

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 7th September, 2011

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

COMMUNICATION FROM THE CHAIR

SUING OF MEMBERS OF PARLIAMENT OVER TAXATION

Mr. Speaker: Hon. Members, I have one Communication to make. You will recall that on Tuesday, 6th September, 2011, the hon. Member for Garsen Constituency, Mr. Mungatana, rose on a point of order seeking directions from the Chair as to what action the Parliamentary Service Commission (PSC) has taken to address the matter in which all 204 Members of Parliament have been sued in the case of one Rev. Dr. Timothy Njoya on matters touching on taxation. Mr. Mungatana informed the House that in view of the fact that the service in the matter having been effected on each of the Members by way of advertisement in the public dailies, adverse orders could be made against each and every hon. Member of this House. He, therefore, sought the guidance of the Chair to inform the House whether each and every hon. Member in the matter was to appoint a lawyer on his or her own. This matter was also raised yesterday during the meeting of the House Business Committee.

Hon. Members, I have carefully considered the point of order raised by Mr. Mungatana. I have also consulted on this matter and have been advised that copies of the petition and the chamber summons together with the supporting affidavit by the Rev. Dr. Timothy Njoya filed in court under certificate of urgency on 23rd August, 2011 in Nairobi High Court Constitution Petition No.137 of 2011 where the following are the respondents:-

The Hon. Attorney-General	-	First Respondent
The Clerk of the National Assembly	-	Second Respondent
The Minister for Finance	-	Third Respondent
The Speaker of the National Assembly	-	Fourth Respondent
Head of the Public Service and Secretary to the Cabinet, Amb. Francis Muthaura	-	Fifth Respondent

Together with 204 hon. Members of Parliament, all of whom were served through substituted service on a paid advertisement in *The Standard* newspaper of Saturday, 3rd September, 2011.

Hon. Members, considering the gravity and urgency of the matter, the Commission has already taken the necessary action in the matter to protect and safeguard the interests of the hon. Members in the Petition and has instructed the Office of Legal

Counsel of Parliament to enter appearance and prosecute the Petition on behalf of the Speaker of the National Assembly, the Clerk of the National Assembly and all the 204 Members of Parliament who have been sued in their official capacities. As you may note, the Petition is scheduled for hearing on Thursday, 8th September, 2011.

Hon. Members, I would like to emphasize that the representation of the Speaker, the Clerk and 204 hon. Members is limited to so much of the Petition as it relates to their official capacities and, perhaps, also to further add that those of you who may feel inclined to engage your own lawyers to represent you, would be at liberty to do so. They will then team up with our Legal Counsel and any other advocates that the PSC may appoint to represent you in the petition.

I thank you!

PETITIONS

RE-DIRECTION OF MAU MAU WAR VETERANS PETITION

Mr. Imanyara: Mr. Speaker, Sir, sometime back, hon. Eugene Wamalwa brought a Petition here on behalf of the ex-Mau Mau fighters, and you committed it to the Justice and Legal Affairs Committee; but because of lack of sitting by that Committee, no action has been taken on that petition. I am seeking your guidance if you can consider sending it to another committee, in this case the Committee on Implementation, so that we can make progress on the petition and a report on it made to the House. The Justice and Legal Affairs Committee has not been sitting for some time. The leadership of the Mau Mau War veterans has requested me to seek your guidance, so that this petition can be sent to another committee and the petition progressed further.

Mr. Speaker: Yes, hon. Imanyara, that is a valid concern. Indeed, I am prepared to give instructions on the matter. But because I am aware that there may be some development with respect to the Departmental Committee on Justice and Legal Affairs tomorrow afternoon, I will wait to see what that development may result into. If it results into a situation where the committee would be operational, then, perhaps, I will not give further directions other than giving timelines to the Committee. If it does not result in the Committee being operational, then I will give further directions as may be necessary.

Next Order!

PAPER LAID

The following Paper was laid on the Table:-

The Constituencies Fund Committee Report on the approval of Ms. Jennifer Nafula Barasa, Eng. Hillary Ntabo Nyaanga, Dr. Jane Nyawira Kabugi, Mr. Kagia Maina Nyamu, Mrs. Rosalia Shida Nyale, Major Rose Mbula Kioko, Mr. Odongo McOkeyo, Mr. Ahmed Ibrahim Abbas, Dr. John Ongege Wamakonjio and Mr. David Tito Kiprono Koros as members of the Constituencies Development Fund Board.

(By Mr. Ethuro)

NOTICES OF MOTION

ADOPTION OF CONSTITUENCIES FUND COMMITTEE REPORT ON APPROVAL OF CDF BOARD MEMBERS

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

THAT, this House adopts the Report of the Constituencies Fund Committee on the approval of Ms. Jennifer Nafula Barasa, Eng. Hillary Ntabo Nyaanga, Dr. Jane Nyawira Kabugi, Mr. Kagia Maina Nyamu, Mrs. Rosalia Shida Nyale, Major Rose Mbula Kioko, Mr. Odongo McOkeyo, Mr. Ahmed Ibrahim Abbas, Dr. John Ongege Wamakonjio and Mr. David Tito Kiprono Koros as members of the Constituencies Development Fund Board laid on the table of the House on Wednesday, 7th September, 2011.

STOPPAGE OF PLANNED PRIVATIZATION OF NEW KCC

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

Aware that the original Kenya Co-operative Creameries (KCC) was largely owned by dairy farmers who held the majority stake in the assets of the company estimated at over Kshs5 billion; noting that when the original KCC was converted to New KCC, the shareholding of the said farmers was never conclusively determined and secured; further aware that New KCC is now at an advanced stage of privatizing fully through public floatation of shares; deeply concerned that if the said privatization proceeds before the original shareholding rights of farmers are conclusively determined and protected, the said farmers run the risk of permanently losing their stake worth billions of shillings; this House resolves that the Government shall forthwith stop the planned privatization of new KCC and immediately constitute a seven member rights reconciliation team composed of representation from the Ministry of Co-operative Development and Marketing (three representatives) and the Kenya Farmers Association (four representatives) to interrogate and conclusively determine the shareholding rights of farmers in KCC as converted into New KCC, which are to be guaranteed protection and duly awarded to the rightful farmers in the planned privatization.

Mr. Speaker, Sir, this Motion is sponsored by the Orange Democratic Movement Party. It is a party-sponsored Motion.

Thank you.

Mr. Speaker: Next Order!

ORAL ANSWERS TO QUESTIONS

Question No.1096

HIGH COST OF POWER INSTALLATION BY KPLC

Dr. Otichilo asked the Minister for Energy:-

(a) why the Kenya Power & Lighting Company Ltd. (KPLC) is demanding Kshs.170,416 from Ebukuya Primary School in Emuhaya District for a single phase 4KVA supply of electricity instead of Kshs.55,000; and,

(b) why the construction and installation of electricity by KPLC is generally more costly than by the Rural Electrification Authority (REA).

The Assistant Minister for Energy (Eng. M.M. Mahamud): Mr. Speaker, Sir, I beg to reply.

(a) Ebukuya Primary School and 35 others applied for power supply in September 2006, and were issued with a reference number E24102006090225. An estimate was prepared for the works involved and a quotation of Kshs10,711,122 issued. However, the group was unable to pay but showed willingness by contributing a total of Kshs1,220,000 by January 2007.

The Kenya Power and Lightning Company has a programme known as *Umeme Pamoja* through which self-help groups make capital contributions for the supply of electricity. Through this programme, it was agreed with the 36 members, including Ebukuya Primary School, that they would each contribute a fixed amount of Kshs170,416 for a single phase service line, if they were ready to be connected. We have since discussed this matter with the hon. Member. We think the school should be connected because the Kshs170,416 is on the higher side. We have discussed and we will see how we will connect this school and we will reconcile the accounts of the constituency, so as to know how the money can be offset. So, we have discussed that already with the hon. Member.

Dr. Otichilo: Mr. Speaker, Sir, I want to thank the Assistant Minister for his good answer, and also for agreeing that this school will be connected to electricity through arrangements with REA. I wish to thank the Assistant Minister for the good answer and his commitment to connect Ebukuya Primary school with power.

Mr. Njuguna: Mr. Speaker, Sir, acknowledging the answer given by the Assistant Minister, and in view of our Vision 2030, could the Assistant Minister inform the House what his Ministry is doing, or what concrete measures has it put in place to make sure that all primary schools by 2030 will have electricity supplied to them?

Eng. M.M. Mahamud: Mr. Speaker, Sir, the programme we have is to connect all our institutions like health centers and schools to power, including those in outlying areas which use solar power.

Mr. Gunda: Mr. Speaker, Sir, I seem not to have heard the answer to part “b” of the Question as to why the KPLC is generally more costly than REA, when constructing and installing electricity.

Eng. M.M. Mahamud: Mr. Speaker, Sir, there is no big difference between KPLC and REA. It is only that the cost for REA is highly subsidized by the Government. I did not answer part (b) of the Question because I agreed with the hon. Member that the substance of this Question was the school. So, I agreed with the hon. Member on me answering about the school; that is why I did not answer part “b”.

Mr. Speaker: Ask the last question, the Member for Emuhaya!

Dr. Ottichilo: Thank you, Mr. Speaker, Sir. For the benefit of this House, I would like the Assistant Minister to tell us why the Kenya Power and Lighting Company Ltd

(KPLC) does not supply power to an area until people have paid the deposit. Does that make business sense?

Eng. M.M. Mahamud: Mr. Speaker, Sir, there must be a supply agreement between the consumer and the utility company that governs the relation between the parties. Without such an agreement and the deposit being paid, it will not make business sense to connect people without that agreement.

Mr. Speaker: Let us move on to the next Question by the Member for Gwassi!

Question No.769

UPGRADING OF MAGUNGA POLICE POST

Mr. Speaker: Is the hon. Member for Gwassi not here? The Question is dropped.

(Question dropped)

Let us move on to the Question by the Member for Yatta!

Question No.885

RECRUITMENT OF PROFESSIONALS
IN TO KENYA PRISONS SERVICE

Mr. Speaker: The Member for Yatta, in fact, approached the Chair. We have information that the Minister who is supposed to respond to this Question is away on official duty and is, therefore, unable to be here to answer this Question. It has been agreed between the Questioner and the Minister that this Question be deferred to Tuesday, next week and the House is persuaded accordingly to agree.

(Question deferred)

Let us move on to the next Question by the hon. Member for Turkana Central.

Question No.924

UNEMPLOYMENT IN TURKANA COUNTY

Mr. Ethuro asked the Minister for Labour:-

- (a) how many people are unemployed in Turkana County;
- (b) what the government is doing to alleviate unemployment in the county; and,
- (c) when he will also establish a labour office and a National Social Security Fund (NSSF) office in Lodwar in order to serve the larger Turkana County.

The Assistant Minister for Labour (Mr. Ojaamong): Mr. Speaker, Sir, the answer I have is quite inadequate and I seek more time so that I can provide an appropriate answer to the hon. Member for Turkana Central.

Mr. Speaker: How much time do you need?

The Assistant Minister for Labour (Mr. Ojaamong): Tuesday, next week will be ideal.

Mr. Speaker: The Member for Turkana Central, the Assistant Minister says he wants to get more information to answer you adequately.

Mr. Ethuro: Mr. Speaker, Sir, I have a copy of the written answer although it has serious gaps. I guess he would like to fill those gaps. I would like to grant him that time.

Mr. Speaker: Indeed, that is why he says he needs more time to get information to answer you adequately.

Mr. Ethuro: Thank you, Mr. Speaker, Sir. Including that the works in progress would have been completed.

Mr. Speaker: Very well! Mr. Assistant Minister, bear that in mind.

The Question is deferred to Tuesday next week at 2.30 p.m.

(Question deferred)

Mr. Speaker: Let us move on to the next Question by the Member for Mosop.

Question No.1036

PAYMENT OF HONORARIA TO
ADULT EDUCATION TEACHERS

Mr. Speaker: Is the hon. Member for Mosop not here? The Question is dropped!

(Question dropped)

Mr. Speaker: Let us move on to the next Question by the Member for Karachuonyo.

Question No.1124

REMOVAL OF WATER HYACINTH
FROM LAKE VICTORIA

Mr. Speaker: Is the Member for Karachuonyo not here? The Question is dropped.

(Question dropped)

Mr. Speaker: Let us move on to the Member for Ikolomani's Question!

Question No.1138

REPAIR OF KAKAMEGA-IBWICHINA ROAD

Dr. Khalwale asked the Minister for Roads:-

(a) whether he is aware that the road from Kakamega town to Ibwichina Airport in Kakamega County is in bad state; and,

(b) what measures he is taking to ensure that the road is repaired so that the recently renovated Ibwichina Airport is optimally utilized.

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

(a) I am aware that the road from Kakamega Town to Ibwichina Airport is in need of urgent repair.

(b) My Ministry through the Kenya Urban Roads Authority (KURA) has procured a consultant for design of roads in Kakamega Town and the above road is among those being designed to enable KURA source for funding for the construction of the same. In the meantime, a contract for grading and gravelling of the road to make it motorable has been awarded and works are expected to commence on 10th September, 2011.

Thank you, Mr. Speaker, Sir.

Dr. Khalwale: Mr. Speaker, Sir, the Grand Coalition Government finds it pretty easy to source for funds for fixing of roads in the former Nyanza and Central regions of this country. Could the Assistant Minister tell us why, when it comes to this very important road in Kakamega County, the Government drags its feet especially in view of the fact that during the by-election in Shinyalu, none other than the Prime Minister pronounced that as soon as the election will be over in Shinyalu, tarmacking of this road would commence?

Mr. Kinyanjui: Mr. Speaker, Sir, it is not correct to say that we are dragging our feet on this road. As I have indicated, we have already undertaken the design of 44 kilometers within Kakamega Municipality and I am sure that once we have completed, we will be able to source for funding. As to the pledge that the hon. Member has alleged, I cannot take responsibility.

Mr. Namwamba: Mr. Speaker, Sir, the infrastructure in this region that used to be commonly known as Western Province is absolutely deplorable. It is not just about this road from Kakamega Town to the airport. One wonders whether this Government has any deliberate and concrete plan to respond to the deplorable infrastructure situation in this region given the fact that the Government seems to be pumping billions of shillings to revive the infrastructure in some parts of the country. Is there any plan or is this region completely blacked out of the grand plans of Vision 2030 of the Coalition Government?

Mr. Kinyanjui: Mr. Speaker, Sir, I want to confirm that, indeed, it is true that roads in the western part of this country are in an urgent need of repair and rehabilitation partly because this is an area of high agricultural productivity. When the roads are in such a state, it becomes difficult for them to access their markets. But having said that, we also have a number of projects that are aimed at correcting this position. I would also like to inform the House that about three weeks ago, we awarded a contract for a road in the hon. Member's constituency and many others within western Kenya. Indeed, it is correct that we have a deliberate plan to ensure that we take corrective measures to install the roads within western Kenya.

Thank you, Mr. Speaker, Sir.

Mr. Speaker: The hon. Member for Central Imenti?

Mr. Imanyara: Mr. Speaker, Sir, you heard the Member for Ikolomani says that none other than the Rt. Hon. Prime Minister did issue a roadside declaration that this road would be tarmacked within months after the by-election that took place more than a year ago in Shinyalu. It has become a common practice for the principals; both the Rt. Hon. Prime Minister and His Excellency the President, to issue these roadside declarations. What is the value of these roadside declarations if the relevant Ministry does not act upon them to effect the desires of the principals when they make these declarations?

Mr. Kinyanjui: Mr. Speaker, Sir, the declaration, as the hon. Member calls it, if any, was not communicated to the Ministry, and had it been communicated, then the Ministry would have given a proper response to ensure that funds are availed. However, whenever the Government commits itself to do a particular project or whenever the declaration is made, it should be followed by proper communication to ensure that, that is done.

Dr. Khalwale: Mr. Speaker, Sir, the person who made that roadside declaration was the Prime Minister of Kenya who co-ordinates and supervises all functions of the Government. Is the Assistant Minister suggesting that the Prime Minister did not issue this declaration?

Mr. Kinyanjui: Mr. Speaker, Sir, it is the communication with the Ministry that I am concerned about. The declaration may well have been made, but we have no information in writing, at least, to make a follow up on the claim.

Thank you, Mr. Speaker, Sir.

Mr. Njuguna: Thank you, Mr. Speaker, Sir. With the indication by the Assistant Minister that the Ministry has embarked on design works, could he, in addition, inform the House when the Ministry is expected to complete the design works?

Mr. Kinyanjui: Mr. Speaker, Sir, indeed, we did advertise through a contract for consultancy to do all the municipality roads within Kakamega and that it is for a total of 44 kilometers within the municipality. The contract was awarded to Zam Consulting Engineers at a total sum of Kshs25,323,262. The said contract was awarded early this year and we expect that by the end of this year, we will be able to have a comprehensive report upon which we can be able to start looking for funds.

Mr. Twaha: Mr. Speaker, Sir, the road from Malindi to Lamu is also in a deplorable state. I wonder if the Assistant Minister could ask his officers to do something about it or at least advise me on how I can get one of these roadside declarations.

Mr. Kinyanjui: Mr. Speaker, Sir, we are in the process of procuring a contractor to ensure that the work is done and, more so, given the importance that has been attached to the Lamu Port because of the Government's plan to have a second port there. I am sure we will have a contractor on site and the road will be restored to proper order.

Mr. Speaker: Last question, Member for Ikolomani!

Dr. Khalwale: Mr. Speaker, Sir, I am happy that now the Ministry is aware that the Prime Minister directed them. The people of Shinyalu, Lurambi, Ikolomani and Malaba who use this road now know that the Ministry knows the directive of the Prime Minister and that you are going to move in.

My final question is: You have indicated that you are going to do urgent graveling of the road. Since this is the month of September, can you tell us which day, which company you have contracted and how much money you have voted for it?

Mr. Kinyanjui: Mr. Speaker, Sir, as I indicated earlier, we have already procured a contract and it was awarded to M/S Trans Nile Construction Company for a total sum of Kshs1,095,000. It is due to run from 10th September, 2011, which essentially means three days from now. I am sure within a month, we will be able to have the roads in a motorable state.

Mr. Speaker: Next Question by the Member for Sotik!

Question No.1143

CONFISCATION OF MR. JOSHUA MARITIM'S TRADE LICENCE
BY BURETI COUNTY COUNCIL

Dr. Laboso asked the Deputy Prime Minister and the Minister for Local Government:-

(a) whether he could clarify why officers from Bureti County Council confiscated a trade licence and trading equipment belonging to Mr. Joshua Maritim, the proprietor of Migingo Resort Club on 24th May, 2011 and yet he had paid the annual trading licence fee to Bomet County Council on 11th May, 2011;

(b) what measures he is taking to ensure that there is proper demarcation of the boundary between County Council of Bomet and County Council of Bureti; and,

(c) whether he could consider compensating Mr. Joshua Maritim for the loss and damage occasioned to him by the confiscation.

Mr. Speaker: Where is the Deputy Prime Minister and Minister for Local Government?

The Minister for Cooperative Development and Marketing (Mr. J. Nyagah): Mr. Speaker, Sir, as you go for the second round, would you allow us to locate him? As you know, he is a very serious Minister and he handles his matters very seriously. If you give me a minute, I will locate him.

Mr. Speaker: Order, Minister! You would be aware that I have previously given directions which are explicit and very firm that we will not entertain something called second round; that every Question and business that is on the Order Paper will be transacted at the point when it is reached. So you have to have a better explanation otherwise the Deputy Prime Minister and Minister for Local Government will not transact any business in this House beginning now until further notice if there is no reasonable account.

That will be applied strictly whether the Speaker is on the Chair or any of the other panelists. Regardless of what explanation comes, there will be no transaction of business by the Deputy Prime Minister and Minister for Local Government today, tomorrow until after there is a reasonable explanation. Ensure that the Minister is notified accordingly. We cannot afford to just have a blank that the Minister is not here, there is no explanation and there is no account. Obviously, the House cannot accept that.

The Minister for Cooperative Development and Marketing (Mr. J. Nyagah): Mr. Speaker, Sir, I plead with you that we defer this Question to tomorrow. I undertake to go and locate the Deputy Prime Minister and Minister for Local Government.

Mr. Speaker: Order, Minister! I shall not do so. You are challenging my direction.

Dr. Laboso: On a point of order, Mr. Speaker, Sir. I just want to state that I even have a written answer to that Question.

Mr. Speaker: Very well! So I will not vacate or vary the directions which I have given. They must stand.

That brings us to the end of Order No.6. Next Order!

STATEMENTS

KILLING OF KENYAN FISHERMEN IN UGANDA

Mr. Namwamba: Mr. Speaker, Sir, I have a request for a Ministerial Statement from the Ministry of Foreign Affairs.

Mr. Speaker, Sir, on May 10th 2011 while responding to Question No.4 of that time filed by myself in respect of Messers. Lucas Odinga, Godfrey Egesa and Maria Gregory, all deceased, who were killed in cold blood at Maninga Village of Sigulo Island in Uganda on 18th April 2011 at 3.00 a.m., the Assistant Minister for Foreign Affairs, Mr. Richard Onyonka confirmed on the Floor of this House that the Kenya Government was conducting investigations into this grave matter in consultations with Ugandan authorities and further that the Government will not only get to the root of the homicide but also explore compensation for families of the deceased. I therefore, seek a Statement from the Minister for Foreign Affairs which Statement he should respond and clarify the following:-

1. Four months down the line since the Assistant Minister made this commitment, what is the status of the said investigations into the killing of these three innocent Kenyans who hailed from Sisenye Sub-Location of Budalang'i Constituency of Busia County?

2. Has the Government of Uganda co-operated in the said investigations? If not, how does the Kenyan Government intend to settle this matter?

3. Could the Minister further explain why the death certificates and autopsy reports for the deceased continue to be withheld by the Kenyan Government and confirm when the same will be released to the respective families?

4. How far has the Government gone with plans to compensate families of the three deceased?

Mr. Speaker: Mr. Minister, when will that Statement be forthcoming?

The Minister for Foreign Affairs (Mr. Wetangula): Two weeks, Mr. Speaker, Sir.

Mr. Speaker: Very well. It is so ordered! Two weeks from today.

Mr. Imanyara, please, proceed!

INCONSISTENCY IN POLICY STATEMENTS ISSUED BY GOVERNMENT IN THE HOUSE

Mr. Imanyara: Mr. Speaker, Sir, I rise to seek your guidance on a matter that happened this morning. During the debate on Adjournment Motion to discuss the recruitment of teachers, it was brought to the attention of the Deputy Prime Minister and Minister for Finance that on the Floor of the House a few weeks back, the Minister for Education stood up and told this House that during the budget allocations for this year, teachers will be fully paid. That commitment was firmly made on the Floor of this House.

This morning, to my astonishment, the Deputy Prime Minister and Minister for Finance not only denied knowing about that but also went further to state that if such a communication was made on the Floor of the House, he was not aware of it and he was not informed.

Secondly, during the same debate, the Deputy Leader of Government Business, Mr. Amos Kimunya, when reminded that there has been a Statement made on the Floor of the House regarding tuition said that he is not bound by that Policy Statement given by the Government and proceeded to explain how he and some others are providing funding for tuition in his constituency.

Mr. Speaker, Sir, I rise to seek your guidance on the principle of collective responsibility and particularly when policy statements are made on the Floor of the House, whether this House should take them seriously and if they are contradicted by the Ministers themselves during the same session of Parliament, what is the recourse of this House?

I seek your guidance on that issue.

Mr. Speaker: Very well. Maybe we want to hear any Minister who is conversant with this matter. Whatever you say from the Front Bench may be helpful even as I give the directions which are sought. Is there any Minister who is conversant with the matter that has been raised by the Member for Central Imenti? Minister of State for Special Programmes, can you kindly assist the Chair? Did you hear what the Member for Central Imenti had to say? Did you hear? First confirm. If you did not, I will want him to repeat it.

The Minister of State for Special Programmes (Ms. Mathenge): Mr. Speaker, Sir, I did not hear it.

Mr. Speaker: Member for Central Imenti, can you repeat it, so that the Minister of State for Special Programmes follows?

Mr. Imanyara: Mr. Speaker, Sir, I pointed out that this morning, during the debate on the Motion for Adjournment, an issue was brought up for the Deputy Prime Minister and Minister for Finance about a policy statement issued by the Minister for Education on the Floor of this House regarding the payment of teachers, where an undertaking was given by the Minister that at the time of the Budget this year, there would be sufficient funds to pay the teachers. What astonished me, as I said, was that the Deputy Prime Minister and Minister for Finance not only denied it, but he said that if there was such an undertaking, or a policy statement made in the House, he was not aware of it.

During the same session this morning, it was pointed out that the Minister for Education again stood on the Floor of this House and indicated the Government's policy with regard to tuition. The Deputy Leader of Government Business, who is also a Minister in this Government, contradicted that statement and went on to say how he is

funding tuition in his constituency. When policy statements are given on the Floor of this House, given the doctrine of collective responsibility, what weight are we, as the House, supposed to give such policy statements that are given on the Floor of the House? Where there is contradiction between policy statements, what recourse do the Members of Parliament, and the Kenyan people in general, who take the Ministers seriously, have? What are we supposed to understand from such contradictory policy statements?

Mr. Speaker: Very well. Minister of State for Special Programmes, I will want to hear you. Now that we have a few more Ministers whose portfolios maybe even more relevant to this matter, I will want to hear them as well. In particular, I will want to hear hon. Dalmas Otieno. I will also want to hear Prof. George Saitoti with respect to Government policy. Do we have one Government policy or are there different Government policies depending on the moment? Particularly now in the House, we expect that there would be one Government policy that is consistent, or constant, if not consistent. So, we will want to hear you on those matters; Ms. Murugi Mathenge, you can go first.

The Minister of State for Special Programmes (Ms. Mathenge): Mr. Speaker, Sir, the Government is consistent. I would like to believe that we have been consistent, but at the same time, with regard to issues of budgeting, every Minister consults the Deputy Prime Minister and Minister for Finance before he or she makes a policy statement because it has a budgetary implications. I do not want to add anything more to that. I would like to consult the two Ministers on the issue.

Mr. Speaker: Hon. Dalmas Otieno, you serve as the Minister in charge of Public Service.

The Minister of State for Public Service (Mr. Otieno): Mr. Speaker, Sir, as everyone is aware, as to policy, we are one, but in terms of implementation, each Ministry is assigned its mandate. There is always a process, some of which involves legislation and some of which involves approval of the House. So, where a Minister has made a Statement covering a policy or an intention, when it comes to actual implementation, there is a definite process. Sometimes that indication may not be final until the implementation process is completed. That would be my comment at this stage.

Mr. Speaker: Hon. Dalmas Otieno, is the import of your statement that a Minister may come and give a Statement in the House pertaining to policy before they have had clearance from the Cabinet?

The Minister of State for Public Service (Mr. Otieno): Mr. Speaker, Sir, Statements in the House are in response to requests from the House. Sometimes after making a Statement, it becomes the duty of the Minister to convince the rest of the Cabinet as to policy, and to convince the colleagues as to implementation. So, there is a process after a response in Parliament, and that process may not have been followed to the letter in this particular issue.

Dr. Khalwale: On a point of order, Mr. Speaker, Sir. Perhaps, as a sign of the contempt that these Ministers have for the plight of the children who are currently out of class, the two Ministers who have spoken were not here in the morning. In view of that, they do not know what they are talking about, or they are not interested. Could you direct that the Leader of Government Business comes here and gives a substantive response to this important issue raised by hon. Imanyara?

Mr. Namwamba: Mr. Speaker, Sir, this matter is of significant interest to this House, because it also touches on how then the Back-Bench relates with the Government and how seriously, therefore, we would take any Statements or pronouncements made by a Member of the Front Bench. With regard to this particular matter of recruitment, especially of the 18,000 teachers currently serving on contract, I have asked a Question on the matter three times in this House. On three different occasions, the Minister for Education made a commitment; an undertaking, that the Ministry of Education was in consultation with the Treasury, and that upon approval of the Budget by this House, this matter would certainly be settled.

The Deputy Prime Minister and Minister for Finance stood on the Floor of this House this morning to say that he was not aware of that commitment by the Ministry of Education. The commitment was given, not once, not twice, but on three different occasions. One would believe that the Budget, as an instrument of management of the finances of the State, would be the one thing that the Government consults over the most. Therefore, I think this is a matter over which the Leader of Government Business must be required to come to this House and tell this House and the nation whether this is a double mouthed Government, whether this Government has any coherence at all and whether, as Members of this House, should be under any obligation to take whatever any Ministry of this Government says with any seriousness at all.

Mr. Speaker: Prof. George Saitoti, I did mention your name just for you to give some assistance to the Chair on this matter. More so, out of your long experience in Parliament because I have acquainted myself with the records of the HANSARD. Those records indicate that whatever a Minister says on this Floor is supposed to be factual, and reflects the accurate position. So, one will not expect that there will be a variation in what one Minister has asserted on the Floor by another Minister despite the fact that they may be serving in different Government departments.

The Minister of State for Provincial Administration and Internal Security (Prof. Saitoti): Mr. Speaker, Sir, indeed, what you have said is true, namely that there is normally only one position that is articulated by the Government.

On this matter, which is extremely difficult, when there appear like there is that kind of a variation, it is good to allow some kind of consultation within the Government, so that a proper clarification can be given. That, I think, will be the best thing.

Mr. Speaker: Very well. I will then direct that before I make any final findings on this matter, the Leader of Government Business does issue a Statement on Tuesday next week. The hon. Attorney-General, this may be your first assignment to help advise the Leader of Government Business as he comes up with that Statement. So, on Tuesday next week, the Leader of Government Business will issue a Statement on this matter.

UPSURGE OF INSECURITY IN ISIOLO/
SAMBURU/MARSABIT TRIANGLE

Mr. Bahari: Mr. Speaker, Sir, I rise to demand for a Ministerial Statement from the Minister of State for Provincial Administration and Internal Security regarding the upsurge in insecurity around Isiolo, Samburu and Marsabit triangle where in the last two months, there have been seven attacks on Isiolo pastoralists. This has caused ten deaths

and thousands of livestock stolen. This culminated into the death of four people last night. Three others have been critically injured in the same area.

I want the Minister, in the Statement, to give details of all those incidents. In addition, he should state why these incidents have continued unabated despite the presence of numerous security personnel in the area and why the District Security Committee of Samburu where most of the recent incidents took place is unable to arrest the situation. How has the Government assisted the affected people whose livelihoods have been threatened as a result of the continued insecurity in the area?

Mr. Speaker: The Assistant Minister, when will that Statement be available?

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Speaker, Sir, I can issue this Statement on Wednesday morning.

Mr. Speaker: Very well!

RE-APPOINTMENT OF MINISTER/PERMANENT
SECRETARY FOR FOREIGN AFFAIRS

Mr. Gunda: Mr. Speaker, Sir, on 25th August, 2011, I had asked for a Statement from the Leader of Government Business on the re-appointment of both the Minister for Foreign Affairs and the Permanent Secretary. The Statement was supposed to be given on Tuesday last week. However, we were informed that the Prime Minister was to take over the responsibility of issuing the Statement. We can see from today's Order Paper that the Rt. Hon. Prime Minister is due to give that Statement. Now that we do not see him around, I am wondering whether your Office has been informed as to when this Statement will be made.

Mr. Speaker: Hon. Members, indeed, I have noted the concern as raised by the Member for Bahari with respect to the Ministerial Statement that is due this afternoon which by the Order Paper had been allocated time to be delivered during Prime Minister's Time which commences at 3.00 p.m. We are well into the Prime Minister's Time as all Members can see, but the position as it stands now is that we, indeed, have received communication from the Prime Minister's Office indicating that suddenly and without notice, the Prime Minister had to go elsewhere to attend to Government business. It is official business that I am satisfied that it is necessary that it be transacted by the Prime Minister at this time. He has requested that he issues this Statement on Wednesday next week.

However, hon. Members, taking into account all the prevailing circumstances, the interest as expressed by the Members in this matter, I invoke the powers that are vested in me by the Standing Orders and direct that the Prime Minister delivers this Statement tomorrow at 2.30 p.m.

Prof. Saitoti, I want to give you that assignment to brief the Prime Minister so that he brings that Statement tomorrow in the afternoon.

The Minister of State for Provincial Administration and Internal Security (Prof. Saitoti): Mr. Speaker, Sir, I think that is really an ambush, but I am used to being ambushed because I am a veteran in those things. I will definitely convey that information to the Rt. Hon. Prime Minister.

I would also like to inform this House that there is a very important summit that is being held here on 9th September, 2011, and I know that the Prime Minister is very much involved in that. It is a very important summit meeting that seeks to address not just the current situation of the drought, but also target the formulation of ways in which we can come up with mechanisms to address drought. I wanted to draw the attention of this House to that summit just in the event that the Prime Minister is very much involved in its preparation because he is keen on it.

Mr. Speaker: Order, Prof. Saitoti! Did I hear you say that the summit will take place on 9th September, 2011? Tomorrow is 8th September, 2011.

The Minister of State for Provincial Administration and Internal Security (Prof. Saitoti): Mr. Speaker, Sir, the actual summit takes place on 9th September, 2011. However, there is an important preparatory meeting for the summit. As to whether the Prime Minister will be there, I cannot tell. What I know is that he has been involved in chairing sessions meant to prepare for the summit.

Mr. Speaker: Prof. Saitoti, let us take it this way. The House does not put any business on the Order Paper, particularly business from the Government unless it says that it is ready to transact that business. So, for us to put this on the Order Paper, we must have received intimation from the Prime Minister that he will be ready to give the Statement today. So, there will be no excuse for him not to give it tomorrow. Do you understand that, Prof. Saitoti?

The Minister of State for Provincial Administration and Internal Security (Prof. Saitoti): Mr. Speaker, Sir, I hear quite well, but at the same time, you said that you had received information that as far as today is concerned, the Prime Minister is very much involved with some other matter.

Mr. Speaker: Yes, I understood that!

The Minister of State for Provincial Administration and Internal Security (Prof. Saitoti): Mr. Speaker, Sir, as far as tomorrow is concerned, I will definitely convey this message to the Rt. Hon. Prime Minister. I am sure that the confirmation will be done between now and tomorrow afternoon.

Mr. Speaker: Very well. Let it rest there!

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

Mr. Speaker: The Member for Ikolomani, not on this matter. Let us keep it where it is for the time being. You have an opportunity to revisit it tomorrow. It is not too far off. It is just 24 hours away.

What is it, the Member for Nyatike?

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

Mr. Speaker: Let us hear the Member for Nyatike first.

Mr. Ogindo: Thank you, Mr. Speaker, Sir. I still represent the people of Rangwe.

Mr. Speaker: Proceed! Nyatike is not very far away.

AUDIT REPORTS ON WORLD BANK-FUNDED PROJECTS

Mr. Ogindo: Mr. Speaker, Sir, last week, I rose on a point of order to seek a Ministerial Statement from the Deputy Prime Minister and Minister for Finance in connection with the Internal Audit Department Report in connection with three World Bank funded projects. The Front Bench undertook and made a promise to this House that

the same would have been delivered yesterday. However, yesterday, I waited in vain together with the House. I was seeking your indulgence so that I can get a renewed commitment as to when this shall be delivered.

Mr. Speaker: Very well, the Member for Rangwe and I beg your pardon. I am informed that we have, in fact, received those Reports and they have been taken to the Budget Committee. Perhaps, we can revisit that matter after we have had the input of the Budget Committee.

Mr. Ogindo: Mr. Speaker, Sir, I think we are talking about two different things. I want to thank the Deputy Prime Minister and Minister for Finance for having responded to the Motion that was resolved in this House. However, I am talking about the World Bank funded projects, namely, the Western Kenya Flood and Community Driven Development, Kenya Education Sector Programme and also the Kenya Arid and Semi-Arid Development Programme.

Mr. Speaker: Very well! Leader of Government Business, when can we have a Statement on this matter?

The Minister for Transport (Mr. Kimunya): Mr. Speaker, Sir, we will communicate to Treasury. We can give the Statement on Wednesday morning.

Mr. Speaker: It is so directed!

DEATH OF CHILDREN AT THIKA DISTRICT HOSPITAL

Mr. Kabogo: Mr. Speaker, Sir, last month, I rose on a point of order seeking a Ministerial Statement from the Minister for Medical Services regarding the death of children in Thika District Hospital. He did promise to give that Statement last week, but he did not come. He has not brought it also this week. So, I seek the indulgence of the Chair.

Mr. Speaker: Very well! Is Minister for Medical Services not here?
Leader of Government Business, when can this Statement be issued?

The Minister for Transport (Mr. Kimunya): Mr. Speaker, Sir, can we take the two on Wednesday morning?

Mr. Speaker: Very well!

ELECTROCUTION OF A CHILD IN KAHAWA GARRISON BARRACKS

Mr. Kabogo: Mr. Speaker, Sir, I also did rise last month seeking a Ministerial Statement from the Minister for Energy regarding the death of a child in Kahawa Garrison from electrocution. They promised to bring that Statement last week, but it did not come. I seek the guidance of the Chair.

Mr. Speaker: The Assistant Minister for Energy is actually here!
Mr. Assistant Minister, when will this Statement come?

The Assistant Minister, Ministry of Energy (Eng. M.M Mahamud): Mr. Speaker, Sir, we can deliver it on Wednesday next week.

Mr. Speaker: Very well! It is so ordered!

Do I see the Member for Sigor where he is seated? You are out of the House and so, you might as well leave, because you want to sit there! You will leave for the rest of the day!

(Mr. Litole withdrew from the Chamber)

UPSURGE OF INSECURITY IN UASIN GISHU COUNTY

Mr. Kutuny: Jambo la Nidhamu, Bw. Spika. Mnamo 22/2/2011 niliuliza arifa kutoka kwa Waziri wa Utawala wa Mikoa na Usalama wa Ndani kuhusu kuzorota kwa usalama katika Mji wa Eldoret na Mji wa Kitale. Tunajua mikahawa katika miji hii imekuwa ikivamiwa mara kwa mara na watu wengi kupoteza maisha yao kiholelaholela. Jambo la kuhuzunisha ni kuwa kufikia leo hakuna mshukiwa wowote ambaye amewahi kutiwa mbaroni na Waziri hajawahi kuleta arifa hapa Bungeni kutueleza vile mambo ya usalama yalivyo katika miji hiyo. Ninaomba Bunge hili kumzurutisha ailetee arifa hiyo kwa sababu kuzoroteka kwa usalama katika miji hiyo kumekita mizizi.

Mr. Speaker: Waziri mhusika, hiyo arifa itawasilishwa lini hapa Bungeni?

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Speaker, Sir, I was ready with the Statement as from this morning, although the hon. Member was not present in the House. Again, when Question Time had already expired, I wanted to issue this Statement, but he was not in the House. That is why I delayed with it. However, I have the Statement ready and it is the Chair now to order me to issue it, if we still have time.

Mr. Speaker: Very well! Could you issue it tomorrow?

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Yes, Mr. Speaker, Sir. Once the Chair orders me, I have no alternative.

Mr. Speaker: Member for Cherangany, will you be available tomorrow afternoon?

Mr. Kutuny: Mr. Speaker, Sir, I have always been available.

Mr. Speaker: Yes, except that the Assistant Minister says that you were not here in time this morning, otherwise, he was ready to issue the Statement. In fact, you were the one who was accommodated. Since you were not here, the Statement could not be delivered.

Mr. Kutuny: Mr. Speaker, Sir, the Assistant Minister is misleading the House, but I will do as you have directed.

(Mr. Ojode stood up in his place)

Mr. Speaker: Mr. Assistant Minister, please, let it rest there. The Member for Cherangany will only have to appreciate that you are also human and sometimes, you can make a slip. So, it is possible at the time the Assistant Minister was ready to deliver the Statement, you were not, in fact, in the House at that point in time. It is possible because you are human. So, do not treat yourself as if you are perfect. You cannot have 100 per cent record.

That then brings us to the end of Order No.7.

Next Order!

COMMITTEE OF THE WHOLE HOUSE

(Order for Committee read)

[Mr. Speaker left the Chair]

IN THE COMMITTEE

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

The Temporary Deputy Chairlady (Dr. Laboso): Order, hon. Members! We are now in the Committee of the Whole House to consider three Bills. We will start with The National Police Service Commission Bill (Bill No.32 of 2011.)

THE NATIONAL POLICE SERVICE COMMISSION BILL

The Temporary Deputy Chairlady (Dr. Laboso): Hon. Members, because of some the issues that we have had in the past, it is good to clarify that Standing Order No.54 says:

“The proposer of an amendment shall, before moving it, hand the proposed amendment in writing, signed by the proposer, to the Clerk.”

So, hon. Members, please, do not start giving amendments on the Floor, which are not signed and given to the Clerk beforehand.

(Clauses 2, 3 and 4 agreed to)

Clause 5

Mr. Mungatana: Madam Temporary Deputy Chairperson, I beg to move:-
THAT, Clause 5 be amended in subclause (6) by deleting the word “two” and substituting therefor the word “one”.

(Prof. Saitoti consulted with another Member)

Madam Temporary Deputy Chairlady, if the Minister could listen.

The Temporary Deputy Chairlady (Dr. Laboso): Minister, I think the Member wants you to concentrate!

Mr. Mungatana: Madam Temporary Deputy Chairman, if the Minister could just hear me out. Yesterday during the second reading, Mrs. Odhiambo-Mabona mentioned that we are segregating against politicians. The fact that someone has served as a Member of Parliament should not exclude him from being a member of the commission for ten years. We should not legislate laws against ourselves. So, we are adjusting it to one term.

I beg to move and I hope the Minister has no objection.

(Question of the amendment proposed)

The Minister of State for Provincial Administration and National Security (Prof. Saitoti): Madam Temporary Chairlady, I want to say that I do not have aversion at all as far as the proposal made by Mr. Mungatana is concerned. The only reasons why we put in two terms was to ensure that there was sufficient gap to ensure that hon. Members would have been detached. I want to say that I have no objection at all to the amendment proposed.

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

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

(Clause 5 as amended agreed to)

(Clauses 6, 7 and 9 agreed to)

Clause 10

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

THAT, Clause 10 be amended in sub-clause (2), by inserting the following new proviso at the end thereof—

“Provided that the Inspector-General shall, during such recruitment, appointment or promotion, take into consideration gender, county and ethnic balancing”.

We were proposing an amendment in this matter to insert the clause provided that the Inspector-General, shall, during such recruitment, appointment or promotion take into consideration gender, county and ethnic balancing. The justification for this proposal is that we want this particular amendment to make this Commission which is the human resource arm of the Government as far as the police is concerned, to take into consideration these issues. During the second reading yesterday, we went through this matter and we still think that since the police will be under the rank of sergeant will be recruited by the Inspector-General, and I hope the House is paying attention, we must not let this to be loose. If we do it, the Commission might interpret it in its own way and the practice that we have been having that every time there is recruitment of police constables, they go to every county and do recruitment there, might not be compulsory if we do not make the law necessary and compulsory for the Inspector-General to do so.

I beg to move.

(Question of the amendment proposed)

The Minister of State for Provincial Administration and National Security (Prof. Saitoti): Madam Temporary Deputy Chairlady, let me say that I do not have any objection at all because what is being proposed by Mr. Mungatana is very much in the Constitution. As a matter of fact, the Constitution is supposed to be observed because the Bill is supposed to be in line with what is contained in Chapter 13 of the Constitution.

What I am saying is that there was no omission but the only thing that we did not put it there was the fact that we did not want to appear to be redundant. All the same, we are for the making sure that there is order.

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

(Clause 10 as amended agreed to)

Clause 11

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

THAT, clause 11 be amended in sub-clause (1)(b) by inserting the words “taking into consideration gender, county and ethnic balancing” immediately after the word “Service”.

Again, for the same reasons and since the Minister is not opposing, I beg to move.

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

(Clause 11 as amended agreed to)

(Clauses 12, 13, 14, 15 and 16 agreed to)

Clause 17

Mr. Mungatana: Madam Temporary Deputy Chairlady, again, for the same reasons, I beg to move:-

THAT, Clause 17 be amended in sub-clause (1) by inserting the words “taking into consideration gender, county and ethnic balancing” immediately after the word “determine”.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Dr. Laboso): I believe, Mr. Minister, you are satisfied or you have no problem with the amendment.

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

(Clause 17 as amended agreed to)

(Clauses 18, 19, 20, 21, 22, 23, 24 and 25 agreed to)

Clause 26

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

THAT, Clause 26 be amended in sub-clause (3) by inserting the word “county” immediately after the word “gender” appearing in paragraph (i).

Again for the same reasons, I propose that Clause 26 be amended as per the Order Paper.

(Question of the amendment proposed)

The Minister of State for Provincial Administration and National Security
(Prof. Saitoti): Madam Temporary Deputy Chairlady, I am fully satisfied.

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

(Clause 26 as amended agreed to)

(Clauses 27, 28, 29 and 30 agreed to)

(First Schedule agreed to)

(Second Schedule agreed to)

(Title agreed to)

(Clause 1 agreed to)

The Minister of State for Provincial Administration and Internal Security
(Prof. Saitoti): Madam Temporary Deputy Chairlady, I beg to move that the Committee doth report to the House its considerations of The National Police Service Commission Bill (Bill No.32 of 2011) and its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

The Temporary Deputy Chairlady (Dr. Laboso): We have now dispensed with that Bill. Hon. Members, we will now move to the next Bill, which is The Kenya Citizens and Foreign Nationals Management Service Bill (Bill No.41 of 2011).

THE KENYA CITIZENS AND FOREIGN NATIONALS
MANAGEMENT SERVICE BILL

Clause 2

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

THAT, Clause 2 of the Bill be amended in the definition of “Board” by deleting the words “section 6” and substituting therefor the words “section 5”.

The reason being that the Board of Service is established under Clause 5 and not 6 as described in Clause 2 in the interpretation section.

(Question of the amendment proposed)

The Minister of State for Immigration and Registration of Persons (Mr. Kajwang): Madam Temporary Deputy Chairlady, I concede that we discussed this with the Committee. That was a typographical error which has been corrected.

Therefore, I support.

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

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

(Clause 2 as amended agreed to)

(Clauses 3, 4, and 5 agreed to)

Clause 6

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

THAT, Clause 6 of the Bill be amended in sub clause (1) by deleting the words “in consultation with the Public Service Commission” appearing in paragraph (c).

The reason for that is that the purpose for creating the Service is to create a semi-autonomous Government agency with a mandate of running its own affairs, including the recruitment and discipline of its staff. Further, upon benchmarking with the best practices in the world, it has been observed that the trend is to give a freehand to the Board on such matters.

(Question of the amendment proposed)

The Minister of State for Immigration and Registration of Persons (Mr. Kajwang): Madam Temporary Deputy Chairlady, I confirm that we have consulted with the Committee on this. The reason for the amendment is to give the Board the power which, otherwise, would be with the Public Service Commission.

I, therefore, confirm.

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

(Clause 6 as amended agreed to)

Clause 7

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

THAT, Clause 7 of the Bill be amended in sub clause (1) by deleting the words “in consultation with the Public Service Commission” appearing in paragraph (c).

By allowing that justification, aggrieved persons can appeal to the Cabinet Secretary, who must promote efficient administration through an expeditious review of administrative actions as envisaged in the Constitution. Furthermore, the idea is to reduce the instances of litigation and consequently reduce the burden of litigants on cost of filing suits, together with the procedures attendant thereto.

(Question of the amendment proposed)

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

(Clause 7 as amended agreed to)

Clause 8

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

THAT, Clause 8 of the Bill be amended in sub clause (3) by deleting the words “the Cabinet Secretary” and substituting therefor the words “the President in case of the chairperson and to the Cabinet Secretary in case of a member of the Board.”

The reason for that is that the appointing authority for the Chairperson of the Board and that of the members is different and, hence, the resignation requirement should reflect the provision

(Question of the amendment proposed)

The Minister of State for Immigration and Registration of Persons (Mr. Kajwang): Madam Temporary Deputy Chairlady, I concede that the Chairman is usually appointed by the President. So, if he were to resign, he should send his resignation to the President. However, the Board Members are appointed by the Cabinet Secretaries. So, they should send their resignation letters to the Cabinet Secretary.

I concur.

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

(Question, that the words to be inserted in place)

thereof be inserted, put and agreed to)

(Clause 8 as amended agreed to)

(Clause 9 agreed to)

Clause 10

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

THAT, Clause 10 of the Bill be amended by inserting the following new sub clause immediately after sub clause (3)-

(4) The Cabinet Secretary may, after consultation with the Board, amend the Second Schedule.

The justification is that the schedule of the proceedings of the meetings of the Board providing the Cabinet Secretary the powers to amend the Schedule allows for the opportunity to modify or improve on the Board's procedures.

(Question of the amendment proposed)

The Minister of State for Immigration and Registration of Persons (Mr. Kajwang): Madam Temporary Deputy Chairlady, I concede and concur.

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

(Clause 10 as amended agreed to)

(Clauses 11 and 12 agreed to)

Clause 13

Mr. Mungatana: Madam Temporary Deputy Chairlady, when we discussed with the Minister on this one, he convinced us that the Director-General will not be at such a level that will need parliamentary approval. Therefore, I withdraw this amendment.

(Proposed amendment to Clause 13 by hon. Mungatana was withdrawn)

The Temporary Deputy Chairlady (Dr. Laboso): Hon. Members, we will then, therefore, call upon the Chairman of the Committee to move his amendment.

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

THAT, Clause 13 be amended in sub clause (4) by deleting the words "that is relevant to the functions of the Service and any other qualifications that the Board may prescribe" and substituting therefor the words "in either law, economics, immigration matters, refugee affairs, administration, management, population studies or demography and such

other additional qualifications as the Board may prescribe”.

Madam Temporary Deputy Chairlady, the reason for stating the specific degree qualification is to give certainty on the kind of qualifications for the position of Director-General. The provisions intend to do away with the arbitrary appointments and bringing professionalism into the Service.

(Question of the amendment proposed)

The Minister of State for Immigration and Registration of Persons (Mr. Kajwang): Madam Temporary Deputy Chairlady, I concur. The reason why the Committee persuaded me to allow this amendment was that if you leave the qualifications to be a general degree without stating what else the person has, there was a feeling that the Board may tailor the qualifications in some way. So, we wanted to put the Board in some kind of four corners.

We have provided for those who are qualified in law, economics, immigration, refugee affairs, administration, management, population studies, demography and such other additional qualifications as the Board may prescribe. We think that this covers the general area in which we need this expertise.

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

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

(Clause 13 as amended agreed to)

(Clause 14 agreed to)

Clause 15

Mr. Kapondi: Madam Temporary Deputy Chairlady, I beg to move:

THAT, Clause 15 be amended by inserting the words “a Director” immediately before the words “an immigration officer.”

Madam Temporary Deputy Chairlady, Clause 15 is the provision on delegation of powers of the Director-General. It was observed that there was an erroneous omission of the level of hierarchy of directors who will be the heads of departments and, therefore, the proposal for inclusion.

(Question of the amendment proposed)

The Minister of State for Immigration and Registration of Persons (Mr. Kajwang’): Madam Temporary Deputy Chairlady, I concur and support the amendment.

(Question, that the words to be inserted)

be inserted, put and agreed to)

(Clause 15 as amended agreed to)

(Clauses 16, 17, 18, 19, 20, 21 and 22 agreed to)

Clause 23

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

THAT, Clause 23 be amended by—

- (a) numbering the existing clause as subclause (1);
- (b) inserting the following new subclauses immediately after the newly numbered subclause (1)—

“(2) Subject to subsection (3), the member of staff or public officer referred to in subsection (1) shall, upon constitution of the Board and competitive recruitment by the Board for all positions in accordance with this Act, be re-deployed in the public service.

(3) Notwithstanding subsection (2), the Board shall, before employing a member of staff or public officer referred to in subsection (1)—

- (a) require such member of staff or public officer to make an application for employment to the Board; and
- (b) using the criteria determined by the Board, vet such a person to ensure that he or she is fit and proper to serve in the position applied for as a member of staff of the Board.”

Madam Temporary Deputy Chairlady, I propose that we amend the transition clause of the staff to make it better so that those who have been taken in to act in certain capacity and when recruitment is done and some of them are left out, they can be redeployed back to public service. We do not want to leave them hanging.

(Question of the amendment proposed)

The Minister of State for Immigration and Registration of Persons (Mr. Kajwang’): Madam Temporary Deputy Chairlady, I agree. This is a new agency that may absorb some members of the old staff and may wish to leave out some. The provision that they will not be expelled from public service is good to preserve them in the public service. So, I concur with the amendment.

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

(Clause 23 as amended agreed to)

(Clause 24 agreed to)

New Clause 21A

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

THAT, the Bill be amended by inserting the following new clauses immediately after Clause 21.

Review of Director's decisions. **21A.**(1) A person aggrieved by the decision of the Director made pursuant to any of the Acts specified in the First Schedule may apply to the Cabinet Secretary for review of the decision of the Director.

(2) The application under subsection (1) shall be in such manner as shall be prescribed.

(Question of the new clause proposed)

(New clause read the First Time)

(Question, that the new clause be read a Second Time, proposed)

The Minister of State for Immigration and Registration of Persons (Mr. Kajwang'): Madam Temporary Deputy Chairlady, the reason why we are agreed is that there are many people who may be aggrieved by the decision of the Director. Although we have provided that they may go to court, the courts sometimes are slow and busy. So, we found that at least administrative action can be taken by the Cabinet Secretary. However, if one is not satisfied with it, then he can go to the High Court.

So, I support New Clause 21A.

(Question, that the new clause be read a Second Time, put and agreed to)

(The new clause was read a Second Time)

(Question, that the new clause be added to the Bill, put and agreed to)

New Clause 21B

The Minister of State for Immigration and Registration of Persons (Mr. Kajwang): Madam Temporary Deputy Chair, I beg to move:-

THAT, the Bill be amended by inserting the following new clause immediately after Clause 21A.

Establishment of the Tribunal. **21B.** (1) There is hereby established a tribunal to be known as the Kenya Citizenship and Immigration Service Appeals Tribunal.

(2) The Tribunal shall consist of the following members

appointed by the Cabinet Secretary-

- (a) a chairperson who shall be a person qualified to be appointed as a judge of the High Court;
 - (b) two persons qualified and experienced in matters relating to public administration, immigration or demography.
- (3) The Tribunal shall have the same powers as a subordinate court of the first class.
- (4) Any person aggrieved by a decision of the Board or Director under this Act may appeal to the Tribunal in accordance with subsection (5).
- (5) The Chief Justice shall prescribe the manner of appeal and rules of procedure for the Tribunal.
- (6) A person aggrieved by a decision of the Tribunal under this section may appeal to the High Court in such manner and time as may be prescribed under subsection (5).

(Question of the New Clause 2B proposed)

(New Clause 2B read the First Time)

(Question, that New Clause 2B be read a Second Time, proposed)

The Minister of State for Immigration and Registration of Persons (Mr. Kajwang) Madam Temporary Deputy Chair, the reason why we think we should establish the Tribunal - at least, the Committee thought - is that although people will still end up in court, there are many cases where people are aggrieved; they are sometimes in their thousands and we do not want that, in the first instance, they go to court. That is because they will clog the courts and it is also costly. So, we thought that an in-house tribunal headed by a senior person with experienced people could deal with some of these matters summarily and expeditiously so that, if somebody is dissatisfied, he or she can go to High Court on a matter of law. I think such cases would be few and would be serious enough to warrant going to court.

With those few remarks, I beg to support.

Mr. Imanyara: Madam Temporary Deputy Chair, I am just wondering whether there is any wisdom in this, given that we have already provided in Clause 21A for administrative action to be taken. Are we not, in fact, taking away that which we have provided for under Clause 21A(b) through a long process, when the Cabinet Secretary is

empowered to take the very same actions that the Tribunal will be taking and leaving the options to the High Court? I would urge the Chair of the Committee and the Minister to reconsider this and, perhaps, now that we have Clause 21A in place, have this withdrawn. Otherwise it will just prolong the procedures for going through an administrative action, then the tribunal and he can take some advice on this from our Attorney-General who is sitting next to him.

Mr. Mungatana: Madam Temporary Deputy Chair, in fact, if you look at the Constitution, there is a clear provision on how administrative action should be taken, and the manner in which you are supposed to get reprieve in case an administrative action has been taken by an officer and there is mal-administration. We have even passed here a human rights committee – the Administrative Justice Commission - that will be dealing with the issues. So I want to agree with Mr. Imanyara that we will really be prolonging the appeals process. In fact, for me, I would like to see the Cabinet Secretary make a decision. If, for example, the country has decided that so and so is a *persona non grata*, then it is the Cabinet Secretary who should make that decision. We need quick and fast action; not to go through tribunals and whatever. If he feels there is something wrong, he can go to the High Court as the Minister has provided. But because of security issues, I think we should have a clear specific administrative authority that deals with that matter conclusively. So, I agree with Mr. Imanyara that we should remove the tribunal.

The Minister of State for Immigration and Registration of Persons (Mr. Kajwang): Madam Temporary Deputy Chair, actually we were suggesting that where the Minister or Cabinet Secretary has refused and you feel aggrieved - and there are many cases when we refuse – that person can very well go to court. But in other jurisdictions, and because there are many such cases--- There are many people who want to work in this country or pass through this country. It would clog the courts. That is why we are suggesting a sieving mechanism. He is not actually interfering with the Minister. The Minister will have made a decision. But before somebody goes to court, we thought that this would be straightforward, quick and they would deal with it in a very summary manner. It is not a large organization. There are just about three people and they are not full time. They will deal with the matter only when there is work to be done. I thought it would really help so that somebody has--- Only the other day, Mr. Imanyara put me to task here on why I had to refuse somebody a right to stay. If they had this window, probably they would have gone to this tribunal without having to go to court. That is because the court system is a very expensive and complex affair. I thought it was good, but I leave it to the House.

*(Question, that the New Clause 2B be read
a Second Time, put and agreed to)*

(The New Clause 2B was read a Second Time)

*(Question, that the New Clause 2B be added
to the Bill, put and agreed to)*

First Schedule

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

THAT, the First Schedule be amended by inserting the following new paragraphs immediately after the last paragraph-
Mohammedan Marriage and Divorce Registration Act (Cap.155)
Hindu Marriage and Divorce Act (Cap.157)

The rationale being that, by allowing aggrieved persons to apply for review of decisions to the Cabinet Secretary promotes efficient administration through an expeditious review of administrative actions as envisaged under the Constitution.

(Question of the amendment proposed)

The Minister of State for Immigration and Registration of Persons (Mr. Kajwang): Madam Temporary Deputy Chair, I support the amendment. Actually, we had indicated the Marriage Act but we did not indicate the two other Acts of Parliament that also deal with marriages; the Hindu and Moslem. So, I support.

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

(First Schedule as amended agreed to)

Second Schedule

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

THAT, the Second Schedule be amended in paragraph 5 by deleting the words “the vice-chairperson, shall preside and in the absence of both the chairperson and the vice-chairperson”

The rationale is that there is no provision for the post of the vice-chairperson in the main body of the Bill. That is the reason for the proposed amendment.

(Question of the amendment proposed)

The Minister of State for Immigration and Registration of Persons (Mr. Kajwang): Madam Temporary Deputy Chair, I agree only that it is unfortunate we have to remove the position of the vice-chair because we thought we will deal with gender issues here. But, somehow, we omitted to put it in the main body of the Bill. So, I support the amendment.

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

(Schedule Schedule as amended agreed to)

Long title

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

THAT, the Long Title be amended by inserting the words “immigration and refugees” immediately after the words “registration of citizens”.

The reason being the Kenyan Citizens and Foreign National Management Service Bill of 2011 shall have the core functions of creation of national population register, administration of the laws relating to immigration, refugees, marriages, births and deaths and identification and registration of citizens. The part on immigration and refugees was omitted erroneously from the preamble and that is why I am proposing the amendment to the Long Title.

(Question of the amendment proposed)

The Minister of State for Immigration and Registration of Persons (Mr. Kajwang): Madam Temporary Deputy Chair, I support.

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

(Long Title as amended agreed to)

(Short Title agreed to)

(Clause 1 agreed to)

The Minister of State for Immigration and Registration of Persons (Mr. Kajwang): Madam Temporary Deputy Chairlady, I beg to move that the Committee doth report to the House its consideration of The Kenya Citizens and Foreign Nationals Management Service Bill and its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

Madam Temporary Deputy Chairlady (Dr. Laboso): Hon. Members, we have, therefore, dispensed with that Bill and I am moving on to our last Bill, which is the Prohibition of Female Genital Mutilation Bill.

THE PROHIBITION OF FEMALE GENITAL MUTILATION BILL

Clause 2

THAT, Clause 2 be amended by inserting the following new definitions in their proper alphabetical sequence:-

“Board” means the Anti-Female Genital Mutilation Board established under Section 2A.

“medical practitioner” means a person registered as such under the Medical Practitioners and Dentists Act;

“midwife” means a person registered as such under the Nurses Act;

“support services” include provision of shelter, medical services, legal education, training of service providers and advocates against female genital mutilation, and provision of psycho-social support.

Madam Temporary Deputy Chairlady, this is just a matter of definition. This is to define what “Board”, “Medical Practitioners” and Midwives” mean.

(Question of the amendment proposed)

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

(Clause 2 as amended agreed to)

Clause 3

Mrs. Noor: Madam Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 3 be amended—

- (a) in Subclause (1) by inserting the words “including a person undergoing a course of training while under supervision by a medical practitioner or midwife with a view to becoming a medical practitioner or midwife” immediately before the words “who performs”;
- (b) by deleting subclause (7).

The rationale behind this is that we have talked of a person who performs female genital mutilation, but we did not take into consideration those who go for training and supervision, and those who do all sorts of things when female genital mutilation is being done. That is the rationale behind this amendment, so that we look holistically at the performance of female genital mutilation.

(Question of the amendment proposed)

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

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

(Clause 3 as amended agreed to)

(Clause 4 agreed to)

Clause 5

Mrs. Noor: Madam Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 5 be amended in the marginal note by deleting the words “genital female mutilation” and substituting therefor the words “female genital mutilation”.

If you look at the marginal notes of the Bill, it says “genital female mutilation”. So, we are saying instead of that we put “female genital mutilation”.

(Question of the amendment proposed)

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

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

(Clause 5 as amended agreed to)

(Clauses 6 and 7 agreed to)

Clause 8

Mrs. Noor: Madam Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 8 be amended by deleting the words “genital female mutilation” and substituting therefor the words “female genital mutilation”.

This is just a typological error. Instead of “genital female mutilation” we want to have “female genital mutilation.”

(Question of the amendment proposed)

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

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

(Clause 8 as amended agreed to)

(Clauses 9, 10 and 11 agreed to)

Clause 12

Mrs. Noor: Madam Temporary Deputy Chairlady, I beg to move:-

- THAT, Clause 12 be amended—
- (a) by deleting the words “but no more than seven years” and the words “but not more than five hundred thousand shillings”;
 - (b) by deleting the words “one hundred” and substituting therefor the words “two hundred”.

The rationale behind this is that we feel that seven years is a long time to jail an innocent woman who performed female genital mutilation; we feel that Kshs500,000 is also so much to fine a woman in the village. So, those are the amendments and we felt that we needed to be realistic in making legislation.

(Question of the amendment proposed)

The Minister of State for Immigration and Registration of Persons (Mr. Kajwang): Madam Temporary Deputy Chairlady, I have one point. When the proposer says “an innocent woman who has performed, I thought that is a bit contradictory because she cannot be innocent.

Mrs. Noor: Yes, Madam Temporary Deputy Chairlady, I agree that she cannot be innocent. I withdraw that statement. Thank you.

Dr. Khalwale: Madam Temporary Deputy Chairlady, I have a lot of respect for culture; I would like it to be known that we have to move very cautiously on punishment. It will take quite a bit of time before some of the illiterate people who carry out the operation to come to terms with this law. You might end up jailing the villagers without them being properly sensitized.

Madam Temporary Deputy Chairlady (Dr. Laboso): So, you are supporting the amendment?

Dr. Khalwale: Yes, Madam Temporary Deputy Chairlady.

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

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

(Clause 12 as amended agreed to)

New Clause 2A

Mrs. Noor: Madam Temporary Deputy Chairlady, I beg to move:-
THAT the Bill be amended by inserting the following new Parts immediately after clause 2—

Establishment of the Board.	2A. (1) There is established a board to be known as the Anti-Female Genital Mutilation Board.
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(2) The Board is a body corporate with perpetual succession and a common seal and shall, in its corporate name, be capable of—

- (a) suing and being sued;
- (b) taking, purchasing or otherwise acquiring, holding, charging or disposing of movable and immovable property;
- (c) borrowing money or making investments;
- (d) entering into contracts; and
- (e) doing or performing all other acts or things for the proper performance of its functions under this Act which may lawfully be done or performed by a body corporate.

Madam Temporary Deputy Chairlady, we are proposing this amendment to establish the Anti-Female Genital Mutilation Board. Currently, we have the National Steering Committee at the national level. This Committee deals with sensitization, education and co-ordination of anti-female genital mutilation. That is why today we were brave enough to come here to discuss female genital mutilation and we have our brother who moved this Bill. That is the force behind the group; the National Steering Committee that is in existence. This Committee is housed by the Ministry of Gender, Children and Social Development. We agreed with the Mover and the Minister that since they are already in existence and are housed at the Ministry of Gender, Children and Social Development, we felt that it was right that we give them the legislation so that they can be legally in place.

(Question of the new Clause 2A proposed)

(New Clause 2A read the First Time)

(Question that the new Clause 2A be read a Second Time, proposed)

The Minister for Transport (Mr. Kimunya): Madam Temporary Deputy Chairlady, while I support the entire initiative of the Bill on sorting out this menace on FGM, I feel that creating a whole new board, which is the essence of the whole new part is probably not necessary because all these matters can be handled by existing infrastructure in terms of bodies within the Ministries and the Sexual Offences Act. There are very many other bodies through which this matter can be handled.

Madam Temporary Deputy Chairlady, we are creating a new board now which will also occasion expenditure that will need to be financed. We have not provided how this new board will be financed, without which will be a recourse to the Exchequer and that requires prior approval.

So, I urge that perhaps, we go with the Bill as it was, but without necessarily having to create a whole new board for overseeing what could be overseen through the different bodies that are already in existence. However, unless the Committee has any

other views, they need to, perhaps, tell us the genesis of that because it was not in the original Bill. This is a new clause and it is something that we need to deliberate on because of the cost implications of having a whole new board to do that and we have not worked out how it will be financed.

Madam Temporary Deputy Chairlady, I would like to oppose this amendment for now unless I am convinced otherwise.

Dr. Khalwale: Madam Temporary Deputy Chairlady, I rise to support the new clause. Let me do so by using Mr. Kimunya's words. This is not new. This board is already pre-existing; only that it is called the National Steering Committee on Female Genital Mutilation. All they are doing here is that they are putting it in the name which they think should be ideal and I do not think it will visit any further cost to the Exchequer and, therefore, we should support it.

Madam Temporary Deputy Chairlady: The Mover of the Bill, do you want to clarify?

Mr. Kapondi: Madam Temporary Deputy Chairlady, basically, there is nothing new that we are introducing in the form of a board. It is a conversion of what is in existence; the National Steering Committee on Female Genital Mutilation under the Ministry of Gender, Children and Social Development. Basically, we want to improve it, but we are not occasioning any extra funding for the board. So, I support the new clause.

*(Question, that the New Clause 2A be read
a Second Time, put and agreed to)*

(The New Clause 2A was read a Second Time)

*(Question, that the New Clause 2A be added to
the Bill, put and agreed to)*

New Clause 2B

Mrs. Noor: Madam Temporary Deputy Chairlady, I beg to move:-

THAT, the Bill be amended by inserting the following new Parts immediately after clause 2—

**Composition
of the
Board.**

2B. (1) The Board shall consist of—

- (a) a chairperson appointed by the President;
- (b) the Permanent Secretary of the Ministry for the time being responsible for matters relating to gender or a representative duly appointed in writing;
- (c) the Permanent Secretary of the Ministry for the time being responsible for matters relating to finance or a representative duly appointed in writing;

- (d) the Permanent Secretary of the Ministry for the time being responsible for matters relating to health or a representative duly appointed in writing;
- (e) the Permanent Secretary of the Ministry for the time being responsible for matters relating to education or a representative duly appointed in writing;
- (f) the Permanent Secretary of the Ministry for the time being responsible for matters relating to youth affairs or a representative duly appointed in writing;
- (g) three other members appointed by the Minister;
- (h) the Chief Executive Officer.

(2) A person appointed as a member of the Board under this Act, other than an *ex officio* member, shall serve for a single term of six years and shall not be eligible for re-appointment.

Madam Temporary Deputy Chairlady, this amendment relates to the composition of the board members.

(Question of the New Clause 2B proposed)

(New Clause 2B read the First Time)

Dr. Khalwale: Madam Temporary Deputy Chairlady, I also want to support the new clause but with a further amendment. I have already given the written amendment.

Madam Temporary Deputy Chairlady: Give us a chance to first put the Question for it to be accepted, and then you can move your further amendment. This is just for neatness.

(Question that the new clause 2B be read a Second Time, proposed)

(Question, that the new clause 2B be read a Second Time, put and agreed to)

Dr. Khalwale, would you like to propose now or ---?

*(The Temporary Deputy Chairlady (Dr. Laboso)
Consulted with the Clerk-at-the-Table)*

I stand guided.

(The New Clause 2B was read a Second Time)

Proceed, Dr. Khalwale!

Dr. Khalwale: Thank you, Madam Temporary Deputy Chairlady. I support this new clause, but with a small amendment. I propose the amendment that the composition of the board be slightly more specific by proposing that Clause 2B(1)(g) be amended as follows.

Madam Temporary Deputy Chairlady, I beg to move:-

THAT, the Bill be amended by inserting the following new words immediately after Clause 2B(1)(g) immediately after the word “Minister”-

“drawn from communities with a history of this practice.”

Madam Temporary Deputy Chairlady, this is important because if you carefully look at the composition of the board, you will find that they are mainly Permanent Secretaries of various line Ministries. You might find a board that is composed of people who have no sense of the culture of these people and, therefore, emerging issues that could arise as this board and this law becomes operational will be poorly addressed. You can imagine a situation whereby you brought a Luo or a Luhya to sit on this board and they have no idea about what FGM is. Therefore, they would not know what they are protecting and they could end up losing some of the gains we want to make with this law. So, I propose that those three members must be drawn from those communities with that kind of history of the practice.

Madam Temporary Deputy Chairlady, I beg to move.

(Question of the further amendment proposed)

Mr. Affey: Madam Temporary Deputy Chairlady, I want to support this further amendment, save for the fact that we do not put the names of the tribes in order not to show an element of discrimination. However, it is very obvious that for those communities that traditionally use this kind of negative traditional practices, emphasis must be given to those communities and regions where this is quite rampant.

I support.

The Minister of State for Immigration and Registration of Persons (Mr. Kajwang): Madam Temporary Deputy Chairlady, the reasons given by the mover of this amendment are not very persuasive. In fact, if you put people who understand this matter of Female Genital Mutilation (FGM), they may even resist some of the changes they want because they understand it and do not see a problem with it. Leave it open because any Kenyan can serve in this Board.

The Minister for Transport (Mr. Kimunya): Madam Temporary Deputy Chairlady, I agree with Mr. Kajwang that putting in the Board and specifically saying you want members who come from areas where this practice is rampant is self defeating. Also, by targeting people because a certain anti-social behavior is taking place in their area might actually be discriminatory and against the spirit of the Constitution.

Madam Temporary Deputy Chairlady, I oppose this amendment. Much as I appreciate the sentiments of Dr. Khalwale, it will give a bad impression, that you have only been invited to this Board because in your area FGM is rampant. People might even refuse to take these appointments.

I oppose that amendment and believe that Dr. Khalwale might be tempted to withdraw it.

Mr. Imanyara: Madam Temporary Deputy Chairlady, for the same reasons given by Mr. Kimunya and Mr. Kajwang' I will find myself unable to support my good friend this time round. In fact, we have scholars who have done a lot of research and work in this area who are not even Kenyans or from Kenyan communities but whose expertise is probably better than people from most of the communities. Therefore, we need to be careful that we do not put into law provisions that betray or tend to undermine the letter and spirit of the Constitution.

Madam Temporary Deputy Chairlady, while at it, I would wish the Chair to look at the provisions of New Clause 2B, in the spirit of the new Constitution. There should not be any references to the Minister or Permanent Secretary. They need to clean it up a bit so that we remove references to offices that have ceased to exist. There is no such office as of Permanent Secretary or Minister under the new Constitution. Although this can be corrected at the stage of publishing the Act, I think it is something that can be done even at this stage if the mover agrees so that we are not seen to be moving against the spirit of the new Constitution by using a language that has been overtaken by events.

Dr. Khalwale: On a point of order, Madam Temporary Deputy Chairlady. I rise to withdraw this amendment on the understanding of the points raised by the hon. Members who have spoken before me. I do so on the understanding that they have raised the points from the knowledge of the practice. I, as a doctor, have knowledge of reconstructing the damage that is usually brought to my clinic. So if at any time they need any advice on matters of reconstruction, I will be readily available.

*(The proposed further amendment to New Clause 2B
by Dr. Khalwale withdrawn)*

The Temporary Deputy Chairlady (Dr. Laboso): So, that further amendment has therefore been withdrawn.

Mr. Imanyara: On a point of order, Madam Temporary Deputy Chairlady. You, as the Chair, can deal with the issue that I raised. The Constitution is very clear and under Standing Order No.47 you can actually change these references from "Permanent Secretary" to "Principal Secretary" and from Minister to "Cabinet Secretary".

The Temporary Deputy Chairlady (Dr. Laboso): I, therefore, direct that all the references to the offices that are no longer in existence should be read consistently with the language of the Constitution. We do not need to go through each and every one of them. It can be done during publishing.

*(Question, that the New Clause 2B be read a
Second Time, put and agreed)*

(New Clause 2B was read a Second Time)

(Question, that the new clause 2B be added to the Bill, put and agreed to)

Hon. Members, in view of the fact that the remaining new clauses have no amendments, I direct that they be read together so that we can dispense of them faster.

The Minister for Gender, Children and Social Development (Dr. Shaban):
Madam Temporary Deputy Chairlady, Clause 2C----

New Clauses 2C, 2D, 2E, 2F, 2G, 2H, 2I, 2J and 2K

Mrs. Noor: Madam Temporary Deputy Chairlady, I beg to move:-
THAT, the Bill be amended by inserting the following new clauses:-
2C. The functions of the Board shall be to—

**Functions
Of the
Board**

- (a) design, supervise and co-ordinate public awareness programmes against the practice of female genital mutilation;
- (b) generally advise the Government on matters relating to female genital mutilation and the implementation of this Act;
- (c) design and formulate a policy on the planning, financing and coordinating of all activities relating to female genital mutilation;
- (d) provide technical and other support to institutions, agencies and other bodies engaged in the programmes aimed at eradication of female genital mutilation;
- (e) design programmes aimed at eradication of female genital mutilation;
- (f) facilitate donor funding for the programmes and activities aimed at eradicating female genital mutilation;
- (g) perform such other functions as may be assigned by any written law.

Powers of the

Board 2D. The Board shall have all powers necessary for the proper performance of its functions under this Act and in particular, but without prejudice to the generality of the foregoing, the Board shall have power to—

- (a) enter into contracts;
- (b) manage, control and administer its assets in such manner and for such purposes as best promote the purpose for which the Board is established;
- (c) determine the provisions to be made for capital and recurrent expenditure and for the reserves of the Board;
- (d) receive any grants, gifts, donations or endowments and make legitimate disbursements there from;
- (e) enter into association with such other bodies or organizations within or outside Kenya as it may consider desirable or appropriate and in furtherance of the purposes for which the Board is established;
- (f) open such banking accounts for its funds as may be necessary;
- (g) invest any funds of the Board not immediately required for its purposes;
- (h) undertake any activity necessary for the fulfillment of any of its functions.

Conduct of business and affairs of the Board.

2E. (1) The conduct and regulation of the business and affairs of the Board shall be as provided in the Schedule.

(2) Except as provided in the Schedule, the Board may regulate its own procedure.

Delegation by the Board.

2F. The Board may, by resolution either generally or in any particular case, delegate to any committee or to any member, officer, employee or agent of the Board, the exercise of any of the powers or the performance of any of the functions or duties of the Board under this Act or under any other written law.

Chief Executive

2G. (1) There shall be a Chief Executive of the Board who shall be appointed by the Board.

Officer.

(2) The Chief Executive Officer shall hold office for a period of not more than five years, on such terms and conditions of employment as the Board may determine, and shall be eligible for re-appointment.

(3) The Chief Executive Officer shall be an *ex-officio* member of the Board but shall have no right to vote at any meeting of the Board.

(4) The Chief Executive Officer shall—

(a) subject to the direction of the Board, be responsible for the day to day management of the Board;

(b) in consultation with the Board, be responsible for the direction of the affairs and transactions of the Board, the exercise, discharge and performance of its objectives, functions and duties, and the general administration of the Board;

(c) be the secretary of the Board.

Staff.

2H. The Board may appoint such officers, agents and other staff as are necessary for the proper and efficient discharge of the functions of the Board under this Act, upon such terms and conditions of service as the Board may determine.

The common seal of the Board.

2I. (1) The common seal of the Board shall be kept in the custody of the Chief Executive Officer or of such other person as the Board may direct, and shall not be used except upon the order of the Board.

(2) The common seal of the Board, when affixed to a document and duly authenticated, shall be judicially and officially noticed, and unless the contrary is proved, any necessary order or authorisation by the Board under this section shall be presumed to have been duly given.

(3) The common seal of the Board shall be authenticated by the signature of the chairperson of the Board and the Chief Executive Officer:

(4) The Board shall, in the absence of either the chairperson or the Chief Executive Officer, in any particular matter, nominate one member of the Board to authenticate the seal of the Board on behalf of either the

chairperson or the Chief Executive Officer.

Protection from personal liability.

2J. (1) No matter or thing done by a member of the Board or by any officer, member of staff, or agent of the Board shall, if the matter or thing is done *bona fide* for executing the functions, powers or duties of the Board under this Act, render the member, officer, employee or agent or any person acting on their directions personally liable to any action, claim or demand whatsoever.

(2) Any expenses incurred by any person in any suit or prosecution brought against him in any court, in respect of any act which is done or purported to be done by him under the direction of the Institute, shall, if the court holds that such act was done *bona fide*, be paid out of the general funds of the Board, unless such expenses are recovered by him in such suit or prosecution.

Liability for damages.

2K. The provisions of section 2J shall not relieve the Board of the liability to pay compensation or damages to any person for any injury to him, his property or any of his interests caused by the exercise of any power conferred by this Act or any other written law or by the failure, wholly or partially, of any works.

Madam Temporary Deputy Chairlady, this is about the conduct of the business and affairs of the Board. It is about the education of the Chief Executive of the Board and the staff.

(Question of the New Clauses 2C, 2D, 2E, 2F, 2G, 2H, 2I, 2J, and 2K proposed)

(The New Clauses read the First Time)

The Minister for Gender, Children and Social Development (Dr. Shaban): Madam Temporary Deputy Chairlady, on new clause 2C it is just the language to make it neat. Apart from that, I would like to move a further amendment to the amendment.

I will be proposing an amendment to replace the words, “to facilitate donor funding” with the words, “to facilitate resource mobilization”. I will move that amendment on the amendment at the appropriate time.

(Question, that the new clauses be read a Second Time, proposed)

(Question, that the New Clauses be read a Second Time, put and agreed to)

(The New Clauses were read a Second Time)

(Question that the New Clauses 2C, 2D, 2E, 2F, 2G, 2H, 2I, 2J and 2 K be added to the Bill, put and agreed to)

New Clause 2C

The Minister for Gender, Children and Social Development (Dr. Shaban): Madam Temporary Deputy Chairlady, I wish to move a further amendment on 2C (f) where we are talking about facilitation of donor funding for the programmes and activities aimed at eradicating FGM.

On the functions of the Board I would wish to suggest that we replace “facilitate donor funding” with “facilitate resource mobilization”.

I beg to move.

The Temporary Deputy Chairlady (Dr. Laboso): Madam Minister, in the beginning, we read that all amendments need to be brought here and signed. The rules have to apply. We cannot have rules for Ministers and rules for Back-benchers.

(Question of the further amendment to New Clause 2C proposed)

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

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

(New Clause 2C as further amended agreed to)

New Clauses 2L, 2M, 2N, 2O, 2P

Mrs. Noor: Madam Temporary Deputy Chairlady, I beg to move:-

THAT, the Bill be amended by inserting the following new clauses-

Funds of the Board. **2L.** The funds and assets of the Board shall consist of—
such gifts as may be given to the Board;
all moneys from any other lawful source provided,
donated or lent to the Board.

Financial year. **2M.** The financial year of the Board shall be the period of twelve months ending on the thirtieth June in each year.

Annual estimates.

2N. (1) At least three months before the commencement of each financial year, the Board shall cause to be prepared estimates of the revenue and expenditure of the Board for that year.

(2) The annual estimates shall make provision for all estimated expenditure of the Board for the financial year and in particular, the estimates shall provide for the—

- (a) payment of the salaries, allowances and other charges in respect of members and staff of the Board;
- (b) payment of pensions, gratuities and other charges in respect of members and staff of the Board;
- (c) proper maintenance of the buildings and grounds of the Board;
- (d) maintenance, repair and replacement of the equipment and other property of the Board; and
- (e) creation of such reserve funds to meet future or contingent liabilities in respect of retirement benefits, insurance or replacement of buildings or equipment, or in respect of such other matter as the Board may deem appropriate.

(3) The annual estimates shall be approved by the Board before the commencement of the financial year to which they relate and, once approved, the sum provided in the estimates shall be submitted to the Minister for approval.

(4) No expenditure shall be incurred for the purposes of the Board except in accordance with the annual estimates approved under subsection (3), or in pursuance of an authorization of the Board given with prior written approval of the Minister.

Accounts and audit.

2O. (1) The Board shall cause to be kept proper books and records of accounts of the income, expenditure and assets of the Board.

(2) Within a period of three months after the end of

each financial year, the Board shall submit to the Auditor-General, the accounts of the Board together with— a statement of the income and expenditure of the Board during that year; and a balance sheet of the Board on the last day of that year.

(3) The accounts of the Board shall be audited and reported upon in accordance with the provisions of the Public Audit Act, 2003.

**No.12 of
2003.**

**Investment
of funds.**

2P. (1) The Board may invest any of its funds in securities in which for the time being trustees may by law invest trust funds, or in any other securities or banks which the Treasury may, from time to time, approve for that purpose.

(2) The Board may place on deposit, with such bank or banks as it may determine, any moneys not immediately required for the purpose of the Board.

(Question of the New Clauses 2L, 2M, 2N, 2O and 2P proposed)

(New Clauses read the First Time)

(Question, that the New Clauses be read a Second Time, proposed)

(Question, that the new clauses be read a Second Time, put and agreed to)

(The New Clauses were read a Second Time)

(Question, that the New Clauses 2L, 2M, 2N, 2O and 2P be added to the Bill, put and agreed to)

New Clause 8A

Mrs. Noor: Madam Temporary Deputy chairlady, I beg to move:-
THAT, the following new clause be inserted immediately after Clause 8—
Use of derogatory or abusive **8A.** Any person who uses derogatory or abusive language that is intended to ridicule, embarrass or otherwise harm a woman for having not undergone female genital mutilation, or a man for

language. marrying or otherwise supporting a woman who has not undergone female genital mutilation, commits an offence and shall be liable, upon conviction, to imprisonment for a term not less than six months, or to a fine of not less than fifty thousand shillings, or both.

(Question of the New Clause 8A proposed)

(New Clause 8A read the First Time)

(Question, that the new clause be read a Second Time proposed)

Mrs. Noor: This is self explanatory. It means that anybody who uses bad language against a person who is not circumcised, even according to our Constitution, should be punished.

(Question, that the New Clause 8A be read a Second Time, put and agreed to)

(The New Clause 8A was read a Second Time)

(Question, that the New Clause 8A be added to the Bill, put and agreed to)

New Schedule

Mrs. Noor: Madam Temporary Deputy Chairlady, I beg to move:-
THAT, the following new Schedule be inserted immediately after Clause 12—

SCHEDULE

PROVISIONS AS TO THE CONDUCT OF BUSINESS AND AFFAIRS OF THE BOARD

- Tenure of office.** **1.** Any member of the Board, other than an *ex-officio* member shall, subject to the provisions of this Schedule, hold office for a single term of six years, on such terms and conditions as may be specified in the instrument of appointment, and shall not be eligible for re-appointment.
- Vacation of office.** **2.** A member of the Board, other than an *ex-officio* member, may -
- (a) at any time resign from office by notice in writing to—
in the case of the chairperson, the President; and
in any other case, the Minister;

(b) be removed from office by the Minister if the member—

(c) has been absent from three consecutive meetings of the Board without the permission of the chairperson;

(d) is convicted of a criminal offence and sentenced to imprisonment for a term exceeding six months or to a fine exceeding ten thousand shillings;

(e) is convicted of an offence involving dishonesty or fraud, or an offence under the Anti-Corruption and Economic Crimes Act;

(f) is adjudged bankrupt or enters into a composition scheme or arrangement with his creditors;

(g) is incapacitated by prolonged physical or mental illness or is deemed otherwise unfit to discharge his duties as a member of the Board; or

(h) fails to comply with the provisions of this Act relating to disclosure.

**No. 3 of
2003.**

Meetings.

3. (1) The Board shall meet not less than four times in every financial year and not more than four months shall elapse between the date of one meeting and the date of the next meeting.

(2) Notwithstanding the provisions of subparagraph (1), the chairperson may, and upon requisition in writing by at least five members shall, convene a special meeting of the Board at any time for the transaction of the business of the Board.

(3) Unless three quarters of the total members of the Board otherwise agree, at least fourteen days' written notice of every meeting of the Board shall be given to every member of the Board.

(4) The quorum for the conduct of the business of the Board shall be five members including the chairperson or the person presiding.

(5) The chairperson shall preside at every meeting of the Board at which he is present but, in his absence, the members present shall elect one of their numbers to

preside, who shall, with respect to that meeting and the business transacted thereat, have all the powers of the chairperson.

(6) Unless a unanimous decision is reached, a decision on any matter before the Board shall be by a majority of votes of the members present and voting and, in the case of an equality of votes, the chairperson or the person presiding shall have a casting vote.

(7) Subject to subparagraph (4), no proceedings of the Board shall be invalid by reason only of a vacancy among the members thereof.

**Disclosure
of interest
by Board
members.**

4. (1) If a member is directly or indirectly interested in any contract, proposed contract or other matter before the Board and is present at a meeting of the Board at which the contract, proposed contract or other matter is the subject of consideration, that member shall, at the meeting and as soon as practicable after the commencement thereof, disclose the fact and shall not take part in the consideration or discussion of, or vote on, any questions with respect to the contract or other matter, or be counted in the quorum of the meeting during consideration of the matter:

Provided that, if the majority of the members present are of the opinion that the experience or expertise of such member is vital to the deliberations of the meeting, the Board may permit the member to participate in the deliberations subject to such restrictions as it may impose but such member shall not have the right to vote on the matter in question.

(2) A disclosure of interest made under this paragraph shall be recorded in the minutes of the meeting at which it is made.

(3) A member of the Board who contravenes subparagraph (1) commits an offence and is liable to imprisonment for a term not exceeding six months, or to a fine not exceeding one hundred thousand shillings, or both.

Execution of instruments. **5.** Any contract or instrument which, if entered into or executed by a person not being a body corporate, would not require to be under seal, may be entered into or executed on behalf of the Board by any person generally or specially authorized by the Board for that purpose.

Minutes. **6.** The Board shall cause minutes of all resolutions and proceedings of meetings of the Board to be entered in books kept for that purpose.

As you can see, we did not have a Schedule to our Bill; this is in agreement with the wish of the Mover and the Minister too.

(Question of the New Schedule proposed)

(New Schedule read the First Time)

(Question, that the New Schedule be read a Second Time, proposed)

(Question, that the New Schedule be read a Second Time, put and agreed to)

(The New Schedule was read a Second Time)

(Question, that the New Schedule be added to the Bill, put and agreed to)

(Title agreed to)

(Clause 1 agreed to)

Mr. Kapondi: Madam Temporary Deputy Chairlady, I beg to move that the Committee doth report to the House its consideration of The Prohibition of Female Genital Mutilation Bill and its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

(The House resumed)

[The Temporary Deputy Speaker

(Mr. Imanyara) in the Chair]

**REPORTS, CONSIDERATION OF
REPORTS AND THIRD READINGS**

THE NATIONAL POLICE SERVICE COMMISSION BILL

Dr. Laboso: Mr. Temporary Deputy Speaker, Sir, I beg to report that a Committee of the whole House has considered The National Police Service Commission Bill and approved the same with amendments.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Temporary Deputy Speaker, Sir, I beg to move that the House doth agree with the Committee in the said Report.

The Minister of State for Immigration and Registration of Persons (Mr. Kajwang) seconded.

(Question proposed)

(Question put and agreed to)

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Temporary Deputy Speaker, Sir, I beg to move that The National Police Service Commission Bill be now read the Third Time.

The Minister of State for Immigration and Registration of Persons (Mr. Kajwang) seconded.

(Question proposed)

(Question put and agreed to)

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

The Temporary Deputy Speaker (Mr. Imanyara): I think we will now go to the Kenya Citizens and Foreign Nationals Management Service Bill. Where is the chairperson?

THE KENYA CITIZENS AND FOREIGN NATIONALS
MANAGEMENT SERVICE BILL

Dr. Laboso: Mr. Temporary Deputy Speaker, Sir, I beg to report that a Committee of the whole House has considered The Kenya Citizens and Foreign Nationals Management Service Bill and approved the same with amendments.

The Minister of State for Immigration and Registration of Persons (Mr. Kajwang): Mr. Temporary Deputy Speaker, Sir, I beg to move that the House doth agree with the Committee in the said Report.

The Minister for Gender, Children and Social Development (Dr. Shaban) seconded.

(Question proposed)

(Question put and agreed to)

The Minister of State for Immigration and Registration of Persons (Mr. Kajwang): Mr. Temporary Deputy Speaker, Sir, I beg to move that The Kenya Citizens and Foreign Nationals Management Service Bill be now read the Third Time.

The Minister for Gender, Children and Social Development (Dr. Shaban) seconded.

(Question proposed)

(Question put and agreed to)

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

THE PROHIBITION OF FEMALE GENITAL MUTILATION BILL

Dr. Laboso: Mr. Temporary Deputy Speaker, Sir, I beg to report that a Committee of the whole House has considered The Prohibition of Female Genital Mutilation Bill and approved the same with amendments.

Mr. Kapondi: Mr. Temporary Deputy Speaker, Sir, I beg to move that the House doth agree with the Committee in the said Report.

Mrs. Shebesh seconded.

(Question proposed)

(Question put and agreed to)

Mr. Kapondi: Mr. Temporary Deputy Speaker, Sir, I beg to move that The Prohibition of Female Genital Mutilation Bill be now read the Third Time.

Mrs. Shebesh seconded.

(Question proposed)

Mr. Duale: Mr. Temporary Deputy Speaker, Sir, I want to support and thank all those who contributed to this Bill. I come from an area where this practice has a long history. The passage of this Bill will lead to huge unemployment of many old ladies in my constituencies and many other parts of the country.

(Laughter)

It is an old tradition, but the Minister for Gender, Children and Social Development who is here must look forward, be focused and see how well she can help those many retirees that this Bill will create in many of our constituencies. I want to be very honest because we passed this Bill with all the honesty and integrity. As much as we support this Bill, we must also look into the plight of the many people who will be left jobless once the President assents to it. So, I want the Minister for Gender, Children and Social Development to take into consideration--- I invite her to Dujis Constituency where she will need to do counselling and restoration of an old tradition and a bit of civic education on how we will mainstream the old women who have got very unique skills. Maybe we could export them to other countries where a Bill such as this one has not been passed.

With those few comments, I am very happy today, but at the same time I need to go back to the drawing board and ask the Government to look into the plight of the old ladies whose tools of trade will come to an end with the assent of the Bill.

(Laughter)

Dr. Khalwale: Mr. Temporary Deputy Speaker, Sir, indeed, this is a happy moment, especially for the members of the civil society who have been pushing for this law for a very long time. This is a momentous moment because the law is addressing what we call in medicine “the one percent of the surface area of a woman”. That one percent sometimes ends up being the most important area in the whole totality of that particular human being. Because this is a common meeting point, it is important that we now have a universal culture governing this very critical point.

There will be another challenge now that we have created a fresh set of young people who will not be going through this cultural practice. The ones who have already gone through it will now start demanding for reconstruction. Members of Parliament should be on the frontline so that we also provide an answer for the high demand that will come as a result of this law.

Finally, because this was an issue of culture and I come from a community where we do male circumcision, I hope that never in the history of this House should anybody ever come up with a Bill to try and outlaw circumcision of boys.

With those few remarks, I support.

(Laughter)

Dr. Laboso: Mr. Temporary Deputy Speaker, Sir, I want to add my voice by saying that this is a great day because we have been able to pass this Bill. There are alternatives. There are many lessons that you learn from the whole initiation ceremony. We can have initiation without the cut. I want to recommend that even those circumcisers Mr. Duale has talked about, we can educate them and continue to use them in terms of bringing young girls to womanhood, but without the cut. We want to congratulate Mr. Kapondi for bringing this Bill to this House. This is a great day for we have passed this Bill.

The Assistant Minister for Co-operative Development and Marketing (Mrs. Kilimo): Thank you very much, Mr. Temporary Deputy Speaker, Sir. As you saw, I

started smiling as soon as hon. Duale spoke, because it is the happiest day in my life to know that I can walk across this country where Female Genital Mutilation (FGM) is practised without people scorning at me or thinking that I was a coward when I said “no” to FGM.

Mr. Temporary Deputy Speaker, Sir, it will mark a new beginning for the many girls in the pastoralist areas. As you know, girls are always more than boys. It will, therefore, mean that more girls will not lead lonely lives because of not undergoing FGM. This Bill will save the shame that many women who have undergone FGM suffer in old age. Many women suffer in silence. I know that Dr. Khalwale might not have come across them, but there are many women with prolapse of uterus who walk around in shame and silence and do not know where to turn to.

So, I am glad that the pastoralist communities who mostly practise FGM have turned a new leaf or page in their history. As for the circumcisers, there is so much to do. We have the Women Enterprise Development Fund and they can be taught so many skills. They can also be taught how to do tanning of the skins and they can start exporting them. Even the young men can start making shoes in this country, because what is common in the areas where FGM is practised is the abundance of livestock. So, there is a lot that these women can do.

Mr. Temporary Deputy Speaker, Sir, with those few remarks, I support and thank my grandfather, hon. Kapondi, for coming in to save the girl-child.

Mrs. Noor: Mr. Temporary Deputy Speaker, Sir, this is a historical moment that I want to remember throughout my life because I waited and felt that I will witness a day like this one. Thanks to the Almighty Allah that I am able to witness this moment. It is in that light that today is the happiest moment for all the women in this country who have suffered FGM. This is because they did not want that kind of practice to be continued. They did not want that practice to go to their grandchildren and the next generation of our society.

Mr. Temporary Deputy Speaker, Sir, I want to take this opportunity to thank all the men of Tenth Parliament for supporting this Bill and more so, our brother, hon. Kapondi. It is historical that a man from Kenya can stand up and bring such a Bill. Congratulations and thank you so much! I want all men to support the one-third principle in this country.

Thank you.

The Minister for Transport (Mr. Kimunya): Thank you very much, Mr. Temporary Deputy Speaker, Sir. I want to join my colleagues in congratulating this House for this historic moment, but more importantly, to add the congratulations to hon. Kapondi. It took a man to bring this matter to the Floor of the House, notwithstanding the fact that we have a fair representation of lady Members in this House. But it took the courage of a man to come and fight for our girls. I want to recognize that fact. It just goes to show that men are very sensitive to issues that relate to their daughters, wives and sisters. The fact that we have so many men in this House does not mean that women issues are not being addressed. I was very happy to note that even as we deliberated this matter in Second Reading and the Committee of the whole House, the number of men who contributed on this Bill by far exceeded the women hon. Members. I am also very happy that at last, we have shown that the men do care about the women; at times even

exceedingly more than what would be brought in through the one-third principle which we are also looking at favourably

Thank you, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Imanyara): Hon. Members, we are not debating. However, I will allow just short comments from the Member for Lari and then come to the honourable lady Members to close.

Mr. Njuguna: Mr. Temporary Deputy Speaker, Sir, very briefly, let me thank the Mover of this very historic Bill that has led us to a new law in this country.

Mr. Temporary Deputy Speaker, Sir, the passage of this new law will restore dignity and liberty of our young girls in the society. This is a very historic and momentous occasion in this nation. Hon. Kapondi will go into the annals of history as liberating the women of this country.

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

Mrs. Shebesh: Mr. Temporary Deputy Speaker, Sir, I really want to thank the hon. Members of the Tenth Parliament for supporting very many issues that we, as women, have put a lot of passion on. However, this was probably the one that really was closest to our hearts.

Mr. Temporary Deputy Speaker, Sir, behind this Bill is also two great women, our Chair and Vice-Chair of Kenya Women Parliamentary Association (KEWOPA). I think it is also important to note that without hon. Kilimo and hon. Noor, we would never have realized the impact of FGM in this country. But, of course, the Mover will go into history, not only in Kenya, but in Africa because I have been following this issue even at the Pan-African Parliament level, as the man who brought it to Parliament and got overwhelming support, and was able to help the women of this country not to face this cut anymore. I want to say that hon. Kapondi, to me, is not my grandfather. In fact, he can easily be my boyfriend because he is the kind of man any woman would want to be associated with.

Mr. Temporary Deputy Speaker, Sir, I beg to support and thank him.

(Laughter)

The Minister for Gender, Children and Social Development (Dr. Shaban): Mr. Temporary Deputy Speaker, Sir, first of all, I want to congratulate my colleagues, especially the male Members of Parliament for having taken the mantle and decided that the beautiful women of Kenya will not undergo this rite. This goes beyond even Kenya because most people were waiting for this Bill to go through in our country so that they can borrow a leaf from it. We have given copies of the draft to several other countries. The last time we were at the United Nations (UN) we had a presentation and we were being laughed at because they do not understand why people cut off the best part of a woman.

Mr. Temporary Deputy Speaker, Sir, I want to congratulate the Tenth Parliament for preserving the beauty of the woman because God took time to create a woman. People got Independence in this country in 1963, but the women from the communities which have been practising FGM are actually getting their independence now. This is because that way they can enjoy their full lives and everything.

Mr. Temporary Deputy Speaker, Sir, I just want to point out that the Member for Dujis was very passionate about the issue of people who are going to lose employment. From the Ministry of Gender, Children and Social Development, we are going to do a massive sensitization exercise. On top of that, we will ask the Members of Parliament from those areas to help these people to come together in groups, so that we can give them community grants for them to be able to do income generating activities. These women really know about our culture and are also very good at teaching our children about what we believe in. So, they will have a lot of work to do as old as they are and we will give them a lot of support. We would not want anybody to get into trouble considering that the new law is very strict. Because it is very strict, a lot of sensitization and facilitation will go into this, so that we can make sure that people do not get into trouble by actually going against the law.

Mr. Temporary Deputy Speaker, Sir, I want to thank the *Njuri Ncheke* of Meru, Kuria Elders and many others whom we have started involving in the sensitization exercise and have helped us all along. To date, we can say that in most of these communities there is a lot of work going on through the elders.

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

(Question put and agreed to)

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

MOTIONS

ADOPTION OF REPORT ON SESSIONAL PAPERS

Mr. Okemo: Mr. Temporary Deputy Speaker, Sir, we have agreed between the two Chairmen that Eng. Rege proposes and I will second, if that is acceptable to you.

The Temporary Deputy Speaker (Mr. Imanyara): As you wish.

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

THAT, this House adopts the Report of the Joint Departmental Committees on Finance, Planning and Trade, and Energy, Communication and Information on the Sessional Papers Nos. 1, 2 and 3 of 2011 laid on the Table of the House on Friday 26th August, 2011.

Mr. Temporary Deputy Speaker, Sir, on Wednesday 27th July, 2011 the Deputy Prime Minister and Minister for Finance, Mr. Kenyatta tabled the following three Sessional Papers in the House:-

(i) Sessional Paper No.1 of 2011, on Kenya Government Guarantee of a loan of Eur 39,100,000 equivalent to Kshs4,926,600,000.00 from the KFW Frankfurt Am Main to the Kenya Electricity Generating Company for the rehabilitation and upgrade of the Kindaruma Hydropower Plant.

(ii) Sessional Paper No.2 of 2011, on Kenya Government Guarantee of a loan of Eur 60,000,000.00 which is equivalent to Kshs7,560,000,000.00 from the KFW, Frankfurt Am Main to the Kenya Electricity Generating Company for financing the 280mw Olkaria I and IV Geothermal Power Plant.

(iii) Sessional Paper No.3 of 2011, on Kenya Government Guarantee of a loan of Japanese Yen29,516,000,000.00 which is equivalent to Kshs33,353,080,000.00 from the Japan International Cooperation Agency (JICA) to finance Ol Karia 1 Unit Four and five Geothermal Power Project.

Mr. Temporary Deputy Speaker, Sir, on Wednesday 3rd August, 2011 the Speaker directed that the three Sessional Papers be referred to the joint Committee of the House between the Departmental Committee on Energy, Communication and Information and the Departmental Committee on Finance, Planning and Trade to endeavor and file a joint report.

The joint Committee held seven meetings to examine the matter. The seven meetings were held by the joint Committee and three meetings with the Minister for Energy. The joint Committee held three meetings with the Minister for Energy together with the management of KenGen Limited where the Committee was able to interrogate them on a variety of broad issues touching on the Sessional Papers. After deliberation on the evidence and information submitted before it, the joint Committee made the following observations:

The joint Committee knows that currently the country has negative power generation margin and, therefore, there is need for more investment in the energy generation sub-sectors. The Committee further raised concerns about the possibility of the Government of Kenya offloading its shareholding in KenGen and concluded that it will closely monitor the privatization programme to ensure that Government of Kenya does not lose its controlling interest in KenGen.

The procurement for the supply, installation and commission of the wellhead turbine generators by KenGen was not done satisfactorily and since the matter is still ongoing, the Departmental Committee on Energy, Communication and Information will fully engage with the Ministry of Energy on this issue for further investigation and recommend proper installation or procurement.

Mr. Temporary Deputy Speaker, Sir, I will not go into details of reading out the names of Committee Members as stipulated in the requirement for submitting such a paper but I just want to take the opportunity to give---

The Temporary Deputy Speaker (Mr. Imanyara): Are the names in the report?

Eng. Rege: Yes, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Imanyara): That is alright then.

Eng. Rege: Mr. Temporary Deputy Speaker, Sir, the joint Committee recommended that this House adopts Sessional Paper No.1 of 2011 on the Kenya Government Guarantee of a loan of Euro39,100,000.00 equivalent to Kshs4,926,600,000.00 from the KFW, Frankfurt Am Main to the Kenya Electricity Generating Company for the rehabilitation and upgrade of the Kindaruma HydroPower Plant laid on the table of this House on Wednesday July 27, 2011.

Secondly, that this House adopts Sessional Paper No.2 of 2011, on Kenya Government Guarantee of a loan of Eur 60,000,000.00 equivalent to Kshs7,560,000,000.00 from the KFW, Frankfurt Am Main to the Kenya Electricity Generating Company for financing the 280mw Olkaria 1 and IV Geothermal Power Plant laid on the table of the House on Wednesday 27th July, 2011.

Thirdly, that this House adopts Sessional Paper No.3 of 2011, on Kenya Government Guarantee of a loan of Japanese Yen29,516,000,000.00 equivalent to

Kshs33,353,080,000.00 from the Japanese International Cooperation Agency (JICA) to the Kenya Electricity Generating Company for financing of Olkaria 1 Unit Four and Five Geothermal Power Project laid on the Table of the House on Wednesday 27th July, 2011.

Mr. Temporary Deputy Speaker, Sir, that the Minister for Energy should expedite the transfer of ownership of all the 21 well drills at the Olkaria Four Domes. Earlier on we counted 21 but later on we found out that there are 57 wells that need to be transferred to the Geothermal Development Company (GDC) by KenGen because GDC is fully Government and these wells belong to the Government. Instead of owning them through KenGen which is a private company, GDC will now own the 57 wells.

Mr. Temporary Deputy Speaker, Sir, as I indicated earlier, the list of hon. Members is too long and I would just like to take this opportunity to thank the two Committees that deliberated on these Sessional Papers for the time that they took to analyze all the issues pertaining to the energy generation in the country and to conclude positively that the Ministry of Energy should get these loans. The joint committee also wishes to thank the offices of the Speaker and the Clerk of the National Assembly for the support extended in the execution of its mandate.

I want to move the Motion and ask hon. Chris Okemo to second it.

Mr. Okemo: Mr. Temporary Deputy Speaker, Sir, I wish to second the Motion. As of today, the installed generation capacity in Kenya is 1,400 megawatts. Out of that installed capacity, KenGen accounts for 75 per cent, which is about 1,056 megawatts. The demand for energy is growing daily. Therefore, according to Vision 2030 Plan, the amount of generation of electricity in Kenya is supposed to increase to slightly over 15,000 megawatts. Today, we are at 1,400 megawatts. This is basically to emphasize the urgency, need and importance of supporting KenGen to try and achieve the generation capacity of 15,000 megawatts. These three sessional papers are requesting for three loan guarantees to be given to KenGen.

Basically, the sovereign guarantees do help to make the loans more favourable because the sovereign guarantee reduces the risk of default in case of one. Therefore, the amount of interest rates, borrowing terms and the length of borrowing are now on more favourable terms as a result of the sovereign guarantee that KenGen is requesting from the National Assembly.

Mr. Temporary Deputy Speaker, Sir, we looked at the danger of default because we have a number of cases where a number of local authorities and other corporate bodies that are publicly owned have defaulted. That has led to the Government to take over the loans and repay and, therefore, becomes a burden on the taxpayer. We, very thoroughly, looked at the ability of KenGen to service those loans and we are satisfied that it will have the ability and capability to service the loans, and that they are adequately secured. You can only go for a loan guarantee when the security that you have cannot realize the amount of money that has been borrowed. In this particular case, the power purchase agreements which have been signed between KenGen and Kenya Power and Lighting Company (KPLC) - which is the distribution company - guarantees that all the power that will be generated will have a market. Therefore, even in the unlikely event that they were to default, the financiers have the power – or even the Government now having guaranteed – to take over the assets, manage them and generate sufficient finances to repay the loans.

I, therefore, would like to request the National Assembly to approve these three requests; Sessional Paper No.1 which requests for about Kshs5 billion which will lead to an additional 32 megawatts from the Kindaruma Hydropower Project; Sessional Paper No.2 which is asking for Kshs7.5 billion which will produce about an extra 140 megawatts of geothermal power; and Sessional Paper No.3 is asking for Kshs33 billion, that is 29.5 billion Japanese Yen – which will produce an additional 140 megawatts. I think this is a very straightforward case. There were issues about governance, among other things, and we said that those are ongoing. Passing the guarantee here does not stop the relevant committees from continuing to look into governance issues and issues that were raised during the meetings.

I, therefore, would like to second and ask the National Assembly to approve.

(Question proposed)

The Temporary Deputy Speaker (Mr. Imanyara): Hon. Members, it has been pointed out to me that our newest Member wants to make his maiden speech. Therefore, I will give him this opportunity. As is the tradition of the House, he will be heard uninterrupted and in silence.

The Member for Kamukunji (Mr. Yusuf Hassan Abdi): Thank you, Mr. Temporary Deputy Speaker, Sir. Hon. Members, I rise to support the Report of the Joint Committees on Sessional Papers Nos.1, 2 and 3 of 2011. But let me begin by thanking the people of Kamukunji for electing me as their Member of Parliament and representative in the Kenya National Assembly.

(Applause)

Indeed, their action on 18th August was revolutionary as well as historic. I want to congratulate them for putting Kamukunji on a new path and direction. I reiterate my pledge to serve the people of Kamukunji faithfully and forcefully without fear and favour; for the benefit of the people of the constituency; for the progress of Kamukunji and the common good of our people and our country. I have no illusions about the challenges ahead. I take the heavy responsibilities that you have given me with the seriousness that they deserve and with humility and pride. Even in the darkest days of our volatile political history, I never lost the hope that one day, we shall overcome. I never stopped dreaming of a different Kenya. I never stopped dreaming of a Kenya in which all the people who live in it; sons and daughters, would live equal under the law. I also never tired of fighting for democracy for the different society. I will not and I shall not stop fighting for a just and better Kenya.

I know that we are not there yet, but we have made some considerable progress and strides towards that goal. Today, we have a new Constitution that protects the rights of all Kenyans regardless of their race, ethnicity, political or religious beliefs and, even more remarkable, is the fact that I do not represent a typically ethnic constituency; but one right in the heart of our capital City of Nairobi, elected by the diverse and cosmopolitan people of Kamukunji.

Mr. Temporary Deputy Speaker, Sir, however, I regret that thousands of “Kamukunjians” lead a precarious life and in a state of abject poverty. I would like to

particularly refer to the slum dwellers of Kiambiu, Majengo, Motherland, Mugunda, Kinyago, Blue Estate, Kitui Village and Galole where they live in appalling conditions made worse by years of neglect. They have no access to clean drinking water, electricity and toilets or worse waste disposal facilities. Lately, they have been severely affected by the run-away cost of living. I would like to ask: Are those residents not Kenyans? Do they not deserve access to basic social services and enjoyment of a decent and dignified life? It is important and urgent that we address the needs of the marginalized communities. In other areas of Kamukunji, the Government has taken the decision to demolish the old City Council houses. While I welcome that and the improvements and benefits that come with a planned development, I call upon the Government to ensure that all stakeholders and, in particular, the current occupants of those houses, be fully involved and consulted and that, the allocation of houses, once the development is finished, must be done in a fair and transparent manner.

Mr. Temporary Deputy Speaker, Sir, Kamukunji is fortunate to host some of the most dynamic and commercial hubs in Nairobi, including Eastleigh, Gikomba, Muthurwa Market, Jua Kali and Burma Market. However, these key business outlets which provide employment and livelihood to tens of thousands of Kenyans and generate incomes that contribute considerably to our economic development growth have serious infrastructure and social issues and problems.

Whole sections of roads leading to and from these trading centres have collapsed and are impassable, causing chronic congestions, loss of time and money. I know the Vice-President and the Minister for Home Affairs, Prime Minister, the two Deputy Prime Ministers and the Ministers of Public Works, Roads and Water and Irrigation have all been to Kamukunji during the by-election. They are well aware of the deplorable state of the roads and have all promised that the Government will address the poor state of roads. I want to remind the hon. Ministers to keep their pledges to the people of Kamukunji.

Another issue of critical concern is the lack of opportunities for the youth. The rate of unemployment of our youth in Kamukunji is one of the highest in the country. This is a ticking time bomb. It is imperative that the Government addresses this growing problem of urban joblessness in a comprehensive manner.

Mr. Temporary Deputy Speaker, Sir, I would also like to raise the issue of the escalating crime rate in Kamukunji. Incidents of armed robbery and violent attacks are on the increase sparking fear in many parts of the constituency. I would like the police to address this particular problem with increased police posts and police patrols in the most affected areas and especially in the major business centres.

Mr. Temporary Deputy Speaker, Sir, I pledged to give voice to the urban poor and the marginalized people of Kamukunji and champion their democratic and constitutional rights and continue to fight for equity and social justice.

Finally, I would have been very wary to support any Government borrowing. However, the joint paper report of the joint committees is a worthy investment. Increased megawatts is increased megapower in terms of energy and development power. A country's development is predicated on its megapower index. The less electricity and energy you produce, the less developed you are as a country. We will never reach our full potential as a nation economically, if we cannot produce the power to drive our homes, streets, businesses and our industries.

I foresee that we will have major improvements in terms of the quality of life of the people of Kamukunji as a result of this investment; improvement in security and improvement in business and trading in Kamukunji, our capital Nairobi and our country. I conclude by fully supporting the Report.

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

[Mr. Deputy Speaker took the Chair]

The Minister for Energy (Mr. Murungi): Thank you, Mr. Deputy Speaker, Sir. First, allow me to congratulate the Member for Kamukunji, Mr. Yusuf Hassan Abdi. He is very eloquent in his maiden speech. I think in other forums, he would have been given a standing ovation. However, I think Members have appreciated it in the usual way. I have the singular privilege of having known the hon. Member in the dark days of this country, in the 1990s when he gave me refuge in London when he was working for BBC. I can tell you that Mr. Yusuf is a true nationalist and he will give the people of Kamukunji excellent parliamentary service.

Mr. Deputy Speaker, Sir, allow me also to thank the chairs of the two joint committees for a very thorough job. They have done a very comprehensive report and as the Minister for Energy, I want to support the conclusions and recommendations that have been made by the two committees.

One of the recommendations is that we transfer some wells in Olkaria which are now in the hands of KenGen to GDC because they have been drilled using Government of Kenya funds. I would like to inform the House and Kenyans that that process has already started and that the lawyers are working on the documents of transfer. In fact, the wells are now 59. They are many more than mentioned in your Report. They are 59 wells that we are transferring to GDC.

The purpose of the loans for which this Government guarantees are being sought is first to rehabilitate and upgrade the Kindaruma Hydropower Station so that we can increase its generating capacity from 40 megawatts to 72 megawatts. The other loan is to help us to construct two new power plants in Olkaria I and Olkaria IV of 140 megawatts and, therefore, adding another 280 megawatts of geothermal power to the grid.

Mr. Deputy Speaker, Sir, I think it is obvious that we are not generating enough power in this country to meet the rising demand. As I am talking, the Kenya Power Company is implementing a power rationing programme which we call road shedding in many parts of this country because we are short of 174 megawatts and our reserve margin is zero.

Once we do the routine maintenance of the equipment, the country experiences outages. The entire continent is facing chronic power shortages. This is a common continental problem. In fact, the whole of Africa generates 80,000 megawatts. This is equivalent to what is generated in one country in Europe. Spain also generates 80,000 megawatts. So, all the countries of Africa put together are just like that one country. In this country, we are now at 1,350 megawatts. With the rising demand of about eight per cent per annum we are not able to cope even if our machines are running, there are some Kenyans who will still be in darkness.

So, these loans are very important to us. They will also help in our realization of Vision 2030 which as you know intends to move us from a primitive agricultural based economy to an industrializing and modernizing economy. We cannot industrialize without sufficient power.

Mr. Deputy Speaker, Sir, the loans being guaranteed are concessional loans attracting very low interest rates and with long moratoria. Since they are Government guarantee, we have been able to go as low as 0.5 per cent which is not possible in commercial banks. A lot of analysis has been done both by this Committee and by the lenders and all of them are satisfied that KenGen can service these loans. The projects being funded are themselves income-generating projects. The power generating projects are also revenue generating projects and they pay for themselves. The Power Purchase Agreements (PPAs) are drafted after long negotiations and the lenders are careful during those negotiations to ensure that whatever they lend can be paid from the investment. However, there have to be other political risks which cannot be captured within commercial agreements, and that is why they require this Government guarantee.

Mr. Deputy Speaker, Sir, I think hon. Okemo has pointed out that in case of that unlikely default by KenGen, both the lenders and the Government have the legal powers to come in to enforce a guarantee. They can run these power stations and recover the money. Therefore, there is absolutely minimal or zero risk that we are taking. I would urge the House to support this Motion.

We have also been complaining about the cost of electricity. As a result of the shortage that I am talking about, we have been forced to bring back about 60 megawatts of emergency power. This is going to raise electricity tariffs again, but once we implement the new power projects, for instance the Kindaruma Power Project, we will generate electricity which will cost us only Kshs4 per kilowatt hour. The electricity we generate from diesel costs us Kshs15 per kilowatt hour. The electricity generated from geothermal will be Kshs4.50 per kilowatt hour. So, this will considerably bring down the cost of electricity once these projects are operational.

Mr. Deputy Speaker, Sir, I know other hon. Members want to contribute. We want to implement universal connectivity to all Kenyans. By the year 2030, we want a minimum of 90 per cent of Kenyans to be connected to electricity. The most successful country is Egypt, which has 98 per cent connectivity. In fact, Morocco is catching up. They are at 97 per cent. We hope by 2030, we will have reached over 90 per cent. When I came to the Ministry, in the rural areas only 6 per cent had been connected. With the efforts and the support from this Parliament, we have been able to raise the figure from 6 per cent to 29 per cent within the last five years. I want to thank the Members of Parliament and the members of the Departmental Committee on Energy, Communication and Information for supporting the Ministry in its Rural Electrification Programme. We are very happy with the support you gave us; our budget for this year has been brought down to Kshs1.9 billion but we are happy that with the intervention of Parliament, we will get more funds, so that we can continue the pace that we have been at in the past.

With these few remarks, I beg to support the Motion.

The Minister for Nairobi Metropolitan Development (Mr. Githae): Mr. Deputy Speaker, Sir, I rise to support this Motion. I am very happy to support this Motion because what the projects are supposed to do is to increase hydro and geothermal power. That is the right way to go. We have a lot of waterfalls in this country. There are a lot of

rivers with waterfalls. We should start having hydro power stations on all the waterfalls on our rivers. Geothermal power generation is not only in Naivasha but is in other places. I think we should also extract steam, so that we can start putting up more power stations.

I would also like to inform the Minister that one of the most successful parastatals is the Rural Electrification Authority (REA). They have done wonderful; I am glad that their budget has been improved. The Minister should even bring here another request for a guarantee to the REA. We also want to connect our rural areas 100 per cent. Electricity should be a basic right for everybody. Mr. Minister, we would like you to bring another proposal for guarantee on solar power. We want solar power---

Mr. Ethuro: On a point of order, Mr. Deputy Speaker, Sir. While I appreciate Mr. Githae's contribution to this and the desire to improve productivity in the country, I have not yet seen him come to this House to tell us what he is doing about the blackouts in Nairobi so that we know that, at least, from the Metropolis, he is doing something so that when he informs his colleague, he will inform him from a position of strength and good practice.

(Laughter)

The Minister for Nairobi Metropolitan Development (Mr. Githae): Thank you, Mr. Deputy Speaker, Sir. I think the Minister is right here and he will talk about the blackouts.

What we are saying is that we need to go for environmentally friendly power and that is the solar energy. God has given us sun from 6 a.m. to 6 p.m. and we have got power. So, let us have more solar power stations. Let the Mr. Minister bring another request for a loan to construct a power station. Let the Mr. Minister bring another request for a loan to construct wind power stations. We have wind in many places; even at Kona Baridi in Ngong. As the place is called, there is a lot of wind. Let the Minister bring another request for a proposal for the Government to guarantee another power station on biomass. These are the kind of power stations that we need so that we also protect our environment.

With those few words, I support.

Mr. Yinda: Thank you, Mr. Deputy Speaker, Sir. I would like to also lend my voice in supporting the Motion of the joint committees.

Mr. Deputy Speaker, Sir, I had intended to move an amendment basically on the number of wellheads that needed to be transferred from KenGen to the GDC, but I do not need to do that now with the assurance that the Minister has given us that he has already started the process of transferring 59 wellheads from KenGen to the GDC. I want to thank the Minister because he has kept the assurance that he gave the Committee while we were deliberating on this issue. So, I will not go ahead with the amendment but just proceed with my contribution.

Mr. Deputy Speaker: It is entirely your choice! So, proceed.

Mr. Yinda: Thank you, Mr. Deputy Speaker, Sir. I support the Report fully. There is need to move with speed to bring in the loans that the Ministry has acquired on behalf of KenGen to stabilize and to also increase the capacity of electric power in this country. We all know that all areas of this country are suffering. In Nyanza, we have very poor electricity supply and we hope that with adequate and cheap power coming in

through the development of geothermal power, this country will not only enjoy stable power supply, but will also enjoy cheap power.

With those few remarks, I beg to support.

Mr. Affey: Mr. Deputy Speaker, Sir, thank you for giving me this opportunity to support this important Motion and to congratulate the Minister for the manner in which he has managed this Ministry.

Mr. Deputy Speaker, these loans naturally have cost implications for the country. We just hope that there will be prudent use of these resources by the Ministry and its officials. As we support this, the Minister is aware that the whole of the North Eastern Province is not connected to the national grid. We have requested this severally. Garissa is still using a generator. Wajir is using a generator. Mandera is also using a generator. We hope that as we pass this, perhaps before elections, the Minister will make it his sole responsibility---

The Minister for Energy (Mr. Murungi): On a point of information, Mr. Deputy Speaker, Sir.

Mr. Affey Yes, I accept the information.

The Minister for Energy (Mr. Murungi): Mr. Deputy Speaker, Sir, what the hon. Member is saying is correct. The Ministry is aware and I would like to inform him that we are putting up a ten megawatt power plant in Garissa to sort out all those blackouts within that region.

Mr. Affey: Mr. Deputy Speaker, Sir, that makes my contribution even juicier. Now, I can stop contributing.

The issue of solar was spoken about in great detail by my colleagues. Perhaps the Minister can use more resources in future. This is because in that province and many other provinces in the north, particularly, Turkana and North East, we have solar in abundance. However, there has been no capacity or resources deliberately sourced and injected by the Minister and the Ministry over the years. Every time the Budget has been read, the Minister has always given a desire that this is a resource he wants to exploit. To date, that resource has not been exploited. I hope that next time you are asking this House to approve a loan of this nature, it will be in the field of solar and not in the field you have just requested a loan for.

With those few remarks, I support this Motion.

Mr. Konchella: Mr. Deputy Speaker, Sir, I want to support this Motion but with some reservations. I will explain why.

First, I want to congratulate the Minister for doing a good job. Rural electrification is a success in the country. It has gone almost everywhere in this country. I think Kenyans can only thank him for the job he is doing.

Mr. Deputy Speaker, Sir, the concerns are particularly about the price of electricity. I believe out of this, with less independent power producers leaving the scene and more power coming out of the geothermal plants and green energy, we may be able to industrialize this country. It is only through cheap power that this country can bring investors to put industries here and create jobs for our people.

My concern is the issue of social responsibility. As we borrow this money, taxpayers are going to repay it. We would like to see some tangible benefits to the people. In the Olkaria area, out of the drilling of the various---

(Mr. Murungi consulted)

Mr. Deputy Speaker, Sir, I would like the Minister to listen to me because this is crucial. I have a concern; the concern here is that as they drill these geothermal wells, a lot of dust gets out of the earth and goes through the air. When you look at the people living around Olkaria, a majority of children born are deformed. This is as a result of inhaling polluted air. I want to see some of these monies that we borrow go to the people in the form of provision of clean water and schools so that they can benefit from the miseries they are going through now. This is likely to benefit the rest of us while others are suffering. I would like to see a clear message from the Minister that he is going to help those people to put up schools and dispensaries so that they can be treated and particularly supplied with clean water so that they do not drink polluted water with the animals. This is a problem at the Olkaria area and most of these areas with geothermal wells.

Otherwise, I want to thank the Minister and beg to support.

Mr. M'Mithiaru: Thank you, Mr. Deputy Speaker, Sir, for giving me an opportunity to support this Motion from the joint committees.

First, let me thank the Minister for Energy and his team for the good job they are doing, especially in the area of rural electrification. As we are going through this request for the guarantees, the issue that we raised, as a Committee, which I support, is that there is a big demand from Kenyans, which we are not able to satisfy. That is why the Government is borrowing this money, hence the guarantee. We also know that Vision 2030, through which Kenya is supposed to become an industrialized nation, requires power. Unless we have adequate power, we can never achieve that vision. For the Kenyans, we require sustainable supply of energy which is also affordable. So, we need the assurance that the guarantee that the Government is giving, and the loans that will eventually come, will give Kenyans affordable power. We were convinced that with the grace period of the loans plus the low interest rate, that benefit will be passed on to Kenyans, so that we can enjoy affordable power.

The guarantee by the Government is not in any way risking or mortgaging the nation. We are convinced that the KPLC is able to repay that loan. We even went through the cash flow statement and in the unlikely event that there would be any default and then the Government steps in, it will be able to recoup the money; so, there will be no risk here at all to the Government for providing this guarantee.

There were other issues of concern that were raised like the shareholding of KenGen, where it is 30 per cent owned by the public and 70 per cent by the Government, but under the law of guarantee, if there is any default, the guarantor walks in and forecloses the borrower. You cannot do it partially. So, the 30 per cent that is not owned by the Government is not an issue at all, because the Government can just go in there and manage KenGen as a whole without any due reference to the minority shareholders.

With those few remarks, I support.

Mr. Omollo: Mr. Deputy Speaker, Sir, I also want to add my voice to supporting this Motion. I am supporting the Motion because if you look at what is happening in the country right now, you will find that every year, whether there is drought or not, there is always power rationing, which we want to address now.

As the Government continues borrowing for the generation of electricity, it should also start thinking of how to construct lines. We cannot keep on generating power, which we cannot transmit or distribute. If you look at the areas where we have geothermal power, you will find that there is not even a single high tension line going in there. If tomorrow the GDC succeeds in drilling power in areas like Silali, how will it transmit that power to the national grid?

I visited Masinga and Kindaruma dams and saw serious engineering works going on down there. I want to support this Motion because without power, I do not think we can do anything in this country. The Rural Electrification Programme is doing a wonderful job in the constituencies and the districts, but not even a single Member of Parliament will tell you that he has power from Monday to Friday. At least, in two days, there must be power failure or blackout. In Nairobi and other areas, including where the Minister for Energy stays, we always have a lot of power fluctuations, especially in the evenings.

We have a lot of power in Mombasa now, but that power cannot be distributed to Nairobi. It cannot be transmitted up to Nairobi simply because we have never upgraded our lines since 1963. We will allow the funds to come in and this is very important. Generation will start, but after generating the power, how will we distribute it? I want to urge the Minister to start looking into this matter. As you can see, the Ministry of Energy has done very many things. From the Kenya Power and Lighting Company they created KenGen. From there they created Rural Electrification Programme and subsequently the Kenya Electricity Transmission Company Limited (KETRACO). So, you cannot know who owns a substation or who owns high tension or low tension lines. I want to urge the Minister to re-organize that Ministry because without power we cannot do anything in this country.

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

Mr. Bahari: Mr. Deputy Speaker, Sir, I want to join my colleagues in supporting this Motion. Without the risk of repeating what has been said, one of the things that I really want to state categorically is that power is central to the development of any nation. If we cannot drive our machines, light our houses and do all that appertains to power, certainly, we will not go far. Indeed, one of the things which is threatening Kenya and Africa at large is unemployment. This can be sorted out through availability of cheap and reliable power.

You know that power in this country is three times more expensive than the power in the countries in this region, for example, in Egypt and South Africa. The products from these countries find their way to Kenya because they are cheaper as a result of power. What have we basically done? We have exported employment to those countries in Africa and others in the world.

Mr. Deputy Speaker, Sir, locally, in the villages and other places at the county level without availability of cheap and reliable power, given the devolution in the current Constitution and the activities and resources that will be available there, we will not go far. We will not be able to develop those areas. It is, therefore, a right decision to move forward and borrow this money to ensure that we put power everywhere in this country.

One of the things the Minister needs to watch out for is the issue of implementation of these projects. If these projects will be poorly implemented then

power will be very expensive at the end of the day and it will make us uncompetitive or, perhaps, not as competitive as we want it to be.

With those few remarks, I beg to support.

Mr. Njuguna: Mr. Deputy Speaker, Sir, I also take this opportunity to thank the chairpersons of the committees, Eng. Rege and Mr. Okemo for doing a good job. These guarantees will enable the country to meet its target on self sufficiency on the supply of this important commodity to our counties. It will be possible for our schools and hospitals to access this commodity.

Of great concern to the Minister is to ensure that the transformers are not stolen. Again, there is the issue of procuring inoperational operators. Lowering of tariffs will improve services in our schools and towns. Security will also improve in all areas of this country. The issue of importing power from Uganda will also be curtailed. Therefore, it is important that we allow the guarantee to make Kenya self sufficient in power generation.

Mr. Deputy Speaker, Sir, with those few remarks, I fully support this Motion.

The Minister for Transport (Mr. Kimunya): Thank you, Mr. Deputy Speaker, Sir, for this opportunity to add my voice to the support and thank the Committee for a job well done in terms of interrogating the guarantees that have been placed before them.

Mr. Deputy Speaker, Sir, more importantly, this is the first guarantees that are actually being passed by this House since the new law on the management of loan guarantees and the manner in which that has to be done. The Committee did it exactly as per the script of the new law. It is very important to acknowledge the fact that the Committee actually went beyond the requirements of the new law in terms of the vetting and questioning. Although the Report was brought before we passed the new law, by some coincidence – and it shows the thoroughness of the Committee – it actually accords with the spirit of the new law.

Mr. Deputy Speaker, Sir, there has been a lot of agreements and this will unlock the next three guarantees. Without anticipating debate on the Motions it does appear that once we pass this then the rest will come as a matter of formality, although obviously the process will have to follow its route. However, it will be very important if we can work towards achieving a closure on this matter, so that we can all go home knowing that power will not be an issue for this country in the future. We need to get the investment now as the country grows. It is very heartwarming when you go up country and you find the youths charging phones, welding *jembes* and making metal windows and doors because there is power now available. This opens up the economy.

Mr. Deputy Speaker, Sir, again, for purposes of wanting to finish this debate within the next ten minutes and then pass the three guarantees, I beg to support and seek the House's support for this process all the way.

Mr. Ethuro: Mr. Deputy Speaker, Sir, I wish to support. In supporting this Motion, I really want to commend the Minister for Energy, my good friend, hon. Murungi, for the sincerity he demonstrated and the leadership in this matter. In fact, when we started these investigations, we were extremely hostile as the Committee on Energy, Communication and Information. We were prepared not to yield a single inch because we know that this Government will always borrow for other purposes. However, the Minister and his team came and appeared before us and all the information and documents that we sought were given. We were satisfied that this money will be put to

good use, especially knowing that generating electricity is very critical in our development process.

Mr. Deputy Speaker, Sir, one of the concerns we had was: Why should we be giving guarantees to KenGen which has 30 per cent private ownership? Why would we be guaranteeing public money to a company which had a private component, while GDC is 100 per cent Government owned? So, these are the kind of considerations.

Mr. Deputy Speaker, Sir, I just want the Deputy Leader of Government Business not to get excited because now that we are passing this Motion, the rest will be a matter of cause. No! We will subject every guarantee as per the law to the same process. The Deputy Leader of Government Business will be well informed to inform all the relevant Ministers to behave like hon. Murungi, who was available and gave us the information. He openly discussed with us even the challenges he had within the Ministry and made some decisions while sitting with us; that all the wells will be taken to GDC and KenGen should just remain with the purpose for which it was established under the law.

As I conclude, I just want the Minister to realize the potential of solar power and wind power. Geothermal power development should be given a priority because we have about 3000 megawatts of power. When you develop the geothermal resources you also develop infrastructure. I managed to give him another Kshs3 billion so that he can do infrastructure development in the Silale block. He must give guarantees to the Turkana Power Company which is generating power all the way from Lake Turkana Loiyangalani up to wherever they wish to take it. You owe it to Kenya, to northern Kenya and one and only Ekwee Ethuro.

I beg to support.

Mr. Mwadeghu: Bw. Naibu Spika nachukua nafasi hii kumpongeza Waziri wa Kawi kwa kazi ambayo ameifanya. Yangu yatakuwa ni matatu. Jambo la kwanza naunga mkono udhamini huu upewe kipaumbele ambao umeombwa na Wizara na Bunge lipitishwe udhamini huu kwani ukipitishwa, tutakuwa tumepata nafasi ya kupata kawi ya kutosha kwa viwanda vyetu na kwa county zetu. Zaidi ya hayo, ni kwamba viwanda vidogo vidogo vitadhaminiwa. Nikiunga mkono yale ambayo yamesemwa na wenzangu, naomba tu nitoe changamoto---

Mr. Muriithi: On a point of order, Mr. Deputy Speaker, Sir. Judging by the way debate is going, would I be in order to say that we call upon the Mover to reply?

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

Eng. Rege: Mr. Deputy Speaker, Sir, I want to take this opportunity to thank my colleagues for supporting this important Motion. I do not want to speak after so many people have spoken because they have deliberately got into the *creame` de` la creame`* of the Motion.

I beg to move.

(Question put and agreed to)

ADOPTION OF SESSIONAL PAPER NO.1 OF 2011

The Minister for Energy (Mr. Murungi): Mr. Deputy Speaker, Sir, I beg to move the following Motion:-

THAT, this House adopts Sessional Paper No. 1 of 2011, on Kenya Government Guarantee of a Loan of Euro 39,100,000.00 equivalent to Kshs4,926,600,000.00 from the KFW, Frankfurt Am Main to the Kenya Electricity Generating Company for the Rehabilitation and upgrade of the Kindaruma Hydropower Plant laid on the Table of the House on Wednesday July 27, 2011.

Mr. Deputy Speaker, Sir, I have been requested to move these Motions No.10, 11 and 12 on behalf of the Deputy Prime Minister and Minister for Finance. By approving the Motion in Order No.9 we have actually approved Nos.10,11 and 12. So, I do not want to say much but to move the Motion.

The reasons for moving these Motions have been given in the previous Motions and I request Mr. Kimunya to second.

The Minister for Transport (Mr. Kimunya): Mr. Deputy Speaker, Sir, I beg to second. I am in agreement with the Committee.

(Question proposed)

(Question put and agreed to)

ADOPTION OF SESSIONAL PAPER NO.2 OF 2011

The Minister for Energy (Mr. Murungi): Mr. Deputy Speaker, Sir, I beg to move the following Motion:-

THAT, this House Adopts Sessional Paper No. 2 of 2011, on Kenya Government Guarantee of a Loan of Eur 60,000,000.00 equivalent to Ksh 7,560,000,000.00 from the KFW, Frankfurt Am Main to the Kenya Electricity Generating Company for financing the 280mw Olkaria 1 and IV Geothermal Power Plant laid on the Table of the House on Wednesday July 27, 2011.

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

(Question proposed)

(Question put and agreed to)

ADOPTION OF SESSIONAL PAPER NO.3 OF 2011

The Minister for Energy (Mr. Murungi): Mr. Deputy Speaker, Sir, I beg to move the following Motion:-

THAT, this House adopts Sessional Paper No. 3 of 2011, on Kenya Government Guarantee of a Loan of Japanese Yen 29,516,000,000.00 equivalent to Ksh33,353,080,000.00 from the Japan International Cooperation Agency (JICA) to the Kenya Electricity Generating Company

for financing the Olkaria 1 Unit Four and Five Geothermal Power Project laid on the Table of the House on Wednesday July 27, 2011.

The Minister for Transport (Mr. Kimunya): Mr. Deputy Speaker, Sir, I beg to second. I am in agreement with the Committee.

Question proposed)

(Question put and agreed to)

ADJOURNMENT

Mr. Deputy Speaker: Hon. Members, it is now time to interrupt the proceedings of the House. The House is, therefore, adjourned until tomorrow, Thursday, 8th September, 2011 at 2.30 p.m.

The House rose at 6.30 p.m.