

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 16th November, 2011

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

QUESTIONS BY PRIVATE NOTICE

IMPOSITION OF DUTY MEDICINAL PRODUCTS IMPORTED BY BETA HEALTH CARE INTERNATIONAL

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

(a) Under what circumstances did the Kenya Revenue Authority (KRA) impose duty on medicinal products Sandoz Calcium (Forte) 500MG and Calcium Sandoz 1000MG imported by Beta Health Care International Limited and yet such products are zero-rated?

(b) What informed the decision for the Tariff Reclassification of the two products from Medicine (HS Code 3004.90.90) to Food Supplement (HS Code 2106.90.90) and imposition of duty retrospectively, from 2008 to 2003?

(c) Why is KRA also demanding over Kshs.127 million from Beta Healthcare on imported products that were re-exported and why has KRA since attached Kshs.33 million from the Company's VAT Receivable Account and frozen some of its bank accounts?

The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Finance (Dr. Oburu): Mr. Speaker, Sir, I wish to seek your guidance because this matter is actually pending before the Court. The company in question filed a Civil Appeal No.1008 of 2010 in the Court of Appeal and High Court Civil Application No.125 of 2010. This is a matter on which the Court ruled and there is judgment. These people have appealed and the same issues are being canvassed before the Court of Appeal.

Mr. Speaker: Very well. That is a claim for *sub judice*. I am wondering whether you have the pleadings brought in the court of first instance which in this case would be the High Court and the superior court which would be the Court of Appeal inclusive of the judgment that was delivered which has been appealed against. Do you have those pleadings?

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

Mr. Speaker: Order, Mr. Kutuny! I have sought certain information from the Assistant Minister!

The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Finance (Dr. Oburu): Mr. Speaker, Sir, I have a copy of the judgment which was made

by the lower court, that is, the High Court! It is also available on the website of the High Court.

Mr. Speaker: That may be so, Dr. Oburu! You can table the judgment. However, for me to be able to give proper directions I will require all the pleadings. Like I said, pleadings will include documents such as the plaint which may have been filed in the High Court. You may want to record that. I will require a copy of the defence; copies of any applications together with affidavits that may have been filed in the case; the judgment, which you have tabled, and the documents relating to the appeal.

In the meantime, I want to hear the Member for Cherangany on your claim.

Mr. Kutuny: Mr. Speaker, Sir, I have the answer from the Ministry here with me and it does not indicate anything concerning what the Assistant Minister is talking about. The answer is here and it is very clear. I would seek your indulgence on this issue because the Assistant Minister is talking about something different.

Mr. K. Kilonzo: On a point of order, Mr. Speaker, Sir. Severally, on the Floor, you have ruled that matters which are before the High Court cannot all be *sub judice* unless they touch on specific issues. If you look at the Question at hand, it just talks about the said drugs being zero-rated and not the merits and demerits of the case. Under the circumstances, would I be in order to ask you to direct that the question on whether the drugs are zero-rated or not be dealt with? The issues which have been canvassed at the High Court, unless the Assistant Minister wants to tell us those issues, can be left for the High Court. Whether the drugs are zero-rated or not, that is what I think the Question seeks to canvass.

(Mr. Imanyara stood up in his place)

Mr. Speaker: Member for Central Imenti! Dr. Oburu, you better take notes. Listen to those concerns or expressions carefully!

Mr. Imanyara: Mr. Speaker, Sir, my concern is that it has become a practice for Ministers to come and seek your guidance. The reason we have the Office of the Attorney-General guaranteed with security of tenure in the Constitution is that the holder of that office is the chief legal advisor. Before they come to seek your advice, they should, internally, refer the matter to the Attorney-General and seek advice rather than come and take the time of this National Assembly by requiring you to give guidance where the law provides for the Government's chief legal advisor, including a Solicitor-General to advise them before coming to the House with an answer. Is it in order for a Minister to come and seek your guidance on matters that are within their knowledge as a Government while they have a chief legal advisor in the form of the Attorney-General?

Mr. Speaker: Dr. Oburu, you may want to respond to those points of order raised by the Member for Cherangany, Member for Mutito, and the Member for Central Imenti actually challenging your claim to *sub judice*. Before you do so, please, note that as the Speaker I sympathize and associate myself with the sentiments expressed by the Member for Central Imenti.

The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Finance (Dr. Oburu): Mr. Speaker, Sir, on the question raised by Mr. Kutuny, it is true that an answer was prepared, but looking at the issues which are being canvassed here,

they are exactly the issues which are before the Court of Appeal. That goes to answer what Mr. K. Kilonzo is asking. Actually, the issue which was our dispute is the question of whether the products were food supplements which were, therefore, not exempted from payment of duty or not. That is the matter on which the court actually ruled. It is exactly the same issue.

Mr. Speaker, Sir, as to whether we should be seeking advice from the Attorney-General before we come here, I think this was a straightforward case because it is a *sub judice* issue and we are ready to comply to provide all the information that you have directed me to give in respect of this particular issue. This is not a case which, perhaps, required advice from the Attorney-General because we know that *sub judice* is *sub judice* and Parliament is not supposed to discuss on it. What we need to do is to provide all these documents you have asked me bring. If you can give me up to Tuesday I will do so.

Mr. Speaker: Hon. Members, I am able to give directions. Indeed, as the Member for Mutito rightly said, the matter of *sub judice* is an area which I have constantly attended to fairly often. There are clear parameters within which the rule applies as I have set out in my previous directions on the matter.

However, that notwithstanding, hon. Members, under Standing Order No.80 any Member of the House can claim that a matter which is about or being canvassed in the House is *sub judice*. However, it is for that Member alleging that a matter is *sub judice* to provide evidence to show that paragraphs (2) or (3) of Standing Order No.80 are applicable and then the Speaker, in determining whether or not the matter is *sub judice* will take into account the provisions of paragraphs (2) and (3). So, in those circumstances, the claim by the Assistant Minister for this matter being *sub judice* is valid, but as to whether or not I will find that it is *sub judice* is another matter after the Assistant Minister avails the requisite evidence. It is possible, Member for Cherangany, that we may find that it is not *sub judice* and the converse is also true.

So, Assistant Minister, will you, please, comply with the request that I have made to you to avail to the House all documents by way of pleadings as I have particularized, judgment, and documents pertaining to the appeal from the High Court decision. The decision of the High Court which you have tabled which is a ruling dated 19th March, 2010 for the moment will not be admissible because it is a photocopy of a ruling, but it is not certified. So, I am unable to ascertain where you obtained it from. So, this will be handed back to you and you will have to have a certified copy of the ruling together with the other documents that you will bring. I want to urge that you table those documents tomorrow. If you are unable then I will give you until Tuesday.

The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Finance (Dr. Oburu): Mr. Speaker, Sir, please, I will be able to do it on Tuesday.

Mr. Speaker: Very well. You will table the documents on Tuesday and, thereafter I will indicate when I will make my determination.

Mr. Imanyara: Mr. Speaker, Sir, apart from expressing sympathy with the point of order that I raised, you have not given any ruling on whether it is in order for Ministers to come and waste Parliamentary time on issues that could be determined by the person employed by taxpayers to give that advice.

Mr. Speaker: Order! Member for Central Imenti, you have made your point, but I would have thought I had said enough for a learned friend who you are, at least, to the Speaker, to become aware that, in fact, I am in agreement with what you said. Perhaps, so

that I re-emphasize it, Assistant Minister, Dr. Oburu, you are under duty to seek the advice of the Attorney-General before you raise a matter pertaining to the interpretation of the law in the House. It is possible that the Attorney-General as your chief legal advisor may very well tell you that this is not a matter you should raise in the House and you will help us save time and, therefore, lead to optimal use of time as the Member for Central Immenti has rightly observed. So, please, do so. Ensure that you access the advice of the Attorney-General which is there for you for free.

Member for Dujis!

JAILING OF EDWARD KAMAU/ALBERT MUTUA IN SOMALILAND

Mr. Duale: Mr. Speaker, Sir, I beg to ask the Minister for Foreign Affairs the following Question by Private Notice:

(a) Can the Minister confirm that Messrs. Edward Kamau (Passport No.A699793) and Albert Mutua (Passport No. A1057312), who are former employees of Somaliland Bottles Industries, are being held in jail in Somaliland and, if so, under what circumstances are they being held?

(b) What measures is the Government taking to procure the release of the duo?

The Assistant Minister for Foreign Affairs (Mr. Onyonka): Mr. Speaker, Sir, I beg to reply.

(a) The Government is aware that Mr. Edward Kamau (Passport No. A699793) and Mr. Albert Mutua (Passport No. A1057312) are actually being held in jail in Somaliland. The two were arrested on 29th October, 2011 and they are facing charges relating to industrial sabotage. They were arraigned in court for the mention of their case on 2nd November, 2011 and later on a hearing date was fixed for the mention on 8th November, 2011.

Mr. Speaker, Sir, these two individuals were actually working for a beverage company in Somaliland which has been having a trade dispute with an unnamed South African company over bottling issues. It is alleged that equipment valued at US\$120,000 was sabotaged and property destroyed.

(b) The Kenyan Mission to Somalia has informed us that the Kenyan community in Hargesia with the support of the Kenyan Mission in Somalia has got a lawyer which is dealing with the matter. The Chairman of the Kenyan community in Somaliland has been visiting the two individuals because we do not have an ambassador or an embassy in Somaliland.

The Ministry has been in contact with the relatives of these two individuals and we have asked the Somaliland authorities to make sure that they expedite the trial of the two individuals or have them released as soon as possible.

Mr. Olago: On a point of order, Mr. Speaker, Sir. As you will notice, the fundamental part of this Question is what steps the Government is taking to ensure that these suspects are released. The answer of the Assistant Minister, as I understood him, is that a lawyer has been engaged and all these things are being done. He has, however, failed to respond to the House whether industrial sabotage is bailable in Somaliland and if bail has been sought or not. Is he in order to avoid that part?

Mr. Speaker: Order! That would be a supplementary question. Member for Dujis!

Mr. Duale: Mr. Speaker, Sir, Edward Kamau is from Kamukunji Constituency and Albert Mutua is from Mbooni. They are Kenyan professionals who worked with multi-nationals in Kenya. In the last eight months, they were working for this company in Somalia. Since 29th October, 2011, they have been in jail. I spoke to them yesterday in the morning through a Kenyan. Until now, they have not been brought to court. The Assistant Minister does not have that information. I want this Assistant Minister to confirm whether Kenya has a diplomatic mission in Somaliland. We are not talking about Somalia!

Mr. Speaker: Order, Mr. Duale! It is Question Time! I have allowed you the indulgence to lay the background to your question and you have come to it. You asked the Assistant Minister whether he could confirm if Kenya has a mission in Somaliland.

Proceed, Mr. Onyonka!

Mr. Onyonka: Mr. Speaker, Sir, I want to, first of all, say that Somaliland is a *de facto* state which is basically a part of the Transitional Federal Government arrangement in the Somalia issue. As a result, they are not recognized by the Kenyan Government. All we have done is that we have recognized their existence by sheer fact that we are waiting, hopefully, when Somalia becomes a manageable state, then Somaliland can then be part and parcel of Somalia.

The second issue I want to raise is, yes, these two individuals have not been released. However, we have dispatched a lawyer for them. If the family was honest with my colleague, they will confirm that the lawyer has been in touch with these two individuals. The Kenyan Government through our Ambassador to Somalia, Gen. Mulinge, has sent what we call a *note verbale* where we have spoken to the Somalia authorities and requested them to expedite the hearing if there is any crime that was committed. If not, then we can have these two individuals released as soon as possible or immediately.

Mr. Duale: On a point of order, Mr. Speaker, Sir. Is the Assistant Minister in order? Gen. Mulinge is the Kenyan Ambassador to Somalia and not to Somaliland. Somaliland is a different entity!

Mr. Speaker: Order, Mr. Duale! I do not think you followed what the Assistant Minister said. Maybe you want to acquaint yourself with the HANSARD.

Dr. Nuh: Mr. Speaker, Sir, it has been a reality that many a times Kenyans rot in foreign jails, just because the hearings or court affairs are not expedited. Since the Assistant Minister has confirmed that they have sent a *note verbale* to the Somaliland Government to expedite this case, could he then table such communications as he has made to the Somaliland Government, so that we are convinced as a House that they have, indeed, met them? You see all the communications and efforts they have been talking about, they have been citing efforts of Kenyans in the Diaspora. We are not asking them what they have done as an embassy. He has not also told us the name of the lawyer. He is just stated a lawyer somewhere was engaged to represent them, which is ambiguous.

Mr. Onyonka: Mr. Speaker, Sir, I would like, first of all, to make it clear to my colleague that there are certain documents in diplomacy that we do not even present in a House like this. The second point I want to make is that it is true that for the simple reason that the details of that---

Dr. Nuh: On a point of order, Mr. Speaker, Sir. He is just ambiguously stating that there are some documents in the diplomatic circles that cannot be tabled in this

House. This House has the right to all information in Government circles. Unless he can quote a specific statute that denies this House from accessing any diplomatic information, he is not in order. Is he in order to mislead this House?

Mr. Onyonka: Mr. Speaker, Sir, what I did not say is that---

(Loud consultations)

Mr. Speaker: Order! Let us hear the Assistant Minister!

Mr. Onyonka: Mr. Speaker, Sir, what I did not say is that sometimes on matters that are sensitive between two states or two jurisdictions, there is a possibility that we can introduce quiet diplomacy where you might find that the *note verbale* or the document which is sent over to the Somaliland Government is quietly requesting that Government to take certain proactive actions to make sure that those individuals are released. The other point I want to make is that every single time an issue has been raised as to whether we are working hard to make sure that Kenyans are released, the Ministry of Foreign Affairs and, indeed, the Government, has always made sure that using quiet diplomacy and due process, our individuals have always been released. So, I want to assure this House that the actions which have been taken right now will to make sure that these two individuals either receive a fair trial and we have them released immediately if they did not break any law or commit any crime.

(Dr. Nuh stood up in his place)

Mr. Speaker: Order, Dr. Nuh! You raised a point of order as to why the Assistant Minister cannot table a letter and that there is no document or letter which can be secret. That is not quite accurate although he could do better than he has done. But *prima facie* under Standing Order No.80, and I want you to look at it, Dr. Nuh, subject to paragraph 5, it says:-

“No Member shall refer to any particular matter which is *sub judice* or which, by operation of any written law, is secret.”

In other words, our Standing Orders anticipate that some documents by operation of law can be secret. So, it should not be so strange that he makes a claim that certain letters are secret. And further, which is significant and this House has previously alluded to, that both Members of Parliament and those who serve in the Executive are men and women of honour. We take what you say as the truth until it is proved otherwise because then this institution cannot operate; it cannot work. But we take what you say as truthful and accurate. So, if you are able to establish that he is, perhaps, saying things which are false in the House, then make the challenge and we will direct accordingly.

Mr. Njuguna: Mr. Speaker, Sir, could the Assistant Minister inform this House the health status of the two personalities who are being held in Somaliland because this is a serious concern to the families affected?

(Applause)

Mr. Onyonka: Mr. Speaker, Sir, the report that was sent over to the Ministry of Foreign Affairs as early as this morning indicated that the two individuals were actually--

(Dr. Nuh moved to consult with Mr. Imanyara)

Mr. Speaker: Order, Dr. Nuh! If you want to consult with Mr. Imanyara, please, invite him to an area where there is space!

(Dr. Nuh nudged Mr. Imanyara)

(Mr. Imanyara remained seated in his place)

Mr. Imanyara has declined the invitation and he is unhappy with the intrusion.

(Laughter)

(Dr. Nuh moved back to his place and took his seat)

Please, note, Dr. Nuh! Look at your Standing Orders!
Proceed, Mr. Assistant Minister!

Mr. Onyonka: Mr. Speaker, Sir, the report that was sent over to the Ministry of Foreign Affairs this morning was that the two individuals are actually in reasonable health and they are operating normally. So far, we have not received any information indicating that their health or their lives were in danger. The Chairman of the Kenyan Diaspora in Somaliland is in constant contact with the Ministry of Foreign Affairs. If anything drastic or if there is any problem in terms of the health conditions of these two individuals, we will make sure that we take the necessary action so that our two citizens are not in trouble.

Mr. Bahari: Mr. Speaker, Sir, given that this matter has attracted a lot of attention now and given that the Assistant Minister is also handling it through diplomatic channels, could he give an undertaking that he will brief this House as soon as this matter is concluded?

Mr. Onyonka: Mr. Speaker, Sir, the information we were given is that the next mention of this matter will come up on 21st November, 2011. My conviction is that by that time, we will then be able to tell the House what exactly has transpired. But on the actual---

Mr. Speaker: Order, Mr. Onyonka! You were asked a very simple question! You are now saying too many things that you really do not have to say. Mr. Bahari has asked you to give an undertaking to the House that you will inform the House as soon as this matter is concluded. What is the answer? Yes! Simple!

Mr. Onyonka: Mr. Speaker, Sir, the answer is yes; I was being distracted by my colleagues!

(Laughter)

Mr. Speaker: Honestly!

Mr. Imanyara: Mr. Speaker, Sir, the entity Somaliland is not recognized by the United Nations and, therefore, their legal system is not a legal system that we, as a sovereign nation, recognize. Under those circumstances, is the Assistant Minister satisfied that these two Kenyans can receive a fair trial in this entity that is not recognized by the UN?

Mr. Onyonka: Mr. Speaker, Sir, among the *de facto* states other than Somaliland and Jubaland, the truth and reality is that Somaliland has been operating reasonably well even when it is not recognized by the statutes of the international community. The truth is that they have held elections which have been highly respected and commended. We believe that their structures are reasonably acceptable because there are Somalis who live in that area. We have not heard any issues which have been raised which would make us feel that their system would not be functional.

Mr. Ethuro: On a point of order, Mr. Speaker, Sir. Is it in order for the Assistant Minister to evade answering the question asked by Mr. Imanyara? The issue is not *de facto*, but the issue is official recognition by the UN and by his own Government. They have not recognized Somaliland, so how can he speak for it?

Mr. Speaker: Order, Mr. Ethuro! You do not go that far on a point of order! Mr. Assistant Minister, make your response.

Mr. Onyonka: Mr. Speaker, Sir, we have not recognized the Government of Somaliland. However, we have maintained diplomatic contact quietly because Somaliland is part and parcel of Somalia. Hopefully, once we sort out the issue of the rest of Somalia, all these *de facto* states will form the State of Somalia. As far as we are concerned, we accept their structures that they will give us a reasonable response when this matter comes into play. We believe that since there are Somalis who live in that country and do business as usual, the cases will be handled fairly and equitably.

(Dr. Khalwale stood up in his place)

Mr. Speaker: Order, Dr. Khalwale! Look at the clock!

Mr. Duale: Mr. Speaker, Sir, I want the Assistant Minister to confirm and tell the House and the nation what quiet diplomacy is and whether Kenya enjoys a diplomatic relationship with Somaliland.

Mr. Onyonka: Mr. Speaker, Sir, Kenya does not have diplomatic relations with Somaliland. However, we have diplomatic relations with the state of Somalia. The state of Somaliland is a member of the Somalia country, even when that country is not a functioning state, we believe it is part of Somalia and we recognize it as such.

REVENUE COLLECTION CONTRACT BETWEEN EQUITY BANK/
NAROK COUNTY COUNCIL

Mr. ole Lankas: Mr. Speaker, Sir, although I have not received the written response, I beg to ask the Deputy Prime Minister and Minister for Local Government, the following Question by Private Notice.

(a) Is the Minister aware that Narok County Council has entered into an agreement on revenue collection from Maasai Mara Game Reserve with Equity Bank Limited?

(b) What are the terms of the contract?

(c) Could the Minister table the contract documents?

The Deputy Prime Minister and Minister for Local Government (Mr. Mudavadi): Mr. Speaker, Sir, first of all, let me apologize that the hon. Member has not yet received the reply, but I had actually signed and forwarded one to Parliament.

However, I beg to reply.

(a) Yes, I am aware that the Narok County Council entered into an agreement on revenue collection from Maasai Mara Game Reserve with Equity Bank Limited on 19th April, 2011 for supply, installation and commissioning of a pre-paid smartcard revenue collection system.

(b) The terms of the contract depend on what specifically is being asked but I have the contract document here which would take care of part (b) and (c) because I would then table the contract document which will spell out the terms of the contract.

Mr. Speaker: You may table the contract document!

(Mr. Mudavadi laid the document on the table)

Mr. ole Lankas, are you able to proceed?

Mr. ole Lankas: Mr. Speaker, Sir, I will ask the indulgence of the Chair to defer this Question, so that I have time to look at the contract document and execute the Question exhaustively.

Mr. Speaker: How much time do you need?

Mr. ole Lankas: Mr. Speaker, Sir, because of the urgency of the matter, I will request that it comes up tomorrow.

Mr. Speaker: Are you sure you will have read through this document and understood the import of it? You may want to give yourself until Tuesday just to be fair to yourself.

Mr. ole Lankas: Thank you, Mr. Speaker, Sir. Let the matter be deferred to Tuesday.

Mr. Speaker: Very well! Please, acquaint yourself with the contents of the contract.

Dr. Khalwale: On a point of order, Mr. Speaker, Sir. There is something that is worrying me here that the Narok County Council is a department within the Government and Equity Bank is private bank. Could I request that you direct the Minister to come with the Attorney-General's opinion whether a private bank can collect money on behalf of the Government of Kenya?

Mr. Speaker: Very well, Dr. Khalwale! There is a possibility that the Deputy Prime Minister is, in fact, prepared to answer that kind of question. So let us not anticipate where we will go hereafter. I will defer this Question to Tuesday afternoon, at 2.30 p.m. Dr; Khalwale, you may want to supplement the effort of Mr. ole Lankas in interrogating this matter. Please, prepare yourself. Mr. Mudavadi, now you are on notice.

Mr. Mudavadi: Mr. Speaker, Sir, could I be in order to answer it now?

Mr. Speaker: Order! You may not! We have deferred the Question to Tuesday at 2.30 p.m.

(Question deferred)

AWARD OF TENDER FOR SECOND HAND
MOTOR VEHICLE INSPECTION

Mr. Kapondi: Mr. Speaker, Sir, I beg to ask the Minister for Industrialization the following Question by Private Notice.

(a) How many companies bid to offer second hand motor vehicle inspection clarification services to the Kenya Bureau of Standards (KeBS)?

(b) Under what circumstances was the tender awarded to a Japanese company, Ms Japan Vehicle Inspection Centre?

The Minister for Fisheries Development (Mr. Kingi): Mr. Speaker, Sir, today in the morning, I received a letter from the Clerk's Chambers dated 15th November, 2011 enclosing this particular Question with the advice that the same would appear on tomorrow's Order Paper. Therefore, I was surprised to see it on today's Order Paper.

Mr. Speaker: Very well! Mr. Minister, I have heard you. Mr. Kapondi, what is your reaction to that? The Minister says that he did not receive the Question at all until this morning.

Mr. Kapondi: Mr. Speaker, Sir, I submitted this Question two days ago and I expected the Minister to be ready by today. So alluding to the fact that he received it this morning, then there is something amiss somewhere.

Mr. Speaker: Yes, you asked it two days ago. It is possible that the letter sending the Question to the Minister was written two days ago, but it did not get to him until today. Questions by Private Notice by their nature are urgent and they must be answered within 24 hours but it depends also very much on when the Minister received it. So, given those circumstances, we must give the Minister some time. It is not humanly possible for him to prepare an answer for you if he received the Question this morning. It is not humanly possible! Even if you were the Minister yourself, Mr. Kapondi, you would not prepare an answer if you received the Question this morning. So, I will defer the Question to Tuesday afternoon.

(Question deferred)

ORAL ANSWERS TO QUESTIONS

Question No.1029

OWNERS/DIRECTORS OF ZONAL HOLDINGS INVESTMENT COMPANY

Ms. Karua asked the Attorney General:-

(a) whether he was aware that the Government froze the assets of Zonal Holdings and Credit Investment Company Limited in 2001 after complaints by members of the public through Parliament that the said

company had collected varying sums of money from them, but failed to keep its promise;

(b) who the owners/directors of the company are and what the findings of the investigations of the case were; and,

(c) what the value of the frozen assets is and when the depositors will be paid their money.

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

(a) The Attorney-General is not aware that the Government froze any assets of a company known as Zonal Holdings and Credit Investments Company Limited in 2001. Zonal Holdings and Credit Investment Company Ltd does not appear in the database of the Registrar of Companies. However, a company by the name of Zone Holdings and Credit Investments Company Ltd was registered with the Registrar of Companies until December 2000 when the said company was de-registered *vide* Gazette Notice No.8099 of 8th December, 2000. The hon. Member may wish to clarify if, indeed, the latter is the intended company in respect of the Question raised here. That notwithstanding, if the latter company is the one that the hon. Member was referring to, the Attorney-General is not aware that the Government froze any assets of Zone Holdings and Credit Investment Company Ltd as well.

(b) The directors of Zone Holdings and Credit Investment Company Ltd as per the company's annual returns filed in 1998 were as follows:- Kennedy Ochieng Dianga, Hezron Kimoli Mwakio and Joseph Mwangangi Kajita. These companies had issued 5,000 shares.

Mr. Speaker, Sir, Joseph Mwangangi Kajita who was listed as one of the directors is recorded as having passed away on 27th August, 1998. The company's registered office was on Plot No.1684, Swaleh House, Sango Trading Centre, Nairobi – Kampala Road, P.O Box 958 Webuye.

My predecessor, the hon. Amos Wako, had on previous occasions responded to questions relating to this company, Zone Holdings and Credit Investment Company Limited, before this honorable House. More particularly, on 11th July 2001 while responding to a Question raised in this House, my predecessor informed the House that the two directors of the said company had been found guilty of obtaining money by false pretences by the Resident Magistrates in Bungoma and Kericho and that they were at the time serving prison sentences. Further, he informed the House that two others were facing charges before a Senior Resident Magistrate in Nairobi.

Mr. Speaker, Sir, after the investigations conducted in this matter, which were specially carried out in Meru, Chuka, Mwingi and Matuu, one Hezron Emoli Mwakio, a director of the said company and six other employees were arrested and charged with the offence of obtaining money with false pretences before the Senior Resident Magistrate's Court in Nairobi.

The employees arrested and charged were the following:-

- | | | |
|----------------------|---|-------------------------|
| (i) Fredrick Marangu | - | Manager, Matuu Branch |
| (ii) Mwangi Ephantus | - | Sales Executive, Matuu |
| (iii) Purity Kagendo | - | Sales Executive, Matuu. |
| (iv) Njeru Irungu | - | Manager, Chuka |
| (v) Wanjohi Kariuki | - | Manager, Chuka |
| (vi) Wanja Kirimania | - | Manager, Chuka. |

The above persons were acquitted under Section 215 of the Criminal Procedure Code by the Senior Resident Magistrate in Nairobi.

Mr. Speaker, Sir, on the same issue, while under investigation at Kerugoya, one Kelly Ochieng' Diang'a, also a director of the same company was arrested with the following employees; Majorem Marego Njagi and Fredrick Matumbi Marangu. They were all operating from an office situated at Kerugoya Township. It was alleged that they used to collect deposits from members of the public, traders and farmers within the district. They were arraigned before the Kerugoya Law Courts and charged with the offence of stealing. They were, however, acquitted under Section 210 of the Criminal Procedure Code on 7th March, 2005.

Mr. Speaker, Sir, another employee of the same company namely Robert Kimathi Mbaya who was operating from Voi Township was traced, arrested and arraigned before Voi Court. He was charged with the offence of theft. He was convicted and he served a sentence of three years commencing 3rd May 2002.

Regarding the western region, most offices during investigations were found to have been closed save for one office which was the Webuye Head Office from where two persons were arrested; one David Wanjala and another Aggrey Lusweti. They were found to be operating in these premises. They were arrested and charged before the Webuye Law Courts and they were both fined Kshs10, 000 each.

Mr. Speaker, Sir, a search has been carried out on the bank accounts of the company in various towns but the accounts have debit balances presently and a few of them have been closed by the banks themselves. The Attorney-General is, therefore, not aware of the value of the frozen assets of the company, if any. The Attorney-General has, therefore, sought further information from the Commissioner of Police on this Question.

On the question of the refund, the Attorney-General is not aware when or if the depositors will be refunded their money. The Attorney-General wishes to state for general information, that the issue of refund is no longer one that is within the criminal process. It is one that calls for civil proceedings. Therefore, it is the advice of the Attorney-General that the alleged victims should consider seeking redress through civil proceedings against the company, its directors jointly and severally and they may wish in this respect to contact private legal practitioners who may assist in this respect.

Thank you.

Ms. Karua: Mr. Speaker, Sir, may I begin by conceding that the correct name is Zone Holdings and not "Zono" Holdings. That must have been a typo. I thank the Attorney-General for his answer which, however, is not satisfactory.

Mr. Speaker, Sir, the Government is the custodian of public interest. The Government is the one which licensed Zone Holdings and Credit Investment Company Limited. It is the Government through the Attorney-General, who told this House on 11th July, 2001 that the Attorney-General had ordered the freezing of the assets of Zone Holdings and Credit Investment Limited. There is continuity in office and the question now is: What is the worth of the assets frozen following the Attorney-General's order? Was the order in vain?

Mr. Speaker: Member for Gichugu, it is Question Time! You have made a very strong basis for your two questions and I have allowed it.

So, Attorney-General, will you please answer?

Prof. Muigai: Mr. Speaker, Sir, I want to assure the hon. Member that the Attorney-General's office is very conscious of its obligation to safeguard public interest and intends to do so at all times.

Regrettably, however, in the circumstances of this case, the Attorney-General was obliged to work with the departments of Government that were investing this matter. The Attorney-General did give directions to the Commissioner of Police at that time and to the Director of Public Prosecutions (DPP) at the time. From all the information available to me now, there does not appear to have been a specific court order freezing these accounts. Regrettably, therefore, I am not in a position to confirm to the hon. Member that these funds are available in any account.

Mr. Mbadi: Mr. Speaker, Sir, I believe that it is the Government of Kenya through the Registrar of Companies which registered this Zone Holdings and Credit Investment Company Limited, which again they de-registered for reasons that have not been explained to us. I wanted to get a clarification from the Attorney-General, why this company was de-registered and what procedure was followed. As far as I understand it, if a company fails in its obligations, there is a procedure through receivership and finally, if it is supposed to be wound up, there should be a procedure.

Could you clarify to us if the procedures were followed or this was a cover up attempt by the Government; after this company had taken money from the public you de-registered it for it to disappear from the records?

[Mr. Speaker left the Chair]

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

Prof. Muigai: Mr. Speaker, Sir, from all the material that has been presented to me, I am satisfied that when this company was formed, it met all the requirements of the law. However, at the time it was de-registered, it was out of the desire by the Attorney-General and the Registrar of Companies to ensure that this company did not continue trading in any form whatsoever as a way of protecting the public. I am not aware that there was a cover up. I do not believe that the Government would have an interest in covering up a criminal act that it was in any event in the process of prosecuting in several courts throughout the country.

Mr. Mbadi: On a point of order, Mr. Temporary Deputy Speaker, Sir. My question was really very specific. I wanted the Attorney-General to clarify to us whether the registration of that company was done properly. If the company had issues, why could the Government not order for takeover or put it under receivership to protect the interests of not only those who are coming to deposit, but the people who have already deposited? How did you ensure that their interests were protected?

Prof. Muigai: Mr. Temporary Deputy Speaker, Sir, I think the hon. Member has raised an important issue. But as hon. Members are aware, most of those companies are "briefcase companies" and, as I have said in my original answer, there were only 5,000 shares issued to directors one of whom, as I have indicated, has already gone to be with his maker. The other two have served prison terms and, therefore, there was not anything in that company that could have been liquidated.

Mr. Njuguna: Mr. Temporary Deputy Speaker, Sir, the Attorney-General has informed this House that two senior officials of Zonal Holdings Limited were arrested at their Webuye headquarters, prosecuted and finally, fined Kshs10,000 each. What efforts is the Attorney-General putting to recover stolen funds by those two senior officials?

Prof. Muigai: Mr. Temporary Deputy Speaker, Sir, at the moment, I have not received any information suggesting that those two officials were subjected to any civil process for the recovery of any funds that they may have misappropriated. Indeed, it is instructive to note that those two officers were not charged with theft of any money. They were charged with operating a business without a licence. That means that the decision made at the time showed that they were guilty of some misconduct, but the only available evidence was that they ran a business without a licence. This is a very regrettable matter. I would like to state to the House that my Chamber is considering bringing legislation to the House to assist members of the public who lose money. My Chamber is considering creating a compensation fund to assist members of the public who lose money in such circumstances. I hope that when the legislation comes, Members will be supportive.

Mr. Imanyara: Mr. Temporary Deputy Speaker, Sir, I wish to acknowledge that, unlike his predecessor who spent most of his time in the air, this particular Attorney-General takes the affairs of this House seriously, and his answers reflect the seriousness which we expect of the Office of the Attorney-General. But I am concerned about one aspect of the Attorney-General's answer, where he says that restitution is not covered by criminal jurisprudence. Could the Attorney-General explain what he means by that?

Prof. Muigai: Mr. Temporary Deputy Speaker, Sir, first, let me thank the hon. Member for the kind remarks about the commitment that he sees me putting in my work. Thank you.

Having said that, what I meant in my answer is that, once a magistrate, in his or her wisdom, has convicted a suspect, but has not made an order for restitution at the point of conviction, then the restitution can only follow through a civil process. In all those cases, in the wisdom of the presiding magistrate, there was no reason to make an order for restitution. This is the price we have to pay for an independent Judiciary. We must allow magistrates and judges to make decisions as they seem fit in the circumstances of each case.

Ms. Karua: Mr. Temporary Deputy Speaker, Sir, I seek indulgence to lay the basis of my last question. Now that the Attorney-General has confirmed that the Government licensed that credit and investment company which was taking deposits from many Kenyans all over the country - and I believe that was the forerunner to the pyramid schemes - and the Government having failed in its duty to protect Kenyans, could the Attorney-General advise the Government to consider this as a historical injustice to the very many depositors, along with the victims of the pyramid schemes, and bear the responsibility for failing to safeguard public interests, and to pay some compensation to all those depositors who are so many? It is only the Attorney-General who can give the number, having closed the offices and, therefore, inherited the records of those companies?

Prof. Muigai: Mr. Temporary Deputy Speaker, Sir, I wish I were able to answer that question in the affirmative. I think all of us owe a moral responsibility to the people who have lost their money. I think Parliament, the Executive and the Judiciary must work together to ensure that justice is accorded to those persons. I regret, however, that I

cannot, on behalf of the Government, accept any responsibility for the business of that company. It is the assumption of the law that every person would take some due diligence in respect of the business that they enter. In the circumstances of that case - and of the other cases that we will be addressing next week - I regret that no funds would exist within the Government structure today to make any compensation.

Ms. Karua: On a point of order, Mr. Temporary Deputy Speaker, Sir. The Attorney-General has missed an aspect of my question; compensation on the basis that the Government failed in its duty of care by registering a company that committed fraud on the people. Is the Attorney-General in order to fail to answer that part of the question?

Prof. Muigai: Mr. Temporary Deputy Speaker, Sir, the responsibility of the Attorney-General's Office and of the Registrar of Companies is to register companies that comply with the law, and to deregister them as soon as they no longer comply with the law. During the period that they are legitimate businesses, every member of the public is cautioned to deal with them on the basis of due diligence. I, therefore, regret that my office cannot assume responsibility for that particular loss.

The Temporary Deputy Speaker (Mr. Ethuro): Next Question by hon. Ababu Namwamba!

Question No.1183

KILLING OF ADMINISTRATIVE POLICE OFFICERS
BY REGULAR POLICE OFFICERS

The Temporary Deputy Speaker (Mr. Ethuro): Mr. Namwamba is not here? We will come back to it. The next Question is deferred to tomorrow afternoon.

(Laughter)

Question No.1108

CROCODILE/HIPPOPOTAMUS MENACE IN LAKE TURKANA

(Question deferred)

Question 1140

DELAY IN POSTING TEACHERS TO BANGALE SECONDARY SCHOOL

Dr. Nuh asked the Minister for Education:-

(a) whether he is aware that the construction of Bangale Secondary School, a model secondary school in Bura Constituency, has been concluded (complete with a boarding section) but the school has no teachers; and.

(b) when the Ministry will post teachers to the school.

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

(a) Yes, I am aware of the existence of Bangale Secondary School in Bura Constituency. However, the school is not yet registered and has no students at the moment.

(b) The Ministry will post teachers to the school once the registration process is completed, and subject to adequate enrolment and availability of teachers.

Dr. Nuh: Mr. Temporary Deputy Speaker, Sir, I am impressed by the tactful avoidance of answering the Question in the real terms by the Assistant Minister. This is a school which was established through the Economic Stimulus Programme (ESP) which the Government is very much aware of. In the annexure to the answer produced by the Ministry, they have given me the guidelines for registering the school. The letter is addressed to a headteacher of the school. Among the requirements for registration is certified copies of professional and academic certificates of all the teachers; teachers whom they cannot post until the school is registered. So, could the Ministry guide us on which one comes first? Is it the egg or chicken? How do you take students to a school where there is no teacher?

Prof. Olweny: Mr. Temporary Deputy Speaker, Sir, I will give him an example. In my constituency, we also started a similar school and it is now registered. The process is to be initiated by your District Education Officer (DEO). Let the hon. Member go and initiate it because the District Education Board (D.E.B), in which he sits, will ratify the papers for that school for registration and bring them to the Ministry. It will be registered. Once you have got the registration certificate, the Teachers Service Commission (TSC) will post the first teacher who will be the principal of that school. From there, you will have the school operating.

Mr. Washiali: Mr. Temporary Deputy Speaker, Sir, Bangale is not the only secondary school that does not have teachers. We have had a number of projects, some of which are even in my constituency, which are funded by the Constituencies Development Fund (CDF), ESP and the Local Authorities Transfer Fund (LATF).

The Temporary Deputy Speaker (Mr. Ethuro): Order, hon. Washiali! Ask your question.

Mr. Washiali: Mr. Temporary Deputy Speaker, Sir, what is the policy of the Government with regard to the provision of personnel to institutions that have been funded by other funding agencies?

Prof. Olweny: Mr. Temporary Deputy Speaker, Sir, I do not know which personnel that the hon. Member is talking about. Are you talking about teachers? If you are talking about teachers, the school will be registered by us and then, that registration will allow you, through the TSC, to get the teachers. But if it is an ongoing school, we post our teachers to registered public schools in this country. But we know that there is a shortage of teachers around the country, which is a chronic problem that we have.

Mr. Washiali: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the Assistant Minister in order to avoid answering the question? I asked about staffing in schools. Now, he says that they have a shortage of teachers, yet those are the personnel that I was talking about.

The Temporary Deputy Speaker (Mr. Ethuro): Order, hon. Washiali! I think the Assistant Minister responded to your question.

Mr. Pesa: Mr. Temporary Deputy Speaker, Sir, I would like the Assistant Minister to understand the Question well. The community has decided to spend that

money in putting up a school. They have put up the school and, definitely, want teachers. They also want the school to be registered. Is it necessary that the teachers must be there when they go to the DEB for registration? This is because in this case, they do not even have teachers employed by the board of governors. Are the conditions that you have given here necessary? Number six is “certified copies of professional and academic certificates of all teachers and certified copies of registration certificates of the teachers with the TSC, yet they have no teachers but the school and students are there. They want the school to be registered.

Prof. Olweny: Mr. Temporary Deputy Speaker, Sir, may I tell the hon. Member that, that is not a school yet. You have no teachers and students and so, it is not yet a school. You simply have a building there and you want to convert it into a school. Let it be registered. In this form, which I also have here, it does not mean that everything will have to be filled in. If it is a new school which is not yet operating, you just simply say: “Not applicable.” Bring the application to the Ministry starting from the district office and we shall have the school registered. It is a very straightforward case. Bring the papers and it will be registered. You will get the teachers.

The Temporary Deputy Speaker (Mr. Ethuro): Order, Mr. Assistant Minister! What you can confirm to the House is that all those requirements may not be necessary and I think they will be quite happy to note that. But once you list them as part of the requirements, then it becomes a bit difficult for them to give you the qualifications of teachers, and they are looking for the same teachers from you.

Prof. Olweny: Mr. Temporary Deputy Speaker, Sir, for registration to be done, there must be someone applying for it. Of course, you started it as a project and so, there must be a project committee or somebody that was formed to help in running this project. There must be a DEO in that district. So, the DEO will help you do the application. If you bring the application to us, we will have it registered. I do not think that there is a problem here. It is a new school and there are certain things that will have to be indicated. But get the advice from the DEO who will help you and it will be done.

Mr. Langat: Mr. Temporary Deputy Speaker, Sir, the Government came up with the issue of centres of excellence and actually gave us money to build these schools, so that we can have model schools. Since, buildings alone, as the Assistant Minister he has said, cannot make a centre of excellence, could he confirm to us whether he will give us extra teachers so that we make those centres really excellent?

Prof. Olweny: Mr. Temporary Deputy Speaker, Sir, giving new teachers to the schools is my business. He will get the teachers, so long as the school is registered. If it is an ongoing school, when we recruit, you will get teachers based on the Curriculum Based Establishment (CBE) of that particular school.

The Temporary Deputy Speaker (Mr. Ethuro): Order, Mr. Assistant Minister! I think you are not seeing the point. These are centres of excellence promoted by your own Ministry. I think what the House is expecting from you is: What is their status? Have you posted teachers when they are required? You are taking it back to the hon. Members!

Prof. Olweny: Mr. Temporary Deputy Speaker, Sir, Dr. Nuh gave us a Question that is based on a centre of excellence, which is a new school. We shall post teachers to that school once it is registered. But if it is an ongoing school which has been promoted to a centre of excellence, we have teachers there. If you need additional teachers, the principal of that school knows the procedure of getting more teachers.

Mr. Lang'at: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for the Assistant Minister to mislead us that those schools which were promoted had teachers? We even had buildings before, but we decided that we wanted to make the best. If you increase infrastructure, it means that you must also increase the number of teachers. Is it in order for him to mislead us?

The Temporary Deputy Speaker (Mr. Ethuro): Order, hon. Member! I think on this, the Assistant Minister gave both scenarios of a new school and an existing school. On an existing one, there is the normal formulation of how you get teachers. I think he was not misleading the House.

Mr. Letimalo: Mr. Temporary Deputy Speaker, Sir, the DEO is an agent of the Ministry of Education, who knows the procedures to be followed in the registration of a new school. Why could the Assistant Minister not instruct the DEO to start the process instead of just coming to the House and saying that the school has not been registered?

The Temporary Deputy Speaker (Mr. Ethuro): Mr. Assistant Minister, that is a valid question.

Prof. Olweny: Mr. Temporary Deputy Speaker, Sir, that school does not belong to the District Education Officer (DEO). The proposed school belongs to the community which proposed to the District Education Board that the school be established. So, the DEO will help the community that proposed that the new school be established. My Ministry cannot dictate to the DEO to bring the application because the application will have to be done by the people who proposed the school.

Dr. Nuh: On a point of order, Mr. Temporary Deputy Speaker, Sir. This is not any other ordinary school that is set up by the community. This is a programme that was established by the Government through the "Centres of Excellence". So, this process was, indeed, driven by the Government and not by communities. So, is the Assistant Minister in order to avoid the question by hon. Letimalo that they should be the ones on top of the job knowing what status each centre of excellence in this country is at the moment? They should instruct the DEOs to fast track the process.

The Temporary Deputy Speaker (Mr. Ethuro): Mr. Assistant Minister, these are your own projects. So, nobody is asking you to ask the DEO to do what he is not supposed to do. The DEO is also the Secretary to the DEB. He is the one who convenes the meetings for the DEB to consider registration of the school. What are you doing on your part?

Prof. Olweny: Mr. Temporary Deputy Speaker, Sir, the DEO will help or facilitate the community in having the application done. This is because the school does not belong to the DEO but it belongs to a community. It belongs to a group that requested for that project. Otherwise, the DEO could have taken that project to any other place. So, the DEO will not sign certain papers. There must be a chairman of that project who will sign those documents. So, let the hon. Member liaise with his DEO, which is a very simple to do and then have the papers done. We will register that school in a day.

The Temporary Deputy Speaker (Mr. Ethuro): Mr. Assistant Minister, on documents required for registration, item three is a recent full school inspection report from the DEO. That is your requirement.

Prof. Olweny: Mr. Temporary Deputy Speaker, Sir, the DEO will do that on behalf of the Ministry. You have a school to be registered like the one *mheshimiwa* is

asking about. The school belongs to that community and the DEO brings his or her own team to do the inspection on behalf of the Ministry. The DEO will not fill in their papers.

Mr. Kizito: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for the Assistant Minister for Education to hide behind registration in order for him to post teachers when in this country you cannot register a school that does not exist? The school must be established first for it to be registered. In the first place, a school is one that has ten or more pupils or students under instruction. For a school to be registered, it has to, first all, get a licence to operate. It then takes another two years for it to be given full registration. Is it in order for the Assistant Minister to inconvenience this school that they have created, themselves, not to operate?

Prof. Olweny: Mr. Temporary Deputy Speaker, Sir, the hon. Member is talking about provisional registration. The school will get the provisional registration certificate. So, let them fill in the papers and they will get the provisional registration to start the school. They will get the final registration after two years or so of the running of the school. I do not see a problem here. We have not said no to the registration. Let us get the papers, the registration will be done and then they will get the teachers. I have not said no to that.

The Temporary Deputy Speaker (Mr. Ethuro): Mr. Assistant Minister, this country expects you, as the Minister responsible and your Ministry to provide services to Kenyans. With regard to projects that were originated by the Ministry, we expect the Assistant Minister to take responsibility. So, the Chair directs that you facilitate the registration of this school just like many other schools that are centres of excellence.

Prof. Olweny: Mr. Temporary Deputy Speaker, Sir, let us follow the right procedure to register the school.

The Temporary Deputy Speaker (Mr. Ethuro): Mr. Assistant Minister, that matter is settled. You cannot argue with the Chair. You have been directed. Government money has been expended on these schools. So, the Government cannot shy away from the responsibility of completing the project.

Next Question by Mr. Mbuvi!

Question No.1158

PROVISION OF AFFORDABLE
MORTGAGE TO KENYANS

Mr. Mbuvi asked the Minister for Housing:-

(a) whether he is aware that only about 8 percent of Kenya's urban population can afford a housing mortgage, contrary to the provisions of the Government Housing Policy; and,

(b) what the Government has done in the past ten years to ensure that every family affords decent housing.

The Temporary Deputy Speaker (Mr. Ethuro): Where is the Minister for Housing? Where is the Leader of Government Business? Yes, hon. Ojode!

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Temporary Deputy Speaker, Sir, I request that we

revisit this Question when you are doing the second round. In the meantime, I will find out where the Minister is.

Dr. Nuh: On a point of order, Mr. Temporary Deputy Speaker, Sir. Many a times even when senior Cabinet Ministers are here, hon. Ojode has been holding brief as the Leader of Government Business. Would I be in order to request that this Assistant Minister is remunerated higher than any other Minister in future for standing in for the Government when the time comes?

(Laughter)

The Temporary Deputy Speaker (Mr. Ethuro): I am sure that the Government is listening very attentively and especially if hon. Ojode will deliver the Minister for Housing before the end of Question Time.

Let us move on to the next Question by the Member for Kasipul Kabondo!

Question No.1238

REPAIR OF ROADS IN KASIPUL KABONDO

Mr. Magwanga asked the Minister for Roads:-

(a) what plans the Ministry has to tarmac Oyugis–Kendu Bay road (C26) and Oyugis–Rodi Kopany road (C18); and,

(b) what urgent steps the Ministry is taking to improve the condition of these roads, which become impassable due to potholes and gullies formed after the heavy rains.

The Minister for Roads (Mr. Bett): Mr. Temporary Deputy Speaker, Sir, I beg to reply.

(a) My Ministry, through the Kenya National Highways Authority (KENHA) has awarded contracts for preliminary and detailed engineering design of Oyugis-Kendu Bay Road, C26, and Oyugis – Rodi Kopany Road, C18. After the designs have been done, my Ministry will source for funds for tarmacking of the same.

(b) My Ministry through the KeNHA has set aside Kshs11,152,022 this financial year for maintenance of the two roads. The procurement plans for necessary works has commenced.

Mr. Magwanga: Thank you Mr. Temporary Deputy Speaker, Sir. I want to thank the Minister for the answer. However, the answer given is a bit shallow. These roads have been in place since the 1920s. If you look at their classification, you will realise that it shows how long they have been in existence. The state of these roads is very bad and vehicles cannot even use them.

The Temporary Deputy Speaker (Mr. Ethuro): Order, Mr. Magwanga! It is Question Time. What is your question?

Mr. Magwanga: Mr. Temporary Deputy Speaker, Sir, these roads have no provision of culverts leading to institutions and even junctions. The Minister has indicated that he has allocated only Kshs11 million for a 55-kilometer road. It beats logic how much it costs a Ministry to grade and murrum a kilometer road. Could the Minister

indicate whether he can increase the budget allocation for upgrading or grading and murraming these roads?

Mr. Bett: Mr. Temporary Deputy Speaker, Sir, I am fully alive to the importance of the two roads; I note very well that the Oyugis-Kendu Bay Road is a link between the road running from Kendu Bay to Homa Bay and the road running from Sondu to Oyugis and to Kisii. So, I am extremely alive to the importance of the road. I have budgeted that amount with the hope that I will receive more money at the Supplementary Budget stage, during re-allocation. I am saying this because the cost that is already signed for with the contractors on the Oyugis-Kendu Bay Road is Kshs6 million, while for Oyugis-Rodi Kopany Road I have signed a contract for Kshs15.6 million. So, I intend to get more funding through the Supplementary Estimates.

The Temporary Deputy Speaker (Mr. Ethuro): Order, Minister! The question by the hon. Member was specific. You went into the breakdown. He wanted to know whether you are going to give more money.

Mr. Bett: Mr. Temporary Deputy, Sir, yes, I have already indicated that I know very well that I have already signed a contract beyond the allocated amount. So, this means that before the end of the financial year, I must find a way of getting additional funding to cover for the cost I have already signed for.

Mrs. Odhiambo-Mabona: Mr. Temporary Deputy Speaker, Sir, I am sure the Minister knows that the areas that have been listed are among the areas that have been very marginalised, and which have had no access roads for several years, when the rest of the country has been moving forward. If you look at the amounts of money that the Minister has allocated, you will appreciate that for a road that is, really, loose change. It cannot be anything useful for making those roads.

The Temporary Deputy Speaker (Mr. Ethuro): What is your question?

Mrs. Odhiambo-Mabona: Mr. Temporary Deputy Speaker, Sir, what is the Minister going to do to prioritise the development of roads in that area, which include the road to Mbita, which is taking too long?

Mr. Bett: Mr. Temporary Deputy Speaker, Sir, while I am doing this on this road, I want to inform the hon. Member that I have a contractor at the moment on the Kendu Bay-Mbita Road. I have another contractor on the Mbita-Homa Bay Road and another one on the Rongo-Homa Bay Road. Construction of those three roads is ongoing. There are also roads which are under routine maintenance within that area. So, we are fully involved in maintaining and doing roads in that area.

Mr. Wamalwa: Mr. Temporary Deputy Speaker, Sir, I went to Gendia High School, which is on the Kendu Bay-Oyugis Road. I was there recently and the road was in a bad state. We intend to go back, as old boys of Gendia High School, to fundraise for a bus for that school. I have heard the Minister mention all the roads where he has contractors. When is he taking a contractor on Kendu Bay-Oyugis Road and when will work start?

Mr. Bett: Mr. Temporary Deputy Speaker, Sir, I expect the contractor for the Oyugis-Kendu Bay Road to start work in February, 2012 – that is in slightly over a month's time – because of mobilisation.

Mr. Ochieng: Mr. Temporary Deputy Speaker, Sir, could the Minister tell us the procedure they normally at identify roads for tarmacking? You find that in some areas, roads that are classified "E" have already been improved to bitumen standard, while

roads that are classified “C”, like the Sondu-Nyabondo-Kusa Road, have not been considered for tarmacking up to now.

Mr. Bett: Mr. Temporary Deputy Speaker, Sir, we recently launched the Road Sector Investment Programme, and this programme is the yardstick we will be using in identifying roads to be tarmacked across the country. So, we now have a system that we will be using to identify roads. Most of the roads will be handed over to the county governments, and we believe that there will be closer attention to those roads as they will be managed from the county government level.

Eng. Rege: Mr. Temporary Deputy Speaker, Sir, this is--- Can you assist me here?

The Temporary Deputy Speaker (Mr. Ethuro): Order! Ask the question. If you do not have a question, other hon. Members are willing to ask questions.

Eng. Rege: Mr. Temporary Deputy Speaker, Sir, Kendu Bay-Oyugis Road has now become a major business corridor road that connects the lake area to the Bomet area. This is because the Government has spent a lot of money in putting refrigeration on the beaches of Kendu Bay along the area on the border.

The Temporary Deputy Speaker (Mr. Ethuro): What is your question?

Eng. Rege: Mr. Temporary Deputy Speaker, Sir, the way the hon. Minister is talking, it is as if we have to wait for the county governments. We appreciate very much what the Government is doing, starting with assigning someone to design the road.

The Temporary Deputy Speaker (Mr. Ethuro): Order, Eng. Rege! What is your question?

Eng. Rege: Mr. Temporary Deputy Speaker, Sir, my question is that the Minister should try very hard to find money---

(Laughter)

The Temporary Deputy Speaker (Mr. Ethuro): Order, hon. Rege! This is Question Time.

Eng. Rege: Mr. Temporary Deputy Speaker, Sir, I will ask my question.

The Temporary Deputy Speaker (Mr. Ethuro): Order, hon. Rege! You have exhausted your opportunity. I now ask the Member for Konoin to ask the next question.

Dr. Kones: Mr. Temporary Deputy Speaker, Sir, I thank you for catching my eye. I want to know from the Minister, since we both come from the same area, does the Ministry have any special allocations for areas where roads have been badly damaged by excess rains.

Mr. Bett: Mr. Temporary Deputy Speaker, Sir, I have emergency funds but they are very small amounts. I know that the Speaker himself is in that situation. So, I can say that we have emergency funds, but they are too little. However, I am trying to make do with what is available to me across the country.

Mr. Mbadi: Mr. Temporary Deputy Speaker, Sir, while it is important to appreciate the work of the Government, since Independence this region has been receiving some attention. So, we need to thank the Government. However, Road C18 runs from Oyugis through Rodi, and all the way to Sori Karungu. The section between Rodi and Sori was tarmacked in 1994. It is worn out and is now being re-carpeted. The other portion has never been tarmacked. Could the Minister tell us when the Government

intends to tarmack the Oyugis-Rodi Kopany section? This is because it is one road, all the way to Sori. Please, also indicate to us whether the work that is currently ongoing on the Rodi Kopany-Sori section will reach Sori or it will stop somewhere before Sori.

Mr. Bett: Mr. Temporary Deputy Speaker, Sir, for a moment, I thought he was saying “sorry” but he was actually saying “Sori”.

At the risk of repeating myself, I want to say that I have given out instructions for preliminary and detailed engineering designs on the road the hon. Member has referred to. I am spending Kshs17 million to design that section of the road. As soon as I receive the design report, which I expect on 7th February, 2012, I will look for funding to tarmack that road.

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

Mr. Magwanga: Mr. Temporary Deputy Speaker, Sir, could the Minister indicate when the design work will be completed and culverts erected at the junctions and other needy spots along those two roads?

Mr. Bett: Mr. Temporary Deputy Speaker, Sir, I expect to receive the design report in the month of February, 2012. As soon as we are able to get that report, we will look for funds. That report will indicate to us where culverts or access junctions will be built. After the design has been received then we will construct the access junctions on the road.

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

The Temporary Deputy Speaker (Mr. Ethuro): Surely, hon. Member that seems to be very clear. What is it?

Mr. Magwanga: Mr. Temporary Deputy Speaker, Sir, the design work is not pegged on erection of the culverts. Could the Minister indicate when he will erect the culvert connecting institutions and other junctions?

Mr. Bett: Mr. Temporary Deputy Speaker, Sir, I have heard the hon. Member very clear. I will now issue further instructions that those access points be done at the routine maintenance stage before we get to the actual construction of the road.

The Temporary Deputy Speaker (Mr. Ethuro): The Question by Mr. Mbuvi for the second time.

Mr. Mbuvi: Mr. Temporary Deputy Speaker, Sir, the Minister has not supplied me with an answer to this Question.

The Temporary Deputy Speaker (Mr. Ethuro): Ask the Question, hon. Member.

Question No.1158

PROVISION OF AFFORDABLE MORTGAGE TO KENYANS

Mr. Mbuvi asked the Minister for Housing:-

(a) whether he is aware that only about 8 per cent of Kenya’s urban population can afford a housing mortgage, contrary to the provisions of the Government Housing Policy; and,

(b) what the Government has done in the past 10 years to ensure that every family affords decent housing.

The Minister for Housing (Mr. Shitanda): Mr. Temporary Deputy Speaker, Sir, let me start by apologizing for coming in late. I had to rush to Mathioya to attend to some urgent Ministerial matter then got held up in a traffic jam.

Mr. Temporary Deputy Speaker, Sir, I supplied written answers to this Question to the Clerk of the National Assembly sometime back. So, I do not understand why the hon. Member has not been given a copy.

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

(a) Kenya's urban population stands slightly over 12 million as per the 2009 population and housing census. Of these urban residents, over 75 per cent of the households rent their dwellings. This means that only 25 per cent own their own dwellings.

(b) Some of the programmes and projects undertaken include setting up of appropriate building technology centres throughout the country. At presently we have set up 61 centres in 61 constituencies. The ultimate goal is to establish one centre in each constituency. The centres promote use of cheaper building materials through production of stabilized soil blocks, using hydro form machines.

Another initiative that we have undertaken involves the installation of physical and social infrastructure in 20 urban centres. This programme is aimed at providing infrastructure such as trunk sewer lines, water mains and murram roads to open up areas for private investors, who may wish to invest in housing. We also provide social infrastructure facilities such as schools and markets in urban centres.

The third initiative is that we are undertaking some projects in slums in urban areas through a sustainable neighbourhood programme, where we are doing about 412 housing units for sale to low-income groups in Mavoko.

We are also in the process of constructing 1,300 houses in Soweto East. This is a slum in Kibera where we will also provide other facilities like market stalls for the residents of Kibera. We will be doing a school, an ICT centre and a community library for the people of Kibera slum.

The other initiative that we are trying to use to address this problem of lack of urban housing is that we have a maintenance and refurbishment department within my Ministry that is trying to refurbish all Government houses throughout our urban areas.

We have at present refurbished about 10,000 housing units and on average we are refurbishing about 2,300 houses every year, just to put some of the houses in habitable conditions.

Finally, my Ministry has been facilitating civil servants to own decent houses by providing mortgage loans at heavily subsidized interest rates. Recently, the Ministry completed more than 300 housing units on Jogoo Road. We are currently just about to hand over 600 housing units in Ngara and Kileleshwa that have been put up under this programme.

The Ministry is also in the process of acquiring more land to construct houses in Kisumu, Mombasa, Nyeri and Kakamega.

Mr. Mbuvi: Mr. Temporary Deputy Speaker, Sir, could the Government consider issuing title deeds to all slum dwellers who have lived in slum areas for more than 12 years as provided for in the new Constitution?

Mr. Shitanda: Mr. Temporary Deputy Speaker, Sir, under the new Constitution, the right to decent housing has been singled out as one of the basic human rights. What

we are doing to help slum dwellers with houses is that we are not giving title deeds for the land in the slum areas. However, we have a programme where we are developing houses, so that we have the slum dwellers acquire houses through a tenant purchase programme that will run over a period of 25 to 30 years. After this, they will be given title deeds for those residential houses.

Mrs. Shebesh: Mr. Temporary Deputy Speaker, Sir, the Minister has rightly said that a population of about nine million Kenyans who live in urban areas rent their houses. Could he tell us where the land is that the Ministry is planning to use to house nine million people when the Government clearly said yesterday that all land purchases currently taking place within urban areas are fraudulent, and that the land that will be bought will put Kenyans in the same situation as that we are now seeing in Syokimau?

Mr. Shitanda: Mr. Temporary Deputy Speaker, Sir, my Ministry, in collaboration with the Ministry of Local Government, is undertaking a housing re-development programme, especially in Eastlands, Nairobi, where we intend to construct residential houses whose surface area will be very limited in relation to what exists today. We, as a Ministry, are trying to go upwards as opposed to the four-floor rule that the City Council has been applying. In fact, if you go to Ngara where we have done the first phase of residential houses they go beyond five floors; we have gone up to 15 floors. We intend to utilize this approach in east lands and go up to 35 or 40 floors. Using this kind of approach, we will house more people in very small areas.

On the issue of the land that will be used for this programme, we are using the land that is currently occupied by those small units, most of which belong to the City Council and the Kenya Government through the Ministry of Housing.

Mr. Mbuvi: Mr. Temporary Deputy Speaker, Sir, what measures is the Minister putting in place to ensure that housing mortgage programmes do not fail since all the commercial banks have raised their interest rates on loans?

Mr. Shitanda: Mr. Temporary Deputy Speaker, Sir, we are encouraging employers to start housing schemes for their employees. So far, the Government has already started a housing scheme under the Kenya Civil Servants Housing Scheme. We are in the process of discussing with the Treasury to start a similar scheme for secondary school teachers. We are on the verge of commencing a similar scheme for the judicial officers. We are encouraging other employers to look at possibilities of starting housing schemes just like Parliament has done to help employees access cheaper mortgages instead of them going for the current mortgage rates in the open market. We are trying to reach out to employers to try and help us in this area.

The Temporary Deputy Speaker (Mr. Ethuro): Next Question by hon. Namwamba.

Mr. Namwamba: Mr. Temporary Deputy Speaker, Sir, let me first apologize for having come to the Chamber late. Thank you for the indulgence.

Question No.1183

KILLING OF ADMINISTRATION POLICE OFFICERS BY
REGULAR POLICE

Mr. Namwamba asked the Minister of State for Provincial Administration and Internal Security:-

(a) under what circumstances two Administration Police Officers, Senior Inspector Badi Said Mwajirani and APC Juma Mwangalu, were killed by police officers outside Toyota Kenya offices in Mombasa on 27th June, 2009, at around 9.00 a.m.;

(b) whether he could confirm that Mr. Mwajirani had previously received death threats following his role in heading the investigation team on drug trafficking activities in Coast Province; and,

(c) what measures the Government has taken to ensure the families of the officers are compensated.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Temporary Deputy Speaker, Sir, I beg to reply.

(a) On 27th June, 2009, Flying Squad officers were laying an ambush at the Toyota Kenya Showroom along Moi Avenue following information that a robbery was to take place there. At about 10.30 a.m., a white Toyota Premio saloon car with three occupants pulled up at a parking near the offices of Toyota Kenya and all the three occupants alighted. They were immediately challenged by the Flying Squad officers to identify themselves. One of them drew out a pistol prompting the officers to shoot, thereby killing two of them on the spot. The third accomplice fled in the Premio car.

After the shooting, a Cesca Pistol No.SNG1812 with eight rounds of nine-millimetre ammunition was recovered from the dead suspects. Investigations were instituted vide inquest No.2/2009 and it was established that the two were Administration Police Officers based at Kilindini District Commissioner's office and their identities were established as follows:- No.77012125 AP, Inspector Badi Mwajirani and No.93047588 AP, Inspector Juma Yusuf Mwangalu.

(b) I am not aware that Mwajirani had received death threats and that the deceased was heading an investigation team on drug trafficking in Coast Province at the time of his death.

(c) As regards compensating the families of the deceased, the Government can only be compelled by a court order to take such action.

Mr. Namwamba: Mr. Temporary Deputy Speaker, Sir, at a time when this country is seriously concerned about the issue of drug trafficking, and at a time when many police officers who are committed and determined to wipe out the menace of drug trafficking are at serious risk and many of them are losing their lives in circumstances such as these, I must express serious disappointment with the answer from the Assistant Minister, especially when he says that he is not aware.

What is the Government doing to protect the clean police officers who are going out of their way to fight the drug trafficking syndicate, which seems to have permeated all sectors of our society, including the security machinery? What exactly is the Government doing to protect officers and to make sure that the good officers do their job without fear?

Mr. Ojode: Mr. Temporary Deputy Speaker, Sir, I want to confirm to this House that the good officers who are doing their job are protected. Nothing will happen to those good officers who are doing their job. Those who are performing will also be given awards and promotion.

Mr. Ruto: Mr. Temporary Deputy Speaker, Sir, I am sure the Assistant Minister knows that what he has stated is quite untrue. This is a matter that is in public domain. What happens within the Police Force is sometimes covered up. If you are involved in investigating a crime in which elements within the Police Force are involved, you are killed. I thought the Assistant Minister would suspend answering this Question until he brings the investigation report that he promised last week. He said that he was going to investigate and give us a statement on the veracity of what was aired on KTN. He cannot purport to confirm the answer that he has given us unless he has completed that investigation. I am ready to table certain documents in---

The Temporary Deputy Speaker (Mr. Ethuro): Order, hon. Ruto! One, you can request the Assistant Minister and two, you need to confirm whether this should be part of that statement. But more importantly, the Assistant Minister should be at liberty to answer the Question as it is, whether it will be part of the bigger investigation or not. So, ask the question.

Mr. Ruto: Mr. Temporary Deputy Speaker, Sir, is the Assistant Minister not pre-empting the investigations that he promised this House by accepting this type of an answer?

Mr. Ojode: Mr. Temporary Deputy Speaker, Sir, I am not pre-empting anything.

Dr. Khalwale: Mr. Temporary Deputy Speaker, Sir, listening to the Assistant Minister, it is very difficult for the House to know whether the hunter became the hunted and ended up being killed when following some crime. What is he doing to enlist an independent investigator so as to investigate this particular case? If you leave these investigations in the hands of the police, they will be investigating themselves and the natural thing is for them to be tempted to cover up.

Mr. Ojode: Mr. Temporary Deputy Speaker, Sir, that is a pertinent question. Once the police fail to investigate this particular matter because they have the machinery do investigate it thoroughly, then we can talk about a taskforce. We can talk about appointing some other people outside the Police Force to investigate the matter thoroughly and report back.

The Temporary Deputy Speaker (Mr. Ethuro): Order, Assistant Minister! Unfortunately, even the Chair does not have a copy of your answer. Did I hear your answer to part (b) to be that you are not aware of a link? That will help you in the way you respond to the other questions.

Mr. Ojode: Mr. Temporary Deputy Speaker, Sir, my answer to part "b" of the Question is that I am not aware of the death threats to the deceased.

Mr. Lessonet: Mr. Temporary Deputy Speaker, Sir, I would like the Assistant Minister to tell us why he does not want us to believe the KTN investigation. Why does he think the KTN story, which is actually an investigation--- Why can he not use that story to take action?

Mr. Ojode: Mr. Temporary Deputy Speaker, Sir, the issue of KTN is not part of this particular Question. That is a different Question because the Chair is aware that I am yet to issue a strong statement in this House by Thursday next week that will relate to the KTN issue. So, if he wants to bring a different Question---

The Temporary Deputy Speaker (Mr. Ethuro): That is sufficient, Mr. Assistant Minister.

Mr. Namwamba: On a point of order, Mr. Temporary Deputy Speaker, Sir. I am just wondering whether the hon. Assistant Minister is in order to continue expressing confidence in the so-called investigations when he admits in his own answer--- I will read it verbatim:-

“I am not aware that Mr. Mwajirani had received death threats when the deceased was heading an investigation.”

Mr. Temporary Deputy Speaker, Sir, if the Assistant Minister cannot even determine whether his own officer was heading or not heading an investigation, which is such a straight forward matter, is he in order to continue misleading the House, so that we believe that some investigations are going on when, obviously, there is absolutely nothing going on?

The Temporary Deputy Speaker (Mr. Ethuro): Order, hon. Namwamba! You have made your point. That is why I even asked the Assistant Minister to repeat that particular answer; surely, Mr. Assistant Minister, you are either aware or you are not aware. Confirm to this House the correct position.

Mr. Ojode: Mr. Temporary Deputy Speaker, Sir, I did mention here that I am not aware of any death threats. I am not aware that he was heading any investigations on drugs. It is simple English. I am not aware!

(Laughter)

Mr. Baiya: Mr. Temporary Deputy Speaker, Sir, it has been suggested more than once to the Assistant Minister that contrary to the official story, which he has been given, there is, indeed, a possibility that these officers were in the course of doing another investigation and that there was a cover up which could have led to their own death. What is the Assistant Minister saying on that? If it is true, can he tell us whether the police are competent, really, to actually do that investigation? Is the Assistant Minister in order to actually avoid responding to that concern of this House?

Mr. Ojode: Mr. Temporary Deputy Speaker, Sir---

(Several hon. Members stood up in their places)

The Temporary Deputy Speaker (Mr. Ethuro): Order, Mr. Assistant Minister! Let us get the points of order.

Yes, Mr. Olago.

Mr. Olago: On a point of order, Mr. Temporary Deputy Speaker, Sir. I am quite perturbed by the answer given by the Assistant Minister to the effect that he is not aware that the deceased persons were conducting an investigation. Surely, it is within his powers to find out if his policemen had been or were not involved, so that he can tell the House definitely that they were involved in an investigation or that they were not. He cannot say that he is not aware. Is he in order?

(Mr. Ojode stood up in his place)

The Temporary Deputy Speaker (Mr. Ethuro): Order, Mr. Assistant Minister, you really need to take this House seriously. This House expects definite answers from

the Government. It is not possibilities. This side can engage in possibilities, but this side cannot afford possibilities. You need to be very clear that either it happened or it did not happen. Which is the correct position?

Mr. Ojode: Mr. Temporary Deputy Speaker, Sir, we will issue a statement with regard to the KTN story, which I think will also touch on this particular case. As of now, I have no details which I can give to the effect that this particular officer was heading an investigation. I do not want to mislead this House and I will never mislead this House.

(Several hon. Members stood up in their places)

The Temporary Deputy Speaker (Mr. Ethuro): Order, hon. Members! We need to conclude this matter. It is already 4.25 p.m. Because this answer is very unsatisfactory, the Assistant Minister will make these issues part of the statement he will bring next week; if he does not satisfy the House, hon. Namwamba, you should be at liberty to bring the Question again.

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

The Temporary Deputy Speaker (Mr. Ethuro): Hon. Namwamba, the Question is deferred until after the statement is made. You can see the link.

(Mr. Namwamba stood up in his place)

What is it, hon. Namwamba? Be very brief.

Mr. Namwamba: Mr. Temporary Deputy Speaker, Sir, mine is just to request that when the Assistant Minister does bring the comprehensive Statement expected in this House, he should include in it a report of this inquest that he says in his answer was conducted into this matter. That is the comprehensive report.

The Temporary Deputy Speaker (Mr. Ethuro): That is fine.

Yes, hon. Joho!

Mr. Joho: Mr Temporary Deputy Speaker, Sir, mine is just on a light matter as to whether in bringing that statement in response to KTN and given the dissatisfaction people are raising in terms of police performance, he will consider requesting governments like those of the USA and the UK to bring in independent investigators to investigate the whole matter related to drugs.

(Mr. Ojode stood up in his place)

The Temporary Deputy Speaker (Mr. Ethuro): Mr. Assistant Minister, these are suggestions to what you will do in the report. Let us get more points of order and then you may respond later on.

Proceed, Dr. Nuh. Be very brief, hon. Members!

Dr. Nuh: Mr. Temporary Deputy Speaker, Sir, there is also this alleged CCTV camera that had the footage when those AP officers were killed that was forwarded to the Police Department or the Provincial Headquarters. Could the Assistant Minister can also come and table a copy of that cassette, which is allegedly disappearing in some quarters.

Mr. Kiuna: Thank you, Mr. Temporary Deputy Speaker, Sir. This Question is very serious and I would be pleased if, as the Assistant Minister prepares his answer,

whether it could be referred to the relevant Departmental Committee so that they can also do their own investigations.

(Applause)

(Mr. Ojode stood up in his place)

The Temporary Deputy Speaker (Mr. Ethuro): Order, Mr. Assistant Minister! It is after the Statement that we determine further actions!

Yes, Dr. Khalwale!

Dr. Khalwale: Thank you, Mr. Temporary Deputy Speaker, Sir. Also allow me to request that when the Assistant Minister brings the Statement, he should bring a report – and table it in this House – from the immediate officer supervising these officers to tell us what was their deployment, if they had been deployed to investigate any drugs.

Finally, the Minister should find out whether the personal number of the police officer which was shown on the KTN was not the same as the personal number that is held by a police officer in a police station in Kakamega County.

The Temporary Deputy Speaker (Mr. Ethuro): Finally, hon. Kabogo!

Mr. Kabogo: Thank you, Mr. Temporary Deputy Speaker, Sir. In addition to the information the Assistant Minister will bring to the House, I would request that he brings in photos from the camera that is said to be with the KTN. He should also bring records of these policemen's cell phones, which is said they were called to their deaths. Can the Assistant Minister also avail the records of these policemen's phone calls of that particular day when they were killed?

The Temporary Deputy Speaker (Mr. Ethuro): That is the end of this matter, hon. Members. We need to make progress and Mr. Assistant Minister take note and respond appropriately when you will make that strong Statement! Indeed, from these points of order, it will even be stronger.

Hon. Members, we have the matter on the Prime Minister's Time. Hon. Mungatana---

(Mr. Mungatana moved from the Back Bench)

Hon. Mungatana, I want to inform you and I am not asking you! Hon. Mungatana, resume your seat!

There is communication from the Office of the Prime Minister that he is on an official visit outside the country and he will be available next week to answer your Question and that one of hon. Harun Mwau. That will be on 23rd November, 2011.

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

The Temporary Deputy Speaker (Mr. Ethuro): Now, how will that help and yet the Prime Minister is not here?

Yes, hon. Mungatana!

Mr. Mungatana: Mr. Temporary Deputy Speaker, Sir, you have ruled many times from the Chair that the Prime Minister is not an individual but an office. There are two Deputy Prime Ministers in that office. This is the third time this Question is being deferred. What is the problem? This is because hon. Ojode could as well just deal with

this matter. We want to know why the Prime Minister is avoiding to answer this Question or why he is insisting that he must answer it himself? That is just an office. What is the problem?

(Several hon. Members stood up in their places)

Dr. Nuh: On a point of order, Mr. Temporary Deputy Speaker, Sir. From the information we have, the Prime Minister has gone for a pilgrimage to Israel. This is a religious meeting. Since when did pilgrimage become official duty of this country?

Dr. Khalwale: Mr. Temporary Deputy Speaker, Sir, on the same issue of the Prime Minister, the Speaker of the National Assembly directed that today the Prime Minister responds to the issue of De La Rue. Indeed, I have a copy of the letter here from the Office of the Speaker which gave that directive of the Speaker to the Office of the Prime Minister. They went ahead and attached the verbatim HANSARD proceedings of this House. When you look at the Order Paper, this issue had been omitted. Could you use this opportunity to direct that this matter be on the Order Paper next week? I would like to pass over this so that you can confirm what I am saying.

(Dr. Khalwale laid the document on the Table)

The Temporary Deputy Speaker (Mr. Ethuro): Order, Dr. Khalwale! Was the direction that it should appear in today's Order Paper?

Dr. Khalwale: Yes, Mr. Temporary Deputy Speaker, Sir. I have tabled a letter from the Office of the Speaker to that effect. It was sent to the Office of the Prime Minister.

The Temporary Deputy Speaker (Mr. Ethuro): Your part will be answered better by the Leader of Government Business. On the one by Dr. Nuh; when you rise on a point of order you should be willing to---

The Chair is seized with adequate information for now. I have official communication from the Office of the Prime Minister indicating that he is currently on official visit to the State of Israel. Nowhere does this letter contain the word, "pilgrimage". I think it is in the public domain that he is on official State business.

On the one by Mr. Mungatana, I agree with you that the Prime Minister himself does not have to respond to the Question. However, neither does the Standing Order No.40 allow Mr. Ojode or any other Minister to respond. It is only the Deputy Prime Minister who can do so.

Therefore, for De La Rue, indeed, the Office of the Prime Minister has communicated to that effect; that the request by the Member for Ikolomani Dr. Bonny Khalwale has been deferred to the Deputy Prime Minister and Minister for Finance. I will, therefore, order that next Wednesday, before the Prime Minister gives his Statement, we will get the Deputy Prime Minister and Minister for Finance responding to this.

The Member for Kisumu Town West, Mr. Olago Aluoch, your matter has been referred by the Office of the Prime Minister to the Deputy Prime Minister and Minister for Finance.

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

The Temporary Deputy Speaker (Mr. Ethuro): On a related matter or on a different one?

Mr. Olago: Mr. Temporary Deputy Speaker, Sir, what I wanted to find out is if that matter is referred to the office of the Deputy Prime Minister---

The Temporary Deputy Speaker (Mr. Ethuro): Order! Mr. Olago, I asked if you are on a related matter or a different one and you just responded.

That was to assist me whether to allow you or not.

Mr. Olago: Mr. Temporary Deputy Speaker, Sir, it is just a clarification.

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

Mr. Olago: Mr. Temporary Deputy Speaker, Sir, my question was to the Office of the Prime Minister. I agree that it has now been referred to the office of the Deputy Prime Minister and Minister for Finance. When is the matter coming up because it was supposed to come up today?

The Temporary Deputy Speaker (Mr. Ethuro): Mr. Olago, do you have any preferred date now that you have the chance?

Mr. Olago: Mr. Temporary Deputy Speaker, Sir, I propose Wednesday next week in the afternoon.

The Temporary Deputy Speaker (Mr. Ethuro): It is so directed!

Order, hon. Members! We now go to the next order!

The Assistant Minister, Ministry of State for Provincial Administration and Internal security (Mr. Ojode): Mr. Temporary Deputy Speaker, Sir, I have another Ministerial Statement.

The Temporary Deputy Speaker (Mr. Ethuro): You have another Ministerial Statement?

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Thank you Mr. Temporary Deputy Speaker, Sir.

On Wednesday 26th October, Mr. John Pesa, ----

The Temporary Deputy Speaker (Mr. Ethuro): Order, Assistant Minister! I was just about to call that order so that you have the opportunity.

Next order!

The Temporary Deputy Speaker (Mr. Ethuro): Hon. Members, we will take requests first and then any Statements that are ready by Ministers!

Mr. Baiya, please, proceed!

POINTS OF ORDER

REVIVAL OF JUSTICE AND LEGAL AFFAIRS COMMITTEE

Mr. Baiya: Mr. Temporary Deputy Speaker, Sir, I rise on a point of order to seek a clarification from the Leader of Government Business in relation to the matter of the Departmental Committee on Justice and Legal Affairs and, more particularly, in relation to a communication that was made yesterday from the Chair asking the House Business Committee (HBC) to prioritize two or so Motions that are pending before the HBC and that are likely to assist in normalization of the business of this Committee.

It is a matter in the public domain that this Committee has not been functional for almost nine months now. This is a departmental committee of this House set up by the

Standing Orders pursuant to Standing Order No.198. A resolution to that effect was also made by this House and the special mandate is also set out by the Standing Orders.

Mr. Temporary Deputy Speaker, Sir, it is regrettable that a considerable amount of work meant to be undertaken by this Committee has been pending undone including that which was referred to this Committee yesterday by the Speaker. We would, therefore, ask the Leader of Government Business to clarify and confirm why they have not deemed it fit to give priority to any Motion that would help resolve this matter once and for all.

Mr. Temporary Deputy Speaker, Sir, this matter has also affected Members of this Committee. The Members are intact and only one person has left in writing. We would also be seeking the clarification why that position has not been filled.

Mr. Olago: On a point of order, Mr. Temporary Deputy Speaker, Sir. The concerns of Mr. Baiya are genuine only in so far as he excludes the fact that some Members of this Committee had resigned. That should be accepted.

The temporary Deputy Speaker (Mr. Ethuro): Order, Mr. Olago Aluoch! The Statement was to the Leader of Government Business. From my recollection, you have never been anywhere nearer that position.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Temporary Deputy Speaker, Sir, the Leader of Government Business is out of the country on official duties but I will ask the Deputy Leader of Government Business to respond to the clarifications sought by Mr. Baiya, tomorrow afternoon.

(Several hon. Members stood up in their places)

The Temporary Deputy Speaker (Mr. Ethuro): Order, hon. Members! This is a situation where we will allow all points of order. This is because in Ministerial Statements you stand on points of order. Therefore, do not interrupt when he is responding.

My directive is that since tomorrow is Thursday and the Standing Orders allow the Leader of Government Business or his deputy to give the Government programme of the week, tomorrow would be a good day for him to respond.

Mr. Ruto: On a point of order, Mr. Temporary Deputy Speaker, Sir. I seek your indulgence to allow for a little bit of additions to the request by the Vice-Chair of the Committee and indeed, it is possible because even last week---

The Temporary Deputy Speaker (Mr. Ethuro): Order, hon. Isaac Ruto! Just resume your seat. The new habit of people contributing to other people's Statements will no longer be entertained by the Chair; at least, not when I am in the Chair. The understanding is that the Member proposes a Statement which is approved by the Speaker. We should really restrict ourselves to that. In any case, this matter is just seeking from the Leader of Government Business why certain Motions that have been approved are not before the House. So, we should not be entertaining more issues that are really not necessary from what is being requested. So, I disallow it.

Mr. Mbadi: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the hon. Assistant Minister for Provincial Administration and Internal Security in order to mislead this House that the Leader of Government Business is out there on official duties, when

we know that he is busy opening offices of parties which he does not even belong? He is not even a member of those parties.

(Laughter)

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Temporary Deputy Speaker, Sir, as far as the Government is concerned, the Leader of Government Business is in London. He will then proceed to Rome on official duties.

ALLEGATIONS OF CORRUPTION LEVELLED AGAINST
MEMBERS BY TWO MINISTERS

Mr. Keynan: Mr. Temporary Deputy Speaker, Sir, I rise under Standing Order No.82. I want to refer the House to the Adjournment Motion that was brought and debated yesterday. Those of you who have had an opportunity to go through today's newspapers, one of them has a sensational headline: "Orengo Blames MPs for Land Fraud." Another one reads: "Ministers Blame Syokimau Land Fiasco on Corrupt MPs."

Mr. Temporary Deputy Speaker, Sir, this Parliament, which is a critical institution in the Republic of Kenya, has been on the receiving end. It has become a punching bag on behalf of individual Government officials who have failed to discharge their official functions. Members of the Tenth Parliament have been called all sorts of names. They have been labeled drug dealers, land grabbers, agents of fraud and all sort of bad names.

It is because of that, that I stand under this Standing Order to demand--- We cannot just be silent and mourn when our names are being besmirched; when we are being called all sorts of names and yet, democracy is a very expensive exercise. This House is a product of the aspirations of 40 million Kenyans and, anybody who is not comfortable with this House, should wait for the next general election and try their luck. It is not very easy to have one elected. I know all of you experienced the difficulties, nightmares and tribulations that one undergoes to be elected.

Mr. Temporary Deputy Speaker, Sir, it is because of that, that as an individual, I am not willing just to sit back and be on the receiving end from the very individuals who have been accomplices in all the funny activities that have taken place in this country. Under this Standing Order, there is responsibility for statement of fact. The two Ministers made very serious allegations that, indeed, these very Members of Parliament who are supposed to be the protectors of the Kenyan public have been agents of those fraudulent activities. It is because of that, that yesterday, those statements were made by both Ministers, just two or three minutes before the Session came to an end.

Mr. Temporary Deputy Speaker, Sir, this particular Standing Order states:-

"(1) A Member shall be responsible for the accuracy of any facts which the Member alleges to be true and may be required to substantiate any such facts instantly." That did not happen because of lack of time.

Standing Order No.82(2) states:-

"If a Member has sufficient reason to convince the Speaker that the Member is unable to substantiate the allegations instantly, the Speaker shall require that such Member substantiates the allegations not later than the next Sitting Day, failure to which

the Member shall be deemed to be disorderly within the meaning of Standing Order 97 (disorderly conduct), unless the Member withdraws the allegations and gives a suitable apology, if the Speaker so requires.”

Mr. Temporary Deputy Speaker, Sir, I raised this matter because all of us have been collectively condemned. When the Kenyan public reads this, they do not know whether the Member for Turkana Central, who has been an able panelist on the Speaker’s Panel, is one of the Members of Parliament who has been engaged in that fraudulent exercise. All of us, the 220 Members of Parliament including the Speaker, have been condemned. Unfortunately we did not get this opportunity, but our work as a Parliamentarian--- One of the reasons why we jealously fought hard to have a Parliamentary Service Commission (PSC) is to articulate issues and to protect this House in the best possible manner at all the time. It is because of that, that I felt duty-bound--- I want to thank hon. Members for recently electing me as one of the Commissioners.

(Applause)

Mr. Temporary Deputy Speaker, Sir, this is a very serious issue. All of us have been collectively condemned and I cannot, at any given time, blame the media. What the media reported is what, indeed, the two Ministers alleged on the Floor of the House and, therefore, the media houses were accurately discharging their mandate of informing the Kenyan public. It is because of that, that I seek the indulgence of the Chair that either the two Ministers be asked to substantiate--- They have avenues to---

The Temporary Deputy Speaker (Mr. Ethuro): Order, hon. Keynan! You have made your point!

Mr. Keynan: Mr. Temporary Deputy Speaker, Sir, I am about to conclude. Those two Ministers have avenues and procedures to use, if, indeed, there are Members involved. One of the procedures is to move a Substantive Motion, bring the facts to the House and discuss the individual Members involved. There are other avenues that I do not want to well on. I seek your indulgence so that this honourable august House and hon. Members are protected. Those who are engaged in criminal activities should be brought to book. That is because criminal responsibility is an individual issue and, therefore, if one of us commits a crime, that is an individual issue. Nobody has the moral authority to come and condemn the whole House, which is a product of the aspirations of the Republic of Kenya.

Thank you.

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

The Temporary Deputy Speaker (Mr. Ethuro): On the same?

Mr. Mungatana: Yes, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Ethuro): Proceed, hon. Mungatana. Hon. Members, let us be brief. Let us not read the Standing Orders. I think all of us can be availed a copy.

Mr. Mungatana: Mr. Temporary Deputy Speaker, Sir, very briefly. In fact, further to what hon. Keynan has said, under the Constitution, every citizen has a right of access to information held by the State, including ourselves as Members of Parliament. If hon. Orenge and hon. Kimunya have information to the effect that some Members of this House were involved in that fraud, we have a right to access that information. Every

person, under Article 35, has the right to correction or deletion of untrue or misleading information that affects that person. We have been negatively affected as Members of Parliament by that information and we demand that those two Ministers substantiate those allegations or they withdraw and apologise to the membership of this House. Thank you.

The Minister for Housing (Mr. Shitanda): Mr. Temporary Deputy Speaker, Sir, with due respect to the honourable Members who may have been affected by my colleague's utterances, I think this matter was referred to the relevant departmental Committee. I think the best avenue to pursue this matter is for the Committee to summon those honourable Members. In case they have any information on any particular Member, then they can give that information to the Committee, so that it can form part its report.

Mr. Ruto: On a point of order, Mr. Temporary Deputy Speaker, Sir. From the statement being given by the Minister, maybe we would like to know further whether that is the collective belief within the Cabinet. This is because I am sure that he rose on the principle of collective responsibility. Is it a collective belief in the Cabinet that Members of Parliament are actually fraudulent? I think it is even more important that you clarify that. Otherwise, I see no reason the Minister for Housing is trying to defend hon. Orengo.

The Minister for Housing (Mr. Shitanda): Mr. Temporary Deputy Speaker, Sir--

The Temporary Deputy Speaker (Mr. Ethuro): Order! This cannot be a debate between hon. Ruto and hon. Minister for Housing. Since this matter is affecting all of us, I will entertain contributions to it from this side, ask somebody representing the Leader of Government Business to respond on behalf the Government and then the Chair will make a ruling.

Hon. Mbadi!

Mr. Mbadi: Mr. Temporary Deputy Speaker, Sir, first, I want to thank hon. Keynan for bringing this matter. In fact, now it proves that we were not wrong when we made you a Member of the Parliamentary Service Commission (PSC). I hope that you are going to be the Vice-Chair of that PSC.

Mr. Temporary Deputy Speaker, Sir, remember yesterday, the Minister for Transport was very categorical and said that we are being used to bring documents here. That I found to be really targeting Members of Parliament. As the person who brought the Motion, I felt like someone was accusing me of working together with the landgrabbers, and I have never grabbed even a stool. So, I was wondering if I am in this team. We are not even protecting the Members of Parliament here. The question here is: In case there are some Members of Parliament who really are colluding with landgrabbers or have grabbed land, this country is entitled to knowing those people. So, I think we should ask the Ministers who made these serious allegations to substantiate and explain to the people of Kenya who are involved.

Dr. Khalwale: Mr. Temporary Deputy Speaker, Sir, I just want to plead with you. We are aware that the Standing Orders can be applied on this issue, where the Ministers will be hard-pressed to respond to the points we are raising. But also, the same Standing Orders can be used to give these Ministers an opportunity to escape; namely, the Chair might as well ask them, if they do not to substantiate, to withdraw and apologize. On this one, we do not want any apology. Do not allow anybody to withdraw; we want them to

come out and defend their minds. Why is this so? It is because when you say that the Members of Parliament---

The Temporary Deputy Speaker (Mr. Ethuro): Order, Dr. Khalwale! Just as much as I will allow you to proceed, I think you cannot reverse the Standing Orders through your contribution.

Dr. Khalwale: Mr. Temporary Deputy Speaker, Sir, that is why I started by requesting that I was pleading with the Chair.

Mr. Temporary Deputy Speaker, Sir, I am saying these things because, one, if the Members of Parliament are so accused then maybe, they were inciting those people to go and behave the way they were seen on television behaving or put up multimillion shilling houses. Also, maybe the Ministers meant that the Members of Parliament who are being accused are the ones who got the land allocated to them and then, subsequently sold it to these members of the public who are now crying and suffering. Alternatively, it could be, like in the case of Kyang'ombe Village in Embakasi, that Members of Parliament are actually landlords and have been receiving rent from these innocent members of the public.

Mr. Temporary Deputy Speaker, Sir, lastly, it could be that we have hon. Members here who are landgrabbers. This must be made clear.

The Temporary Deputy Speaker (Mr. Ethuro): Order, Dr. Khalwale! You cannot use the opportunity of asking Ministers to substantiate to make similar allegations without substantiating them.

Member for Kamukunji!

Mr. Hassan: Mr. Temporary Deputy Speaker, Sir, in fact, I had not read the newspapers early this morning and, when I was walking here, I could see some strange looks from people looking at me as a Member of Parliament for a Nairobi area. I think the Ministers do really need to clarify the fact that they were trying to silence us when we were speaking for the poor people of Nairobi, many of them who have been affected by the demolitions. I think many of them want us to be silent on these areas where they are demolishing houses illegally all the time. I think it is important that we call upon them to either substantiate what they publicly said here, by providing the names or withdraw.

Thank you, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Ethuro): Hon. Members, I will encourage that you make new contribution. You know what your colleagues have already canvassed on.

Hon. Duale!

Mr. Duale: Mr. Temporary Deputy Speaker, Sir, the matter that hon. Keynan has raised is long overdue. On a number of occasions, on the Floor of this House, Members of Parliament have been accused by their own colleagues of either being very corrupt, involved in corruption, land dealings or drugs. This morning that issue took more than 40 minutes.

Mr. Temporary Deputy Speaker, Sir, I think it has reached a time – and it is good that now we are approaching the general elections – that among ourselves, we must be told who are the landgrabbers, drug dealers and very corrupt. We must be told even who the rapists are. I think it is due diligence that this House ; not only the Ministers, but even Members of Parliament from both sides, re-evaluate themselves and make sure that we sustain and retain the integrity of each one of us. For those Ministers and those who have

been talking about drugs – and hon. Ojode is here – the earlier the better that they told us who are the drug dealers and the land owners. When Kenyans are evicted from public property, there are those who claim that the land is theirs.

Mr. Temporary Deputy Speaker, Sir, I think that is a matter of great national importance and hon. Keynan's issues must be addressed.

Mr. Njuguna: Mr. Temporary Deputy Speaker, Sir, we are worried with the two statements that were issued by the Ministers. In my view, names of hon. Members were smeared and our families are concerned. The citizens of this country and even the churches where we go to worship are also concerned. Therefore, it is imperative that the grabbers in this House must be known. It must be known how many acres or hectares of land have been stolen. These people have got names and identity. The sooner the names are known the better. This is because we are now heading to the homestretch to face serious general election and, therefore, our names must be cleared as soon as possible.

The Temporary Deputy Speaker (Mr. Ethuro): Order, hon. Members! Is there any representation from the Government?

The Minister for Housing (Mr. Shitanda): Mr. Temporary Deputy Speaker, Sir, I think what my colleagues said here yesterday appears to be a blanket condemnation of all the Members of Parliament. But I want to assure this House that what my colleagues were saying has got some truth. I also want to assure this House that when my colleagues come here, I am sure they will not be coming to withdraw any statement that they made, but to substantiate it. Even in my Ministry I have a lot of issues. I am the custodian of all Government land and I have a lot of issues, even with some Members in this House.

Hon. Members: *Toboa! Toboa!*

The Temporary Deputy Speaker (Mr. Ethuro): Order, hon. Members! I think what hon. Keynan has sought is the issue of responsibility for statement of fact under Standing Order No. 82. Ideally and strictly according to the Standing Orders, I should not have entertained that because that matter should have been sought yesterday. However, having participated in the deliberations myself from the Floor, I know attempts were actually made to try and make the Ministers substantiate but they did not. Given also the gravity of the problem in terms of a blanket condemnation of the entire membership of the House, it will be irresponsible for this House to allow this statement to proceed without being challenged. So, the Chair has noted your issues of substantiation. The Chair has also appreciated the categories in which Members have been placed. Dr. Khalwale has, in particular, said that no apologies will be accepted, a position which seems to be accepted by the Minister for Housing. In addition to the two Ministers, we will add a third one - the Minister for Housing.

(Applause)

In effect, the Chair will need a bit of time to ventilate on all these issues and make a ruling on Tuesday on this matter. This is a matter that the Chair was seized of much earlier than you. One thing that the Chair can make very clear at the very beginning is that the whole House cannot be condemned in totality.

Secondly, it is also very clear that you cannot discuss the conduct of an hon. Member without bringing a Substantive Motion. So, those two issues will remain core to the way we deliberate this matter. However, I want to thank hon. Keynan and other

Members who have sought it so that the dignity and decorum of the House is protected at all times and that we will be responsible for all our statements especially when a Minister comes to the Floor and makes certain statements. These statements must be collaborated and supported.

Thank you.

Mr. Kabogo: On a point of order, Mr. Temporary Deputy Speaker, Sir. I entirely agree with what you have just said that the matter should have been dealt with yesterday. However, you heard the hon. Minister, Mr. Shitanda say that he has a problem with Members of this House. He said that today. So, he should substantiate that matter now so that it does not become a matter of yesterday or he withdraws it.

(Mr. Shitanda stood up in his place)

The Temporary Deputy Speaker (Mr. Ethuro): Order, Mr. Minister. Just because you have been mentioned does not give you the right of reply.

The Minister for Housing mentioned that in the context of replying to the matter of yesterday. It is only that he has made it worse but he has also made it current. That means that the Chair will consider all the issues in totality including yesterday's and today's assertions by the Minister.

So, just allow the Chair to make that ruling on Tuesday afternoon.

Let us move on to the next Order!

MINISTERIAL STATEMENT

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): On a point of order, Mr. Temporary Deputy Speaker, Sir. I have one Ministerial Statement to make.

The Temporary Deputy Speaker (Mr. Ethuro): How long is it?

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): It is not long, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Ethuro): That sounds short!

INSECURITY DURING GOR MAHIA/AFC SOCCER MATCH

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Temporary Deputy Speaker, Sir, on 26th October, hon. Pesa who is the Member for Migori requested for a Statement on the reasons for insecurity at Gor Mahia/AFC Soccer Match that occurred on 20th October, 2011.

In the statement, he wanted clarification on the investigations carried out to ascertain whether there was a group outside the soccer fans which had a motive to bring enmity between the supporters of the two teams who in their recent past have had cordial relations regardless of the outcome of the matches. Secondly, the reason why the kick-off was after 5.00 p.m. despite the fact that the State Function had ended before 1.00 p.m. and the measures put in place to safeguard soccer lovers.

I wish to state as follows.

On 20th October, 2011, Gor Mahia and AFC played a match against each other at the Nyayo National Stadium. Gor Mahia emerged as the winners. This appeared to have angered AFC Leopards fans who took to the streets stoning cars along the busy Lang'ata and Mombasa roads. However, police intervened and managed to restore security. Investigations carried out had established that there was no group outside the soccer fans whose motive was to cause enmity between the fans of the two football clubs as alleged.

As to the reason why there was a delay in the kick-off, it is worth noting that the match was scheduled to take place at the same venue where Mashujaa Day celebrations were being held. Some people who had attended celebrations failed to vacate the stadium thinking that the match was free. It took the police time to clear the stadium to allow for kick off the match and enable the organizers to collect entry payments.

Finally, the police will continue being deployed in stadia whenever there is a soccer match to safeguard the security of the fans. It is also important that soccer fans embrace peace, noting that in any match, there must be a winner and a loser. The unruly behavior by soccer fans will not be tolerated.

I want to say, again, that the unruly behavior by soccer fans will not be tolerated and anybody found damaging property or causing injuries against another will be dealt with according to the law.

Thank you.

Mr. Pesa: Thank you, Mr. Temporary Deputy Speaker, Sir. I want to thank the Assistant Minister because he is not taking our matches very seriously. Yesterday, we had Harambee Stars playing Seychelles. The Assistant Minister here sent none other than the Commissioner of Police to the Nyayo Stadium and the work by the police was very commendable. This is what we are asking for. The Assistant Minister should continue. We want him to assure this House that he will not take lightly any matches involving, not AFC Leopards, but all clubs in the country so that we use these matches as friendly matches rather than having people being against one another like what we saw on Mashujaa Day. Could he assure this House that he will always bring his policemen and that the policemen will be proactive when they come to the field?

The Temporary Deputy Speaker (Mr. Ethuro): Mr. Assistant Minister, let us take other clarifications so that we conclude this at once.

Mrs. Shebesh: Thank you Mr. Temporary Deputy Speaker, Sir. The Assistant Minister is also aware that there is a new body in place running football, whose elections were done recently. Could the Assistant Minister consider having a long lasting relationship where his officers who go to man matches are trained specifically on how to deal with hooliganism because the same police officers who deal with criminal matters on the streets, who are sent to deal with football matches sometimes could be the cause of more tension because of the way they react? Could he consider, as a Ministry, to train police officers so that we can have officers who can man sport areas?

Mr. Njuguna: Mr. Temporary Deputy Speaker, Sir, we have seen very good referees and coaches being attacked in the field. What extra security measures is the Ministry putting in place to ensure the security of these key officials as they execute their responsibilities?

The Temporary Deputy Speaker (Mr. Ethuro): Yes, Assistant Minister!

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Temporary Deputy Speaker, Sir, let me start with the

clarification sought by hon. Pesa. This is a warning to all soccer fans; if you are found causing chaos or wanting to threaten another soccer fan as a result of losing or winning, the law will take its course. We will arrest such fellows on the spot and charge them.

As regards the clarification sought by hon. Shebesh, yes, we are in the process. We want to re-train our police officers to bring law and order, especially when there are matches. That is a good suggestion.

Mr. Temporary Deputy Speaker, Sir, referees will be taken care of. We will provide security. On the same note, we want leaders to also preach peace while soccer matches are on. Otherwise, we will arrest offenders without any hesitation. We do not care what position you hold in society if you do not want to preach peace.

Thank you.

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

BILL

First Reading

THE CONSTITUTION OF KENYA (AMENDMENT) BILL

The Temporary Deputy Speaker (Mr. Ethuro): Hon. Muthama, where is the Minister for Justice, National Cohesion and Constitutional Affairs?

Mr. Muthama: Mr. Temporary Deputy Speaker, Sir, he is at the back but he is coming.

The Temporary Deputy Speaker (Mr. Ethuro): We need him now.

Mr. Muthama: He is here, Mr. Temporary Deputy Speaker, Sir.

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. M. Kilonzo): Mr. Temporary Deputy Speaker, Sir, please, allow me to apologise. In fact, I was in the back room.

The Temporary Deputy Speaker (Mr. Ethuro): On that note, I want to acknowledge hon. Ojode for performing the role of delivering the Minister for Housing.

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. M. Kilonzo): Mr. Temporary Deputy Speaker, Sir, this is the response to the point of order that had been raised. In presenting it, allow me a bit of indulgence because this is such a fundamental issue for this country at this time and it is important that I present a comprehensive picture of the matter.

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

[Mr. Speaker took the Chair]

Mr. Speaker, Sir, the theme of this particular Bill in this Order Paper is first elections, second elections, third elections and nothing else. The Bill seeks to amend Article 89, which you will find on page 59 of the Constitution. I would like to ask these very distinguished leaders in this Chamber and those who are watching outside to look at that page to see the thrust of what is intended in this proposal. The purpose of this

amendment is to remove the ambiguity that has arisen on the use of the phrase “dissolution”.

I also want to urge hon. Members to look at Article 102 of the Constitution on the definition of the term “Term of Parliament” because nobody referred to this particular part. It says:-

“102(1) the term of each House of Parliament expires on the date of the next general election.”

Mr. Speaker, Sir, I have no hesitation in saying this to the country and to hon. Members in this Chamber, that because of the definition of “Term of Parliament” given under Article 102(1), the amendment that is proposed on Article 89(9) is crucial. In fact, it is inescapable.

Allow me also to emphasise that the country has concentrated very much on constituencies only and I draw the attention of hon. Members to Article 89, sub-Articles (9), (10) and (11), which also provide for the creation of new wards. Allow me to say that as I speak as the Minister responsible for elections, there is no ward for next year’s elections and, therefore, again, the purpose of the amendment would be clear. It is to ensure that the wards and the new constituencies come into existence for the purposes of the 2012 elections.

Mr. Speaker, Sir, simply stated, therefore, if this proposal is passed, we will put to rest the question as to when the new electoral boundaries will take effect. That is to say my proposal is that they take effect for purposes of the 2012 general elections.

The other proposed amendment is on Article 90, and I want to emphasise for the benefit of the country that the use of the term “*ombudsman*” is, in my view, inadvisable. The Articles and clauses that deal with the elections, for purposes of the 2012 elections are scattered throughout the Constitution. Therefore, anybody looking at my Bill will think that I am proposing amendments on many things but I am only concentrating on elections.

Mr. Speaker, Sir, therefore, let me explain briefly without anticipating debate that Article 90 is essential because it is the Article that provides for the method for fulfilling the responsibility of political parties on party lists. Therefore, I am simply inserting in that Article two very minor amendments, so that we can have a provision for special seats for the National Assembly and also have a window for the Senate. Without doing this, we will not realise the aspirations of the Kenyan people as captured in Article 27(8) of the Constitution, which requires that no gender should enjoy more than two thirds of elected officials.

Mr. Speaker, Sir, you recall the enormous debate that took place during the debate on the Elections Bill, because you managed it very well. My proposals are bringing a solution to this particular proposal, so that no gender can enjoy more than two thirds of elective posts. Therefore, amending Articles 97 and 98 without amending Article 90 would not realise the dream, the purposes and the aspirations of the Kenyan people.

If you look at Article 27, at page 25, you will appreciate that sub-Article 8 is so important. It says:-

“In addition to the measures contemplated in Clause (6), the State shall take legislative and other measures to implement the principle that not more than two-thirds of the members of the elective or---”

I speak with utmost humility to my country, without fear. My proposal is dealing with the elections, and nothing else. It deals with members of elective bodies. The mere fact that I am introducing wards and special seats for this House and for the Senate is purely coincidental.

Mr. Speaker, Sir, allow me to say this because I am looking at extremely distinguished leaders in this country, who have demonstrated an ability to help this country to move forward. The words I have used in the amendments to Articles 97 and 98, which come together with the amendment to Article 90, are exactly identical in Article 177. There is nobody in Kenya wondering how gender parity will be realised for county governments. Therefore, it is important that this House also remembers that it is composed of human beings and human beings are such that sometimes they can have a bit of oversight and sometimes they can have a bit of a slight glitch. Therefore, in order to protect next year's elections, I am, again, borrowing the words in Article 177 for county governments and bringing them to Articles 97 and 98, so that the Senate, the National Assembly and the County Assemblies are covered.

Mr. Speaker, Sir, again, allow me now to tell you that the other proposed amendment is on Article 101 on page 67. For those who are worried about an omnibus if you look at page 67, Article 101 opens with very specific words. It says: "A general election."

Therefore, when you see me seeking to amend Article 101, my focus is only on elections. My responsibility in the docket that I hold is to give this country an election that takes us forward. Therefore, yet again, the amendment in Article 101 must be understood from that perspective; not a matter of bringing together inside other amendments.

Mr. Speaker, Sir, that is why I am emphasizing the theme of elections. It should not be forgotten, and I want to emphasize that all of us seating here, except Mr. Cyrus Jirongo, we now comprise a Grand Coalition Government through a constitutional amendment in 2008. That constitutional amendment was necessitated by a flawed election in 2007. My theme, therefore, remains and I will look you in the face openly and tell you that I only want to be able to ensure that I give you elections in 2012 that are not subject to question. Therefore, look at 101 from that perspective and, please, consider that the other proposed amendments are Articles 136, 177 and 180.

It will be noted that the calendar difference between "the second Tuesday in August" appearing in all those Articles 101, 136, 177 and 180 and "the third Monday in December" in my proposal is 90 days only. I am simply saying let us be practical. Let us look at this and allow those extra 90 days for preparations for 2012 elections.

Mr. Speaker, Sir, the last three proposed amendments are in the Sixth Schedule of the Constitution. The Sixth Schedule deals with transitional provisions. It is important that the country listens to me. If you want to oppose what I am saying, please, speak out loudly so that when the reckoning hour comes, we can quote back to you what you have said.

The Sixth Schedule deals with transitional provisions. By their very definitions, transitional provisions are intended to form a bridge from one side of the river to the other side. Without that transitional provision, anyone seeking to cross a river may face difficulties and sometimes even death by drowning. I want to emphasize that the proposed amendment to Section 9 of the Sixth Schedule is directly driven and informed

by the theme of elections. The amendment seeks to resolve the lingering issue of the use of the word “dissolution.”

If you look at Section 9 of the Sixth Schedule and you will find it on page 196, allow me to just read, so that I can show you what I have in mind. It says:-

“The first elections for the President, the National Assembly, the Senate, county assemblies and county governors under this Constitution shall be held at the same time within sixty days after the dissolution of the National Assembly.”

At the end of it the word “dissolution” has not been defined in our Constitution. Secondly, there is no living person in the 42 million people of this country with the power to dissolve Parliament. I stand, again, to be corrected because I am speaking to national leadership. If you know the meaning of the word “dissolution” in the 2010 Constitution, kindly, help me. Therefore, I am seeking to adjust Section 9 in the manner that I have proposed. So, we simply change the words “within sixty days after the dissolution of the National Assembly at the end of its term” to - I just want this beautiful country to allow me to say “on the third Monday in December, 2012”, so that you do not have to worry about the definition of “dissolution”. You do not have to worry about the confusion that has engaged the country in the last two months on the meaning of “end of its term”.

Therefore, that proposal in Section 10 of the Sixth Schedule, again, is driven and informed by elections. It seeks to put to rest the public confusion regarding the phrase “its unexpired term”. Allow me to show you Section 10. This is on page 196. It says:-

“The National Assembly existing immediately before the effective date shall continue as the National Assembly for the purposes of this Constitution for its unexpired term.”

People like Professor Yash Pal Ghai and good learned friend Otiende Amolo; these are distinguished lawyers in this country, but they have not yet agreed on what “unexpired term” means. Therefore, my proposal again to my lovely country is that at this point in time why should we allow confusion? Why should we allow anybody to worry about the “unexpired term”? Therefore, I just want to replace the words “unexpired term” with “third Monday in December, 2012” so that I give you an election that is irrefutable. Therefore, again, the theme is elections.

Mr. Speaker, Sir, the other proposal is in Section 27 and this one is important. I wish hon. Members could listen to this because this is such a fundamental issue. We will have to talk to the country if Mr. Speaker rules this Bill be read the First Time. We must talk to the country for 90 continuous days before we can do Second Reading. Therefore, I would like to know whether you have understood me with clarity so that I know whether I need a further *Kamukunji* to explain this particular clause as to why we intend to put it forth.

Section 27(3) reads as follows:-

“The requirement in Article 89(2) that a review of constituency and ward boundaries shall be completed at least twelve months before a general election does not apply to the review of boundaries preceding the first election under this Constitution.”

That is the challenge we have. That is what Kenyans gave themselves. Allow me to take you to Article 89 so that I can show you why it is so fundamental we understand each other. Look at Article 89 on page 59. You will see that 89(2) has been saved so that

you will not have to count the 12 months in order for those boundaries to come into force. But look at (4) it states:-

“If a general election is to be held within twelve months after the completion of a review by the Commission, the new boundaries shall not take effect for purposes of that election.”

Is my country that went on its knees in 2007 and 2008 going to permit us to go into elections in 2012 when we have such a clear glitch? Do we understand that the constituencies that are going to be demarcated by the Commission that we approved only last week come into effect for 2012 elections? Otherwise, you might find you will not even have a county government because the wards that Mr. Hassan and his Commission will determine might be viewed in No.4.

So, my amendment in Section 27 shall read that the requirements of Article 89(2) and (4) that a review of constituencies and wards shall be completed at least 12 months before a general election does not apply to the review of boundaries preceding the first election under this Constitution. Again, the theme is elections. Above all, if you do not do this, you open a pandoras box on litigation. Above all, you might need to amend the Constitution which provides for 290 constituencies. Therefore, it is completely unfair to call my Bill an omnibus. I do not have a driving licence for an omnibus and even if I got that licence, I would surrender it and say that I do not want to drive anything of the sort.

The other issue, and hon. Members, please, listen to me, is that all these clauses that I have mentioned from 90, 89, 97 to 98, appear in Chapters 7 and 8 of the Constitution. If you go backwards to page 55, you will see Chapter 7. It starts from Article 81 and continues until Chapter 8 and Chapter 8 commences further down in Article 93 at page 63. Therefore, I have covered the amendments in Chapter 7. The amendments in Chapter 8 begin at page 63 and they begin with Clause 97 at page 65, which I pleaded with hon. Khalwale, with his beautiful big brain power, to just listen to me. I know that if I convince people like these, such distinguished people, the country will understand. Therefore, Article 97 is at page 65. It is in Chapter 8 of the Constitution. Article 98 is in Chapter 8.

Allow me to take you to Section 2 of the Sixth Schedule at page 192. It is important for the country to appreciate what my Ministry is proposing to this country. If you look at Section 2 at page 192, it says as follows:- “Suspension of Provision of this Constitution. The following provisions of this Constitution are suspended until the final announcement of all the results of the first elections for Parliament under this Constitution and-

(a) Chapter Seven, except that the provisions of the Chapter shall apply to the first general elections under this Constitution.

(b) Chapter Eight, except that the provisions of the Chapter relating to the election of the National Assembly and the Senate shall apply to the first general elections under this Constitution”.

This proves two things, namely one, my focus is elections and two, I am not proposing the amendment of any Article in force in this country today. I am proposing amendments to Articles that all of us Kenyans, whether you voted Yes or No support because voting No, technically in democracy, you support Yes if it wins. I am trying to say to the country that we suspended these Articles ourselves and the purpose of this suspension is deliberate. It is deliberate because in suspending those Articles, we gave

ourselves as a country, an opportunity to prepare for the first elections under the Constitution, so that the purpose is clear. It is to enable the country to prepare for the first elections. These proposed amendments are essential and are informed by the desire to prepare for quality, transparent and credible first elections that Kenyans so badly desire.

Therefore, in making this presentation, it is essential as I said from the beginning, to appreciate that the mere fact that these are different provisions in the Constitution, but all of them deal with elections. The mere fact that I have been trying to be neat and organized as usual to bring them together, so that the theme is continuous. If you strike one down, you will have to be ready for the consequences because one, we automatically mean that the Parliament and the Senate will have gender parity. We also mean that we are addressing the issue of those first elections to make sure that they are in order and it is essential.

Mr. Speaker, Sir, can I remind the House, because I was with you, Sir, a distinguished lawyer and many others in here, that in 2007, we spoke loudly and called on the Government to ensure that in replacing the new Commissioners in the Electoral Commission consultations are held. We were ignored. The consequences are extremely severe. We lost lives and ended up with IDPs. We are in a similar situation now. I am recommending to this beautiful country that you consider this Bill very soberly and not to look at issues that might appear to be extraneous and not to think that I want to extend the term of office of Dr. Khalwale. May I now tell you something else; if you look at Chapter 16 of the Constitution, which starts with Article 255, you begin to realize again, the quality work that was done by the Committee of Experts and the Kenyan people in giving themselves this Constitution. You notice that although Chapters 7 and 8 are suspended, Chapter 16, which is amendment of this Constitution is now in force. It is not suspended. So, once I point out that, it is essential that you bear in mind that your ruling one way or another is historic. It is the first attempt ever. If the issue is just because of omnibus, I am calling upon you to rise to history to recognize that Chapter 16 is in force and Article 256 provides for amendment by Parliamentary initiative.

In fact, as I stand here since this debate has erupted, nobody in Kenya has accused M. Kilonzo or the Cabinet of proposing to violate Article 256. I will go further and take you again to page 193. I have been taken through – and I listen to everybody – a lot of assertions and I do not want to call them allegations because I respect the hon. Members. I sincerely share some of the concerns they have expressed. But if you look at Section 3 at page 193, you will begin to see another thing that we gave to ourselves, again, in order to give us the facilities for dealing with 2012 elections. This is the extension of application of provisions of the former Constitution. If you look at Sub-section 2, you know very well that the powers of this Parliament were always contained in Sections 30 to 40 and 43 to 46. In fact, Section 30 is the one which gave legislative authority to this Parliament. Section 46 of the retired Constitution is the one which says that:-

“Subject to this Constitution, the legislative power of Parliament shall be exercisable by Bills passed by the National Assembly”.

That is the existing arrangement of this country because Section 47 of the retired Constitution, if you look at Sections 203(2), 47 was left out. Again, that is not an accident. Hon. Members in this distinguished House, the amendment theory, practice, methods and systems of the retired Constitution are no more and the sooner you come to terms with that practice, the better, because it is only 30 to 40, 43 to 46 and 48 to 58. Two

sections were left out of the practices of Parliament, namely, 47 and 59. Therefore, anybody challenging the proposals I am making must remember that the Executive arrangement of this country is still in force. That is why we call ourselves the Grand Coalition Government and the procedures for originating Bills is still in force.

I was amazed yesterday, a man I respect a great deal and unfortunately he is not in this afternoon – I hope he is watching or listening - hon. Abdikadir saying that the CIOC will object to this Bill because they were not consulted.

But I am afraid, Mr. Speaker, Sir. Part XVIII of the Standing Orders covers Public Bills. That is particularly Standing Order No.104, page 60. The section describes the method of originating Public Bills.

Mr. Speaker, Sir, knowing you, I should not take you through the origination of this Bill – that it has been proposed by the Cabinet, as it has been done since Independence – and it is a Public Bill for purposes of Standing Order No.104 (2), (3) and (4). Therefore, I am pleading with you with absolute humility to suggest that you utilize the authority under Standing Order 104 (5) to allow for the First Reading of this Bill and then these arguments, I can be joined by others who will be converted to the cause that my Bill is about elections and not about an omnibus.

Mr. Speaker, Sir, allow me also to say that Standing Order No.47 has no application to this matter and request you to find so, partly because Standing Order No.47 deals with Motions and not Public Bills. Therefore, it has no application and my request is Standing Order No.104 (5).

I would also like to suggest, Mr. Speaker, Sir, that by you and the House Business Committee (HBC) allowing for this Bill to seek First Reading, you were complying with Standing Order No.104 and it is irreversible. Therefore, you will have noticed that I never interrupted a single hon. Member of this Chamber when they objected to this Bill because that is my practice. First of all, I enjoy listening to intelligent people because I learn a lot that way. Secondly, this is a new country and where you interrupt people with Standing Orders, you lose the benefit of the quality of what they are.

Therefore, allow me to pay special tribute to hon. Imanyara, who even notwithstanding being in hospital wrote and requested for an opportunity for an oral presentation. I want to pay special tribute to hon. Mungatana, my learned friend and to all the hon. Members who have spoken very well. I have taken that HANSARD and it will feature in my memoirs in due course because I do not intend to propose any other amendments to this Constitution for the remainder of my life. I was very touched by the interest.

Mr. Speaker, Sir, one point requires emphasis and that is the separation of power. Hon. Imanyara took us through the principle of separation of power and he knows very well that I love separation of power. However, it is important that you note that I do not agree with him, but I did not feel that the best way to react to such a distinguished leader is to raise points of order. I think this is the best way to approach it.

It is essential that you note as follows, Mr. Speaker, Sir: I do not take all the matters before the Supreme Court and now in the High Court as being a challenge to Parliament's powers to amend the Constitution because that is conferred by Article 256 of the Constitution. In fact the powers of the Supreme Court are expressly provided for in Article 163 and also Article 165 for the High Court. I see no contradiction whatsoever that can be discerned from Parliament as the organ of legislation of this country utilizing

the authority under Article 256. Moreover, I actually do not think that the issue is whether it is unlawful to amend the Constitution. Rather, it is a matter seeking an advisory opinion of the Supreme Court and such advisory opinion is for the benefit of the State organ seeking it. I am not aware of any original or jurisdiction to entertain litigation by the Supreme Court except in presidential election disputes and advisory opinions.

Mr. Speaker, Sir, I am happy this afternoon for you to give me the indulgence to table before this House the ruling of the Supreme Court yesterday, dated 15th November, 2011, on the matters that were before that honorable Court. I must admit that the court, in fact, declined to give an advisory opinion, and it has cited amazing reasons which I think will inform your ruling. However, the end result of it is that the ruling has postponed a final judicial decision on those seeking the Judiciary to help with the issue of election date.

Mr. Speaker, Sir, allow me to also say this. Courts of law cannot have and will never organize elections. It is always the Executive and the organs created by this House which organize elections. Therefore, even in the unlikely event or in any event, depending on what a Supreme Court rules as has happened all over the world, those hon. Members sitting in this House would still have to take responsibility to create legislation that enables the Executive and the organs to organize transparent, free and fair elections. You cannot hide under the skirts of the Judiciary because you will still have to take responsibility to make sure that we have free and fair elections.

Mr. Speaker, Sir, allow me to mention another thing before I conclude, and it is called the “Budget cycle”. I am now talking about Articles 101, 136 and 177. I can see hon. Members with the Constitution. Please, go to Article 260. Article 260 has put us in a situation that we need to discuss quietly and soberly and also to explain to the country what we want to suggest. Page 260 is the beginning of the clauses on the interpretation of the Constitution, but you will find what I am looking for on page 170. It is somewhere in the middle where the word “fail” begins. I dislike that word because Mutula does not believe in failing. I will make sure that we succeed. However, it is followed by the words “financial year.” For the benefit of many people who do not know in the country, the phrase “financial year” has been defined by the Constitution and it means the period of 12 months ending on the 30th day of June or other day prescribed by national legislation. We have not enacted any law to change the date of the financial year. I admit that you can do so, but you know I like dealing with facts. Do not allow me to speculate. When that law comes, we will deal with it, but for the time being, I want to refer you to Articles 218 and 221. You will realise that Article 218 on annual division and allocation of Revenue Bills begins on page 138 and it says:-

“(1) At least two months before the end of each financial year, there shall be introduced in Parliament—”

Article 221 on Budget estimates and annual Appropriation Bill on page 139 says:-

(1) At least two months before the end of each financial year, the Cabinet Secretary responsible for finance shall submit to the National Assembly estimates of the revenue and expenditure of the national government for the next financial year to be tabled in the National Assembly.”

Mr. Speaker, Sir, knowing you, you will note what that means. The phrase “financial year” is a constitutional phrase and not a piece of art or a phrase in a dictionary. Therefore, as you plan for next year’s elections you have to read those. Let

me show you what I have in mind in showing you this. That is Article 259 on interpretation of the Constitution on page 167. Article 259 says:-

“(1) This Constitution shall be interpreted in a manner that—

(a) promotes its purposes, values and principles;

(b) advances the rule of law, and the human rights and fundamental freedoms in the Bill of Rights;

(c) permits the development of the law; and

(d) contributes to good governance.”

Mr. Speaker, Sir, my submission to you with utmost respect is that my proposed amendments in this Bill contribute directly to each of those “a”, “b”, “c” and “d”. This is because if you look at nothing else, these are fundamental freedoms in Article 38 demanding every Kenyan to be able to participate in elections, above all the principles of elections that is; you have a right to be given elections that are free and fair, that are clear, that are without violence and that are without question. That is at page 55, Article 81.

Mr. Speaker, Sir, therefore, is this Bill a trick? No, it is not. I am not clever enough to trick this honourable Chamber or the entire country. Is this Bill an omnibus? Of course not! It cannot be if I understand the phrase “elections”. Above all, allow me to ask you to, in considering these points of order, bear in mind that we deserve, as a country, transparent quality election and that is the purpose of these amendments.

Mr. Speaker, Sir, Mr. Manyara laid on the Table a document which he calls a book although it is actually an analysis prepared by the library on amendments since Independence. Since Section 47 has been retired, I just want you in looking at it, to look at very few of them, like the 1967 Bill (Act No.5 of 1967) that was proposed by my predecessor the late Tom Mboya in which he took all the sections of the Constitution and changed them by a parallel list. The rest of it goes on and on. You find the amendment where the Senate was abolished and new constituencies created.

Mr. Speaker, Sir, my request, therefore, as I conclude, is to request you to give this matter the due consideration that it deserves and find that the Bill ought to be read the First Time and the point of order raised, out of order.

I thank you, Sir.

Ms. Karua: On a point of order, Mr. Speaker, Sir.

Mr. Speaker: What is it Member for Gichugu?

Order, Member for Gwassi! You appear to have a problem with that. Maybe you do not know but so that you know; the Member for Gichugu is a leader of a Parliamentary Party.

Ms. Karua: Mr. Speaker, Sir, I am seeking your indulgence to sort of respond to a few issues the Minister has raised. With your indulgence, ---

Mr. Speaker: Order, Member for Gichugu! You may do so but you will have to restrict yourself to matters that the Member for Mbooni has raised in his capacity as the Minister for Justice, National Cohesion and Constitutional Affairs and matters that you yourself did not speak to as we followed your contribution on this matter.

You may then proceed on that basis!

Ms. Karua: Mr. Speaker, Sir, I have not spoken on this matter.

I would like first to say that the Bill is actually omnibus. It deals with more than two chapters of the Constitution; the chapter relating to representation and the chapter relating to the composition of the Legislature.

If the framers of the Constitution dealt with those two matters in two separate chapters, then the Bill, although generally speaking is talking about elections, it is bringing together matters that are too heavy and that ought to be separated, especially to enable meaningful participation by the people of Kenya. The third issue is the issue of boundaries. Although relating to elections, it also ought to come on its own so that it is comprehended.

Mr. Speaker, Sir, the other point is; he is talking quite emphatically on an initiative by the Cabinet. Our current Constitution does not know Cabinet as an initiator of an amendment. It refers very specifically to an initiative by Parliament. Unless the Minister was talking as a Member of Parliament, in which case, we would ask him who else he has consulted in Parliament, I think, therefore, that the Bill is improper to that extent.

Mr. Speaker, Sir, the other issue is that, this being an initiative by an authorized agency known as the Cabinet--- That is because the Cabinet must come through Parliament. That is why the Committee on Implementation of the Constitution (CIOC) disowned this initiative because it ought to have come through a relevant Committee of Parliament to enable participation.

He has also talked about the Budget. He has very kindly read the provision that defines the financial year, but also leaves room for Parliament to legislate. If we change the Budget cycle, as we should to be in accord with the Constitution, there is room for it in the Constitution. How can we make the Constitution accord with a Budget date? Then it would not be a Constitution any more. We are actually lowering the Constitution to the level of an ordinary Bill. I want to be upfront and say the Constitution can be amended, but not for flimsy reasons. We must hold the Constitution in reverence and only amend it as a last resort. We have not even tried to change the Budget cycle and to have the Budget, for instance, come to around March, so that we are able to pass the monies in time for the elections.

Mr. Speaker, Sir, this Minister was present in Parliament when the Political Parties Act and the Elections Act both of 2011 were passed. At that time, there was opposition by Members of this House to allow or to make it mandatory for parties to nominate one-third women among the people they present for elections. Why would we oppose a simpler mechanism to fulfill the gender quarter, and then go to the amendment of the Constitution? The reasons why Kenyans wanted a new Constitution is because they felt that the old document had been so violated by frivolous amendments that it had ceased to resemble the document they knew. We, in this Parliament, must be very careful not to develop a culture where anything we do not like, makes us initiate a constitutional amendment. The incumbency has lost the power of deciding an election date. They want to get it just one more time through the backdoor, by dictating the date to be in December, through this Constitution.

Mr. Speaker, Sir, my last point is this: He is talking about the Constitution and it does say: "At the end of the term of the current Parliament." If we go to the interpretation of the statutes, the first rule is to give words their natural and ordinary meaning. The second rule is to interpret in a manner, things of a similar nature. They are interpreted – the *ejusdem generis* rule. Nowhere in the world, not even in dictatorial regimes, has the term of Parliament not been interpreted to include the elections. Therefore, if a term of Parliament is four years, elections must be within those four years. If it is five years, they

must be within and not outside five years. Any interpretation that claims that the term of Parliament excludes the period of elections would lead to an absurdity. I do not think that Kenyans were looking for an absurdity. They were looking for an election date.

Mr. Speaker, Sir, I urge you to guide this House to a culture where we revere our Constitution, and only amend it when it is the last resort. It should not be amended as an easy option to give the incumbency their comfort zone. Thank you.

Mr. Speaker: Order, hon. Members! Note that those of you who had previously contributed to this matter can only make responses to new matters as have been raised in the response by the Minister. As a result of your reactions to certain issues that the Minister spoke to, he will still have the last word before I indicate how I will rule. We want to take the Chief Whip!

Mr. Midiwo: Mr. Speaker, Sir, I want to say one or two things. I want to agree with the Minister that constitutions are not edged on stone and they can be amended. But in saying that, I want to plead with him to agree or listen to the dissenting voice and accept that the voices are talking the way they are talking because things have changed in this country.

Mr. Speaker, Sir, all that Kenyans are saying, through us, is that we separate the Bills. It will help the Minister to understand that consensus building is paramount when you want to change the Constitution and not only what the law may say. I believe that we created in law the Constitutional Implementation Oversight Committee (CIOC) to participate in that implementation process. It is unfortunate that the CIOC has lately been preoccupied with doing the work of the Committee on Justice and Legal Affairs, but that is something which we probably could not avoid. But the role of CIOC primarily was to participate in that process as we understand it. Therefore, I want the Minister to just bend backwards. Let us build consensus and bring on the Floor a Bill and Bills that will not divide us but carry the country forward.

Mr. Speaker, Sir, secondly, the Minister is talking about the Budget circle. This talk of Budget circle is very dangerous and bad for our country. This is because the Constitution is supreme. To bend backwards to please undemocratic states like Uganda, just to accommodate them, sends a very wrong message to their citizens, because Kenya must lead in our region. We must do something for Uganda. Tanzania is already saying that they want to go the Kenyan way. So, if we are here trying to read our Budget because Tanzania is reading the wrong way, I think that is what we are trying to run away from. In any case, my interpretation of the Budget process is that, that day of reading the Budget went with the former Constitution. So, it will have to be interpreted correctly.

Mr. Speaker, Sir, lastly, there is the issue of the “not more than two-thirds of either gender.” It is a fundamental issue and we do not want it mixed with any other issue, because it brings up the issues--- The intention of this country is to bring up the women to the levels of the rest of us - the men – in a fundamental way. We do not want it rushed so that women can just see that we are pleasing them. In that amendment, this country must consider whether it can afford over 500 Members of Parliament. We need to debate that as a country, so that we can tell Kenyans the difference between a bloated Government and that if you brought your government, you will have to give up your right to build hospitals, schools and so on.

Thank you, Mr. Speaker, Sir.

Mr. Speaker: Very well! Hon. Members, I want to restrict this to those who have not spoken on the matter before. The indication I have is that all the hon. Members who are interested have spoken on this matter before.

Dr. Khalwale: Mr. Speaker, Sir, I have not spoken!

Mr. Speaker: Very well! You may proceed, Member for Ikolomani!

Dr. Khalwale: Mr. Speaker, Sir, mine is a very short point. The Minister has quoted extensively from the new Constitution. Allow me, Chair, to invite him to read with me the Sixth Schedule, Article 262, Section 7(3). Kindly, Mr. Minister, if you can go to Article 89 (2). The requirement that a review of constituency and ward boundaries shall be completed, at least, 12 months before a general election does not apply to the review of the boundaries preceding the first elections under this Constitution. That is the law. So, why are you worried about the 80 constituencies? Give us the new constituencies. This Constitution allows you to do so without worrying about the 12 months.

Finally, could the Minister also enlighten me on the issue of parliamentary initiative? When he says that he is moving in accordance with Article 256 and that, therefore, he is exercising parliamentary initiative, what is so difficult - instead of him dictating us from the Cabinet – in preparing a Sessional Paper, bring it to this House, we discuss it, we go to *Kamukunjis* and retreats and once we agree on it, he takes our ideas and prepares an amendment? I can assure the Minister that our ideas will be limited to him separating his Bill into three and ensuring that the election will take place on 14th August, 2012.

Thank you, Mr. Speaker, Sir.

Mr. Njuguna: Mr. Speaker, Sir, very briefly, let me start by thanking the Minister for the very eloquent presentation he has given in this House. I note that the intended Bill is meant to create the heart of a smooth election in this country; elections that will have no violence, destruction of property and even hate. It is also meant to give fair and just elections in this country, acceptable and peaceful elections that will be embraced by all Kenyans. It is also the responsibility of the Grand Coalition Government to deliver to Kenyans credible elections. It is also intended to restore democratic rights in this country.

To realise this dream and objective for the entire 40 million Kenyans, wide consultations and engagements are required. You will realise that the CIOC is a creature of this Parliament. The voice of this creature, participation and role is critical. Therefore, it is important that all the main stakeholders are involved in order to realise this objective. Without the CIOC leading the campaign the whole exercise would be an exercise in futility. I, therefore, propose fruitful engagement.

(Mr. Abdikadir stood up in his place)

Mr. Speaker: The Member for Mandera East, you are catching my eye. However, I want to restrict you. You must indicate to the House your response to any new matter that has been raised by the Minister in just two minutes.

Mr. Abdikadir: Thank you very much, Mr. Speaker Sir. I am very grateful for your indulgence. I just have two points. The hon. Minister spoke to this House as having the power to amend the Constitution. Our view is not that this House does not have power. This House absolutely, has the power to amend the Constitution. That is very

important and it must be clarified. Our view is that an amendment to the Constitution is not like any other Bill. It is a special Bill. This is called a “Parliamentary Initiative to Amend the Constitution”.

Mr. Speaker, Sir, the culture we develop as a House for amending the Constitution is very important, from the word “go”. The Constitution, the way it is set up now gives very strict rules to its amendment. It says that 90 days must be waited for. It says that some of the amendments must require a referendum. That is pushing us to a culture where we move away from how we used to do it before. That requires us to do one of two things: One, the Parliamentary initiative must be a Parliamentary initiative; where Parliament is involved in the initiation of the proposal to amend and not in debating the amendments once they are cast.

Two, in us respecting the other arms of Government. If one arm of Government called the Judiciary, which is the one in charge of interpretation of the Constitution, which this Bill is attempting to do; interpret the Constitution so that clarity can be heard, is seized of this matter, including the head of that arm, who, just yesterday said that they would ensure that this matter would be heard on a day-to-day basis so that we can have a decision, why not wait for that arm of the Government to sort it out? It requires respect between the arms of Government. Nothing stops this House from taking up that matter immediately after the court decides, because we still retain that power. But we will have developed our culture of constitutionalism, so that we respect the other arm of Government.

Thank you very much for your indulgence.

Mr. Speaker: Member for Gwassi, will you behave in the same way; that you must be speaking to new matters? Otherwise, you have already had your say.

Mr. Mbadi: Thank you, Mr. Speaker, Sir. I will speak on just two things arising from what the Minister for Justice, National Cohesion and Constitutional Affairs has just presented to this House this evening. About consulting the Constitutional Implementation Oversight Committee (CIOC), I want to confirm that we actually agreed with the Minister that before this Bill is presented to the House, we would have an opportunity to seat with him, but up to this day, the Minister has not done so.

I also want to indicate to this House that the Constitution is very categorical; that if there are any impediments towards the implementation of this Constitution – I treat all the issues that the Minister has brought to this House as impediments or difficulties – those impediments need to be addressed with the CIOC. That is a constitutional provision. We are not begging for it. We are just asking the Minister to follow the Constitution.

Finally, the Minister has not addressed clearly the issue that we raised about Article 256(1)(b) about the omnibus. I do not think it is right for the Minister to say that all the proposed amendments relate to the elections of 2012. If you look at this Constitution in totality, almost all the Articles relate to each other. So, really, we have to be very careful. If you ask me, some of the proposed amendments touch on representation and some touch on the date of the election. So, we need to be very sure.

Mr. Speaker, Sir, the very final one on this one is about quoting how Thomas Joseph Mboya made proposals for amendments in the first Constitution. I have a lot of respect for the late Thomas Joseph Mboya, who came from my area and whom we are very proud of, but you will agree with me that some of the initiatives that were started by

the late Thomas Joseph Mboya are what made Kenya to have a new Constitution last year. Therefore, we should not be proud of some of those initiatives which messed the old Constitution, which we had to discard in its entirety because of unnecessary amendments cured through Article 256(1)(b), which seeks to ensure that no mischief of lumping various amendments together in one Bill when you propose constitutional amendments is encouraged.

Thank you.

Mr. Speaker: Minister, try and live within five minutes.

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. M. Kilonzo): Mr. Speaker, Sir, in fact, I will probably do it in less than five minutes. I want to salute hon. Members for these wonderful contributions. As I said, this is a new country. Every point of view is important but also sometimes we have to be fair. This Bill was published on 21st September, 2011. I was summoned to CIOC meeting two Mondays ago. We ended up clapping at each other because we did a wonderful job. At the end of the meeting, it was agreed that I would be called for another meeting to discuss the Bill. I have not received any invitation and, instead, what I am noticing is an attempt to make it look like I have any issues with the CIOC or seeking consensus.

Mr. Speaker, Sir, on the Budget cycle, we occasionally forget that Article 2, sub-Articles (5) and (6), make all treaties that we have signed, laws of Kenya.

We also forget that we have the Treaty for East African Co-operation which in Articles 82 and 82 requires that I mention them to you, so that you can consider them in your ruling. They require the harmonization of micro- economics and financial policies within the region.

Mr. Speaker, Sir, therefore, whilst I agree that we can, probably, bring a Bill, and I have a lot of time for Ms. Karua, so that we can do the budgeting match, quite honestly, the arithmetic I did in High School does not show that we will be able to do so, because we are now in November. Nobody has proposed a Bill for changing the financial year. If you change the financial year, you must be willing to go---

I do not want to change the financial year myself; I am happy with June. So, if you want to change it, change it. Therefore, the issue is clear that for Rwanda to join the East African Community, they had to change their financial year from December to June. For Kenya to change Article 260 to provide for any end of financial year other than 30th of June, you must convince the rest of the East African Community to amend similarly, so that you have one uniform financial year. You will find that in Articles 82 and 83 of the Treaty for East African Co-operation.

Mr. Mbadi, whom I respect a great deal is citing the Provisions of Article 256(1)(b). I am satisfied that I have addressed it. If I bring to this country a proposal for free transparent, uniform and well prepared elections, why should I not bring to three amendments to a Constitution that the country loves so much?

Mr. Speaker, Sir, you do not have the luxury of the Supreme Court where they can refer this matter to the High Court and wait for the High Court to rule then come to the Court of Appeal and then come to the Supreme Court.

Mr. Speaker, Sir, you are our Chair. You are our leader of this very important institution. The buck stops here; the sooner we appreciate that as Parliament, the better. The engagement spoken of is covered by Article 256(2). I will be in the frontline if you allow First Reading to start the process of seeking consensus not just in Parliament, but

throughout the country because I know nobody in this country wants an election where everyday there will be somebody saying my votes have been stolen. My elections have been rigged.

Therefore, this term that Ms. Karua used of “*generis*” is a beautiful phrase, but the ordinary voter in Kenya does not understand what it means. I know a lot of lawyers who also do not understand it. I want to say to the country, all that I am saying is that I want by the time you cast your ballot to know that the country was prepared for elections. I want to assure you that this country is not ready for elections in August, much as I loved August very much because that is a very critical month.

So, merely because I have addressed articles in Chapter 7 which is suspended, Chapter 8 which is suspended, if you call that omnibus, I love you, I respect you, I will accept your decision. But ultimately even if this Bill goes out, the issues that I have put forth have to be addressed at the same point to have a uniform approach to elections. I respect my Whip, but he says I must not mix gender because he wants to debate to decide whether this Parliament will be bloated. In fact, that is one of the principal fears that I have that because we have inadequate representation of women in this House, the men who are saying they support gender may easily turn on me. When we were debating the Sexual Offences law, you will remember I was the only male Member of Parliament who for two weeks was supporting that Bill.

Mr. Midiwo: No.

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. M. Kilonzo): No, it is true. I am sorry it is true. You ended up changing later. This is a very nicely constructed package. In my notes, I have said this is the best structured constitutional amendment Bill in Kenya’s constitutional amendment history. I beg to ask you to allow this Bill to move forward for First Reading.

Dr. Khalwale: I have an issue!

Mr. Speaker: Order, Member for Ikolomani! Minister you need not respond to that because that is disorderly conduct. Hon. Minister, you have not acknowledged that yours truly, your Speaker, moved all the amendments to the Sexual Offences Bill on behalf of the Ninth Parliament.

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. M. Kilonzo): Mr. Speaker, Sir, I apologize. Two men then, I amend my statement. Maybe the HANSARD reflects two men who supported the Sexual Offences Bill.

Mr. Speaker: Order! Hon. Members, we have heard all the concerns raised with respect to Order No.8. Please, note that, in fact, we were dealing with Order No.8. Those of you who may have fears that we did not conduct any business today, we, in fact, have conducted business because we have spoken to Order No.8 all this while. I will give my directions on this matter on Tuesday at 2.30 p.m. I will take into account all the issues as have been spoken to and give directions that are suitable.

We will want to take the next Order.

*(First Reading of The Constitution of Kenya
(Amendment) Bill deferred)*

MOTION

ADOPTION OF REPORT ON NOMINATION OF CHAIRPERSON/ MEMBER OF NATIONAL GENDER/EQUALITY COMMISSION

THAT, pursuant to Section 11 of the National Gender and Equality Commission Act, 2011, this House approves the Report of the Departmental Committee on Labour and Social Welfare on the Nomination of the Chairperson and Member of the National Gender and Equality Commission laid on the Table of the House on Tuesday, 8th November, 2011 subject to deletion of the recommendations under paragraph 7.2 (page 13) of the report and inserting the words “that the House approves the nomination of Ms. Winfred Osimbo Lichuma as Chairperson of the National Gender and Equality Commission” in place thereof.

(Mr. Kivuti on 10.11.2011)

(Resumption of Debate interrupted on 10.11.2011)

Mr. Speaker: Who had the Floor?

Mr. Midiwo: On a point of order, Mr. Speaker, Sir. Being that this Motion had been debated over and over and amendments moved, would I be in order to request that the Mover be called upon to reply.

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

Mr. Kivuti: Mr. Speaker, Sir, I would like to beg your indulgence to the fact that this Motion has not been debated adequately.

Mr. Speaker: Order! Hon. Lenny Kivuti, you cannot go that way. Please resume your seat for a moment. The Motion has gone to a point where I have been invited by a Member of the House to call upon the Mover to reply. That call for the Mover to reply has not been resisted. I have ascertained the mood of the House that the House wished that the Chairman of the Committee, the Mover of the Motion, be called upon to reply. I have put the Question and the House has resolved that the Mover be called upon to reply. You can now not revisit the resolution of the House and challenge it because the House in its wisdom has so resolved and you were part of the membership of the House even as that resolution was carried. You understand, hon. Kivuti. So now, you will have to have a different reason to ask for deferment beyond here.

Mr. Kivuti: Mr. Speaker, Sir, I want to draw the attention of this House to the fact that the matter before the House has been subject of a court case.

Mr. Speaker: Order! Hon. Kivuti, please, sit down for a minute. Hon. Kivuti, you will proceed and comply with the resolution of the House that you now reply. If you are unable to reply and you require time, then, please, ask the Speaker to accord you time and I will consider that request on merit. But among other things, if you are prepared to reply

and you want to draw the attention of the House to the fact that there is a court case, you may do so, because it will help the House to decide whether or not to pass the Motion. You understand? I hope you are clear. I really want you to be clear.

Mr. Kivuti: Mr. Speaker, Sir, I seek the indulgence of the Chair to give me time in order to organize to reply.

Mr. Mbadi: On a point of order, Mr. Speaker, Sir. Always, the Order Paper which has the order of business is circulated to all of us through the internet and we can read it. The hon. Member knew very well that Order No.9 was actually his Motion. So when coming to this House this afternoon, he should have known that this Motion could be concluded and, therefore, by extension, he would be called upon to reply.

Mr. Speaker, Sir, I think it will not be fair to hold this House from concluding a matter just because an hon. Member who moved the Motion cannot reply. If the hon. Member is not ready, I think this House should vote and we conclude this matter.

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

Mr. Speaker: Order! Order, the Member for Butula! Hon. Kivuti, the Standing Order which I am alluding to is Standing Order No.86, and if you have your book, I want you to turn to Standing Order No.86 and, in the meantime also be prayerful.

(Laughter)

Standing Order No.86 on closure of debate says:-

“(1) After the question on a Motion the Mover of which has a right of reply has been proposed, a Member rising in his or her place may claim to move” - such as the Chief Whip who is the Member for Gem did - “That, the Mover be now called upon to reply”, and, unless the Speaker is of the opinion that such Motion is an abuse of the proceedings of the House, or an infringement of the rights of Members, the question “That, the Mover be now called upon to reply”, shall be put forthwith and decided without amendment or debate and if that question is agreed to, the Mover may, immediately reply to the debate, and as soon as the Mover has concluded or, if the Mover does not wish to reply” -Note, if you do not wish to reply, as you appear to be tending towards – “immediately, the Speaker shall put the question.”

Hon. Members: Put the question! Put it!

(Laughter)

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

Mr. Speaker: What is it?

Mr. Kivuti: Mr. Speaker, Sir, I am willing to reply to the Motion and if it pleases the Chair, I was only begging for adequate time and not wishing not to reply.

Mr. Speaker: Order, hon. Kivuti! Let me help you. Look at the clock. Do you see where we are? Proceed and start your reply!

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

Mr. Speaker: What is it, Chief Whip?

Mr. Midiwo: Mr. Speaker, Sir, I stand on a point of order to move that we do extend time until we dispense of Order No. 9.

Mr. Speaker: You are relying on which Standing Order, Chief Whip? You have to state to me which Standing Order. In the meantime, hon. Kivuti, you can proceed until the Chief Whip tells me which Standing Order he wants me to use.

Proceed, hon. Kivuti!

(Mr. Midiwo consulted the Clerks-at-the-Table)

Mr. Kivuti: Thank you, Mr. Speaker, Sir. The matter before this House---

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

Mr. Speaker: What is it, Chief Whip?

Mr. Midiwo: Mr. Speaker, Sir, under Standing Order No.20, I ask that we do extend time until we dispense with Order No. 9.

Mr. Speaker: Order, hon. Members! Chief Whip, I appreciate the point of order you are raising, but unfortunately, you are caught by time!

(Laughter)

ADJOURNMENT

Mr. Speaker: Order, hon. Members. It is now 6.30 p.m. and I cannot pronounce myself to that matter. Therefore, the House stands adjourned until tomorrow, 17th November, 2011, at 2.30 p.m.

The House rose at 6.30 p.m.