliberated on that matter and has appointed "yours truly" to proceed.

**Mr. Speaker:** Very well. And you are actually ready to proceed. I am also aware that you have the capacity to proceed.

## **BILL**

### *First Reading*

#### THE PUBLIC PROCUREMENT AND DISPOSAL (AMENDMENT) BILL

*(Order for the First Reading read –  
read the First Time and ordered  
to be referred to the relevant  
Departmental Committee)*

## **COMMITTEE OF THE WHOLE HOUSE**

*(Order for Committee read)*

*[Mr. Speaker left the Chair]*

### IN THE COMMITTEE



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

THE POLITICAL PARTIES BILL

**The Temporary Deputy Chairlady** (Dr. Laboso): Hon. Members, we are now in the Committee of the Whole House to consider The Political Parties Bill, Bill No.20 of 2011.

**Dr. Khalwale:** On a point of order, Madam Temporary Deputy Chairlady. I have just a small point of clarification. I notice that Mr. M. Kilonzo and his Assistant Minister are not here. This is a very crucial Bill.

**The Temporary Deputy Chairlady** (Dr. Laboso): Dr. Khalwale, I have indication and confirmation that that duty has been delegated to Mr. Murungi.

*Clause 2*

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

THAT, Clause 2 of the Bill be amended-

(a) by deleting the definition of “*Gazette*” and substituting therefor the following definition-

“*Gazette*” means the Kenya *Gazette* published by authority of the national government or a supplement to the Kenya *Gazette*”;

(b) in the definition of “public officer” by inserting the word “it” after the words “meaning assigned to” and

(c) by deleting the definition of “State” and substituting therefor the following new definition-

“State” when used as a noun, means the collectivity of offices, organs and other entities comprising the government of the Republic under this Constitution.”

We are just trying to align this to the constitutional provisions.

**The Assistant Minister for Livestock Development** (Mr. Duale): On a point of order, Madam Temporary Chairlady. Why are we jumping Clause 1, which is supposed to be amended?

**The Temporary Deputy Chairlady** (Dr. Laboso): Hon. Duale, the procedure requires that, that comes last. Hon. Ethuro, be as comprehensive as possible, so that the Members can understand the amendment that you are moving.

**Mr. Ethuro:** Madam Temporary Deputy Chairlady, I had already made my case.

*(Question of the amendment proposed)*

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

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

*(Clause 2 as amended agreed to)*

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

*Clause 7*

**The Minister for Energy** (Mr. Murungi): Madam Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 7 of the Bill be amended in sub-clause (2) (d)—

(a) by deleting the word “a” appearing in the first line;

(b) by inserting the letter “s” at the end of the word “member” appearing in the first line;

(c) by deleting the letter “s” at the end of the word “meets” appearing in the second line.

This is a very minor amendment. It is intended, when amended, to read:-

“(d) it has demonstrated that members of its governing body meet the requirement of Chapter 6”.

It is really changing the singular for the plural in that particular sub-clause. It is fairly typographical.

*(Question of the amendment proposed)*

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

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

**The Temporary Deputy Chairlady** (Dr. Laboso): Hon. Ethuro, I would like to bring to your attention that after the amendment that we have had from the Minister, you cannot move the second part. Sub-clause 2(ii) is exactly the same as what the Minister has just moved.

**Mr. Ethuro:** Madam Temporary Deputy Chairlady, I thought what the Minister was doing was deleting “a” and inserting “s”. So, my issue is more substantive than those minor typographical issues.

**The Temporary Deputy Chairlady** (Dr. Laboso): The clarification is that you should not amend what has already been done.

**Mr. Ethuro:** Madam Temporary Deputy Chairlady, if you will notice, I have not been reading and I wish you could advise the Minister to do the same. That is why these amendments are on the Order Paper.

I beg to move:-

THAT, Clause 7 of the Bill be amended-

(a) in sub-clause (2)-

(i) by deleting paragraph (c) and substituting therefor the following new paragraphs-

“(c) the composition of its governing body reflects regional and ethnic diversity, gender balance and representation of minorities and marginalized groups;

(ca) not more than two-thirds of the members of its governing body are of the same gender”;

(iii) by deleting paragraph (f) and

(b) in sub-clause (3) by-

(i) inserting the following new paragraph after paragraph (c)-

“(ca) contravenes the provisions of Chapter Six of the Constitution”; and

(ii) deleting paragraph (d).

The purpose of this is to ensure that the minorities, ethnic and regional diversities and the marginalized groups are catered for. The rule of the two-thirds, according to gender, is really to satisfy that this law conforms to the provisions of the Constitution. That is similar to the further amendments as you see in Subclause 3 by inserting the new paragraph after paragraph (c) which is (c)(a) that says:-

“Contravenes the provisions of Chapter 6 of the Constitution”.

This is just to ensure that the integrity issues are taken care of in terms of the members of these entities.

*(Question of the further amendment proposed)*

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

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

*(Clause 7 as amended agreed to)*

*(Clauses 8 and 9 agreed to)*

*Clause 10*

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

THAT, Clause 10 of the Bill be deleted.

The consideration of the Committee is that we do not want to encourage these arrangements before the actual election date because they tend to create more uncertainty in the political system.

*(Question of the amendment proposed)*

**The Minister for Nairobi Metropolitan Development** (Mr. Githae): Madam Temporary Deputy Chairlady, in all sincerity, we must oppose this deletion. It is important to empower political parties when they come to certain agreements for them to be allowed to enter into coalitions and mergers. In any case, that is the new trend. We are

being told that it may not be possible for any single party in the next election to win the election outright. So, we should not prohibit the formation of coalition Governments. Sincerely, I would request if the Chair of the Committee could accept what we are saying. This is important. He may be a beneficiary of the coalition.

**Mrs. Shebesh:** Madam Temporary Deputy Chairlady, the Committee debated this issue and in the spirit of encouraging democratic running of parties and not weak governments set up by convenient marriages before an election, agreed that coalitions be formed after an election if a party does not garner enough seats. This was the position of the Committee and we are holding on to that position.

**Dr. Eseli:** Madam Temporary Deputy Chairlady, the issue of coalitions is, really, one of parliamentary systems of government. Right now, we are in a presidential system of government. So, the issue of coalitions does not hold as much water as before. Moreover, we should not live like ostriches by burying our heads in the sand. The issue of coalitions is a recipe for unstable government. This has been proven before with the NARC Government. It has been proven even with the current Grand Coalition Government. It is actually a recipe for unstable governments.

Are we, as Parliament, justified to legislate for Kenya to continue having unstable governments based on coalitions of a few individuals who do not have similar ideologies, but who end up forming a coalition just for the purpose of winning an election and ending up with an unstable government? This is something in respect of which we have to search our souls deeply. Let us not do it for the elections of 2012. This is not about the 2012 general election.

Madam Temporary Deputy Chairlady, in a presidential system, once one wins the presidential election, one selects one's Cabinet from outside Parliament. Perhaps the only area we can have something to talk about is in the provision for mergers of political parties. In the next amendments, we are going to talk about mergers. However, I believe that pre-election coalitions should not be for now. We should, instead, be enacting a law for the posterity of Kenya.

**The Minister for Energy (Mr. Murungi):** Madam Temporary Deputy Chairlady, Sir, I oppose the amendment proposed by the Committee.

It will be a serious breach of the Constitution of Kenya for us to abolish coalitions in the way the Committee has proposed. In its definition of "Majority Leader", the Constitution recognises that the Majority Leader could be a leader of a political party or a leader of a coalition of parties. So, the very idea of coalitions is embedded in our own Constitution.

Madam Temporary Deputy Chairlady, we have fought very hard in this country for both human rights and political rights. One of the essential rights within the structure of the fundamental rights of every Kenyan is freedom of association. Political parties are now being defined as "persons" and it will be very dangerous for us, as Members of Parliament, to sit here and deprive people of their freedom of association. Political parties should be left free to form coalitions, either before or after elections.

With those few remarks, I oppose the amendment.

**Mr. Ruto:** Madam Temporary Deputy Chairlady, I beg to support the retention of the need for pre-election coalitions on the basis that it is, indeed, important. We have seen the threat to the stability of the nation by---

**Mr. Ethuro:** On a point of order, Madam Temporary Deputy Chairlady. I just wanted my good friend, hon. Isaac Ruto, to be very clear as to whether he is supporting or opposing the amendment. When he says that he is supporting the retention, it means that he is opposing the amendment. So, we need that clarity for the sake of the record of the House.

**Mr. Ruto:** Madam Temporary Deputy Chairlady, I am definitely opposing the amendment. I want to retain what is in the Bill. I think my friend understands this.

It is very important that we even understand where we are. This country was forced into a post-election coalition in order for it to remain stable. That is something which could have been sorted out if there had been a pre-election package that would have ensured post-election stability. Let us not outlaw a situation which may be used to ensure stability for this country because of being selfish and engrossing ourselves in short-term imaginations as, I am sure, a few of my friends like Mr. Namwamba want to imagine.

**The Assistant Minister for Livestock Development (Mr. Duale):** Madam Temporary Deputy Chairlady, I stand to oppose this amendment for the simple reason that under a presidential system of government, Parliament will be a very important institution. Parliament will be involved in the running of the Government. So, if the President does not have the requisite numbers, the Government cannot run its affairs. So, we must encourage formation of coalitions. We should not run away from coalitions. If well run, coalitions can do very well. It is only where people do not agree that a problem comes in.

**Dr. Nuh:** Madam Temporary Deputy Chairlady, I want to oppose the amendment and say that it is a constitutional right for anybody to associate with others at any time.

**Dr. Eseli:** On a point of order, Madam Temporary Deputy Chairlady. Is the hon. Member in order to quote the Constitution out of context? While the Constitution allows freedom of association, you have the freedom to associate with the political party you support. You should not necessarily get into a coalition to fulfill your personal ambitions. It is not so.

**Dr. Nuh:** Madam Temporary Deputy Speaker, Sir, it will be well understood that hon. Eseli could still have made such contribution in the House.

The freedom to associate cannot be capped in time. You cannot set a time limit within which you can associate with a political party, or within which a second political party should not be deemed to associate with another political party. People are raising fears that pre-election coalitions are a recipe for people to fight, or that they will be avenues for people to gang up against one another for purposes of general elections. It could happen that even before elections come, parties find that they have got so many similarities. So, for such parties to be restrained from having an association merely because elections are nearing is an infringement on the rights of individuals, which rights are offered by the Constitution.

Besides, people fear that pre-election coalitions will be a recipe for turmoil because it has happened previously when people and political parties went into coalitions but did not deposit the coalition agreements with the relevant office. In this case, we have a provision for a coalition agreement, under Sub-clause (1), for an agreement to be deposited with the Registrar at least three months before an election.

So, once we have put a provision for another office to monitor even pre-election agreements that would come about, I do not think there should be any fear and people be restrained from having coalitions at any time they so wish. This is a right which has been enshrined in the Constitution for people to associate even at night, if they so wish.

**Mr. Gunda:** Madam Temporary Deputy Chairlady, I support the deletion of this provision.

We are trying to get away from the past. We have seen how pre-election coalitions have caused havoc in this country. Time has now come for us to move forward. In the opinion of the Committee, coalitions, if any, should be formed after an election. Coalition of parties as envisaged in the Constitution means that if a political party, after fighting in an election, has not been able to garner the necessary votes or the necessary numbers in Parliament for them to form a government, or for them to have a majority to be able to produce a Leader of Majority, that party should seek a coalition with other like-minded parties in order for them to be able to govern.

So, I support the amendment, so that this country can move forward.

**The Temporary Deputy Chairlady** (Dr. Laboso): Mr. Namwamba, make your contribution short. We want to dispose of this amendment.

**Mr. Namwamba:** Madam Temporary Deputy Chairlady, this is a fundamental debate which I believe we all should have opportunity to ventilate on the same.

I want to plead with this House that as we get into the serious business of rolling out the new dispensation, we must avoid the instinct and tendency to legislate for convenience; to legislate for the short-term, to legislate for what is comfortable now. I think history has given us, Members of this Tenth Parliament, a unique opportunity to reshape the character and the foundations of this Republic. Therefore, I want to plead that even as we debate this critical matter, let us address our mind to some fundamental issues.

One, political parties go to elections to seek power to govern on the basis of a defined, distinct ideological or philosophical platform. That platform forms the basis of the contractual relationship between the political party and the electorate. To purport to tell us that you can have a cocktail of ideological positions or philosophies prior to an election can only amount to political infidelity, not political freedom of association.

Madam Temporary Deputy Chairlady, I have heard Members mention certain articles of the Constitution which I believe are important to put in the right context. Mr. Murungi made reference to Article 108 of the Constitution and he quoted the position of the Majority Leader. For the record, allow me to read that section:-

“The leader of the majority party shall be the person who is the leader in the National Assembly of the largest party or coalition of parties”.

That provision does not say that the coalition of parties must be pre-existing prior to elections. In fact, if you are to look at any mature democracy, whether it is a parliamentary system like the United Kingdom (UK), for example, today the Liberal Democrats and the Tories are in some kind of coalition managing the affairs of the UK. They did not come together prior to elections. Each of them fought in the UK elections on a distinct separate platform. Only after elections did the leader of the Liberal Democrats and the leader of the Conservative Party sit down and hammer out an arrangement after the British people had the opportunity to make a decision based on the distinct identity of the Liberal Democrats, the Conservative Party and the Labour Party.

To, therefore, indicate that this clause in Article 108 pre-supposes that this majority leader can only be leader of a majority of a coalition formed prior to election is misleading. And that, this has come off the lips of a senior attorney and a senior Member of this House is, indeed, unfortunate.

Finally, someone has also made mention of the freedom of association---

*(Loud consultations)*

Madam Temporary Deputy Chairlady, allow me to exhaust my time because this matter is fundamental.

I caution this House that many days, many months and many years from today, history shall judge this country---

**Mr. Ruto:** On a point of order, Madam Temporary Deputy Chairlady.

**The Temporary Deputy Chairlady** (Dr. Laboso): Mr. Namwamba, allow Mr. Ruto's point of order.

**Mr. Ruto:** Madam Temporary Deputy Speaker, the Committee Stage is not for debate. I think each Member is taking too much time.

**The Temporary Deputy Chairlady** (Dr. Laboso): Mr. Namwamba, please, conclude!

**Mr. Namwamba:** Madam Temporary Deputy Chairlady, I want to conclude by reminding this House that the convenience of today, whether that is the convenience of G7, G9 or G20 are passing clouds. Those positions we find convenient today must not be the platform that dictates how we legislate. We must legislate for Kenya; we must legislate for the future not for some temporary coalitions and movements of convenience of 'G this' and 'G that'.

**The Temporary Deputy Chairlady** (Dr. Laboso): Hon. Members, we just want two more contributions and then we put the question. I have given a lot of time because of the importance of the issue under discussion. However, we cannot go on forever. Let us dispose of it or adopt it through the normal way.

Mr. Kimunya, please, proceed!

**The Minister for Transport** (Mr. Kimunya): Thank Madam Temporary Deputy Chairlady.

I would like to urge this Committee to look at this matter broadly. We have two amendments on the same matter. The amendment by the Minister, which will come after this, aims to delete and amend, in order to solve the problem that the Members who also deleted are talking about. Unfortunately, if the first amendment by the Committee which is to delete goes through, it means that we have lost the opportunity to amend the matter because there will be no clause to amend.

I believe what I am hearing is, we are talking of there being coalitions before or after. As per the Bill now, it talks of coalitions before. The amendment by the Minister is to allow coalitions at any time; before or after, to accord with the Constitution.

Madam Temporary Deputy Chairlady, unfortunately, the reality of the matter in the Committee is that if we delete this as proposed by the Committee---

**Mr. Oyongo Nyamweya:** On a point of order, Madam Temporary Deputy Chairlady.

**The Temporary Deputy Chairlady** (Dr. Laboso): What is your point of order, Mr. Oyongo Nyamweya?

**Mr. Oyongo Nyamweya:** Madam Temporary Deputy Chairlady, is the Minister in order to tell this House that the deletion is against the Constitution yet we know very clearly that it is not? Is he in order to mislead the House?

**The Minister for Transport** (Mr. Kimunya): Madam Temporary Deputy Chairlady, I would urge Mr. Nyamweya to be more attentive now and in future.

The point I am explaining is that we have two amendments. If we just delete this clause as per the first amendment which has been proposed by Mr. Ethuro, on behalf of the Committee, there will be no Clause 14 to be further amended by the Minister. The proposal by the Minister is not only to delete the clause but to also amend it, and accord it to the Constitution, which will give the opportunity for coalitions to be formed before or after because the Constitution allows people to have coalitions.

I want to explain that to the Members so that we do not end up creating a problem as we try to rectify a problem. The natural way to do it is; we now need to, first of all, defeat or withdraw the amendment by the Committee and then we move to the second amendment which will mean our Political Parties Act is in accord with the Constitution.

**Dr. Eseli:** On a point of order, Madam Temporary Deputy Chairlady. Is the Minister in order to mislead the House that the Constitution anticipated pre-election and post-election coalitions yet the Constitution actually anticipated a post-election coalition? It is already in the Constitution and, therefore, we do not need to legislate on it. This is in the sense that they are anticipating a leader of the majority of party or coalition of parties. Is the Minister in order to mislead the House?

**The Temporary Deputy Chairlady** (Dr. Laboso): Order! Are hon. Members aware that we have a Supplementary Order Paper? We should be working with the Supplementary Order Paper!

**Hon. Members:** We do not have it!

**The Temporary Deputy Chairperson** (Dr. Laboso): Some hon. Members have the Supplementary Order Paper. The Serjeant-at-Arms, please, make sure that every hon. Member has a Supplementary Order Paper!

Mr. Kimunya, please, conclude!

**The Minister for Transport** (Mr. Kimunya): Madam Temporary Deputy Chairlady, let me respond. The import of the amendment is not to allow people to have a coalition, but it is to regulate the manner in which those coalitions will be governed and force them to deposit their coalition agreements with the Registrar of Political Parties, so that he or she can sort out the messes in the coalition, should they arise. It is important we appreciate the fact that the Constitution gives the power to associate and recognizes the coalitions, but they need to be managed whenever they are formed before or after by the Registrar of Political Parties. We need the Political Parties Act to provide for that regulation. That is what the amendment by the Minister, when it comes – you will see it in the Supplementary Order Paper – will be sorting out. So, let us delete the amendment proposed by the Committee and then we amend the Bill as proposed by the Minister.

**Ms. Karua:** Madam Temporary Deputy Chairlady, I support the amendment.

Madam Temporary Deputy Chairperson, I think we are all talking about the same thing, but some Members are missing the point. The freedom of association is there and we must really stand for it. However, what is a political party? The Constitution does not



define it and this proposed Bill, does not define it. However, in the current Political Parties Act, it is an association of like-minded people for purposes of capturing political power. If such an association then comes together in an alliance before the elections, they have lost the will to capture political power long before elections. The place of such people, because they are entitled to their view under the Constitution, is to merge. That is what mergers are for. If, before the elections, they feel that they are so much the same, then they merge to become one formidable unit to go to elections. Parties that want to survive go to the elections as they are and then after elections, if the party that has a majority does not have an absolute majority, it then courts the other parties, for a temporary union which is not a merger. We are mistaking the two processes. The freedom of association is protected in mergers before the elections, but after elections, you can have the coalition.

Madam Temporary Deputy Chairlady, I urge Members of this House not to look just for short-term solutions. If we are looking for a short-term solution in order to probe certain groupings, then we will go for the Minister's amendment, but if we are looking for something to stand us in good stead, we will then take the Committee's amendment.

I want to remind this House that in 2007, in order to probe the PNU Coalition, because NARC-(K) had refused to go into joint nominations, we actually had to arrange to bring the political parties back here so as to put the definition of a coalition, party of parties or alliance. You can see the trouble it has landed us in. We now have to litigate in court because our money has been taken away. Why do you want to legislate to give other people problems? I am just sharing this to tell you that for pre-election, let people merge, and for post-election, let people coalesce.

Madam Temporary Deputy Chairlady, I beg to support the amendment.

**The Temporary Deputy Chairlady** (Dr. Laboso): Hon. Members, before I put the Question, I want to make it very clear that the Question is about deletion. If it is deleted, we will have no further amendment on this clause.

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

**Hon. Members:** Division! Division!

*(Several hon. Members stood up in their places)*

**The Temporary Deputy Chairlady** (Dr. Laboso): Hon. Members, we have counted the Members upstanding and you are not 20 Members. Hon. Members, Standing Order No.60 (1) (b) reads:-

(b) If, on a question other than a question of procedure, twenty or more further Members rise in their places to support the Member claiming the division."

Hon. Members, we will now move to the second amendment on Clause 10 by the Minister.

**The Minister for Energy** (Mr. Murungi): Madam Temporary Deputy Chairlady--

-

*(Several hon. Members stood up in their places)*

**Hon. Members:** On a point of Order!

**The Temporary Deputy Chairlady** (Dr. Laboso): Hon. Members, the Minister has not spoken. What are the points of order on? What is your point of order, Mrs. Shebesh?

**Mrs. Shebesh:** Madam Temporary Deputy Chairlady, I have a fundamental issue that I want to raise. These are the amendments of the Committee that we have agreed to come and support in this House, but the Mover for the Committee has already shown that he is not moving this on behalf of the Committee. Would I be in order to ask that we give somebody else the opportunity to move the amendments and that he withdraws from moving the amendments for the Committee because he is not in agreement with it?

**Mr. Ethuro:** On a point of order, Madam Temporary Deputy Chairlady. Is it in order for Mrs. Shebesh to impute improper motive on my part when I stood and moved the amendment as per the Order Paper?

**Mr. Namwamba:** On a point of order, Madam Temporary Deputy Chairlady. The issues we are dealing with here are not child's play but serious issues. Is it in order that I would rise, move an amendment and when the Question is put, I vote against the amendment that I have moved? Is it procedural? Is that not political infidelity and insincerity of the highest order?

**Mr. Ethuro:** On a point of order, Madam Temporary Deputy Chairlady. I did move the amendment and I have not voted against it. I do not know where Mr. Namwamba is getting the assumption that I voted against the amendment. I am not responsible like him in the--- Two wrongs do not make a right!

**Dr. Eseli:** Eyes do not lie. You voted against it!

**The Temporary Deputy Chairlady** (Dr. Laboso): Order, hon. Members! Are we in a position to determine whether Mr. Ethuro shouted "Yes" or "No?"

**Dr. Eseli:** On a point of order, Madam Temporary Deputy Chairlady. When we called for Division, he did not stand.

**The Temporary Deputy Chairlady** (Dr. Laboso): Hon. Members, I have been guided that Division is a different matter from voting.

Mr. Minister, can you move your amendment?

**The Minister for Energy** (Mr. Murungi): Madam Temporary Deputy Chairlady, I beg to move:-

THAT the Bill be amended by deleting Clause 10 and substituting therefor the following new clause –

**Coalitions.**       **10.** (1) Two or more political parties may form a coalition before or after an election and shall deposit the coalition agreement with the Registrar.

(2) A coalition agreement entered into before an election shall be deposited with the Registrar at least three months before that election.

(3) A coalition agreement entered into after an election shall be deposited with the Registrar within twenty-one days of the signing of the coalition agreement.

(4) A coalition agreement shall set out the matters specified in the Third Schedule.

**Mr. Ethuro:** On a point of order, Madam Temporary Deputy Chairlady. I am aggrieved. Members are discussing me without a substantive Motion. They are claiming that I am dishonest when they are the ones who are dishonest. They are claiming that I voted against an amendment and I did not.

**The Temporary Deputy Chairlady** (Dr. Laboso): Order, hon. Ethuro! Could you conclude, Mr. Minister?

**The Minister for Energy** (Mr. Murungi): Madam Temporary Deputy Chairlady, I do not have to say much in moving this amendment. That is because the argument is exactly what you have gone through with regard to the previous amendment that was defeated. There is a need for coalitions both before and after elections. It should be left to the political parties to decide on whether they want to be together in a coalition before or after an election. That is perfectly allowed by the new Constitution.

I beg to move.

*(Question of the amendment proposed)*

**Dr. Khalwale:** Madam Temporary Deputy Chairlady, I rise to support the amendment. That is because this amendment is intended to capture the letter and spirit of the Constitution. I have to support it and request hon. Members to do the same. However, more importantly, we should ask ourselves why we are looking for a coalition. We are looking for a coalition for two reasons: Either because we want to make sure that we win power or to make sure that we break a deadlock. Suppose we reach to a point where we are unable to move ahead? We would create a crisis. The coalition, if it is formed, will allow the country to move forward in a legal manner.

I support.

**The Minister for Nairobi Metropolitan Development** (Mr. Githae): Madam Temporary Deputy Chairlady, I rise to support this amendment. It is important that we give political parties the democratic freedom to enter into coalitions before and after the elections. The Minister's amendments are even better. He has said that if you decide to have a pre-election coalition, you have to register the agreement three months before with the Registrar. So, we will know the parties that have agreed to form a coalition and the terms of the coalition will not be a secret. There will be no secret memoranda hidden somewhere. We can also have a coalition after the election. If, for example, you thought that your party was very powerful, but you discover that it is just a briefcase party, you can move to the main parties and agree on a coalition. That is the right way to go.

I support.

**The Temporary Deputy Chairlady** (Dr. Laboso): Dr. Eseli has a further amendment.

**Dr. Eseli:** Madam Temporary Deputy Chairlady, I move this amendment because I feel that, while the Minister has some good intention in it, the legislative for post-election coalition, I am against the pre-election coalition.

I beg to move:-

THAT, Clause 10(i) be amended by deleting the words "before or" so that the clause reads:-

"Two or more political parties may form a coalition after an election and shall deposit the coalition agreement with the Registrar.

We then delete Clause 10(2) entirely.

*(Question of the further amendment proposed)*

**Ms. Karua:** Madam Temporary Deputy Chairlady, I support the further amendment by Dr. Eseli. To be very precise, I support the amendment to the amendment so that we provide for a situation where coalitions are only after elections.

**Dr. Nuh:** On a point of order, Madam Temporary Deputy Chairlady. I seek your guidance on whether the amendment proposed by Dr. Eseli is in order. He is trying to introduce an amendment that has already been negated through the backdoor. So, according to the Standing Orders, he cannot introduce an amendment which has already been negated.

**Dr. Eseli:** Can I respond?

**Ms. Karua:** Madam Temporary Deputy Chairlady, you have already proposed the Question and I do not think that my colleague can overrule you. I am, therefore, supporting the amendment to the amendment so that we rest with post-election coalitions. Mergers are for those who coalesce together before elections. Let those who want to merge; whether G10, G20, G30 or even G7 - as far as I know, G7 is rich nations in Europe. I do not know when people got rich locally to call themselves G7. However, whichever way they choose to go, it is provided for through mergers. Let us stop distorting democracy. Let us build democracy. Those who share see things the same way should coalesce into one party. The reason for having a Political Parties Act is to whip parties to nurture democracy. If parties have the same ideals, they have no basis of existing separately. So, let those who come together earlier merge and those who want a short term coalition for purposes of "after elections", have a coalition.

I beg to support.

**Mr. C. Kilonzo:** Madam Temporary Deputy Chairlady, I oppose. I do not intend to discuss anybody but from experience, we know that those who are against forming coalitions before elections are the same people who, when they wanted to remove KANU from power, it was very convenient to form coalitions before elections. Now that they are almost in State House, they do not find it convenient.

**Mr. Mbadi:** On a point of order, Madam Temporary Deputy Chairlady. I think it is important to have facts right. What removed KANU from power in 2002 was a merger of parties into the NARC Party. Actually, anybody who stood for elections stood on a NARC ticket. Nobody stood on NDP, NAK or DP. Those parties were dormant until after the elections. So, we need to get the facts right.

**The Temporary Deputy Chairlady (Dr. Laboso):** Conclude your contribution, Mr. C. Kilonzo.

**Mr. C. Kilonzo:** Madam Temporary Deputy Chairlady, during that time he is talking about, he did not even know what was going on. I was a player myself. He had no idea of what was happening. So, in the last election---

**Mr. Mbadi:** On a point of order, Madam Temporary Deputy Chairlady. The fact that Mr. C. Kilonzo came to Parliament five years before me does not make him senior in politics. He is senior in Parliament but not in politics. He came to Parliament first but not in politics. He was in KANU.

*(Mr. Mbadi banged the Table)*

**The Temporary Deputy Chairlady** (Dr. Laboso): Stop banging the Table, Mr. Mbadi. If you continue the way you are going, you will soon get out of this House.

Hon. Mbadi, out!

*(Applause)*

*(Mr. Mbadi withdrew from the Chamber)*

**Mr. C. Kilonzo:** Madam Temporary Deputy Chairlady, in terms of seniority, I am always senior. By the time I left university, he had not even joined university. To conclude, in the last elections---

**Mrs. Shebesh:** On a point of order, Madam Temporary Deputy Chairlady. You have already ruled on an issue. You have sent a Member of Parliament out, I do not know for how long. Is it in order for the hon. Member to come back here and speak about the same Member whom you have sent out?

**The Temporary Deputy Chairlady** (Dr. Laboso): Hon. Members, I have sent hon. Mbadi out under Standing Order No.97(2)(a), for the remainder of the day's sitting. Hon. Member, you should not be discussing a Member who has already been thrown out of the House.

**Dr. Eseli:** On a point of order, Madam Temporary Deputy Chairlady. Is the hon. Member in order to mislead the House by purporting that stopping the pre-election coalition has been successful before, yet it has previously been shown that it led to a rocky government and the NARC should have been a merger rather than a coalition?

**Mr. C. Kilonzo:** Madam Temporary Deputy Chairlady, it is unfortunate that the party he belongs to was actually in a coalition before the last elections. So, the issue is: Why would one deny somebody's right to form a coalition before an election because it is not convenient? Now that it is inconvenient for you, then you are saying you cannot allow coalitions before elections. So, I oppose.

**The Minister for Transport** (Mr. Kimunya): Madam Temporary Deputy Chairlady, I just want to throw some light on the amendment by hon. Eseli. It is all very well to say that coalitions should only be allowed after an election, but remember elections take place every five years. Now, if you just delete "before an election" and say "after an election", which election shall we be talking about? Are they the 2002, 2007 or the 2012 elections? We must be very clear when we are passing laws. I think the important thing is that if you want to move an amendment, let us not create a situation that will be challenged here in Parliament as to what you exactly meant. So, this amendment by Dr. Eseli means exactly the same as the amendment by the Minister, except that the one by the latter is very clear that you are allowed to form a coalition before or after an election for avoidance of doubt. Dr. Eseli, I would urge that, perhaps, you withdraw your amendment or we defeat it.

**Mr. Gunda:** Madam Temporary Deputy Chairlady, we are talking about the same thing we talked about in the last amendment. Dr. Eseli's amendment is calling for coalitions after an election for the reason that we had a pre-election coalition in 2002 and that government did not last a day. We had a coalition after 2007 and we are seeing how rocky it is. We want to see a party that fights for elections and once it has gone through

that election and is not able to form a government, then you look for somebody else to join you and you form a government. We are urging the Minister who has brought this amendment to have a coalition after the elections.

**Dr. Nuh:** On a point of order, Madam Temporary Deputy Chairlady. I had requested you to give a ruling because the Standing Orders are very explicit on this. Once an amendment has been negated, it cannot be re-introduced and that has already been confirmed again by hon. Gunda. The intention is to reintroduce an amendment which has already been negated. I urge you to find that this amendment is out of tune with our Standing Orders.

**The Temporary Deputy Chairlady (Dr. Laboso):** Hon. Nuh, this is a new amendment. It is not the deleted one. Allow me to put the Question so that we move on.

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

*(Clause 10 as amended agreed to)*

#### *Clause 11*

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

THAT Clause 11 of the Bill be amended by inserting the following new sub-clause after sub-clause(6)-

(7) Where a political party merges with another political party, a member of the political party that has merged with another and who is a member of Parliament or of a county assembly who does not desire to be a member of the political party formed after the merger shall continue to serve as a member of Parliament or of the county assembly as an independent member for the remainder of the term of the member.

Madam Temporary Deputy Chairlady, the purpose of this amendment is to ensure that we do not create political orphans after parties have been merged, especially for Members of Parliament and Members of the county assemblies.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairlady (Dr. Laboso):** Hon. Kimunya, do you have a further amendment?

**The Minister for Transport (Mr. Kimunya):** Yes, Madam Temporary Chairlady. I beg to move:-

THAT, Clause 11 be further amended by inserting the following words between the words “county assembly” and “as an independent member”; “and may join another party or opt to be”.

This will basically mean that a Member shall continue serving as a Member of Parliament or the County Assembly and may join another party or opt to be an independent member for the remainder of the term.

It is obvious that when you force somebody to be an independent member, there are some legal implications arising from what an independent member can do or cannot

do as defined in the Constitution. By allowing the member who has been “orphaned” by the parties’ merger to decide what to do, you are giving them a choice.

*(Applause)*

*(Question of the further amendment proposed)*

**Ms. Karua:** Madam Temporary Deputy Chairlady, I beg to oppose. The Committee’s amendment as it stands is quite clear that that Member will continue to serve as an independent member. The further amendment is, therefore, superfluous and totally unnecessary. I beg to oppose.

**Mr. Lessonet:** Madam Temporary Deputy Chairlady, I truly support the amendment by the hon. Minister, especially if it is going to be effective from today, so that we can start that movement to other parties. That is the main reason why I support it.

**The Minister for Nairobi Metropolitan Development (Mr. Githae):** Madam Temporary Deputy Chairlady, I stand to support the further amendment. We are talking about this from very bad experiences that we have had before, where two or more political parties merged and there were some orphans. Those who did not like the new party had nowhere to go. The Minister’s further amendment is giving you a choice to either be an independent member or join another political party.

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

*(Clause 11 as further amended agreed to)*

*Clause 12*

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

THAT, Clause 12 of the Bill be amended by inserting the following new sub-clause after sub clause (2) –

“(3) Until after the first elections under the Constitution, sub-section (2) shall apply to “the Prime Minister”.

Madam Temporary Deputy Chairlady, if you notice, the definition of a “public officer” is captured in 12(1) and then in 12(2); it has excluded certain offices. For purposes of this Constitution, both the offices of the President and the one of the Prime Minister in the transitional clauses are actually protected. So, for avoidance of doubt, again, I think hon. Kimunya used that word in the previous amendment to ensure that, that is very clear from the beginning even now.

Madam, Temporary Deputy Chairlady, I beg to move.

*(Question of the amendment proposed)*

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

*(Clause 12 as amended agreed to)*

*(Clause 13 agreed to)*

*Clause 14*

**Mr. Ethuro:** Madam Temporary Deputy Chairlady, I beg to move THAT, Clause 14 of the Bill be deleted and substituted with the following new clause:-

14. (1) A member of a political party who intends to resign from the political party shall give fourteen days written notice prior to the member's resignation to-

- (a) the political party;
- (b) the clerk of the relevant House of Parliament if the member is a member of Parliament; or
- (c) the clerk of the county assembly, if the member is a member of a county assembly.

(2) The resignation of the member of the political party shall take effect upon the expiry of the fourteen days notice under subsection (1).

(3) The political party of which the person is a member or the clerk of the relevant House of Parliament or of a county assembly of which the person is a member shall notify the Registrar of such resignation.

(4) A person shall not be a member of more than one political party at the same time.

(5) A person who, while a member of a political party-

- (a) forms another political party;
- (b) joins in the formation of another political party;
- (c) joins another political party;
- (d) in any way or manner publicly advocates for the formation of another political party; or
- (e) promotes the ideology, interests or policies of another Political party, shall, notwithstanding the provisions of sub-section (1) or the provisions of any other law, be deemed to have resigned from the previous political party.

(6) A member of a political party may only be expelled from that political party if the member has infringed the constitution of the party and after the member has been afforded a fair opportunity to be heard in accordance with the internal party disputes resolution mechanisms as prescribed in the constitution of the party.

(7) A person who suppresses or attempts to suppress any lawful political activity of another person commits an offence and shall, on conviction, be liable to a fine not exceeding one million shillings or to imprisonment for a term not exceeding two years or to both.

What this amendment serves is just to clarify some of the issues, including the duration in which you should give notice; just for orderly information and communication to that effect, especially for a member of a party who is desirous of changing party.



With those few remarks, I beg to move.

*(Question of the amendment proposed)*

**Dr. Nuh:** Madam Temporary Deputy Chairlady, I support the amendment but subject to further amendment. I beg to move:-

THAT, Clause 14(1) be amended by deleting the words “fourteen days”.

I say this because once someone notifies that he is quitting a party, the written notice to that party suffices. There are no rent arrears, which you are owed for it to warrant that 14 days should elapse before you quit a party. I think the matter of someone quitting a party is a constitutional right. Once a Member decides that he wants to quit a party, then there should be no timelines within which he is supposed to be retained within that party for it to be formalized. I think it is a matter of union; someone joined a party, he wants to quit it. I think once a written notice is given, that should suffice. So, I am proposing that we delete the words “fourteen days”, so that it becomes only a written notice. I will propose further amendments as we go on.

**The Temporary Deputy Chairlady** (Dr. Laboso): Hon. Dr. Nuh, if you had two amendments, you give the two amendments.

**Dr. Nuh:** Madam Temporary Deputy Chairlady, I also propose on Clause 14(2) that we delete the words “upon the expiry of the fourteen days notice under subsection (1)” and insert thereof the words “immediately upon receipt of such notice by the political party, or clerk of the relevant House, or the county assembly”.

*(Question of the further amendment proposed)*

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

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

**The Temporary Deputy Chairlady** (Dr. Labaso): Hon. C. Kilonzo, can we hear you further amendment and dispose it off as well.

**Mr. C. Kilonzo:** Madam Temporary Deputy Chairlady, my amendment is on 14(3). I beg to move:-

THAT, Clause 14(3) be amended by inserting the words, “or the member” immediately after the words, “the person is a member” on the third line.

The purpose is the notification to the Registrar about the quitting of the party. A member should also have a right to inform the Registrar that he is quitting a party rather than leaving it to the House of Parliament or county assembly.

*(Question of the further amendment proposed)*

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

**The Temporary Deputy Chairlady** (Dr. Laboso): Further amendment to Clause 14 by hon. Githae.

**The Minister for Nairobi Metropolitan Development** (Mr. Githae): Madam Temporary Deputy Chairlady, I propose a further amendment to Clause 14. I beg to move:-

THAT, Clause 14(5)(d) and (e) shall not apply to a member of a political party in relation to the common objective of a coalition.

Madam Temporary Deputy Chairlady, now that we have agreed on coalitions both before and after elections, it is only fair and important that we also have this amendment so that once you are in that coalition and you are advocating for the formation of a political party, you are not deemed to have resigned your seat. This will give more democracy to the members, so that someone does not say you have resigned from your party. We must give members of the county assemblies and National Assembly democratic power.

*(Question of the further amendment proposed)*

**Ms. Karua:** Madam Temporary Deputy Chairlady, I oppose this amendment.

It looks like we do not need the Political Parties Act at all. The reason parties and stakeholders discussed to bring forth a Political Parties Bill was to discipline political parties and nurture democracy. If we are now legislating for party hopping, for terrible behaviour by political parties, that you do not have to give notice; you can hop to six or five parties, from G7 to G3, to G10 to G anything. I think we are killing democracy. I want to go on record as opposing this deliberate, devious amendment.

I beg to oppose.

**The Assistant Minister for Industrialization** (Mr. Muriithi): Madam Temporary Deputy Chairlady, I support this further amendment.

Madam Temporary Deputy Chairlady, I think contrary to the assertion that this political parties law is not necessary, it is very necessary. However, I think as we make the law, the law itself must be consistent with the Constitution. This is because any law that we make will of necessity and by operation of the Constitution be invalid to the extent that it purports to contradict the Constitution. So, the proposed amendments must be consistent with the entire Bill.

Madam Temporary Deputy Chairlady, for example, the previous amendment that removed the purported limit time and so on was in line with the Constitution. This streamlining is so that if we are allowing you to be in a coalition, we must allow you to express your views and not be deemed---

I support, Madam Temporary Deputy Chairlady.

**Dr. Eseli:** Madam Temporary Deputy Chairlady, I oppose this amendment with very clear reasons. If you remember, NARC survived after the referendum in 2005 by poaching members from other political parties. This legislation we are putting here seems to be legitimizing the poaching.

Another thing is that; what we are doing here is legitimizing political prostitution; hopping from party to party at will. What we are doing here is that we are justifying what PNU has been doing by "eating" its own children and adopting the neighbours'. That is what we are doing with this amendment to this Bill. Yet this is supposed to be an Act to govern political parties, not for our convenience. It is important that we realize that. We have pushed it too far with the many amendments that we have put here. It is no longer useful as a Political Parties Bill.

**The Assistant Minister for Public Works** (Mr. Kiunjuri): Madam Temporary Deputy Chairlady, I stand to oppose this amendment. If we allow it to pass, at the end of the day, we will not have achieved much. We cannot be doing some renovation and, at the same time, pretending that we are constructing everything afresh, then we are just going back to the old days.

Madam Temporary Deputy Speaker, I wish to oppose.

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

*(Clause 14 as further amended agreed to)*

*Clause 15*

**Mr. Ethuro:** Madam Temporary Deputy Chairlady, I beg to move:-  
THAT, Clause 15 of the Bill be amended by deleting sub-clause (4).

Madam Temporary Deputy Chairlady, this amendment is suggesting deletion of sub-clause 4 where political parties aggrieved by the Registrar under Section 5 may appeal against such a decision to the Tribunal. You realize that there is no sub-section 5 there.

*(Question of the amendment proposed)*

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

*(Clause 15 as amended agreed to)*

*(Clause 16 agreed to)*

*Clause 17*

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

THAT, Clause 17 of the Bill be amended in sub-clause (3) by inserting the words “obtain copies” after the words “payment of the prescribed fee”.

Madam Temporary Deputy Chairlady, this is just to make it clear that after you pay, you must obtain copies.

*(Question of the amendment proposed)*

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

*(Clause 17 as amended agreed to)*

*Clause 18*

**Mr. Ethuro:** Madam Temporary Deputy Chairlady, I beg to move:-  
THAT, Clause 18 of the Bill be amended-

(a) in sub-clause (1) by deleting the words “any office holder” appearing after the words “in the prescribed form, to” and substituting therefor the words “the chairperson or secretary-general”;

(b) in sub-clause (3) by deleting the words “a political party or an office holder” appearing at the start of the sub-clause and substituting therefor the word “the chairperson or secretary-general of a political party”;

(c) in sub-clause (4) by deleting the words “a political party or an office holder” and substituting therefor the words “a chairperson or secretary-general of a party”

Madam Temporary Deputy Chairlady, the purpose of this amendment is to clarify which office holder of a political party we are referring to. You can imagine that politicians being what they are, even a junior officer of the party can claim that they must be the one responsible. So, we just want the chairperson and the secretary-general of the party to be the responsible party officers.

I beg to move.

*(Question of the amendment proposed)*

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

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

*(Clause 18 as amended agreed to)*

*(Clause 19 agreed to)*

*Clause 20*

**Mr. Ethuro:** Madam Temporary Deputy Chair, I beg to move:-

THAT, Clause 20 of the Bill be amended in sub-clause (3) by inserting the words “and after taking into account any representations received from the public under Sub-section (1) and (2)” after the words “the political party may”.

The entire clause is about changes to the political party and we would like to ensure that in sub-clause 3, the changes made are not only in accordance with the Constitution and the rules, but also in accordance with the representations made from the public.

*(Question of the amendment proposed)*

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

*(Clause 20 as amended agreed to)*

*(Clause 21 agreed to)*

*Clause 22*

**Mr. Ethuro:** Madam Temporary Deputy Chair, I beg to move:-

THAT, Clause 22 of the Bill be amended-

(a) in paragraph (a) of sub-clause (1) by inserting the words “or for purposes of challenging the de-registration of the political party”;

(b) in paragraph (c) of sub-clause (1) by inserting the words “except for the purposes of a meeting under paragraph (a)” after the words “a meeting of a political party”;

(c) in sub-clause (2) by deleting the words “independent candidates” appearing after the words “for the remainder of their term as” and substituting therefor the words “independents”;

(d) by inserting the following new sub-clause after sub-clause (2)-

“(3) Despite sub-section (2), where the de-registration of a political party is occasioned by a willful act or a willful omission of a member who is a member of Parliament or of a county assembly, that member shall cease to be a member of Parliament or of the county assembly”.

This is for purposes of ensuring that if a party has been de-registered, then you can challenge and raise certain issues. In (3) which may be of interest to the Members of Parliament or the County Assembly, that Member shall cease to be a Member of Parliament or of the County Assembly.

**The Temporary Deputy Chair** (Dr. Laboso): Hon. Ethuro, explain so that the Members clearly understand the import of your amendment. Mr. Ethuro, I am waiting for you to explain to the Members the significance of your amendment.

**Mr. Ethuro:** Madam Temporary Deputy Chair, Clause 22 attempts to give the effect of de-registration. We have clarified. We are adding a new sub-clause after sub-clause 2 which states that where a political party has been de-registered, the representatives elected to Parliament, Senate and the County Assembly shall continue to serve for the remainder of their term as independent candidates. We are saying that, that should not be the case. We disregard that according to the new sub-clause.

*(Question of the amendment proposed)*

**Mr. Ruto:** Madam Temporary Deputy Chair, I do not know whether that contradicts the earlier amendment that we had made.

**The Minister for Transport** (Mr. Kimunya): How can you allow a conversation?

**Mr. Ruto:** Madam Temporary Deputy Chair, this is a Committee of the House!

**The Temporary Deputy Chair** (Dr. Laboso): Can you make your own contribution, hon. Kimunya when you get your turn?

**Mr. Ruto:** Madam Temporary Deputy Chair, it was a point of information through the back door. But nevertheless, I just wanted to make it clear that there might be some contradiction with some earlier amendments. I have indication that there shall be a further amendment to regularize the same. I do not know whether it follows the

regulations because under the Standing Orders, I do not know whether you can do another amendment to run counter to this.

**The Minister for Transport** (Mr. Kimunya): Madam Temporary Deputy Chair, I beg to move:-

THAT, Clause 22 be further amended in sub-clause 2 by adding the following words at the end after “independent candidates”, “or as members of other political parties”.

This basically opens the door; that when your party is de-registered, you can either opt to be an independent candidate or join any other party and continue for the rest of the term in line with the earlier amendment that we passed to Clause 11.

*(Question of the further amendment proposed)*

**Ms. Karua:** Madam Temporary Deputy Chair, I want to oppose the further amendment. I think we are deliberately distorting the Political Parties Bill and the object of amending it to strengthen it in line with the Constitution. Instead, we have diluted it. It would be better if we did not have any Political Parties Bill. I will, at a later stage, seek to amend the Title, so that it is in accordance with what I have seen here, so that it can be called the “G-7 Political Parties Bill”.

**Mr. Ogindo:** Madam Temporary Deputy Chair, I rise to oppose the further amendment. This country is a multi-party democracy. We seriously fought for multipartism and the necessity for multipartism still remains alive. Today is a very sad day for multiparty democracy in this Republic. We are obliterating multipartism and we could as well have done without multipartism if we want to freely mingle. Political parties are formed so that they can form Governments. If we are going to allow people to cross the Floor at will---

## QUORUM

**Dr. Eseli:** On a point of order, Madam Temporary Deputy Chair. We do not have a quorum in the House.

**The Temporary Deputy Chair** (Dr. Laboso): Indeed, we do not have a quorum. Ring the Division Bell.

*(The Division Bell was rung)*

**The Temporary Deputy Chairlady** (Dr. Laboso): Order! Order, hon. Members! We now have a quorum.

Hon. Ogindo, you were on the Floor. Conclude your contribution, please.

**Mr. Ogindo:** Madam Temporary Deputy Chairlady, I continue to disagree with the further amendment to the amendment. Already, there is enough cushion, much as I do not agree with that cushion. It says that those who shall be orphaned shall remain as independents. To go further and say that they will be free to walk into one house and to another house and another house beats the whole logic of having multipartism.

With those remarks, I beg to oppose.

**The Assistant Minister for Public Works** (Mr. Kiunjuri): Madam Temporary Deputy Chairlady, as much as I do not agree, I am going to support this amendment. Of course, once you we agree that we can have---

**Mr. Lessonet:** On a point of order, Madam Temporary Deputy Chairlady.

**The Assistant Minister for Public Works (Mr. Kiunjuri):** What is not in order? Is it my dressing that is out of order or is it the way I appear? Do you not see that I look like a governor, hon. Lessonet?

Madam Temporary Deputy Chairlady, the two amendments that we have passed already allow us to belong to one party today, belong to another party tomorrow, *et cetera*. So, opposing this amendment does not change anything. So, this is confirmation that no single party is confident enough to win an election on its own and form a government.

With those remarks, I beg to support.

**The Temporary Deputy Chairlady (Dr. Laboso):** Yes, hon. Lessonet!

**Mr. Lessonet:** On a point of Order, Madam Temporary Deputy Speaker. I rise on a point of order to bring to your attention the fact that hon. Eseli came into this House to disrupt the proceedings by saying that there was no quorum. He came in to do just that and left. It is really contemptuous of this House for an hon. Member to do such a thing.

**The Temporary Deputy Chairlady (Dr. Laboso):** Hon. Lessonet, you have made your point but it is a known thing. An hon. Member is free to walk in and out of this House when he chooses to do so.

Yes, hon. Githae!

**The Minister for Nairobi Metropolitan Development (Mr. Githae):** Madam Temporary Deputy Chairlady, I just want to clarify one or two things. What we are doing is actually for the benefit of even the party leaders. We are giving people freedom to be either independent or to join political parties of their choice; one may not want to be an independent candidate. So, this amendment actually favours the political leaders. Once this happens, as a political leader, you can go and talk to those people who have been orphaned and show them how good your party is, so that they can join you.

**Ms. Karua:** On a point of order, Madam Temporary Deputy Chairlady. Is the Member for Ndia in order to claim that this amendment favours political party leaders instead of being specific and saying that it favours the President, who maintained his side of a coalition through poaching?

**The Temporary Deputy Chairlady (Dr. Laboso):** Hon. Members, it is time to put the Question on this matter and bring it to an end.

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

*(Clause 22 as further amended agreed to)*

*((Mr. Ogindo stood up in his place)*

**The Temporary Deputy Chairlady (Dr. Laboso):** Hon. Ogindo, are you standing on a point of order or you want to contribute?

**Mr. Ogindo:** Madam Temporary Deputy Chairlady, I am on a point of order.

**The Temporary Deputy Chairlady (Dr. Laboso):** You have not said so. Proceed, please

**Mr. Ogindo:** On a point of order, Madam Temporary Deputy Chairlady. On the amendment to Clause 22, you only proposed the Question. You did not put it.

**The Temporary Deputy Chairlady** (Dr. Laboso): You were not listening, hon. Martin Ogindo! I did put the Question. I further put the Question that Clause 22 as amended be part of the Bill.

**Mr. Ogindo:** Madam Temporary Deputy Chairlady, after you proposed the Question, I stood up and---

**The Temporary Deputy Chairlady** (Dr. Laboso): You are out of order, hon. Martin Ogindo!

*(Clause 23 agreed to)*

*Clause 24*

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

THAT, sub-clause (1) of Clause 24 of the Bill be amended by inserting the words “not being less than zero point three per cent of the revenue collected by the national government” after the words “such funds”.

Madam Temporary Deputy Chairlady, the real purpose for this amendment is to ensure that a particular amount of money – a well defined quantum – is obtained, so that the Government will not treat political party funding as if it will be doing political parties a favour.

With those remarks, I beg to move.

*(Question of the amendment proposed)*

**Mr. Ogindo:** Madam Temporary Deputy Chairlady, I beg to support this amendment, but there arises a complication here. We propose that when the political parties come to share this Fund, they should take into account the votes that each party got. However, we have effected amendments which change the votes in terms of the number of people those votes will bring into this House. How is that going to work?

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

*(Clause 24 as amended agreed to)*

*Clause 25*

**Mr. Ethuro:** Madam Temporary Deputy Chair, I beg to move:-

THAT, Clause 25 of the Bill be amended-

(a) by deleting sub-clause (1) and substituting therefor the following new sub-sections-

“(1) The Fund shall be distributed as follows-

(a) ninety-five per cent of the Fund proportionately by reference to the total number of votes secured by each political party in the preceding general election; and



(b) five per cent for the administration expenses of the Fund.  
(1A) Despite sub-section (1), a political party shall not be entitled to funding from the Fund if-

(a) the party does not secure at least five per cent of the total number of votes at the preceding general elections; or

(b) more than two-thirds of its registered office bearers are of the same gender.

(1C) For purposes of sub-sections (1)(a) and (1A)(a), the total number of votes secured by a political party shall be computed by adding the total number of votes obtained in the preceding general election by a political party in the election for the President, members of Parliament, members of the county assemblies and the governors”; and,

(b) by deleting sub-clause (2).

Madam Temporary Deputy Chair, the purpose of this amendment is to set out how you distribute the funding that political parties will get. The proposal was 90 per cent and we are putting it at 95 per cent. Therefore, instead of 10 per cent for administrative purposes, we are bringing it to 5 per cent. More money should be going to the political parties’ activities rather than to the administrative overheads.

It is also time to cure another problem; that a political party must have sufficient strength in the House. So, if the party does not secure at least 5 per cent of votes preceding a general election, it may not qualify. In “b” we are looking at the gender considerations.

After the amendment to “a” then sub-clause 2 does not arise and that is why we are deleting it.

*(Question of the amendment proposed)*

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

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

*(Clause 25 as amended agreed to)*

**The Assistant Minister for Public Works** (Mr. Kiunjuri): On a point of order, Madam Temporary Deputy Chair.

**The Temporary Deputy Chair** (Dr. Laboso): Mr. Kiunjuri, once it has been called you cannot contribute. You should have stood up earlier.

*Clause 26*

**Mr. Ethuro:** Madam Temporary Deputy Chair, I beg to move:-

THAT, Clause 26 of the Bill be amended

(a) in paragraph (a) of sub-clause (1) by inserting the words “and in the county assemblies” after the words “in Parliament”; and

(b) by inserting the following new sub-clause after sub-clause (3)-  
“(3A) A political party shall ensure accountability and transparency in its procurement processes”.

The justification is that we will appreciate that part (i) is talking about Parliament alone and has forgotten county assemblies, so we are adding that proviso.

The second insertion of the new sub-clause “3(A)” we are talking about the political party being accountable and transparent in its procurement process.

I beg to move.

*(Question of the amendment proposed)*

**The Minister for Nairobi Metropolitan Development** (Mr. Githae): Madam Temporary Deputy Chair, when we say “Parliament” we also include Senate, so this is right.

Now that we have agreed to increase the political parties’ amount from the Consolidated Fund, it is only fair that there is also a requirement that they use the money in a transparent manner. This will be a substantial amount of money. My rough calculations show more than Kshs500 million will go to the political parties. This should be good news to the political party leaders who should be here to support these amendments.

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

*(Clause 26 as amended agreed to)*

*(Clauses 27, 28 and 29 agreed to)*

*Clause 30*

**The Minister for Energy** (Mr. Murungi): Madam Temporary Deputy Chairlady, in light of the extensive amendments being proposed by the Committee, I would like to withdraw my amendment.

*(Proposed amendment by the Minister withdrawn)*

**The Temporary Deputy Chairlady** (Dr. Laboso): Hon. Member, since the Minister has withdrawn his amendment, could you now move your amendment?

**Mr. Ethuro:** Madam Temporary Deputy Chairlady, I wish to thank the Minister for conceding to the work of the Committee, because it is essentially the same amendment.

Madam Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 30 of the Bill be amended by deleting the word “within” appearing after the words “A political party shall” and substituting therefor the words “at least”.

Madam Temporary Deputy Chairlady, the real objective of this amendment is for clarity. If you talk of within 90 days, it could be from day one up to 90, but we are saying “at least.” So, it could be more than 90 days.

*(Question of the amendment proposed)*

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

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

*(Clause 30 as amended agreed to)*

*(Clause 31 agreed to)*

*Clause 32*

**The Minister for Energy** (Mr. Murungi): Madam Temporary Deputy Chairlady, again, I have looked at the Committee’s amendment and it is more comprehensive than the amendment being proposed by the Minister. I, therefore, wish to withdraw the amendment, so that we proceed with the Committee’s amendment.

**The Temporary Deputy Chairlady** (Dr. Laboso): Thank you, Mr. Minister!  
*(Proposed amendment by the Minister withdrawn)*

The Committee Member, do then propose your amendment.

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

THAT, Clause 32 of the Bill be deleted and substituted with the following new clause-

**Establishment  
of the Office of Registrar**

32(1) There is established the Office of the Registrar of Political Parties which shall be a body corporate with perpetual succession and a seal and which shall be capable of suing and being sued in its corporate name.

(2) The Registrar of Political Parties shall be deputized by three Assistant Registrars of Political Parties, not more than two of whom shall be of the same gender.

(3) The Office of the Registrar of Political Parties shall be a State office within the meaning of Article 260 of the Constitution.

(4) The Office of the Registrar of Political Parties may engage such staff, experts or consultants as are necessary for the proper and effective discharge of its functions under this Act and any other law.

(5) The Office of the Registrar of Political Parties shall be independent and shall not be subject to the direction or control of any person or authority.

(6) A person shall be qualified for appointment as Registrar of Political Parties or as an Assistant Registrar of Political Parties if the person-

(a) holds a degree from a recognized university;  
(b) has proven knowledge and experience in any of the following areas-

- (i) finance;
- (ii) management;
- (iii) political science;
- (iv) law
- (v) governance; or
- (vi) public administration;

(c) has, in the case of the Registrar of Political Parties, at least fifteen years post-qualification experience in the relevant area of expertise and in the case of an Assistant Registrar of Political Parties at least ten years post-qualification experience in the relevant area of expertise; and

(d) is a person of high moral character and integrity and has satisfied the requirements of Chapter Six of the Constitution.

(7) A person shall not be qualified for appointment as Registrar of Political Parties or as an Assistant Registrar of Political Parties if the person has, at any time within the preceding five years, held office or stood for election as a member of Parliament or of a county assembly or as a member of the governing body of a political party.

(8) The Registrar and the Assistant Registrars shall, before assuming office, take and subscribe the oath or affirmation under the Fourth Schedule.

(9) The Registrar and Assistant Registrars shall serve for a non-renewable term of six years and shall not be eligible for re-appointment.

(10) A person who serves as Registrar of Political Parties or as Assistant Registrar of Political Parties shall not be eligible to stand for election as a member of Parliament or of a county assembly or as a member of the governing body of a political party within five years of the person's exit from the office of the Registrar of Political Parties or Assistant Registrar of Political Parties.

Madam Temporary Deputy Chairlady, I want to agree with the Minister for his concession. The real purpose for doing this was to make this office more independent and get the requisite competence and capacity in order to deliver on the assignments that we have given to the office.

*(Question of the amendment proposed)*

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

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

*(Clause 32 as amended agreed to)*

*Clause 33*

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

THAT, Clause 33 of the Bill be amended-

(a) in paragraph (b) by deleting the word “manage” and substituting therefor the word “administer”; and  
(b) by deleting paragraph (g).

Proposal in Part “b” is just to express it better. Instead of managing, we are saying that his job should be to administer. We are also saying that he has no business in setting up some frameworks. They should not be managing or mis-managing political parties. That should be outside their province. I beg to move.

*(Question of the amendment proposed)*

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

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

*(Clause 33 as amended agreed to)*

## **PROGRESS REPORTED**

### THE POLITICAL PARTIES BILL

**The Minister for Energy** (Mr. Murungi): On a point of order, Madam Temporary Deputy Chairlady. I beg to move that the Committee doth report its progress to the House and seek leave to sit again another day.

*(Question proposed)*

*(Question put and agreed to)*

*(The House resumed)*

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

## REPORT

### THE POLITICAL PARTIES BILL

**Dr. Laboso:** Mr. Temporary Deputy Speaker, Sir, I beg to report that a Committee of the whole House has considered the proposals relating to the Political Parties Bill and has instructed me to seek leave to sit again tomorrow.

**The Minister for Energy** (Mr. Murungi) seconded.

*(Question proposed)*

*(Question put and agreed to)*

## ADJOURNEMENT

**The Temporary Deputy Speaker** (Mr. Imanyara): Hon. Members, on that note, we adjourn the proceedings of the House to tomorrow, 17<sup>th</sup> August, 2011 at 9.00 a.m.

The House rose at 6.30 p.m.