

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Wednesday, 12<sup>th</sup> October, 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:-

Annual Report and Financial Statement of Kenya Institute of Administration (KIA) for the year ended 30<sup>th</sup> June, 2010 and the Certificate thereon by the Controller and Auditor- General.

*(By the Assistant Minister for Agriculture (Mr. Mbiuki) on behalf of the Minister for Education)*

Annual Report and Financial Statement of the Saccos Regulatory Authority for the nine months ended 30<sup>th</sup> June, 2010 and the Certificate thereon by the Controller and Auditor- General.

*(By the Assistant Minister for Agriculture (Mr. Mbiuki) on behalf of the Minister for Co-operative Development and Marketing)*

Financial Statement by the Kenya Ferry Services Limited (KFS) for the year ended 30<sup>th</sup> June, 2010 and the Certificate thereon by the Controller and Auditor- General.

*(By the Assistant Minister for Agriculture (Mr. Mbiuki) on behalf of the Minister for Transport)*

Financial Statement by the Sugar Development Fund (SDF) for the year ended 30<sup>th</sup> June, 2011 and the Certificate thereon by the Controller and Auditor- General.

*(By the Assistant Minister for Agriculture (Mr. Mbiuki) on behalf of the Minister for Agriculture)*

Financial Statement by the Industrial Training Levy Fund (ITLF) for the year ended 30<sup>th</sup> June, 2010 and the Certificate thereon by the Controller and Auditor- General.

*(By the Assistant Minister for Agriculture (Mr. Mbiuki) on*

*behalf of the Minister for Industrialization)*

Annual Report and Financial Statement for the Kenya Re-insurance for the year ended 30<sup>th</sup> June, 2010 and the Certificate thereon by the Controller and Auditor- General.

*(By the Assistant Minister for Agriculture (Mr. Mbiuki) on behalf of the Deputy Prime Minister and Minister for Finance)*

Financial Statement for the Kenya National Highways Authority for the 15 months period ended 30<sup>th</sup> June, 2010 and the Certificate thereon by the Controller and Auditor- General.

*(By the Assistant Minister for Agriculture (Mr. Mbiuki) on behalf of the Minister for Roads)*

Annual Report and Financial Statement by the Kenya Civil Aviation Authority (KCAA) for the year ended 30<sup>th</sup> June, 2010 and the Certificate thereon by the Controller and Auditor- General.

Financial Statement by the Kenya Railways Corporation for the year ended 30<sup>th</sup> June, 2010 and the Certificate thereon by the Controller and Auditor- General.

*(By the Assistant Minister for Agriculture (Mr. Mbiuki) on behalf of the Minister for Transport)*

Report of the Kenyan Delegation to the 124th Assembly of the Inter-Parliamentary Union (IPU) held in Panama City, Panama, on 15<sup>th</sup> April, 2011 to 20<sup>th</sup> April, 2011.

*(By Dr. Eseli)*

## **NOTICE OF MOTION**

### **ADOPTION OF 124<sup>TH</sup> IPU ASSEMBLY REPORT**

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

THAT, this House adopts the Report of the Kenyan Delegation to the 124th Assembly of the Inter-Parliamentary Union (IPU) held in Panama City, Panama, on 15<sup>th</sup> April, 2011 to 20<sup>th</sup> April, 2011 laid on the Table on 12<sup>th</sup> October, 2011.

## **QUESTION BY PRIVATE NOTICE**

### **CIVIC EDUCATION ON EFFECTS OF GMO FOOD**

**Ms. Chepchumba:** Mr. Deputy Speaker, Sir, I beg to ask the Minister for Higher Education, Science and Technology the following Question by Private Notice.

(a) Does the Government have a plan to conduct civic education on the effects of consuming Genetically Modified Organism (GMO) food?

(b) Is the Minister aware that due to inadequate information on the importation, sale and consumption of GMOs, farmers in grain growing areas are suspicious of seeds being provided by Government agencies?

(c) How many experts on GMOs does the Government have in the country, particularly in Eldoret South and could he also confirm to the House that no GMOs, particularly seeds, have been imported into the country?

**The Assistant Minister for Higher Education, Science and Technology (Mr. Kamama):** Mr. Deputy Speaker, Sir, first of all, I want to seek the indulgence of the House so that I be given sufficient time to consult deeply over this matter. As you know, the issue concerning GMOs is highly controversial. Kenyans want to get into the bottom of the issues surrounding this GMO business. Therefore, we want to be given some time in order to consult widely over this matter. Probably, this Question should be deferred to Thursday, next week.

**Mr. Deputy Speaker:** The substance of the Question itself does suggest a lot of urgency because of the effect, negative or otherwise, GMOs can have on the health of Kenyans. In addition to that, this is a Question by Private Notice which needs to be responded to with utmost urgency. So, when are you going to respond to this Question adequately as you put it? The Chair remembers that on numerous occasions, matters to do with GMOs have been raised on the Floor of the House. This is not a matter that is so fresh in the mind of the Government that you will need to go now and begin putting together information and research. This is information that you should have in your Ministry and other relevant line Ministries such as the Ministry of Agriculture and the Ministry of Livestock Development. So, can you give an undertaking that you will answer this Question tomorrow in the afternoon?

**The Assistant Minister for Higher Education, Science and Technology (Mr. Kamama):** Mr. Deputy Speaker, Sir, Tuesday, next week.

**Mr. Mureithi:** Mr. Deputy Speaker, Sir, may I get your guidance. This Question has come on the Floor several times.

**Mr. Deputy Speaker:** Similar Questions!

**Mr. Mureithi:** Mr. Deputy Speaker, Sir, more or less similar Questions regarding GMOs and I remember you and the Speaker giving those Questions priority. Considering that this Question has been tossed from one Ministry to another, that is, from the Ministry of Agriculture to the Ministry of Higher Education, Science, and Technology to the Ministry of Medical Services and so on, would I be in order to suggest that the Prime Minister handles this Question because of the importance it has in terms of the health of the people? Remember cancer seems to be on the increase in this nation. Could I get your guidance that this Question must be handled at the highest level, so that we can actually put the Kenyan community at peace when they consume this food? They need to know when this food is imported and also whether they should plant the materials from the GMOs or not.

**Mr. Deputy Speaker:** Mr. Kamama, that comes back to the same question by the Chair. Can you have this Question answered tomorrow in the afternoon?

**The Assistant Minister for Higher Education, Science and Technology** (Mr. Kamama): Mr. Deputy Speaker, Sir, as I said, we really need sufficient time to consult widely. You will remember that the Right Honourable Prime Minister has actually addressed this House on this matter. We still need to compare notes before we can give the House a very comprehensive Statement on this matter. So allow us until Tuesday, next week.

**Mr. Deputy Speaker:** Fair enough! Under the circumstances, the Chair directs that this Question be listed on the Order Paper on Tuesday, next week. The Assistant Minister in consultation, presumably in the opinion of the Chair and with all the line Ministries that have some relevance on these very important issues, will come with an answer that will put to rest the fears of this House as well as the country.

*(Question deferred)*

## ORAL ANSWERS TO QUESTIONS

*Question No.897*

### CREATION OF UNIVERSITY INFRASTRUCTURE BOND

**Mr. Odhiambo** asked the Minister for Higher Education, Science and Technology:

(a) if the Government has plans to create a policy on “University Infrastructure Bond” to raise finances to promote research and development in local universities; and

(b) how the Government is structuring the programme, considering that the achievement of Vision 2030 requires emphasis on research and development in institutions of higher learning.

**Mr. Odhiambo:** Mr. Deputy Speaker, Sir, I wish to bring to your attention the fact that I do not have a written answer to this Question.

**Mr. Deputy Speaker:** This is an Ordinary Question. In the opinion of the Chair, it must have been asked not less than three months ago. There is absolutely no reason why the Questioner should not have a written answer for him to be able to prosecute. Do you wish to continue with the Question in the absence of a written answer or do you want me to direct that this Question be put on the Order Paper tomorrow, Thursday, for you to prosecute it appropriately? In the meantime you will be furnished with a written answer by the Assistant Minister.

**Mr. Odhiambo:** Mr. Deputy Speaker, Sir, I wish to request that I be provided with a written answer before we can proceed with the Question!

**Mr. Deputy Speaker:** Hon. Assistant Minister, why do you not have a written answer?

**The Assistant Minister for Higher Education, Science and Technology** (Mr. Kamama): Mr. Deputy Speaker, Sir, I am surprised that my friend, the hon. Member for Butula, does not have an answer! Usually that is an issue that is handled by the Clerk’s office. It is a matter that lies between the Ministries and Parliament. I am really surprised that he does not have it!

**Mr. Deputy Speaker:** The clerks forward written answers that are given to them by the Ministries. Are you certain that this was sent to the Clerk's Department?

**The Assistant Minister for Higher Education, Science and Technology** (Mr. Kamama): Mr. Deputy Speaker, Sir, I should think so. I request that you allow me to furnish the hon. Member with the written answer in the next ten minutes and then he can ask this Question later.

**Mr. Deputy Speaker:** The Chair directs that this Question be listed on the Order Paper tomorrow afternoon. In the meantime hon. Odhiambo, the Assistant Minister has undertaken---

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

**Mr. Deputy Speaker:** What is your point of order?

**Mr. Kabogo:** Mr. Deputy Speaker, Sir, on the issue of answers being made available to hon. Members, most often, you will realize that answers are given to us at the door as we come in! This has been done repeatedly. What can the House do in order to facilitate provision of answers to hon. Members in good time, so that they can interrogate Questions?

**Mr. Deputy Speaker:** In case of Ordinary Questions, the hon. Members are entitled to have the written answers in advance for them to be in a position to adequately prosecute the Questions. That is the position and my direction.

**Mr. Odhiambo:** On a point of order, Mr. Deputy Speaker, Sir. I wish to humbly request that you allow the Assistant Minister to give me the written answer in the next ten minutes---

**Mr. Deputy Speaker:** Order, Mr. Odhiambo! That direction is being given by the Chair! The Chair directs that the Assistant Minister furnishes the written answer to hon. Odhiambo in the next ten minutes. The Question will be listed on the Order Paper tomorrow in the afternoon. I thought the Chair had given that communication.

*(Question deferred)*

*Question No.1028*

#### LIST OF KKV PROJECTS IN MAKUENI CONSTITUENCY

**Mr. Kiilu** asked the Minister for Youth Affairs and Sports:-

(a) whether he could table a list of all the projects/programmes undertaken by the Ministry under the *Kazi Kwa Vijana* Programme in Makeni Constituency since its inception; and,

(b) how much money was allocated to each project/activity.

**Mr. Deputy Speaker:** Is the Minister for Youth Affairs and Sports not here? We shall come back to the Question at the end.

*Question No.747*

#### FATE OF "PYRAMID SCHEMES" MONEY HELD BY BANKS

**Mr. C. Kilonzo** asked the Attorney-General:-

(a) whether he could inform the House what became of the approximately Kshs. 5 billion held by the Central Bank of Kenya and other commercial banks in “frozen” accounts belonging to “pyramid scheme’s”,

(b) when the “pyramid scheme” victims will be refunded their money; and,

(c) why the Government has failed to institute criminal proceedings against the directors/proprietors/officials of the schemes?

**Mr. Deputy Speaker:** Order, hon. Members! The Chair has communication from the Attorney-General that he is engaged this afternoon or, at least, the earlier part of this afternoon. He is in a very important meeting. As you know, the Attorney-General’s Office is one office in the Government side which does not have Assistant Ministers or assistant Attorney-Generals. It is only him who can answer that. Consequently, I direct that this Question be listed on the Order Paper on Tuesday next week. I am satisfied with the reasons given by the Attorney-General for his unavailability to answer this Question this afternoon.

**Mr. C. Kilonzo:** On a point of order, Mr. Deputy Speaker, Sir. Every time the issue of pyramid schemes has come up--- This Question has been in this House for more than four months and every time it comes up for answering, it happens that the Government has very important business to attend to out there. Therefore, can I get a guarantee from the Chair that in the event that the Attorney-General is not available, the Minister for Justice, National Cohesion and Constitutional Affairs will act in his place?

**Mr. Deputy Speaker:** I want to appreciate the fact that this Question was listed way back; not less than five months ago. The Chair has taken note of that. The Attorney-General has given a firm undertaking that he is going to be here on Tuesday next week to answer this Question.

**Ms. Karua:** On a point of order, Mr. Deputy Speaker, Sir. I want to seek your direction on whether other business conducted by the Attorney-General can have priority over Parliament and, in view of collective responsibility on the side of the Government, whether any other Minister could answer the Question on his behalf. Otherwise, Ministers may then feel that they can avoid Parliament and go about their business. I am just asking for your guidance in view of the previous rulings by the Chair.

**Mr. Olago:** On a point of order, Mr. Deputy Speaker, Sir. Following directly on what Ms. Karua has said, considering that we have a new Attorney-General, Prof. Githu Muigai, and whom I have a lot of faith, and considering that we have a Solicitor-General and a Director of Public Prosecutions (DPP) thus reducing the workload of the Attorney-General, could you, while you give your ruling in respect of Ms. Karua’s point of order, also consider impressing upon the Attorney-General that matters of this House take precedence over everything else, so that he can organize himself.

**Mr. Deputy Speaker:** Indeed, the Chair is conscious of the concerns that have been raised by Ms. Karua and Mr. Olago. The Attorney-General, Prof. Githu Muigai has just taken office. The Chair has absolutely no reason to assume that he is ducking the workings of the House. The Chair is convinced that, indeed, on Tuesday next week, he is going to come and answer this very important Question. He will give similar importance to all Questions and business before the House. So, I will direct that this Question be placed on the Order Paper on Tuesday next week.

But what you have said as far as the Front Bench is concerned is a matter that is in the public domain, as well as the Floor of the House. Ministers need to take their business very seriously. As far as the Attorney-General is concerned, he is new in office and we have no reason not to trust him. I believe in what he says. When he says that he will come on Tuesday, my assumption is that he is going to answer this Question comprehensively on Tuesday. So, the Question will be listed on the Order Paper on Tuesday afternoon.

*(Question deferred)*

*Question No.901*

#### BLOCKAGE OF SEWERAGE SYSTEM IN THIKA

**Mr. Kabogo** asked the Deputy Prime Minister and Minister for Local Government:-

(a) whether he is aware that the sewerage system in Majengo Estate in Thika has been blocked for over three years resulting in waste discharge into Chania River and thus increasing the risk of water-borne diseases to residents of Thika; and,

(b) when the Thika Municipal Council will repair the sewer?

**The Assistant Minister, Office of the Deputy Prime Minister and Minister for Local Government** (Mr. Nguyai): Mr. Deputy Speaker, Sir, I beg to reply.

(a) I am not aware that the sewerage system in Majengo Estate in Thika has been blocked for over three years. The alleged blocked system in Majengo Estate is actually not sewage, but leachate water from Majengo flowing into the open drainage system. This was the municipal council's original design since the inception of the estate to allow leachet water to flow to open drainage drains. Initially, the water was sipping into the ground but due to the development on the lower part of Majengo, the leachate water can now be noticed.

(b) The council has issued notices to plot owners to pay the relevant fees and charges to the Thika Water and Sewerage Company so that they can be connected to the sewerage system. The council will enforce the same using the Public Health Department to ensure that the plot owners connect to the sewerage system, failure to which the council will use legal means to force the plot owners to arrest the situation.

**Mr. Kabogo:** Mr. Deputy Speaker, Sir, Members of Parliament ask questions because there are issues that need to be rectified. But Ministers come to this House to answer questions just to get away with it. The Assistant Minister says that he is not aware that the sewerage system in Majengo is blocked. I have pictures which were taken early this week showing that the sewerage system is blocked. May I, therefore, request him to visit Majengo, wear gumboots and cover his mouth and see for himself that sewage is flowing openly in Majengo. This is a serious matter and I wish to table the pictures.

*(Mr. Kabogo laid the pictures on the Table)*

Secondly, he has used a very serious English word and said that, that it is not a sewer but leachate water. He knows very well that it is raw sewage flowing into River Chania.

**Mr. Nguyai:** Mr. Deputy Speaker, Sir, I have tremendous respect for the hon. Member for Juja. As I said, a sewer is an open system and leachate is flowing. But, nonetheless, I will visit the area and see first-hand, after I view the pictures, and see what appropriate action to take.

**Mr. C. Kilonzo:** On a point of order, Mr. Deputy Speaker, Sir. As a plea to the Assistant Minister, since he is going to make a visit, can I request him that he also visits sections of Athi River where fish is dying as a result of raw sewer from Thika Town flowing into it.

**Ms. Karua:** Mr. Deputy Speaker, Sir, now that the Assistant Minister has accepted to visit the area, could he give the date? This is an urgent matter. Other users of the water downstream must be suffering from the contamination of that water. So, could he give a date because this is an urgent matter?

**Mr. Nguyai:** Mr. Deputy Speaker, Sir, I will be able to visit the area the week after next week. That is because we have some Ministerial issues that we are attending to next week. I think two weeks would be good.

**Mr. C. Kilonzo:** On a point of order, Mr. Deputy Speaker, Sir. I do not know whether you heard the Assistant Minister say that he will only be able to visit the area the week after next week. The reason why he wants to do that is because there will be heavy rains. He will not find the raw sewer and he will not be able to tell the real effects of raw sewer flowing into Athi River. So, could he visit the site immediately, if possible, this week or tomorrow morning.

**Mr. Deputy Speaker:** Mr. Nguyai, maybe, what you need to do before you continue answering this Question, is take a moment and look at the pictures that have been tabled by the hon. Member. That will enable you to understand the gravity of the matter that is on your own hands and lap now. Before you do that, pause for a moment and look at what other Kenyans, who have children like yours are exposed to, in form of the raw sewage.

*(Mr. Nguyai looked at the pictures)*

**Mr. Nguyai:** Mr. Deputy Speaker, Sir, I have seen the pictures. I have seen how serious the situation is. Please, allow me to go there on Monday morning.

**Mr. Deputy Speaker:** Order, Mr. Nguyai! Do you see the small children playing next to the raw sewage? Do you realize that they are children like mine and yours? Could you give this House an undertaking that essentially shows that you have a concern for their lives and health?

**Mr. Nguyai:** Mr. Deputy Speaker, Sir, I can do that on Friday morning. Today is Wednesday. Tomorrow, we can make all the officials ready and be there on Friday.

**Mr. C. Kilonzo:** On a point of order, Mr. Deputy Speaker, Sir. Obviously, the Assistant Minister is very cunning and very sly. He knows very well that majority of hon. Members will attend a Parliamentary workshop on that day. Thika is only 30 minutes drive from here. We are available to accompany you tomorrow morning. It is as simple as that! I think that would be fair.



**Mr. Deputy Speaker:** Order! Mr. Assistant Minister, the Chair directs that this Question be listed on the Order Paper tomorrow afternoon. It is the assumption of the Chair that, between now and tomorrow when you come to answer this Question, you will have a satisfactory answer to this Question.

**Mr. Nguyai:** Most obliged, Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** Next Question by Mr. Ruteere!

*Question No.945*

PROVISION OF VEHICLE TO APs IN BUURI DISTRICT

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

(a) whether he is aware that the Administration Police in Buuri District do not have a vehicle; and,

(b) when he will provide a vehicle to them.

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

(a) Yes, I am aware.

(b) The Ministry is in the process of procuring vehicles for the Administration Police Service and Buuri District will be considered alongside other deserving districts.

**Mr. Ruteere:** Mr. Deputy Speaker, Sir, the Assistant Minister has accepted that there are no vehicles in Buuri District. The district is very vast. It has insecurity issues because there is a lot of stock theft. I would like him to tell me when the vehicles will be bought?

**Mr. Lesrima:** Mr. Deputy Speaker, Sir, we are in the middle of procuring those vehicles and, as soon as we get them, we shall supply Buuri with a vehicle. I am aware that the district is very vast. I am also aware that we have other arrangements to contain the kind of criminal activities that take place in that district with the resources that we have.

**Mr. Mbadi:** Mr. Deputy Speaker, Sir, even as the Assistant Minister gives an assurance of providing a vehicle to that district, we are aware that many districts in this country, especially the newly created ones, lack vehicles for Administration Police and even for the regular police officers. What plan does the Ministry have to ensure that in every district, the Administration Police and regular police have vehicles to facilitate their movement and operations and, more so, given the fact that this House, in its wisdom, decided to allow the purchase of vehicles for the police, even as we removed the money which was for purchase of vehicles for other departments? We spared the purchase of vehicles for police officers. How are you going to ensure that all districts have vehicles for administration and regular police officers?

**Mr. Lesrima:** Mr. Deputy Speaker, Sir, I appreciate the fact that the budgetary allocation was increased and every effort is being made to ensure that all the vehicles required are distributed. For example, in the last three years, a total of 201 vehicles have been distributed to the Administration Police management. So, as I said, in this financial year, we have resources to procure vehicles both for the regular police, Administration Police and Provincial Administration.

**Mr. Ruteere:** Mr. Deputy Speaker, Sir, I heard the Assistant Minister tell this House that there are other arrangements that are in place to contain the insecurity that is rampant in that area. Could he tell us the arrangements because cattle and other livestock have been stolen and never returned?

**Mr. Lesrima:** Mr. Deputy Speaker, Sir, in Buuri District, the Anti-Stock Theft Unit has a lorry and three OCSs have vehicles, the OCPD has one, the DC has one and so does the DO. So in total, that district has seven vehicles to deal with any situation, including that of cattle rustling. But as I said, I promise that, as soon as we procure the vehicles, we will continue to give Buuri District priority because of its vast nature.

*Question No.1029*

OWNERS/ DIRECTORS OF ZONAL HOLDINGS INVESTMENT COMPANY

**Ms. Karua** asked the Deputy Prime Minister and Minister for Finance:-

(a) whether he is aware that the Government froze the assets of Zonal Holdings and Credit Investment Company Limited in 2001 after complaints by members of the public through Parliament that the said company had collected varying sums of money from them but failed to keep its promise;

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

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

**The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Local Government** (Mr. Nguyai): Mr. Deputy Speaker, Sir, I beg the indulgence of the hon. Member. The Treasury only received this Question by fax on 10<sup>th</sup> October, 2011 and we did a letter on 11<sup>th</sup> October, 2011 asking for a little more time. With your indulgence, we would like to answer this Question on Tuesday next week.

**Ms. Karua:** Mr. Deputy Speaker, Sir, although we would have wanted it today, Tuesday is okay. It is related to the earlier Question by Mr. C. Kilonzo because it is all about public money. So, I would be happy if it is answered on Tuesday alongside Mr. C. Kilonzo's Question.

**Mr. Mbadi:** On a point of order, Mr. Deputy Speaker, Sir. Whereas I appreciate the fact that Ms. Karua is comfortable with Tuesday, this Ministry is very notorious for asking for extension of time to answer either a Ministerial Statement or Questions. It is equally notorious for failing to respect the promise. I am not very sure whether this Question will be answered on Tuesday because there are issues that I raised in this House. I was given a promise. Mr. Baiya did the same to the same Ministry and he was promised that the issues would be addressed. But, up to date, those issues have not been addressed. So, what guarantee do we have that this Ministry will answer this Question on Tuesday, when it is notorious for not answering Questions?

**Mr. Deputy Speaker:** For the benefit of the Chair, Ms. Karua, do you remember when you filed this Question?

**Ms. Karua:** Mr. Deputy Speaker, Sir, yes, I filed this Question on 2<sup>nd</sup> June, 2011.

**Mr. Olago:** On a point of order, Mr. Deputy Speaker, Sir. Indeed, what Ms. Karua and Mr. Mbadi have said is true. This Ministry is fond of giving promises that it does not follow. But I believe that part of the problem lies from the fact that the Assistant Minister deputizing the Minister is not the deputy in that Ministry substantively. So, is it in order for the friendship between Mr. Kenyatta and Mr. Nguyai to be carried up to the affairs of the Ministry?

*(Laughter)*

**Mr. Deputy Speaker:** Order, Mr. Olago Aluoch! Mr. Nguyai is a Minister in the Coalition Government of the Republic of Kenya. In line with collective responsibility enshrined in our Constitution, any Minister can represent a fellow Minister. But having said that, the Chair is a bit worried and, indeed, unable to understand why the Ministry is unable to answer this Question today. That is because there is a communication from the Ministry and the same was repeated by the Assistant Minister who is representing his fellow Minister. Indeed, this Question was delivered to the Ministry on 10<sup>th</sup> October, 2011. The Chair is also in possession of a letter written by the Permanent Secretary, Office of the Deputy Prime Minister and Ministry of Finance that says the same. It reads:-

“The above mentioned Question by the Member for Gichugu is scheduled to be raised in the House tomorrow 12<sup>th</sup> October, 2011. The Question was, however, received in this Ministry yesterday evening as per the attached copy of fax message. The Questioner has raised diverse issues which require us to consult with a number of players, including the Attorney-General and other information here.”

The letter itself is dated 11<sup>th</sup> October, 2011 which confirms exactly what you have said. It was received by the Ministry on 10<sup>th</sup> October, 2011. But the Chair is also in possession of a copy of the delivery book which, indeed, shows that the Ministry of Finance received this same Question on 10<sup>th</sup> June, 2011. What do you have to say, Mr. Assistant Minister?

*(Applause)*

**The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Local Government (Mr. Nguyai):** Mr. Deputy Speaker, Sir, thank you for that information. I do not have a copy of the delivery book, but I tend to believe that it is true. Therefore, I would like to find out and take the appropriate action on the person who did not forward the Question to the Permanent Secretary on time. We will take that action!

**Mr. Mbadi:** On a point of order, Mr. Deputy Speaker, Sir. Based on what you have just read; that this Question actually went to the Ministry in June--- I said earlier that this Ministry does not take Parliament seriously. I sought for a Ministerial Statement seven months ago on revenue accounts, but the Ministry has not answered to date. On 21<sup>st</sup> April, 2011, I asked for a Ministerial Statement on the performance of our currency; the depreciating shilling which is causing panic right now. I was given promises five times, but it has not been answered to date. Mr. Baiya did the same. I think it is high time this House takes action on this Ministry. This Ministry is so crucial but, if we allow it to behave the way it is behaving, this House will be taken for a ride and we will not be

able to transact business. I wonder whether this Assistant Minister, even though there is collective responsibility, has the capacity. He is masquerading to represent the Ministry because he keeps on giving promises which are never honoured by the Ministry. He even has no clue of when the document was received in the Ministry and he comes here to give us false information.

**Mr. C. Kilonzo:** On a point of order, Mr. Deputy Speaker, Sir. To show you how serious the Assistant Minister is not serious, he has said that he is going to take action against the officer who took the Question to the Permanent Secretary, rather than taking action against the Permanent Secretary. So, is the Assistant Minister in order to push the blame to the small fish instead of the big fish?

**The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Local Government (Mr. Nguyai):** Mr. Deputy Speaker, Sir, whether it is the big fish or the small fish, we will take action.

**Mr. Olago:** On a point of order, Mr. Deputy Speaker, Sir. An issue has arisen from Mr. Nguyai that he is going to take action against the officer who is responsible for this falsification. But clearly, what you have before you is a falsification. The staff in the Office of the Deputy Prime Minister and Ministry of Finance are not answerable to the House. The person in the Ministry who is answerable to the House and to the Speaker is the Minister in charge of that Ministry. So, I wish to ask if it will be in order for the Assistant Minister to be sanctioned.

**The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Local Government (Mr. Nguyai):** Mr. Deputy Speaker, Sir, I am in possession of the letter from the Permanent Secretary. Obviously, you have given us new information; it is prudent for us to investigate and know where the problem came from and then we will deal with the issue. But I want to assure this House that the Ministry of Finance is serious about the business of the House.

**Mr. Deputy Speaker:** Mr. Nguyai, the Chair is going to defer this Question to Tuesday afternoon next week for one last time. In addition to answering the Question, the substantive Minister for Finance will, in the opinion of the Chair, explain why a grossly misleading statement as well as communication can be made from the Ministry to the House.

**The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Local Government (Mr. Nguyai):** It is so noted, Mr. Deputy Speaker, Sir!

*(Question deferred)*

*Question No.1056*

NON-PAYMENT OF DUES TO VILLAGE ELDERS  
ENGAGED IN 2009 CENSUS

**Dr. Kones** asked the Minister of State for Planning, National Development and Vision 2030:-

(a) whether he is aware that a number of village elders who participated in the 2009 census (including Kipchabai arap Chepkwony of Cheptalal location) have not been paid for their services to date; and,

(b) when they will be paid.

**The Minister of State for Planning, National Development and Vision 2030**

(Mr. Oparanya): Mr. Deputy Speaker, Sir, I beg to reply.

(a) The Ministry is aware that a total number of 767 names of village elders who participated in the 2009 Population and Housing Census from Buret District was submitted to the Kenya National Bureau of Statistics (KNBS). In November 2009, 557 elders were found to have given complete information and a total of Kshs891,200 was released for settlement. The names of the remaining 210 elders were returned to the districts for correction of details. In May 2010, 191 names were re-submitted for payment. A total of Kshs305,600 was released for their payment. Ten names were found to have been duplicated, while ID numbers for the remaining nine names could not be immediately availed. To date, a total of 748 elders have, therefore, been paid, leaving a balance of the nine names. The Ministry wishes to note that the name raised by the hon. Member (Mr. Kipchabai arap Chepkwony) is not among the names of the elders submitted from the district.

(b) So far, we have identified the details of the nine names that had remained and all were paid by 19<sup>th</sup> July, 2011.

**Dr. Kones:** Mr. Deputy Speaker, Sir, I want to thank the Minister for that answer. But when I received this answer, I spoke to the chief of the area. I have also had a chance to go through the list which the Minister has. It has the names of the village elders who have been paid. It is clear from the list which the Minister has that there is a slight problem with the names. The village elder I am referring to is popularly known as Micah Chepkwony which, apparently, appears in the Minister's list. But the name on the ID is written as shown on the Question. It is true that, to date, he has not been paid together with a few other village elders and the chief. So, in that case, and having talked with the Minister – which I think he will confirm – may I ask him to table the list and allow me to go and get the correct details, including the ID number of the said village elder and others who have not been paid - including the chief - so that he can work on it.

**Mr. Oparanya:** Mr. Deputy Speaker, Sir, I have no problem with releasing the list to the hon. Member. It is a very detailed list and he can use it to check if there is any elder who has not been paid or has different details. I am willing to pay.

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

**Mr. Deputy Speaker:** Fair enough!

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

Mr. Yakub, do you still want to pursue the same thing?

**Mr. Yakub:** Yes, Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** Okay. Go ahead!

**Mr. Yakub:** Mr. Deputy Speaker, Sir, the issue of unpaid elders has taken too long since 2009. Could the Minister undertake to pay the remaining elders in areas like Kisauni and Lamu? It is taking too long for them to get their dues!

**Mr. Oparanya:** Mr. Deputy Speaker, Sir, the hon. Member, in fact, wrote a letter to me about those elders who were not paid in those areas that he has mentioned. I

have replied to that letter indicating the elders who gave their details and were paid. The problem we had - and it is clearly shown on the list that I have tabled - is that there are elders who gave different names from the names that appear in the ID cards. Some of them genuinely worked, but they could not produce IDs. So, it became a problem to pay such officials. In fact, what we have now done is to ask the District Commissioners to identify the genuine elders who worked and try to tell us who they are, so that we can send money to them. They will have to identify them physically so that they can be paid. I am sorry for those who were not paid on time but, at least, the number has now narrowed to very few people. The problem was that some of the elders were illiterate and they did not have IDs, while some of them transposed their names and so, it was a problem. It is clearly shown on that list.

**Mr. Ruto:** Mr. Deputy Speaker, Sir, I have been listening to the Minister. He is expressing a genuine concern. But, Mr. Minister, when did you conduct the census? This is now one and a half years down the line and they have not paid the *wazees* whom you engaged to help in the census. How does that reflect on the efficiency of your Ministry or the entire outlay that you put in place to carry out the census? Is it not very unfair? Do you not think that you owe an apology to all those *wazees* for the delay? Could you not feel obliged to apologize?

**Mr. Oparanya:** Mr. Deputy Speaker, Sir, we have identified areas that had problems. If I can just point out from the list that I have shown my friend here--- On this list, there appears John Langat five times. But that John Langat has different ID number and you can verify that. In such a case, how do we pay? Whom do we pay? Do we pay John Langat five times? So, these are some of the problems that we have encountered.

**Dr. Kones:** Mr. Deputy Speaker, Sir, I am satisfied with the response. When I get the list, I will liaise with the Minister.

**Mr. Deputy Speaker:** Fair enough!

**Mr. Oparanya:** Thank you very much. You can see the hon. Member is satisfied.

**Mr. Deputy Speaker:** Next Question.

*Question No.1078*

REPAIR OF KAPASANGAR-SEKUTON ROAD

**Mr. Litole** asked the Minister for Roads:-

(a) why the Ministry has taken so long to repair roads in Lolan, particularly Kapsangar-Sekuton Road (URP 29),

(b) when the Ministry will repair the road; and,

(c) whether he could consider allocating more funds for the complete reconstruction and re-carpeting of the road.

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

(a) Repair of most of the roads in Lolan was undertaken and completed in accordance with the plan of the Constituency Roads Committee (CRC). However, some delays were experienced due to the long distances for haulage of gravel materials as well as the rains.

(b) The contract for repair of Kapsangar-Sekuton Road was awarded in March, 2011, and as at June, 2011, money spent and the completed works was valued at Kshs476,000. The repair works are still ongoing.

(c) Allocation of more funds on the roads is the prerogative of the CRC and the Ministry will carry out additional works commensurate with the additional allocation from the CRC. However, during this financial year a total of Kshs3,080,000 has been budgeted by the CRC for the same road.

**Mr. Litole:** Mr. Deputy Speaker, Sir, this is a very interesting scenario. The area I am talking about has an altitude of between 8,000 feet and 10,000 feet above the sea level. It has a lot of rain. It also produces the best pyrethrum in this country and milk to be transported for 80 kilometres. This is the area where the Ministry has allocated Kshs476,000 for 80 kilometres. If you do some mathematics it comes down to Kshs5,975 per kilometre. I do not know whether the Ministry is serious in allocating that amount of money to repair such a road. Even if you put a fuel of Kshs5,975 into a caterpillar, it cannot cover a distance of 80 kilometres before you refuel it. Could the Assistant Minister, therefore, consider allocating more money?

In fact, a sum of Kshs3 million allocated to Sigor Constituency which is as large as Nyeri District is a drop of water in the ocean. What will the Ministry do so that this money is increased immediately?

**Mr. Kinyanjui:** Mr. Deputy Speaker, Sir, I wish to repeat that the Sigor CRC has allocated a total of Kshs1,977,500 and a further Kshs1,225,000 to the Kapsangar-Sekuton Road in the Financial Year 2009/2010. The CRC is constituted with the help of the area Member of Parliament. Therefore, the work plan that emanates from the CRC is a product of the people on the ground.

You will recall---

**Mr. Litole:** On a point of order, Mr. Deputy Speaker, Sir. I am part of that committee. However, how do we divide this amount of money? How many roads do we have? Can he tell us how many kilometers of roads we have in Sigor Constituency? We can divide this money several times, but it cannot help. Is he in order to say that instead of accepting the problem they have? I know in his constituency a lot of money has been put under CRC.

**Mr. Kinyanjui:** Mr. Deputy Speaker, Sir, I was just laying the background, but I wish to repeat once again that this Parliament in 2009 amended the Roads Act. It made all maintenance funds to all constituencies the same irrespective of the number of kilometres we have and the state of the roads in every constituency. Therefore, when the House passed that Bill, in essence what we meant is that Sigor, among many other constituencies would be getting the same amount of money and it was up to the hon. Members of Parliament, through the CRCs to do the best they could with the money available.

When that amendment was done to the Roads Act, we did pass our reservations to that because there are some constituencies that have a total road network of about 15 kilometres and others have thousands of kilometres. However, it was the wish of the hon. Members that all the monies be spent equally in all constituencies. Therefore, if you want a change to that, we would welcome any amendments to address that issue.

**Mr. Washiali:** Mr. Deputy Speaker, Sir, in this Ministry we had *El Nino* Fund which used to address areas that have enhanced rainfall. What is the Ministry doing to

make sure that this fund benefits roads or constituencies in western region, so that we address our problems that emanate from heavy rainfall?

**Mr. Kinyanjui:** Mr. Deputy Speaker, Sir, the *El Nino* is not a permanent feature. Therefore, we could not retain that kitty when the problem was not there. However, we have an emergency kitty and when we have sudden downpour and some roads are cut off, we are able to address such challenges using the emergency kitty. However, it is not enough to be able to take care of all the roads that we have in the country.

**Mr. Litole:** Mr. Deputy Speaker, Sir, now that the Assistant Minister has accepted there is some emergency money for such emergencies like what I have said could he, therefore, give an undertaking that he will give Sigor Constituency some emergency money for the roads?

**Mr. Kinyanjui:** Mr. Deputy Speaker, Sir, we have not received any formal request from Sigor Constituency, both from the CRC or the regional manager. But once we receive it, we will evaluate it alongside others.

*Question No.1213*

STATUS OF DEB SCHOOLS IN KENYA

**Mr. Nyammo** asked the Minister for Education:-

- (a) whether he could provide the details of all DEB schools in the country, particularly in Tetu District, including their respective sponsors,
- (b) whether he is aware that some churches, including the A.I.P.C.E.A, have lost their sponsorship of the schools they founded; and,
- (c) how the Government plans to address the situation and whether the Ministry could consider reverting all the affected schools to their original sponsors.

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

(a) There are various school sponsors in the country among them being District Education Boards, local authorities, religious organizations, companies and individuals. Like other sponsors, the DEBs sponsor mainly through grants to both primary and secondary schools. They total Kshs5,965. They are as follows:- In Nairobi we have 57 secondary schools. Central Province has 818 primary schools and 236 secondary schools. Eastern Province has 1,119 primary schools and 333 secondary schools. North Eastern Province has 442 primary schools and 74 secondary schools. Nyanza Province has 273 primary schools and 33 secondary schools. Western Province has 76 primary schools and 12 secondary schools. Rift Valley has 1,164 primary schools and 463 secondary schools. Coast Province has 669 primary schools and 108 secondary schools. All of them add up to 5,965.

In Tetu we have them as follows:- DEB sponsored primary schools are 12 and secondary schools are seven. ECA sponsored are 19 primary schools and 13 secondary schools. For CCM, we have 13 primary schools and ten secondary schools. AIPCEA sponsored one secondary school.

Thank you, Mr. Deputy Speaker, Sir.



(b) Yes, I am aware that during the time of emergency in 1952, some Independent Church schools were closed down and re-opened under DEB sponsorship.

(c) The sponsorship of schools is one of the issues under consideration by the taskforce on re-alignment of education in the new Constitution. I expect the taskforce to come up with appropriate recommendations on the issues of sponsorship in the management of public schools. When the taskforce is through with its work, a national conference will be held to chart the way forward. All education stakeholders including sponsors will, therefore, get a chance to air their views.

**Mr. Nyammo:** Mr. Deputy Speaker, Sir, one would like to understand the basis on which these schools were taken away from their original sponsors, some were returned and some were kept under DEB.

**Mr. Deputy Speaker:** Assistant Minister, what is the basis of the decision by the Government on what school is taken over by the DEB and which one is left to the sponsor?

**Prof. Olweny:** Mr. Deputy Speaker, Sir, the Government intended the schools to be returned to the original sponsors, particularly the African Independent Churches. The Government gave the go ahead, but if the community did not want it that way, then the Government retained the schools under the DEB.

**Mr. Nyammo:** Mr. Deputy Speaker, Sir, we have been told about a taskforce. When is it expected to report?

**Prof. Olweny:** Mr. Deputy Speaker, Sir, the taskforce has given us the interim report and has briefed us on its progress. We expect the final report mid next month.

**Mr. Yakub:** Mr. Deputy Speaker, Sir, the issue of sponsors losing the schools which they had funded is very common. A typical example in Mombasa is the former Mombasa Institute of Muslim Education (MIOME) now the Mombasa Polytechnic and the Arab Boys Secondary School now Khamis Secondary School. Could the Assistant Minister inform the House the right channel for the community to take, through his Ministry, so that these institutions can be taken back by their founders?

**Prof. Olweny:** Mr. Deputy Speaker, Sir, I beg the Member to repeat the question. I did not get it well.

**Mr. Yakub:** Mr. Deputy Speaker, Sir, certain schools at the Coast, namely, the former MIOME which is now the Mombasa Polytechnic and the former Arab Boys Secondary School now Khamis Secondary School, were taken away from the sponsors. What is the right channel that the community or the sponsors can take, through the Ministry, so that they can get back the institutions that they had founded and sponsored?

**Prof. Olweny:** Mr. Deputy Speaker, Sir, if the school was closed during the colonial days and then re-opened under the DEB, the Education Act provides that the community concerned makes a request to the Ministry that it wants that school to revert to the original sponsor, which was either a church or Muslim sponsor. Once this is brought up, we will listen to it and do as the community wants.

**Mr. Affey:** Mr. Deputy Speaker, Sir, just on that particular one, the Assistant Minister has said that it is possible to revert the institutions back to the community. Now that he knows, I am sure he does not have to wait until that request is made, why can he not automatically revert the schools back to the community because they need to use them and they are ready? The Government had stolen them!

**Mr. Deputy Speaker:** The Assistant Minister says that there must be a formal request from the original sponsors. Are you sure there is a formal request which is in place, hon. Affey?

**Mr. Affey:** Mr. Deputy Speaker, Sir, I am not sure of the formal request, but I know it is fairly automatic that the community is in need and the Government can revert the schools to them.

**Prof. Olweny:** Mr. Deputy Speaker, Sir, it is not automatic because some people may want it reverted and others may oppose it. So, we have to get a formal request and then inform the stakeholders and the community that we are now handing the school back to such and such faith-based institutions as the sponsors. But should someone come up with an objection, we will listen to that.

**Mr. Deputy Speaker:** For the benefit of the Assistant Minister, Mombasa Polytechnic which is now the Mombasa Polytechnic University was originally called the Mombasa Institute of Muslim Education, which was a community owned-school as well as what they call Khamis Secondary School which was called Arab Boys Secondary School and a number of other two or three primary schools. That is basically what they are questioning.

**Mr. Njuguna:** Mr. Deputy Speaker, Sir, I thank the Assistant Minister for the answer that he has given. However, could he clarify to this House what the Ministry is doing to make sure that the sponsors do not unnecessarily interfere with the supervision and the management of schools, particularly in the appointment of principals?

**Prof. Olweny:** Mr. Deputy Speaker, Sir, sponsors are our partners in education. So, we always agree together on how to handle such matters. Where the sponsor has a request, it will be looked into, but they do not interfere with the management of schools. Should that come to our attention, we will deal with it. There have been a few cases, but they have been sorted out.

**Mr. Nyammo:** Mr. Deputy Speaker, Sir, it is not clear from the Assistant Minister who is supposed to make the request to revert these schools to the original sponsors.

**Mr. Deputy Speaker:** That is what the Assistant Minister has said. Is that so, hon. Assistant Minister?

**Mr. Nyammo:** Mr. Deputy Speaker, Sir,

**Mr. Deputy Speaker:** Can you allow him to confirm so that the Chair does not seem to look like---

**Prof. Olweny:** Mr. Deputy Speaker, Sir, it is the sponsor in collaboration with the community.

**Mr. Nyammo:** Mr. Deputy Speaker, Sir, when does the Ministry intend to sensitize the community as to what they should do to get these schools revert to the original sponsors?

**Prof. Olweny:** Mr. Deputy Speaker, Sir, this is in the Education Act. All that is in the law, Kenyans are expected to know maybe through their representatives or through some other sources, but it is in an Act of Parliament. My colleague can go and inform the members of his community that they have the right to appeal because it is in the law. I have a copy of the Act of Parliament here.

**Mr. Nyammo:** Mr. Deputy Speaker, Sir, I am satisfied.

*Question No.1028*

LIST OF KKV PROJECTS IN MAKUENI CONSTITUENCY

**Mr. Kiilu** asked the Minister for Youth Affairs and Sports:-

(a) whether he could table a list of all the projects/programmes undertaken by the Ministry under the *Kazi Kwa Vijana* programme in Makueni Constituency since its inception; and,

(b) how much money was allocated to each project/activity.

**The Assistant Minister for Youth Affairs and Sports** (Mr. Kabando wa Kabando): Mr. Deputy Speaker, Sir, I first want to apologize for coming late.

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

(a) The list of all the projects/programmes undertaken by my Ministry under the *Kazi Kwa Vijana* Programme in Makueni Constituency since its inception is herewith appended and I table it.

*(Mr. Kabondo wa Kabando laid  
the document on the Table)*

(b) The amount of money allocated to each project or activity is as shown against each project and programme in the appended list.

Mr. Deputy Speaker, Sir, the list is very lengthy and it will be difficult to go through it cost effectively.

**Mr. Kiilu:** Mr. Deputy Speaker, Sir, while appreciating the answer given by the Assistant Minister, I would like to point out to him that governance regarding *Kazi Kwa Vjiana* (KKV) projects has featured prominently in this House in the past. Could he clarify whether prior to the starting of these activities, he had a predetermined number of trees to be planted which formed the basis for him to engage the number of youths that he engaged for each activity? Secondly, could he also be kind enough to tell us how many days were to be taken by these youths in planting the number of trees in each activity?

**Mr. Kabando wa Kabando:** Mr. Deputy Speaker, Sir, I would like to first state that the KKV programme is an inter-ministerial youth empowerment initiative, which was implemented by 12 Ministries under the general supervision of the office of the Prime Minister . The Ministry of Youth Affairs and Sports is responsible for implementing a small component of the KKV, which is the Tree for Jobs. It is true that issues have been raised on this matter and, as you know, the KKV programme was an intervention in order to mainstream the positive potential of our very restless critical generation – the youth. Therefore, given the need for that sporadic intervention, we have no predetermined work plan. It is true there were challenges in its implementation, and because from area to area, the cost of a seedling will be different, it was not possible to allocate the exact number of trees to be planted in each compound.

**Mr. Kiuna:** Mr. Deputy Speaker, Sir, could the Assistant Minister inform the House whether it is possible to employ these youths permanently according to their qualifications instead employing them on temporary terms? The funds that they normally allocate to constituencies are collected by the youth and there is no proper way of them stating where that money was utilized?

**Mr. Kabando wa Kabando:** Mr. Deputy Speaker, Sir, perhaps, I need to clarify that the KKV programme was a very diverse interventionist engagement for the youth. There were very many youths who were involved. It is not possible to absorb all the youth who were involved in the KKV into permanent employment by my Ministry. However, I want to inform the House that through this programme, and also subsequent activities in the following financial year, that is 2009/2010, we were able to tap in various constituencies youth with potential. Some became interns in the Ministry and the others were absorbed in youth polytechnics for further training. We are of the view that the KKV needs remedy. This has been submitted before this House a number of times and is part of the parliamentary record.

**Mr. Kiilu:** Mr. Deputy Speaker, Sir, I did not hear the Assistant Minister talk about the number of days that these youths were engaged. All together, could he inform the House why Makueni District Projects Nos. 4, 5 and 6 are repeated and funded for the same activity as Nos. 32, 33 and 34?

**Mr. Kabando wa Kabando:** Mr. Deputy Speaker, Sir, the amounts allocated to each of the projects or activity and the number of the youths involved or engaged in each of the projects and the number of trees planted for each of the projects is clearly indicated on this list, which is very lengthy. The number of hours could not be calculated because areas were allocated resources and a number of youths without specifications of the hour to take because the planting was also intended to be an interactive programme for the youths. For the projects that are repeated, as asked by the hon. Member, is because there was need to expand the planting in those specific areas. Therefore, it was a positive advantage for those institutions.

**Mr. Deputy Speaker:** Next Order!

## POINTS OF ORDER

### FATAL SHOOTING OF MR. WILSON RUTO

**Ms. Chepchumba:** On a point of Order, Mr. Deputy Speaker, Sir. I seek a Ministerial Statement from the Minister of State for Provincial Administration and Internal Security regarding the fatal shooting of Mr. Wilson Kipkoech Ruto in Lessos Trading Centre in Tinderet Constituency, who was a resident of Eldoret South Constituency. In the Statement, the Minister should explain the following:

Under what circumstances was Mr. Kipkoech Ruto brutally killed on September 15<sup>th</sup>, 2011? Two, could he confirm that the deceased was shot dead by a police officer on the said date while aboard a *boda boda* motorcycle? Three, what have the police done to arrest and charge in court the police officer who killed Mr. Ruto? Four, could the Minister explain what the Ministry is doing to compensate the family of the late Mr. Ruto? Finally, what is the police doing to contain the rampant cases of insecurity that have gripped Eldoret Town and its environs in the past few months?

**The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode):** Mr. Deputy Speaker, Sir, allow me to respond to this request on Wednesday morning, next week.

**Mr. Deputy Speaker:** It is fair enough. It is so directed.

## FATE OF SECONDARY SCHOOL STUDENTS FEES IN ASALS

**Mr. Duale:** On a point of order, Mr. Deputy Speaker, Sir. I am seeking a Ministerial Statement from the Minister for Education on the fate of secondary school students' fees in Arid and Semi-Arid Lands (ASALs) and drought hit areas. I want him to clarify the following: One, how much was allocated to each student to offset the fee demand from the head teachers? Two, is he aware that students are being sent home because of lack of fees? Three, has the money been remitted to the respective schools? Four, has any directive been given to the head teachers not to send students home because of school fees? Let him table the evidence of the same, if at all it exists.

**Mr. Deputy Speaker:** Is the Minister for Education not here?

*(Mr. Kabando wa Kabando stood up in his place)*

**Mr. Deputy Speaker:** Hon. Kabando wa Kabando, you are a Minister in the Government and when you stand up, it is the assumption of the Chair that you are doing so on behalf of the Minister for Education to give an undertaking on his behalf and not to show the Chair your back.

**The Assistant Minister for Youth Affairs and Sports** (Mr. Kabando wa Kabando): Mr. Deputy Speaker, Sir, what was it, if you can remind me?

**Mr. Deputy Speaker:** The Minister for Education is supposed to give a Statement. Mr. Duale, can you repeat your request?

**Mr. Duale:** Thank you, Mr. Deputy Speaker, Sir. Some of the Government Ministers are sleeping, but I will repeat.

I am seeking a Ministerial Statement from the Minister for Education on the fate of secondary school students' fees in Arid and Semi-Arid Lands (ASALs) and drought hit areas. I want him to clarify the following:

One, how much money was allocated to each student to offset the school fees which is being demand by head teachers? Two, is he aware that students are being sent home because of lack of fees? Three, have the monies been remitted to the respective schools? Four, has any directive been given to the head teachers not to send students home because of school fees? Let him table the evidence of the same, if at all it exists.

**The Assistant Minister, Ministry of Youth Affairs and Sports** (Mr. Kabando wa Kabando): Mr. Deputy Speaker, Sir, I apologize for that. I was going to see the students of Bahati Girls High School.

Mr. Deputy Speaker, Sir, I undertake to communicate to my colleague to deliver a substantive and very detailed Statement on Thursday next week.

**Dr. Nuh:** On a point of order, Mr. Deputy Speaker, Sir. Thursday is a long way ahead. Students are already at home and that information is available even at the headquarters. What we are asking is whether they have sent money and whether he has given a directive to the head teachers to spare the students for the moment. That is not something that should warrant the Ministry to wait for one week.

Mr. Deputy Speaker, Sir, with your guidance, we would wish that the Statement be issued tomorrow because it is within the purview of the Ministry to respond.

**Mr. Deputy Speaker:** Can you do better than Thursday next week, hon. Kabando wa Kabando?

**The Assistant Minister, Ministry of Youth Affairs and Sports** (Mr. Kabando wa Kabando): Yes, Mr. Deputy Speaker, Sir. Given the gravity of this matter and that the students are out of school, I will inform the substantive Minister to give a directive that the students go back to school immediately, and a Statement will be delivered on Tuesday next week.

**Mr. Deputy Speaker:** Fair enough! It is so directed.

## **BILLS**

**The Deputy Speaker:** Hon. Members, you will notice that Order No.8 is business that was on the Order Paper yesterday. There was a typographical error and it was repeated erroneously. So, we will proceed to Order No.9

THE KENYA SCHOOL OF GOVERNMENT BILL (BILL. NO. 30 OF 2011)

*(Bill was deferred)*

*First Reading*

THE NATIONAL PAYMENT SYSTEM BILL

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

*Second Reading*

THE ENGINEERS BILL

*[Mr. Deputy Speaker left the Chair]*

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

**The Assistant Minister, Ministry of Roads** (Mr. Kinyanjui): Mr. Temporary Deputy Speaker, Sir, I beg to move that the Engineers Bill be now read a Second Time.

Mr. Temporary Deputy Speaker, Sir, the Engineers Bill 2011 seeks to repeal and replace the Engineers Registration Act, Cap.530, of the Laws of Kenya. I wish to begin with the background information. The Engineers Registration Act was enacted into law in 1969. We must all appreciate that since 1969, which is almost 42 years ago, a lot has changed in the field of engineering both in Kenya and globally. Time has come to make laws that are current and relevant, as well as keeping pace with the changing global practices. The current law lacks adequate provisions for enforcement of the practicing standards. That is the reason why it has been very difficult for the Engineers Registration Board to intervene where licensed professionals are not involved in design, construction, manufacture or fabrication of engineering facilities. That has led to all manner of persons getting involved in carrying out responsibilities that are ought to be carried out by

professional engineers. The end result is fatal collapse or failure of structures and other facilities leading to regrettable loss of innocent lives and damage of properties. This scenario is unacceptable and must be brought to an end.

Mr. Temporary Deputy Speaker, Sir, I take this opportunity to acknowledge and thank all stakeholders who have participated in the preparation of this Bill. We have taken close to five years to reach this stage. This Bill, together with the National Construction Authority Bill which has been tabled before this House, when enacted into law, are aimed at regulating and restoring normalcy in the construction industry. It is anticipated that Bills for regulating other professionals involved in the construction industry will also be tabled before this House.

Mr. Temporary Deputy Speaker, Sir, engineers are expected to play a significant role in the development of our country. As you are aware, infrastructure has been identified under the Kenya Vision 2030 as one of the main foundations underpinning the three pillars of the vision, namely; social, political and economic pillars. Engineers are expected to fully participate in the implementation of infrastructure projects that are key to providing an impetus and momentum for wealth creation for this country. Currently, the Government is implementing a number of these projects covering energy, water, roads, ports, irrigation, airports and telecommunications, among others. The Government's commitment to the provision of infrastructure has been demonstrated through increased budgetary allocations over the years. In the financial year 2011/2012, the allocation stands at 20 per cent of the total Budget.

Mr. Temporary Deputy Speaker, Sir, currently, there is a huge demand for trained and experienced engineers. This is due to the unprecedented number of ongoing infrastructure projects in energy, water, roads, ports, irrigation, airports and telecommunications, among others. It is, therefore, important that industry players deliberately take an active role in the internship of graduate engineers. Further, experienced engineers should undergo continuing professional development to ensure that they remain relevant in the profession. The Bill aims at strengthening the profession through the provision of enhanced training and knowledge sharing. This will result in benefits to society in terms of higher professional standards as well as higher levels of ethics in the practice of engineering in the country. It is for this reason that a provision has been made in the Bill to make continuing professional development mandatory for all professional engineers.

Mr. Temporary Deputy Speaker, Sir, the Bill is made up of eight parts. I will briefly go through each part. Part I contains the preliminary provisions. Part II has the provisions incorporating and specifying the membership of the Engineers Registration Bill. The part also sets out the functions of the Board, among which is to ensure that high standards are maintained both in training, performance and rendering of engineering professional services. Some examples include the following:-

1. To enter and inspect sites where construction, installation, erection, alteration, renovation, maintenance, processing or manufacturing works are in process for the purposes of verifying that:-

(i) Engineering activities are undertaken by engineers registered in appropriate categories and engineering consultancy firms.

(ii) The standards and professional ethics and relevant health and safety aspects are observed.

2. It is expected that the Board will recommend suspension of any works, projects, services, installation processes or any other engineering activities which are done without meeting the required standards. It is also expected that the Bill will establish a school of engineering and provide facilities and opportunities for learning, professional exposure and skills acquisition and cause continuing professional development programmes for engineers to be held.

3. To plan, arrange, co-ordinate and oversee professional training and facilitate internship of graduate engineers.

4. It is also expected that the Bill will determine the fees to be charged by professional engineers and firms for professional engineering services rendered from time to time.

5. Issue, maintain and enforce the code of ethics for engineers and regulate the code of conduct of the engineering professionals in general.

Mr. Temporary Deputy Speaker, Sir, Part III contains the provisions on registration of engineers in the country. It imposes the requirements for registration of engineers and also sets out the qualification for the same registration.

Further, it includes the provision of registration of engineering consulting firms, a provision that we do not have in the earlier Bill.

Mr. Temporary Deputy Speaker, Sir, Part IV has provisions on licensing and practicing of registered engineers. It provides that persons must be licensed to practice as engineers, and provide for requirements needed to be fulfilled when applying for a practising licence. The part further sets out the circumstances under which registration may be suspended or cancelled.

Mr. Temporary Deputy Speaker, Sir, Part V sets out the financial provisions of the Bill.

Part VI has provisions relating to offences and penalties. That part creates offences and prescribes penalties. This includes frequently obtaining registration, employing unregistered persons, professional misconducts, among others. The penalties provided for in the Bill are heavy and deterrent to ensure compliance.

Part VII sets out disciplinary procedures and the actions the Board may take against offending persons, including deregistration, reprimands, imposition of fine, among others.

The last part provides for general provisions and empowers the Board with the approval of the Minister to make rules, generally in specific cases.

Mr. Temporary Deputy Speaker, Sir, with those few remarks, I beg to move the Engineers Bill, 2011, and request the Minister for Public Works; hon. Chris Obure, to second.

**The Temporary Deputy Speaker** (Mr. Olago): Hon. Obure, as the Seconder, you have 20 minutes!

**The Minister for Public Works** (Mr. Obure): Thank you, Mr. Temporary Deputy Speaker, Sir, I will not take 20 minutes. I will take much shorter but I thank you for the opportunity. I also thank the Assistant Minister for eloquently moving this Bill.

Mr. Temporary Deputy Speaker, Sir, the Assistant Minister has done a great thing in taking the initiative to introduce the Engineers Bill at this particular time. The essence of this Bill is to repeal the Engineers Registration Act of 1969.



Before I say anything further, I also want to take this opportunity to congratulate the Minister for Roads, the Assistant Minister for Roads and the Permanent Secretary for the Ministry of Roads for the effective leadership in that Ministry. Under their stewardship, the Ministry has undertaken some of the most important road infrastructure development and improvement projects. Kenyans of all walks of life everywhere in this country appreciate these achievements, which could not be imagined only a few years. We know that a good road network enables Kenyans to undertake various economic activities in the country. A good road network enables them and facilitates their efforts to create wealth. Therefore, the role of the Ministry of Roads is appreciated here and we thank the Minister.

Mr. Temporary Deputy Speaker, Sir, engineers are an important group of professionals in any country for the role they play in spearheading development and innovation. It is, therefore, important to have a law in place which is sufficiently comprehensive to cater for not only the current needs, but also emerging and changing global practices. The Bill before us in this House, when enacted into law will recognize, register, and license all qualified professional engineers upon meeting certain stringent requirements. It has been very difficult for this profession in particular to enforce practising standards for engineers, because the law in place today does not have provisions for enforcing those standards.

Mr. Temporary Deputy Speaker, Sir, it is my hope that once this law is passed, the people who have done so much damage in this country, the pretenders and quacks will have no place. Their days will come to an end. We have seen the consequences of some of their work; the collapsing buildings, in which we have lost lives and property. A lot of that has not been undertaken by professionals. It has been undertaken by people who pretend; the quacks.

Mr. Temporary Deputy Speaker, Sir, once this is law enacted, it will spell the death of the pretenders and the quacks. There is a provision under Chapter 3(1) of this Bill for the establishment of the Engineers Registration Board. This is the one that will enforce this Bill; the Engineers Registration Board. The Board has been mandated under this new law to set standards for engineers; standards in the area of management, standards in marketing, standards in safety, standards on environment issues and more importantly standards on professional ethics and integrity. This is very important. Therefore, this Board has been mandated to issue, maintain and enforce a code of ethics for engineers and will also be mandated to regulate their conduct. This is very important, because we cannot judge the performance of engineers and evaluate them, if there are no standards. But once standards are set, then we know that we can evaluate and assess the performance of the engineers. This is why I say this is a very important Bill. It has been brought a little late, but nevertheless, it is on this Floor and I urge Members of this House to consider it seriously and see it through into law.

Mr. Temporary Deputy Speaker, the issue of training and continuing professional development is very important in any profession. Learning is a continuing process. We do not achieve all we need to achieve just because we have passed examinations; you have obtained your degree or degrees. That is not the end of life. During the entire time, we must endeavour to update ourselves, familiarise ourselves with new technological developments in our fields. This is why I appreciate the philosophy of this Bill; to

promote training and continuing professional development on the part of all the engineers. This is very important.

There is also the issue of sharing knowledge and skills. Many people who have worked for long periods of time have accumulated lots of experience and skills. This is something they can share with others. Therefore, I appreciate the philosophy of the Bill that this is becoming mandatory that engineers practising in Kenya will be required to promote the younger ones and share knowledge with the younger ones by providing them with work in their workshops, industries and work places, so that the younger ones can learn from the seniors in the industry. This has been provided for in this Bill, and I think it is very important. We need a well organized engineering profession in this country, because this is the only way we can actually translate the profession into an effective vehicle for exporting engineering skills and services to the region and beyond.

Mr. Temporary Deputy Speaker, Sir, in our stage of development today, particularly considering the position we occupy in our region, we should be leaders. By now, we should have moved into a new level of exporting professional services. I think we can export professional services – accountancy, engineering and legal services – to the neighboring countries and to the region. This is very important and we believe that this Bill will provide the framework for doing that by developing a disciplined engineering profession, encouraging people to share knowledge, encouraging people to acquire more knowledge and to understand what happens globally. This way, we will put ourselves in a position where we can export professional services to the neighboring countries and, therefore, enable the country to enhance its capacity for earning the much needed foreign exchange.

Mr. Temporary Deputy Speaker, Sir, it is my conviction that this Bill is long overdue and, therefore, I second it and appeal to hon. Members in this House to ensure its passage into law.

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

*(Question proposed)*

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

**The Temporary Deputy Speaker** (Mr. Olago): Order, Mr. Mungatana! Do we have the input of the relevant House Committee into this? Yes, Dr. Ottichilo!

**Dr. Otichilo:** Thank you, Mr. Temporary Deputy Speaker, Sir. As an hon. Member of the Departmental Committee on Transport, Public Works and Housing, we have gone through this Bill. I want to say that the Committee is very happy with the contents of this Bill. As it has already been said by the Minister and the other Minister who seconded it, this Bill is long overdue. The Engineers Act, Cap 530, is outdated. It lacks enforcement provisions. That Act lacks the new provisions in the engineering technology. So, it is important that this new Bill that is has been proposed is discussed exhaustively in this House and passed. As the Minister has clearly said, the current law does not have strong enforcement provisions. That is why most of our engineering works are of very low standards and we have no way of enforcing it.

Mr. Temporary Deputy Speaker, Sir, the Committee has looked at various provisions and we have noted that there are quite a number of areas that need some

amendments, and we shall be coming up with amendments. In fact, tomorrow, we are meeting some of the key stakeholders in the engineering profession so, that we can discuss issues. However, we have flagged out quite a number of areas where we need some amendments. For example, under Clause 4, the Bill says that the headquarters will be in Nairobi. You know very well that the devolved government system will be in charge of the infrastructure at the county level. So, we believe that we need to have a provision so that the Board can have headquarters and other offices at the county level. So, that is one area where we would want to move some amendments when we bring them in the House.

Mr. Temporary Deputy Speaker, Sir, the other area is under Clause 5, regarding the membership to the Board. This Bill does not provide mechanisms to ensure that the appointment is transparent and competitive. So, we believe that we need to bring in an amendment, so that the appointment of members to this Board is clearly transparent and competitive. Also under Clause 7 – the functions and powers of the Board – our Committee is of the opinion that the functions of the Board should actually be increased to include advising the national and county governments on policy matters, providing continuous professional engineering education, and setting up requirements for persons applying for registration. We believe that is very important.

Under Clause 12, Mr. Temporary Deputy Speaker, Sir, we also believe that we need some amendments. Clause 12 deals with remuneration of the Board members. Within our Constitution, it is clear that setting up of remuneration, allowances or anything like that will be the responsibility of the Salaries and Remuneration Commission. So, we need to put this into consideration.

Mr. Temporary Deputy Speaker, Sir, Clause 13 deals with appointment of the Registrar. This Bill does not give the qualifications of the registrar. So, this is a very big omission. We would want this Bill to clearly specify the qualifications of a registrar, because he is going to be a very important person in the Board. So, we need to know that the registrar must have required qualifications. So, we will be proposing – after consultations with the stakeholders and the Ministry – what qualifications we need for this position. We also need to put in this Bill a provision that the registrar will be competitively recruited. Currently, the Bill does not indicate how the registrar will be recruited. It only says that the Minister will appoint a registrar. We need this important person to be recruited competitively.

Under Clause 14, Mr. Temporary Deputy Speaker, Sir, which is about functions of the registrar, we would want the registrar to be an employee of the Board, and not of the Ministry, because once he becomes an employee of the Ministry, there would be quite a lot of conflict of interest. So, this is an area where we will also be proposing some amendments.

Clause 18, Mr. Temporary Deputy Speaker, Sir, is about the graduate engineer. This Bill is not very clear what it means by graduate engineer. According to this Bill, a graduate engineer cannot use the engineering prefix. So, we want to know how we will define a graduate engineer. This should be very clear in the Bill.

Mr. Temporary Deputy Speaker, Sir, the other area which requires consideration by the Minister and all the stakeholders, is Clause 29 – that is the removal of persons from the register. These are engineers who would be removed after they have misbehaved, or they have had misconduct. Under what conditions will a person be

removed from the register? We need this to be clearly specified, so that, that is clearly understood and is fair.

Also, Mr. Temporary Deputy Speaker, Sir, Clause 36 (2) deals with the issue of suspension or cancellation of the licence. This actually also requires that we clearly specify under what conditions an engineer can lose or have his license cancelled. This is also not very clear in the Bill.

Under Clause 38 – Funds of the Board, it was the opinion of our Committee that a nominal fee from within the organization needs to be introduced to cater for the continuous training and make it compulsory. This is a proposal we are making but we will be having further discussions with the key stakeholders to hear their views on this matter.

Mr. Temporary Deputy Speaker, Sir, under Clause 43 – False Registration or Licensing, our Committee believes that the penalty given is too lenient given the role the engineers play. So we would like to look into the penalty. The penalty provided here is only Kshs500,000 or imprisonment of less than two years. We believe this penalty is very lenient. So we will also be discussing with the Ministry and relevant stakeholders to see whether we can increase the penalty.

Lastly, Clauses 46 to 49 deals with the prohibition of the use of the term engineer and other restrictions. We believe these should be clearly discussed again and understood. This is an area we believe should be very clear so that when we call somebody an engineer, it should be very clear what being an engineer entails, what experience one requires and what qualifications you are required to have.

Mr. Temporary Deputy Speaker, Sir, these are some of the proposed amendments we are going to make. We are, however, further consulting the stakeholders tomorrow and we shall be bringing very comprehensive amendments when we go to the Committee of the Whole House. Thank you.

**Mr. Mungatana:** Mr. Temporary Deputy Speaker, Sir, I want to thank you for giving me the opportunity to also make my small contribution to this Bill.

I also want to join my colleagues who have congratulated the Minister for making the effort to bring this Bill before this House so that we can have better regulation for the practice of engineering in Kenya.

Mr. Temporary Deputy Speaker, Sir, I am very happy when the Ministers take it upon themselves to repeal archaic laws. Surely, the 1969 Engineers' Law could not be useful at this time in this period we are living in.

I also wanted to join Dr. Otichilo in pointing out a few things that the Minister might wish to consider in terms of improving the Bill. First of all, there is continuous reference to the term “Minister”. I do not know whether it is deliberate or not, but it is something that needs to be corrected so that we do not have to bring this law again, immediately it is passed, for amendment so that it can be effected. Even appointments in some places are by a Minister. We are saying that we are in a new dispensation and we ought to go back to the Cabinet Secretary under the new Constitution.

Mr. Temporary Deputy Speaker, Sir, Clause 7 that talks about the functions of the Board. One of the functions under (r) says:-

“The function of the Board is to determine the fees that are to be charged by professional engineers and firms for professional services rendered from time to time”.

This effectively means that the Board will be determining if an engineer is involved in a certain project, then this kind of project should be charged this way. I wanted the Minister to consider putting a clause or provision that will allow for negotiations. Surely, the economy is not going to be fixed and to get things changing even through a Board might take a long time. The reality of the fact is that Engineer X and Engineer Y may not have the same competences. If it is competences that are the same, they may not have the same commitment or capacities to complete works within certain periods of time. This could be the basis for negotiations in terms of the fees that should be charged.

What I know is that if they fix certain fees and do not allow for negotiation, then it will be professional misconduct for any engineer to charge higher or lower than what the Board prescribes. This is not good for purposes of developing engineering as a competitive discipline where people can negotiate and those who are offering good services can also get good value for the services they have agreed to offer.

Mr. Temporary Deputy Speaker, Sir, I am very happy about the fact that in this particular law, there is a very clear delegation of the Board's duties to a committee. We have passed some laws here or have seen some laws which have been giving so much duty to the Boards, and then the Boards themselves are comprised of people like Permanent Secretaries and such, who may not even have time to sit on those boards. For example, what I have in mind is that the Board here will have powers to go into premises and inspect, and to find out whether professional standards are being maintained. If the Board is supposed to do that like is in some laws we have seen drafted here - there is no Committee doing that - then it will be overwhelmed. How many projects are in this country? I am very happy about that clause.

However, going again back to a more critical issue in Clause 22. It talks about the restrictions in the registration of foreign engineers in this country. I want the Minister to think about this provision more clearly. I want his officers to be more creative about what we are going to do to protect our local engineers. Clearly, these provisions here are not good enough, in my opinion, to protect the local talent that we have. The only prohibition that has been put there in the case of a natural person is that that person is a professional engineer in the country where he normally practices before entering Kenya. That is the only qualification and restriction of a natural person. The second one is that he has a valid working permit. Truly, it cost this Government a lot of money to train engineers. Also, it is very true that in some instances, we must have some protection of sorts so that we can make the engineers that we have in Kenya earn something serious.

Mr. Temporary Deputy Speaker, Sir, what I have in mind is that there are huge infrastructural constructions that are going on particularly from the Chinese who have basically invaded the economy of this country. I must say, even in the profession of engineer, they come, win the tender and get involved in huge transactions, huge projects and earn millions of shillings. When they finish, it is Government to Government! They walk away! Our own engineers could benefit here if we make it compulsory that they are the ones who must do the projects unless there is no professional competence on our part. I am saying that we must create restrictions.

I am happy about part "b" which says that if it is a firm which is incorporated in Kenya and it is a foreign firm, then that firm must be 51 per cent owned by locals.

In the case of a firm, ownership must be 51 per cent by Kenyan citizens. However, in the case of an individual who walks in and says he is a professional engineer, he only needs to pay a few shillings to the Ministry of State for Immigration and Registration of Persons to get a work permit. He then comes and collects so much money when we have engineers in Kenya, who could as well do the same job. Let us make it difficult for people of the engineering profession from other countries coming here. You can imagine all these infrastructure projects that have been done by the Chinese. If we had made it a requirement that Kenyan engineers must be the ones to carry out the designs, how many Kenyan millionaires would we have created? That is what we want in this country.

Mr. Temporary Deputy Speaker, Sir, we have now created a lot of Chinese professional engineer millionaires and we have left out our own local engineers, who could have designed those projects. In fact, these people could have been forced, if the law was in place, to work under the Kenyan engineers because they must get the signature of the professional Kenyan engineer for that work to be considered. So, I would like to ask the Minister that we think together as to how we are going to make engineering a good and profitable profession.

The only exception is maybe when we need to merge with the East African Protocols, because we also need to export that talent to other countries. However, for other people who come into this country, we must have proper restrictions. We need to look at what the Law Society of Kenya is doing. We need to borrow. As a professional lawyer, I know that someone cannot come from another country and just walk in here and do work and walk away. There are certain prohibitions in place. There is no harm in importing those prohibitions here, so that we can protect our budding engineering profession.

Mr. Temporary Deputy Speaker, Sir, the second point I wanted to make is in relation to Clause 30. I am very happy that in this law. The Minister has proposed that the Registrar must publish not later than 31<sup>st</sup> March every year, particulars of all registered and validly licensed persons or firms and their categories of registration. We can improve this by making the requirement that the Registrar must also put the same information in two or three newspapers with nationwide circulation, so that Kenyans can also know. This is because not many Kenyans access the Kenya Gazette.

So, let us make it a requirement that the Registrar will also be required to publish those names in newspapers with nationwide circulation, so that even governments in the counties, which may not have very quick access to some of the facilities, may know if these people are qualified for the kind of work they will be looking for. I want to agree with Dr. Otichilo on what he said about Clause 43, which talks about the offences and the penalties relating to impersonation arising from fraudulent representation and declaration. The proposed penalty of Kshs500,000 is not enough. For example, if someone commits a crime by doing a project which then collapses, the kind of collateral damage that will be caused is far above the penalty of Kshs1 million that is proposed under this clause.

Mr. Temporary Deputy Speaker, Sir, I was going to propose that there should be percentages attached to the punishment, so that if you decide that you are going to cheat on a big project, then you will be prepared to pay big. That way, people can be discouraged from going into this kind of practice. In Kenya, we have seen a problem lately. Even the complaints and disciplinary process proposed in this Bill is wanting. I am

talking about Clause 51(8). You find that a conviction attracts a fine of Kshs50,000 or Kshs100,000. This should be looked again, so that we can have proper deterrent punishments.

What has bothered me, in relation to revocation of licences as provided for under Clause 51(11), is that the law seems to be protecting people who may misconduct themselves in the profession. It says that despite any other provisions in this Act, the Board shall not remove the name of a person from the register or cancel a licence issued to that person unless at least two thirds of the members of the Board so decide. If someone misconducts himself so badly that his case required that he must be removed from the register of engineers, there is no need of the Board again passing a resolution to that effect, supported by two-thirds of its members. This is too protective.

Mr. Temporary Deputy Speaker, Sir, even for us in the LSK, if you are de-registered, there is a process through which you can be rehabilitated. There is a process through which someone can apply for a review of his case. He can show, maybe, after two or five years that he has changed and that he is able to practice properly. You cannot say that two-thirds of the membership of the Board must be in agreement to remove this person from the register. If this person is wrong, he has caused deaths of people or he has messed up in one way or another, he should be deregistered. We cannot protect people to that extent. So, I would like the Minister to look at this and, maybe, borrow from other professional bodies. Let him be punished but let there be a process for him to rehabilitate himself, so that he can subsequently show the Board that he is capable of being a good professional.

With those few remarks, I really thank the Minister for coming up with this Bill. I hope that we will bring the necessary amendments to make a better law and pass it with one heart.

Thank you.

**Eng. Gumbo:** Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me the chance to support this Bill, which, as my colleagues have said, is long overdue.

Mr. Temporary Deputy Speaker, Sir, I was just looking at the long title of the Bill, which says that it is an Act of Parliament to review and update the law relating to the training, registration and licensing of engineers and the regulation of the practice of engineers.

**The Temporary Deputy Speaker** (Mr. Olago): Order, hon. Gumbo! What you are reading is not the Long Title. That is the Preamble.

**Eng. Gumbo:** Sorry, I was told it is the preamble or the long title. If you look at that preamble, you will appreciate that the role that is envisaged here is actually that of a stern gatekeeper and that, to me, is really not what we are looking for. We should now move, so that in addition to gate-keeping, we place bigger emphasis on the development of the practice of engineering. Why do I say so? You will excuse me in this case, because I may be speaking selfishly. It has been said in some quarters, and I agree, that if you want to gauge the development of a country, one of the quickest indices is the ratio of that country's population to the number of engineers. For instance, China has six million engineers against a population of 1.3 billion people. So, they have a ratio of one engineer to 300 people.

In the case of Kenya, by "engineers", I mean those engineering professionals who are registered in accordance with Cap.530 of the Laws of Kenya are now only less than

2,000 in a population of 40 million people. So, you are looking at a ratio of 20,000 Kenyans for every one engineer. I do not have to tell you which one between Kenya and China is more developed. Looking at it that way, we need now to place more emphasis on the development of the practice. The reasons are obvious. Those of you who have been keen and have been looking at the Press, there is almost a rebellion at the Faculties of engineering at Egerton, JKUAT and Masinde Muliro universities because the way the faculty understands engineering in contemporary terms is not the way the Board, as it exists now, understands engineering.

For example, you will see that those who have done geology and are actually qualified engineers have been denied registration. According to the Board, they do not qualify to be engineers. Those who have done computer engineering have been denied registration because according to the Board, those people do not qualify to be engineers. In fact, if you read today's newspaper, former engineering students of JKUAT and Egerton University who have been denied registration on the grounds that the Board does not recognize the courses that they took, have actually gone to court. This is not what we want. I think we want the Board to place more emphasis on the promotion and development of engineers.

Mr. Temporary Deputy Speaker, Sir, the instances are many. I am also a member of what used to be called the Institution of Electrical Engineers of Great Britain. Now, it is called the Institution of Engineering and Technology. In that institution, even if you applied today with your Form Four certificate, they will not tell you that you do not qualify. What they will tell you is that we have looked at your academic qualifications. For you to be able to go to the first step of being registered, you need to do the following. In our country it is not like that. If you make an application, you will straightaway be told, for instance, right now, that in order to become a registered engineer, you have to be a graduate. You will straightaway be told you are not a graduate and, therefore, we cannot register you.

I think we need to place more emphasis on developing programmes that ensure that we facilitate the registration of engineers. To be honest as has been said by some of the contributors who spoke before me, the fact that we have so many foreign engineers in the country is a testimony to the fact that they are not enough.

Mr. Temporary Deputy Speaker, Sir, two years ago, I wanted my daughter to be like me; to do engineering. I thought she could because the basic requirement in engineering is Mathematics and she was good at that. But I took her for a walk to what we used to call the American Wing; that is, the Electrical Engineering Department of the University of Nairobi. When she saw the equipment and the apparatus in those laboratories, she said that this is not the place she wanted to be. It is a big problem because you still find students being instructed using the same apparatus which were supplied by the American Government in the early 1960s. Honestly, the world has moved on.

We need to ensure the engineering programmes being taught at the universities are up to date. I think the Board needs to have a role here. I have given you the examples of the uproar that is at Masinde Muliro University, Egerton University, Kenyatta University and even Jomo Kenyatta University of Agriculture and Technology, which is one of the universities with the most modern equipment for teaching engineering.



In addition to the duties that have been envisaged in this Bill, I think the Board really must ensure close working relations. It is a problem. I know of many people in this country who left the university more than 20 years ago, but they have not been registered. As a matter of fact, I want to confess here that for me to get my registration which was early by the standards of the Board, I literally sneaked in by presenting an academic project which the Board members did not quite understand. We do not want it to be that way. Why should someone who has a university degree be out there for 20 years and still not qualify to be called a professional engineer?

So, I think the Board really must reinvent itself. I have looked at what the Bill proposes. One of the major amendments that we need to propose is that even the Board must strive to be contemporary. We have had many cases where you go to site calling yourself the consulting engineer and some of these young boys and girls who are very good in Information Technology (IT)--- As times goes by, the borderline between IT and engineering is actually very thin. Sometimes it disappears totally. Even the borderline between science and engineering disappears totally. Sometimes it disappoints you when you find that somebody who has presented themselves as the expert is actually a person who needs to be taught what is contemporary.

So, I think there must be a way for the Board to always be up to date. The comments you get from the young graduates who go to the Board to be registered is that the Board is not up to date. The Board is still stuck in many years gone by. For instance, it is not spoken, but according to the Engineers Registration Board, engineering in Kenya is defined as electrical engineering, electronics engineering, mechanical engineering, civil engineering and structural engineering.

Anybody knows that even some of the most sophisticated types of engineering, for instance, aeronautical engineering, very few manage to get registered because in the Board's mind, their definition of engineering is still very closed. I will be proposing amendments here so that it includes even our understanding of engineering. What is engineering? Engineering as has been defined here is what it is. But most importantly, engineering is concerned with the results. How can you then not accept that somebody who is applying science appropriately to give you results still cannot be called an engineer because maybe unlike the Member for Rarieda, he does not have a certificate saying that he is an engineer in electrical engineering? We need to define the bounds of engineering to capture the realities that are contemporary with us now.

I have talked about the need to facilitate the quick registration. It takes back the country when you have to practice for 20 years before you can get recognition as an engineer. I do not wish to go to what most of my colleagues have said, but I think this issue of ensuring that programmes are up to date is very important. One of the reasons why the Board cannot be able to effectively police the engineering programmes at universities is that the resources they have now are very limiting. I think this Bill will not be adequately progressive if it does not address the issues of making sure that the Board is empowered to ensure continuous professional development of engineers. That is why under the financial provisions, I will be proposing that we introduce a fund, sort of a levy from those who are practicing engineering in this country, so that we can have a small percentage of the fees that is paid out being channeled into a fund that can be used for continuous professional development of engineers. I think it is also important because as you know, a lot of these things that we are using, and even most of the IT skills that we

acquire at the core of it, is actually engineering. We need to make sure that we are contemporary.

Mr. Temporary Deputy Speaker, Sir, the penalties that have been proposed here, in my view, are not enough. Those of us who have been and still are practitioners of engineering suffer a lot in the hands of quacks. In the law, even as it existed before, one of the terms that is completely abused is the title “engineer”. Even in the village, small plumbers who fix toilets walk around with bulbs calling themselves engineers. We suffer because electricians who do no more than changing bulbs walk around in the villages and when they walk in, because there is a shortage, people look at them with their goatskin bags and say that the engineer has arrived. There are masqueraders as the Minister will tell you. Even in the Ministry, there are masqueraders who carry big titles when they are not, in fact, engineers. The law needs to be stiff to discourage the misuse of the practice of engineering because our country needs professional engineers to progress accordingly.

Hon. Mungatana has mentioned briefly the issue of ensuring that we help our local engineers to grow. The Bill has proposed that if a foreign firm wants to register a consulting engineering firm, at least 51 per cent should be locals. We need to take it further and say that the 51 per cent of the directors must be Kenyan citizens by birth. We really must protect our industry. Right now, you see huge infrastructure projects being undertaken like the Thika Road, Mombasa Road, at the airport and all over the place. We want our engineers to gain not just by getting quite a big piece of that pie, but also to be able to get skills. I will be proposing an amendment that foreign engineers who come to work in this country, one of the things that they must leave behind together with their bid; they must present a clear programme of skills transfer, so that we do not have to always be depending on foreigners to get things moving. This is very important and is done in all the other countries.

I am aware and alive to the fact that we now are in the East African Co-operation and we are the ones who stand to benefit because much as our overall numbers of engineers are not up to date, we are still much better off than our neighbours in the region. We want to export as much of our skills as possible. Still, let us make sure that the entry for foreigners is not as easy as it is now. Over the two decades that I have been practicing as an engineer, I have seen foreigners who come here as draftsmen with very little skills, over time, walking around in sites calling themselves engineers. I do not think it can happen to Kenyans who go to work in other countries and we cannot allow the export of our money and our resources in such an easy manner.

I want to thank the Minister for bringing the Bill but I want to assure him that I will be asking for his support because I intend to propose very many amendments purely to enrich the Bill, so that Kenyan engineers who practice in this country can proudly feel that not only are they adding value to the affairs of this country, but are also helping Kenya to move to the attainment of Vision 2030.

With those remarks, I support.

**The Minister of State for Planning, National Development and Vision 2030**

(Mr. Oparanya): Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this chance to contribute to this very important Bill. On the outset, I want to congratulate the Minister for bringing this very important Bill. This Bill is overdue and I hope its operationalization will correct the chaos in the construction industry.

We have been hearing of collapsing storeyed buildings where you expect structural engineers to have been involved. We have had very poorly constructed roads and you will find that any public road that is constructed, engineers from the Ministry of Public Works are involved. I hope that the measures that have been brought up in the Bill will correct the mess that we have had. As a Minister in charge of Planning, the role of engineers is very important especially in the implementation of Vision 2030. In our current Visio 2030, especially the Medium-Term Plan for 2008 to 2012, we have identified 194 crucial flagship projects that we need to implement for this country to attain a faster economic growth. All these projects will require the involvement of engineers. So, the role of engineers is very important in our attainment of the Vision 2030.

Mr. Temporary Deputy Speaker, Sir, when the Assistant Minister was moving the Bill, he said that the Government spends about 20 per cent of the Budget on infrastructure development. He mentioned energy, water, roads, sports, irrigation and airports. The correct figure is actually 30 per cent. Our plans are that in the next Medium-Term Plan which we are now planning from 2012 to 2017, we want 40 per cent of the Budget to go towards infrastructure development if this country has to move faster for the attainment of the ideals in the Vision 2030. For us to attain the Vision 2030, infrastructure is important. In fact, in the Vision 2030, we say that infrastructure is the foundation which underpins the achievement of the Vision 2030. The role of engineers is quite important.

Having said that, there are few issues in the Bill which I thought I should point out. I am not an engineer, but an accountant. In the definition of engineers, we are talking of consulting engineers, graduate engineers and professional engineers. It will be very difficult if you are a layman to identify these engineers. I thought it would have been useful just to have one definition of an engineer and say that an engineer is of such and such qualifications. You should just say that an engineer is defined as such or registered as such, instead of having professional, graduate and consulting engineers.

Mr. Temporary Deputy Speaker, Sir, the other area which I saw points out that even diploma holders will be registered as graduate engineers. I find that interesting because when you talk of a graduate, I thought that you are talking of someone who has a degree and not just someone who has a diploma. If you look at Clause 18, it says that: "For someone to be registered as a graduate engineer, he must be a holder of a degree or a diploma, or its equivalent". What is this equivalent? Who is this having an equivalent qualification who has to be registered as an engineer?

Mr. Temporary Deputy Speaker, Sir, another issue that I noted in the Bill is the size of the Board. The Board will have about six members from the Government and eight members from the private sector or from organizations related to engineering services. I find that particular Board quite big. For a board to be effective in corporate governance, in fact, nowadays, it is advisable for it to have between nine and 11 members. That is according to good corporate governance.

The other thing that I wanted to point out in the Bill is that amongst the functions of the Board is to conduct professional examinations. I would have felt that that function of conducting examinations, as we do in the accountancy profession--- In the accountancy profession, there is a registration board like the board that we are creating here, and then there is a separate entity called KASNEB, which conducts the professional examinations. Within the board, there is also provision for disciplinary action. Provision

for disciplinary action is already provided for in this Bill; but I would recommend that when the amendments come - my good colleague, hon. Gumbo, is here and is hearing me – for good corporate governance, we should set up a separate board for purposes of conducting professional examinations, so that the Board has only the powers to register, discipline, so that issues of examinations are completely separated from it.

Mr. Temporary Deputy Speaker, Sir, the other issue that I have noted is the appointment of the registrar. Within the Bill, it is recommended that the Minister will appoint the registrar. I think this practice of Ministers appointing such persons is now being overtaken by events in view of the provisions of the new Constitution. I think what is important is that the Minister's role should be limited to just gazetting whoever is appointed as a registrar. The recruitment process, which must be competitive, should be left to the Board.

Mr. Temporary Deputy Speaker, Sir, there was also another issue but I cannot find it. The issue I support in the Bill is that there should be a school of engineers. That is very important in view of the new innovations that are coming up like computerization. This particular Bill has taken about 42 years to come here. So, in view of that, I thank the Minister for thinking that there must be a school of engineers to make them understand the new changes that are evolving as we develop as a country.

There is one issue that I also want to commend on; the control of fees which is to be charged. As the Minister in charge of the Constituencies Development Fund (CDF), I have found out that sometimes when we want services from private engineers, the consultancy fees can be very prohibitive. Therefore, their involvement in some of the CDF projects has been minimal. For us to come up with good structures, it is very important that engineers are involved. So, the issue of fees is important. There must be control to ensure that the fees is affordable.

With those few remarks, I support.

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

**The Temporary Deputy Speaker** (Mr. Olago): Order, hon. Wetangula! You are out of order to have stood up when hon. Oparanya was on his feet. I will give you the Floor, hon. Wetangula.

**The Minister for Foreign Affairs** (Mr. Wetangula): Mr. Temporary Deputy Speaker, Sir, my apologies. Maybe it was due to anxiety to contribute to this important Bill.

Mr. Temporary Deputy Speaker, Sir, this Bill has been long overdue. That is important for the development of our economy and for the achievement of our vision as a country. Engineers, no doubt, play a critical role in any economy, because the foundation of any economy relies on infrastructure development. I think it is very important that now that we are in a new era and dispensation, we must have a law that guides and governs a profession that is so important to the economy.

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

*[The Temporary Deputy Speaker*

*(Mr. Njuguna) took the Chair]*

Mr. Temporary Deputy Speaker, Sir, one thing that we must appreciate in this country is that we have produced a lot of good engineers. If you go around the African continent, you will find economies of southern African countries – South Africa itself, Namibia, Botswana, Zambia, Zimbabwe, Malawi and closer home, Tanzania, actually run on the strength of Kenyan engineers. The chief engineer who led the construction of the entire infrastructure for the World Cup in South Africa was a Kenyan, and he did a wonderful job. If you go to the USA, you will find very consummate Kenyan engineers, all trained here, mastered out there and are doing a wonderful job. But I am afraid that you cannot say the same of our engineers here. Why are Kenyan engineers doing so much out there and so little back here?

Look at our infrastructure. We vote for money here, construct roads and the road wears away before you even officially open it, yet their construction is supervised by our engineers. I think the regulation to control the work ethics and the commitment to excellence by engineers has been weak to the extent that nobody has been held to account and to take responsibility. You find an engineer routinely issuing a certificate of completion of every stage of a construction that, even to a layman like you and me in engineering, is shoddy.

This country has had very serious accidents in the construction industry because of incompetence of some of our engineers. The Ronald Ngala Road structure was an example. We have had several structures crumbling like a pile of cards. There was the Nyamakima construction, and we have lost human lives. When you look at it, there was an engineer involved.

When you look at it, there was an engineer involved, who issued a certificate with total abundance that what was being done was proper and correct. Most of those engineers have gotten away with it. They have not been disbarred from practicing their profession. It is only one case - I think of Ronald Ngala Street - where I saw the engineer in court. I do not know how the case ended.

Mr. Temporary Deputy Speaker, Sir, those are the ones we see. But there are the ones that we do not see. There are the bad roads. In your constituency, you give a contract to grade and murram a road and they put mud on the road and walk away. The engineer signs the certificate and money is paid. In my own constituency, there is a road running from Bungoma through Kanduyi, Sirisia, Webuye up to Kimilili. We are waiting for the President to come and officially open it. But it is worn out as if it is ten years old. The Government has sunk in that road Kshs900 million. There is a road from Butere down to Yala. It has not been opened and yet, it is worn out. The Government has sunk in that road close to Kshs1 billion. You can count many such roads.

**The Assistant Minister for Roads** (Mr. Kinyanjui): On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for the hon. Minister to make unsubstantiated claims of roads where the Government has sunk billions and hardly before they are opened, they have already collapsed? Are they only found where he comes from? I think it is not right to portray the image of the Ministry as one that is corrupt. I think if there are instances where that is happening, we have the right forum to address that.

**The Temporary Deputy Speaker** (Mr. Njuguna): The onus is now on the contributor to give that firm substantiation.

**The Minister for Foreign Affairs** (Mr. Wetangula): Mr. Temporary Deputy Speaker, Sir, my very good friend knows very well. Hon. Eseli is here. The Bokoli Road passes through part of his constituency. Hon. Bifwoli is here and he passes on that road. Hon. Oparanya who has just left - the Butere road passes through his constituency. We, the Members of Parliament from the area have even written to his Ministry to protest the shoddy work on those roads. We have written to the Ministry and met the Permanent Secretary and the Minister.

**The Temporary Deputy Speaker** (Mr. Njuguna): That is adequate information. Can you proceed?

**The Minister for Foreign Affairs** (Mr. Wetangula): Thank you, Mr. Temporary Deputy Speaker, Sir. I have also talked to my colleague here and he knows. I think he just wanted to derail me. I never said anything about corruption. I was talking about shoddy work by engineers; certifying that a road has been done when what has been done is not even a road. They certify that there is a tarmac when there is not even a tarmac; just a veneer of tarmac. This is what this Bill is addressing. Now there will be standards which will be observed and enforced. Those who will flout them will meet very harsh penalties. I thank you for bringing this Bill, Mr. Assistant Minister.

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

*[The Temporary Deputy Speaker  
(Mr. Olago) resumed the Chair]*

Mr. Temporary Deputy Speaker, Sir, if we are to achieve the status of a developed country and yet, we have to sink money in the same projects every other year, then we are not doing the right thing. I also want to urge my colleagues in the Ministry and the construction sector that our economy will not grow as much as we desire if our infrastructure, particularly the roads, are not only properly constructed, but routinely repaired and maintained. There is one World Bank official who joked that in Africa, we do not have any word for repair and maintenance. Once you construct, *inatosha* until it wears out and then you reconstruct again. Yet, when you go to Israel, the highway from Damascus on which Saul was struck to become Paul is still there. How many years are those? It is over a century. I think it is important that the Board that is going to be set up to license and regulate engineers must be proactive and exercise an oversight and supervisory role. It should not only just sit to wait for complaints, but go out to see what is going on. That is because if they just sit to wait for complaints, then they are not doing the right thing.

Mr. Temporary Deputy Speaker, Sir, one thing that this Bill has omitted-- - and I want to urge the Assistant Minister because normally, I do not have time to bring amendments to any Bill here. We are now integrating as East Africa and moving towards a federation. Bills that regulate professionals, whether they are doctors, engineers or lawyers must take the perspective of an East African integrated region. We must allow in this law engineers from Burundi, Rwanda, Tanzania and Uganda to be eligible for

registration to practice as engineers, just like our engineers do the same in those countries. That is the only way we can move towards competition that breeds good quality and integration of East Africa. I hope that the Assistant Minister, at the Committee Stage - because I flipped through very quickly and saw no mention of East Africa as a region or an approach to integration - needs to tap from the region the very best that we can have.

Mr. Temporary Deputy Speaker, Sir, I also want to urge the Minister that once that Board is in place, there is a provision for rules. Luckily, we have passed that for any rules to be operative and effective, they must come to this House. I would want to see in those rules very clear guidelines on those who are registered, their levels of operation and participation in various projects and, above all, the expectations on probity and ethics. That is because, today, there is so much work for engineers in this country that we do not have enough engineers to do it. But there are so few engineers holding so much work in this country, that the rest of the engineers have very little to do. Those few engineers holding so much work in the country are unable to spread themselves everywhere. So, what they do is this: An engineer sits in Nairobi and opens an office in Kisumu and puts there an articulated clerk. Then he or she opens other offices in Kisii and Garissa and puts there articulated clerks. They are busy signing false certificates to authenticate jobs that have not been properly evaluated by a qualified engineer; just in the name of the qualified engineer who is sitting in Nairobi.

Mr. Temporary Deputy Speaker, Sir, the Minister should also, in this Bill which I have noticed is lacking, put a regulation that requires that an engineers who opens a branch of his firm in any part of the country or region, must ensure that, that office is run by a competent engineer like himself. That way, we shall spread competence everywhere, other than using articulated clerks, using your certificate to pass as good what is not good or, where they have no competence, to pass that it is good. I think if we do that, we will be able to help this country.

Mr. Temporary Deputy Speaker, Sir, I want to urge the Ministries involved in construction and infrastructure; that is, Ministry of Housing, Ministry of Public Works, Ministry of Roads, Ministry of Energy and Ministry of Water and Irrigation, that, in fact, this Bill should have been co-sponsored by all those Ministries. That is because engineering is not just about roads. We have dams, boreholes, houses, power pylons, extension of rural electrification and irrigation. All those require engineering practice and good engineering services. There is hardly anything in this Bill that talks about regulation of engineers involved with irrigation or energy. Why do we still have people climbing poles to siphon oil from transformers, when our engineers can insulate us from that? It is not available here and we want that. I want to urge the Minister that after this Second Reading, it will still be necessary for those line Ministries to sit together and scan through the Bill and enrich it even more, so that we are not just talking about engineering roads. That is because roads are just a small segment of what engineering is all about.

*(Mr. Kivuti entered into the Chamber)*

My friend who is walking in here is a very consummate engineer! However, he is not a roads engineer. He also needs to be covered, and many others.

Mr. Temporary Deputy Speaker, Sir, something else is missing here; Kenya has a coastal line. We have a port. We are about to develop another. Again, there is no mention of engineers involved in marine work, which is very key. For example, if we finished the Northern Corridor link of Lamu – Isiolo – Southern Sudan – Ethiopia, which involves very serious engineering--- We have a port. We have highways. We have railways. We have fibre optic cables. We have pipelines. Again, those also need to be covered. Why should we have a pipeline burst at Sinai and cost us lives, if we have engineers, who have the capacity to detect the wearing away of any part of the pipelines? There is technology to know the weak points on any installation. The penalties provided here for wrongdoing are too soft. If an engineer is involved with a multi billion pipeline and he is found guilty of wrongdoing, and you fine him, Kshs500,000, after killing 100 people, or after costing the economy billions of shillings, I think that is a joke. Those fines must be commensurate with the damage done to the economy. You have seen how high the fine was for the Indian nuclear accident; billions of dollars, because the fines must meet the gravity of the offence. So, the Minister, again, should look at this, and graduate these offences depending on, where the offence is; how it affects society, how it affects the economy, and the damage done to human life.

Mr. Temporary Deputy Speaker, Sir, the purpose of legislating is not just for us to pass a Bill. The quality of the law lies in its enforcement. If we pass this Bill and even a cyclist sees our tarmac developing a pothole, then our engineers will have given us a raw deal. As I said, they have done a wonderful job out there. I was impressed to find a Kenyan engineer in charge of infrastructure in the run down to the World Cup in South Africa. You should go and see that infrastructure. It is a First Class job. It is World Class! These Chinese engineers doing our roads are just training like our engineers. I think what we have failed to do, and this line Ministries must do, is to regulate; ensure standards are set and adhered to, and also ensure that engineers do not become part of the contractors. That is where the problem lies. You find a Government engineer who has been assigned to oversee the road or a project as the resident engineer sitting in the office of the contractor, working on the computer of the contractor, driving the car of the contractor, and literally being part of the contractor. How can he supervise the contractor? This Bill should distinguish very clearly that oversight engineers must stand independent of the contractor, so that they can supervise, approve or disapprove whatever they do, from a point of independence and impartiality. But if an engineer is driving the contractor's car to go and inspect a road, do you expect him to really say that this is a bad job? The contractor can tell him to walk away, and take away his car. So, we need again to separate this, so that the contractors do their job; the engineers also do their job and supervise the contractor from a distance.

Mr. Temporary Deputy Speaker, Sir, this country has of late put a lot of money infrastructure. I want to plead with our brothers and sisters engineers that as we move to the next phase of the development of our country--- As we move into mineral exploration and exploitation; coal in Kitui, gold in Kilgoris and in Turkana, we look to our engineers to rise to the occasion and turn the wheel of the economy. We have so much that we look to our engineers to help the country move forward.

I support the Bill. I hope that my colleague the Minister, with other line Ministers, will liaise together to put more value in the Bill, to capture everybody in the net to help the country. Thank you.



**The Temporary Deputy Speaker** (Mr. Olago): Thank you, hon. Wetangula. I wish to ask the Mover of the Motion, hon. Lee Kinyanjui to respond.

**The Assistant Minister for Roads** (Mr. Kinyanjui): Thank you, Mr. Temporary Deputy Speaker, Sir. I wish to start by thanking all those who have contributed to this Bill. I would like to specifically thank the Seconder of the Bill, hon. Obure and other speakers like Mr. Oparanya, Mr. Wetangula, Mr. Mungatana, Dr. Otichilo, Eng. Gumbo and all the others, who have contributed. I want to assure all of you that your input will be incorporated. I also hope that when it comes to the Committee Stage, you will be there to move some of the amendments that you have suggested, and to be able to share them with the House at large.

Having said that, allow me also, to make one or two observations from what we have heard. I want to assure the hon. Wetangula who has clearly said that ideally this Bill should be able to take care of engineering in all forms and fields in which engineering is practised. Yes, indeed, it is true that we have water engineering, irrigation engineering, and housing among the other sector Ministries that are involved. I wish to assure him that this Bill is a product of consultations among the entire sector Ministries. As we move in the next stage, we will ensure that all the Ministries that are involved will be able to give their input before we move on.

We have also involved all the other professional groups, including the Architectural Association of Kenya. Therefore, I am sure that finally when we come with the final Bill, it will have the benefit of addressing the interests of all the Ministries that are involved.

Mr. Temporary Deputy Speaker, Sir, it has also been said that a lot of times when engineers are involved in malpractice in their fields of operation, sometimes the penalty that is given even by the courts is too small to take care of the damage that they have done. It is, indeed, true. I am sure we will, probably, look at this further, but there is a product within the insurance field that they call the indemnity policy that will be able to care of this. I am sure this is one of the areas that we will want to look at so that before engineers undertake any job, there is an insurance that will be able to take care of any eventuality in the event that we are not able to do so.

Mr. Temporary Deputy Speaker, Sir, it was also said that we have a huge influx of engineers from other countries, specifically from China, who have come in, in recent times. We wish to acknowledge that that, indeed, is the case. But of course, we must also appreciate that just a few years ago, the financing of the infrastructure sector Ministries was so small that the growth of that sector was too slow to be able to cope with the recent financing that we have had in the last few years. However, we hope that we will be able to get the relevant technological transfer from these foreigners who have come to be able to impact positively on our local engineers. After a few years, we should be able to have that. I salute the suggestion by the hon. Members that even the consultancy firms that are here should be able to have a majority; that is 51 per cent and over from local engineers. This will ensure that the participation of local engineers is taken care of.

The hon. Gumbo also mentioned the issue of the ratio of engineers to the population. He correctly said that we have the ratio of one engineer serving a total of about 20,000 people. What is important to note is that out of these 2,000 engineers that we have in Kenya over 80 per cent of these engineers are to be found in Nairobi. Therefore, you will go to some of our other towns outside Nairobi, and you find that there

could, probably, be one or two engineers only. As a result of that shortage, sometimes they have had lesser qualified or even unqualified personnel purporting to be engineers. What they do is that after they come up with the architectural drawing or structural drawing, they pass it through the registered engineers and without having to go through and to look at the details. They just append their signature and thereby we pass drawings that will later become a big problem to our people.

Therefore, I salute the recommendation by the hon. Member to try and increase the number of engineers in this country to ensure that we are able to meet our goal in the Vision 2030.

Mr. Temporary Deputy Speaker, Sir, it has also been mentioned that we have the East African Community (EAC) integration that is coming, and we are expected to play a key role in this area. The member countries are also expecting that Kenya, being a leading nation in the area of infrastructure, will also participate in ensuring that we help other countries to move forward.

Mr. Temporary Deputy Speaker, Sir, it was mentioned here that any member of the EAC can become an automatic member of the engineers body here in Kenya. Whereas that may be correct, I think it is important to ensure that even as we allow others to join us, we do not dilute the standards because, indeed, the essence of the field of engineering is precision. We would want to ensure that all the engineers who are registered in Kenya are properly trained and, therefore, we do not have the issue of low standards.

Mr. Temporary Deputy Speaker, Sir, it was also mentioned here that the revocation of licenses would require two-thirds majority in the board. I want to agree with Eng. Gumbo who mentioning this; I think we will be looking at this area to ensure that we do not make it impossible for offenders to be kicked out of practice.

Mr. Temporary Deputy Speaker, Sir, as we do that, we would also want to ensure that we do not allow competition among the players within the industry to be driven to the board. We do not want to make it so easy that differences between players in the industry – because at the end of the day, these are players who are also in competition. I think that would be dangerous if it went that way.

Mr. Temporary Deputy Speaker, Sir, there is the issue of the mention of the Minister in the Bill. As you know, under the new Constitution, we will not have the “Minister”. Hon. Mungatana raised the issue of whether we will bring this Bill to the Floor of the House before even a year is over, because we expect that in the new dispensation, we will not have Ministers; we will have Cabinet Secretaries. We will also look at that and I am sure we will be able to make the necessary adjustments.

Lastly, Mr. Temporary Deputy Speaker, Sir, it was mentioned here that we have engineers who drive vehicles that belong to the contractors. I wish to correct that. The reality is that whenever a contract is being crafted, there is provision for a vehicle for supervision, and this is, indeed, the practice all over the world; when you have a project – be it the World Bank project or a Government of Kenya project – you ensure that a vehicle is bought specifically for the purpose of supervision. It does not belong to the contractor; money for the purchase of that vehicle is actually provided for within the contract to ensure that the engineers have the means to be able to reach wherever they have to go, and that we have no problem of supervision. Yes, I agree that when we have engineers who are also involved in the actual contracts and, therefore, they have vested

interest, we have quality being compromised. I hope we will be able to look at this and ensure that engineers who are involved in projects do not end up benefitting from the same projects commercially. I think this Bill will be able to address many of the issues that we have raised.

Mr. Temporary Deputy Speaker, Sir, with those few comments, I wish, once again, to thank all those who have participated and to assure them that we look forward to a better Bill, a Bill that will be able to address all the challenges that we have in the industry and that, after this, we will be able to have fewer buildings that come down due to poor workmanship.

Thank you, Mr. Temporary Deputy Speaker, Sir.

With those few remarks, Mr. Temporary Deputy Speaker, Sir, I beg to move.

*(Question put and agreed to)*

*(The Bill was read a Second Time and committed to a Committee of the whole House tomorrow)*

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

THE NATIONAL DRUG CONTROL AUTHORITY BILL

**The Temporary Deputy Speaker** (Mr. Olago): Hon. Members, the Mover of this Bill, hon. Amina Abdalla, is not in the House. I, therefore, order that this Bill be deferred.

*(Bill deferred)*

Next Order!

## MOTIONS

### ADOPTION OF REPORT ON RECRUITMENT OF KEBS MANAGING DIRECTOR

THAT, this House adopts the Report of the Select Committee on Equal Opportunity on the Recruitment of the Managing Director, Kenya Bureau of Standards laid on the Table of the House on 16<sup>th</sup> December, 2010.

*(Mr. Chachu on 18.8.2011)*

*(Resumption of debate interrupted on 11.10.2011)*

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

**The Temporary Deputy Speaker** (Mr. Olago): Order, hon. Chachu! When the House business was interrupted yesterday at 6.30 p.m., you had already consumed 10 minutes of your time. You have the Floor now.

**Mr. Chachu:** Thank you, Mr. Temporary Deputy Speaker, Sir. Just to recap on the issues that I raised yesterday in the Report. I was dealing with the recruitment process of the Kenya Bureau of Standards (KEBS) Managing Director (MD). I had said that the position fell vacant on 21<sup>st</sup> December, 2009, and the KPMG was mandated to carry out the exercise of hiring the new MD for KEBS.

Mr. Temporary Deputy Speaker, Sir, what we observed from the submission to the Committee was that--- The CEO of the KPMG informed the Committee Members that the Minister did attempt to interfere with the process by sending emissaries to the Minister's staff. However, two affidavits submitted to support the claim contradict one another.

Mr. Temporary Deputy Speaker, Sir, in consultation with the Ministry, the council embarked on a fresh recruitment process, which was to be done by the board itself. The rules and guidelines of the process were agreed upon by the members, with the interview having 70 per cent points for the oral part and 30 per cent points for the written part. Again, they also agreed that the written examination was to be marked by an external examiner. The council formed a committee of its own to shortlist and code all the candidates.

In addition, Mr. Temporary Deputy Speaker, Sir, the council again advertised for the position in the *Daily Nation* and *The Standard* newspapers at a cost of Kshs1,794,659. The council again shortlisted 15 candidates, including three from KEBS. Eleven candidates turned up for the interview held between 14<sup>th</sup> and 15<sup>th</sup> September, 2010. The marks were then tallied from number one to 11, awaiting the scores from the written interview. The council agreed that the first five candidates were material for the job of MD of KEBS.

Mr. Temporary Deputy Speaker, Sir, disagreements in the council developed when it came to the written examination, with some members saying that only the top five candidates should be subjected to the external examination while others wanted the whole list of eleven candidates to be subjected to it. At this stage, there was no agreement on what criteria to be used to get the three names to be forwarded to the Minister for appointment as MD. As a result, the Minister received an unsigned report from the *ad hoc* committee, giving names and scores of the first five candidates as follows:

<b>Name</b>	<b>Score (%)</b>
1. Abdikadir Omar Aden	70
2. Eva Odega Oduor	66
3. John Mututha Ndutu	64
4. Joseph K. Kosgey	62
5. Eng. Michael Ochieng Owino	53

Mr. Temporary Deputy Speaker, Sir, after consideration, the Minister felt that the Board had not reached a vetting conclusion, and then selected candidate number four, Joseph K. Kosgey, as the new MD of the KEBS.

Mr. Temporary Deputy Speaker, Sir, the whole process of recruiting the new Managing Director (MD) cost the council a total of Kshs16, 528,503.55 with Kshs15, 990,401.55 in allowances for the Board members and also having paid KPMG a down payment of Kshs538, 118.

These are the Committee's observations:-

(i)The Committee was concerned that the advertisement notice did not give Kenyans sufficient time to apply and also observed that there was lack of equal opportunity to gender.

(ii)After gathering information from all the parties, the Committee observed that the Minister and Permanent Secretary have contradictory views which endanger the operation of the institution, considering that the MD reports to the Permanent Secretary.

In the present scenario, the appointed MD, Mr. Kosgey, has no official appointing letter.

(iii)The Committee in its findings noted that the score sheets from the Board and the ones used by the Minister having been received from the *ad hoc* committee were different. The Committee also noted that the report to the Minister was not signed and, therefore, not authentic.

(iv)The Committee observed that the National Standards Council (NSC) may not have had the capacity to carry out the given task on its own.

(v)The advertisement to the position did not clarify if the people who worked for the Kenya Bureau of Standards (KEBS) were eligible to apply or not, hence subjecting the candidates of the institution to a futile exercise.

(vi)The NSC misled and misinformed the Minister by giving two different lists of nominees; one forwarded by the chairman himself through the Permanent Secretary and another set by some members of the *ad hoc* committee.

Mr. Temporary Deputy Speaker, Sir, the Committee has four recommendations, thus:-

(i)The advertisement be specific in the requirements and the people legible for the position to avoid subjecting others to a futile exercise especially if the applicants include the staff at the KEBS. In other words, if the employees of KEBS are not eligible, then they should not be subjected to this futile exercise.

(ii)The Committee recommends that due to irredeemable disagreements among the Board members, the Minister and the Permanent Secretary on the process and the outcome, the Board to be dissolved with immediate effect and the Minister undertakes a fresh recruitment process for the post of MD, KEBS.

(iii)The Committee met the National Cohesion and Integration Commission. The Committee deliberated its findings and attached are the Commission's recommendations for the House to consider.

(iv)The Committee recommends further investigation regarding the prudent use of taxpayers' money of Kshs14, 195,742.35 which was used in the entire recruitment exercise.

Mr. Temporary Deputy Speaker, Sir, this is the Committee's Report which I have moved. I will ask the Chairman of the Committee, Mr. Affey, to second the Motion.

**Mr. Affey:** Thank you Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to second this very important Motion.

At the outset, allow me to thank Mr. Chachu Ganya, the Member of Parliament for North Horr for the manner in which he moved this Motion. We participated in the deliberations and I am happy that he is the one who moved it.

Mr. Temporary Deputy Speaker, Sir, this is a very important Motion. Unfortunately, you can see the "very good attention" this House is giving to this Report.

The mere fact that “the House is full” is an indication that this Report should have been taken more seriously than the Members have done.

We are talking about a very important institution; the KEBS. This is a critical institution in the lives of the Kenyan people. The role they play is of security nature. They play a protective role. They guard against dangers that can find their way into this country so that Kenyans either consume or deal with things that have the potential to hurt them.

For that matter, this particular institution has been politicized. This is one institution in this country where the operations are not as they should be today. This is because up to now, we have an acting MD. For the last three years or so, this institution has not had a substantive head. It is obvious, therefore, why there is so much interest in this particular institution. The Minister advertised, established a Board and there is a trend that is emerging in this country; a Minister appoints a Board and the President appoints the chair. In about three or four institution Boards that I know, there has been no harmony between the chair and the Board. This is particularly the case where the President and the Minister come from two different political parties. In this case, the chair is appointed by the President, who is from one party, while the Minister, just as the Prime Minister, is from another political party.

In a case like the one in the National Water Corporation (NWC), the President appoints the chair and the Minister appoints the members of the Board. They transfer their political problems into these Boards to an extent that some of the Boards are dysfunctional as I speak, yet the Act gives them sufficient mandate to function. They have brought in the politics, patronage and difficulties into the Board.

Mr. Temporary Deputy Speaker, Sir, my colleague moved and gave the observations of the Committee. After we tabled this Report, the Minister sacked the acting MD. This was an MD who had been working for close to one year without a contract. Perhaps he was doing a good job. It is said that he did a good job and reformed things but he was not on talking terms with his Permanent Secretary. He could only reach the Minister. He was not on talking terms with the chairman of the Board. Therefore, we have this kind of a chaotic situation that existed in this place.

The Board decided to recruit an MD for the KEBS and, do you know what? This Board utilized a whopping Kshs16 million to do this recruitment. Then what happens? Even after they recruited, definitely there was interference and the process stalled and they recommended two sets of minutes and recommendations to the Minister. We looked at the process itself and it was very clear who was supposed to be the MD. In my view, if you look at the points and grading, the obvious MD who should have been appointed automatically and immediately by the Minister was one Abdikadir Omar Adan who had 70 points. Maybe the Minister did not like the name or he chose not to like the name or where the fellow comes from because this is very evident in our country today, where Ministers choose who to appoint because of how closely related or politically connected they are. It is never about fair play in this country. Even if that was the case, there is a lady called Eva Oduor.

Mr. Temporary Deputy Speaker, Sir, even on the principle of gender, this lady has served in the institution. She knew the institution. Even if he did not like Omar, what was wrong with Oduor? What was wrong with Mutua Murutu? We ended up with Joseph Kosgey, who, in my view, is good material. He is a good Kenyan, and I think he did a

good job. However, we are talking about the process of the appointment, and not about the person. This Government continues to violate the law on a daily basis. Then what happened? The Minister exercised his authority and appointed Mr. Kosgey Managing Director.

The Board, which is supposed to work in harmony with the management, was split. Now you do not have a Board. You do not have management. So, you have a chaotic situation. I gather that is why a lot of corruption might have happened. Maybe, in the confusion, a lot of people might have imported goods which are substandard because there was nobody who was confident enough to forestall the danger we were facing. We all sat in this House, thinking that all was well at KEBS.

Mr. Temporary Deputy Speaker, Sir, we went on with our investigations. We called the Minister. We could not get him with his Permanent Secretary (PS). So, we had to call the Minister, and then call the PS separately. Essentially, we should have called the Minister together with the PS. Normal working relations of Government would demand so. The President and the Prime Minister knew this but they could not discipline either the Minister or the PS. Who is in charge? Everybody fears. There is fear in the country. Nobody has the capacity to discipline anybody. If one disciplines somebody, the matter is politicised. It turns chaotic.

Then there was a national outcry and the media had a field day. We were made a laughing stock because we all went to our regional cocoons. Some people defended the PS, while others defended Mr. Kosgey because of ethnicity. That is why we were divided even as Parliament. The issue was never the process but rather, purely, ethnicity. In the process, what was happening at KEBS? Who knows what might have happened at KEBS?

Mr. Temporary Deputy Speaker, Sir, the Board appeared before us. It was a very chaotic Board. Even as they appeared before a Committee of Parliament, there was no discipline amongst the Board members. They were calling each other names in the presence of Members of Parliament. They were questioning each others' integrity. As Board members, they were supposed to supervise a very important institution. They were calling each other "corrupt" in our presence. We listened in disgust, dismay and with disappointment.

They spent Kshs16 million but they did not recruit anybody. Out of the amount, Kshs15 million was on allowances for the Board members. So, we had a Board which was on a mission to steal from the organisation. What did the Minister do? The Minister who was initially there maintained them. The Minister who subsequently replaced him dissolved the Board. Nobody has been asked to account. How was this money utilised, and for what purpose? What was the result of the use of this money?

Mr. Temporary Deputy Speaker, Sir, as Parliament, we are supposed to protect public funds. I suspect that all other Boards could be behaving in this manner because there is no monitoring mechanism in this Government. It is shameful to spend Kshs15 million on allowances without appointing anybody. There is no surcharge. There is no disciplinary action taken against anybody. There is absolutely no action taken against anybody.

All the Board members were happy, and they even had the audacity of going to court to challenge the Board's dissolution. When the new Minister took office, she dissolved the Board because the recommendations say: "Dissolve this bloody Board

because this is the centre of the problems of KEBS. Get mature, serious, sophisticated and educated Kenyans who can run this institution and work with the management .” It never happened.

Members of the dissolved Board went to court. These days, if anybody goes to court, he gets a stay. So, you stay and continue to steal. Out of that national outcry, the Kibunja Commission came in, issued statements and equally investigated. They called the Board, the Minister and the PS. After listening to them, they recommended almost a similar thing. The Kibunjia Commission was kind. They said that the candidates who were shortlisted should be reconsidered. We said: “Dissolve this Board. Constitute a new Board. See whether you can begin from there or even appoint someone else the Managing Director.”

Mr. Temporary Deputy Speaker, Sir, what is wrong in appointing Mr. Abdikadir to become the Managing Director? He is Kenyan. He got 70 points. He has a Masters Degree. He applied for the job, which was advertised. He was interviewed and graded. Why do you not appoint him? It did not happen. So, the Board should have started this process afresh.

Our recommendations are that we must, first of all, investigate this matter. As Parliament, even as we tabled this Report, we could not allow public funds to be used in a manner that is not understandable; we should not allow investigations to take place. I suggest that we get to the bottom of this matter. We realised irredeemable disagreements. I am glad that there is now a new Minister. The disagreement that was there was irredeemable.

Mr. Temporary Deputy Speaker, Sir, you cannot have two people who do not talk to each other, or even greet each other, and who have no respect for each other, working in the same institution. The disagreement was irredeemable. You could not repair the damage that was there. They were speaking in tongues and, in most cases, they were seeking support from their communities and friends.

The position should be re-advertised and the issue of gender considered. There was open bias. There was only one lady who did well but who was bypassed. I am told that she is now the Acting Managing Director. I do not know how effective she is but the ladies of this country deserve attention. It can be that we are struggling to help them yet when they have an opportunity to assume leadership roles, we stop them.

Mr. Temporary Deputy Speaker, Sir, I can see that my good friend, the Joint Whip, has an urge to contribute to the Motion. I want to second the Motion moved by my friend, hon. Chachu, and say that this House---

**The Temporary Deputy Speaker** (Mr. Olago): Order, hon. Affey. Resume your seat for a moment!

*(Mr. Affey resumed his seat)*

In his concluding remarks, hon. Chachu recommended the investigation of expenses incurred in the recruitment exercise. In your submissions to the House, you have indicated allowances were paid to the Board members but the House has not heard of any specific recommendation on recovery of those allowances. Do you wish to address that aspect?



**Mr. Affey:** Yes, Mr. Temporary Deputy Speaker, Sir, because we said that this matter be investigated. The Committee recommends further investigation regarding the prudent use of taxpayers' money. For us, we did not investigate. This is the information we got. We thought it was too much to spend Kshs16 million on the recruitment of the Managing Director. This was our assessment. If they investigate and establish that taxpayers' money was lost, then, of course, naturally the law will take effect.

Mr. Temporary Deputy Speaker, Sir, I think that we need to run our country better. I think that our Government needs to wake up. I think that our President and Prime Minister must ensure that the people they appoint to these boards are people of integrity, people who protect our money and people who will make sure that substandard goods do not find their way into our country. This is a very important institution and we should not be taking it casually.

I beg second.

*(Question proposed)*

**Mr. Muthama:** Bw. Naibu Spika wa Muda, ninashukuru kwa kunipa nafasi hii ili niweze kuchangia Hoja hii. Hoja hii imezua maswala mengi ambayo yanaweza kuleta majonzi kwa wananchi wetu. Ninakumbuka nilisimama hapa na kupinga uteuzi wa Bw. Kosgei kama mkurugenzi wa shirika hili. Hii ni kwa sababu katika mahojiano, yeye alikuwa wa nne. Bw. Abdi ndiye alikuwa wa kwanza na kufuatiwa na Bi. Eva Owuor. Kulikuwa na mwingine aliyekuwa wa tatu. Je, ni kwa nini Abdi hakuteuliwa kama mkurugenzi wa shirika hili? Je, alikataa kuteuliwa kwa sababu ya kabila lake au hakuwa na uhusiano wowote na wakubwa wa Wizara hii? Je, huyu Bw. Kosgei ni ndugu wa Waziri Msaidizi katika Wizara hii au alikuwa na uhusiano wa karibu sana na Katibu Mkuu? Haya tu ni baadhi ya maswali ambayo hata sasa yanahitaji majibu.

Ninakumbuka vizuri pia bodi ilipinga uteuzi huu, lakini Waziri akamteua Bw. Kosgei. Iwapo mambo yataendelea namna hii, basi taifa letu litaangamia.

Taifa letu limekuwa kama mtu ambaye alifungua kampuni yake ya kibinafsi na kuajiri mkurugenzi. Lakini kwa vile hakumwamini mkurugenzi huyu, akaajiri naibu wake na askari 15 wa kumlinda. Mwishowe, pesa zilitumika kulipa mishahara ya watu hawa na kampuni yake haikupata faida yoyote. Pesa ambazo alitumia kuwalipa askari zilikuwa ni zaidi ya zile ambazo alimlipa mkurugenzi na msaidizi wake ili awalinde wasiibe.

Leo ukisimama unajiuliza; je, chanzo cha mambo haya ni nini? Tumepata Uhuru wetu karibu miaka 50 iliyopita. Katika uongozi wa hayati Jomo Kenyatta na Jaramogi Oginga Odinga akiwa Makamu wa Rais, nchi ilikuwa na mgawanyiko na kisingizio cha mgawanyiko kilikuwa ni kwamba, Kenyatta, Jaramogi, Ngei na wale wengine waliongoza idadi kubwa ya wakenya ambao hawakuwa wamesoma na hawakuelewa undugu wa Mjaluio na Mkamba ni nini. Tulivumilia mambo hayo yote na tukastahimili tukiomba Mungu kwamba, miaka 20 itakayokuja, kizazi ambacho hakikuwa kielewa umoja wa Wakenya kitakuwa kimepita na kizazi kipya kimekuja. Ukiangalia leo na wakati wa hayati Kenyatta na wenzake, ni dahiri na wazi kwamba, kasheshe tuliyo nayo ya kikabila katika taifa letu imepita ilivyokuwa wakati tuliponyakua Uhuru. Je, taifa hili linaelekea wapi?

Hapa tunazungumza kama Wajumbe lakini mtu akiteuliwa kuwa Waziri, ukiingia afisi yake, utapata kuwa karani, msaidizi na askari wake wote wametoka kabila

lake, halafu anasimama hapa kuzungumza maswala ya umoja wa taifa la Kenya. Umbwa mwitu tunavaa mavazi ya binadamu, lakini rohoni sisi tunataka kutafuna na kukanyaga wanaostahili kusaidiwa. Mimi nilipochukua afisi ya Whip, nilipata msichana mmoja Mluhya na Wakikuyu wawili. Hadi sasa, sijaleta Mkamba pale. Katika afisi yangu ya kazi, ninadhirisha hapa kwamba karani wangu ni Mluhya, mhandisi mkuu wa kuchimbua madini ni Mjalu na mkuu wa hesabu ni Mkikuyu. Ninaweza kuzungumzia utaifa.

Ukienda kila ofisi kutoka kwa ofisi ya Rais kuteremka, ofisi ya Waziri Mkuu, ofisi ya Makamu wa Rais, utaona ukabila ulioko. Halafu tunakuja hapa kujifanya kwamba tunaongoza kwa haki.

Katika Bunge hili, kuna Mswada wa kamati ya Bunge, the Parliamentary Service Commission, ambao unasema kwamba, walioko ndani wameajiri watu wao. Wameleta watu wao pale. Mimi sijathibitisha haya, lakini kama Kiranja wa Serikali, ninataka kuthibitisha kama ni kweli ndio nijue nitatetea mambo hayo namna gani. Lakini ikiwa ni namna hiyo, taifa hili limeangamia. Sisi wasomi, wenye ujuzi na wenye kupewa madaraka ya kuongoza, kitu cha kwanza ambacho tunazungumza kama mawaziri ni kupeleka bendera Ukambani na kwenda kuwaambia Wakamba kuwa: “Mnaona mmenichagua na chama fulani, basi, nimepata bendera na hii bendera ni yenu ya kura”. Ni kiongozi mgani ambaye anaitisha kura kuongoza Wakenya ijapokuwa kuitisha kura watu wake wafike Ikulu ili wale? Tukifundisha watu namna hiyo, kashehe inanza. Hakuna anayeingia Bunge hili ambaye ana usalama nyumbani, kwa sababu, Wakenya wameamini kwamba uwe umefaulu namna gani, uko na ujuzi namna gani na uwe mwaminifu namna gani, kama haujapanda kwenye mabega ya ndugu yako au dada yako, hauwezi kuona usawa wa taifa hili.

Hii ndio kazi katika taifa letu leo; hata wafanyakazi wa Bunge hili. Ofisa akitaka madaraka anaangalia Mhe Muthama ana uwezo gani, ama Mhe Muthama ndiye nani. Anatakia azungumze ili apate madaraka. Hii ni kwa sababu hata ukifanya kazi kama punda katika taifa hili, huwezi kupandishwa cheo mapaka ndugu, mama au nyanya yako awe katika ofisi hiyo na azungumze kwa niaba yako ndipo upate madaraka. Kila kitu katika Kenya kinahusu rushwa na kuzungumzia. Halafu unapomshika mtu mkono na kumpeleka kazini, hiyo kazi hafanyi kwa sababu ana Mungu wake aliyempeleka katika hiyo nafasi. Akishindwa na kazi yake, kitu cha kwanza atafanya ni kukimbia kwa Waziri Mkuu, Makamu wa Rais, Rais mwenyewe au kaka yake na kumwambia: “Kwa sababu mimi ni kabila hili naonewa; hii ni kwa sababu mkubwa ofisini ni kutoka kabila hi”. Hii ndiyo sababu kazi ya taifa haiendelei.

Bw. Naibu Spika wa Muda, nimerudi kutoka Uganda. Nimesoma magazeti. Kumekuwa na wizi wa pesa kupitia mambo ya mafuta yaliyotokea huko Uganda. Lakini waliowekwa ndani ni wale waliohusika, na huwezi kusikia kabila hili likisema mtu wetu ndio amechukuliwa na mtu wa kabila fulani, au mtu wetu anaonewa.

Bw. Naibu Spika wa Muda, mimi kuitwa Otieno haimaanishi kwamba akina Otieno wote ni wezi. Mimi kuitwa Mutua ama Mutiso, haimaanishi kwamba watu wote wanaoitwa hivyo ni wezi. Lakini leo kashfa ya wizi katika ofisi za Serikali yetu, kuanzia polisi mpaka kila kitengo unakuta kwamba huyu ameiba na bado yuko serikalini. Huyu ametajwa bado yuko Serikali. Haya yametokea bado yuko serikalini. Sasa unashindwa askari ni nani na mkurugenzi ni nani. Wizi ukitokea tu tunaambiwa ni mtu wetu.

Bw. Naibu Spika wa Muda, kama ni kweli mimi namwomba Mungu mwenyezi kuweka hukumu yake inavyowezekana. Kshs16 milioni inatumika kumtafuta mkurugenzi mmoja, na si wawili. Katika Kshs16 milioni, Kshs15 milioni zimeenda kwa wale ambao wanapata chakula ambacho hawalipii. Juzi nilienda Laisamis kwa Mhe Lekuton; nasema hapa kama thibitisho kwamba kama leo kuna watu wanataka kuona Serikali na macho, na wanahitaji kujua kwamba Kenya ni Kenya, mimi nilienda Laisamis na shida za eneo Bunge ninalowakilisha zikaisha.

Leo tuna simu na unaiweka mfukoni na unaweza kuongea hata ukiwa kwa ndege. Nakuambia leo kati ya koo pale Laisamis watu 40,000 hawajahi kupiga simu hata siku moja. Hakuna network! Kutoka pale mpaka Isiolo, hao watu pahali wananunua nyanya na kitunguu ya kupikia chakula, ni kilomita 170. Hiyo ndio soko. Wezi hapa wanachukua Kshs15 milioni na kuigawa ikiwa juu ya meza kwa madai kuwa wanatafuta mkurugenzi mmoja wa kampuni, na hali watu kama wale wa Laisamis hawana maji au hospitali. Nakuambia kitu kinachoitwa dispensary hamna katika hiyo sehemu. Mhe Lekuton anawakilisha sehemu ambayo ukubwa wake ni kilomita 24,000 mraba.

Akitoka hapa kwenda mwisho wa sehemu hiyo ya uwakilishi Bungeni, anaweza magurudumu mapya ya gari na akifika kule mwisho anayabadilisha. Asipobadilisha akifika mwisho wa sehemu hiyo ya uwakilishi Bungeni, hawezi kurudi alikotoka. Je, hii ni Kenya ambayo iko na watu wenye matumbo kama gunia? Wanakula Kshs15 milioni ili kuajiri mtu mmoja? Mwishowe wanawaandikia Wakenya mtu ambaye hajafaulu kuingia katika ile nafasi. Taifa hili lina uchungu. Maisha ya Wakenya ni ya uchungu. Mambo haya yakome kabisa. Ni dhahiri kwamba Rais mwenyewe, Makamu wa Rais na Waziri Mkuu, katika ofisi wanazokalia, tunataka kuona uwezo wa uongozi unaonekana. Hakuna mahali tunaenda kama mtu mmoja anaweza kusababisha mambo haya na anakula na kulala na kupeleka watoto wake kwa masomo ya juu, ilhali katika sehemu kama ile nimetoka, watoto kwenda shule ni bahati. Kutoka shule moja hadi nyingine ni kilomita 15. Kule sikuona matatu na macho yangu. Gari kule ni punda. Je, hao sio Wakenya? Je, pesa hizo haziwezi kutumiwa kwa hao watu? Kwa nini katika taifa letu la Kenya Mbunge anapochaguliwa na kuwa Waziri, baada ya miaka mitano, anaanza kujenga nyumba na kununua ndege ilhali alikuwa na kijigari kimoja kwa miaka mitano? Je, pesa hizo zinatoka wapi?

Bw. Naibu Spika wa Muda, ningependa kumaliza nikiwa na machungu sana katika moyo wangu. Ningependa kusema kwamba Kamati hii imeweza kutoa mwelekeo ambao ukifuatwa, utakuwa ni funzo kwa wale wanaofanya mambo kama haya. Ile Bodi yenyewe inafaa kuthibitisha ilitumia Kshs15 milioni kununua nini na walikuwa wanaajiri watu wangapi. Kazi yao ilikuwa ni nini ili watumie Kshs15 milioni. Kama ni mwanzo wa mambo, wahuika wanafaa kurudisha pesa hizo ndipo mambo haya yakome. Itakuwa ni vigumu sana mimi mwenyewe kupanga kuiba. Kama Whip katika ofisi hii, nikienda kwa ofisi za makarani na kuwaambia kwamba nataka waniwekee hizi pesa, nikitoka haiwezekani kwamba yule karani atakataa kuiba. Mimi mwenyewe lazima nikae kwa ofisi na kukataa wizi ndio katibu wangu asiibe kwa sababu ananiogopa na kuniheshimu. Lakini ikiwa mimi ndio kinara wa kuweka msingi wa mambo hayo, ni jambo la kuudhi. Ni kama yale mambo tunayoendelea nayo sasa ya shule. Sisi tulikaa kama Kamati ya Bajeti na kutafuta pesa ya kuajiri walimu. Lakini kufika hapa, inakuwa ni kazaazaa kama ule mpira uliochezwa na Kenya na Uganda. Ilikuwa pata shika; iko, hakuna. Mara inalipa kodi, mara inafanya hii. Sisi tulitafuta pesa na wenzangu mmoja wao yuko hapa, mhe.

Koach. Pesa zilikuwa bila utata wala kuhusisha mambo mengine au kuleta kasheshe. Nafurahi kuwa mwishowe, pesa za walimu ziliweza kupatikana. Ni lazima tusimame kidete na kutetea mambo haya ili tuendelee mbele.

Bw. Naibu Spika wa Muda, namaliza kwa kutoka shukurani zangu kwa Kamati iliofanya kazi hii na kuunga mkono Hoja hii.

**Mr. Njuguna:** Thank you very much, Mr. Temporary Deputy Speaker; I will be very brief on this report.

Firstly, let me thank the Chairman for the very great diligence that they have shown in this undertaking. Their commitment is also shown in the manner they have presented this Report. The Committee is noted to have made very wide consultations, and they undertook serious engagement with the Minister for Industrialization, the PS and other bodies that were supposed to appear before the Committee. Of great concern is the expense that was incurred by this Board totalling Kshs16,528,519.55. These are public funds that were misused, funds that were misappropriated, and funds that did not give the taxpayer value for money. We noted very clearly that unknown personalities interfered with the process of interviewing the candidates. These unknown personalities must be investigated and punished for their misdeeds. The Board was very divided and displayed a very high degree of disharmony. This Board abused the trust that was bestowed upon it.

Mr. Temporary Deputy Speaker, glaring was the report that was submitted to the Minister; it was a report that, in my view, should not have been accepted; it was a report that should not have been acted upon; it was a report that really gave a break down of the scores that were obtained by various candidates. The leading candidate was able to get 70 per cent. The second one got 64 per cent, and the last got one 53 per cent. I do not know why the Minister made a very arbitrary decision to settle on the candidate No.4 and disregarded the most qualified candidate. To me, the decision by the Minister was not justifiable, was not prudent, and it really lacked accountability and transparency.

I would therefore, concur with the recommendation by the Committee that an audit Committee be formed quickly to investigate those people who were involved in misappropriating these funds. They should not be allowed to get away with these funds. It is important that this must be a lesson to the Board, and even to other boards that will be formed to interview deserving Kenyans. Qualified Kenyans must be given the opportunity to serve this country. Therefore, I would very strongly recommend and support the observations and recommendations of the Committee.

With those few remarks, I beg to support.

**The Temporary Deputy Speaker** (Mr. Olago): Thank you very much. I will ask the Mover of the Motion, hon. Chachu, to respond.

**Mr. Chachu:** Mr. Temporary Deputy Speaker, Sir, I want to thank the contributors, hon. Affey, my Chairman, and all the other Members who have contributed to this Motion.

Mr. Temporary Deputy Speaker, Sir, I think we have enriched the report very much. I do ask the House to adopt this report, and implement its recommendations. I think it is very important for us to really investigate further the use of the taxpayers' money in the recruitment process at KEBS.

Mr. Temporary Deputy Speaker, Sir, I think also, as a lesson in the future, a board of any State Corporation should not take on a role it cannot perform. In this particular case, this Board took a job of a specialised human resource firm. They formed a

Committee to hire a CEO of a very important State Corporation. I know boards of directors are very powerful. But they have a mandate. It is very much enshrined in the law, and their roles are clearly stated. They can only perform a function, which they have the capacity for. This particular case involved very technical work, and they never had the capacity to do it. That was why we had two reports going to the Minister; they really misadvised the Minister on how he was to conduct the entire exercise. Eventually, after using all that amount money, it was an exercise in futility, because the whole Board was sent packing by the Minister. Also, the MD who was appointed by the Minister was also sent home by the acting Minister who came in after the Minister left.

Mr. Temporary Deputy Speaker, Sir, I think this should be a lesson to other State Corporations and boards of directors. In future taxpayers' should not be lost in such an imprudent manner.

With those few remarks, I urge the House to adopt this Report in totality, and implement its recommendations.

*(Question put and agreed to)*

**The Temporary Deputy Speaker** (Mr. Olago): Next order.

#### ADOPTION OF REPORT OF ON TOUR TO KENYAN EMBASSY IN SOMALIA

THAT, this House adopts the report of the Departmental Committee on Defence and Foreign relations on the Familiarization Visit to Kenyan Embassy in Somalia laid on the Table of the House on Tuesday April 3, 2011.

**The Temporary Deputy Speaker** (Mr. Olago): On Order 13, I am informed that the Chair of the Departmental Committee is not present. This Motion is therefore deferred.

*(Motion deferred)*

#### ADJOURNMENT

**The Temporary Deputy Speaker** (Mr. Olago): Hon. Members, it is now time for the interruption of the business of the House. The House, therefore, stands adjourned until tomorrow, Thursday, 13<sup>th</sup> October, 2011 at 2.30 p.m.

The House rose at 6.28 p.m.