

NATIONAL ASSEMBLY

OFFICIAL REPORT

Thursday, 10th November, 2011

The House met at 2.30 p.m.

[Mr. Deputy Speaker in the Chair]

PRAYERS

PAPERS LAID

The following Papers were laid on the Table:-

Report of the Parliamentary Service Commission (PSC) recommending the nomination of Mr. Jason A.N. Namasake and Ms. Mariamu El Maawy as nominees of the Senate to the Salaries and Remuneration Commission.

(By Mr. Olago)

Report of the Departmental Committee on Energy, Communications and Information on the Energy and Communications Law (Amendment) Bill, 2011.

(By Eng. Rege)

NOTICE OF MOTION

ADOPTION OF REPORT ON SENATE NOMINEES TO SALARIES AND REMUNERATION COMMISSION

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

THAT, this House adopts the Report of the Parliamentary Service Commission (PSC) recommending the nomination of Mr. Jason A.N. Namasake and Ms. Mariamu El Maawy as nominees of the Senate to the Salaries and Remuneration Commission, pursuant to Article 230 (2)(b)(vii) of the Constitution; Section 11 of the Sixth Schedule to the Constitution and Sections 6 and 7 of the Salaries and Remuneration Commission Act, 2011, laid on the Table today 10th November, 2011.

QUESTIONS BY PRIVATE NOTICE

DRASTIC INCREASE IN RETAIL PRICES OF SUGAR

Dr. Otichilo: Mr. Deputy Speaker, Sir, I beg to ask the Minister for Agriculture the following Question by Private Notice.

(a) Why has the retail price of sugar increased drastically, from less than Kshs.120 per kilogramme to over Kshs250 per kilogramme in the last two months?

(b) What urgent action will the Ministry take to ensure that the commodity retails at a fair and affordable price?

The Assistant Minister for Agriculture (Mr. Ndambuki): Mr. Deputy Speaker, Sir, I have agreed with the hon. Member that this Question be deferred to Thursday, next week, because I do not have sufficient information to answer it.

Mr. Deputy Speaker: The Chair is also in possession of a letter that was sent by the Minister for Agriculture on the same. The Chair will defer this Question to another date.

Dr. Otichilo: Mr. Deputy Speaker, Sir, this matter of sugar in this country is of great concern to Kenyans given that they cannot afford to buy sugar. This Question was deferred to today, but, again, the Assistant Minister has asked that it be deferred to next week. I have looked at the answer and I agree with him that we need more time. So, as I agree, I wish in his answer next week, he will say why Mumias Sugar Company exported---

Mr. Deputy Speaker: Order, Dr. Otichilo! The Chair notes that you are one of the very fast learning students. You came in this House and within a very short period of time, you already had a proper grasp of the Standing Orders. You cannot debate the contents of the Question now. You cannot even tell the Assistant Minister what kind of an answer he should bring to the House. The Question will be deferred to another date. Could you tell me the date that is favourable to you?

Dr. Otichilo: Mr. Deputy Speaker, Sir, I agree that we have the answer on Thursday, next week.

Mr. Deputy Speaker: How about the Assistant Minister? Is that okay with you?

The Assistant Minister for Agriculture (Mr. Ndambuki): Mr. Deputy Speaker, Sir, Thursday, next week is okay. I totally agree that it is a serious matter. We are giving it all the seriousness that it deserves.

Mr. Deputy Speaker: The Chair directs that this Question be listed on the Order Paper on Thursday, next week.

(Question deferred)

TRAFFIC CONGESTION BETWEEN RUIRU/THIKA TOWNS

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

(a) What is the cause of the frequent traffic congestion between Ruiru and Thika towns, which sometimes lasts for over 5 hours, resulting in economic losses as a result of the wasted man hours, as well as rendering emergency services to medical centres difficult?

(b) Could the Minister institute immediate remedial measures to ensure smooth flow of traffic along the 15-kilometre stretch of road?

Mr. Deputy Speaker, Sir, I would also like to share my frustrations with the Chair in that---

Mr. Deputy Speaker: With the Chair?

Mr. Kabogo: Yes, with the House through the Chair.

Mr. Deputy Speaker: Are you being frustrated with the House? Proceed!

Mr. Kabogo: Mr. Deputy Speaker, Sir, I put this Question to the Ministry of Roads because it was my understanding that any road that is under construction falls within the mandate of the Ministry of Roads. I have spoken to the Assistant Minister who is here and I wish to request that this Question be re-directed to the Ministry of Roads and to be answered on Tuesday.

Mr. Deputy Speaker: The extent of the quality of the road itself and the construction, that is, the laying of the infrastructure falls within the Ministry of Roads. However, for purposes of regulation of traffic, it does not fall within that Ministry.

Mr. Kabogo: Mr. Deputy Speaker, Sir, the problem here is not the issue of traffic per se. It is the issue of traffic congestion caused by the construction of the road. The road between Ruiru and Thika is completely impossible. On Friday, I had to spend six hours to get to Thika. It is only through the Ministry of Roads that this problem will be solved, if you so wish.

Mr. Deputy Speaker: In that collective responsibility of the Government, any Minister can answer any Question on the Floor. The Minister for Agriculture can choose to answer a Question on finance. That is the essence of collective responsibility. But having said that, it is the tradition that the relevant Ministry should answer the Question asked. The Chair's understanding of this is that you are worried about the congestion of traffic and the man hours that are lost. That does not fall within the Ministry that is mandated to lay the infrastructure. This is, probably, in another Ministry.

Mr. Kabogo: Mr. Deputy Speaker, Sir, I am so advised, but let us hear the Minister for Transport answer and see whether he can sort out the issue of traffic.

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

(a) There is too much traffic between Ruiru and Thika due to the ongoing road construction and the increase in the number of the vehicles utilizing Thika Road.

(b) The contractor has been instructed to speed up works and complete the section of the road to alleviate the problem. In the meantime, the diversion will be improved with better signage to ease traffic flow.

Mr. Kabogo: Mr. Deputy Speaker, Sir, now you understand what it is you were saying. The Minister says that the road is busy because of the number of vehicles. The same vehicles that leave Nairobi for Thika go through Pangani all the way to Ruiru not with so much traffic. It is between Ruiru and Thika where you can spend, at Mangu High School, over four hours. This is the problem I was talking about. The Minister needs to commit himself and go to that place and see what it is that is going on and issue immediate remedy because of the number of hours Kenyans are spending there. If he can commit himself to the House that something could be done---

Mr. Deputy Speaker: Could you help him by telling him what kind of remedies you have in mind?

Mr. Kabogo: Mr. Deputy Speaker, Sir, between Pangani and Ruiru, you will find that where the road is closed they have alternative roads that are done on the side. This is

not the case between Juja and Thika. So, I am not sure whether the Minister for Transport has the capacity to help.

Mr. Deputy Speaker: Hon. Minister, could you address the issue of creating detours for the traffic?

Mr. Kimunya: Mr. Deputy Speaker, Sir, indeed, I am very familiar with this section. First of all, we need to appreciate that Thika Road is under construction. When a road is under construction, the deviations have been created where traffic has been diverted to avoid the sections that are in progress. Ordinarily, the whole road would have been closed, so that it is constructed and then people come back on board.

Mr. Deputy Speaker, Sir, the problem with this particular section is that there are speed limits that have been imposed for people to move slowly and to follow the diversions as created. However, because everyone is in a hurry, nobody wants to follow the signs and typically on the three lanes that have been created, at any one time, you will find five lanes that have been created by the motorists as they all try to overtake one another from different directions. They then create a gridlock at the bottleneck where they are supposed to get to the main road. We have been looking at all these things, but until the motorists learn to respect the signs, then the traffic jam will continue in that section.

Mr. Kabogo: Mr. Deputy Speaker, Sir, the road that is under construction is not from Ruiru to Thika; rather it is from Nairobi to Thika. We do not have the same problem in this section. For example, at Mangu High School, there is no detour. Motorists are going through people's farmers so as to avoid the bridge at Mangu High School. Is the Minister in order to mislead the House that the congestion is caused by motorists who are in a hurry and who do not follow the road signs? This is a serious matter. I am sure the Minister for Transport does not have the capacity to sort out this problem. The Minister for Roads is here and he can bear me witness.

Mr. Kimunya: Mr. Deputy Speaker, Sir, the Government has sufficient capacity to sort out this problem. The first thing that the motorists using that road need to do---, and I want to encourage the hon. Member for Juja to encourage the motorists using that section to obey the traffic signs that have been erected on the road. Secondly, this section will be completed, anyway, by end of December, 2011. We have been in consultation with the Minister for Roads who puts up the infrastructure. The Minister for Transport regulates the use of the road. The use that is currently there is subject to the work that we have been doing.

Mr. Mututho: On a point of order, Mr. Deputy Speaker, Sir. Clearly, the Minister, even with collective responsibility does not seem to understand the matter before the House. This is because even a recruit surgeon will know that if you have to operate two legs, you do not cut both of them at the same time. This is a dual carriageway. It is only prudent that you start works on one section before you embark on the other section. Furthermore, we understand that there are two or more contractors involved in the construction of this road. The section in question is of a very lazy Chinese contractor called Chung Lee. He is the person causing the whole of this mess. Will I be in order, therefore, to request that this Question be redirected to the Minister for Roads who can give us the technicalities on this particular aspect?

Dr. Khalwale: On a point of order, Mr. Deputy Speaker, Sir. It is quite clear that Hon. Kimunya has very good grasp of most issues in Government. No wonder he is the

Deputy Leader of Government Business. We respect him for this. However, every contract for the construction of roads has a proviso for passage to enable diversions to be created, so that they do not inconvenience transport. I am shocked that the Minister who ought to know these things does not appreciate that. For that reason---

Mr. Deputy Speaker: Order, Dr. Khalwale! If only you listened to the Minister! His position was that diversions are there, but motorists are not using them. Could you, please, ask a question that is relevant? Do not repeat what has already been asked!

Dr. Khalwale: Mr. Deputy Speaker, Sir, the point I am building is that in view of that limitation on the part of the Minister, it is important that we redirect this practical Question to the Ministry of Roads.

Mr. Deputy Speaker: Order! The Chair is satisfied that this Question is in the right place. Could you seek answers from the Government which is here with you?

Do you want to contest whether there are diversions or not? Proceed and contest and say that there are no diversions.

Eng. Maina: Mr. Deputy Speaker, Sir, my concern is the way this road is. It is not even following the laid down guidelines on the safety of even passengers. Many people have died on that road. The road has no lighting. Therefore, you cannot see the so called diversions at night. Truly, I have been wondering which are these laws for the foreigners who come to work here. They are left to do whatever they wish at will. I would like the Minister to clarify to this House whether this road and the diversions thereof are in accordance with the guidelines that are set out for the safety and convenience of the people. This is because that is part and parcel of the costing of the job.

Mr. Kimunya: Mr. Deputy Speaker, Sir, the information I have is that the contractors have followed the safety and all the other regulations that were agreed upon between them and the Ministry at the tendering point. No issue has been raised in terms of non-observance, except by the Member for Mathira.

I would also like to confirm---

Eng. Maina: On a point of order, Mr. Deputy Speaker, Sir. I would not wish the Minister to mislead this House. Is he in order to state that there are guidelines for this specific road? I am talking about the guidelines that have been set for safety of pedestrians and motorists. Does this road follow those guidelines, including the lighting of the road at night? That is the issue! It is not about the guidelines being agreed upon and signed by some party and the person constructing the road.

Mr. Kimunya: Mr. Deputy Speaker, Sir, the guidelines applicable to road construction in Kenya are well within the knowledge of the hon. Member who is a contractor himself.

Mr. Deputy Speaker: Hon. Minister, hon. Maina is a Civil Engineer.

Eng. Maina: Yes, Mr. Deputy Speaker, Sir. I have build many water supplies. I am an engineer duly registered in the UK; forget here! I was among the 16 graduates during my time in 1973. He should not mislead this House by bluntly and rather carelessly referring to me as a contractor. Am I a contractor for supplying goods to the Army or a contractor for supplying furniture to Parliament? Please, let us be clear on this.

Mr. Kimunya: Mr. Deputy Speaker, Sir, that is the term that the hon. Member used on the other contractors. I know that the hon. Member is associated with Kirinyaga Construction Company and he used the generic word "contractor" to basically mean every road construction company. So, I just used the same words in the same vein that he

used. I would like to invite the hon. Member for Mathira to visit the road section at night. He will actually confirm - and I have personally used that road - that the signage is there. There are illuminating road signs that basically show the diversions. The most important thing is- and we should approach it here - that the road is under construction. As I said earlier, in the ideal situation, the entire road would be closed so that we can use a parallel diversion. But the cost of creating a parallel diversion and acquiring all the land that needs to be acquired would have been phenomenal. So, the solution that was found was: "Let us accommodate inconveniences by the motorists and the contractor and do section by section as you close others". That is because of costs. In fact, the land was not even available for all those diversions. So, it is an inconvenience that we are asking people to bear with until December, when the section would have been completed anyway.

Mr. Kabogo: On a point of order, Deputy Speaker, Sir. We do not ask Questions in this House just for the sake of asking. Kenyans are suffering and this Minister is saying things that are not true to the House. May I request that this Minister, Amos Kimunya---

The Deputy Speaker: Order! It is the hon. Minister!'

Mr. Kabogo: May I ask the hon. Minister, Mr. Kimunya, to accompany me and the Minister of Roads to visit that place? The section of the road between Pangani and Ruiru has no problem because there are diversions. In Mang'u High School, people are using *shambas*. I was there on Friday between 8.00 a.m. and 1.00 p.m.---

Mr. Deputy Speaker: So, you maintain that there are no diversions?

Mr. Kabogo: They are not there. It takes 30 minutes to pass through that section. So, could he undertake to go with me now? Even if he needs to be flown there, I will fly him there.

Mr. Deputy Speaker: Mr. Minister, you have to be absolutely certain about the facts in your answer. Do you wish to go and find out on the ground whether what the hon. Member is indicating is what obtains or do you have a firm answer that you can vouch for? The hon. Member maintains that there are no diversions or deviations in that place.

Mr. Kimunya: Mr. Speaker, Sir, in my answer, I did mention that, in the meantime, the diversion will be improved with better signage to ease traffic flow. I did undertake that because we recognize that there are some issues of limitations on the current diversion. It is all tied to the availability of land. You can only divert so much traffic based on the land that is available. In the meantime, we are also asking people to bear with us in the existing situation, as the road is constructed. It is only where there are bridges that there seems to be a problem. People come from different directions and try to overtake one another from those directions and end up in a bottleneck. I have also travelled on that section and I know it first-hand. They create the bottleneck and experience the problems.

Mr. Kabogo: On a point of order, Mr. Deputy Speaker, Sir. I think you have used Thika Road. At Mang'u High School at the bridge, there are no lanes going to different directions. It is only one direction; one from Nairobi and one from Thika.

Mr. Deputy Speaker: Mr. Minister, the hon. Member maintains - and the Chair has no reason to doubt that position - that, actually, there is no bottleneck in that place. It is just that there are no diversions. Why can you not give an undertaking to the House that, indeed, you will go and found out the facts on the ground?

Mr. Kimunya: Mr. Deputy Speaker Sir, as we are talking, we have already discussed with the Minister for Roads and his technical people are addressing that

problem on the ground. I would like to assure the hon. Member that the problem as it is will be resolved. It is just a matter of time. We also recognize that the road is under construction and people need to bear with us in terms of observing the signs for ease of traffic management.

Mr. Deputy Speaker: Mr. Minister, the hon. Member maintains that there is no diversion. Where there is no diversion, you cannot expect any signage. It is only fair that you give an undertaking that you will go on the ground and do the needful. Educate yourself on what is on the ground.

Mr. Kimunya: Mr. Speaker, Sir, my understanding is - and I have used the road myself - that the traffic is actually flowing. It is flowing because there is a diversion from where the works are ongoing. The road has not been closed.

Mr. Deputy Speaker: Order, Mr. Minister! The hon. Member says that at Mang'u High School, there is no diversion. Can you say categorically that he is misleading the House?

Mr. Kabogo: On a point of order, Mr. Deputy Speaker, Sir. You can now see what I was saying. The Minister is consulting with the Assistant Minister for Roads in the House. I had requested that in the beginning---

Mr. Deputy Speaker: Order! That is perfectly in order. The Government can consult itself.

Mr. Kabogo: Mr. Deputy Speaker, Sir, I was suggesting, just to save the time of the House---

Mr. Deputy Speaker: The hon. Assistant Minister for Roads, do you wish to assist your colleague in the Government?

The Assistant Minister for Roads (Mr. Kinyanjui): Mr. Deputy Speaker, Sir, that is, indeed, the case. I wish to inform the hon. Minister for Transport and to confirm that when the road is under construction, the management and maintenance of the diversion is the responsibility of the contractor. So, when the road is under construction, the diversions have to be watered because they pass through farmlands. That is under the contractor. I also want to say that there is also a sum specifically set aside to ensure that those sections are set out. To the best of my understanding, what we could do is to send a road safety enforcement team tomorrow from the Ministry to ensure that the concerns of the Member are addressed.

Regarding the question by the hon. Member for Mathira about the road signs, I think we have not had any issue with that particular contractor. We have three contractors doing the whole of Thika Road. One is doing the section from Town to Muthaiga Roundabout. The other one is doing the section from Muthaiga Roundabout to Kenyatta University. We have not had any serious challenges. However, if it is found out that they are not observing the road safety requirements as stipulated in the contract, we will be able to take the necessary measures.

Mr. Deputy Speaker: Hon. Assistant Minister and Deputy Leader of Government Business, for the benefit of the Chair, you have been consulting all that time. Why did you not give him all the information that you have given on the Floor of the House now?

Mr. Kimunya: Mr. Deputy Speaker, Sir, he has said what I have been saying, but only in a different way.

Mr. Deputy Speaker: Order! The Chair directs that this Question be listed on the Order Paper next week on Wednesday morning. The Question will be directed to the Ministry of Roads.

(Loud consultations)

Order, Dr. Khalwale!

(Question deferred)

REPAIR OF MALGIS RIVER BRIDGE

Mr. Lekuton: Mr. Deputy Speaker, Sir, I beg to ask the Minister for Roads the following Question by Private Notice.

(a) Is the Minister aware that the bridge across Malgis River connecting Laisamis town to Korr, Ngurmit and Kargi Trading Centers was swept away recently and, as a result, the shortest connecting road is completely impassible?

(b) Is the Minister also aware that with the Malgis River recently bursting its banks and sweeping away bridges and destroying adjacent roads, communication between Laisamis and the rest of the country has been rendered impossible?

(c) What urgent measures will the Minister take to ensure that the bridge is repaired, considering that road users are now forced to travel longer distances of over 300 to access the centres mentioned in (a) above, which have been cut off from Laisamis Town?

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

(a) I am aware that Malgis River has flooded due to the heavy rains and that, the multiple culverts across the river have been washed away rendering access to Korr, Ngurmit and Karji Trading centres from Laisamis, impossible.

(b) I am aware the communication and transport to and from Laisamis has been affected due to the current heavy rains that are being experienced in that area.

(c) My Ministry, through the Kenya Rural Roads Authority, has procured works for the river crossing. Implementation will commence as soon as the current floods subside.

Mr. Lekuton: Mr. Deputy Speaker, Sir, I would like to thank the Assistant Minister for the answer. But the people of Laisamis are suffering. Even if you have to travel to Korr, you have to go through Marsabit, thus covering an extra distance of 300 kilometres. If you have to access Laisamis through Maralal, it is another extra 400 kilometres. So, I am asking the Assistant Minister: When will those works start so that the people of Laisamis can be able to enjoy shorter rides and save money?

Mr. Kinyanjui: Mr. Deputy Speaker, Sir, we advertised for those works on 23rd September, 2011 - that is two months ago. The opening of the tenders was done on 12th October, 2011 and we have completed the evaluation. The contractor is ready to move on site but, as I indicated, we are experiencing very heavy rains in that section of the country

and, therefore, we may not be able to move in. But as soon as the rain subsides, the contractor will move in immediately.

Mr. Ruteere: Mr. Deputy Speaker, Sir, the on-going rains have damaged quite a number of roads and bridges. What emergency measures is the Assistant Minister taking to fund areas that were not budgeted for because of the current rainy situation?

Mr. Kinyanjui: Mr. Deputy Speaker, Sir, indeed, the sentiments by the hon. Member are correct. We are experiencing very heavy rains in some sections of the country. We have sent out an audit team to evaluate all the damage that has been caused. We will see what we will do as a way of remedy. We have a limited emergency kitty that cannot meet the entire requirement. But we will prioritize the works depending on the report that we will get from the ground.

Mr. Kigen: Mr. Deputy Speaker, Sir, the problem of flooding was also prevalent last year. We experienced damage to many roads and bridges. The Ministry asked for a list of bridges. The list was compiled and forwarded to the Ministry. The lists are lying in the Minister and floods have started. We have so many bridges that are affected. We are going to have a big number. What is the Ministry doing to solve the problem, instead of waiting until there is an emergency and start evaluating? What immediate measures has he taken to address the current emergencies?

Mr. Kinyanjui: Mr. Deputy Speaker, Sir, we have a report on the status of all the bridges in the country. But, as you know, they wear off with time. Therefore, from time to time, we need a report to get the current status. We do not have enough money to replace all the bridges that have aged. We will prioritize depending on the funds that we have. Quite a number of bridges that are considered to be top priority are due to be replaced this season.

Mr. Olago: Mr. Deputy Speaker, Sir, there must be something wrong with the design and construction of those bridges. The rain that the country is experiencing now in Laisamis and elsewhere, is not so abnormally high that it washes away bridges. In my constituency, there is one bridge that was built in the early 1940s – Aubuson Bridge – and, up to now, it is still intact. What is wrong with the design and construction of our bridges? What will the Ministry do to ensure that those designs can withstand time?

Mr. Kinyanjui: Mr. Deputy Speaker, Sir, the design of the bridges has not changed. If anything, it has improved. We must distinguish between footbridges and road bridges. We have very many bridges that were constructed by the Ministry long after 1940, and are still there. You will also appreciate that because of the different settlement patterns in some areas, including Narok, we have had excessive flooding due to deforestation. But due to different climatic conditions, we have flooding in certain areas and that has posed a major challenge to our roads and bridges.

Letimalo: Mr. Deputy Speaker, Sir, could the Assistant Minister confirm that the destruction of bridges and damage to culverts is as a result of poor or lack of regular maintenance by the Ministry?

Mr. Kinyanjui: That is also partly true. When culverts and bridges are not cleared from time to time, heavy rains come and water cannot pass. That will, definitely, lead to soil erosion of the area around there. As you know, from time to time, we also allocate money for periodic maintenance. The works are meant to unblock all the culverts, bridges and ensure that any blockages around the bridges are removed before the rainy season.

Mr. Lekuton: Mr. Deputy Speaker, Sir, the Ministry was aware that the river might burst its banks. About a year ago, we presented a document to them with a budget of Kshs161 million to cater for that bridge. Could the Assistant Minister assure this House that the Kshs161 million will be provided to Laisamis Constituency to solve that problem? Could he also tell this House the exact amount of money left, so that we can know how to plan? Could he also accompany me to Laisamis? That is because since that problem happened, no official from the Ministry of Roads has come to evaluate the situation.

Mr. Kinyanjui: Mr. Deputy Speaker, Sir, the contract that is under evaluation currently is for Kshs18 million to take care of the bridge and other areas that require immediate attention. The estimate that we had was for Kshs160 million and I wish to undertake that we will be able to prioritize the remaining works, re-package it and advertise for the work to be done immediately. I also wish to say that, at an opportune time, we will be able to visit the area with the hon. Member, assess the damage and offer a possible remedy.

Mr. Deputy Speaker: Next Question, Question No.4 by Private Notice!

IMPOSITION OF DUTY MEDICAL PRODUCTS
IMPORTED BY BETA HEALTHCARE

Mr. Kutuny: Mr. Deputy 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 Kshs127 million from Beta Healthcare on imported products that were re-exported and why has KRA since attached Kshs33 million from the Company's VAT Receivable Account and frozen some of its bank accounts?

The Assistant Minister for Roads (Mr. Kinyanjui): Mr. Deputy Speaker, Sir, the Deputy Prime Minister and Minister for Finance held consultations with the hon. Member and in view of the details required by the Question, he has requested that we defer this Question to Wednesday next week to allow him to scrutinize the answer and give an adequate reply to the hon. Member.

Mr. Deputy Speaker: Mr. Kutuny, is Wednesday morning okay with you?

Mr. Kutuny: Mr. Deputy Speaker, Sir, while I agree to the deferment, the only thing is that next week on Wednesday, the President will be visiting our county. Is it possible for it to come on Tuesday? I think that will be okay. The matter is really serious. The Deputy Prime Minister and Minister for Finance should bring this issue to the Floor of the House. That company might be closing down soon because of unfavourable taxation that has been imposed by the Government.

Mr. Deputy Speaker: Fair enough. Whereas the Deputy Prime Minister and Minister for Finance is asking to be given additional time until Wednesday, the letter that

he has sent to the Speaker's Office has requested that the Question be listed on the Order Paper on Tuesday. Under the circumstances, the Chair directs that this Question be listed on the Order Paper on Tuesday, 15th November, 2011.

(Question deferred)

ORAL ANSWERS TO QUESTIONS

Question No.920

STATUS OF POST-ELECTION VIOLENCE CASES

Mr. Mututho asked the Attorney-General:-

(a) whether he could state the number of cases relating to the 2007/2008 Post Election Violence (PEV) have been investigated and forwarded to the Attorney General with recommendations to prosecute, how many have been successfully prosecuted and what is the status of each case;

(b) state what measures are in place to fast-track all investigations and prosecutions relating to PEV before the 2012 General Elections; and,

(c) what legal measures have been put in place for the protection of witnesses involved in the ICC investigations.

Mr. Deputy Speaker: Mr. Mututho, the Chair also has communication from the Attorney-General. He is seeking to have additional time so that he can get the bulk of the information that has been sought by your Question. The Chair is satisfied and directs that this Question be listed on the Order Paper on Wednesday morning next week.

Mr. Mututho: Mr. Deputy Speaker, Sir, this Question has been with the Attorney-General for 189 days. The last time when it came here, he gave another excuse and you ruled from the Chair that he be given ten days. I would propose that you give him another ten days so that, this time round, he knows that it is a serious matter. It would be 199 days then. He should be able to give us an answer that is factual and one that we expect. Would I be in order to request you to order that this Question appears on the Order Paper ten days from now and that, two days before the expiry of the ten days, he should provide me with a written answer?

Mr. Olago: On a point of order, Mr. Deputy Speaker, Sir. It is only yesterday that a matter appeared on the Order Paper and the Attorney-General was absent. The Chair ruled yesterday that it is time – he is a brilliant lawyer – he learnt that matters on the Order Paper take precedence over other activities and once the matter is on the Order Paper, he should not communicate by correspondence to the Chair. He should come here or delegate another Member of the Front Bench to answer on his behalf. Under these circumstances, would it be in order to ask that the Attorney-General be advised to take the duties of this House a bit more seriously?

Mr. Lessonet: Mr. Deputy Speaker, Sir, I intend to ask a very strong supplementary question the day he will bring the answer in terms of how many people were killed by police during the post election violence period. So, as you give him those

two weeks as requested by Mr. Mututho, let him include the number of people killed by the police during that period.

Mr. Deputy Speaker: Has that question been listed by you before?

Mr. Lessonet: Mr. Deputy Speaker, Sir, Question No.940 has been asked by Mr. Mututho. In advance, I will ask a supplementary question about the people killed by the police during the post election violence period.

Mr. Deputy Speaker: Order! You are out of order, Mr. Lessonet! If you wish to have these numbers, you ask them yourself! That is fair enough. The Chair directs that this Question be listed on the Order Paper ten days from today because that is when you will be available. When will it be convenient for you? The dates will be determined by the Chair. It is not your business to determine dates but when will it be convenient for you? Is ten days from today convenient for you?

Mr. Mututho: Mr. Deputy Speaker, Sir, yes, I have a copy of the written answer.

Mr. Deputy Speaker: That is fair enough! The Chair directs that this Question be listed on the Order Paper the week after on Wednesday morning. That is ten days from today. The hon. Member should be furnished with a copy of the written answer, at least, two days before the matter comes to the Floor of the House.

(Question deferred)

Question No.967

MANDATE OF FILM CLASSIFICATION BOARD

Mrs. Odhiambo-Mabona asked the Minister for Information and Communications:-

(a) whether the mandate of the Film Classification Board includes classification of videos shown in video cafes; and,

(b) how the Ministry protects children from harmful content of videos, especially in rural areas, where there is apparently no control/regulations.

The Assistant Minister for Information and Communications (Mr. Khaniri):
Mr. Deputy Speaker, Sir, I beg to reply.

(a) Yes, the mandate of the Kenya Film Classification Board is to classify all films in the country including those being shown in video cafes.

(b) The Kenya Film Classification Board protects children from viewing harmful video content through examining and rating of films according to age of the audiences. The Films and Stage Plays Act, Cap.222 also requires the Board to rate all films meant for public exhibition. For example, to protect children, adults only films are rated 18 years and above. Further, the Communications Commission of Kenya (CCK) is also finalizing the development of a programme code for free to air radio and TV broadcasters. The requirement for broadcasting licensees to comply with the programming code shall be embedded in the relevant broadcasters' licences when new licences are issued in future under the new licencing regime. The code will set standards which broadcasters shall be required to observe with respect to broadcast content. The code will also define watershed period during which airing of programming intended for

adult audiences shall be prohibited in order to protect children or minors and promote good morals in the society.

However, I wish to state that, currently, the Board does not have adequate staff to monitor video cafes and showrooms around the country. To address this problem, my Ministry is in the process of recruiting more staff for the Board and subsequently post them at the county level. This will enable the Board to intensify monitoring of contents of films being distributed in video cafes and showrooms. With full capacity, the Board will be able to ensure that all unrated films are prohibited from being exhibited in public places. It is worth noting that the Board's officers operate within Government working hours and they usually conduct random inspections in liaison with the Provincial Administration and the Administration Police to identify violators of the law. A case in point is the massive raids in Nairobi of video shops suspected to be trading in pornographic film materials and a number of ongoing cases in various parts of the country.

In Nakuru, about 19 youth were arraigned in court for watching pornography and in Embu, a video vendor was arrested for selling indecent film materials. Broadcast houses do not submit to the Board their films or programmes for classification. The responsibility of airing rated or classified films or programmes which are suitable for children within watershed period has been exclusively laid upon the media houses. However, some media houses have continued to violate the law despite repeated warnings. The Kenya Films Classification Board has also extensively carried out sensitization programmes about watershed period principles which has included training all mainstream media on watershed principles, monitoring all broadcasters for compliance, sponsoring the best watershed period compliant TV station award during the Third Edition of the KALASHA awards in 2011, facilitating workshops during various film festivals and participating in ASK shows and trade fairs to showcase the Board's services to the public.

Mrs. Odhiambo-Mabona: Mr. Deputy Speaker, Sir, I want to thank the Assistant Minister for a very comprehensive answer. What I would like him to inform the House is that in his answer he has indicated that there were several youth who were arrested for watching pornographic material. The emphasis seems to be on the consumer who is the category that we are trying to protect instead of targeting the suppliers. The youth and the young persons are the ones whose morals are being corrupted. What are they doing to focus more on the supplier than on the consumer?

Mr. Khaniri: Mr. Deputy Speaker, Sir, I want to believe that what I am doing has been extensively covered in my answer. I have cited several cases where we have taken the suppliers to court like the case in Embu and the others in Nairobi. So, there is a crackdown. I want to assure the House that since this Question came up two weeks ago, we have intensified the patrols and crackdown.

Eng. Maina: Mr. Deputy Speaker, Sir, the matter before us is very serious in this country because anybody who cares to look at what is happening in this country will note that there is a lot of pornography all over. Could the Assistant Minister tell this House whether he has arrested one or two satellite cases? There are many places this is happening especially in the rural areas. Kenya being a Christian country, truly, this is a matter to be tackled seriously. I would like the Assistant Minister to confirm whether this can be done. They should issue guidelines to the administration and the police all over the

country as a way of cracking this down. Pornography in this country is a menace. When will the Ministry crack down on this menace through the administration before they employ the inspectors the Assistant Minister has talked about?

Mr. Khaniri: Mr. Deputy Speaker, Sir, we have already done what the hon. Member has asked us to do. That is intensifying the crackdown on those people. I want the House to know that we take this matter extremely seriously. We are concerned, as a Ministry, and we will do all that we can within our reach and within the laid down legal framework to ensure that we stop this menace.

Mr. Gaichuhie: Mr. Deputy Speaker, Sir, yesterday, in this same House, we were talking about road accidents and I said this Government only cares about collection of taxes regardless of the cost. Why can the Assistant Minister not consider banning the whole issue until when they are able to employ people to monitor the videos rather than just say that he will wait until when they employ and yet the harm is still being done? Why can he not ban the whole issue?

Mr. Khaniri: Mr. Deputy Speaker, Sir, I do not think banning the whole issue will be a good idea for the economy of the country because we know that this is an industry that provides employment to very many young Kenyans and banning the whole issue as suggested by the hon. Member will render most of these young people jobless.

Mr. Chanzu: Mr. Deputy Speaker, Sir, last time when the Assistant Minister was answering a Question in this House two weeks ago, I raised an issue of not only these cafes but also on the TVs and this has continued. I do not know what he has done within the two weeks. This is because I have seen on Citizen and KTN TVs, people kissing very early when children are watching. I do not know what the Assistant Minister has done in the past two weeks over this.

Mr. Khaniri: Mr. Deputy Speaker, Sir, as I stated two weeks ago when I was answering this Question, we experienced some challenges in enforcing the Act. One of the challenges we experience is that some of these media houses or film distributors and exhibitors always run to court whenever the Board, in conjunction with affected stakeholders such as the CCK, the Kenya Corporate Board or Office of the President wants them to comply with the law. When we brought the Kenya Information and Communications (Amendment) Bill to this House three years ago, some of the hon. Member who are complaining here loudly are the ones who watered down that Bill saying that we were trying to gag the Press. The Bill was watered down so badly that my Ministry is almost helpless. We have no legal framework. Whenever we try to enforce the law, we are taken to court. Therefore, these are some of the challenges that we are facing in the enforcement of this Act.

Mr. Olago: On a point of order, Mr. Deputy Speaker, Sir. I am saddened to hear the Assistant Minister lament that he is limited at the Ministry because they are not able to enforce the law and the legal framework is weak. Would it be in order to ask the Assistant Minister that in view of the challenges he has now noticed to move amendments to the Act so that he can have the teeth that he wants?

Mr. Khaniri: Mr. Deputy Speaker, Sir, I want to assure the House that we have drafted these amendments and they are in the Miscellaneous (Amendment) Bill that the Attorney-General is supposed to bring to the House any time now.

Dr. Khalwale: Mr. Deputy Speaker, Sir, over and above the harmful content of videos, if you tune in to FM stations, you will find that all of them engage in cheap sex

talk. What has the Assistant Minister done to ensure that FM stations also comply with the desire of this country to have a pornography-free media?

Mr. Khaniri: Mr. Deputy Speaker, Sir, the regulations that we issued in 2009 require the licensees or broadcasters to ensure the content which depicts or contains scenes that are rated by the Kenya Films Classification Board as for adults or are of the language intended for adult audience are not aired during watershed periods. All these FM and TV stations under the new regulation and Act will be required to apply for their licences afresh. This is one of the conditionalities that we have put in place for the renewal of licences or issuance of licences to these media houses and FM stations.

Mrs. Odhiambo-Mabona: Mr. Deputy Speaker, Sir, contrary to what the Assistant Minister is saying, it is not really a question of a weak legal framework but it is really a question of lack of effective implementation by the Government. The Sexual Offences Act has very comprehensive provisions; that is protecting children from harmful content or pornographic material. What will the Government do to ensure that all the laws that protect children including the Children Act, the Sexual Offences Act and the regulations and laws he has quoted are implemented? He does not need any further laws; it is an issue of implementation.

Mr. Khaniri: Mr. Deputy Speaker, Sir, I partly agree with the sentiments made by the hon. Member but I want to say that it is both. The Act is weak and there is also ineffectiveness in implementation or enforcement of this Act because of the factors that I stated; that we lack staff. I also stated here last time when I was answering this Question that my Ministry has no prosecution powers. So, all we do is to crackdown on these people and hand them over to the police who have the prosecution powers.

Question No.1057

STALLING WORKS ON EMBOBOS-KUSUMEK-KAMWAURA ROAD

Dr. Kones asked the Minister of State for Provincial Administration and Internal Security:-

(a) whether he was aware that the construction of the security road from Embomos to Kusumek/Kamwaura has stalled due to lack of funding; and,

(b) how much the Ministry proposes to spend in the 2011/2012 budget to ensure completion of the road.

Mr. Deputy Speaker: Dr. Kones, the Chair has a communication from the Office of the Minister of State for Provincial Administration and Internal Security that both the Minister and the two Assistant Ministers are out of town today because of unforeseen and unavoidable circumstances. The Chair directs that this Question be listed on the Order Paper on Tuesday, next week. Is that okay with you?

Dr. Kones: Mr. Deputy Speaker, Sir, this Question has been on the Order Paper for a long time and you can see it is No.1057 and it was deferred last week to today. May I request that it appears on the Order Paper on Tuesday or Wednesday, next week?

Mr. Deputy Speaker: Okay! The Chair directs that this Question be listed on the Order Paper on Tuesday, next week.

Dr. Kones: Mr. Deputy Speaker, Sir, I have another request. There are other Questions I had filed alongside this one but it seems that no two Questions can be listed until one is disposed of.

Mr. Deputy Speaker: You will discuss that with the Clerk's Department. Just sit down with them and sort that out!

(Question deferred)

Question No.1214

OFFICIAL VEHICLE FOR TETU DISTRICT COMMISSIONER

Mr. Nyammo: Mr. Deputy Speaker, Sir, I apologize! I still do not have a written answer and I notice that the Minister and his Assistant Ministers are not here. So may I seek the indulgence of this House that the Question be deferred probably to Wednesday, next week?

Mr. Deputy Speaker: Is Tuesday okay with you?

Mr. Nyammo: Thursday next week will be okay, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Okay. The Chair directs that this Question be listed on the Order Paper next week on Thursday afternoon.

(Question deferred)

Mr. Deputy Speaker: The next Question, by hon. K. Kilonzo, falls under the same Ministry. Therefore, it will be listed on the Order Paper on Tuesday, next week.

Question No.1088

GAZETTEMET OF LOCATIONS/SUB-LOCATIONS
IN MUTITU/NZAMBANI DISTRICTS

(Question deferred)

Mr. Deputy Speaker: Next Question, hon. Martha Karua!

Question No.1205

CONGESTION AT KERUGOYA DISTRICT HOSPITAL

Ms. Karua asked the Minister for Medical Services:-

(a) whether he is aware of the congestion in Kerugoya District Hospital, especially in the male and female surgical wards, and also of the number of patients in the said wards who are unable to raise money for metal plates and other surgical accessories required to fix fractures;

(b) what percentage of the inpatients at the facility are victims of road accidents involving motorcycles (*boda boda*); and,

(c) what he is doing to ensure that patients who cannot afford surgical accessories get support from the Government.

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

(a) I am aware that the male and female surgical wards at Kerugoya District Hospital are congested. I am also aware that many patients in the said wards are unable to raise money for metal plates and other surgical accessories required to fix fractures.

(b) Fifty percent of the patients in the male and female surgical wards are victims of road accidents involving motorcycles, which are well known as “*boda boda*”.

(c) Mr. Deputy Speaker, Sir, there are two methods of correcting fractures. The surgical method utilises implants such as metal plates and kay nails to fix fractures. Patients using this method recover quickly and may be discharged after a ward stay of about two weeks to continue recovery at home. Unfortunately, the cost of the implants is from Kshs20,000.

The conservative method utilises traction of graduated weight to re-unite bones, and it has minimal direct cost. However, patients on traction are hospitalised for long periods of time, from six months onwards. Surgical patients at Kerugoya District Hospital who cannot afford surgical implants are put on traction until their fractures heal. This is because the implants are not supplied by the Kenya Medical Supplies Agency (KEMSA) and the hospital cannot afford to buy them since they are very expensive.

Ms. Karua: Mr. Deputy Speaker, Sir, I want to thank the Assistant Minister for the answer and ask him to clarify whether the percentage of *boda boda* victims is 50 per cent or 60 per cent, and whether this relates only to Kerugoya or is the case countrywide.

Secondly, the Assistant Minister admits that patients on traction who have no ability to buy the metal plates can stay in hospital for up to six months. The cost of feeding and keeping such patients in hospital per day is in excess of Kshs1,000. Does it make economic sense to keep a patient in hospital for six months and use almost Kshs200,000 on him, and for the Government to continue saying that it cannot afford the metal plates to assist this category of Kenyans, who cannot afford the implants, and keep the hospitals congested?

Mr. Kambi: Mr. Deputy Speaker, Sir, as a Ministry, we had wished to buy these plates. However, the Budget that we were given by Parliament is sometimes not enough to even buy essential drugs. Therefore, I urge this House that when we bring our Budget here, it approves it, so that we can buy such essential equipment for our people.

Mr. Kigen: On a point of order, Mr. Deputy Speaker, Sir. The Assistant Minister has told us that due to shortage of funds, they cannot buy the equipment that would reduce the hospitalisation period of patients to two weeks, yet, as the hon. Questioner has said, the Ministry spends over Kshs200,000 to feed a patient for six months. Is it in order for him to say that the Ministry has a shortage of funds when they spend Kshs200,000 to keep a patient in hospital for six months?

Mr. Kambi: Mr. Deputy Speaker, Sir, we do not spend the kind of money that the hon. Member is talking about. The amount we spend on food per patient per day is about Kshs500. Even for the food, sometimes we find that we do not have enough money. So, sometimes we depend on borrowing from the suppliers.

Mr. Mbadi: On a point of order, Mr. Deputy Speaker, Sir. Is it in order for the Assistant Minister to evade answering the question that has been asked by hon. Kigen by

telling us that they spend Kshs500 per patient per day? Keeping such a patient in hospital at the cost of Kshs500 per day for six months costs the Government Kshs90,000. Compare this to Kshs20,000 required for a plate. Which one is higher?

Mr. Kambi: Mr. Deputy Speaker, Sir, such patients do not stay in hospital for six months. Sometimes they go home and return to hospital for check-up. So, we do not keep the patients in hospital for six months. It takes a patient on traction six months, but we do not keep such a patient in hospital for six months, because we cannot afford it.

Dr. Khalwale: Mr. Deputy Speaker, Sir, allow me to congratulate this Assistant Minister because he has returned nurses and doctors to duty at Kenyatta National Hospital (KNH). Since you are that visionary, Assistant Minister, and you have admitted that the plates are expensive and, therefore, out of the reach of the poor, what plans do you have to ensure that in the near future, you make those plates available to the poor people, whom we represent? We do not represent rich people here.

Mr. Kambi: Mr. Deputy Speaker, Sir, I would like to thank the hon. Member for that question. As a Ministry, we have put this into our next year's Budget. If Parliament approves it, we will have all these things, and this problem will be resolved once and for all.

Mr. Mbadi: Mr. Deputy Speaker, Sir, I still want to take the Assistant Minister back to his answer. While answering part (c) of the Question, he said, "--However, patients on traction are hospitalised for long periods, from six months onwards."

So, even without waiting for any extra budgetary allocation, could the Ministry use the amount of money they spend feeding patients for six months, or longer, to buy these plates, which cost only Kshs20,000 per person, and discharge them to go home and recover, so that hospitals do not feed people for such long periods?

Mr. Kambi: Mr. Deputy Speaker, Sir, for the six months they pay for meals. So, if a patient stays longer, he or she pays.

Ms. Karua: Mr. Deputy Speaker, Sir, now that the Assistant Minister has admitted that the cost of keeping a patient for a long period is almost five times more than the cost of some of those metal plates, could he consider having a policy of bulk-buying these implants to not only alleviate the suffering of these accident victims but also free the many hospital beds countrywide – not just in Kerugoya District Hospital but in every district hospital in this country – to be used by other patients?

Mr. Kambi: Mr. Deputy Speaker, Sir, we are going to consider the proposals. We will put them in our next year's Budget. However, for Kerugoya, we have upgraded it to two medical facilities to decongest the hospital. As I speak, my Permanent Secretary (PS) is in Kerugoya to commission equipment we had given to those facilities.

Question No.1276

BONA FIDE OWNERS OF KISUMU/TONDE SCHEME

Mr. Mbadi asked the Minister for Lands:-

(a) who the *bona fide* owner(s) of Kisumu/Tonde Scheme/58, 91, 92 and 128 are;

(b) whether he is aware that the owners have been denied access to their properties by officers of the Lake Basin Development Authority

(LBDA) and, if so, what steps he is taking to ensure that the owners enjoy their rights in these properties; and,

(c) what disciplinary measures he is taking against the LBDA or its officers who are hindering the owners from cultivating and developing their plots.

The Assistant Minister for Lands (Mr. Rai): Mr. Deputy Speaker, Sir, I wish to seek your guidance because this matter is the subject of a court case, High Court No.1552005 in Kisumu. I wish to lay the proceedings of this particular case on the Table for your direction.

(Mr. Rai laid the documents on the Table)

Mr. Mbadi: Mr. Deputy Speaker, Sir, I have not had the opportunity to look at that case. However, I think it would have benefited this House if we knew the subject of this case which is in court. So, could he tell us who has actually been sued because I have just spoken to these four owners of this land and they informed me that they have not been sued and they have not sued anybody?

The Assistant Minister for Lands (Mr. Rai): Mr. Deputy Speaker, Sir, my colleague is very right, but the fact of the matter is that in Item No.2, the owners of this land are denied access. Some LBDA officers have actually been taken to court and the subject matter is the access to this, particular piece of land. That is why I am saying I need your directions.

Mr. Mbadi: Mr. Deputy Speaker, Sir, if there are any people who have taken LBDA to court then certainly it is not with regards to these four parcels of land. If there are other parcels of land in that area where LBDA has been taken to court, then that is different. These are specific parcels of land, 58, 91, 92 and 128. Is there any court case on those specific pieces of land?

The Assistant Minister for Lands (Mr. Rai): Mr. Deputy Speaker, Sir, if I get your directions I will proceed to answer the Question because I have no problem. The issue of part (a) of the Question is very clear. I would be more than willing to answer the Question provided I get directions from you. When we go to part (b) of the Question it is there. My answers are limited because---

Mr. Deputy Speaker: Order! The Chair directs that this Question be listed on the Order Paper on Thursday, next week. In the meantime, the Chair will go through the court file and give a ruling on whether it falls under the *sub judice* rule or otherwise.

Next Question.

(Question deferred)

Question No.1141

REVIVAL OF IRRIGATION PROJECT
IN KOTILE DIVISION

Mr. Deputy Speaker: Is Ms. Noor not here? Is she out of the Chambers today on any official Parliamentary business?

Indeed, yes. Ms. Noor is not with us for a very valid reason. She went for the pilgrimage; that happens once in a year.

This Question will be listed on the Order Paper on the day she will be around to be able to prosecute it.

(Question deferred)

POINTS OF ORDER

(Dr. Khalwale stood up in his place)

Mr. Deputy Speaker: Dr. Khalwale, are you seeking a Statement?

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

Mr. Deputy Speaker: It is the presumption of the Chair that you had already communicated the same to the Speaker.

Dr. Khalwale: Yes, Mr. Deputy Speaker, Sir. I have a signed consent from the Speaker!

Mr. Deputy Speaker: Proceed!

GOVERNMENT'S INTENTION TO INVEST IN PRINTING OF KENYA CURRENCY

Dr. Khalwale: Mr. Deputy Speaker, Sir, I rise to request for a Ministerial Statement from the Prime Minister of Kenya in respect of the Government's intention to invest in the venture of printing of Kenya currency.

In his address to the House, he should clarify the following:

- (a) Who is the current printer of Kenya currency?
- (b) What is the difference between the following companies:-
 - (1) Thomas De La Rue AG
 - (2) De La Rue Kenya Limited
 - (3) De La Rue Currency and Security Print Limited
 - (4) Thomas De La Rue Kenya Limited

Mr. Deputy Speaker, Sir, he should also clarify who is the leasee of LR No. 7878/4 in Nairobi. He should also clarify who is the vendor who is entering into a joint venture agreement with the PS Treasury on behalf of the Government of Kenya.

Finally, he should clarify what is the value of these assets that the Government of Kenya is paying 5 million UK pounds equivalent to Kshs700 million as 40 per cent equity in the venture.

The Minister for Transport (Mr. Kimunya): Mr. Deputy Speaker, Sir, although the Question has been asked to the Prime Minister, the matter lies very squarely within the Office of the Deputy Prime Minister and Ministry of Finance. I would request the Deputy Prime Minister and Minister for Finance to come and issue those clarifications. I believe the hon. Member is also asking about matter, and for information which he already has as Chairman of the Public Accounts Committee (PAC), which is actually contrary to our Standing Orders.

But nevertheless, we will get the Minister for Finance to come and issue a Statement on the matters that have been asked by Wednesday next week.

Mr. Midiwo: On a point of order, Mr. Deputy Speaker, Sir. I wish to disagree with Mr. Kimunya that the issue of De La Rue is an issue which has gone somehow through the Cabinet and, the last time the Deputy Prime Minister and Minister for Finance came here, he did not sufficiently answer the questions which were asked.

This is an issue that will cost tax payers colossal amounts of money. I want to ask the Prime Minister--- In his statement, he needs to give Parliament and the people of Kenya at large, a detailed trail of how this was reached. Also he needs to tell the country if De La Rue is capable of producing any third generation notes which, as required by law, we should now be producing.

Mr. Mbadi: Mr. Deputy Speaker, Sir, I also just wanted to add to the request by Dr. Khalwale that when the Prime Minister comes to answer this question, the people of this country would really benefit a lot if he could table the feasibility study carried out by the Government of Kenya to realize that 40 per cent investment in this firm is a viable investment.

I know with certainty that this firm is only printing for the Central Bank of Kenya and no other bank. So, we would like to know whether that is enough to sustain investment in such a company.

Dr. Khalwale: Mr. Deputy Speaker, Sir, I appreciate the consideration of hon. Kimunya that this matter goes to the Deputy Prime Minister and Minister for Finance, but may I plead with the Chair that when I was seeking this Statement, in my mind, I knew that the Deputy Prime Minister and Minister for Finance exists. The Deputy Prime Minister and Minister for Finance was unable to address this question as recently as Wednesday last week. In his own words, he said that yes, the negotiations are ongoing but it is the collective decision of the Cabinet. It is only the Prime Minister who can speak on behalf of the entire Cabinet in this House.

Finally, hon. Kimunya will notice that in my question, I have touched on matters pertaining to the Ministry of Lands, namely, the ownership of L.R.7878/4. Hon. Kimunya would also notice that in this particular contract, we are committing the country to a monopolistic service that is going to run for a period of ten years without the approval of this House. It is only the Prime Minister who would address such serious matters.

The Minister for Medical Services (Prof. Anyang'-Ny'ong'o): On a point of order, Mr. Deputy Speaker, Sir. I wish to seek your guidance. There is precedence in this House that when a Question is not answered to the satisfaction of the House by a Minister, it is referred to a certain Committee to go into the details of it. Would I be in order to request you to clarify whether this Question is any different from others which have been referred to the appropriate Departmental Committee to look deeper into it rather than pushing it to another Minister in the Government?

Mr. Midiwo: On a point of order, Mr. Deputy Speaker, Sir. May I inform the Minister for Medical Services that this issue has been before the Committee on Finance, Planning and Trade since I became a Member of Parliament in 2003. The Committee has rejected the buying of equity by the Government into De La Rue for the last nine years. It beats logic why somebody at the Treasury is always interested in this deal even when the facts that it would benefit the country dictate otherwise. It is only through a Statement by

somebody in the Government; the Co-ordinator of the Government, that this country will be satisfied that what the Government is intending to do is not another Anglo Leasing.

The Minister for Transport (Mr. Kimunya): Mr. Deputy Speaker, Sir, I was just saving the energy of the House and that of the Prime Minister's Office. He only needs to come here to deal with cross-cutting issues. I listened very carefully to the issues that were requested and I was convinced that they can be handled by the Ministry of Finance. However, if it is the feeling of the House that the Prime Minister needs to come and answer those questions, I will communicate the same and the he will come and respond to them during the Prime Minister's Time on Wednesday.

Mr. Deputy Speaker: When is the Prime Minister going to answer these questions, so that the Chair can give a direction for the matter to be listed on the Order Paper?

The Minister for Transport (Mr. Kimunya): Mr. Deputy Speaker, Sir, the Prime Minister's Time has been set out for Wednesdays, but this will depend on what has been lined up for next Wednesday.

Mr. Deputy Speaker: Next Wednesday?

The Minister for Transport (Mr. Kimunya): Mr. Deputy Speaker, Sir, next Wednesday.

Mr. Deputy Speaker: The Chair directs that this question be listed as a Prime Minister's Question on the Order Paper on Wednesday next week.

STONING OF MR. TUJU'S MOTORCADE IN KISUMU

Mr. Ruto: Mr. Deputy Speaker, Sir, I rise to seek a Ministerial Statement from the Minister of State for Provincial Administration and Internal Security with regard to the stoning of a presidential candidate - hon. Raphael Tuju's motorcade - in Kondele, Kisumu, on 5th November, 2011.

In the Statement, I would like the Minister to clarify the following:-

(a) What action the Government has taken to bring the culprits to book together, with their supporters and organizers.

(b) what measures have been put in place to ensure that political campaigns are held peacefully---

The Minister for Water and Irrigation (Mrs. Ngilu): On a point of order and information, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Do you need, hon. Ngilu's information, hon. Ruto?

Mr. Ruto: Mr. Deputy Speaker, Sir, I do not mind the information!

The Minister for Water and Irrigation (Mrs. Ngilu): Mr. Deputy Speaker, Sir, I have listened to what the Member is saying and it defeats logic that, first and foremost, somebody is stoned in his home ground. Secondly, I have been there to campaign and nobody stoned me! How come that this particular person was stoned?

Mr. Keter: On a point of order, Mr. Deputy Speaker, Sir. The Minister is asking a question!

Mr. Deputy Speaker: Order! Order, hon. Keter! Hon. Ruto, could you proceed and demand for your Ministerial Statement?

Mr. Ruto: Mr. Deputy Speaker, Sir, maybe it would be useful for me to inform the gracious lady that the Minister sitting next to her told the country, the other day, that it is hon. Tuju who stoned himself. We are getting worried because the last time---

The Minister for Medical Services (Prof. Anyang'-Ny'ong'o): On a point of order, Mr. Deputy Speaker, Sir. The hon. Ruto should not misinform the House. I said that information reaching us alleges that the stoning incident was stage managed. I proceeded to say that whether stage managed or not, I resolutely condemn any form of stoning by anybody in the Republic of Kenya. But the fact that there are already allegations that the stoning was stage managed is worth investigating.

The Statement the Member is demanding will help the Ministry of State for Provincial Administration and Internal Security to give us the facts. As far as I am concerned, when I was given that information, I should not have privatized it. I should have made it known to the public so that facts can be known. I would not like him to sensationalize the matter by saying that I said that hon. Tuju stoned himself. He is being very naughty.

Ms. Karua: On a point of order, Mr. Deputy Speaker, Sir. The public may think that we are trivializing a criminal and serious incident. There is nowhere in Kenya where people are generally thuggish and stone people. I was there recently and I was received well, but I also know that I have gone to other places where colleagues, or politicians, incited people to shout me down at a funeral. Is it in order for any Member to trivialize a criminal incident against a politician instead of leaving it to investigations? We then seem to legitimize the violence!

Mr. Mbadi: On a point of order, Mr. Deputy Speaker, Sir. Personally, I would support the request for the Statement by hon. Ruto and even add that when the Minister comes to report to this House, the country---

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

Mr. Mbadi: Mr. Deputy Speaker, Sir, I am on a point of order!

Mr. Deputy Speaker: He has not finished seeking his Ministerial Statement. Can you allow him to finish?

Mr. Ruto: You are not the Minister, *Mheshimiwa!* Of course, I know you may know a bit more about the stone-throwing!

Mr. Deputy Speaker: Order! Proceed!

Mr. Ruto: Mr. Deputy Speaker, Sir, let me proceed. I am taking this matter very seriously even if you see me laughing a little bit! The last time we were told of a Minister for Foreign Affairs---

Mr. Mbadi: On a point of order, Mr. Deputy Speaker, Sir. I hope you heard hon. Ruto say that I know a bit more about the stone-throwing! It is not right for colleagues to look down upon others and joke about the character of other people.

Is it in order for hon. Ruto to imply and insinuate that hon. Mbadi knows about stone-throwing yet I know a lot about talking in this House and representing my people? At no single time have I been accused of stone-throwing! Probably, hon. Ruto has---

The Deputy Speaker: Order! Mr. Mbadi, you have made your point!

An hon. Member: You have been accused of worse crimes than that!

Mr. Deputy Speaker: Hon. Isaac Ruto, you are out of order! You should not impute any improper motive on your colleague! But proceed and make your request!

Mr. Ruto: I want to apologize because I thought he might know more because he comes from around Kisumu, but I apologize.

Hon. Members: Point of order! Point of Order!

Mr. Ruto: I have apologized, Mr. Deputy Speaker, Sir, and I withdraw.

Mr. Deputy Speaker: Order! Proceed.

Mr. Ruto: This is a serious matter, Mr. Deputy Speaker, Sir, because the Kenyan who was stoned—

Mr. Deputy Speaker: Order! To begin with, the hon. John Mbadi does not come from Kisumu! He comes from Gwassi! He is the Member of Parliament for Gwassi, which is very far from Kisumu, if you do not know. But proceed and seek your Ministerial Statement.

Mr. Ruto: I thought Kisumu and the region is the same. Mr. Deputy Speaker, Sir, I want to finish.

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

Mr. Deputy Speaker: What is your point of order? He has not even finished seeking his Ministerial Statement!

The Assistant Minister for Higher Education, Science and Technology (Mr. Kamama): Mr. Deputy Speaker, Sir, you heard the sentiments or the statement by my good friend, Prof. Anyang'-Nyong'o, who referred to hon. Isaac Ruto as "naughty". Is that Parliamentary, Mr. Deputy Speaker, Sir?

Hon. Members: Yes!

The Assistant Minister for Higher Education, Science and Technology (Mr. Kamama): I think he should withdraw that word and just say, may be, hon. Ruto is prolific in terms of his debate.

Mr. Deputy Speaker: The Chair did not hear that!

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

Mr. Deputy Speaker: What is your point of order, hon. Ephraim Maina?

Eng. Maina: Mr. Deputy Speaker, Sir, the Minister for Health has just stated that he has information that the thing was pre-arranged.

Mr. Deputy Speaker: No! Order, hon. Ephraim Maina! The Minister for Medical Services was very categorical. He said that he has information that the incident was stage managed. It is not a categorical statement. In any case, we have passed that. Can you allow hon. Ruto to conclude seeking his statement?

Mr. Ruto: This is a very serious matter, Mr. Deputy Speaker, Sir, because the hon. Kenyan who was actually stoned is a former Minister for Foreign Affairs and we were told he stoned himself. There was another Foreign Affairs Minister whom we were told shot himself and burnt himself, around the same area. This is all the more reason why we should not take lightly any insinuation about this particular matter!

(b) In his answer the Minister should tell us what measures have been put in place to ensure that---

Hon. Members: Point of Order!

Mr. Deputy Speaker: Order! Can he conclude? Will you go straight to the matter of the Ministerial Statement itself?

Mr. Ruto: Mr. Deputy Speaker, Sir, what measures have been put in place to ensure that political campaigns are held peacefully in the country, particularly in the Nyanza region, in the run-up to the 2012 General Elections?

(c) What actions will be taken against political parties which condone thuggery in contravention of the provisions of the Elections Act, 2011, and which go ahead to state to Kenyans that the people who were arrested were playing around with stones because the stones they had were so huge that they could not throw them away?

Mr. Deputy Speaker, Sir, I have this on the authority of the Whip of one such party; a cousin of one of the principals!

(Laughter)

Mr. Deputy Speaker: Order! Order! Hon. Isaac, Ruto, you are clearly out of order! Do not use the opportunity to seek a Ministerial Statement to make a long statement. You are out of order and you will not seek any more Ministerial Statement and that Ministerial Statement itself is frivolous! You are out of order!

(Applause)

Let us move on to the next Order!

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

The Deputy Speaker: Order! Order!

(Mr. Ruto stood up in his place)

Mr. Ruto, you are out of order! You are supposed to seek a Ministerial Statement---

Mr. Ruto: Mr. Deputy Speaker, Sir, I have sought a Ministerial Statement---

The Deputy Speaker: No, you have not sought the Ministerial Statement! You went out disparaging your colleagues---

Mr. Ruto: I can withdraw the---

The Deputy Speaker: Order! You are out of order! You do not have any more chance to seek a Ministerial Statement on the same!

Proceed!

Mr. Ruto: Mr. Deputy Speaker, Sir, under what Standing Orders are you---

The Deputy Speaker: Order! Order!

Mr. Ruto: No, you are not going to be dictatorial, Mr. Deputy Speaker, Sir!

(Loud consultations)

What is wrong with you? You are a dictator! Under what Standing Orders---

The Deputy Speaker: Order! Order! Under the circumstances, Mr. Ruto, you will be out of this House for the remaining---

Mr. Ruto: I will go out, but you are useless!

(Mr. Ruto threw some documents at the Clerks-at-the-Table)

and withdrew from the Chamber)

Hon. Members: No! No! No!

Ms. Karua: On a point of order, Mr. Deputy Speaker, Sir. A Member who shows total disrespect to the House ought to be named, and I propose that he be named.

Hon. Members: Yes!

(Applause)

An hon. Member: No! No!

Hon. Members: Yes! Name him! Shame! Shame!

(The Clerk-at-the-Table consulted the Chair)

(Loud consultations)

Mr. Keter: On a point of order, Mr. Deputy Speaker, Sir. We also have to follow what guides the House. Under what Standing Order---

Hon. Members: So, he is right! *Hapana!*

Mr. Keter: No! No! *Kwani mtu akiguswa, anaanza kupiga kelele?*

(Loud consultations)

The Deputy Speaker: Order! Hon. Members, Standing Order No.97 on disorderly conduct says:-

(1) Conduct is grossly disorderly if the Member concerned-

(a) creates actual disorder;

(b) knowingly raises a false point of order;

(c) uses or threatens violence against a Member or other person;

(d) persists in making serious allegations without, in the Speaker's opinion, adequate substantiation;

(e) otherwise abuses his or her privileges;

(f) deliberately gives false information to the House;

(g) refuses to answer a legitimate question by a Member;

(h) votes more than once in breach of these Standing Orders;

(i) commits any serious breach of these Standing Orders; or

(j) acts in any other way to the serious detriment of the dignity or orderly procedure of the House.”

(2) The Speaker or the Chairperson of Committee shall order any Member whose conduct is grossly disorderly to withdraw immediately from the precincts of the Assembly, either-

(a) for the remainder of that day's sitting; or

(b) for a period not exceeding two sitting days, including the day of suspension; but if on any occasion the Speaker or the Chairperson deems that his or her powers under this Standing Order are inadequate, the Speaker or the Chairperson may

name such Member or Members, in which event the procedure prescribed in Standing Order 98 (Member may be suspended after being named) shall be followed.”

Standing Order No.98 on Member may be suspended after being named says:-

(1) Any Member may at any time, on a point of order, invite the Speaker or the Chairperson of Committees to name another Member for grossly disorderly conduct, but the decision whether or not to do so shall remain with the Speaker Chairperson.

(2) Whenever a Member shall have been named by the Speaker or by the Chairperson, then –

(a) if the breach has been committed by such Member in the House, a Motion shall be made by any other Member present “That, such Member (naming the Member) be suspended from the service of the House”, and the Speaker shall forthwith put the question thereon, no amendment, adjournment, or debate being allowed;

(b) if the breach has been committed in a Committee of the whole House, the Chairperson shall forthwith leave the Chair and report the circumstances to the House; and the Speaker shall on a Motion as aforesaid being made, forthwith put the question, no amendment, adjournment or debate being allowed, as if the offence had been committed in the House itself.

Hon. Martha Karua did seek the Member to be named but did not name his name. Under the circumstances should you wish to name the Member, any hon. Member shall have to say: “I move that so-and-so be named.”

Hon. Members: *Tuendelele! Achana na huyo!*

Dr. Khalwale: On a point of order, Mr. Deputy Speaker, Sir. In accordance with the same rules you are reading from, having punished the hon. Member by dropping his Ministerial Statement, I beg your indulgence that, that is sufficient punishment. If we punish him twice, it will be to double jeopardy.

(Applause)

Mr. Midiwo: On a point of order, Mr. Deputy Speaker, Sir. I beg your indulgence. I am a victim of the unnecessary utterances by the hon. Member!

Mr. Deputy Speaker, Sir, I beg to move:-

THAT, hon. Isaac Ruto, the Member of Parliament for Chepalungu be named for gross misconduct.

Mr. Keter: On a point of order, Mr. Deputy Speaker, Sir. With due respect to you, as the Chair, I have listened to you read the Standing Order. When you made the ruling that hon. Isaac Ruto’s Ministerial Statement was null and void, hence he should be out of the proceedings of the House for the rest of the day, I want to know under what Standing Order you did that, so that in the same mode---

Mr. Deputy Speaker: Order! Hon. Keter, this is a dignified august House. When you want to seek a Ministerial Statement, you do so from a Minister. You do not take an opportunity to make disparaging remarks against your own colleagues in the House. You do not turn it into a debate. You seek it and pursue it progressively; when it is issued you say what clarification you need. The Chair was very patient with hon. Isaac Ruto and allowed him to disparage a number of Members of Parliament, one of them being hon.

Mbadi and other Members of Parliament. He proceeded progressively moving in that direction. It was not fair!

This is an august House. It is a dignified House. It is a legislative assembly of this country. It is a supreme organ. We need to conduct ourselves in accordance with the Standing Orders and maintain basic decorum. Not only did he do that, he proceeded on to act in a way that amounted to serious detriment to the dignity of the House and its orderly procedures. He stood up and challenged the Chair on the Floor of House when the Chair was saying "Order". Ideally, when the Chair says "Order", everybody should freeze. This is not a market! This is a dignified House. Then he went ahead and threw up a piece of paper. This was something that was being observed by all Kenyans. Not only that, he also insulted the Chair. The Chair does not mind that at an individual level, but this is an institution; there is need for all of us to respect this institution and its dignity.

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

Mr. Deputy Speaker: Order! The Standing Orders are very clear. A Member has moved that hon. Isaac Ruto be suspended from the proceedings of the House.

The Assistant Minister for Livestock Development (Mr. Gabbow): On a point of order, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Order! This is a basic rule that you all need to understand! When the Chair is on its feet, you freeze!

Hon. Members, Standing Order No.98(2)(a) states:

"If the breach has been committed by such a Member in the House, a Motion shall be made by any other Member present "That, such a Member (Naming the Member) be suspended from the service of the House", and the Speaker shall forthwith put the question thereon, no amendment, adjournment, or debate being allowed;"

I will now put the Question, that hon. Isaac Ruto be suspended from the service of the House.

*(Question, that hon. Isaac Ruto be named,
put and negated)*

Mr. Midiwo: On a point of order, Mr. Deputy Speaker, Sir. I want to ask the Chair to order that the trivializing words about the late hon. (Dr). Robert Ouko be expunged from the records of this House. The insinuation that he shot himself the same way Mr. Tuju stoned himself--- Those words do not belong to the dignified HANSARD of this House. I think that is too trivial, immature and immoral; they are not fit to be uttered by any hon. Member!

The Minister for East African Community (Mr. Sirma): On a point of order, Mr. Deputy Speaker, Sir. I think we are setting a very dangerous precedent in this House. If we are going to allow Members to become disorderly to the extent we have seen, and then we vote and support that kind of behaviour, we are proceeding dangerously!

Mr. Namwamba: On a point of order, Mr. Deputy Speaker, Sir. First, in support of hon. Midiwo, I want to seek the indulgence of the Chair, that since the Chair has already ruled that the very request for the Ministerial Statement was rejected, the entire debate and exchange surrounding that request be expunged from the records of the House. However, allow me to put on record my absolute displeasure. Not only did that

particular hon. Member disrespect the dignity of this House, he completely denigrated the authority of the Chair and the Clerk; that this could be reduced to petty politics, is the height of despicable conduct.

Mr. Deputy Speaker: Order, hon. Members! That matter is settled. Could the Deputy Leader of Government Business proceed?

On the issue of whether it is going to be expunged from the HANSARD or not, the Chair is going to give a Communication on it at a later date.

Proceed!

MINISTERIAL STATEMENTS

BUSINESS FOR WEEK COMMENCING 14TH NOVEMBER 2011

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

Mr. Deputy Speaker, Sir, the House is expected to consider the Constitution of Kenya (Amendment) Bill, Bill No.51 of 2011, currently at the First Reading stage. The 90 days started from yesterday. The following Bills will be read a Second Time:-

- (i) The Partnership Bill (Bill No.26 of 2011)
- (ii) The Public Procurement and Disposal Bill (Bill No.27 of 2011)
- (iii) The Energy and Communications Bill (Bill No.29 of 2011)
- (iv) The Books and Newspapers (Amendment) Bill (Bill No.48 of 2011)
- (v) The Cancer Prevention and Control Bill (Bill No.47 of 2011).

The following Bills will also be considered in the Committee of the whole House:-

- (i) The Finance Bill (Bill No.12 of 2011)
- (ii) The Engineers Bill (Bill No.25 of 2011)

Mr. Deputy Speaker, Sir, the House will also be considering the following Motions among others:-

(i) The Motion to adopt the Report of the Departmental Committee on Finance, Planning and Trade on the grains discharge at the Port of Mombasa, laid on the Table of the House on Wednesday 17th August, 2011.

(ii) The Motion to adopt the Report of the Parliamentary Select Committee on the Cost of Living, laid on the Table of the House on Tuesday, October, 2011.

The House Business Committee will meet on Tuesday 15th November, 2011, to consider the business for the rest of the week.

Mr. Deputy Speaker, Sir, I also have another Statement that had been requested by hon. Magwanga. I will be happy to also present the same.

The Minister of State for Public Service (Mr. Otieno): On a point of order, Mr. Deputy Speaker, Sir. It is just information that--- You were not in the Chair yesterday and hon. Kimunya was not in the Chamber. Actually, the Constitution of Kenya (Amendment) Bill (Bill No.51) was not read the First Time. The Minister still has to respond to a number of points of order before it can be read the First Time.

(Mr. Deputy Speaker consulted with the Clerks-at-the-Table)

The Minister for Transport (Mr. Kimunya): Mr. Deputy Speaker, Sir, actually, the reading was started, but it was not completed. So, the Motion will be there on Tuesday next week. That is what I meant. Mr. Deputy Speaker, Sir, can I read the second Statement?

Mr. Deputy Speaker: Proceed!

DELAYS OF SCHEDULED KQ FLIGHTS

The Minister for Transport (Mr. Kimunya): Mr. Deputy Speaker, Sir, I wish to make the following Statement on delays of scheduled Kenya Airways flights as requested by hon. Magwanga.

Mr. Deputy Speaker, Sir, Kenya Airways is a hub-and-spoke carrier connecting passengers through Jomo Kenyatta International Airport (JKIA). Its hub has 53 destinations worldwide. The hub-and-spoke concept is the preferred airline mode of operations in comparison to point to point operations. There are, however, some challenges with the model because any delay at any of the spokes or outstations tends to cause reactionary delays at the hub, in this case, JKIA and to the entire network as well. These delays are not unique to Kenya Airways. In fact, available global statistics show similar trends for hub carriers while operating into and out of their respective hubs.

Mr. Deputy Speaker, Sir, some of the causes of delays are beyond the airline's control and have negative effects on its operations. Those causes include immigration delays in foreign countries that consequently affect the connecting flights out of JKIA to African destinations. The intermittent delays are also experienced due to congestion within the European airspace, especially in London. It could also be equipment failure. For example, you know what happened recently in Paris where the airport system failed thus causing a flight delay to Nairobi. We also have issues with the Kenya airspace which has also been experiencing air traffic control delays due to congestion, especially during the peak periods. We also have had congestion at JKIA which creates challenges, especially with the transfer of passengers to their connecting flights, handling of baggage and positioning aircraft from remote parking bases to air bridges and gates for both passengers, disembarking as well as refueling. Traffic jam on Mombasa Road has been causing the late arrival of passengers as well as operating crew with attendant delays on the aircraft. There are also fuel and parking challenges at the remote parking at JKIA. The fuel suppliers have reported that the fuel lines have clogged and the quality of fuel has been affected. That has forced Kenya Airways to reposition aircraft to serviceable bases, which usually takes enormous time and resources.

Mr. Deputy Speaker, Sir, until recently, the new fuel hydrant system at the remote stands has been operating since it was commissioned in July, 2010. However, as it is common with any new fuel system, there have been some snags which are being resolved and the system is expected to be fully operational within the next two weeks.

The congestion problem is being addressed through the construction of the new Terminal 4 which is expected to be completed by December, 2012. That is in the short-term. In the long term, we will construct a new Greenfield Terminal.

Mr. Deputy Speaker, Sir, in the last two years, 17 legal suits have been instituted against Kenya Airways due to delays. Out of those, 15 cases have since been resolved through the established Customer Service Recovery Procedures. Of the remaining cases,

one has been settled on an *ex-gratia* basis while the last one is in court. The airline considers this as confidential information and I seek the indulgence of this House not to provide the cost of the above mentioned case, as well as that of the hotel accommodation arising from delays.

Mr. Deputy Speaker, Sir, on 22th October, 2011, Flight 611 was delayed as a result of the late arrival in Mombasa of Flight KQ610 from Nairobi. The flight had experienced about 30 minutes delay in Nairobi due to a number of landing flights ahead of it, including other Kenya Airways flights. Priority is normally accorded to landing flights and KQ610, therefore, landed in Mombasa 48 minutes late. Unfortunately, by the time the flight landed in Mombasa, the captain could not operate the flight back to Nairobi as flight KQ611, as she would have statutorily violated the Kenya Civil Aviation Authority regulations on maximum flight time by 22 minutes. That is because 48 minutes delay in the air meant that the captain was off by 22 minutes and she had to take a break statutorily. Kenya Airways works within the law and adheres to the regulations regarding the flight time limit by the cockpit crew. As a result of that, the Kenya Airways operational control worked expeditiously to get another set of crew who were, unfortunately, engaged in other flights. However, the airline ensured that the passengers who had very critical connections out of Nairobi were accommodated on other flights, which included 40 passengers connecting to Jeddah for Hajj, as well as mothers with infants. The rest of the passengers were given hotel accommodation as they were rebooked on later flights.

Mr. Deputy Speaker, Sir, that was an unfortunate case and the airline acknowledges that the communication with passengers was not done professionally by staff on the ground, and sincerely apologizes to its passengers. Going forward, the airline has commenced training sessions to our customer services team on how to communicate during high pressure and demanding situations. It is also important to mention that Kenya Airways has been operating about ten daily flights on Mombasa shuttle services, with commendable on-time performance, and strives to maintain the same. This has resulted in an increase in capacity by 40 per cent and improved services on the route.

Mr. Deputy Speaker, Sir, on the passenger lounge at the Moi International Airport, Kenya Airports Authority, in liaison with Kenya Airways, are working on it to have the available lounge expanded and also to provide an additional one to accommodate more passengers.

[Mr. Deputy Speaker left the Chair]

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

Ms. Karua: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the Minister in order to treat this as an opportunity to issue a Ministerial Statement instead of just giving the business of the House?

The Minister for Transport (Mr. Kimunya): Mr. Temporary Deputy Speaker, Sir, a Ministerial Statement was sought by an hon. Member of this House. I am

responding to the issues as they were raised. He asked for a very comprehensive Statement and I am endeavouring to do the same.

Mr. Temporary Deputy Speaker, Sir, Kenya Airways has continued to record improved profitability. I think that was also one of the issues that were asked. As at 30th September, 2011, the board announced the achievement, half a year turnover of Kshs54.9 billion which is a 33.3 per cent increase in comparison with the same period last year. That has resulted in a profit of Kshs2.034 billion after tax, compared with the same period last year of Kshs1.436 billion.

To ensure the continued growth of Kenya Airways, the board has approved a ten-year Strategic Plan starting with the Financial Year 2011/2012 to the year 2020/2021. This will enable Kenya Airways remain competitive by positioning itself to capture the traffic flows in the future. The plan also includes a roll-out of new destinations covering the six continents and a fleet modernization plan.

Mr. Temporary Deputy Speaker, Sir, during the meeting between the Kenya Airways senior management team and the National Assembly's Departmental Committee on Transport, Public Works and Housing on 15th September, 2011, the airline's Chief Executive Officer took hon. Members through this detailed strategic plan. While the benefits of air transport to Kenya cannot be overemphasized, it is important to highlight some of the statistics which were requested by the Member. According to the 2011 draft report by the Oxford Economics on the economic benefits of air transport in Kenya, the aviation sector in Kenya contributes about Kshs83 billion to the Gross Domestic Product (GDP) and comprises Kshs13 billion contributed through the output of the aviation sector through the airlines, airports and ground services. Another Kshs6 billion is indirectly contributed through the aviation sector supply chain. An amount of Kshs5.7 billion is contributed through the spending by the employees of the aviation sector and its supply chain and another Kshs59.2 billion in what is referred to as catalytic benefits through tourism.

Further, the aviation sector supports about 198,000 jobs in Kenya; 13,000 being direct jobs supported by the aviation sector, 17,000 jobs indirectly supported by the aviation sector supply chain, another 16,000 jobs supported through spending by the employees of the aviation sector and its supply chain and 142,000 jobs supported through the catalytic effects of aviation.

Mr. Temporary Deputy Speaker, Sir, Kenya Airways has been at the forefront in the above mentioned economic benefits and they are committed to maintaining high levels of customer service and ensuring, among others, that they maintain the all time performance to levels above the International Air Travel Association (IATA) recommendation. In order to achieve this, the airline has in the last three years invested in people and systems with its recently approved ten years strategic plan which will harness opportunities for modernizing its fleets to ensure high levels of aircraft availability.

In addition, in order to ensure consistent first class service from the Kenya Airways ground staff, they will be undergoing a customer service training course commencing later this month. All these measures will mitigate against the delays and further, the airline intends to complete both its domestic and Flying Blue lounges before the end of the year, thereby further improving service levels.

Mr. Temporary Deputy Speaker, Sir, lastly, the Government has also in the last few years initiated various projects to enhance reliability, safety and efficiency of

operations at the international and domestic airports in the country. Construction of Terminal 4 building, parking garage, grade parking and associated works at the Jomo Kenyatta International Airport (JKIA) is ongoing. The upgrading of facilities at Kisumu Airport through construction of a 3.3 kilometer runway linking taxi ways and new terminal building is substantially complete. The rehabilitation of the aircraft pavement at the Moi International Airport is expected to commence in February 2012 and Malindi Airport construction of a new terminal building is ongoing and is expected to be completed by September. These are ongoing projects and the other projects are going on in other airports and airstrips across the country. They are expected that they will greatly improve the services offered by the Kenya Airports Authority (KAA) across the entire country.

The Kenya Civil Aviation Authority (KCAA) is also implementing its restructuring aimed at improving its ability to attract and retain skilled personnel especially in the areas of flight operations and airworthiness. The measures we have put in place will improve the overall aviation industry in the country and facilitate both local and international airline, providing better services to passengers.

That is the Statement as requested by Mr. Magwanga.

The Temporary Deputy Speaker (Prof. Kaloki): Mr. Wamalwa, please, proceed!

Mr. Magwanga: Thank you Mr. Temporary Deputy Speaker, Sir. I wanted to---

The Temporary Deputy Speaker (Prof. Kaloki): Order, Mr. Magwanga!

Mr. Wamalwa, please, proceed!

Mr. Wamalwa: Mr. Temporary Deputy Speaker, Sir, the Deputy Leader of Government Business proceeded straight into the Statement after giving the order of business, but I had an inquiry to make on the order of business for next week. He did mention several Motions of various departmental committees that will be debated next week. There is a report that was tabled here several months ago by the Departmental Committee on Lands and Natural Resources on the Kiboroa Squatters in Trans Nzoia that has never been slotted for debate.

The Kiboroa Squatters Report was tabled by Mr. Mutava Musyimi several months ago. When will this Motion be slotted time as a matter of priority? The squatter issue is sensitive. In Mt. Elgon, the squatters in Chebyuk have been settled, in Nakuru the landless are being settled and the squatters of Trans Nzoia are beginning to ask whether this House has forgotten them.

The Temporary Deputy Speaker (Prof. Kaloki): Mr. Magwanga, please, proceed! You should have been the first.

Mr. Magwanga: Mr. Temporary Deputy Speaker, Sir, I want to take this opportunity to thank the Minister for the elaborate answer. However, I want to state that the Kenya Airways, of late, has permanent delays.

I can remember on the 14th of October, there was a delay of almost two hours when hon. Members were going to Mombasa. I can remember the very day in question, the 22nd of October, 2011, passengers queued for over six hours at the Mombasa International Airport lounge. The flight KQ611 took off at almost 1.00 a.m. when it was supposed to leave Mombasa at around 6.00 p.m.

Mr. Temporary Deputy Speaker, Sir, I sympathized with the situation of some old foreigners who were supposed to be connecting to Europe and other destinations. They

could not connect to Nairobi and go to other destinations. This is because they were not informed of any solution to their problem. Much as the Minister detailed the strategies the Kenya Airways management is putting in place, what is the Ministry doing to ensure that Kenya Airways services become efficient and attractive to investors and tourists in this country?

The Temporary Deputy Speaker (Prof. Kaloki): Minister, can you proceed and deal with those two first?

The Minister for Transport (Mr. Kimunya): Mr. Temporary Deputy Speaker, Sir, the issue as raised by Mr. Wamalwa on Kiboroa Squatters; the Committee Report will be looked at by the House Business Committee (HBC) on Tuesday and we will see at what point it will be put on the Order Paper.

In terms of the clarification by Mr. Magwanga, indeed, the whole import of this Statement was to look at the various issues of concern to delays at different times of the day. The specific circumstances of 14th October, 2011 fall within these kind of issues. I did mention in my Statement that indeed on the 22nd of October, I was myself in Mombasa and so I witnessed what was happening.

All the passengers were taken care of and, indeed, the issue was not about the delays because that happens in all airports. The communication was very poor and the Kenya Airways and the Ministry have taken care of that. We have worked on the need for better communication to ensure that when passengers are delayed, there is better communication. In terms of the connection, all the connecting passengers were taken care of. Those who could not travel were put in hotels and travelled the next day.

Mr. Affey: Mr. Temporary Deputy Speaker, Sir, I want to thank the Minister for his very elaborate Ministerial Statement and for kind of giving some policy direction on the management of our airports. I am not sure whether he is aware that the third largest airport in Kenya is situated in Wajir. The airport in Wajir has the longest runway after the runways of the airports in Mombasa and Kisumu, yet it is the least utilised airport. I have listened to the Minister's Statement very carefully. He never even mentioned the existence of that airport. What arrangements does the Government have to ensure that Wajir international airport is utilised optimally?

The Temporary Deputy Speaker (Prof. Kaloki): Hon. Affey, what do you want the Minister to do?

Mr. Affey: Mr. Temporary Deputy Speaker, Sir, I want the Minister to tell us what plans they have to utilise that airport, which has the potential of opening up that region and that county to the rest of the world.

The Temporary Deputy Speaker (Prof. Kaloki): Very well. Proceed, hon. Gunda.

Mr. Gunda: Thank you, Mr. Temporary Deputy Speaker, Sir. Minister, could it be that some of these delays are caused by the late delivery of some of the aeroplanes that the KQ has ordered? Could it be that the KQ has so many connections to make, and that they lack the necessary equipment to enable them do the same?

The Temporary Deputy Speaker (Prof. Kaloki): Minister that is the last clarification. So, you may now proceed.

The Minister for Transport (Mr. Kimunya): Mr. Temporary Deputy Speaker, Sir, I avoided mentioning Wajir airport not because I do not recognise it; it is, indeed, a vital part of our network. But I am also aware that there is a Question whose answer I

have signed. I want to give a more specific answer regarding Wajir Airport to the House, so that we can deliberate on it. So, Wajir Airport is a vital facility within our network.

In terms of whether the delays are caused by the expansion programme that is underway, I did mention that business has expanded. We are all very happy that tourists are coming to Kenya. The Kenya Airways is growing. Indeed, all the other airlines that are operating in this country are recording some good growth. We should be happier. We cannot curtail growth. We cannot tell them not to expand. We know that there have been delays in arrival of aircraft, or they have had to go to other markets to get aircraft.

Delays are expected when you have demand and you have not been supplied with aircraft. When one aircraft delays slightly, then you could have a knock-on effect, but we are managing the much we can until all the aircraft come, and until we expand our facilities at the airport, or until we look into all the issues I mentioned in the comprehensive Ministerial Statement.

Mr. Temporary Deputy Speaker, Sir, I want to thank Kenyans and Members of Parliament for the support they have given our national carrier, which has experienced all this growth.

Mr. Magwanga: Mr. Temporary Deputy Speaker, Sir, could the Minister undertake to assure this House that there will be no further delays of more than two hours by KQ?

The Minister for Transport (Mr. Kimunya): Mr. Temporary Deputy Speaker, Sir, it would be unpractical to guarantee the House that there will be no more delays because a delay could as well be caused by, for instance, a storm or snow in the United Kingdom (UK); that will have a knock-on effect. What we can guarantee is that there will be better communication to passengers whenever a delay occurs, so that they know what to expect rather than being kept in suspense. Some causes of flight delays are beyond the regulator or the airline.

The Temporary Deputy Speaker (Prof. Kaloki): Next Order!

POINTS OF ORDER

KILLING OF KENYANS IN GULU ISLAND

Mr. Namwamba: On a point of order, Mr. Deputy Speaker, Sir. I just wanted to bring it to the attention of the Chair and, perhaps, the Deputy Leader of Government Business that I have been expecting a Ministerial Statement from the Minister for Foreign Affairs on the killing of three Kenyans on Gulu Island in April this year. A commitment had been made for giving that Ministerial Statement a couple of weeks ago. If I should get an indication as to when the Ministerial Statement will be issued; I will appreciate.

The Temporary Deputy Speaker (Prof. Kaloki): Yes, Deputy Leader of Government Business.

The Minister for Transport (Mr. Kimunya): Mr. Temporary Deputy Speaker, Sir, we can have the Ministerial Statement on Tuesday, next week.

The Temporary Deputy Speaker (Prof. Kaloki): Hon. Namwamba, is that all right with you?

Mr. Namwamba: Mr. Temporary Deputy Speaker, Sir, that is good enough; not that I have any choice. Tuesday next week is good.

The Temporary Deputy Speaker (Prof. Kaloki): Next Order!

BILL

First Reading

THE BANKING (AMENDMENT) BILL

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

PROCEDURAL MOTION

APPOINTMENT OF MEMBERS TO COMMITTEES

The Minister for Transport (Mr. Kimunya): Mr. Temporary Deputy Speaker, Sir, I will move this Motion in an amended form, and I will be mentioning the names of hon. Members where the amendments are.

Mr. Temporary Deputy Speaker, Sir, I beg to move the following Procedural Motion:-

THAT, pursuant to the provisions of Standing Order Nos. 159 and 176, the following Members be appointed to serve in the Select Committees stated here below:-

(i) Energy, Communications and Information Committee

Hon. Adan Duale, M.P. - to replace Hon. Danson Mwazo, M.P., who has since been appointed an Assistant Minister;

(ii) Local Authorities Committee

Hon. Ali Hassan Joho, M.P. – to replace Hon. Mohammed Gabbow, M.P., who has since been appointed an Assistant Minister;

(iii) Transport, Public Works and Housing Committee

Hon. Ali Hassan Joho, M.P. – to replace Hon. Mohammed Gabbow, M.P., who has since been appointed an Assistant Minister;

(iv) Local Authorities and Funds Accounts Committee

Hon. Ali Mohammed Mohamud, M.P. – to replace Hon. Musa Sirma, M.P., who has since been appointed a Cabinet Minister;

(v) House Broadcasting Committee

Hon. Evans Akula, M.P. – to replace Hon. David Were, M.P., who has since resigned from the Committee; and,

(vi) Catering Committee

Hon. Elijah Lagat, M.P. – to replace Hon. Julius Murgor, M.P., who has since been appointed an Assistant Minister.

Mr. Temporary Deputy Speaker, Sir, our Standing Orders are very clear that once hon. Members are appointed to Government, they relinquish their positions in the Parliamentary Committees, and that where a Member resigns we need to replace them.

The Party Whips consulted, following which the names were brought to the House Business Committee, which approved them and I am presenting these names to the

House for formal blessings, because the Standing Orders require that the House actually appoints and sets up these Committees. I am, therefore, presenting these names here for formal endorsement by the House, so that we can get ahead with the Committees' sittings.

With those remarks, I beg to move and ask hon. Soita Shitanda to second the Motion.

The Minister for Housing (Mr. Shitanda): Mr. Temporary Deputy Speaker, Sir, I second the Procedural Motion.

*(Question of the first part of the amendment,
that the words to be left out be left out, proposed)*

Mr. Affey: Mr. Temporary Deputy Speaker, Sir, while I support this Motion, I just want to find out from the Leader of Government Business what he wants to do with the Member of Parliament for Kamukunji. Right now, he is on a private visit outside the country. Why has the Leader of Government Business not found it fit for him to serve in any of these committees?

The Temporary Deputy Speaker (Prof. Kaloki): Order, hon. Affey! You are supposed to debate the Motion. This is a Procedural Motion.

Mr. Affey: Mr. Temporary Deputy Speaker, Sir, I am bringing to the attention of the Leader of Government Business---

The Temporary Deputy Speaker (Prof. Kaloki): But---

Mr. Affey: I support this list.

The Temporary Deputy Speaker (Prof. Kaloki): Mr. Affey, debate the Motion.

Mr. Affey: Mr. Temporary Deputy Speaker, Sir, I stand to support the Motion. As I support this Motion, I want to tell the Leader of Government Business, the Deputy Leader of Government Business and the Chief Whips that when they are planning to bring these names before the House, that they consider the membership of the House wholesome. They should establish those Members of Parliament who have no opportunity to serve in these committees, so that once they bring it here, it is inclusive of everybody. I know for sure that the Member for Kamukunji has no possibility of serving any of these committees. I am sure if he were in the House today, this is a matter that he would have raised. So, it is important that they review the manner in which these names are arrived at, particularly the names that come from the Clerk's office and establish those hon. Members that have no possibility of serving these committees.

I want to ask the Leader of Government Business to ensure that next time he brings a Motion like this the Member for Kamukunji is given an opportunity to serve in a committee that he would apply his qualifications and experience.

Mr. Temporary Deputy Speaker, Sir, the other committee that is lacking which we have discussed in this House many times is the Committee on Justice and Legal Affairs. I was assuming that by now the Leader of Government Business would have resolved this matter. This is a very important Committee, but it is not functional. If you have to reconstitute the Committee, bring the names here because they are the property of this House. We will debate them and pass them.

With those few remarks, I reluctantly support.

(Question of the first part of the amendment, that the words to be left out be left out, put and agreed to)

(Question of the second part of the amendment, that the words to be inserted in place thereof be inserted, proposed)

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

(Question of the Motion as amended proposed)

(Question of the Motion as amended put and agreed to)

Resolved accordingly:-

THAT, pursuant to the provisions of Standing Order Nos. 159 and 176, the following Members be appointed to serve in the Select Committees stated here below:-

(i) Energy, Communications and Information Committee

Hon. Adan Duale, M.P. - to replace Hon. Danson Mwazo, M.P., who has since been appointed an Assistant Minister;

(ii) Local Authorities Committee

Hon. Ali Hassan Joho, M.P. – to replace Hon. Mohammed Gabbow, M.P., who has since been appointed an Assistant Minister;

(iii) Transport, Public Works and Housing Committee

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(vi) Catering Committee

Hon. Elijah Lagat, M.P. – to replace Hon. Julius Murgor, M.P., who has since been appointed an Assistant Minister.

The Temporary Deputy Speaker (Prof. Kaloki): Next Order!

MOTIONS

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

Mr. Kivuti: Mr. Temporary Deputy Speaker, Sir, I beg to move the following Motion:-

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.

Mr. Temporary Deputy Speaker, Sir, I move this Motion after our Committee deliberated on the requirements of the Act aforementioned. I wish to thank the Members of our Committee for their participation. These hon. Members are: hon. Elijah Lagat, hon. Joseph Oyugi Magwanga, hon. Alfred Odhiambo, hon. Gideon Konchella, hon. Jackson Kiptanui, hon. Polyns Ochieng, hon. Charles Keter and I.

The issues that we deliberated on were as laid down in the Standing Orders for the establishment of the Labour and Social Welfare Committee, which I am the Vice-Chairman. Our Chairman is out of the country. This is a constitutional requirement and so, we could not wait for him to come back.

Mr. Temporary Deputy Speaker, Sir, our terms of reference were to vet the recommendation of Ms. Winfred Osibo Lichuma who had been nominated by the two Principals to chair the Gender and Equality Commission. We were also to vet Mr. Simon John Ndubai who was also nominated to be a member of the Gender and Equality Commission. We received letters from several people, namely, from the civil society and from Kenyans at large. These letters came from nine applicants who felt that they needed to make presentations to the Committee and mainly opposing the nomination of Madam Lichuma. However, we decided to put them on HANSARD and listen to them. Their main concerns were basically two. One, that Madam Lichuma did not support the ideology of having a Gender and Equality Commission. We interrogated this and the Committee was unanimous that this does not hold water because even those who did not support the Constitution, we did lock them out now that the Constitution was passed.

The second concern was the nomination of the fourth ranked candidate from the interviewing panel. We took this matter very seriously and we opted to call all the nominees from number one up to number four. I would like to bring to the attention of this House that the letter that this House received from the Head of the Civil Service communicating the decision of the Principals on the nomination of Madam Lichuma indicated that they had considered several issues. The main issues considered were regional balance and ethnicity. For this reason, we decided as a Committee to interrogate the ethnicity of each of the members who were interviewed having noted that all the six members who were interviewed seemed to qualify, but their ranking, as per the interviewing panel, was such that there was number one, two, three up to number six. For some reasons, the person nominated was ranked by the interviewing panel as number four.

So, the Committee had to come up with a criteria to understand why numbers one, two and three were dropped and why number four was nominated instead of the first three. The issues that came up, we decided to put them on the HANSARD, just in case we needed to revisit them. The letter from---

(Loud consultations)

Mr. Temporary Deputy Speaker, Sir, I beg to have some silence.

The Temporary Deputy Speaker (Prof. Kaloki): Proceed, Mr. Kivuti! Members are listening.

Mr. Kivuti: Mr. Temporary Deputy Speaker, Sir, the main issue that our Committee was very concerned about was ethnicity which was very clear from the letter from the Head of Civil Service. With regard to candidate number one, Prof. Maria Nzomo, she is a Kikuyu and there are two other Kikuyus already in the same Commission. Therefore, she could not qualify to sit in the same Commission due to ethnic balance. The second ranking candidate, Dr. Jane Akinyi Nduasi, was also dropped because she is a Luo. The consideration here was that the recent nominee to the Commission on Administrative Justice, Mr. Amollo, is also a Luo.

The Committee also noted with concern that not only is Mr. Amollo also a Luo, but also Madam Jaoko, who also heads the Human Rights Commission is also a Luo. We decided to interview these candidates to know exactly what their ethnic backgrounds are. In her own evidence, Prof. Maria Nzomo told us that her mother is a Kikuyu called Millicent Wanjiru and her father is a Mkamba called Patrick Mutua Nzomo from Eastern Province. She was born in her father's compound and that home has not moved. On top of that, she told us that she got married to a Mr. Charles Namikao Nzibo from Western Province. Our concern here was, what ethnicity is Madam Nzomo?

We went ahead and listened to the second candidate after Maria Nzomo and her name is Dr. Jane Akinyi Nduasi, who told us that her father is Mr. Justus Mwasi from Kisa in Western Province, but he has since moved to Luoland. She has a mother called Margaret Kelao Nduasi. She does not mind being called a Luo because she has lived in Luo land since birth. Again, we asked ourselves, is Madam Nduasi a Luo or a Luhya? We went to the number three ranked candidate, who was dropped apparently for regional balance reasons as given in the letter from the Permanent Secretary in the Office of the President. Madam Justice Retired Violet Mavisi Khadi told us that her father is Mr. Javan Mavisi, a Maragoli and her mother is a Tiriki. Her parents have moved from Maragoli and they are now living in Nandi. She is married to Dr. William Juma Okumu, a doctor at the Kenyatta National Hospital, who is a Samia from Bukiri area. They live in Nairobi. The same question arose again.

Dr. Khalwale: On a point of order, Mr. Temporary Deputy Speaker, Sir. These records will remain records of this House for many years to come and they will be preserved in the library. Is the Chair of the Committee in order to mislead this House that there is a tribe in Kenya called "Samia" when we know that this is a tactic which is used by some people to divide our community? For all intents and purposes, he should just tell us she is born Luhya; her mother and father are Luhya and she is married to a Luhya husband. Who told them to tell us that there is a tribe called "Samia"? Is there an effort to redefine our community?

Mr. Kivuti: Thank you, Mr. Temporary Deputy Speaker, Sir. I have no comment about that. I am only reporting exactly what the candidate told us and I believe that every Kenyan knows who is a Maragoli. Basically, I do not think we have a big argument about this.

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

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

Mr. Kivuti: Mr. Temporary Deputy Speaker, Sir, Madam Khadi told us that her husband and family come from Bukiri area. Our observation was that if the issue of regional balance was to be used, in the case of Madam Mavisi, we would be throwing away a Luhya in favour of another Luhya due to the fact that one is living in Nairobi and the other one, the parents are living in Nandi. The reason given was that there was another person by the name Serem, who apparently comes from Uasin Gishu, but was understandably said to be coming from Nandi and, therefore, Madam Khadi was dropped. Under the circumstances, we had to debate how ethnicity and tribal balance would affect nominations of key persons within the commissions and within other remaining positions in this country.

Mr. Temporary Deputy Speaker, Sir, we made several observations, some of them glaring. Some of them could be seen to be factual. We decide we should lay down whatever we discussed, on the Floor of this House so that hon. Members can debate and come up with the way forward because some of it may require this House to make a policy.

Of essence, we had Prof. (Amb.) Maria Nzomo as number one; Dr. Nduasi Jane as number two; Violet Khadi Mavisi as number three; Winfred Lichuma as number four; Thomas Maosa as number five and Mohamed Nur Adhan as number six. Out of this, we did not find it necessary to interview the persons who were not nominated below number four. Our observations were based on the submissions we received and like I said, they can be retrieved verbatim.

Mr. Temporary Deputy Speaker, Sir, we observed that although Prof. Maria Nzomo could be argued to be a Luhya by marriage, she is basically a Kamba by life.

Dr. Khalwale: What are you saying?

Mr. Kivuti: Mr. Temporary Deputy Speaker, Sir, these are our observations because when a woman gets children but does not live with the husband---

Mr. Odhiambo: On a point of information, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Prof. Kaloki): Proceed, Mr. Kivuti!

Mr. Kivuti: Thank you, Mr. Temporary Deputy Speaker, Sir. Our findings also included that the second ranking candidate, Dr. Jane Nduasi---

Mr. Odhiambo: On a point of information, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Prof. Kaloki): Mr. Kivuti, do you want to be informed?

Mr. Kivuti: No, he is a Member of the Committee and he will contribute after this.

The Temporary Deputy Speaker (Prof. Kaloki): All right. He has refused.

So, proceed, Mr. Kivuti!

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

The Temporary Deputy Speaker (Prof. Kaloki): Dr. Khalwale, is it a point of order?

Dr. Khalwale: Yes.

The Temporary Deputy Speaker (Prof. Kaloki): All right! Proceed!

Dr. Khalwale: Mr. Temporary Deputy Speaker, Sir, we are discussing personalities and careers of high ranking Kenyans. This candidate called "Nzomo" has presented, according to this report, her marriage certificate and she has told us that she is

married to a Luhya who paid dowry; she has given birth to Luhya children and then the Committee goes on and decides that this is a Mkamba.

(Applause)

Prof. Nzomo is our wife and she is a Luhya!

(Applause)

On issue of accuracy, Prof. Nzomo---

(Several hon. Members stood up in their places)

Mr. Temporary Deputy Speaker, Sir, with your indulgence and this is an important point---

‘ **The Temporary Deputy Speaker** (Prof. Kaloki): Dr. Khalwale, what is your point of order?

Dr. Khalwale: My point of order, Mr. Temporary Deputy Speaker, Sir, is; if the Committee---

(Several hon. Members stood up in their places)

Let me build my point of order.

‘ **The Temporary Deputy Speaker** (Prof. Kaloki): What is your point of order? Be specific!

Dr. Khalwale: I am being specific, Mr. Temporary Deputy Speaker, Sir. I am worried about the accuracy because its conclusion--- Prof. Nzomo is our wife. The second point of order---

The Minister for Water and Irrigation (Mrs. Ngilu): On a point of order, Mr. Temporary Deputy Speaker, Sir.

Dr. Khalwale: I am on a point of order, Mr. Temporary Deputy Speaker, Sir!

‘ **The Temporary Deputy Speaker** (Prof. Kaloki): Just seek one point of order, Dr. Khalwale! It will be clarified because it is very clear!

The Minister for Water and Irrigation (Mrs. Ngilu): On a point of order, Mr. Temporary Deputy Speaker, Sir.

‘ **Dr. Khalwale:** Mr. Temporary Deputy Speaker, Sir, she will have the Floor.

(Several hon. Member stood up in their places)

The Temporary Deputy Speaker (Prof. Kaloki): Order! Order Mrs. Ngilu!

The Minister for Water and Irrigation (Mrs. Ngilu): On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for him to be out of order?

‘ **The Temporary Deputy Speaker** (Prof. Kaloki): Order! Order! Just give him time!

Yes, Dr. Khalwale!

Dr. Khalwale: Mr. Temporary Deputy Speaker, Sir, my point of order is that the conclusions of the Committee---

The Minister for Water and Irrigation (Mrs. Ngilu): On a point of order, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Prof. Kaloki): Order! Order, Mrs. Ngilu!

The Minister for Water and Irrigation (Mrs. Ngilu): But we must correct him!

The Temporary Deputy Speaker (Prof. Kaloki): Order, Mrs. Ngilu! That is un-procedural!

Proceed, Dr. Khalwale!

Dr. Khalwale: Thank you, Mr. Temporary Deputy Speaker, Sir. The point of order I am trying to make is that the report attempts to mislead the House. Is it in order for the Chair of the Committee to mislead this House about the ethnicity of these candidates?

The Temporary Deputy Speaker (Prof. Kaloki): Very well!

Dr. Khalwale: Mr. Temporary Deputy Speaker, Sir, may I make my point? This is serious.

(Several hon. Members stood up in their places)

The Temporary Deputy Speaker (Prof. Kaloki): Dr. Khalwale, there will be time to debate.

(Several hon. Members stood up in their places)

The Temporary Deputy Speaker (Prof. Kaloki): Order! Order! Mrs. Ngilu, you have the Floor.

The Minister for Water and Irrigation (Mrs. Ngilu): Mr. Temporary Deputy Speaker, Sir. You do know very well that there is nothing in this country or even in our Constitution that talks about “our wife.”

(Laughter)

Who is “our wife?” I am sure there is no one man here who will say “this is our wife.” Every person here will talk about “my wife” or “my husband.” Why have you allowed Dr. Khalwale to continue talking about “our wife, our wife, our wife?”

(Several hon. Members stood up in their places)

Mr. Temporary Deputy Speaker, Sir, can you ask him to withdraw and talk about Prof. hon. Maria Nzomo?

The Temporary Deputy Speaker (Prof. Kaloki): Thank you, Mrs. Ngilu.

Mr. Kivuti---

(Several hon. Members stood up in their places)

Order, hon. Members! The Chair is on his feet! Mr. Kivuti, please, sum up your comments.

Mr. Kivuti: Thank you, Mr. Temporary Deputy Speaker, Sir. The issue arose again about the ethnicity of the second candidate, we noted that her father is a Luhya, but since in her own submission she preferred to be referred to as a Luo, we did not want to go against her wish. The third candidate is Violet Mavisi; we noted---

Mr. Konchella: On a point of information, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Prof. Kaloki): Hon. Kivuti, do you want to be informed?

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

The Temporary Deputy Speaker (Prof. Kaloki): Go ahead, Mr. Konchella.

Mr. Konchella: Mr. Temporary Deputy Speaker, Sir, I would like to inform our Chair that the doctor said that she moved to Luoland, but she did not mind being called a Luo. She did not say that she preferred to be a Luo; she did not say that she preferred to be a Luo; she said she did not mind being called one.

Mr. Kivuti: Thank you very much, Mr. Konchella. That is a member of the committee. So, in the case of Mavisi, all the parents and the husband are of the Luhya ethnicity. The issue of regional balancing does not apply to her because she does not live in the Nandi County.

Mr. Temporary Deputy Speaker, Sir, without going further, the issue of the fourth candidate was not disputed but the Committee was very strong about the need for this House to come out with better policies or new laws which may guide the House as to how we shall be handling the ethnicity and regional balance problem. Even if the appointing authority was looking for a Luhya, it seems that number one, two, three and four all qualify to be Luhya ethnically. So, in the absence of ethnicity, then the best ranked candidate should have been nominated. However, since all of us did not agree on this - we had a minority objection - we decided that we table this decision for debate in this House; and I want to ask hon. Keter to second the Motion.

Mr. Keter: Mr. Temporary Deputy Speaker, Sir, while seconding this Motion, which has been moved by our able chairman, I want to say that the issues which he has explained, and which were explained during the committee meetings, are of much concern to some of us. We ask ourselves: Where are we in this country? When an advertisement is put out, that we need Kenyans of integrity to apply for jobs, we do not put it as a requirement that if you are of a certain tribe do not apply, or if you are of this tribe, then apply for this job! It is a painful thing. It is an issue which we, as Kenyans, have to make a decision on. I say so because one of the candidates said: "I pray to God to prevail upon Parliament to make a wise decision."

Mr. Temporary Deputy Speaker, Sir, I say so because our children are born in Nairobi. My three children were born at The Nairobi Hospital. They do not talk Kalenjin Language; but by virtue of my ethnicity they can be called Kalenjins and they are happy about it. It is a painful thing because I remember in 2008 when there was post-election violence, my daughter asked me; "What tribe are we dad?" I asked her why she was asking me that question. She told me that because she was being told in school: "You Kalenjins have done this." I told her we are Kalenjins, but we are not bad people; we are good people. I am giving this information, so that as we debate whether we adopt the name of Lichuma or reject it, we do so with our sober minds.

Mr. Temporary Deputy Speaker, Sir, I have the score sheet of all the candidates by the selection panel. The first candidate was Prof. Maria Nzomo, ranked number one

with 79.3 per cent. Number two was Dr. Nduasi Jane with 73.7 per cent. Number three was Violet Khadi Mavisi with 72 per cent, and number four who was picked by the two Principals had 71.7 per cent. All of them are within the range of 70 per cent. I want to say that they all came and are good leaders; they can chair this commission. But in an effort by two Principals to conform to the new Constitution, they gave reasons as to why they could not pick number one as explained by the chairman. They also gave reasons as to why they did not pick number two. They gave reasons as to why they did not pick three.

I want to say something about this. Mavisi Khadi, as per her identification card, comes from Kemiloi in Aldai Constituency. If you know the geography of this country, Aldai borders Hamisi. Hon. Dr. Sally Kosgei and hon. Khaniri are neighbours. There are Luhyas on one side and there are Kalenjins on the other side.

Mr. Temporary Deputy Speaker, Sir, I am saying this because in my constituency, I also have all the tribes of Kenya there. My councillor is a Luo. He was not born there, but he has lived in Kericho and has been elected in that area as a councillor. Mavisi has not been given the job because they said, which we hope will be stuck to, that Mrs. Serem will be given the job to chair the Salaries Remuneration Commission; for that I want to say, thank you very much. They must have done an interview. Ms Mavisi was not given the job because she comes from Nandi County where Mrs. Serem also comes from. I have talked about regional and ethnic balancing. Mrs Serem and Ms. Mavisi are not of the same ethnic group. Mrs. Serem is a pure Nandi while Ms. Mavisi is a Luhya. There are also Kalenjins, Luhyas, Luos and Kisiis in Trans Nzoia. Where will you put them when they apply for a job? It is an issue which we need to look into. When you are doing regional balancing, areas like Turkana County have nobody in all the commissions which have been formed. When you come to the larger Nakuru County, which has all the tribes, there is nobody; it is zero. You come to Nyandarua, there is nobody; it is zero. Kericho County, where I come from, also has none. Bomet County has nobody. We are number three in terms of the population of the country, but we have nobody. If we are doing regional balancing, let us be honest to one another. We have Otiende who comes from Nyanza. We have the gentleman in charge of the audit office, whom we approved here; he comes from Nyanza. We respect them since they are competent. We have the Controller of Budget, who also comes from Nyanza. We respect her.

Mr. K. Kilonzo: On a point of order, Mr. Temporary Deputy Speaker, Sir. While I feel compelled to support the position of hon. Keter, is he in order to start saying this one is from Nyanza, yet he knows very well that in this country positions are always shared between the President and the Prime Minister? Position holders will come from either Central Province or Nyanza Province. Is he in order?

The Temporary Deputy Speaker (Prof. Kaloki): Hon. Keter, proceed!

Mr. Keter: Mr. Temporary Deputy Speaker, Sir, since I want to say the following before I give a chance to my colleagues---

Mr. Mbadi: On a point of order, Mr. Temporary Deputy Speaker, Sir. When we are debating matters like these, we need to be very sensitive. When you decide to give statistics of appointments, please, bring all of them. It is unfair for an hon. Member just to concentrate on Nyanza, because we have had almost 100 appointments since the promulgation of the new Constitution. It is wrong for hon. Keter just to single out Nyanza and mention three. It is like all the appointments have been favourable to Nyanza. Is it in order?

The Temporary Deputy Speaker (Prof. Kaloki): Hon. Keter, please, could you do something about that?

Mr. Keter: Mr. Temporary Deputy Speaker, Sir, I have said that I respect the individuals that I have mentioned. I have no problem with them. I am reacting to a letter by the Head of Public Service, Amb. Muthaura. He has given that letter to Parliament. It is good so that, when we make a decision next time, we will know that in this country, the interviews are just there as a camouflage. The selection panel which was there--- First of all, and that is an area which we want to mention, we need to reform our Public Service Commission which is in charge of hiring, so that we avoid what we are seeing here today. To me, the selection panel which has been put in place is just supposed to get the names then the two Principals sit and agree on who to appoint. I say so because in this letter, there was somebody called--- It is in our recommendation No.7(1). It reads: "The Committee is satisfied with the nomination of Simon Johnny Ndubai." I want to be on record and say the following: Let the appointments be done on merit and under the Constitution. We want the face of Kenya to be there, so that all of us can see. Let it not be the face of individuals. I want to call upon the President and Prime Minister to stop trading in. Give Kenyans jobs to do. Ms. Lichuma is not going to work for the people of Kakamega. She is going to work for the people of Kenya, unless we want to say that, since our people have not been appointed, they should work in the region they come from. Are we going to build this country? Are we going to talk about one nation, one people or about one nation, several people? Some of us who have no appointments might declare and say: "Since we have no appointments in that Commission, do not bother with us. We will declare our own way of working."

Mr. Temporary Deputy Speaker, Sir, I want to call upon other parliamentarians. We rejected the fourth candidate because she is not able to work. We agreed that since the reasons the two Principals gave to this Parliament are not strong enough, the names should go back and they do research. If the research will come out and say that Nzomo is a Kikuyu, it will be there. If number two or number three are like that, and we get full information--- We were just relying on a letter; we did not have the information. That is why we say in our Report - which I ask this Parliament to adopt - let this name go back to the appointing authority as per the laid down regulations on the formation of the National Gender and Equality Commission.

Mr. Temporary Deputy Speaker, Sir, with those many remarks, I beg to second this Motion.

(Question proposed)

Mr. Midiwo: Mr. Temporary Deputy Speaker, Sir, I rise to support the Report by the Committee with some amendments.

Mr. Temporary Deputy Speaker, Sir, let me thank the Committee for attempting to do something. I am not sure whether what they did qualifies to be called vetting. It should be clear to this House---

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

Mr. Midiwo: Relax! Let me qualify.

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

Mr. Midiwo: Thank you, Mr. Temporary Deputy Speaker, Sir. The process that we have put in our Constitution of vetting public officers must be understood in its correct context.

Mr. Temporary Deputy Speaker, Sir, vetting does not mean questioning the action of the President or Principals in this case. The Committee has not questioned the integrity of the candidate. In fact, if you look at the observations of the Report, there is nothing wrong with the candidate. Therefore, I find it hard for the Committee to arrive to the conclusion that they have rejected the lady who is to be the Chair, Ms. Winfred Lichuma.

The Temporary Deputy Speaker (Prof. Kaloki): Hon. Midiwo, do you have an amendment?

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

The Temporary Deputy Speaker (Prof. Kaloki): Please, can you move it?

Mr. Midiwo: Mr. Temporary Deputy Speaker, Sir, I wish to move the following amendment as I support this Report:-

THAT, the Motion be amended by deleting the full stop at the end of the Motion and inserting the words “subject to deletion of recommendations under paragraph 7.2 on page 3 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. Temporary Deputy Speaker, Sir, in moving this amendment, I wish to point out a couple of things. There is a ruling by the House that nominations to Commissions should be looked at in totality.

The Temporary Deputy Speaker (Prof. Kaloki): Hon. Midiwo, could you read the amendment?

Mr. Midiwo: Okay, Mr. Temporary Deputy Speaker, Sir.

“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 the Chairperson of the National Gender and Equality Commission in place thereof.”

Mr. Temporary Deputy Speaker, Sir, just very briefly, the Committee did something very interesting. It never called anybody – that is the interviewing authority - to verify the facts which have been presented here.

Mr. Temporary Deputy Speaker, Sir, I do not want to contest the fact that Dr. Maria Nzomo is a Kamba. However, that Commission is to have five members. There are three existing members one of whom is from the Eastern region of this country. The other person who is recommended, this gentleman called Simon Johnny Ndubai, I know him and he is a good Kenyan, is also from the Eastern part of this country. He is from Meru. How then if this Dr. Maria Nzomo is a Kamba, would you recommend her nomination in the same Commission?

The Committee needed to be fair so that we do not argue over things that do not make sense. I want to say that the argument---

Mr. K. Kilonzo: On a point of order, Mr. Temporary Deputy Speaker, Sir. I would not like to interrupt my friend. However, the issue of Maria Nzomo is not based on the sole fact that she is a Kamba or whichever way you look at her. The argument canvassed in this House is not whether she is a Luhya or a Kamba. The argument

canvassed is that she is the most qualified and that is why she came top. Is he in order to keep referring to Eastern Province and Kambas as if Kambas do not have a right to belong to this Committee?

Mr. Midiwo: Mr. Temporary Deputy Speaker, Sir, I think that is frivolous because the Mover of the Motion and the Seconder alluded to the same fact.

However, so that I conclude---

Mr. Lessonet: On a point of order, Mr. Temporary Deputy Speaker, Sir. I would like to inform the hon. Member that---

The Temporary Deputy Speaker (Prof. Kaloki): Order! Does he want to be informed?

Mr. Lessonet: Mr. Temporary Deputy Speaker, Sir, I am on a point of order. We now have 47 counties. Is it in order for the hon. Member to continue referring us to provinces when we know we now have 47 counties? Therefore, Maria Nzomo is not from Eastern; she must be either from Machakos or Kitui counties.

Mr. Midiwo: Mr. Temporary Deputy Speaker, Sir, that is also frivolous because I never referred to any province, I said Eastern region. I am a smart person. I think good!

(Laughter)

The lady who Mr. Keter has said is being proposed to the Salaries and Remuneration Commission, Mrs. Serem as they say is a Nandi from Uasin Gishu. That notwithstanding, she was number four in the other interview---

Mr. Keter: On a point of order, Mr. Temporary Deputy Speaker, Sir. With due respect to my friend, is he in order to talk about somebody we are waiting for another departmental committee to talk about by saying she was number four. We do not have the records whether she was number four. I was only talking about her in terms of the letter. That is why I said that Mr. Midiwo is aware of who will head certain commissions.

Mr. Midiwo: Mr. Temporary Deputy Speaker, Sir, that is not right. The hon. Member gave the very information that I am prosecuting and then you have let him get away with it. Mr. Keter provided this information to the House and it is on record.

Mr. Keter: I did not know whether Mrs. Serem was number four---

The Temporary Deputy Speaker (Prof. Kaloki): Order, Mr. Keter! Resume your seat!

Mr. Midiwo: Mr. Temporary Deputy Speaker, Sir, let me say one last thing; a ruling of this House said regional balance must be looked at in totality in forming the commissions. Even if you looked at counties, this lady, Wilfred Osimbo comes from Kakamega County. I stand to be corrected, nobody from Kakamega County has ever been appointed to any commission. So they deserve the slot just as anybody else.

I beg to move and ask Mr. Soita Shitanda to second.

The Minister for Housing (Mr. Shitanda): Mr. Temporary Deputy Speaker, Sir, I wish to support the Report with the amendment that has been proposed by Mr. Midiwo.

In seconding this amendment we have heard the Chairman of the Committee enumerate a series of processes that they went through before they arrived at this decision that this name should be rejected. Looking at the whole process in totality, I want to think that the proposal to refer the name of Lichuma back to the Principals who actually complied with Article 232 of the Constitution in proposing this name---

The Committee has enumerated a series of challenges that they encountered in the process of looking into these nominations. In fact, one of the challenges they have listed is about lack of proper guidelines in terms of how to deal with it. They had challenges on how to deal with ethnicity, regional and county balancing issues. This is where the name of Lichuma aptly comes in as the properly nominated person for this slot.

Mr. Temporary Deputy Speaker, Sir, when we are talking of county balancing the region of Western Province has counties. Examples are; Busia has Agnes Odhiambo who was nominated the other day; Bungoma County has the Deputy Chief Justice Nancy Baraza; the number three they are talking about is a Luhya from Busia. I have just said Busia has already taken a slot. We are not rejecting her. We are saying that the President and Prime Minister were addressing themselves to county balancing also.

Mr. Temporary Deputy Speaker, Sir, when you look at the arguments being advanced by the committee and the contributions by my brother Mr. Keter about distribution of these slots, I think when this Constitution was being written in more ways than one, it made this provision because it was trying to address a problem that was there where leaders were openly practising tribalism. This is how this issue of regionalism came. This is how issues of vetting came in. I want to think that by taking the vetting exercise that these candidates were going through---

Mr. K. Kilonzo: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the good Minister in order to keep on referring to the fact that these nominations were being done on county balancing considerations whereas Makueni which is the biggest county in Kenya, which the Temporary Deputy Speaker comes from, has had nobody nominated?

The Minister for Housing (Mr. Shitanda): Mr. Temporary Deputy Speaker, Sir, this is not the last nomination that is being made. We have many other commissions that are coming and I believe Makueni County is going to feature somewhere.

I want to conclude by saying as committees vet these people, there is a lot of lobbying from outside. I want to call upon Parliament to also utilize the Committee on Equal Opportunities in addressing some of these issues. I know what has been happening with these appointments. I know the kind of lobbying that has been going on to remove this lady. We are not going to accept to be left out of this appointment.

I beg to second.

(Loud consultation)

(Question, that the words to be added be added, proposed)

The Temporary Deputy Speaker (Prof. Kaloki): Order! Order, hon. Members! Hon. Members, there is a proposal for amendment, which is that the Motion be amended by deleting the full stop at the end of it and inserting the words “subject to deletion of the recommendations under paragraph 7.2 on page 13 of the Report” and inserting the words “that the House approves the nomination of Miss Winfred Osimbo Lichumba as the Chairperson of the National Gender and Equality Commission in place thereof.”

Yes, hon. Martha Karua.

Ms. Karua: Mr. Temporary Deputy Speaker, Sir, I rise in opposition to the amendment. If we listened properly to the Mover of the Motion, firstly, we must agree that all the four ladies are qualified, but in order of merit, we know how each one of them

ranks. The reasons that the two Principals gave for rejecting candidate number one were based on the ethnicity they ascribed to her. The Report here so far has shown that they were wrong on her ethnicity, and even if you stretch and talk of her ethnicity by marriage, you will find that they were, again, wrong.

Mr. Temporary Deputy Speaker, Sir, even on ethnic balance, they were wrong, and the Constitution does not only talk of ethnicity and region. It starts with meritocracy as number one. After you consider meritocracy, you also consider regional and ethnic balance, and all the other things. I am thinking that we are wrong to proceed as though it is the four ladies who are on trial. It is the two Principals and the methodology they used that is on trial.

The process was wrong, and it is now pitting Kenyan professionals against each other through no fault of their own. Unless we arrest this situation now, it is going to affect generations to come. It is also going to affect us and our children. We need to correct it now. Let any rejection be for the correct reasons.

The second reason that the two Principals gave was that there are two other people who are in the commission, who are from the same region or ethnicity as candidate number one, which is not correct. Even the two that were being alluded to, one has already joined the Commission on Administration of Justice; this was passed by this House. Therefore, we should approach this debate with sobriety, and not with emotions, so that we can correct the situation and force the two Principals to re-think their position. I note that the letter is written by the Head of Public Service and Secretary to the Cabinet. Is it, perhaps, that the two Principals were misled on the ethnicity of this candidate? I do not want to ascribe improper motive to them. Perhaps they were misled.

Mr. Temporary Deputy Speaker, Sir, the Committee is not saying that any of these ladies is bad. It is saying that the Report is based on the wrong premise. It would, therefore, be wrong to amend the Motion on the grounds that were given by the Mover of the amendment. Doing so is missing the point. We need to take the Motion as it is and reject the names for the Chair, so that the two Principals can reconsider the position and come back to the House with better reasons, and not with reasons that are factually incorrect. This House is not a rubber stamp. If we rubber stamp something that is factually incorrect, we will be undermining the integrity of this House.

With those remarks, I beg to oppose.

The Assistant Minister, Ministry of State for Defence (Maj-Gen. Nkaisserry):
Mr. Temporary Deputy Speaker, Sir, I also stand to oppose the amendment.

Mr. Temporary Deputy Speaker, Sir, we cannot base the leadership of the commission on ethnicity. This is a new Kenya. We must move on as a country. We cannot base this on ethnicity. Looking at the credentials of Prof. Maria Nzomo, you will appreciate that she was born a Mkamba but her mother was a Kikuyu married in Ukambani. She was born in Ukambani. She has national face. She was married to a Luhya. So, she is a universal citizen of this country. Even the two Principals are wrong. We cannot keep on saying that the Principals are right when they are trying to derail the future of this nation.

With those remarks, I oppose the Motion.

Mr. Mbadi: Mr. Temporary Deputy Speaker, Sir, I rise to support this amendment. One, if we allow committees to do regional balancing in public

appointments, we will not get it right because each departmental committee only deals with a few selected cases of vetting.

The Constitutional Implementation Oversight Committee (CIOOC) has requested the two Principals to give us the names of the people who have been appointed to public bodies, indicating the regions they come from, since the promulgation of the new Constitution. From that information, we will know which regions have benefitted more than the other regions. In the absence of that information, we should leave it to the two Principals because they are the ones with the appointing authority.

Mr. Temporary Deputy Speaker, Sir, the reason as to why the people of Kenya, through this House, gave the appointing authority to the two Principals is that it is assumed that they will exercise fairness in the appointments. The two Principals have tried to exercise fairness in this regard by asking this House to consider candidate number four, who was not very far from the other two candidates, and recommended---

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

Mr. Mbadi: Mr. Temporary Deputy Speaker, Sir, there is a lot of intolerance in this House that should not be allowed.

The Temporary Deputy Speaker (Prof. Kaloki): What is your point of order, hon. Duale?

Mr. Duale: Mr. Temporary Deputy Speaker, Sir, my good friend, the Member for Gwassi, has repeatedly talked of the two Principals. This is a parliamentary report. It is not about the two Principals doing horse trading. This is the National Assembly. We should either support or reject the amendment. So, let him give us the merits or the demerits of the amendment. Is he in order?

Mr. Mbadi: Mr. Temporary Deputy Speaker, Sir, hon. Duale should have been patient and waited to make his own contribution at his own time. Hon. Duale did not listen to me. I said that the two Principals have been given the appointing authority, and you cannot take it away from them. They have it. What we are supposed to do, as Parliament, is approve; that is what we are doing today.

(Several hon. Members stood up in their places)

You are eating into my time! Can you sit down?

The Temporary Deputy Speaker (Prof. Kaloki): Hon. Mbadi, make your point because we need to go back to the Motion.

Mr. Mbadi: Mr. Temporary Deputy Speaker, Sir, I still have time. This House is guided by rules. I have not seen the red light at the Table. I still have time, and I cannot be harassed to finish. The people who are harassing me have given their contributions on this Motion.

Mr. Temporary Deputy Speaker, Sir, this lady already knows that she has been given a job. Do not mess her future through pettiness. We should not be petty.

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

The Temporary Deputy Speaker (Prof. Kaloki): Hon. Mbadi, you have the Floor. Proceed!

Mr. Mbadi: Mr. Temporary Deputy Speaker, Sir, I want to proceed by supporting this amendment further. It is high time we gave this lady a job and she starts doing this job. You cannot have the whole commission with people from one region, the

eastern part of Nairobi. It is not acceptable. This commission must be balanced. We are not going to allow this Parliament to undo the good work of the Principals.

I beg to support the amendment.

The Minister for Water and Irrigation (Mrs. Ngilu): Mr. Temporary Deputy Speaker, Sir, I stand to oppose this amendment. I oppose it because this august House will set a very bad precedent. We passed a Constitution that showed clearly how people will be appointed. It is true we said the two Principals will be part and parcel of whatever appointments that will be made. However, this House will not be a rubberstamp.

The Committee sat down and interviewed people. Therefore, we cannot let them down. An advert was put in the newspapers and people applied for those positions. They were called for interview. This is the final product or results of that interview. Therefore, for us to start amending what has been done by the Committee shows that we do not have confidence in it. They have done so much work.

Mr. Temporary Deputy Speaker, Sir, looking at these ladies who have been nominated---

Mr. Midiwo: On a point of order, Mr. Temporary Deputy Speaker, Sir. I need your guidance. Mrs. Ngilu is a Minister in this Government. These names found their way to this House from the Executive where she sits. Is it in order for her to stand here and contradict the two Principals?

The Minister for Water and Irrigation (Mrs. Ngilu): Mr. Temporary Deputy Speaker, Sir, the amendment that has been brought here by Jakoyo Midiwo is not coming from the two Principals. Not unless he wants to make himself a principal. I am talking about what we have got to decide here in this Parliament.

I do believe that all these ladies are very qualified. They went through a process of interview. They went before a panel of interviewers. They went through each one of them. These are the results of that interview.

Most of us know the performance of Prof. Maria Nzomo. We know her track record in this country. Are we going to sit here and start saying that this lady comes from where or where? The precedence that we are setting in this Parliament is breeding ethnicity. It is this Parliament that is deciding on who should be appointed. If we want to deal with ethnicity, let it start here.

I beg to oppose the amendment.

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

(Several Members stood up in their places)

Hon. Members: Division! Division!

The Temporary Deputy Speaker (Prof. Kaloki): You have the numbers. Ring the Division Bell.

(The Division Bell was rung)

The Temporary Deputy Speaker (Prof. Kaloki): Order, hon. Members! Serjeant-at-Arms, please close the door and draw the Bar.

The Tellers for the Ayes are hon. Affey and hon. Letimalo. The Tellers for the Noes are hon. Jamleck Kamau and hon. Mbadi. Hon. Members who will vote for the Noes will proceed to my left and the Ayes to my right.

DIVISION

(Question put and the House divided)

(Question carried by 23 votes to 21)

AYES: Dr. Gesami, Messrs. Keya, Keynan, Dr. Khalwale, Messrs. Kimunya, Kiuna, Kiunjuri, Kizito, Magwanga, Mbadi, Midiwo, Dr. Monda, Messrs. Namwamba, Nanok, Odhiambo, Ogindo, Ojaamong, Okemo, Dr. Otichilo, Otieno, Shitanda, Wamalwa and Washiali

Tellers of the Ayes: Messrs. Letimalo and Affey.

NOES: Messrs. Affey, Gaichuhie, Jamleck Kamau, Ms. Karua, Messrs. Keter, K. Kilonzo, Kioni, Kivuti, Konchella, Mrs. Kones Dr. Laboso, Messrs. Lagat, Lessonet, Letimalo, Ms. Mbarire, Messrs. Mbuvi, Michuki, Mututho, Mrs. Ngilu, Mr. Nyamai and Mrs. Shebesh.

Tellers of the Noes: Messrs. Mbadi and Jamleck Kamau.

The Temporary Deputy Speaker (Prof. Kaloki): Hon. Members, the Motion as amended reads as follows:-

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 “the House approves the nomination of Miss Winfrey Osimbo Lichumba as the Chairperson of the National Gender and Equality Commission in place thereof.”

(Question of the Motion as amended proposed)

ADJOURNMENT

The Temporary Deputy Speaker (Prof. Kaloki): Hon. Members, the House now stands adjourned until Tuesday, 15th November, 2011, at 2.30 p.m.

The House rose 6.35 p.m.