

NATIONAL ASSEMBLY

OFFICIAL REPORT

Thursday, 3rd November, 2011

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

NOTICE OF MOTION

GOVERNMENT FUNDING FOR NATIONAL POVERTY SURVEY

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

THAT, aware that Article 202 of the Constitution provides that revenue raised nationally shall be shared equitably among the national and county governments; further aware that Articles 203 and 204 provide criteria determining the equitable share and use of Equalization Fund respectively; concerned that the last National Poverty Survey that was used to determine poverty levels in different constituencies was undertaken in 2005 and that the reliability of the results challenged in different fora; further concerned that the National Revenue Allocation Committee will face serious challenges in discharging its functions unless a new and credible national poverty survey is taken before the operationalization of county governments; this House urges the Government to allocate adequate financial resources for conducting the said surveys at ward, constituency, and county levels before the end of 2011/2012 Financial Year.

Mr. Speaker: Fair enough, Member for Emuhaya! Would you like to just table your Motion for a moment, so that we ascertain something that we are not sure about and we will let you know just now?

(Dr. Otichilo laid the document on the Table)

Member for Emuhaya, if you could just approach the Table and then you can take the necessary measures, so that the HANSARD is in tandem with what you are saying.

(Dr. Otichilo approached the Clerks-at-the-Table)

Dr. Otichilo: Thank you, Mr. Speaker, Sir. I have had the necessary consultation and I wish to have this read as follows:

THAT, aware that Article 202 of the Constitution provides that revenue raised nationally shall be shared equitably among the national and

county governments; further aware that Articles 203 and 204 provide criteria for determining the equitable share and use of Equalization Fund respectively; concerned that the last National Poverty Survey that was used to determine poverty levels in different constituencies was undertaken in 2005 and the reliability of the results challenged in different fora; further concerned that the National Revenue Allocation Commission will face serious challenges in discharging its functions unless a new and credible national poverty survey is taken before the operationalization of county governments; this House urges the Government to allocate adequate financial resources for conducting the said survey at ward, constituency, and county levels before the end of 2011/2012 Financial Year.

Mr. Speaker: Very well.

QUESTIONS BY PRIVATE NOTICE

CAUSE OF FREQUENT POWER DISRUPTIONS IN GARSEN TOWN

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

- (a) Why are there frequent power disruptions in Garsen Town?
- (b) What efforts is the Minister making to rectify the situation?
- (c) Could the Minister consider compensating the people who have lost home and business appliances due to power outages?

The Assistant Minister for Energy (Mr. Magerer): Mr. Speaker, Sir, I wish to take this early opportunity to apologize for not being in the House in time yesterday. It was due to some circumstances that were beyond my control. If you will allow me, I will proceed to answer.

Mr. Speaker: You may proceed!

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

(a) There are frequent supply interruptions at Garsen because the supply line is overstretched.

(b) My Ministry has taken both short-term and long-term measures to rectify the situation. In the short-term, the Ministry, in collaboration with Kenya Power Company (KPC), has embarked on an exercise to inspect and carry out preventive measures on all distribution transformers along the line to Garsen. Consequently, broken wooden poles and cross arms have progressively been replaced with concrete poles and steel cross arms, respectively.

(c) In the long-term, the ongoing implementation of a 220KV Rabai-Malindi-Garsen-Lamu Transmission line which is scheduled to be commissioned by 2013 will sharply improve power supply in terms of quality in the three counties. We have no funds to compensate those who experience power fluctuations. However, we will strive, as a Ministry, to ensure that clients in Garsen Town are supplied with quality power through the mitigation measures explained in (b) above and in particular once the new 220KV line is completed, the problem of power outages will be rare.

Mr. Mungatana: Mr. Speaker, Sir, when the President came to commission this line a few years ago in Garsen, there was a lot of jubilation. I have businessmen who have incurred losses to hundreds of thousands. They include Messrs. Peter Mulonzia, Julius Nkuja, Emmanuel Oldada, Edia Jackson just to mention, but a few. It is not just the Garsen line, but even trading centres like Talasa. The Assistant Minister is talking about a solution in 2013. In the meantime, what are these businessmen and the people of Garsen going to do? They must live, trade and earn their livelihood. What specific measures is he going to take, so that people can have normal life?

Mr. Magerer: Mr. Speaker, Sir, in my attempt to answer this Question, I have outlined the short-term measures as well as the long-term ones. In the short-term measures, I have said clearly that KPC is going to undertake frequent inspection of the lines in order to carry out preventive measures on all distribution transformers. Also, broken wooden poles are being replaced progressively by the new concrete poles and we now have cross arms made of steel.

I have also directed the Regional Manager, KPC, in charge of Coast region to ensure that specific attention is given to this line, so as to avoid losses that the hon. Member has been able to notice and to allow business in the area to proceed as usual.

Mr. Duale: Mr. Speaker, Sir, this is a common phenomenon in many parts of this country. It is the same problem in Garissa, Lamu, Wajir, and Habaswein which are areas under the generator set up. What is the Assistant Minister doing to ensure that Kenya can access electricity in those areas?

Mr. Magerer: Mr. Speaker, Sir, I think the problem of power outages which has been persistently common all over the country previously is not occasioned by similar reasons. I have just explained that the area in question and the areas the hon. Member for Dujis has mentioned, experience outages mainly because of the aging of the material that is being used. I have said that KPC and the Ministry of Energy are ensuring that the replacement of the same is done.

Mr. Speaker, Sir, you will also appreciate that due to the increase in terms of accessibility to electricity courtesy of the good work that my Ministry is doing, we have experienced a big requirement for power which at times, we have not been able to meet.

Mr. Ochieng: On a point of order, Mr. Speaker, Sir. I have heard the Assistant Minister say that the Ministry of Energy is doing a good work while we know that, recently, in the current Budget, they have reduced the money that was allocated to the Rural Electrification Authority (REA) from Kshs18 million to Kshs4 million. This amount of money is not sufficient to facilitate electricity in the rural areas. Is he in order to boast around?

Mr. Magerer: Mr. Speaker, Sir, as an Assistant Minister in the Ministry of Energy, I have to take note of what the Ministry is doing in relation to our targets and achievements. What the hon. Member is raising is a concern that there was a slight drop in the budget allocation to REA. This is a matter we are discussing between my Ministry and the Office of the Deputy Prime Minister and Ministry of Finance, so that we iron out a few areas that actually occasioned the decrease. There is money that we were to be refunded by the Kenya Revenue Authority (KRA). We are working on modalities of getting the money back. However, we still note that rural electrification projects are going to continue. It is up to this House then to support us when we move to ensure that

the Ministry of Energy and, especially REA, is allocated more funds. That way, we will proceed on to access electricity to the rest of Kenya.

Dr. Nuh: Mr. Speaker, Sir, apart from Garsen Constituency, the other two constituencies in Tana River County are currently being supplied by one generator set up in Hola which also supplies Fafi Constituency. We have been promised by the Ministry of Energy and to a large extent by the President when he visited Garsen that the whole of Tana River County will be put under the national grid. If at this time when it is only Garsen that has been absorbed, the Ministry is complaining of overstretching of the power line, how then are they expecting to carry Bura and Galole constituencies on board?

Mr. Magerer: Mr. Speaker, Sir, the Ministry is not complaining about not being able to service electricity *per se*. I said that because of the aging material that we have been using, we have embarked on an inspection where we are replacing the old parts. We are going to ensure that we set up sub-stations at Malindi, Garsen, and Lamu. This will alleviate the power problem at Garsen and the surrounding areas because of the evacuation capacity which is now overstretched bearing in mind that the line is too long. As soon as the sub-stations are in place, we expect that the problem will be sorted out.

Mr. Mungatana: Mr. Speaker, Sir, here in Nairobi when there are power interruptions, people make telephone calls and the staff of KPC come to attend to the problem. It is the same thing in Mombasa. However, in Garsen, the officer of KPC in Malindi does not respond. People invest and they have put their things in place and yet *hakuna* power for 24 hours, 42 hours and sometimes three days! Malindi is just here from Garsen. I want the Assistant Minister to give an undertaking that he is going to order this man to start working and not just sit around. Nothing is happening and we feel that it is marginalization of the people of Garsen and Tana River County as a whole. Could he, please, undertake to do that?

Mr. Magerer: Mr. Speaker, Sir, it will be unfortunate if we are going to have an emergency response unit which does not respond to emergencies. However, I have noted the concerns of the hon. Member for Garsen and this House. I want to assure you that we are going to have a functional emergency response unit and we will take responsibility to ensure that the coastal region, in terms of its ability to respond to emergencies, will meet the expectations.

THEFT OF MR. ABDI SUGOW HASSAN'S CATTLE

Mr. Affey: Mr. Speaker, Sir, I beg to ask the Minister of State for Provincial Administration and Internal Security the following Question by Private Notice.

(a) Under what circumstances were 120 head of cattle belonging to Mr. Abdi Sugow Hassan stolen in Isiolo Town on 22.09.2011?

(b) What progress has the Ministry made towards recovering the cattle?

(c) What measures are being taken to compensate Mr. Hassan for the loss?

The Minister of State for Provincial Administration and Internal Security (Prof. Saitoti): Mr. Speaker, Sir, I beg to reply.

(a) On 22nd September, 2011, at about 2300 hours, a report was received at Isiolo Police Station that 106 head of cattle, and not 120 head of cattle as indicated by the hon. Member, had been stolen from Manyatta Arkambi Garbra, 15 kilometres from Isiolo

Town, by an unknown number of armed raiders who drove the animals towards Archers Post in Samburu East District.

(b) After the report was received, a team of security officers drawn from the General Service Unit (GSU), regular and administration police were dispatched immediately to the area in an effort to track the raiders and recover the stolen animals. On 23rd September, 2011, the team managed to recover 20 head of cattle near Archers Post after a fierce exchange of fire with a group suspected to be part of the raiders. On 25th September, 2011, as the security personnel continued with the search, they came across three suspects namely Ol Surachi Ekembe, Sokoro Aubaki and Paul Aluraia with two more animals at Lokichogio Manyatta in Archers Post Division of Samburu East. They arrested them and recovered two animals. The suspects have since been charged in court on account of robbery with violence and the case is coming up for hearing on 10th November, 2011. The recovered animals have been handed over to the owners upon positive identification. The Officer Commanding Police Division (OCPD) Samburu East is holding one more cow recovered at Wamba and is awaiting the conclusion of the case pending in court. Further, the Samburu East DSIC has been instructed to work closely with the District Peace Committee to ensure that the remaining animals are recovered and returned to their owners.

Mr. Speaker, Sir, I do wish to inform the House that, in addition to the above measures taken by the security officers, my Ministry has been very particular in addressing cattle rusting and other forms of conflicts in Samburu, Isiolo and Marsabit counties. Some of the initiatives that have been running in those areas include comprehensive disarmament exercise, establishment of additional police posts and deployment of additional security personnel in strategic areas, establishment of additional administrative units, recruitment of additional Kenya Police Reservists (KPRs) and revitalization of the District Peace Committee to spearhead campaigns against the gun culture and inter-community conflicts.

(b) Mr. Speaker, Sir, recently, I held a meeting in Isiolo on 24th October, 2011 and another one at Nanyuki on 31st October, 2011 with area Members of Parliament, civic leaders, opinion leaders and district committees of the affected areas in Rift Valley and upper Eastern. The meetings were to address the issues of peace and security. We do anticipate success from the initiatives put in place.

(c) Regarding the issue of compensation, the Ministry does not compensate victims for loss of items or property in that matter. Our mandate is to pursue animals, recover stolen items and charge the suspects in court.

Mr. Affey: Mr. Speaker, Sir, I want to thank the Minister for the answer that he has given to the House. The cardinal responsibility of any government anywhere in the world is to protect the lives and the property of its citizens. In the case of Mr. Abdi Sugow, within a couple of days, he transformed from a very rich man and became a destitute in his own country. Mr. Sugow left Habaswein in order to go and do some trade in Isiolo. The Minister has confirmed that those animals were taken within the radius of 15 kilometers within Silo Town. That tells you how law and order has broken down in Isiolo Town. If the Minister has said that 22 head of cattle have been recovered, and we know that cows move in herds, how is it then not possible to recover the other 86 head of cattle? If the security officers only recovered 22, why did they not recover the rest? What happened? Is it a question of an inside job?

Mr. Speaker: Order, Mr. Affey! Mr. Minister, will you, please, answer?

Prof. Saitoti: Mr. Speaker, Sir, first of all, I want to agree with Mr. Affey that, indeed, it is the responsibility of the Government to protect the lives and property of the people. It is for that reason that, upon being informed that those animals had been stolen from Mr. Sugow, the security personnel took action. In the process, some animals were recovered but not all. Even much more important, three people have already been arrested. I think we have to appreciate one thing. There were 106 head of cattle and the criminals who came to steal the animals may very well have been more than three. They may have divided the animals. They could have used all kinds of tactics. That is one of the cognitive factors. They could also have taken a completely different route which they believed they could not be tracked.

Ms. Karua: Mr. Speaker, Sir, since the Minister is aware that cattle rustling in that area is rampant and the attacks occur almost every other day, why can he not consider using a helicopter, among other methods, when searching or tracing stolen animals? That will enable the security officers to cover the routes effectively.

Prof. Saitoti: Mr. Speaker, Sir, I want to confirm here that we have used choppers from time to time and, in the process, we have been very successful. But at that particular time, it was not possible because, as hon. Members are aware, we do not have a sufficient number of choppers in the Police Force. There is only one big one and a smaller one. So, when we need to use the choppers, we normally get them from the Army. With the current situation, I am sure the hon. Member will appreciate that all our Army helicopters have all been mobilized to deal with the matter related to the *Al Shabaab* initiative.

Mr. Mbau: On a point of order, Mr. Speaker, Sir. Sometimes last year, this House constituted a Select Committee to look into the root causes of cattle rustling. After a rigorous study and fact-finding missions across the country and in various areas where that menace is prevalent, a Report was compiled with recommendations on how to prevent incidents of cattle rustling. Since that Report was debated and adopted by this House, could I be in order to request the Minister to consider implementing the specific recommendations in that Report that appertains to how we can curb cattle rustling with particular reference to Isiolo, Samburu and the neighbouring Meru districts? The recommendations are in the Report. That will help the Minister. This House has incurred resources towards coming up with those recommendations.

Prof. Saitoti: Mr. Speaker, Sir, indeed, the Select Committee made recommendations. But, at the same time, I want to inform the House that the interventions that were recommended were multi-faceted and they, therefore, require to be carried out by several Ministries and agencies. At the same time, I should also add here that substantial resources are required to adequately arrest the trend of cattle rustling.

Mr. Pesa: Mr. Speaker, Sir, while the Minister was answering the Question, he stated that one of the measures he is taking is to ensure that he establishes police posts along the areas which are prone to cattle rustling.

(Mr. Lessonet consulted loudly)

Mr. Speaker: Order, Mr. Lessonet! I have given directions on this matter too many times! I am afraid you will have to leave the Chamber for the rest of the day. You

will keep away from the precincts of Parliament, which includes your office! The Sergeant-at-Arms should ensure that that happens!

Proceed, Member for Migori!

(Mr. Lessonet withdrew from the Chamber)

Mr. Pesa: Mr. Speaker, Sir, I was acknowledging the fact that the Minister has stated in Parliament today that one of the measures the Ministry is taking to reduce cattle rustling is to put up more police posts. While I appreciate that he has given us personnel where we have constructed police posts using Constituencies Development Fund (CDF), I want to know from the Minister what policies he has put in place to ensure that such police posts are taken over and supplemented in terms of houses for the police to stay.

Prof. Saitoti: Mr. Speaker, Sir, I would like to inform the hon. Member, through the Chair, that we are busy mobilizing the funds. I would like to inform the House that we will be in a position to take over those particular posts.

Mr. Affey: Mr. Speaker, Sir, according to the owners of those animals, they have a very strong belief that they are now still at a place called Rongo Buta, which is not very far away from Isiolo. It is the laziness and lack of desire by police officers to pursue them aggressively. Since this matter happened in September, what timelines do they have - given that those are animals can easily be disposed of - to give comfort to the families who lost those animals that you will recover them?

(Mr. Onyancha consulted loudly)

Mr. Speaker: Mr. Onyancha, you can do better than that! I am afraid you will also have to leave the Chamber for the rest of the afternoon! You must stay away from the precincts of Parliament, including your office and the lounges! The Sergeant-at-Arms should ensure that, that is done!

(Mr. Onyancha withdrew from the Chamber)

Prof. Saitoti: Mr. Speaker, Sir, that information has not come to me. But let me say that in my two-day visit to Isiolo and Nanyuki, I was at very great pains to demand that the security personnel must move swiftly to recover the animals and apprehend the criminals associated with that menace.

EVICTED OF KYANG'OMBE/MASAI
VILLAGES RESIDENTS

Ms. Karua: Mr. Speaker, Sir, I beg to ask the Minister of State for Provincial Administration and Internal Security the following Question by Private Notice.

(a) Why were the residents of Kiang'ombe and Masai villages in Embakasi area, Nairobi, evicted without notice?

(b) Why has the Government not provided the residents with alternative settlement?

(c) What measures has the Government taken to offer assistance to the evictees?

The Minister of State for Provincial Administration and Internal Security
(Prof. Saitoti): Mr. Speaker, Sir, as far as the Question by Ms. Karua is concerned, it was directed to my Ministry by the Clerk of the National Assembly. But on close examination of the contents of the Question, it emerged that the orders of eviction emanated from the Clerk of the Nairobi City Council (NCC). In that respect, I have, therefore, taken the liberty to forward the Question to the Deputy Prime Minister and Minister for Local Government. I have also made a copy to the Clerk of the House.

Ms. Karua: Mr. Speaker, Sir, while I have no objection to the Question being answered by the relevant Government Department, it is on record that it is the police from his Ministry who actually participated in the eviction. So, could he undertake that, pending the answering of this Question, his officers will not participate in any similar exercise? Could you, Mr. Speaker, consider having this Question answered on Tuesday because it is urgent in nature?

Mr. Speaker: Very well! It is a Question by Private Notice. Prof. Saitoti, are you able to give that undertaking in the meantime; that your officers will not participate in activities such as those?

The Minister of State for Provincial Administration and Internal Security
(Prof. Saitoti): Mr. Speaker, Sir, I think that is a fairly general statement. The security personnel cannot respond to a request made by another Ministry. In this particular incident, it is important for me to say why we cannot answer. The Clerk of the NCC made the evictions---

Mr. Speaker: Order, Prof. Saitoti!

The Minister of State for Provincial Administration and Internal Security
(Prof. Saitoti): Mr. Speaker, Sir, I want to explain the predicament that I find myself in because it is likely to be muzzled up!

Mr. Speaker: Prof. Saitoti, the best way to proceed is to let your colleague carry all those explanations and answer on Tuesday at 2.30 p.m. But in the meantime, Ms. Karua wants an undertaking! You can give a conditional undertaking. What would be wrong with that, Prof. Saitoti?

The Minister of State for Provincial Administration and Internal Security
(Prof. Saitoti): Mr. Speaker, Sir, I wish to state that we will give the undertaking depending on the nature of the request put to us by another Ministry.

Mr. Speaker: Yes, you give an undertaking that is in accordance with the law.

The Minister of State for Provincial Administration and Internal Security
(Prof. Saitoti): Mr. Speaker, Sir, absolutely! It is in accordance with the law.

Ms. Karua: May I inform the Minister?

Mr. Speaker: Mr. Minister, do you want to be informed by Ms. Karua?

The Minister of State for Provincial Administration and Internal Security
(Prof. Saitoti): Mr. Speaker, Sir, I will gladly accept information from Ms. Karua.

Ms. Karua: Mr. Speaker, Sir, I just wanted to inform the Minister in charge of internal security and my colleague that the Constitution talks about social justice. You cannot evict without preparing and showing the concerned where they will move to. It is on that basis that we are requesting for that undertaking. In all the evictions, the Government has to plan to prevent a humanitarian crisis.

The Minister of State for Provincial Administration and Internal Security
(Prof. Saitoti): Mr. Speaker, Sir, much obliged for that information from Ms. Karua.

Mr. Speaker: Yes, as a matter of fact, I am satisfied that you have given an undertaking in accordance with the law. The law, obviously, includes the Constitution.

(Mr. Waititu stood up in his place)

Order, Mr. Waititu! Take cognizance of the side where you are sitting and the position at which Prof. Saitoti is sitting. That matter must rest there.

(Mr. Waititu consulted loudly)

Order, Mr. Waititu!

WRANGLING IN CMC MOTORS GROUP BOARD OF DIRECTORS

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

(a) Is the Minister aware that the wrangles in the Board of M/s CMC Motors Group Ltd, which has been suspended from trading at the Nairobi Securities Exchange (NSE), may herald the collapse of the company?

(b) What urgent measures is the Capital Markets Authority (CMA) taking to protect interests of the 15,000 Kenyan investors, who are faced with possible financial loss?

(c) Is the Minister also aware that the American national at the centre of the corporate wrangles in the company is an illegal immigrant?

The Deputy Prime Minister and Minister for Finance (Mr. Kenyatta): Mr. Speaker, Sir, I beg to reply.

(a) I am aware of various developments in relation to CMC Holdings Ltd and my Ministry, through the CMA, is taking various steps to facilitate the resolution of the issue and to protect the interest of shareholders and the investing public.

(b) On 16th September, 2011, CMA suspended CMC from trading its shares at the NSE for a period of seven days. That suspension was further extended for a period of 90 days on 26th September, 2011. Further to that, CMA has conducted preliminary investigations into the company whose findings indicate that there are serious issues that require independent forensic investigations. The CMA has also convened a series of meetings with the Board of Directors and senior management of the company.

(c) According to information received from the company, the Managing Director, Mr. William Lay, has a valid work permit issued by the Ministry of State for Immigration and Registration of Persons.

Dr. Khalwale: Mr. Speaker, Sir, my first supplementary question will be in respect of his last response to part “c”, in respect of the MD, William Lay. When you suspend trading of a company at the NSE, to the shareholders, it is like you have money in the bank, but that bank is closed. Mr. Lay, who is at the centre of that storm and who is the reason why the company was suspended from the NSE, is actually an illegal immigrant. I challenge the Minister to prove that, that man has, indeed, a valid reason to be in Kenya as an immigrant. If he cannot, I will prove to the contrary.

Mr. Kenyatta: Mr. Speaker, Sir, Mr. William Lay has a valid entry permit for Kenya issued by the Ministry of State for Immigration and Registration of Persons. I can table this.

(Mr. Kenyatta laid the document on the Table)

Dr. Khalwale: On a point of order, Mr. Speaker, Sir. Is the Minister in order to mislead the House that the CEO has a valid entry permit when, in fact, the CEO acquired the so-called entry permit four days after the Immigration Department rejected his application and gave him an official response of rejection? But thereafter, he went and drew from the political patronage that the Coalition Government gives to rich people and ended up with the document that the Minister is tabling? To support what I am saying, I have with me a document dated 26th May, 2011 from the Immigration Department. It is an original document. It shows that Bill Lay was denied an entry. I table it.

(Dr. Khalwale laid the document on the table)

Mr. Speaker: Fair enough! Mr. Minister, now you have two documents. There is one tabled by you and another tabled by Dr. Khalwale. I want you to look at the two of them together and respond to that point of order by Dr. Khalwale. Just pass this to the Minister! It is a genuine challenge for the moment, until you speak to it, Mr. Minister.

(Mr. Kenyatta looked at the documents)

Mr. Kenyatta: Mr. Speaker, Sir, it is really not a genuine challenge to myself as the Deputy Prime Minister and Minister for Finance. The Question that I was asked was whether he had a valid working permit and I have produced the work permit in accordance with what the Questioner had wanted. As to other issues, I think there is a more relevant Ministry that can answer the issues that the Questioner is asking.

Mr. Speaker: Yes, indeed! Dr. Khalwale, actually, on that one, I am satisfied that the Minister has done well.

(Dr. Khalwale stood up in his place)

Order, Dr. Khalwale! As the Minister in charge of finance, you have asked him if that person is legally in Kenya. From his perspective, he is entitled! He sees a document that indicates that the man is legally in Kenya.

(Mrs. Odhiambo-Mabona consulted loudly)

Order, Mrs. Odhiambo-Mabona! We will not do business that way. Please, restrain yourself!

Dr. Nuh: Mr. Speaker, Sir, the Minister has said that to safeguard the interests of shareholders, they have suspended CMC from trading at NSE. Could he tell us how the interests of shareholders are safeguarded in suspending CMC from trading at NSE? If,

indeed, that is the case, why did he not apply the same to Safaricom shareholders to safeguard them?

Mr. Kenyatta: Mr. Speaker, Sir, I was not aware that Safaricom was experiencing some issues, except the normal market conditions. But in this particular case, the ongoing controversy has the potential of allowing either loss of value to existing shareholders. That is why it was necessary to suspend, while we await both investigations and the various claims that have been made, so as to protect, ultimately, the minority shareholders from losing value on shares that they hold. But I am not aware of the same applying to, or any controversy surrounding Safaricom.

Mr. Shakeel: Mr. Speaker, Sir, could the Minister comment on whether the Central Bank of Kenya or the Treasury is aware of an account held in Jersey by certain members of CMC Board and whether it is held in accordance with foreign exchange regulations. The account has an amount of Kshs200 million?

Mr. Kenyatta: Mr. Speaker, Sir, we are not aware of that. But there have been claims that such is the case. Those are the matters that are subject to the investigations that I referred to in my answer.

Mr. Mbadi: Mr. Speaker, Sir, I would like the Minister to explain to this House that, apart from suspending listed companies from trading at NSE, what other powers are there for CMA to deal with those firms which mislead and misinform the public? It happened with Mumias Sugar Company which misinformed the public about the share prices which went down after few days after members had bought them. It also happened in Safaricom. What other powers does CMA have to protect the interest of Kenyans, apart from just suspending those listed companies from trading at NSE?

Mr. Kenyatta: Mr. Speaker, Sir, the suspension, like I have said, is one of the powers that it has. The results of the investigations that I have talked about, which are being conducted by the CMA can result to further investigations by other agencies. However, we are aware that we need to continue to strengthen the CMA. That is part of the amendments that we are bringing to the Capital Markets Authority Act, which we hope that this Parliament will enact to further strengthen the hand of the CMA to deal with such issues.

Dr. Khalwale: Mr. Speaker, Sir, according to Article 11(1) (a) of the Capital Markets Authority Act, the CMA is supposed to remove all impediments to shareholders that deny them an opportunity to trade. In part (c), it is supposed to create and maintain an environment to make sure that investors, both local and international have confidence in the Kenyan capital market. Finally, it is supposed to protect the investor interest.

In view of this provision of the Act and in view of the fact that I have now shown that two sides of the same Government are saying that he is not a valid immigrant and another one is saying four days later that he is a valid immigrant, could the Minister, please, rest this CEO and allow trading to resume because he now knows where the problem is? Once the Government sorts out the issue of this CEO, trading will continue.

Mr. Kenyatta: Mr. Speaker, Sir, as I have said, the issues around the CMC are subject to ongoing investigations. Once those investigations are complete, maybe action can be taken in order to protect investors of the CMC Holdings. However, on the issue of the validity in the country or otherwise of the Managing Director, I repeat that that is not the preserve of the Ministry of Finance, but rather the preserve of the Ministry of State for Immigration and Registration of Persons.

Dr. Khalwale: On a point of order, Mr. Speaker, Sir. Because of the remark by the hon. Member, which the HANSARD would have picked; that I declare my interest so that I am not seen to be having any personal interest, the Minister has said in his response that he is aware of this problem and investigations are ongoing. Would I be in order to request the Chair that this matter be handed over to the Departmental Committee on Finance, Planning and Trade, so that as they conduct those investigations, the Committee can then deal with the issue far away removed from the Chairman of the PAC?

Mr. Kenyatta: Mr. Speaker, Sir, like I said, these are issues that will occur from time to time when it comes to various companies that trade through our local bourse. I do not think it would be advisable to say that we have another investigation. Already, the Authority that is vested with the powers, by this very same House, is looking into that matter. Why can we not allow those investigations to continue to conclusion? The Authority should put the CMC Holdings matter to rest and ensure that investors are protected. I do not think it would be advisable to extend this matter. We are not in a position to say that the CMA has failed to perform its duties. In fact, it is acting in accordance with the powers that have been given by this House and, so far, nobody can claim that they have failed to perform in their duties.

Dr. Nuh: On a point of order, Mr. Speaker, Sir. If the Minister is a bit apprehensive on a Committee of this House handling this matter and that they are up to the task as the CMA and the Ministry, would I be in order to request that this Question be deferred and if the Minister deems that they can conclude the investigations on their own, then they report back to this House on the progress?

Mr. Speaker: Order, hon. Members! Minister you need not respond to that. As a matter of fact, I was just perusing the Standing Orders to come out with the exact Standing Order. But you will find that in the Standing Orders, as far as departmental committees are concerned or even select committees, for that matter, they have a general mandate to inquire into and investigate matters that fall within their portfolio so that, the Committee on Finance, Planning and Trade is in fact, at liberty to inquire into this matter if it deems that it is appropriate to do so. They need not have directions from the Speaker. So, let the Committee proceed accordingly. I will give no directions for it to start investigations tomorrow or complete them whenever. They are at liberty if they consider that this matter falls within their mandate to act appropriately.

ORAL ANSWERS TO QUESTIONS

Question No.964

ENFORCEMENT OF SECTION 53 OF EMPLOYMENT ACT

Mrs. Odhiambo-Mabona asked the Minister for Labour:-

- (a) when he will make regulations under Section 53 of the Employment Act on activities that are deemed harmful to the health, safety and morals of a child aged 13-16 years; and,
- (b) what is considered “light work” that a child can undertake under the law.

Mr. Speaker: Minister for Labour! It has been drawn to my attention that the Minister for Labour may not be here on the basis of a presumption; a presumption that will be wrongful that an officer of an unknown description has written a letter to the Clerk saying that the matter has been referred to the Attorney-General for input and that the Ministry is, therefore, not able to answer the Question at the moment until they have heard from the Attorney-General.

I want to say that this letter, according to directions that I have given earlier, is not acceptable. I directed clearly that the only persons who can write to Parliament as an institution will be either the Minister - the Minister will write to the Speaker - or the Permanent Secretary who will write to the Clerk of the National Assembly.

This kind of letter obviously falls outside those directions because it is signed by a man who purports to be doing so for the Permanent Secretary. So, we do not know who it is. It may very well be an office attendant and we cannot tolerate that.

So, Deputy Leader of Government Business, you must give a firm undertaking as, indeed, you appeared to when I gave those directions, that you will not allow this kind of habit to continue. Can you assure the House that it will cease from this afternoon?

The Minister for Transport (Mr. Kimunya): Mr. Speaker, Sir, we will ensure the proper communication is circulated to Ministers and Permanent Secretaries on that. My apologies for flouting what had already been agreed on earlier and we might as well consider that letter as withdrawn or as if it never came to the House.

Mr. Speaker: In the meantime then, hon. Millie Odhiambo, we will defer your Question to Wednesday morning. We will expect that the Minister, when he does come to the House, will offer further explanation as to why he was not present to answer the Question.

(Question deferred)

Mr. Speaker: Next Question by Mr. Mbau.

Question No. 1203

UPGRADING OF MAKUYU HEALTH CENTRE

Mr. Mbau asked the Minister for Public Health and Sanitation:-

(a) whether she could consider elevating Makuyu Health Centre to a Level IV facility, considering that it serves a catchment of over 100,000 people and is located on the busy accident-prone Kenol/Makutano highway;

(b) whether she could also set up an Accident and Emergency Unit at the hospital in view of the many accident victims who are admitted to the hospital; and,

(c) when the Government will also supply ambulances to the "Model Health Centres" built under the Economic Stimulus Programme (ESP) as previously pledged by the Minister.

The Minister for Public Health and Sanitation (Mrs. Mugo): Mr. Speaker, Sir, I beg to reply.

(a) My Ministry would liaise with the Ministry of Medical Services to which this Question was initially directed, because on elevation, the facility would leave my Ministry's jurisdiction and move to the Ministry of Medical Services.

(b) If elevation of the health centre is approved, an Accident and Emergency Unit will have to be constructed to comply with its new status of a Level IV facility.

(c) The Government had allocated funds for the supply of ambulances to the Model Health Centres built under the Economic Stimulus Programme (ESP) in the financial years 2010/2011, 2011/2012. However, the process is yet to be finalized. Once the process is through, ambulances will be supplied on priority basis.

Mr. Speaker, Sir, I would like to clarify there that most hon. Members felt very strongly that the leasing system was not the best way to go, and it was better to purchase and own all these ambulances; that is the route we took. At the time, the Office of the Deputy Prime Minister and Ministry of Finance had to reduce from all Ministries certain amounts of money because of the drought situation for the money to go to the emergency. Therefore, we were allocated Kshs200 million only, with which we are buying 43 ambulances from CMC dealers. As soon as those ambulances are bought, we will have 15 of them delivered on 15th November and the balance will be delivered by 31st December. They will be distributed according to the very difficult districts – the ones with very long distances, particularly those in North Eastern Province.

Mr. Mbau: Mr. Speaker, Sir, I want to thank the Minister for the answer. For the past three years or so, I have been pursuing the question of elevation of Makuyu Health Centre to a sub-district hospital, or Level IV. I thank the Minister because she has had the opportunity to visit this health centre when she came over to launch the malarial campaign. I took her to this health centre and made the request that the health centre be upgraded. Then on 30th of April, 2010, she happened to have visited the area of Murang'a County, specifically Saba Saba, and again I made this request. This health centre serves a huge population of over 100,000 persons. I wish I did not have to raise this matter in the House.

Now, when she comes here and tells me that she needs to liaise with the Ministry of Medical Services, so that the necessary can be done, I would have imagined that since we have been talking that she had already liaised with her counterpart Minister; as hon. Members, sometimes we do not know where her mandate ends and where the mandate of the other Minister begins. Could the Minister give the House a timeline within which she will have liaised, so that we can know whether it will be by December or what time?

Mrs. Mugo: Mr. Speaker, Sir, the hon. Member is quite right that we have discussed this. The fact that I have visited the area twice shows my interest in the matter. I would like to inform the hon. Member that the division of health facilities between the Ministries is that under community health are Level I, dispensaries, and Level III, health centres. In these facilities, preventive activities take place. These are activities like immunization, child care, maternal health and all other things that we have to do in health centres.

Then the Ministry of Medical Services begins with Level IV, which means facilities with beds where patients are admitted. Level V are provincial hospitals and Level VI are national hospitals. The problem here is that the responsible Ministry of Medical Services must have in the budget money. When the status of a facility changes; the budget changes because the facilities change. Therefore, until there is money

budgeted for that particular facility to elevate it to that level, it will be impossible for me to give a timeline. That is why I said we are consulting the two Directors of Public Health and Medical Services as to how to smoothly move from one level to the other. We have done that in many areas. It is a question that involves a budget.

Mr. Bahari: On a point of order, Mr. Speaker, Sir. I agree with the hon. Member that this is a very needy area. I drive there very frequently on my way to Isiolo. The purpose of this Question is to hold the Executive accountable. From the kind of statement that the Minister has given us, it looks as though liaising and co-ordinating among the Executive takes a long time. Will I be in order to ask that this question be deferred until the Minister meets her counterpart and the relevant directors, so that she can come back with something concrete given that previously promises have been given and they have not been fulfilled?

Mr. Speaker: Minister, that looks like a legitimate challenge. You were asked to indicate by what time you will have liaised with your counterpart. If you are unable, then obviously I will have to sympathize with the Questioner.

Mrs. Mugo: Mr. Speaker, Sir, we will liaise and we have been liaising. The biggest problem is the budget because you do not just pronounce that this now is Level IV, and you do not give all the facilities that go with a district hospital.

Mr. Speaker: Order, Minister! You see the importance of the Question. You see the need to upgrade this facility. So, why do you not indicate how long you require to co-ordinate and report progress and then we will give you time?

Mrs. Mugo: Mr. Speaker, Sir, okay. Point taken. I will.

Mr. Speaker: How long? Three months?

Mrs. Mugo: Yes, Mr. Speaker, Sir, three months.

Mr. Speaker: Very well. It is so directed. Yes, Mr. K. Kilonzo!

Mr. K. Kilonzo: Mr. Speaker, Sir, while appreciating that this is one of the most hardworking Ministers, my issue is the levels of health centres which are given, yet services and equipment are--- If you go to Mutito Sub-District Hospital, it does not have equipment to offer services. For instance, it does not have an ambulance, yet a sub-district hospital requires an ambulance. Could the Minister inform the House what she will do to ensure that all such hospitals are equipped with the facilities which they need to have to cater for the people?

Mrs. Mugo: Mr. Speaker, Sir, I would like to thank the hon. Member for that question. Again, sub-district hospitals also fall under the Ministry of Medical Services. It is the model health centres to which we are going to supply the ambulances I talked about. If it pleases the hon. Members, I have also acquired from the World Bank 90 utility vehicles and five heavy duty ambulances; both were tendered for last year, but because of the fall in value of the shilling, the dealer refused to release them and now we are tendering again for them. When these vehicles come, again, they will be given on priority basis to the big and hardship constituencies; and slowly by slowly, I hope we will be able to cover all the constituencies. Thank you.

Mr. Mbau: Mr. Speaker, Sir, I think I would be in order to thank the Minister for undertaking to ensure that within three months--- I do not have to now go to the counterpart Minister for Medical Services to take him to the site, so that he can appreciate, assess and actually agree that, that health centre requires upgrading. I thank the Minister for that. However, even though she is talking about the need for her to

distribute them in terms of priority, the term “priority” is relative. I would request that since every model health centre was actually initially designed and planned to be supplied with an ambulance, could she supply the ambulances as the model health centres are completed? That is because not all of them are completed across the country. Could she undertake to supply one to Maragwa Constituency which is already completed and opened?

Mrs. Mugo: Mr. Speaker, Sir, I want to confirm here that all North Eastern model health centres are completed. There are many others that have been completed and we thank hon. Members who have worked very hard. We might not do exactly that; that we give an ambulance to whichever is completed first. There are some in North Rift where distances are very difficult. I did commit that we will look after those first. But in the district where the hon. Member comes from, and because of the special work he does and the many accidents that occur on that road, yes, we will put him on that list.

Question No.1247

ILLEGAL MINING OF GYPSUM IN BURA CONSTITUENCY

Dr. Nuh asked the Minister for Environment and Mineral Resources:-

(a) whether he could confirm that all the companies undertaking Gypsum mining in Bura Constituency are contravening mining laws; and,

(b) whether he could also confirm that all communities in Bura were to be involved and consulted when allowing the companies to resume operations and, if so, why the companies were allowed to resume operations without such consultation; and,

(c) how many companies have now been cleared to resume mining and whether he could table the letters ordering the stoppage of mining activities by the companies as well as the letters lifting the ban.

The Assistant Minister for Environment and Mineral Resources (Mr. Murgor): Mr. Speaker, Sir, I beg to reply.

(a) Although several companies had been licensed to prospect for Gypsum in Bura area of Tana River County, the Ministry has noticed that there are some companies which are carrying out prospecting and mining activities without licences. There are also companies which are using exploration licences to carry out mining activities contrary to the Mining Act, Cap.306, of the Laws of Kenya. On 1st October, 2010, the Ministry issued a directive to all District Commissioners (DCs) and Officers Commanding Police Divisions (OCPDs) to investigate and arrest anyone found to be prospecting and/or mining without the relevant licences. A list of licensed miners was provided to guide the crackdown on the illegal operations.

(b) Among the conditions for issuance of prospecting or mining licence is the requirement for land owners’ or community’s consent as the people to be affected by the intended activity. Local community consultation is also a requirement during the Environmental Impact Assessment (EIA) process. As a result, local community consultations and negotiations with the companies were part of the prerequisite conditions for allowing companies to resume operations.

(c) Of the eight companies issued with stop orders by the National Environment Management Authority (NEMA), five of them namely, Hilaa Mining and Construction Company Limited, Dajachana Mining Company, Delta Mining Company, Wakasha Mining and Construction Company Limited and Athi Stores, have been cleared to resume mining. Letters for lifting the ban for the first four companies are referenced NEMA/5/11/Vol.II of 20th July, 2011; whereas for Athi Stores is referenced NEMA/EA/5/2/4738 dated 16th June, 2011. In addition, NEMA vide letter NEMA/5/7/Vol.III, dated 26th July, 2011 gave M/s Fataha Mining and Construction Company Limited two months authority to transport mined Gypsum.

Mr. Speaker, Sir, NEMA issued stop orders on mining activities in Bura District vide letters referenced NEMA/5/4/Vol.II of 16th May, 2011 to eight companies, namely, Yamata Gypsum Limited, Hilaa Mining and Construction Company Limited, Dajachana Mining Company, M/s Fataha Mining and Construction Company Limited, Delta Mining Company, Wakasha Mining and Construction Company Limited, Amka Ventures Limited and Athi Stores Limited. NEMA ordered the companies to:-

(a) immediately stop mining activities in Bura District until they adequately decommissioned the previous sites to the satisfaction of the environmental inspectors;

(b) carry out EIA for any new mining sites, and where EIA licence will be issued, licence conditions will be strictly adhered to;

(c) fence off the disused excavations in accordance to mining safety regulation No.4(1), parts (a) and (e); and,

(d) erect beacons at the new sites bearing details of the companies and all relevant licence numbers according to Mining and Safety Regulations No. 23 and 24.

Mr. Speaker, Sir, I wish to table both the stop orders and lifting orders.

(Mr. Murgor laid the document on the Table)

Dr. Nuh: Mr. Speaker, Sir, I think that should be the maiden answer that the Assistant Minister is giving after his appointment. So, I do not want to be very corrosive but allow me to lay a small background. This Question was preceded by a Question in this House where the Speaker gave a directive for the Minister to visit the sites. On the HANSARD record, the Minister gave a report to this House confirming that the degradation of the environment in Bura actually happened. That is why I asked part (b) of the Question. Why were the communities not consulted when the ban was lifted? That arose from the commitment made by the Minister then, in a public *baraza* and also confirmed by the Minister's answer in part (b); that for the local community, consultations and negotiations with the companies were part of the prerequisite conditions for allowing companies to resume operations. My contestation is that no consultations were done with either the local environmental committee at the locational level that was set by the Minister himself, or the District Environment Committee. Why did NEMA open writs and give letters for resumption to the companies, when consultations and works were not done to the satisfaction of the community? I wish to table this letter.

(Dr. Nuh laid the document on the Table)

Mr. Murgor: Mr. Speaker, Sir, as a Ministry, we will study the letter so that we can apply appropriate action. As I said before, there could be people practicing illegally and, therefore, we will do our investigations so that we take appropriate action.

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

Mr. Speaker: Member for Bura, allow other Members to interject before you come. Order, Member for Bura!

Member for Emuhaya!

Dr. Otichilo: Thank you, Mr. Speaker, Sir. Listening to the Assistant Minister, it is clear, from his answer, that no Environmental Impact Assessment was done. This is a requirement within the Environmental Management and Coordination Act (EMCA) law. Why was this not done? This case is not only confined to Bura. It is also rampant in Western Kenya and Nyanza where companies are given prospecting licences but they go ahead and do mining, particularly, mining in gold in areas such as, Emuhaya, Kasipul Kabondo, Nyatike, Migori and Khwisero.

Mr. Murgor: Mr. Speaker, Sir, I agree that those are violations. As a Ministry, we will take appropriate action after checking with those that we had sent to the ground to give orders.

Mr. Njuguna: Mr. Speaker, Sir, the Assistant Minister has informed the House that some mining companies have been doing their business in that area without the required licences. What action is the Assistant Minister taking against them?

Mr. Murgor: Mr. Speaker, Sir, I said that we are aware that there could be. If we find out that there are those that are ongoing without proper documents and papers, we will take action, either by suing them or any other appropriate action.

Dr. Nuh: Mr. Speaker, Sir, you will bear with me that we used immense resources to go and investigate this issue in Bura. The Ministry itself had to hire a chopper. We spend two days in the bush in Bura to see that this degradation actually happened. Taxpayers' money would not have been used to satisfaction if companies were allowed to resume work without rehabilitating the excavations that they did. These are violations to the law.

Since the Assistant Minister has said that it is a prerequisite for the communities to be consulted and that they gave resumption orders on the pretext that the companies had abided with the law and had acquainted themselves with the regulations, can he table the evidence of such consultations with the community? Can he table the minutes of the District Environmental Committee asking them to lift the ban because the land has now been rehabilitated? To which report did they act?

Mr. Murgor: Mr. Speaker, Sir, we depend very much on the correspondence from the ground. There is a committee in the area that should have given us their response because we laid down ways of helping each other. We have not received any communication from the ground so as to take appropriate action.

Mr. Mungatana: On a point of order, Mr. Speaker, Sir. You have heard the Assistant Minister say that he does not have that report and yet the Member for Bura has asserted that, in fact, there were no consultations on the ground. He has not tabled anything here to prove to the contrary. Would I be in order, since it seems that he wants to finalize this Question in a hurry, to request that it be deferred so that we can interrogate him on another day?

Mr. Bahari: Mr. Speaker, Sir, I had the opportunity to visit some of those sites far much earlier. I have similar problems in my constituency. Given that the communities have not been consulted and these consultations, the way we know them in this country, could also mean concurrence, would I be in order to consider the letter as an authorized resumption to be a nullity given that consultations have not taken place?

Mr. Speaker: Order! Order! That one is not valid. I am sorry, I disallow it. Hon. Bahari, if you re-examine everything you have said from the HANSARD, at the point where you have raised that point of order, you will find that it is not valid. It does not even have the content of a point of order.

Dr. Khalwale: On a point of order, Mr. Speaker, Sir. Just to augment the request by the hon. Member for Garsen that this matter be deferred, there are serious loopholes in the Mining Act that allow these people to exploit communities just as they do in Lurambi and Ikolomani; the resource centers for all the gold in Kenya. These people come there and exploit---

You do not know but they pay our local communities Kshs25,000. They go down and come out with Kshs2.5 million. You do not know, Mr. Speaker! Please, kindly, defer it so that we come and interrogate the Assistant Minister when he is adequately prepared.

Mr. Speaker: Assistant Minister, what is your reaction to the plea for the Question to be deferred so that you table among other things, the NEMA Report and evidence of consultations with the community?

Mr. Murgor: Mr. Speaker, Sir, well, I thought I had answered---

Mr. Speaker: Order, Assistant Minister. You know that you have not. I will defer this Question to three weeks away. Assistant Minister, it will appear on the Order Paper. Come prepared to table among other things, the NEMA Report and evidence of consultations with the communities.

Mr. Murgor: Mr. Speaker, Sir, point taken.

(Question deferred)

Mr. Speaker: Very well! Hon. Members, Question No.1214 will be deferred to Thursday next week because the Hon. Member for Tetu had to run to the constituency to attend to a very abrupt and urgent matter that required his presence.

So, Thursday, next week!

Question No.1214

LACK OF OFFICIAL VEHICLE FOR DISTRICT COMMISSIONER TETU

(Question deferred)

Question No.1239

REPAIR OF KISII-KISUMU ROAD

Mr. Magwanga asked the Minister for Roads:-

(a) when the Government plans to repair the Kisii-Kisumu highway; and,

(b) whether he could also erect speed bumps at Chabera, Atela, Misambi, Kadongo, Sikri, Nyahera and Ruga markets along the road.

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

(a) My Ministry through the Kenya National Highways Authority (KeNHA) has allocated funds for repair of some sections along the Kisii-Kisumu Highway which require urgent intervention to make them motorable. The procurement process for the repair works has begun.

(b) My Ministry through the KeNHA has prioritized repairing and improving the road to motorable standards. We will consider erecting bumps on the mentioned centers once the road has been improved.

Mr. Magwanga: Thank you, Mr. Speaker, Sir. This road was constructed in the 1960s and reconstructed in the 1990s. The road is very narrow, full of potholes and it has caused several accidents. On average, we do lose close to ten people every month along this road. If you look at this road---

Mr. Speaker: Order, Mr. Magwanga! Can you, kindly, come to the question?

Mr. Magwanga: Thank you, Mr. Speaker, Sir.

I have raised the issue with the Ministry and they have undertaken to repair the road. The repair work, which is going on, is so shoddy that you cannot differentiate what has been done and what has not been done. What is the Ministry doing to carry out quality work along the Kisumu-Kisii Road?

Thank you, Mr. Speaker, Sir.

(Applause)

Mr. Kinyanjui: Mr. Speaker, Sir, on the first point, I want to agree with the hon. Member that this road was designed a long time ago, and since then the usage of the road has significantly changed, and so has the traffic.

Mr. Speaker, Sir, late last year – 30th November – we actually procured the services of a consulting firm to do the redesign of this particular road, so that we could expand it and address some of the issues that the hon. Member has raised. We awarded the contract to Kaz Consulting Engineers at a cost of Kshs54 million, and we expect the design to be complete on 7th of November, this year.

Secondly, Mr. Speaker, Sir, we have also advertised the road and we have actually started to repair the sections that are bad. These sections are Rakori to Tabaka, which we have allocated about Kshs67 million; then we have Iaba-Suneka to the junction with Kisii, that is B3; that has about Kshs85 million. Then we have Ahero to Nyamatara at Kshs86million. The total allocation, therefore, comes to Kshs238 million. The quality issues that the hon. Member has raised---

Mr. K. Kilonzo: On a point of order, Mr. Speaker, Sir. listening to the Assistant Minister, he is not answering the question that the hon. Member has asked. The hon. Member is talking about the poor state of the works; the quality o the work. So, can the Assistant Minister answer about the shoddy work that the contractor is doing and what they are doing and not about the money they have allocated?

Mr. Kinyanjui: Mr. Speaker, Sir, I believe the hon. Member will speak for himself if he is not satisfied.

Hon. Members: No!

Mr. Kinyanjui: Mr. Speaker, Sir, I was laying the background---

Mr. Speaker: Order! Order! Assistant Minister, you cannot say that! Once a Question is before the house, I have said repeatedly that it becomes the property of the House, and the whole membership, therefore, becomes interested in it.

Hon. Members: Yes!

Mr. Speaker: Proceed!

Mr. Kinyanjui: Mr. Speaker, Sir, the reason why I have stated the amounts that we have allocated is because the quality of the works done will depend on the amounts that have been allocated. If you provide little money, you do not expect the whole road to be re-carpeted. So, the allocation of funds has a direct impact on the quality.

However, I want also to assure the hon. Member that we will send there our quality assurance team and we will be able to get a report. If the work is not satisfactory, we will be able to take the necessary action.

Dr. Kones: Mr. Speaker, Sir, I would like to know from the Assistant Minister what procedure is used to alert the Ministry or to make the Ministry put funds on certain roads? I have a particular road from Bomet to Litein through my constituency that requires some bumps.

Mr. Kinyanjui: Mr. Speaker, Sir, I think the first criteria we use is reports from the Traffic Department to confirm the number of accidents happening at any section of a road. But more importantly, we have requests from Mombasa up to Busia on the entire Road A. Therefore, we may not be able to meet all of them. But the first criteria is a report from the police to show that the number of accidents we have are, indeed, caused by over-speeding.

Thank you, Mr. Speaker, Sir.

Mr. Speaker: The hon. Member for Kasipul Kabondo.

(Several hon. Members stood up in their places)

Order, hon. Members! If you look at the clock, you will see where we are.

Mr. Magwanga: Thank you, Mr. Speaker, Sir. My question is very clear; when are you intending to put up or erect, bumps near primary schools along these roads, because we are losing a number of children along this road? There are also no road signs. When are you putting up the bumps and road signs to stop, or reduce, the road carnage that affect these schools?

Thank you, Mr. Speaker, Sir.

Mr. Kinyanjui: Mr. Speaker, Sir, the decision to erect the bumps has not yet been arrived at. However, we are liaising with the Police Department to be able to decide on the appropriate sections where we can erect the bumps and, more importantly, to be able to put up road signs to warn the road users.

Thank you, Mr. Speaker, Sir.

Mr. Speaker: The hon. Member for Gwassi!

Question No.1276

BONA FIDE OWNERS OF KISUMU/TONDE SCHEME

Mr. Mbadi asked the Minister for Lands:-

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

(b) whether he is aware that the owners have been denied access to their properties by officers of the Lake Basin Development Authority (LBDA) and, if so, what steps he is taking to ensure that the owners enjoy rights in these properties; and,

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

The Assistant Minister for Lands (Mr. Rai): Mr. Speaker, Sir, I wish to seek the indulgence of the House to answer this Question on Wednesday because it concerns another Ministry, which I want to consult before giving a proper answer.

Mr. Speaker: Very well. Hon. Member for Gwasssi, do you agree?

Mr. Mbadi: Mr. Speaker, Sir, I agree but I would only advise the Government to really take Questions seriously. I have the answer which, I think, has not satisfied the Assistant Minister. Why bring answers to the House? Why do you not just take your time, sit down with your officers to answer Questions adequately and sufficiently, so that we do not waste Parliament's time by deferring Questions?

Mr. Speaker: Assistant Minister?

The Assistant Minister for Lands (Mr. Rai): Mr. Speaker, Sir, when interrogating the answer, it came to light that the Ministry of State for Planning, National Development and Vision 2030 was actually involved. That is why I am seeking time to give an appropriate answer to the Questioner. I thought it wise for me to seek this extension, so that, at least, I can have the information from this other Minister.

Thank you, Mr. Speaker, Sir.

Mr. Speaker: Thursday next week at 2.30 p.m. Is that good for you?

The Assistant Minister for Lands (Mr. Rai): I am much obliged, Mr. Speaker, Sir.

Mr. Speaker: Very well; it is so directed.

(Question deferred)

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

Mr. Speaker: What is it, hon. Member for Nyakach?

Mr. Ochieng: Mr. Speaker, Sir, the Question asks who the *bona fide* owner(s) of Kisumu/Tonde Scheme/58, 91, 92 and 128 are. I think this is a Question that properly belongs to the Ministry of Lands. We just want to know who the owners are.

Mr. Speaker: Hon. Member for Nyakach, we have deferred this Question to Thursday next week at 2.30 p.m., to be answered by the Minister for Lands. So, how does that help us? What value does it add to my direction? You need not answer; but go and reflect on it.

That brings us to the end of Order No. 6. We want to move to Order No. 7. First, we will take Statements which are due for delivery, beginning with the Minister for Public Health and Sanitation. Then, we will take the Deputy Prime Minister and Minister for Finance, although protocol would have demanded that we do it the other way. But I am informed they are not very far apart.

(Laughter)

The Minister for Public Health and Sanitation (Ms. Mugo): Thank you, Mr. Speaker, Sir. If you allow me, first, I would like to give a personal statement.

PERSONAL STATEMENT

DISPARAGING REMARKS ABOUT HON. (MRS.) MUGO BY MEMBERS

The Minister for Public Health and Sanitation (Mrs. Mugo): Mr. Speaker, Sir, before I issue the Ministerial Statement sought by hon. Gitobu Manyara last week on contaminated maize that was distributed by the Kenya Red Cross in some parts of the country, I would like to make a Personal Statement regarding very harsh, false and misleading sentiments that were uttered yesterday on the Floor of this House by some hon. Members, led by the Member for Ikolomani, hon. Khalwale.

I quote:-

“Mrs. Beth Mugo has been in the House and deliberately dogged answering this question; not her nor the Assistant Minister. They have gone away because they do not care. This is because to them, a few poor people dying is good riddance”.

Mr. Speaker, Sir, from the outset, I would like to state categorically that the Statement sought was not due until yesterday afternoon as evident from the HANSARD on Thursday 27th October, 2011. It is, therefore, misleading to insinuate that my Ministry or the Government has failed because as directed, I was in the House yesterday in the afternoon ready with the Statement as I informed you.

I would like to table the HANSARD.

(Mrs. Mugo laid the document on the Table)

Mr. Speaker, Sir, secondly, it is true that I was in the House yesterday morning but I went out at 11.00 a.m. to attend a meeting of the Constitutional Implementation Oversight Committee (CIOOC) which was meeting to determine or to finalize the Report which we were doing. Indeed, I was all along ready to issue the Ministerial Statement but its allocated time was not due in the morning. This also emerged to be the position during yesterday afternoon’s session when I was still ready with the Statement but the Prime Minister’s session took long prompting the issuance of the Statement to be rescheduled to today.

For the *Nation* and *Standard* newspapers to have gone ahead and carried a misleading story even after I clarified the correct position as per the HANSARD is wrong

and malicious. I would like the Chair to caution the publishers and also to ask for an apology from the two media houses.

Mr. Speaker, Sir, concerning the insinuation by Dr. Khalwale that I do not care if a few people die. The record of my Ministry in fighting for safety of food in Kenya for Kenyans and especially aflatoxin speaks for itself and this will be captured in the Ministerial Statement that I will issue and also what I have issued in the past.

Kenyans will recall that when aflatoxin contaminated maize was first imported into the country sometime back, I ordered that the maize be shipped back to the country of origin. I personally travelled to Mombasa with my officers to ensure the order was complied with. Similarly, my unwavering fight against harmful GMOs is also a matter of public knowledge. To insinuate that I do not care about Kenyans and what they eat is very misleading.

Mr. Speaker, Sir, such insinuations are insulting and intended at painting my character as a disreputable Government Minister and leader. In light of all these, it is important that the concerned Member be made to withdraw and apologize and that this contribution and similar ones by other Members be expunged from the records of the House.

Similarly, the order by the Deputy Speaker to the relevant Committee to conduct scrutiny and investigations was based on wrong information. It should also be paused to be investigated by a Committee because I have not failed to do my duty.

Finally, for the purposes of dispelling the wrong notion that I am uncaring to the poor, I would like to remind Kenyans that this is not my character and many Kenyans will bear me out. On many occasions, I have gone out of my way to use my own resources to make the living standards of many people better. For example, when six taxi drivers were shot dead by the police in my constituency two years ago, I mobilized my own resources and the resources of many Members of this House to cater for total burial expenses for the victims and provide funds for the establishment of business for the affected families. I have not sought such facilitation for my own use although I lost my own mother and sister when serving in this House. I did this for my constituents because I care.

Mr. Speaker, Sir, before I became a Member of Parliament back in 1992, I established Dagoretti Educational Bursary Fund with my own personal resources and others from friends which enabled many children from poor family backgrounds to gain access to education up to the highest possible level. The destinies of some these children are now grown up men who are serving in very important areas in this Republic; both private and public.

I have over the years done many other things. I have helped Kenyans from all over the country and many Kenyans can bear me out either during funeral or medical bills or whatever it might be regardless of where they came from or who they were.

Mr. Speaker, Sir, at one time when I served as a Member of the Opposition, I organized to visit Kieni people who had been removed from their homes. In fact, Mr. Orenge went with me. We took a lot of supplies and health facilities to the people. That is not a character of somebody who does not care for the poor. I can go on and on. It is on record that when a six year old girl was raped in Kiambu, I took that responsibility. There are many others. I would also like to add here that as a Member of this House, although

not through the press, I have paid all my taxes. I have never said it even in public. I did this just because I believe it is important to support the services that serve the poor.

Mr. Speaker, Sir, Members should not be allowed to scandalize others in the pretext of keeping the Government on its toes. They should not be allowed to mislead the Chair in full glare of national media because when the truth has been established, the damage will already have been done. Kenyans will already have been misled. It is also important that the Chair is vigilant to this unacceptable trend.

While I thank you, Mr. Speaker, Sir, I feel that the Deputy Speaker also went ahead to even add more damage when he continued to malign me instead of informing the hon. Members what the HANSARD contained on the order that I was to give the Statement later in the afternoon.

Mr. Speaker: May you please, resume your seat, hon. Member for Dagoretti.

Order, hon. Members! Hon. Members, the Member for Dagoretti in that part of the Statement that she has issued this afternoon indicated to me and I did allow her to proceed, pursuant to Standing Order No.76 which pertains to Personal Statements. Personal Statements are such that they are not debated, no question is put and no challenge is put to the Member issuing a Personal Statement.

So, hon. Members like the rest of you, I have noted.

Member for Dagoretti, if it is your desire that I take any action or for that matter that the House takes any action against the *Nation* media or the Member for Ikolomani or---

An hon. Member: *The Standard!*

Mr. Speaker: The media would include *The Standard*.

You will have to move the House appropriately. Therefore, for the moment all that we can do is what I have indicated; that we have noted. We have heard you, we have heard the pain and we know that you are so irked by the matter.

You may now want to proceed to deliver the Statement.

The Minister for Transport (Mr. Kimunya): Mr. Speaker, Sir, in view of the grave insinuations that were made on an hon. Member of this House by another hon. Member and the pain she has had to go through, would I be in order to ask that the erroneous insinuations that were made, and which should never be contained as part of this House, be expunged from the records of this House and the Member who so made this insinuations be made to apologize to the House?

Mr. Speaker: Order! Order! Member for Kipipiri, if you proceed under Standing Order No.76, then what happens is what I have elaborated on. So, if you want the House to take action, or the Speaker for that matter, then you will have to move the House appropriately. We cannot simultaneously, as the hon. Member moves under Standing Order No.76, open the Floor for any debate, challenge or questioning, because it is Standing Order No.76. So, you will have to know what to do, and I cannot direct you now. When you do it correctly, I will then direct you or I will take firm action as may be necessary. So, let us leave the matter there.

Hon. Beth Mugo, please, proceed.

The Minister for Public Health and Sanitation (Mrs. Mugo): I thank you, Mr. Speaker, Sir. It is not all lost, as Dr. Khalwale is telling me is lost, because I will move it correctly.

Mr. Speaker: Order! Order, hon. Beth Mugo! Dr. Khalwale, I did not hear that. You saw. You did not hear.

Please, hon. Beth Mugo, I have tremendous respect for you, as you are aware. Let us try and leave it there. I know the pain that you feel. I know that you are hurt. We will definitely try and take corrective measures, but not at this point in time.

MINISTERIAL STATEMENTS

DISTRIBUTION OF AFLATOXIN-CONTAMINATED UNIMIX FOOD

The Minister for Public Health and Sanitation (Mrs. Mugo): Mr. Speaker, Sir, I was requested to make a Ministerial Statement on the allegations that between 60,000 and 100,000 Kenyan children from certain parts of Eastern Province, Coast Province and almost the entire Northern Kenya region stand a great risk of being affected by bad maize that had been given to them by a company known as Proctor & Allan in the form of a product known as Unimix, which is said to be exposing the children to aflatoxin. My Ministry has gone into great length to dig out what happened and who is responsible for this very sad event.

My Ministry conducted a survey on safety of maize in the country, from 25th to 30th April, 2010 and gave inter-Ministerial recommendations for prevention of aflatoxin in the country. The recommendations included procurement of moisture meters and mobile driers by the Ministry of Agriculture; replacement of contaminated maize with safe maize by the Ministry of State for Special Programmes; rapid testing for active aflatoxin; search in the vulnerable communities by my Ministry; and fast-tracking of the implementation of warehouses receipt system to encourage farmers to store their produce in National Cereals and Produce Board (NCPB) stores. Factory Maize millers were advised to test maize for presence of aflatoxin contamination prior to milling. These recommendations are contained in a document marked “Annex Win. 1”, and which I now table.

Mr. Speaker, Sir, my Ministry was notified by M/s Proctor & Allan vide a letter dated 6th October, 2011, which is marked “Annex 9”; that three batches of Unimix food products, which Red Cross Society had bought from them and distributed to hunger stricken Kenyans were later confirmed by Kenya Bureau of Standards (KEBS) as having high levels of aflatoxin. On getting this information, my Ministry moved fast and put measures in place in order to prevent dangers caused by aflatoxin exposure. We immediately issued an alert through telephone calls to public health officers countrywide to immediately scale up surveillance on Unimix products from Batch Nos.236.011.1, 236.011.2 and 237.011.1.

This alert was followed up with a circular dated 17th October, 2011 as documented in Annex 8 of the documents I will table. My Ministry has since seized all Unimix products recalled by the Kenya Red Cross Society and stored in their warehouses amounting to 183 metric tonnes as indicated in Annex 7. My Ministry has also sampled the recalled Unimix for further laboratory analysis. The samples have been taken from the processing lines of the three firms to ascertain the safety of the food.

Mr. Speaker, Sir, the Ministry has scaled up the sampling and testing of all Unimix and other maize flour in the field, irrespective of the batch numbers the products have

come from. The Ministry is monitoring the adherence to good manufacturing practices by millers and ensuring mandatory testing of raw materials before milling as per our Circular MIS/17/4/18A of 2nd June, 2010 to all millers. This is captured in Annex 3.

The Ministry is undertaking continuous sensitization of the general public on health risks caused by consumption of aflatoxin contaminated products. My Ministry has issued a public health alert to all health workers in the affected regions, detailing the signs and symptoms of acute exposure to aflatoxin poisoning. These include jaundice, vomiting, abdominal pain and swollen limbs. We are monitoring closely and our surveillance system has not confirmed any case of aflatoxin poisoning yet.

My Ministry has written to all agencies dealing with cereals and grains that have been condemned to destroy them in accordance with the court orders, as detailed in Annex 4(3), which I will table.

(Mrs. Mugo laid the documents on the Table)

Mr. Speaker, Sir, as far as the current debate on the Unifi products by Proctor & Allan is concerned, our investigations revealed that the maize for Unifi production at M/s Proctor & Allan had been tested by M/s SGS and M/s Pillion Services Laboratories and found to have acceptable levels of aflatoxin of 1.0 and 5.0, respectively, out of the maximum 10 ppt. We table Annexes 2(1) and 2(2). These annexes show the form from the testing agents, M/s SGS, showing 1.0 aflatoxin level; and M/s Pollucon Services Laboratories, showing 5.0 aflatoxin level, both of which are far below 10.

Routine sampling by the Kenya Red Cross was carried out during distribution to the targeted regions and the samples were analysed by KeBS and SGS laboratories. The KeBS sampled the products on 25th August, 2011 and submitted the results to the Kenya Red Cross on 23rd September, 2011. This is shown in Annexes 4(1) and 4(2).

However, Kenya Red Cross (KRC) did not share the results with Proctor and Allan or my Ministry. It is Proctor and Allan who notified my Ministry of the existence of the contaminated batches when they got their results on 12th October, 2011. That means there was a lapse of three weeks or almost a whole month when this contaminated maize would have been withdrawn had the KRC informed us or the supplier immediately.

Mr. Speaker, Sir, we moved very fast after we were informed by the company, but not the KRC, which was a bit surprising. The Ministry wrote to the KRC requesting for information on the Unimix they were distributing. Documents availed, therefore, proved that Unimix from which samples were taken had aflatoxin contamination above the acceptable levels of 10pb.

The KRC distributed the unimix to the schools at the Coast, lower Eastern, upper Eastern, North Eastern and North Rift regions. A total of 726 schools with a population of 274,375 pupils had received the Unimix. Annexe 6 shows each school where the unimix was distributed. My Ministry has visited those schools.

Mr. Speaker, Sir, the quantities procured and distributed by KRC and consumed by school children is shown in Annexe 6. My Ministry, in collaboration with the KRC society and manufacturers, is still recalling the consignment which was distributed irrespective of whether it was suspected to be contaminated or not.

The quantities of Unimix which have so far been recalled and stored at KRC warehouses as at 6.00 p.m., on 31st October, 2011, is shown in Annexe 7(i). My Ministry has sampled the recalled Unimix for further laboratory analysis.

Mr. Speaker, Sir, my Ministry is addressing this issue with the seriousness it deserves and has been actively involved in aflatoxin surveillance since 2004. We have continuously briefed the general public accordingly and have taken fundamental decisions in the effort to ensure no contaminated food finds its way into the food chain.

In our efforts we have seized suspected food items and subjected their samples to laboratory analysis. We have obtained court orders for condemnation and destruction. We have also taken legal redress in Kenyan courts. This includes condemned maize in Machakos, Mbeere, Mandera, Eldoret and Tana River. Kenyans will remember the contaminated consignment of maize at the Port of Mombasa. My Ministry stood ground and prevented its entry to the country. Personally, I witnessed the shipping out of that maize from the Port of Mombasa. The Ministry will continue being vigilant and committed to ensuring food safety to all Kenyans. We are also reviewing guidelines to see whether to direct millers to give samples of grain to the Chief Government Chemist's office before milling.

I would like to add here that the companies mentioned to have tested have different certificates to that of Proctor and Allan. Therefore, for them, it was clear that the maize was clean. They did not keep it after milling. It was distributed immediately because it was needed. When it was given out, that is when further tests were done. The KRC gave samples to test. It was at that point that it should maybe not have been distributed until that test came out. However, maybe because of the shortage and need and the hunger, they distributed it.

This maize was purchased from Bomet and Narok districts. It did not come from outside. It is maize that was in the country.

We have been trying to have this contaminated maize destroyed for the last three years, but it has not been destroyed. We, in fact, obtained court directives for this maize to be destroyed, but we have not succeeded. I am worried maybe some of this maize can find its way into the food chain because the levels which have been detected are over 100 pb to 300 pb. That is very high.

Mr. Speaker, Sir, I rest my case.

Mr. C. Kilonzo: On a point of order, Mr. Speaker, Sir. The Minister says these samples were found to be contaminated after they were released from Proctor and Allan. I have a letter here from Kenya Bureau of Standards whereby the first paragraph shows where the samples were picked. Some samples were picked from the field when these products were released. Others were picked from the source. This letter reads as follows:-

“Enclosed, please, find a laboratory test report for samples of Unimix drawn from Proctor and Allan by our officer, Agnes Githinji, on 25th August.”

These were picked. That has never been in dispute. It is something which Proctor and Allan has accepted. So, is the Minister in order to mislead the House while Proctor and Allan are not objecting to the facts?

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

Mr. Speaker: Order. You want to inform the Member for Yatta, but he has already finished. He has completed the matter.

The Minister for Public Health and Sanitation (Mrs. Mugo): Mr. Speaker, Sir, I did not mislead the House. I had tabled the results from the companies that tested this maize giving to Proctor and Allan and saying the levels are 1 pb and 5 pb. That is what they milled.

I did not say this maize was found to be contaminated after. The hon. Member got me wrong. I said immediately they milled the maize, it was distributed. It was not kept by the company. Maybe the maize was already contaminated. However, the people who tested this maize might have gotten it wrong.

I want to remind this House that this is the same company that had tested the maize which came to this House which was claimed to be clean. My Ministry said it was not clean. Finally, it was shipped back. They had even told the Prime Minister that those levels were good, but we insisted they were not good.

Mr. Speaker: Order, Members! I will limit the requests to three. We want to begin with the Member for Ikolomani because of the profession.

Dr. Khalwale: Mr. Speaker, Sir, I am the one who raised this question yesterday on behalf of Mr. Imanyara.

Mr. Speaker: That does not change the ownership of the request.

Dr. Khalwale: Mr. Speaker, Sir, I am requesting for two clarifications.

Mr. Speaker: Carry on!

Dr. Khalwale: Mr. Speaker, Sir, the 270,000 children who partook of this maize have been exposed to a risk that could as well come many years later. Could the Minister clarify what *de facto* medical pre-emptive measures she has taken to ensure that these long-term risks are minimized?

Secondly, there are two companies at the centre of this particular problem, namely, Ms. Shre Sai Millers and Ms. Proctor and Allan. A search done on these two companies is unable to establish who the directors of Shre Shai Millers are. Could the Minister confirm whether Mr. Abbas Gullet, the Secretary-General of the Kenya Red Cross is one of the directors of these companies that seem to be briefcase companies? Is the Ministry going to ensure that these two companies bear financial responsibility for the care of these children both in the short-term and in the long-term?

Mr. Njuguna: Mr. Speaker, Sir, could the Minister inform this House the extraordinary measures the Ministry is taking to make sure that contaminated maize is collected and does not fall into the hands of unscrupulous businessmen in the affected areas?

Mr. K. Kilonzo: Mr. Speaker, Sir, I want to get a few clarifications from the Minister.

Mr. Speaker: It cannot be more than two, Member for Mutitu! It cannot be!

Mr. K. Kilonzo: Mr. Speaker, Sir, let me confine myself to two, but with your indulgence, I would have wanted three.

Mr. Speaker: Proceed! As a matter of fact, it would have been one.

Mr. K. Kilonzo: Mr. Speaker, Sir, this is a very sensitive matter, but we are not narrowing ourselves to a company. When we had a bumper harvest in Ukambani, all our maize was found to have aflatoxin. We asked for driers and the Government set aside money to buy driers, but no driers were purchased. The Minister has just admitted on the Floor of the House that there is maize with aflatoxin in the stores of the National Cereals and Produce Board (NCPB). This maize came from Bomet and other areas. Could the

Minister admit that the issue of aflatoxin goes beyond one company or two companies? It is an issue which the Government has to deal with because people are dying.

Secondly, there are three companies and we are all emphasizing on one. Have the three companies stated that they are willing to take back this food and supply food which is not contaminated? Will they take responsibility, if any, for the medical expenses? How many children were affected after consuming this Unimix?

Mr. Affey: On a point of order, Mr. Speaker, Sir. I want to raise a matter regarding what hon. Khalwale expected the Minister to answer in terms of procedure.

Mr. Speaker: Amb. Affey, yes, in terms of procedure, you have the experience. If you are going to address matters that were prosecuted by the Member for Ikolomani, then you would have done so before I called the Member for Mutitu. You want to speak to procedure, then be procedural in the first place, yourself.

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

Mr. Speaker: It had better be, Member for Dujis! If you slip at---

Mr. Duale: On a point of order, Mr. Speaker, Sir. I come from a constituency which was affected by this. I ask for your indulgence that you give me time.

Mr. Speaker: Order! Order! That will not be valid! That will not be valid and, please, do not insist. There may be ways that you can find an entry point. Look for it!

The Minister for Public Health and Sanitation (Mrs. Mugo): Mr. Speaker, Sir, with regard to the short-term medical problems, the head of that department in the Ministry, Dr. Kwale, is already on the ground. Our doctors in the field have been alerted also and, so far, they are telling us that they have not seen any symptoms from the areas they have visited. I have no doubt something can still come up. If anything comes up, the companies have confirmed that they are willing to have the children treated. With regard to long-term medical problems, we will keep on monitoring the situation. We have specific areas and the children are known in areas where this maize meal had been distributed. So, we will be on surveillance. Our public health officers are already on the ground. We have talked to the companies and they have agreed to take responsibility.

The other question is who the directors of the companies are. I have not taken interest in that. I really do not know who the directors are. I do not even know whether it relates to this matter because those who run the day to day activities in a company are the most important. My background is in companies business, and I think the people who run the day to day activities of a company are the most important. I do not know whether Mr. Abbas is a director or not. I cannot answer that now. It could be public information from the Registrar of Companies. For the long-term, we all have to wait. Dr. Khalwale is a medical doctor and he knows what long-term means. We would really have to wait and make surveillance.

I have directed several times that the maize that is contaminated should all be destroyed to make room for good maize to be stored in those stores. It is a lot of maize. We have gone to court and we have been told that NEMA is the one that stopped the responsible agency in the Ministry of Agriculture from destroying this maize. The NEMA said that the maize cannot be burnt because it will pollute the air and it cannot be buried because it is bad for the water. We said that they cannot continue keeping it. They wanted to make it into glue and we said that we cannot let the maize get out because once they put it into glue; we do not know when it will get into the food chain knowing the

nature of our people. So, we are still there hassling with NEMA and the NCPB, but it is the responsibility of the NCPB to destroy this maize and see that it is incinerated.

Mr. Mbadi: On a point of order, Mr. Speaker, Sir. I have been very patient as the Minister was answering concerns raised by Members. These grains could endanger the lives of Kenyans. This Minister is telling us that she has difficulties with other Government departments in just destroying maize that has aflatoxin. Is she in order to evade telling us what the Government is doing to destroy this maize so many months after? She is giving excuses that some departments like NEMA have stopped the destruction of the maize. Could she just tell us what they are doing under the spirit of collective Government responsibility to destroy this maize?

The Minister for Public Health and Sanitation (Mrs. Mugo): Mr. Speaker, Sir, I was explaining the problems which have been encountered. The different agencies have different responsibilities. I am saying that the modalities are being worked on by all those agencies to destroy it. Those are the final words that I uttered – to destroy. But how it is destroyed also has to be safe for the environment. That was what I was trying to say.

Hon. K. Kilonzo said that aflatoxin is all over the country; if you listened to my Statement, that is how I started. Yes, it is in many parts of the country because of the storage problem. We recommended the buying of dryers and it is true the money was given but I am not quite sure whether they were bought. I cannot say whether they were bought.

I think there are certain areas which concern some agencies. I cannot say for sure whether they were bought or not, because it is not under my docket---

Mr. Speaker: Order, Minister! You know you are addressing the House. You should not worry about what hon. K. Kilonzo does out of order. Hon. K. Kilonzo cannot address you from where he is sitting before he catches the Speaker's eye. If I were in your position, I would have ignored it and waited for the Speaker to deal with hon. K. Kilonzo. He should not distract you from your course.

The Minister for Public Health and Sanitation (Mrs. Mugo): Mr. Speaker, Sir, we dealing with aflatoxin as a Government. In fact, we have had very high level meetings with the line Ministries where this issue has been discussed. That was why at the beginning, I gave the steps that my Ministry ordered we had to take, as a Government; I want to say that we have taken most of them. However, when we think of the maize in the whole country, it is possible that there are some areas where something might not have been covered; but when we are alerted, we, immediately, move in.

I want to also ask Kenyans to be vigilant. When they suspect that the maize is not properly dried, instead of going ahead and consuming it, they should immediately alert my Ministry.

Mr. K. Kilonzo: On a point of order, Mr. Speaker, Sir. You gave us an opportunity to ask two questions each and the Minister has not answered my second question, which was: How many children have been found sick out of those who ate Unimix? In fact, not only children but any person. Can the Minister confirm?

The Minister for Public Health and Sanitation (Mrs. Mugo): Mr. Speaker, Sir, when I was giving the original Ministerial Statement, I said that so far, we have not detected any illness in all those schools where the food has been given; if we do, we will be open about it; also the companies have undertaken to provide treatment.

Mr. Duale: On a point of order, Mr. Speaker, Sir. With your indulgence, there is a major cover up. Out of the 47 primary schools in my constituency where this Unimix was given to children, until this morning, there was no official from the Ministry of Public Health and Sanitation. The parents and the school administration took the remaining Unimix back to the Kenya Red Cross. Of the 1,170 metric tonnes of Unimix which were distributed, 362 metric tonnes were returned to the Kenya Red Cross. The remaining was consumed by over 274,000 kids in a period of seven days before this issue was raised. It is impossible for the Minister to tell us that all the 274,000 children across the country were tested. The Minister is misleading the House. Reports of Kenya Bureau of Standards, SGS and Unilap are available and show 274,000 children in five provinces of this country are at a risk of developing liver cancer. It is a serious matter, and the Minister is taking it very casually. It is a cover up!

Mr. Speaker: Order, Mr. Duale! Now, when you go to that last part, you begin to slip, otherwise your point of order was valid. You are challenging the Minister to confirm if they have, in fact, tested over 200,000 children who consumed this Unimix. That would have been fine, but beyond there, you started saying that she is taking it too casually, and you went out of order. Minister, respond to the first line.

(Mr. C. Kilonzo stood up in his place)

Mr. Speaker: Order, hon. C. Kilonzo! Now, you cannot build on the point of order by the hon. Member for Dujis.

The Minister for Public Health and Sanitation (Mrs. Mugo): Mr. Speaker, Sir, I did not say that we have tested all the children. I said that they are being observed. It is difficult to test all of them, and should any signs be seen, those children will immediately be tested and treated---

Mr. Duale: On a point of order, Mr. Speaker, Sir. There is a difference between observing and testing whether these children who were fed---

Mr. Speaker: Order, Mr. Duale! You know, the Minister has gone that way because you challenged her that she is misleading the House that so far none of them has been found to be sick or unwell. You challenged her that she cannot arrive at that conclusion unless all the 200,000 children are tested. She is telling you that what they have done is to observe the children rather than test them. So, if you want to push her to a point where she has to test them, then make her give that commitment; otherwise you cannot now rise on a point of order again against her that they have not tested, but they have instead just observed. I am glad that you understand.

Proceed, Minister!

The Minister for Public Health and Sanitation (Mrs. Mugo): Mr. Speaker, Sir, the medical staff are on the ground. We must also appreciate that we do not have enough personnel like doctors and everybody to cover the whole country at once. But we have a strong surveillance team not only for aflatoxin but for all diseases. We have taken this as a special issue and all the medical personnel in every province have been alerted; even the teachers have been alerted by now and they will report to the medical personnel if there is any problem.

Our health officers are also visiting the areas; but when we think that within seven days, the personnel we have can cover all those areas and test the children you saying

what is not possible. This is not an event. It is a process and we are continuing to do it; nobody has been reported to have died or to be ill up to now. As far as mopping up is concerned, it is being done by both the Red Cross and the Ministry of Public Health and Sanitation. The mopping up is continuous. By now, everybody has the information not to consume whatever has been delivered. I do not believe there is anyone living in Kenya who has not now heard of this problem, whether over the radio, through newspapers and health officials. They will not let the children in schools consume this product. Hon. Member, if you give me specific areas where you want the health personnel to go, they will go.

Mr. Speaker: Order, hon. Members! That matter must now rest there. If you look at the clock, you will see where we are. We are terribly off target. So, I want us to take the next statement from the Deputy Prime Minister and Minister for Finance.

STATUS OF REVENUE ACCOUNTS AT TREASURY

The Deputy Prime Minister and Minister for Finance (Mr. Kenyatta): Mr. Speaker, Sir, yesterday, on 2nd November, 2011, the hon. Mbadi stood up and demanded that a Ministerial Statement on the status of Revenue Account at the Treasury be delivered by the Office of the Deputy Prime Minister and Ministry of Finance. I stated that the same would be delivered today. However, the issue of whether or not the Statement could be made in the House has been canvassed and the Speaker had indicated that he will rule on the matter. At the time, I stated that I would issue the Statement, which is today, I was under the mistaken impression that this ruling had been made by the Speaker.

Mr. Speaker, Sir, after conferring with my colleague, the Assistant Minister, I have determined that the facts of the matter are as follows:-

On 21st April, 2011, hon. Mbadi requested for a Ministerial Statement concerning revenue accounts from the Ministry of Finance. The matter came up in the House on Tuesday 10th May, 2011, where the Speaker ruled that the Deputy Prime Minister and Minister for Finance should not conduct any business in the House until the Ministerial Statement had been given to the House.

On 18th May, 2011, the Assistant Minister, Office of the Deputy Prime Minister and Ministry of Finance submitted to the House that the matter was rightly before the Public Accounts Committee (PAC), a fact supported by a Member of the PAC, Dr. Kones. It was with that in mind that he stated that making a Ministerial Statement as requested would be in violation of the Standing Orders and breach of parliamentary practice. The Chair indicated that a ruling would be delivered on the same issue.

Mr. Speaker, Sir, again, on 25th May, 9th June and 14th June, the Chair had indicated that the ruling would be made, but no ruling has been made to date. I would like to reiterate that the Statement requested relates to accounts for the year 2007/2008, 2008/2009 and the position of those accounts is as follows:-

The accounts of 2007/2008 Financial Year were queried by the Controller and Auditor-General and he submitted his Report to this House. The Public Accounts Committee (PAC) duly investigated the matters raised for that financial year and in December, 2010, submitted a Report containing its recommendations to this House for adoption.

Mr. Speaker, Sir, the accounts for the Financial Year 2008/2009 were audited by the Controller and Auditor-General and a Report submitted to the House. The PAC has taken up the matter and is currently investigating those accounts. Hon. Mbadi is well aware that no ruling has been made in the matter and was not forthcoming with that fact when he demanded that the Statement be delivered; knowing very well that the issue has not been decided by the Speaker.

Mr. Speaker, Sir, I, therefore, would like to request for a decision to be made on whether the Statement can be made, while the matter is currently before PAC, as it would be a breach of the rule curtailing anticipating debate of a Report before a Committee.

Thank you, Mr. Speaker, Sir.

Mr. Speaker: Very well! I have heard the Deputy Prime Minister and Minister for Finance on what has transpired with respect to this matter so far, including directions given by the Chair and the commitments by the Minister himself. I wish to observe as follows: -

In the light of what the Minister has had to say, I will give directions on this matter on Wednesday afternoon, inclusive of what happens if the matter is already being investigated by PAC. Obviously, that is a substantive aspect of the matter which I will have to deal with from the Chair.

Mr. Mbadi: Mr. Speaker, Sir, I would not want to challenge your ruling and, of course, I have no capacity to do so. But even as you consider making the ruling on Wednesday next week, it is important to observe and note that what the Minister is referring to as being before PAC are the entire accounts of the Government of Kenya relating to those years. Mine was really specific. I touched on a specific aspect. The reason why I brought this issue is because, if the accounts that are brought before Parliament and approved are materially different from what is presented to the Controller and Auditor-General, that is a concern and a worry to this House, that requires an elaborate Ministerial Statement from the Minister concerned.

Mr. Speaker, Sir, even as you consider making that ruling, it should be observed that, probably PAC has not captured that fact because, probably, it is outside the domain within the accounts that are presented to the Committee.

Mr. Speaker, Sir, finally, it is also important to observe that the accounts of 2007/2008 have actually been reported on by PAC. Looking through the Report of PAC, it does not address the issues that I raised. In that case, if those issues are not addressed by the PAC Report and the year has already been scrutinized by PAC, then I think it would be very proper for me as a Member of Parliament, to raise the issues and be addressed specifically by the Minister for Finance.

Mr. Speaker, Sir, I rest my case.

Mr. Speaker: Mr. Minister, as I consider the matter, maybe, you want to react to that because, obviously, that becomes material. The Member for Gwasi is contending that the request he has made for a Ministerial Statement is specific and restricted to as certain aspect of Statements that must emanate from your Ministry, which will be in compliance with the provisions of the Constitution and any other relevant law. But what you are saying is before the PAC is broader; it is the entire annual accounts. So, it is important that you also address me on that aspect, so that I bear it in mind.

The Deputy Prime Minister and Minister for Finance (Mr. Kenyatta): Mr. Speaker, Sir, it is true and it is a fact that what is before the Committee concerns the

entire accounts. But the issue that has been raised by the hon. Member is also part of the mandate of PAC. These are the issues that they engage with Treasury officials, discuss and agree. They are issues that are also queried by the Controller and Auditor-General. That is why we are saying that this matter can more comprehensively be dealt with by the Committee that is looking at the accounts. It can also look at these particular aspects because they are part of queries that are raised on those accounts.

Mr. Mbadi: On a point of order, Mr. Speaker, Sir. Yes, indeed, PAC has the mandate over the entire accountability of Government funds but I was very specific. I did say that the Minister reports to this House every year on the actual collections for the previous years. If that amount is materially different from what is presented to the Controller and Auditor-General, that probably was not addressed by PAC. I have looked at the Report of PAC for the 2007/2008 and can confirm that, that particular aspect is not addressed. Since the Minister says that they have already addressed those issues with the Committee, I do not see any harm in him, again, addressing this House. It would be fortunate for him, because he has been on it for a long time, to eloquently explain to the House why the figures that he tables before Parliament are materially different from what is presented to the Controller and Auditor-General. So, that is the only point of departure between me and the Minister.

Mr. Speaker: Very well! I will incorporate that in my directions. We want to take the Statement from the Leader of Government Business, hon. Kimunya.

BUSINESS FOR WEEK COMMENCING
7TH NOVEMBER 2011

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

Mr. Speaker, Sir, the following key Bills are expected to be read a Second Time:-

- (i) The Labour Institutions (Amendment) Bill, Bill No.26 of 2011;
- (ii) The Public Procurement and Disposal (Amendment) Bill, Bill No.27 of 2011;
- (iii) The Ratification of Treaties Bill, Bill No.28 of 2011;
- (iv) The Kenya School of Government Bill, Bill No.30 of 2011, being the resumption of debate interrupted on Wednesday 26th October, 2011; and,
- (v) Cancer Prevention Bill, Bill No.47 of 2011.

Mr. Speaker, Sir, the following Bills will be considered at the Committee of the Whole House; the Capital Markets Bill, Bill No.13 of 2011; the Central Depositories Amendment Bill (Bill No. 14 of 2011); the Public Service Superannuation Scheme Bill (Bill No.24 of 2011) and the Engineers Bill (Bill No.25 of 2011).

Mr. Speaker, Sir, the House will also consider among others the Motion by hon. Aden Keynan to the Office of the Deputy Prime Minister and the Minister for Finance urging the House to constitute a Select Committee to comprehensively investigate the cause of the drastic and steady decline of the Kenya shilling against other foreign currencies. I am aware that there are some consultations on this with the Committee on Finance, Planning and Trade. Subject to those consultations, we will be looking at that.

Finally, the House Business Committee will meet on Tuesday, 8th November, 2011, to consider business for the rest of the week.

I am also aware that last Thursday, you requested for a comprehensive Statement on the status of the constitutional Bills and I could make the Statement today as a separate Ministerial Statement or combine it within the framework of this Statement.

PRIORITIZATION OF CONSTITUTIONAL IMPLEMENTATION BILLS

On Thursday, 27th October, the Member for Imenti Central, hon. Gitobu Imanyara, sought an assurance from the Leader of Government Business with regard to the prioritization of constitutional Implementation Bills in our House Business Committee. On the same, you also ordered the Leader of Government Business to present a brief to the House over the status of the implementation of the constitutional Bills.

Let me state from the outset that the Government is alive to its noble obligation of ensuring that there is proper and timely implementation of the Constitution. Similarly, key agencies, being mainly, the Constitutional Implementation Commission (CIC), the Kenya Law Reform Commission and the Attorney-General's Office are properly seized of the process. It is for that reason that this House managed to meet the crucial deadline of passing all the necessary constitutional Bills listed in the Fifth Schedule by 26th August, 2011 and I would wish, at this point, to thank all Members for their cooperation in achieving that feat.

Mr. Speaker, Sir, this made it possible for the following 21 Bills to be passed by this House and, thereafter, enacted into law. Quickly, these are; The Judicial Services Bill, 2011, The Vetting of Judges and Magistrates Bill, 2011, The Supreme Court Bill, 2011, The Independent Electoral and Boundaries Commission Bill of 2011, The Independent Offices Appointment Bill of 2011, The Salaries and Remuneration Commission Bill of 2011, The Kenya National Human Rights Commission Bill of 2011, The Commission on Administrative Justice of 2011, The National Gender and Equality Commission Bill of 2011, The Political Parties Bill of 2011, The National Police Service Bill of 2011---

Mr. Mungatana: On a point or order, Mr. Speaker, Sir. I think you have, on various occasions ruled on how we should optimally use the time of this House. The Leader of Government Business is telling us what we already know. The concern this House has is, in terms of prioritizing the constitutionally bound Bills, and not to tell us what we have already done and to take us through that.

Could he skip the part that is not relevant and deal with the issues we want to hear? If you look at the plan of next week, you will see that the four Bills he has talked about are all Private Members' Bills. We want to hear what the plan of the Government is and not what we have already achieved.

Is he in order to take the time of the House repeating history?

The Minister for Transport (Mr. Kimunya): Mr. Speaker, Sir, I was complying with the wishes of the House. The House wanted to know what we have done and what is outstanding. So, if the House is comfortable---

Mr. Speaker: Minister, how long will you be?

The Minister for Transport (Mr. Kimunya): Mr. Speaker, I should take another two to three minutes.

Mr. Speaker: Okay, proceed!

The Minister for Transport (Mr. Kimunya): Mr. Speaker, Sir, the other Bills included the Powers of Mercy Bill of 2011, the Commission of Revenue Allocation Bill of 2011, The Employment and Labour Relations Court Bill of 2011, The Elections Bill of 2011, The Kenya Citizenship and Immigration Bill of 2011, The Urban Areas and Cities Bill of 2011, The Land and Environmental Court Bill of 2011, The Contingencies Fund and County Emergency Fund Bill of 2011 and the National Government Loans Guarantee Bill of 2011.

These are laudable achievements, not only for this House, but also for other agencies involved in this vital process. There should be no panic or apprehension over the achievement of targets for the second round of legislation to be passed within two years. So far, up to 30 Bills, in their final stages of review are expected to be published soon for debate in the House. The ones that have certainly gone through the process and will be ready any time soon include, the Devolved Government Bill of 2011, the Inter-Governmental Relations Bill of 2011, the Transition to Devolved Government Bill of 2011, the Teachers Service Commission Bill of 2011, the Independent Communications Commission of Kenya Bill of 2011, the Media Bill of 2011, the National Land Commission Bill of 2011, the Marriage Bill of 2011 and the Public Financial Management Bill of 2011.

These have passed through the process for the three agencies; the Law Reform Commission, the CIC and are now on their way to the Cabinet to then come to Parliament. They have also gone through scrutiny by the drafting Ministries, the stakeholders and the key agencies.

Finally, I wish to assure the House, and indeed, all Kenyans that these Bills will not be rushed into this House and Members will have adequate time to interrogate their contents before passing them.

Mr. Mbadi: Thank you, Mr. Speaker, Sir. I want to thank the Deputy Leader of Government Business for giving us that comprehensive programme. However, I think last week, we were very clear when we asked the Government to respond or give this update. We talked of timelines. The fact that the Bills are on their way to the Cabinet, we have had a number of occasions with the previous Bills where we are told that they are with the Cabinet but they take inordinately too long to come to the House. I would have expected the Deputy Leader of Government Business to tell us when to expect these Bills before this House so that we can pass them in good time.

Mr. Speaker: Anybody else interested? Member for Vihiga!

Minister, just take notes.

Mr. Chanzu: Mr. Speaker, Sir, the last time we were rushing to pass the Bills, the Vice-President and Minister for Home Affairs, who is the Leader of Government Business came and gave us an update like this one, which was very impressive. At that time, we said that we would move with speed. However, we said that due care must be taken so that there are no queries about the drafting when it comes to publishing. I hope that the Leader of Government Business has taken into account this as the process goes on. Eventually, we will be short of time. So, due care must be taken to ensure that when the process is going on, everything is done correctly.

The Minister for Transport (Mr. Kimunya): Mr. Speaker, Sir, I wish to confirm that, indeed, it is taking time to ensure that all various stakeholders are consulted and due care is being taken to ensure that we do not end up with the multiplicity of the

amendments we saw in the last round because of things coming in a rush. We still have time. The next deadline is not earlier than February next year. But we want to finish these things before we even take a break. So, like I said, we will not rush the House but we will have a lengthy consultative process that this House approved. It is tying all of us. We would have loved to have these earlier but we have to go through all these agencies. I can assure you that the Cabinet will not delay on the passage of these things once they have come from the agencies. We should be scheduling them to come within the next couple of weeks and not months.

(Mr. Mbadi stood up in his place)

Mr. Speaker: Order! Member for Gwassu, at this point, you must relax. Calm down! Calm down! That brings us to the end of Order No.7.

POINTS OF ORDER

SECURITY OF OFFICE HOLDERS CATEGORIZED AS HIGH VALUE INDIVIDUALS

Mr. Mungatana: Thank you, Mr. Speaker, Sir.

Mr. Speaker, Sir, I wish to demand a Ministerial Statement from the Minister in charge of Provincial Administration and Internal Security regarding the security of office holders categorized as high value individuals, congregating in one place. In particular, this is about holders of the Offices of the President, the Prime Minister and the Vice-President and Minister for Home Affairs.

Mr. Speaker, Sir, indeed, during Mashujaa Day when it was reported that one person who is now convicted, Elgiva Bwire, attended Mashujaa Day celebrations, the three office holders were present together. Apart from that particular incident, there have been several other incidents in which the three high value office holders in this country have been congregating together.

Mr. Speaker, Sir, I wish to seek a clarification from the Minister as to the following issues. One, is the Minister satisfied that congregating those individuals together is not a danger to the big public audience that gathers in front of them? Two, is the Minister satisfied that in the event of evacuation, given the fact that the President is always accompanied by about 30 vehicles the Prime Minister by about 20 vehicles and the Vice-President and Minister for Home Affairs by a similar amount of vehicles, the security of these individuals would be assured?

For the sake of this country, is he satisfied that potential inheritors of top offices can gather in one place? Is he satisfied that, that is proper in terms of security arrangements? What policy will he put in place to ensure that in future, these office holders do not congregate together? Is he aware, by the way, that following what happened to the former Vice-President--- During the accident that affected several hon. Members of Parliament--- In fact, the Parliamentary Service Commission did give direction that we cannot fly many hon. Members of Parliament in one flight. If that is the case in Parliament, why has the Executive not taken the proper measures to ensure the security of these office holders? Particularly, is it not a matter of common sense?

Thank you, Mr. Speaker, Sir.

The Deputy Prime Minister and Minister for Finance (Mr. Kenyatta): On a point of order, Mr. Speaker, Sir. As much as I appreciate the concerns of the hon. Member, he has forgotten to mention another very key figure number four, who is the Speaker of the House.

(Applause)

Mr. Mungatana: Yes, Mr. Speaker, Sir, may I repeat that another high value hon. Member or individual, Mr. Speaker, was also present?

(Applause)

So, Mr. Speaker, Sir, is the Minister of State for Provincial Administration and Internal Security satisfied that we can congregate all these high value individuals? If this is the policy, is it a proper policy, given the kind of situation that we are living in now?

I thank you, Mr. Speaker, Sir.

Mr. Speaker: Deputy Leader of Government Business!

The Minister for Transport (Mr. Kimunya): Mr. Speaker, Sir, I will communicate this request to the Minister of State for Provincial Administration and Internal Security to give a comprehensive Statement. But I would take this very early opportunity to assure Kenyans that all safety precautions are being taken to ensure that your leadership, including hon. Members of Parliament, congregating here, are safe to be able to transact the business given to them by the Kenyan people. The Statement will be coming on Thursday next week.

Mr. Mungatana: On a point of order, Mr. Speaker, Sir. I really want the Deputy Leader of Government Business to appreciate what I am driving at. Hon. Members are not the same as the Head of State or potential successors like the Prime Minister and the Vice-President. This issue must be considered with seriousness.

Thank you, Mr. Speaker, Sir.

STATE OF INSECURITY IN RIFT VALLEY REGION

Mr. Cheruiyot: Mr. Speaker, Sir, I want to request a Ministerial Statement from the Minister of State for Provincial Administration and Internal Security with regard to the state of insecurity in Rift Valley region, and in particular the attacks and killings of prominent business people. One killing took place on 30th October at night in Uasin Gishu; another one took place on 1st November in Kuresoi at midday, and at Chebilat yesterday on the border of Kericho and Kisii. In the Statement, I would like the Minister to inform the House the actions being taken by the Government to bring to book the perpetrators of these systematic and consistent crimes.

Two, Mr. Speaker, Sir, I would like him to confirm whether he is aware of the potential threats caused by these attacks on our national security and the high risk of raising ethnic tensions in the region. I would also like the Minister to explain to the House the strategies being put in place on the disarmament of individuals in possession of dangerous arms in the region. Finally, I would like him to clarify the action being taken to improve the performance of the security officers in the area.

That is all, Mr. Speaker, Sir. Thank you.

Mr. Speaker: Very well; Deputy Leader of Government Business.

The Minister for Transport (Mr. Kimunya): Mr. Speaker, Sir, indeed, if my memory is not wrong, I think similar issues have already been raised in the House and I wish them to be consolidated. In any event, we will have the response to those issues in two weeks to cover the comprehensive issues that have been raised.

Mr. Speaker: Two weeks from today?

The Minister for Transport (Mr. Kimunya): Two Tuesdays away; two weeks from today is good enough.

Mr. Speaker: Very well.

(Mr. Cheruiyot stood up in his place)

What is it, the hon. Member for Kuresoi?

Mr. Cheruiyot: On a point of order, Mr. Speaker, Sir. I am concerned and this is a very serious matter. The survival of our citizens is at stake. Two weeks is too long; we might not be here!

Mr. Speaker: Order, hon. Member for Kuresoi! I think he has asked for two weeks from Tuesday this week. That means the next Tuesday, the one after. So, it is slightly under two weeks.

Very well! We want to move to the next Order.

The Minister for Transport (Mr. Kimunya): On a point of order, Mr. Speaker, Sir.

Mr. Speaker: What is it, Deputy Leader of Government Business!

PROCEDURAL MOTION

EXTENSION OF SITTING TIME

The Minister for Transport (Mr. Kimunya): Mr. Speaker, Sir, I wish to move a Procedural Motion to extend time.

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

THAT, notwithstanding the provisions of Standing Order No. 20 (1) and (2), this House resolves that the sitting time of the House be extended from 6.30 p.m. until the conclusion of Order Nos.8, 9, 10 and 11 on today's Order Paper.

Mr. Speaker, Sir, as hon. Members will appreciate, we have business that needs to be cleared today, because we have taken rather long on the Questions. It would be good if hon. Members could sacrifice a little time, so that we can all go home having completed these constitutional matters that need to be handled today.

Mr. Speaker, Sir, I beg to move the Motion and ask hon. Kenyatta to second.

The Deputy Prime Minister and Minister for Finance (Mr. Kenyatta) seconded.

(Question proposed)

Mr. Ogindo: Thank you, Mr. Speaker, Sir. I rise to agree with the proposal, but I do not understand why we need to get up to Order No. 11. Going by the sequence of the Order Paper, we will be getting to Order No. 11 at the tail end of the business of the day today. I see no reason why we should hurry Order No.11. I would request that we go up to Order No. 10.

Mr. Abdikadir: Mr. Speaker, Sir, I wish to support the Motion and give information with respect to Order No.9 and Order No.10. With respect to Order No.9, there is a statutory deadline ending today. So, we have to clear with that Motion today.

With respect to Order No.10, we have a statutory deadline for Monday. Therefore, this is the final sitting day for those two orders.

I beg to support.

Mr. C. Kilonzo: Mr. Speaker, Sir, I wish to support the Motion as proposed by the Minister and since our good friend did not bring an amendment, we prevail upon him that we go by the Motion as proposed by the Minister.

Mr. Speaker, Sir, because of time, I request that the question is put.

Mr. Speaker: Hon. Members, I have heard the observations by Members and I believe that, that generally reflects the mood of the House.

(Question put and agreed to)

COMMUNICATION FROM THE CHAIR

ORDER FOR BUSINESS

Mr. Speaker: Order, hon. Members! Allow me to communicate as follows after that resolution of the House.

Invoking the provisions of Standing Order No.36, I direct that we begin that order of business by dealing with and disposing of business at Order No.11 (ii). This is because the Deputy Prime Minister and Minister for Finance is compelled by duty to travel out of the country in the next one hour. It is important that we dispose of that business because he is the one moving it.

Therefore, please, note and adjust accordingly. After we dispose of business at Order No.11 (ii), we will go back to Order No.8 and then Order No.9, Order No.10 and finally, Order No.11 (i).

Next Order!

COMMITTEE OF THE WHOLE HOUSE

(Order for Committee read)

[Mr. Speaker left the Chair]

IN THE COMMITTEE

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

THE NATIONAL PAYMENT SYSTEM BILL

The Temporary Deputy Chairman (Prof. Kaloki): Hon. Members, we are in the Committee of the Whole House. We will be dealing with the National Payment System Bill (Bill No.46 of 2011). This is item (ii) under Order No.11.

*(Clauses 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13,
14, 15, 16, 17, 18, 19 and 20 agreed to)*

*(Clauses 21, 22, 23, 24, 25, 26,
27, 28, 29, 30, 31, 32 and 33 agreed to)*

(Title agreed to)

(Clause 1 agreed to)

The Deputy Prime Minister and Minister for Finance (Mr. Kenyatta): Mr. Temporary Deputy Chairman, Sir, I beg to move that the Committee doth report to the House its consideration of The National Payment System Bill and its approval thereof without amendments.

(Question proposed)

(Question put and agreed to)

(The House resumed)

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

REPORT AND THIRD READING

THE NATIONAL PAYMENT SYSTEM BILL

Prof. Kaloki: Mr. Temporary Deputy Speaker, Sir, I beg to report that a Committee of the whole House has considered The National Payment System Bill and approved the same without amendments.

The Deputy Prime Minister and Minister for Finance (Mr. Kenyatta): Mr. Temporary Deputy Speaker, Sir, I beg to move that the House doth agree with the Committee in the said Report.

The Minister for Transport (Mr. Kimunya) seconded.

(Questioned proposed)

(Question put and agreed to)

The Deputy Prime Minister and Minister for Finance (Mr. Kenyatta): Mr. Temporary Deputy Speaker, Sir, I beg to move that The National Payment System Bill (Bill No.46 of 2011) be now read the Third Time.

The Minister of State for Defence (Mr. Haji) seconded.

(Question proposed)

(Question put and agreed to)

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

MOTIONS

APPOINTMENT OF ADAN KEYNAN TO PSC IN ACTING CAPACITY

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

THAT, pursuant to the provisions of Section 45B(4) of the former Constitution as saved by section 3(2) of the Sixth Schedule to the Constitution; this House appoints the Hon. Adan Keynan, MP, to serve as a Member of the Parliamentary Service Commission (PSC) in an acting capacity.

As hon. Members will recall, hon. Nyambati, who was the Vice-Chairman of the PSC, and who had been nominated by the PNU Coalition, lost his Parliamentary seat and is currently engaged in the re-election process. In the meantime, the vacancy within the PSC is impacting on the work of the PSC. If the PSC cannot raise a quorum because some of its Members have travelled, all of us suffer.

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

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

Mr. Temporary Deputy Speaker, Sir, we have, therefore, taken the view that in order to facilitate the work of the Commission, it is important that a Member be appointed in an acting capacity until the fate of the former Vice-Chairman of the Commission is known. I am also aware that another vacancy has arisen because of the appointment of hon. Murgor into Government. We have asked the ODM party, which is the party that had nominated hon. Murgor to the PSC, to consult and provide a name that will also be brought to this House for approval.

Immediately that name comes, we will bring the Motion for its adoption by this House. In the meantime, for the purpose of ensuring that the work of the PSC is not affected by the vacancies created by those two Members, we thought that it is important that we take a proactive move by having a Member in an acting capacity. The work of the Commission is very important for the performance and oversight of this House.

Mr. Temporary Deputy Speaker, Sir, hon. Keynan is known to all of us in this House, and it is not traditional for us to discuss why a certain Member of Parliament is being appointed to what position. It suffices to say that the consultations that took place within the nominating party provided the name, and we expect another name to come from the ODM shortly to replace hon. Murgor. Immediately I receive that name, I will forward it to the House for approval, so that the PSC can be fully constituted to do the business it is mandated to do by the Constitution and as per the expectation of the membership of this House.

With those remarks, I beg to move and request hon. Muthama to second the Motion.

Mr. Muthama seconded.

(Question proposed)

The Temporary Deputy Speaker (Prof. Kaloki): Hon. Members, hon. Mbadi has an amendment to the Motion.

Proceed, hon. Mbadi!

Mr. Mbadi: Mr. Temporary Deputy Speaker, Sir, first of all, let me congratulate the people who have nominated hon. Keynan for this position. Whereas I support the Motion, I support it with an amendment, which reads:-

THAT, the Motion be amended by deleting all the words appearing after the word "Commission".

Mr. Temporary Deputy Speaker, Sir, the effect is the removal of the provision that we are appointing hon. Keynan to this Commission in an acting capacity. I am asking this House that we appoint hon. Keynan to this position permanently, until the end of the life of the Tenth Parliament. This is informed by the fact that we know hon. Keynan, and many of us – I included – feel that he can serve us well, especially at this time when we need better services in the PSC.

With those remarks, I beg to move and request hon. Mungatana to second the amendment.

Mr. Mungatana: Mr. Temporary Deputy Speaker, Sir, I want to plead with the Government side not to oppose this amendment. In the sections of the Constitution that hon. Kimunya has cited there is no provision for an acting capacity for Commissioners of the PSC. That is the first thing I want to say.

Secondly, it is the feeling of this House that, having sat and felt that hon. Keynan is good, and the Speaker having said in this House today that all Members of Parliament are of equal capacity, we strongly recommend that you support our amendment, so that we can spend one minute on this Motion and pass it. I am sure that the Joint Chief Whips will agree with us.

With those remarks, I beg to second.

*(Question, that the words to be
left out be left out, proposed)*

The Assistant Minister, Ministry of State for Defence (Maj-Gen. Nkaisserry): Mr. Temporary Deputy Speaker, Sir, I stand to support the Motion as amended. We know that Mr. Keynan is a very robust Member of this House, a defender of our rights and, therefore, I support the Motion.

Dr. Laboso: Mr. Temporary Deputy Speaker, Sir, I also want to support this amendment. I think we had a taste of what Keynan can do this morning. We are just seeing that he is the right person to be put on that position permanently.

Mr. Muthama: Mr. Temporary Deputy Speaker, Sir, I stand to oppose the amendment. It is the prerogative of the appointing party which has nominated Mr. Keynan to this position to decide in which capacity he will serve. Currently, Mr. Nyambati is facing a by-election. If we confirm Mr. Keynan on permanent basis, this will not go down well with Mr. Nyambati.

Mrs. Odhiambo-Mabona: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the hon. Member in order first to be standing when I am upstanding?

The Temporary Deputy Speaker (Prof. Kaloki): Proceed, Mrs. Odhiambo-Mabona.

Mrs. Odhiambo-Mabona: Mr. Temporary Deputy Speaker, Sir, is the hon. Member in order to get the House to make a decision that affects hon. Members on the basis of a person who is a stranger to this House?

Mr. Muthama: Mr. Temporary Deputy Speaker, Sir, PNU as a political party has nominated Mr. Keynan on acting capacity because we are waiting for the outcome of the by-election. This is our position. We are entitled to do whatever we want to do. We do not want to be dictated here.

Mr. Ogindo: On a point of order, Mr. Temporary Deputy Speaker, Sir. I respect the right of every party to appoint anybody from its membership. However, is it in the province of the party to define the terms upon which Members that are appointed are going to serve?

Hon. Members: No!

Mr. Muthama: Mr. Temporary Deputy Speaker, Sir, PNU as a political party can recommend the nomination of any hon. Member either on acting capacity or on permanent basis. However, some people want Mr. Nyambati to lose that seat so that they weaken PNU. I know this is a scheme by ODM. They want to send the message that Mr. Nyambati has been replaced as a commissioner. That is totally unacceptable!

Mr. Duale: Mr. Temporary Deputy Speaker, Sir, I stand to support this amendment. The buck stops with this House. It does not stop with the ODM, neither does it stop with the PNU. The PNU members do their things at their PNU parliamentary group meeting and the ODM members do their thing at their ODM parliamentary group meeting. This is the august House. Mr. Keynan is a Member of this House. He is a Member of PNU. Why do they want Mr. Keynan to be in acting capacity in anticipation of a by-election in which even PNU is not sure of winning?

Mr. Kioni: Mr. Temporary Deputy Speaker, Sir, I stand here to support that amendment. As a Member of the PNU I have just seen this name on the Floor of the

House. We were not consulted as PNU. This issue now belongs to the House. I have confidence in my Chair.

The Temporary Deputy Speaker (Prof. Kaloki): Thank you, Mr. Kioni.

Mr. Kioni: Mr. Temporary Deputy Speaker, Sir, I do not intend to defy you, but I have not even said anything. I think you are not being respectful also!

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

Hon. Members, we want to dispose of the amendment and then we go back to the Motion.

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

(Question of the Motion as amended proposed)

Mr. Ethuro: On a point of order, Mr. Temporary Deputy Speaker, Sir. I think you have just put to vote the amended Motion. Then we need to proceed and debate the Motion.

Mr. C. Kilonzo: Mr. Temporary Deputy Speaker, Sir, I support this Motion as amended. Mr. Keynan was a founder member in the Eighth Parliament of the Parliamentary Service Commission. Secondly, we should not be using MPs as carrots when it comes to positions in Parliament. Three, I do not belong to PNU, but when Mr. Kioni speaks, PNU has spoken. Four, Mr. Keynan should not be here as acting because he is not---

Mr. Ethuro: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is Mr. C. Kilonzo in order to mislead this House by stating that if Mr. Jeremiah Kioni, who is the deputy Chief Whip of the Government, has spoken, PNU has spoke? I appreciate that maybe both Mr. C. Kilonzo and Mr. Muthama may not be PNU Members. Could I put this on record, Mr. Kioni is just the director of elections of PNU.

The Temporary Deputy Speaker (Prof. Kaloki): Mr. C. Kilonzo, could you stick to the Motion?

Mr. C. Kilonzo: Mr. Temporary Deputy Speaker, Sir, he has just answered the question. Mr. Muthama and I are Members of ODM(K). Who knows, we could be leaving this PNU because the way they are behaving---

Mr. Mbadi: On a point of information, Mr. Temporary Deputy Speaker, Sir. I just want to inform Mr. C. Kilonzo that actually Mr. Kioni is more senior than Mr. Ethuro in the PNU hierarchy. He is the deputy secretary-general.

Mr. C. Kilonzo: Mr. Temporary Deputy Speaker, Sir, I wish to conclude---

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

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

Mr. C. Kilonzo: Mr. Temporary Deputy Speaker, Sir, I just want to conclude with one line: Mr. Keynan should not be treated as a second rate citizen. He should not be given a position merely to warm it because somebody has gone away. He should be given the seat on the basis of his capacity.

With those remarks, I support.

Mr. Njuguna: Mr. Temporary Deputy Speaker, Sir, I rise to support the Motion as amended. I want to specifically indicate to this House that hon. Keynan has ably

served the Committee on Defence and Foreign Affairs and has the capacity to represent this House and the Members in the PSC.

Mrs. Odhiambo-Mabona: On a point of order, Mr. Temporary Deputy Speaker, Sir. Going by the mood of the House, would I be in order to ask that the Mover be called upon to respond?

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

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

Resolved accordingly:

THAT, pursuant to the provisions of Section 45B(4) of the former Constitution as saved by Section 3(2) of the Sixth Schedule to the Constitution; this House appoints the Hon. Adan Keynan, M.P. to serve as a Member of the Parliamentary Service Commission.

ADOPTION OF REPORT ON APPROVAL OF
CHAIRPERSON AND MEMBERS OF CAJ

Mr. G. Nyamweya: On a point of order, Mr. Temporary Deputy Speaker, Sir. I had, in fact, given notice that I would be rising on a point of order to seek the Speaker's guidance and ruling. This may well reflect on Order Nos. 9 and 10. This goes to the constitutionality of what we are doing. If I may refer to Article 94(4) of the Constitution, it states:-

“Parliament shall protect this Constitution and promote the democratic governance of the Republic”.

I would also like to refer to Article 124; Committees and Standing Orders. It states:-

“Each House of Parliament may establish committees, and shall make Standing Orders for the orderly conduct of its proceedings, including the proceedings of its Committees”.

If you then look at the same Article 124(4), it states that:-

“When a House of Parliament considers any appointment for which its approval is required under this Constitution or an Act of Parliament, the appointment shall be considered by a committee of the relevant House”.

The Constitutional Implementation Oversight Committee is a select Committee established under Section 4 of the Sixth Schedule of the Constitution with the mandate of overseeing the implementation of the Constitution and which among other things is required to look at (a) (v) any impediments to the process of implementing this Constitution, (b) coordinate with the Attorney-General, the Commission on the Implementation of the Constitution and relevant parliamentary committees to ensure the timely introduction and passage of the legislation required by this Constitution and (c) take appropriate action on the reports, including addressing any problems in the implementation of this Constitution.

Both these Motions are brought by the Committee on the Implementation of the Constitution. The Constitution requires that we ought to have referred these matters to the relevant departmental committee.

The Constitution also requires that in these proceedings, the committee's recommendations shall be tabled before the House, which has been done and that the proceedings of the committees and of the House shall be in public. It was intended that when the committees evaluate whatever nominees, the process be open to the members of the public. As it has happened, we appear to be in a big rush. We have not allowed any participation of the public, other than a committee being seen on television or heard on radio.

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

*[The Temporary Deputy Speaker
took the Chair]*

Mr. Deputy Speaker, Sir, I would like, with your indulgence, to refer you to the composition of the select committee itself. Out of its 27 members, ten are members of the Executive. That is 37 per cent. Now, our Constitution intended to separate the three arms of Government, and it is the Executive which does nominations. It is the Legislature which does approval. When, therefore, one of the committees which is doing the work of the Legislature, has 37 per cent of its membership from the Executive, this amounts to the Executive itself approving or even rejecting what, in fact, is supposed to be done by the other arm of the Government.

Mr. Deputy Speaker, Sir, I have no issue. Let it be on record that I am not anticipating whoever has been nominated or otherwise, but I am concerned about the constitutionality and the rule of law on how we proceed and handle our matters. Indeed, the answer may well have been to reconstitute the select committee, so that it reflects only the Back Bench, and so that the Executive can do its job or assign the work to the relevant departmental committees.

Mr. Deputy Speaker, Sir, I seek your guidance on this.

Mr. Abdikadir: Mr. Deputy Speaker, Sir, my learned friend should first of all read the Constitution before he misrepresents it. Section 124 of Chapter 8 is not in force. Chapter 8 is suspended. Otherwise, if Chapter 8 was in force, many things would have changed, including Ministers sitting in the House. That is first.

Mr. Deputy Speaker, Sir, the Constitutional Implementation Oversight Committee (CIOC) is, indeed, a committee of this House. That is the first thing. It is a parliamentary select committee. So, a committee of the House can handle all the functions that a committee of the House is mandated to handle.

Mr. Deputy Speaker, Sir, three, the issues we are handling deal with constitutional offices and have timelines. Today is the deadline. On the second motion, Monday is the deadline. If those deadlines are not met, this House will have breached the Constitution and a statute that it passed. The CIOC was set up at the Constitution level. It is the only committee, other than the Parliamentary Service Commission, that is actually constitutionally set up. The others are creatures of Standing Orders and statutes, including

the CDF committee. The CIOC is a Constitutional committee overseeing a process, and is set up at that level. Among other things, its mandate is to take appropriate action when there is an impediment to the implementation. If this House has not sorted out the issue of the Legal Affairs Committee, there is no better place to handle that impediment than at the CIOC. The Constitution actually says that should be the issue to be handled. On the issue of having the Executive sitting in the Committee, the Executive sits in this House. Eighty Members of the Executive are members of this House and the approval is not by the Committee; the approval is by the National Assembly. So, if you stopped the Executive from taking part in approval or oversight, then we would be asking all Ministers and Assistant Ministers to vacate the House. That is why Chapter 8 is not in force; we are not intending to do that. We are under the old fused system, where the Executive sits in Parliament.

In terms of public participation, Parliament spent money to advertise and ask members of the public to send their views to the Committee. The hon. Member was out of the country and so, he should have asked: "What did you do while I was away?" He was doing a good job outside there. Finally, it was live on television. That is public participation. Indeed, each of the main newspapers carried editorials on this matter. That is public participation.

Mr. Deputy Speaker, Sir, finally, the Speaker has already ruled on this matter numerous times. Even the commitment of this work to the Constitutional Implementation Oversight Committee (CIOC) was through a Speaker's Communication.

Mr. Deputy Speaker, Sir, he is late and should have brought these issues earlier. I think we should move on with the process.

The Minister for Transport (Mr. Kimunya): Mr. Deputy Speaker, Sir, as you give your guidance, I want to agree 100 per cent with hon. Abdikadir. Where I come from, when a young man speaks like that, we say that he has spoken like ten elders.

Mr. Deputy Speaker, Sir, indeed, I find that the interjection by hon. Nyamweya is rather unfortunate, especially coming so late in the day. That is because this should have been challenged at the point when the matter was referred to the CIOC. We have taken the trouble to bring it, as House Business Committee, to the Floor of the House because we knew that it was the right thing to do.

Mr. G. Nyamweya: On a point of order, Mr. Deputy Speaker, Sir. At least, let the record be clear. From the very beginning, I opposed, on similar grounds, these matters being referred to the Select Committee. That is on record and the Minister should not mislead the House. Secondly, it does not mean that if we are doing something wrong we must continue doing it wrongly.

Mr. Deputy Speaker: Order! Order, hon. Nyamweya! Yes, indeed, you raised this matter and the Chair gave direction on the same, on a number of occasions. The matter rests there! Mr. Minister, conclude so that we can go to the substantive business.

The Minister for Transport (Mr. Kimunya): Mr. Deputy Speaker, Sir, indeed, I wanted to give the assurance to this House that the House Business Committee considered and found that these Motions are properly before the House and put them on the Order Paper. The hon. Members should feel comfortable debating them.

Mr. Deputy Speaker, Sir, on the matter of the Committee on Justice and Legal Affairs, I also want to reassure this House that it is now receiving attention. We are making very good progress and will be reporting to this House.

Mrs. Odhiambo-Mabona: Mr. Deputy Speaker, Sir, I will only make two clarifications. First, in equity we have a maxim that says: “Equity assists the vigilant and not the indolent.” So, the point at which he should have raised it has long passed.

Mr. Deputy Speaker, Sir, the second issue that the Chairman has spoken about is public participation. I know that because he is in a hurry he has not given the full details. The public actually gave us written memoranda which we looked at and even called some for clarifications. One actually did write a letter saying that the matter was actually clarified to her satisfaction. Even in the other ones, we made a decision that there was no need to call people to come physically because they were saying that some of the reasons they wanted candidates disqualified is because they did not comment on the Hague. Surely, as Members of Parliament, we cannot take time to call people to interrogate them on why the nominees did not comment about the Hague.

Mr. Deputy Speaker: Hon. M. Kilonzo will also get an opportunity after hon. Ethuro.

Mr. Ethuro: Can the Minister learn to listen! Mr. Deputy Speaker, Sir, first, I want to plead with my colleagues that, if you have nothing to say, you can listen to the rest of us who have something.

Mr. Deputy Speaker, Sir, secondly, I just want to make two observations. One, we were on Order No.11, the Committee of the whole House. That is the final decision making of this House in terms of legislative matters. When we are in the Committee of the whole House, we never remove Ministers or Assistant Ministers. Indeed, their input is so critical in the laws that we make. So, how can you argue that now you cannot do the same in a Committee of the whole House that still brings its work to the whole House?

Mr. Deputy Speaker, Sir, thirdly, the Parliamentary Select Committee, which became CIOC, traditionally had Ministers in the Committee even in previous Parliaments. That never became an issue and, with due respect to my able Vice-Chair of the party that is the senior partner in the coalition, I beg that he indulges us on this one.

Finally, when you hear hon. Nyamweya talking, it is like that voice in the wilderness that is crying for justice; that is crying for the reconstitution of the Justice and Legal Affairs Committee. The sooner the Leader of House Business does it, the sooner the Speaker does it, the better for all of us.

I support.

(Laughter)

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. M. Kilonzo): Mr. Deputy Speaker, Sir, I will be very brief. I would like to point out to the hon. House that in an ideal world, one would have respected what hon. Nyamweya is suggesting. It is my Ministry that is the direct victim of the Justice and Legal Affairs Committee. If I had taken the approach the hon. Nyamweya is taking, most of the work that this Government, this country and this Parliament has done would never have been done. We do not have the luxury of time to wait for politicians leading political parties to resolve the issues of the Justice and Legal Affairs Committee. Everybody thought that by merely having the CIC, of Mr. Charles Nyachae, that was not enough. With insight, it was a blessing in disguise because God loves Kenya that the CIOC was established.

I beg to suggest that you rule hon. Nyamweya out of order for this approach because we do not have the luxury of time, so that these committees can be set up to help the country move forward.

Mr. Deputy Speaker: Hon. Members, the Chair has indeed listened to hon. Nyamweya invoking the provisions of Chapter 8 on Legislature, Article 94 and 124. I also want to agree, entirely, with the Chairman of the CIOC that this Chapter is suspended and that these matters that have been raised now were considered, very exhaustively by the Speaker. It is on the basis of that that this Motion was approved.

Hon. Nyamweya, you are out of order and this Motion is validly in the House now.

Proceed, hon. Chairman!

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

Mr. Deputy Speaker: On the same?

Mr. G. Nyamweya: On a point of order, Mr. Deputy Speaker, Sir, with the utmost respect, the point of order I stood up on was approved by the Chair. So, how do you then find me out of order by bringing something that was approved by the Chair itself?

Mr. Deputy Speaker: Proceed, Chair of the CIOC.

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

THAT, this House adopts the Report of the Constitutional Implementation Oversight Committee on the approval of the chairperson and members of the Commission on Administrative Justice laid on the Table of the House on Wednesday, November 02, 2011.

Article 59 of the Constitution establishes the Kenya National Human Rights and Equality Commission and at Section 4, Parliament is empowered to enact legislation to give full effect to this Part, and any such legislation may restructure the Commission into two or more separate commissions.

This House passed that legislation in August 2011, where pursuant to sub-section 59(4) of the Constitution, three different legislations were enacted that restructured the Kenya National Human Rights Commission into a Commission on Administrative Justice, one on National Gender and Equality Commission and the other one the Kenya National Commission on Human Rights. The Commission on Administrative Justice is established under Section 3 on the Commission on Administrative Justice Act and under the Constitution as earlier said, and Section 8 of that Act gives the functions of the Commission.

Under Section 9, the Act provides for the Commission in terms of how many commissioners it will have, what chairperson it will consist of and so on. Under Section 10, it sets out the qualifications for appointment of the chairperson as follows:-

- (a) has knowledge and at least fifteen years experience in matters relating to human rights, law, conflict resolution, arbitration or administration of justice;
- (b) holds a degree from a university recognized in Kenya; and,
- (c) meets the requirement of Chapter Six of the Constitution.

Section 10(2) sets the requirements for the Commissioners. Under Section 11, the Act sets the procedures and timelines for appointment and those timelines of appointment were followed as you can see on your Report, hon. Members.

In a letter dated 11th October, 2011, the Permanent Secretary and Secretary to the Cabinet advised Parliament of the nomination of Mr. Paul Otiende Amollo who scored the highest among those interviewed for the position of chairperson, Dr. Regina Gathoni Mwatha who scored the highest among those interviewed for the position of member and Mr. Saadia Abdikadir Mohammed who was nominated on account of regional balancing for the position of member.

Section 11 (7) provides that the National Assembly shall, within 21 days, consider all the nominations received and approve or reject any nomination. Today is the deadline for the National Assembly to approve the nominations. On 18th October, the Speaker, indeed, gave that communication.

Mr. Deputy Speaker, Sir, the list of the nominees is there, indeed. The Chair, my learned friend, Paul Otiende Amollo, is eminently qualified for this. He holds a Masters Degree in Law, Bachelor of Law Degree, Diploma in Law and he is a member of the International Commission of Jurists. He is a practising advocate of more than 15 years standing; he has chaired and served in several professional bodies. He, indeed, was a member of the Committee of Experts that helped draft our Constitution; he has been awarded several honours, including the Order of the Burning Spear (EBS) of the Republic of Kenya, and he has helped draft several legislations. We, as a Committee, were extremely pleased to have discussed these issues with this gentleman, and we are more than happy to propose him for appointment to the position of Chair of the Commission on Administrative Justice.

Mr. Deputy Speaker, Sir, nominee number two is Dr. Regina Gathoni Mwatha. She holds a PhD in Sociology, a Masters of Arts Degree in Sociology and Bachelor of Arts Degree from the University of Nairobi. She has been proposed for the position of member. She was top in terms of those who were interviewed. She has 15 years experience in gender and development issues and we consider her eminently qualified.

Mr. Deputy Speaker, Sir, Madam Saadia Abdikadir Mohamed – not a relation biologically or otherwise to the hon. Member for Mandera Central – is, indeed, qualified too. She holds a Masters of Science Degree in Poverty Reduction and Development Management from Birmingham University in the United Kingdom and a Bachelor of Arts Degree from Egerton University. She is currently working as a national community development coordinator with Arid Lands Resource Management Project. The Committee found her suitable and qualified to hold the post of Commissioner.

Mr. Deputy Speaker, Sir, the recommendations of the Committee then are as follows:- The Committee noted that several appointments to the constitutional commissions/offices have been done and resolved to do an audit to cross-check conformity with Articles 10 and 254 of the Constitution. That is for the Committee. Following the deliberations, the Committee unanimously recommends that pursuant to Section 11 (7) of the Commission on Administrative Justice Act, 2011, and pursuant to the Constitution:

1. Mr. Paul Otiende Amollo be approved for appointment as Chairperson of the Commission on Administrative Justice;
2. Dr. Regina Gathoni Mwatha be approved for appointment as a member of the Commission on Administrative Justice; and,
3. Ms. Saadia Abdikadir Mohammed be approved for appointment as a member of the Commission on Administrative Justice.

Mr. Deputy Speaker, Sir, I move and ask my honourable Vice Chair to second.

Mrs. Odhiambo-Mabona: Thank you, Mr. Deputy Speaker, Sir. I want to thank the honourable Chair for very ably moving the Motion.

Mr. Deputy Speaker, Sir, in seconding, I would want to be very brief. I want to agree that the persons that are nominees are very highly qualified. Secondly, they bring very divergent strengths, because they are only three in this Commission. It is important that we have persons with very divergent strengths. We have a person who is bringing law in as a strength; we have another person who is bringing gender and development as a strength, and we have another person who is bringing community development and grassroots work as a strength. Then, they also have different gender as a strength, because we have one man and two women. These persons are also at different age levels; we have a very young person like Otiende Amollo; others are middle aged; somebody is not too young and not too old. So, for me, that is good.

Finally, I want to make a further comment that while I agree with the Chair on Section 254 of the Constitution, one of the challenges that we are going to face as a House is the issue of addressing equality and equity at the same time. The Constitution provides for both but where somebody is qualified, we must take them into consideration and give them a chance yet we have cases of historical injustices. We have minority communities like the Abasuba and the women who for many years have not been given opportunity. Because of that, whenever we make considerations, we must look at issues of equity. We have issues of equity even in relation to religion. When addressing these issues, we will take into account not only equality but also equity. Sometimes equity will require that you are not equal.

With those few remarks, I second.

(Question proposed)

Mr. Chachu: Mr. Deputy Speaker, Sir, I stand to support this Motion.

I think Kenyans have seen the process. I think it was a very transparent process. Many Kenyans who in the past were not given the chance to serve this nation have now been given the chance. In particular, Marsabit County which I represent in this Parliament; since these Commissions were set up, not a single person has been appointed from that county. However, today the name of Ms. Kule Galma, a lady from Marsabit---

Mr. Deputy Speaker: Order! Are you sure you know what you are contributing on?

Eng. Gumbo: Mr. Deputy Speaker, Sir, I want to thank you for giving me the opportunity to contribute on this Motion. I am happy that today we are debating the Commission on Administrative Justice. I support this Motion because I think it is important that we have a body that can restore confidence in the public service in Kenya. It is important that Kenyans know that when they complain somebody will be listening. Orderly conduct is important in any society but sometimes you get very frustrated. I think some of these frustrations you get them especially when you have an issue with our local authorities. I have discussed this with the Minister and we want to believe that somebody will now be listening.

Mr. Deputy Speaker, Sir, as we debate and approve these names, I think we should get away from the traditions of the past. In this country, the days when we were in high school, it was normal to find one person serving in three or four boards. I am concerned that a trend is emerging where we seem to be recycling people into commissions and I do not think it is good for the country. Let it be known that any Kenyan can serve in these commissions. When you find individuals moving from one commission to the other, I think it does not augur well for our country. The fact that we want to start a new life is not reflected.

As I conclude, Mr. Deputy Speaker, Sir, the Constitutional Implementation Oversight Committee has done its work within a short time and that is commendable. However, I want the Committee to observe absolute fidelity to the law in vetting. I have looked at this Report and if you look at page 8 on Committee deliberations and observations, it says in part 15:-

“In conducting the vetting process, the Committee examined the candidates against the criteria set out in Second Schedule of the Commission...That criteria requires the nominees to disclose information on their personal and professional life including political affiliations---”.

When you look at the Report, it mentions in all the recommendations, “He/she has complied with tax obligations and has never been dismissed from office”. Why are we silent on political affiliation?

We know that some of these fellows were politically affiliated before. Why are we not saying so? If that is what we should say, let us say it. If the Constitution says that you disclose, you should do so. Why is it in the Report but you are not saying it? Let us not do things in the manner they were done before. If somebody is politically affiliated, let the House be told. If it is about full disclosure, let it be about full disclosure. Let us not talk about other things and leave other things undisclosed. Doing so tends to give the impression that we are not being very candid in the Reports that we present to the House.

With those remarks, I neither support nor oppose the Motion.

Mr. Midiwo: Mr. Temporary Deputy Speaker, Sir, I rise to support this Report. I am particularly very happy. It has been a long time since we debated a Report of vetted Commissioners. The trend that the country has taken is very good. I like the transparency that is permeating just one year after the promulgation of the Constitution. I only wish to say that I am particularly very happy that this Parliament is helping to bring order as we approach the new order. I want to particularly thank the Committee members. I know that they have gone an extra mile to do work, some of which does not even belong to them. I want to thank you for knowing that there are people who worked in the Committee of Experts, particularly Otiende Amollo in this case. If we have another opportunity to bring Kenyans with that image, it will go a long way in making us look good, as a country, and make a clean break from the past.

Thank you.

Hon. Members: Put the Question! Put the Question!

Mr. Deputy Speaker: Order, hon. Members!

(Question put and agreed to)

ADOPTION OF REPORT ON APPROVAL OF

CHAIRMAN AND MEMBERS OF IEBC

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

THAT, this House adopts the Report of the Constitutional Implementation Oversight Committee on the approval of the chairperson and members of the Independent Electoral and Boundaries Commission laid on the Table of the House on Wednesday, November 02, 2011.

Mr. Deputy Speaker, Sir, all of us agree that one of the most challenging tasks facing this Parliament and this nation was how to deal with the management of the elections in the country. Indeed, one of the key triggers of the very ugly scenes at the end of 2007/2008 was the failure of our elections management body at that time. From then up to-date, we have been taking one step after the other to try and come back from those dark days to a position where I believe if today this House approves these names, we will have an election management body that this country can be proud of. We have gone through the reforms of the laws as far as elections are concerned. We have done the soul searching through the Kriegler Commission and other Commissions, and time has now come for us to give this task to men and women who are able, willing and capable of handling this task.

The Independent Electoral and Boundaries Commission was established by the Constitution. It was established under Article 88(1) of the Constitution and under the Independent Electoral and Boundaries Commission Act, Act No.9 of 2011.

The functions of the commission are set out under Section 8 and under Section 5 of the Act. The Independent Electoral and Boundaries Commission Act of 2011 provides for establishment and membership of the Commission. Section 5(1) provides *inter alia* that the Commission shall consist of a chairperson and eight members appointed in accordance with Article 250(4) of the Constitution and the provisions of the Act.

Mr. Deputy Speaker, Sir, the Commission shall replace both the Interim Independent Electoral Commission (IIEC) which was established under Section 41 of the old Constitution and the Interim Independent Boundaries Review Commission (IIBRC). So, the new institution is a successor to both bodies.

Mr. Deputy Speaker, Sir, in July of 2011, this House set up a panel to do interviews for the nominees to these positions. This was after the Act was passed and a very long process set up by Parliament which included the President and the Prime Minister nominating two individuals each to that panel. Then the Judicial Service Commission (JSC) and two other independent commissions were expected to send one person each and this House then was expected to vet each of the members of that panel, so that that panel could set up the process of advertising, interviewing and indicating a basket of qualified individuals through which the Chief Executive and the Prime Minister could pick people to nominate for appointment to these posts.

Mr. Deputy Speaker, Sir, I wish to read Article 28(2) of the Sixth Schedule which also is captured by Section 35(1) of the Act. It states, "When members of the Independent Electoral and Boundaries Commission (IEBC) are selected, regard shall be had to the need for continuity and the retention of expertise and experience." Therefore, this means that within this Commission, we must have experience from both the soon to be defunct IIEC and the defunct IIBRC.

Mr. Deputy Speaker, Sir, vacancies for the position of chairperson and members of the IEBC were declared in the local dailies and in the *Kenya Gazette*. A total of 430 applicants applied for the position of member, while only four applied for the position of chairperson. Because of the small number of the applicants for the chairperson, the panel then, on 9th September, re-advertised as one of the applicants did not meet set criteria and 15 applicants applied afresh. The panel shortlisted 44 applicants for the position of member while eight were shortlisted for the position of chairperson. The panel conducted interviews and forwarded three and 13 names for the position of chairperson and position of members as follows:-

For chairperson, Mr. Isaack Hassan Ahmed, Ms. Koki Muli and Mr. Murshid Abdallah were proposed. For member, I will read them in the order in which they performed in the interviews. Dr. Yusuf Abdulrahman Nzibo was the best in the interviews out of those who were interviewed and the list continues; Eng. Abdullahi Sharawe, Mr. Jotham Okome Arwa, Mr. Thomas Letangule, Mr. Joshua Willy Wambua, Mr. Mohamed Alawi Hussun, Ms. Lillian Bokeyeye Mahiri-Zaja, Ms. Jedidah Ntoyai Pilale, Ms. Muthoni Wangai, Mr. Albert C. Bwire, Mr. James Mugi Mwangi, Mr. Lawrence Nyalle and Ms. Kule Godana.

Mr. Deputy Speaker, Sir, on 24th October, we did receive communication from the Head of Public Service through the Clerk of the National Assembly indicating which of these members the President and the Prime Minister picked for sending to Parliament, for Parliament's approval. On 25th October, the Speaker did communicate to us that, indeed, he had committed those names to the relevant Departmental Committee.

Mr. Deputy Speaker, Sir, I do not want to take much time of the House. The CVs of each of the nominees are attached. They are very qualified. Mr. Issack Hassan Ahmed is the immediate former Chair or the current Chair of the Interim Independent Electoral Commission. This Commission has received a lot of *kudos* from Kenyans of all walks of life for the way it has conducted itself in the past two and a half years. It conducted a very successful referendum and numerous by-elections for this House. Mr. Hassan holds a bachelors degree in Law from the University of Nairobi. He is a lawyer of 17 years standing. He was a member of the CKRC which was headed by Prof. Ghai. He is a member of the Law Society of East Africa and the Law Society of Kenya and he has authored many papers.

Mr. Yusuf Abdulrahman Nzibo holds a PhD. He is a Kenyan born in Pumwani in Nairobi in 1951. He also holds a Masters Degree in Philosophy from the University of Glasgow and an MBA from Strayer College (Washington D.C). He has a Bachelor of Arts Degree from the University of Nairobi. You have all that information, so I want us to move on. The rest of the nominees are all listed in the Report.

Mr. Letangule is an important addition to the list of the members of this Commission. He hails from the Ilchamus Community, probably the smallest community that lives in this country. The fact that that gentleman is a member of this Commission is a credit to this country and to this Parliament. I will propose strongly that we approve the name. He is not the only one who is a member of a marginalized community.

Ms. Lilian Bokeyeye Mahiri hails from Nyanza, but from a marginalized community in Nyanza; the Kuria. That is not the only one. Mr. Alawi is a Bajun, again one of the smallest communities of this country. This Commission is, indeed, a reflection of the implementation of the spirit of the Constitution. It shows that when we do these

things through these processes, when it is not just a small group or one office handling this matter, Kenyans of diverse backgrounds can rise to the top.

Finally, there is Madam Kule Galma Godana who hails from Marsabit. This is the first person from that county to be appointed to any of these Commissions. Indeed, therefore, the members are not only qualified academically, constitutionally, but they also bring forward issues that are very dear to the country and the Constitution. That issue challenged the Committee. The Committee was concerned about the issue of regional and ethnic balance and a new issue about religious balancing. Quite a number of new issues are emerging. For example, how do you ensure that we have a regional balance when you have a very large region like the Rift Valley? From one end of the country to the other end with 10 million people, how do you ensure that? For example, when it comes to women, how do you identify them with one region or the other? If a lady is married from one region, born in another region, lives in another region and is married to a husband who comes from a different region; she might carry her husband's name; her parents might be from different communities and her children might be completely different, how do you balance that? Those are the challenges that the Committee on Labour and Social Welfare is facing currently. Who identifies that person? Should it be a panel sitting in the Office of the President, Parliament or should the persons themselves be the ones handling those matters?

I must thank the members of our media because in the last week, each of the key papers, namely, the *Daily Nation*, *The Standard* and *The Star* newspapers, have carried on their editorial pages these issues, extolling this Parliament to look at the Constitution in principle. There is then the issue of how you ensure that there is balance as far as this Commission is concerned. The Committee wishes to table the list of all the Commissions that have been appointed to this date starting from the Commission for the Implementation of the Constitution, the Commission for Revenue Allocation, the Judicial Service Commission, members of Independent Offices, Chief Justice, the Deputy Chief Justice, the Chief Registrar of the Judiciary, the Supreme Court, 28 Judges of the High Court, 50 per cent of whom were women, the Attorney-General, the Director of Public Prosecutions, the Controller of Budget, the vetting of judges and magistrates board, the selection panels which were set up and now the Independent Electoral and Boundaries Commission, the Commission on Administrative Justice and the National Gender and Equality Commission

If you look at those names, we have almost 100 people. So, it will be easy for a Member to look at those and see what percentage came from which region, religion and ethnic group for the purpose of decision making in the future. Unfortunately, we have not sorted them out as per counties. The committee is working on that so that whoever is going to be making decisions later will have a global picture.

We are also proposing that the report of the Public Service Commission be speeded up, so that we do not have a plethora of *ad hoc* selection panels that do not connect with each other and, therefore, do not have this information when they are making decisions.

Mr. Deputy Speaker, Sir, it is with great pleasure, therefore, that I propose the following as the decision of the committee.

1. The Committee noted concerns raised on several appointments to the constitutional commissions/offices made so far, and resolved to do an audit to

- cross-check conformity of these appointments to Article 250 (4) of the Constitution. The Committee will provide a report to that effect to the House.
2. The committee deliberated on three issues surrounding the nominations to the Independent Electoral and Boundaries Commission. They are religion, gender and regional balance. I was very proud of the Committee when it indicated that religion was not a constitutional requirement, therefore, we did not go into that issue.
 3. The committee noted that all the nominees had the necessary qualifications and experience. The committee also confirmed that the list was regionally balanced. The eight individuals hailed from the eight provinces of the country and that it met the gender rule, that not more than two-thirds were from one gender; it met the qualifications as far as the Act and Constitution were concerned.
 4. Hon. Beth Mugo registered her objection to the nomination of Mr. Abdullahi Sharawe not in his individual capacity or in terms of his qualification, but because she felt that a member of the defunct Interim Independent Boundaries Review Commission, which did not resolve the delimitation of boundaries should not serve on this Commission.
 5. The hon. Moriasi Ombui and hon. Lukas Chepkitony were not happy with the process that was used; some of the issues that came to the Committee were that some of the old commissioners had not been invited for interviews. Indeed, that was so but this Parliament is the one that gave that panel the power to decide who to call for interviews and who not to call for interview. This Parliament had the power to say that all the members of the defunct commissions would automatically come in for interviews. We had the power to say only those ones should be interviewed, but we said that the panel would have a free hand to interview anybody, so long as in the final product, you had at least one member from either of those old commissions.

Following the above deliberations, the committee recommends that pursuant to the provisions of Paragraph 4 and 5 of the First Schedule to the Independent Electoral and Boundaries Commission, Act No.9 of 2011, the House approves the nomination of the following persons for appointment to serve in the IEBC in their stated capacities:-

1. Mr. Ahmed Isaack Hassan, Chairperson
2. Dr. Yusuf Abdulrahman Nzibo, Member
3. Ms. Lilian Bokeeye Mahiri-Zaja, Member
4. Mr. Abdullahi M. Sharawe, Member
5. Mr. Thomas Letangule, Member
6. Mr. Mohamed Alawi Hussun, Member
7. Ms. Joyce Muthoni Wangai, Member
8. Mr. Albet C.O. Bwire, Member
9. Ms. Kule Galma Godana, Member

Mr. Deputy Speaker, Sir, it is my pleasure to move and I ask my Vice-Chair to second. Thank you very much.

Mrs. Odhiambo-Mabona: Mr. Deputy Speaker, Sir, I will be very brief in seconding.

Mr. Deputy Speaker, Sir, the proposed Commission brings divergent strengths again. We have lawyers, sociologists, managers and accountants. When we interviewed them, we noticed the divergent strengths that they would bring to this Commission.

Mr. Deputy Speaker, Sir, secondly, as a person who has worked on issues of equalization of opportunities, especially for the marginalized for years, I am happy that I have been in the Tenth Parliament that is realizing one of my passionate dreams, which is, equalizing opportunities for the marginalized. I am happy that I have seen Boranas, Kurias, Njemps and Bajunis. So, I am very happy. Even if I do not come to any other Parliament, that alone makes me happy.

Mr. Deputy Speaker, Sir, as the Chairman has said, we have called for data---

An hon. Member: Suba!

Mrs. Odhiambo-Mabona: Mr. Deputy Speaker, Sir, yes, a Suba is not here, but we will come in the next one. But there is Mbadi and I. If you have two Subas, those are equivalent to about 100. So, it is okay, even if we do not have a Suba.

Mr. Deputy Speaker, Sir, as a Committee we have also considered the issue of equality and equity. I keep repeating that because I have heard what hon. Members are complaining about. We are the ones who have said that we want to be inclusive of marginalized communities. But those marginalized groups cannot have a chance because they have never had an equal opportunity. I know that there are some of those people who were not number one in the interview, but have been pushed forward. That is because if we do not do that, we know that we have four or five dominant tribes that will sweep every opportunity in this country. We must be considerate of other communities. If you talk about Nyanza - and we just said that we were only considering it - it will be one community. If we talk about other places, for example, Rift Valley, it will be one community. We must be considerate and inclusive. Those are the things that cause us to go to war. If there is a cake, everybody must eat it.

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

Mrs. Odhiambo-Mabona: Mr. Deputy Speaker, Sir, I am willing to be informed.

Mr. Affey: Mr. Deputy Speaker, Sir, I just want to inform the hon. Odhiambo-Mabona that, in the event that she decides to contest for the presidency, she has my vote.

(Laughter)

Mrs. Odhiambo-Mabona: Mr. Deputy Speaker, Sir, I agree to that. But given that I made a very passionate declaration as to my loyalty, I will wait for the next one - 2017.

Mr. Deputy Speaker, Sir, finally, I am hoping that we will pass this list. I would want to urge those Commissioners that when we pass this list, they must put the country before their self. That is because they have a very sensitive Commission and we do not want them to go the way of the last Commission.

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

(Question proposed)

The Assistant Minister for Public Works (Mr. Kiunjuri): Mr. Deputy Speaker, Sir, we have already been informed that this is almost the final day when we should approve these names. Of course, there is no Sitting of the House on Monday.

Mr. Deputy Speaker, Sir, we are now used to coming the last minute to table names here. We have no opportunity to say “no” because, already, the deadline is here with us. Therefore, trying to oppose these names is just like jumping to the dancing floor when the dance is already over.

Mr. Deputy Speaker, Sir, from the outset, if you look at the way the selection panel was constituted, as matter of fact, this Parliament was not consulted. The names were brought here and two people were given the opportunity by this Parliament to go and pick the names. Therefore---

Mr. Mbadi: On a point of order, Mr. Deputy Speaker, Sir. Is it in order for the hon. Member to imply that the panel was constituted without consulting Parliament? It was constituted through an Act of Parliament which gave the President two names; the Prime Minister two names; the Professional Society of East Africa one name; the Judicial Service Commission one name and another name to the Kenya Anti-Corruption Board? So, those are not two names unless you have forgotten that Parliament approved the names.

The Assistant Minister for Public Works (Mr. Kiunjuri): Mr. Deputy Speaker, Sir, we did all that, I am aware of it. I was here and, indeed, we raised our concern. I raised my concern.

From the outset, this selection panel advertized the names as it was required and it was very good. However, when it came to shortlisting, the first question that was raised-- - We raised a red card. Even those members who were serving in the Interim Independent Boundaries Commission (IIBC) were not shortlisted. The question I asked myself is, if those people who had served in the IIBC were interviewed by a Committee of this House, the Parliamentary Select Committee, when did they cease to be competent?

Was the selection panel trying to question the authority of the Parliamentary Select Committee?

Mr. Ogindo: On a point of order, Mr. Deputy Speaker, Sir. Would I be in order to ask the Member to declare whether he is supporting the Motion or opposing it? It is important because at the conclusion---

Mr. Deputy Speaker: Order! That, he has to say! If he chooses not to say, that is still within his right.

The Assistant Minister for Public Works (Mr. Kiunjuri): Mr. Deputy Speaker, Sir, there are some people here who think that whenever you are not supporting their side, you have no say in this House and they dictate what other people come here to say. It is unfortunate that some people here have no patience. It is important that we listen to others.

The same names were brought to this Parliament and they were approved. Was this selection panel trying to question the authority of Parliament? Were they again telling us that this Parliament is not competent enough? The third question is; was this selection panel telling Kenyans that for two years, we had an incompetent - half of it-IIBC? Those are very valid questions because at the end of the day, national justice required that those people be given an opportunity, at least, to be interviewed.

(Applause)

That is why the whole work of that panel was suspect. Much as I am going to support these names--- I am not opposing them because at the end of the day, they are all qualified Kenyans. We have looked at their qualifications.

Mrs. Shebesh: On a point of order, Mr. Deputy Speaker Sir. Is it fair for us to allow the Member on the Floor to call the work of the Select Panel suspect and yet it is the work that this House is set to either approve or disapprove? Is it in order for him to call the work of the panel suspect?

Mr. Deputy Speaker: Hon. Kiunjuri, can you desist from disparaging a creature of this House? Can you either support or oppose?

The Assistant Minister for Public Works (Mr. Kiunjuri): Mr. Deputy Speaker, Sir, I have said, clearly, that if you interpret the word “suspect”, I have not cast any aspersions on them. But what I am saying is that because of the questions I have raised, unless somebody wants to challenge me, I have reservations. Can I use the word “reservation”? I have reservations!

Mr. Deputy Speaker, Sir, first of all, I have a lot of respect for the Chair of this Commission. Equally, I respect the qualifications of the people who have already been appointed. To me, they are all Kenyans. Even more to it is the question that we are always arguing here about, regional balance. The question of regional balance should not arise here, because even those of us in those regions are discriminated against; we feel discriminated against one way or the other.

Mr. Deputy Speaker, Sir, we are going also to be calling for\ interrogation of other Commissions to see whether the counties are properly represented. Is there anybody from Laikipia County who is already serving in the Commissions that have been approved by this House? Do we have a person from Kuria and another one from Lamu who are in those Commissions? That is equally very important. That is why we moved from regions to counties. Our people can also be heard because they are qualified people in this country.

Mr. Deputy Speaker, Sir, I appreciate the work that has been done about the minority Today, we hear of a Kuria in that panel; equally, we also want to hear tomorrow that every county is properly represented. All people should have an opportunity to serve in any Commission in this Republic.

Lastly, Mr. Deputy Speaker, Sir, I believe that this Commission – an independent Commission now – will be able to owe their loyalty not to any person, but to this country. They are going to be patriotic; they will be working in a very competent way; they will have their own independence, because at the end of the day, we do not want to go back where we were four years ago.

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

Mr. Deputy Speaker: Hon. Members, owing to the interest this Motion has generated, it would be fair if everybody takes only five minutes.

Hon. Members: Two! Two!

Mr. Deputy Speaker: Not more than five minutes, with your leave.

Hon. Members: Two! Two!

Mr. Deputy Speaker: Order! Order! I will now put the Question, that every hon. Member takes two minutes.

*(Question, that every speaker takes two minutes,
put and agreed to)*

Hon. Kimunya!

The Minister for Transport (Mr. Kimunya): Thank you, Mr. Deputy Speaker, Sir. I rise to support the report of the Committee and to congratulate the Committee for the good work it has done. They worked very hard under difficult circumstances to clear these names. I would also like to thank the panel for the work they did. I know there have been some reservations in terms of what has been going on, and in terms of the people, who were left out, but by the end of it all, we only had nine slots to fill and I believe they have done their best.

Having said that, as a House, we are the appointing authority; it is important that we put our expectations to the people we are just appointing. We are coming from a crisis that was created by an electoral commission. I would like to ask the members who will be taking up these appointments – I am almost sure their appointment is imminent – to know that we will be watching very carefully. The first test of confidence in this Commission and its work will be how they review the issue of the boundaries, on which they will have four months in accordance with the law. If they do not build confidence at that point, then the elections in 2012 will be in doubt. So, they will have a big responsibility to demonstrate to us that they are up to the task, especially because of the lack of institutional memory and continuity.

Mr. Deputy Speaker, Sir, I also want to mention here that we have had 100 nominations that have been laid before this House. If you work it out arithmetically on the 47 counties, every county should have had at least two people appointed. It is very important that even as we think of regions, to remember that the Government will have two levels, the national and the county level. The reference point should, at any one time, be the county. It is not proper to ignore that fact, which is in the Constitution; if you want to unite Kenya, every county must see their person serving. If we do not do that, we are going to mess ourselves up.

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

Mr. Midiwo: Mr. Deputy Speaker, Sir, I will be very brief. First of all, let me once again thank this Committee which I think is doing this country proud. I want to say to this House that for those of us who come from large tribes or big tribes, please, let us lead by example and show this country that we can unite this country. Much of the things we have heard out there when doing our politics are interpreted by the smaller tribes as if or as though we do not want to accommodate them.

Mr. Deputy Speaker, Sir, even now that Kenya is engrossed in war with Somalia the Somalia Members of Parliament have stood on the Floor of this House and said: “We are Kenyans. We are not fundamentalists”. I think that is very important to understand. If you went to Lamu County and said you wanted to be accommodated, much as the Members are saying that we should accommodate each county, you will not find a Christian. You have to do ---

An hon. Member: On a point of order, Mr. Deputy Speaker, Sir.

Mr. Midiwo: I only have two minutes. You will get your chance gentleman!

Mr. Deputy Speaker, Sir, tolerance is a big thing, in my own view. I want to say one last thing; there is this accusation that the old Commissioners were qualified. It is true that they may have been qualified but it is true to clarify to this country that the old Commission which is being replaced was a political Commission which did not go through this rigorous vetting process. I think the era where one person could be good enough for all jobs; where you found some 90 year old people sitting in 100 boards in this country, is gone. Those people must come here and everybody whether they are the ones doing vetting or members of the Commission, everybody is equal.

I support.

Mr. Mungatana: Mr. Deputy Speaker, Sir, the first quick point I want to make is that I support this Motion and particularly the Chairman. However, I am very disappointed by the statement that the general elections may not be carried out in August. I think that is a wrong way to start this Commission. I want us to have a chairman who will be saying: "Everything is possible, give me the resources and I make it work".

The second thing, I want to respond to those who have said that we should have called all the old Commissioners to the interview. You had your opportunity at the Third Reading to include a clause that said that all the old Commissioners be called for the interview. You did not do it and you cannot raise that point here again. The process that has gone on is perfect and good. I think we, as Parliament, should support these new Commissioners.

Mr. Deputy Speaker, Sir, finally, Mr. Mohamed Alawi is a good young man from the Bajun community. He is younger than me and we have known him since he was a young man. He has worked in a place like Mombasa Port which is full of accusations of corruption and he has not been touched in any way. Young, clean and energetic people like these is what we need and in fact, from marginalized community. I am so happy that he is there.

As I finish, Mr. Bwire is a fine banker. I had never met him before until I went to the Development Bank for service. We need these kinds of people who are able to---

With those few remarks, I beg to support.

Mr. Chepkitony: Mr. Temporary Deputy Speaker, Sir, I want to say on the outset that I am satisfied that the candidates who have been nominated will do a good job. I am a Member of the CIOC, and we have been involved. I think the panel has tried although there were some misconceptions initially. It was not very clear initially but after going through the vetting report yesterday, I got satisfied that the people who have been selected will deliver. So, I believe that we are moving forward. I hope that the next election will be different from all other elections. I believe that it is going to be fair and successful and; therefore, we shall not have any problem as we have had in the past.

With those remarks, I beg to support.

The Minister for East African Community (Mr. Sirma): Mr. Temporary Deputy Speaker, Sir, I thank you for giving me the opportunity to support this Motion and say that what the Committee has done is laudable, all the way from the selection panel, led by Dr. Ekuru Aukot. We have a Njemp, who is from my own county. These are people who have never held any leadership positions because of marginalisation. They have even gone to court to demand their right for representation. Therefore, this is a good opportunity and a departure from the past, when we would say: "If we are not there, then it is not there". We must make changes in this country and be able to accommodate

everybody, so that this country can move forward. What happened in the past is a lesson to all of us. We would not like to go that route again. These are credible people, who will be able to push this country forward and ensure that we have good elections.

With those remarks, I beg to support.

The Assistant Minister for Housing (Bishop Wanjiru): Mr. Deputy Speaker, Sir, I rise to support.

I have been involved in two by-elections, one last year and another one this year. I have worked with some of the individuals whose names are in the list before us, in particular the Chairperson, Mr. Ahmed Isaack Hassan. I have worked with him and one thing I have learnt is that he is not only patient, but is also a man of integrity.

Mr. Temporary Deputy Speaker, Sir, this goes to those who are arguing on the basis of religion. Integrity is not the state of your religion but the state of your heart. Integrity is not the state of your friends and those people from your region. Integrity is the state of the principles that you have decided to live by within yourself. Having worked very closely with Isaack Hassan in two by-elections, I want to say that if we do not give him an opportunity to be the Chairperson of this team, this will be very detrimental to our country. The man has been tried, and the man is acceptable.

For those who are arguing on religious basis, I want to remind them that I am a preacher of the Gospel of our Lord Jesus Christ. I am a Bishop, anointed and ordained, but I do not discriminate on the basis of religion. I am left wondering where we are taking our country, or this is proving that we have been deceptive from the beginning. A few months ago, we were arguing on the basis of region. People would say that so-and-so was not from their region. They would ask where a certain candidate came from.

Mr. Deputy Speaker, Sir, we are now shifting from regions to religions. I am standing here as a religious leader to say that I will not sit here and watch this House divide the nation along religious lines. It is not acceptable!

(Several hon. Members stood up in their places)

The Assistant Minister for Housing (Bishop Wanjiru): Sit down; I have not finished!

Mr. Deputy Speaker: Order! Order, hon. Members! You have two more minutes, Bishop Wanjiru.

The Assistant Minister for Housing (Bishop Wanjiru): Mr. Deputy Speaker, Sir, hon. Members cannot be standing when I am still on the Floor.

(Loud consultations)

Mr. Deputy Speaker: Order! Order, hon. Members! It is not every day that hon. (Bishop) Wanjiru really stands here to say something.

Proceed, Bishop Wanjiru!

The Assistant Minister for Housing (Bishop Wanjiru): Mr. Deputy Speaker, Sir, the performance of every team depends on the leader. The leader is the one who determines how the team will perform. I have my faith, trust and total confidence in Isaack Hassan. He will lead this team properly. I believe 2012 elections will be the best because I have seen him do so. If you see me stand in Kamukunji, having been the team

leader for ODM and I conceded defeat, it is because I knew Hassan would not have done anything to rig us out. When you have people you can trust, it does not matter whether you speak the same language or you profess the same religion. My brethren, again, integrity is the state of the heart, not the state of religion.

With those few remarks I want to add that Ms. Lilian who is number six on this list, for those who have taken this debate on a religious platform, if you did not know, Lilian is the first born of one of the greatest men of God, Bishop of this country. So, when you say that Christians are not there, one of my own close friends and daughters like Lilian is wondering what she is. The fact that her name has got Bokeyeye Mahiri-Zaja does not change who she is. She is a strong Christian. Let us stop judging Kenyans just by their names. Let us judge Kenyans by their principles, honesty and commitment to this country.

With those few remarks, I support.

The Assistant Minister, Ministry of State for Defence (Maj-Gen. Nkaisserry): Mr. Deputy Speaker, Sir, I stand to support this very important Motion. In doing so, our new Constitution has now taken effect.

(Loud consultations)

Mr. Deputy Speaker: Order, Mr. Affey, Mr. Ogindo and Mr. Mbadi!

The Assistant Minister, Ministry of State for Defence (Maj-Gen. Nkaisserry): Mr. Deputy Speaker, Sir, speaking after Bishop Wanjiru, I am very proud to say that the panel of Dr. Aukot did a wonderful job. Out of nine, six of them come from the so-called marginalized areas. This will push Kenya to the level of credibility.

I am 100 per cent sure that the next general election will be credible because of the leadership of Hassan and the Commissioners who are very highly qualified. I had the opportunity to be a part of the team which went through them. I think what we, as a House, need to do is to approve these names. This Commission will move with speed to put in place what is required for the next general election. I asked the chairman: "In the worst case scenario that the Supreme Court decides that the elections be held in August, what will you do?" He told me that they are ready for it. That shows these fellows are ready to push this country forward.

With those few remarks, I support.

Mr. Chachu: Thank you, Mr. Deputy Speaker, Sir. I support this Motion. I think the process was very credible and transparent. I wish I rose earlier on to support this Motion because out of the 100 appointments that have been done since the new Commission came into force, not a single person from Marsabit County was appointed. Today for the first time, the name of Ms. Kule Godana from that county has been picked. To address the concerns of some of the hon. Members, let me tell my colleagues that Ms. Kule Godana is a staunch Catholic like me. Even though she is from that part of the country, she is not a Muslim. I had an opportunity to work with her. She was one of my directors when I was running the Pastoralist Integrated Support Programme for nine years.

She is a great lady. She is very credible. She has served this nation many years even as a principal of the only girls' secondary school in Marsabit at the time before she was promoted to go to Meru Teachers College.

I just want to raise one issue. These commissioners, once they are appointed, they will have one major task of curving out 80 new constituencies. It is very important for them to be fair, transparent and to uphold the spirit of the Constitution in all manner. I am saying this because with the new Urban Areas and Cities Act, the issues of cities have been addressed. We have three cities, namely, Kisumu, Mombasa and Nairobi, but the issue of population density in other areas as stated in Article 89 of the Constitution must be defined very clearly. This is the only time we have to create these constituencies.

Mr. Mung'aro: On a point of order, Mr. Deputy Speaker, Sir. Going by the mood of the House, could I request that the Mover be called upon to respond?

Mr. Deputy Speaker: Hon. Mung'aro, much as the mood of the House is to dispose of this Motion, the mood of the House also is for Members to be heard. This is a moment that does not come every day. It is a moment that comes once in many years.

Proceed, hon. Chachu.

Mr. Chachu: Mr. Speaker, Sir, as I mentioned, Article 89 of the Constitution is very clear. The issue of the new 80 constituencies must be addressed by this Commission in a way that will be fair. Some of us will lose and others will gain. However, even those who are going to lose, let them feel that the Constitution has been upheld and the process was fair. We have very clear definition of what cities are as defined by the new Act. We know what exactly we mean by "sparsely populated". This is very important. I hope this Commission will address this issue. The only time we have after this is to re-do the boundaries and not create other new constituencies. So, it must be done in a very fair manner.

I support the Motion.

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. M. Kilonzo): Thank you, Mr. Deputy Speaker, Sir. History is being made tonight. This is the first time in the history of this beautiful country that Parliament is approving electoral commissioners. If we were in a rally, I would ask the Members to clap for themselves and the rest of the country.

I welcome this report. I want to assure the country and the House that my Ministry will work with this Commission to make sure that next year's elections are held to the acclaim of the entire world. It will be an election that will be beyond reproach. I want to thank the CIOC and the selection panel. I want to thank particularly His Excellency the President and the Prime Minister for rising to the occasion because they have not given us any issues. These names were presented and they then selected carefully and easily. For the Bishop, I must remind the country for those who are talking about religion, President Kibaki as well as the Right Hon. Prime Minister are Christians, yet they are the ones who gave us these names. Therefore, I want to salute everybody involved in this process.

I support.

The Assistant Minister for Energy (Eng. M.M. Mahamud): Thank you, Mr. Deputy Speaker, Sir for giving me this chance. Let me thank the Constitutional Implementation and Oversight Committee for a job well done. I also want to thank the panel of experts that interviewed the members before us for doing a good job. The names that have been presented to us are of people of credibility. As Members have said, they are people who can take us forward. In fact, the diversity and the knowledge they have will take us forward. As was mentioned, this is a very important Commission because

boundaries and the elections are very important issues for this country. This country went to war in 2007/2008 because of elections. I hope that these commissioners whom we are approving today will do a good job. I wish them success.

With those few remarks, I support.

Mr. Bahari: Mr. Deputy Speaker, Sir, I stand to support the Motion and congratulate the Committee for a job well done. The biggest challenge in Africa now is elections. Every election in this continent raises eyebrows all over the world. It is for this reason that this Commission must be seen to be transparent. It is not only about the Commissioners, but we must conduct ourselves properly. The whole country must conduct itself in a manner that is likely to bring justice and harmony. So, let us not transfer the whole responsibility to the Commissioners, but we must take up this responsibility. I must say that these gentlemen and ladies are self made. If you look at their CVs and where they come from in this country, they are self-made individuals. They should remain the same through and through.

In 2006, I had a discussion with one of the Members because of the manner in which the last Commission was appointed and I said: "We are joking with fire". Let us not joke with fire because we might get burnt in the fire.

Mr. Wamalwa: Mr. Deputy Speaker, Sir, I also rise to support the Motion. I have heard many speeches in this House, but none as great as that of Bishop Margaret Wanjiru. I must say it was inspired. I could feel the glory was right here in this august House. This is a day of history that this Tenth Parliament, yet again, goes into the annals of history for having had the privilege to make laws to disband the defunct ECK and to also make laws to set up the new IEBC. We congratulate all those involved in this process. This House also passed a new Constitution. Today, we are seeing the value of that very Constitution being embraced, namely, the value of inclusiveness and non-discrimination on the basis of religion, sex and race.

Today, I see Boranas, Njemps, Bajunis and Subas being included. We are very proud to be part of this momentous part of our history as a nation. We urge the young people of this country to learn from what we have seen today; young people of outstanding character and performance like the Chairman of this Commission. Mr. Issack Hassan Ahmed is a man of outstanding performance. Mr. Alawi is another young man. They are colleagues of mine and learned friends and I congratulate them and wish them well in discharging the task ahead of them.

With those few remarks, I beg to support.

Mr. Mwachugu: Bw. Naibu Spika, ninaomba nami nitoe mchango wangu kwa Hoja hii ya hawa vijana chipukizi ambao wameteuliwa kuhudumu katika Kamati hii.

Kama ujuavyo, hii ni mara ya kwanza Bunge hili kuhusishwa kikamilifu katika kuchagua Kamati ambayo itahusika kutambua mipaka yetu ya maeneo ya Bunge. La muhimu ni kuwa, hawa vijana wamejitambulisha kuwa wana uwezo na hekima. Baada ya hayo mengi, Kamati hii imedhihirisha kuwa ina uwezo wa kuangalia uchaguzi utakaofuata kwa misingi inayofaa ili taifa hili lisije likajipata katika janga ambalo lilijikuta wakati uliopita.

Kwa hayo machache, ninaomba kuunga mkonoHoja hii.

The Assistant Minister for Higher Education, Science and Technology (Mr. Kamama): Mr. Deputy Speaker, Sir, first of all, I want to join my colleagues in supporting this Motion. At the very outset, I want to thank hon. Abdikadir's Committee

for doing an excellent job. All of you heard that recently he was given an award in Germany for being one of the best African leaders. It is high time hon. Abdikadir was given an award in this country. If it is LBA or WG, he and his Committee deserve it.

I am so happy that we are seeing in this Committee a substantial number of people from minority groups. For example, Mr. Thomas Letangule comes from a community in Baringo which has been marginalized for a very long time. So, it is an honour to this Committee and to Kenyans to give him a chance. We also have somebody from North Horr, the late hon. Godana's constituency. This is the first time these people are being recognized. Of course, I can talk about the Chairman. I knew him when I was an officer of the Government in North Eastern Province during my former life. He is an excellent Chairman. He did a good job during by-elections. We want to have a Commission that does its job properly. The number of by-elections that we have had this year is a clear indication that the other Commission did not do a good job. So, we hope that they will do an excellent job. I totally support in every meaning of that word.

The Assistant Minister for Education (Prof. Olweny): Mr. Deputy Speaker, Sir, I stand to support the Motion. I support because this was a very competitive process. If anybody is in doubt, the selection panel did a wonderful job. They received 430 applications for membership and 15 applications for chairmanship from across the country. I support the Motion.

Someone brings in the issues of religion. I am wondering where they get it, for Jesus Christ did not discriminate against anybody and if you are a Christian, you should know. Prophet Mohamed did not discriminate against anybody. Why do you bring in discrimination based on religion? If you are a tribalist, remain with your tribalism where you are, but do not bring it into religion.

The Commission has been given a tough job. I appeal to them to do a wonderful job for this country. We do not want a repeat of what happened in the last general election. The Chairman, Mr. Isaack Ahmed is a wonderful person. The work that he has done as the Chair of the Interim Independent Electoral Commission (IIEC) has been good. So, I support and I hope they will do a good job for us. Thank you.

Dr. Laboso: Thank you, Mr. Deputy Speaker, Sir, for giving me this opportunity. I want to add my voice in support of this very wonderful team. I want to start by saying that I am proud to be a member of the Tenth Parliament. I am proud to be a member of the CIOC; I am also proud that we have come this far. It is really gratifying to know that Members of this august House can speak with one voice as we are doing. I want to join my colleagues in saying that religion is not a qualification. Let us not go in that direction. That is a sensitive matter, and it is going to take us to the wrong direction. Let us not even bring it up at all. We are now living with the new Constitution, and gender has been taken into the mainstream of our affairs; those ladies who have been appointed and are going to be given these positions are going to make a difference; we will see the elections of this coming year being very good. I want to tell the Members of the Commission to know that Kenyans are looking up to them. We are putting in a lot of energy and effort to make sure that we do not go back to where we were in 2007.

Mr. Kioni: Mr. Deputy Speaker, Sir, thank you for giving me an opportunity to rise and support this list. As I do that, I wish to associate myself with the comments of Bishop Wanjiru, only that she forgot that Isaack did not work alone. He was a team leader, and without a team, he would not have achieved what they achieved. I want to

associate myself wholly with the comments of hon. Kiunjuri. In doing so, I hope that we are now in a position to read Article 250 properly, so that we now stop appointing nine commissioners. We can appoint three so that we can reduce the cost of running these commissions and forget the need to talk about regional balancing. It is my hope and prayer that none of the people appointed did any lobbying with the principals, because if they did, their judgment will be blurred by that.

Mr. Deputy Speaker, Sir, secondly, it is important to say that the commission that was there did a commendable job. They won the confidence of the Kenyans in this country; it is important that this Commission also moves with speed to ensure that they win the confidence of Kenyans, so that they can be confident that the coming elections will be conducted well and we will be satisfied with the results. I am happy that we have minorities in this Commission. The minorities also should ensure that they do not practise the art of marginalizing, because they can also get the same virus of marginalizing others. It is important that they make sure that they accord others equal opportunities, and ensure that they do not become a super minority who will eventually marginalize others.

With those comments, I support the list.

Mr. Keynan: On a point of order, Mr. Deputy Speaker. In view of the fact that hon. Members are now repeating the same issues, could the Mover be called upon to respond?

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

Mr. Deputy Speaker: Could you allow hon. Keynan to raise his point of order?

Mr. Keynan: Mr. Deputy Speaker, Sir, I was saying that because Members are now repeating the same issues, can the Mover be called upon to reply?

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

Mr. Abdikadir: Mr. Deputy Speaker, Sir, I have been informed that I cannot donate my time because the Mover has to respond. However, I would have loved to donate several minutes.

Mr. Deputy Speaker, Sir, the Reverend has restored my faith in humanity. I wish to join my colleagues in congratulating her for a wonderful speech. In my short stint in Parliament, I have had the opportunity to move several historic Motions, including the one that approved the Constitution that we are under. However, this ranks as one of those which are high up there. I would like to respond to a few of the issues that have been pointed out by hon. Members as fast as possible.

Mr. Deputy Speaker, Sir, in terms of the process, the panel invited six people out of all the old commissions; three Commissioners each from each of the commissions and one member of staff. We were trying to push for continuity. In terms of the work of the new institution, I agree with Members who say that the eyes of the county are on this Commission. They should abide by the Constitution. They should abide by the laws that we pass and they should abide by the trust that this country has put in them. This country and this Parliament have given them the infrastructure they need. We have given them the independence in operations, finance, Constitution and legal framework. They now have teeth. They can actually arrest. While this House denied the Ethics and Anti-Corruption Commission (EACC) the powers to prosecute, this institution has been given

the power to prosecute. The institution now has the power to deny any Member of Government the ability to use Government resources for campaigning, including impounding Government vehicles and aircraft. The institution now has teeth. They can no longer give the excuse that they do not have teeth.

Mr. Deputy Speaker, Sir, it is their turn now. The ball is now in their court. Our eyes and those of the country are on them. They have our trust. They have our prayers. They have our support. We wish them well.

I beg to move.

(Question put and agreed to)

Mr. Deputy Speaker: Next Order!

COMMITTEE OF THE WHOLE HOUSE

(Order for Committee read)

[Mr. Deputy Speaker left the Chair]

IN THE COMMITTEE

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

THE UNCLAIMED FINANCIAL ASSETS BILL

The Temporary Deputy Chairlady (Dr. Laboso): Hon. Members, we are now in the Committee of the whole House to consider the Unclaimed Financial Assets Bill, Bill No7 of 2011, by hon. Lekuton.

Clause 2

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

THAT, Clause 2 of the Bill be amended by-

(a) deleting the definition of the term “Minister”

(b) inserting the following new definition in its proper alphabetical sequence-
“Cabinet Secretary” means the Cabinet Secretary for the time being responsible for matters relating to finance.

(Question of the amendment proposed)

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

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

(Clause 2 as amended agreed to)

*(Clauses 3, 4, 5, 6, 7, 8, 9, 10, 11, 12,
13, 14, 15, 16 and 17 agreed to)*

Clause 18

Mr. Lekuton: Madam Temporary Deputy Chairlady, I beg to move:-
THAT, Clause 18 of the Bill be amended by deleting the word “Minister”
wherever it appears and substituting therefor the words “Cabinet Secretary”.

(Question of the amendment proposed)

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

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

(Clause 18 as amended agreed to)

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

Clause 24

Mr. Lekuton: Madam Temporary Deputy Chairlady, I beg to move:-
THAT, Clause 24 of the Bill be amended-

- (a) by numbering the existing provision as sub-clause (1);
- (b) by inserting the following new sub-clauses immediately after the newly numbered sub-clause (1)-
 - “(2) The Authority shall ensure that the costs and charges deducted pursuant to subsection (1) are reasonable and in accordance with the best market value available.
 - (3) Notwithstanding subsection (2), the charges deducted under subsection (1)(c) shall not exceed one per cent of the gross value of the asset in question.

(Question of the amendment proposed)

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

(Clause 24 as amended agreed to)

(Clauses 25 and 26 agreed to)

Clause 27

Mr. Lekuton: Madam Temporary Deputy Chairlady, I beg to move:-
THAT, Clause 27 of the Bill be amended by inserting the words “upon payment of such inspection fee as the Authority may from time to time determine” immediately before the words “make available”.

(Question of the amendment proposed)

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

(Clause 27 as amended agreed to)

(Clauses 28, 29 and 30 agreed to)

Clause 31

Mr. Lekuton: Madam Temporary Deputy Chairlady, I beg to move:-
THAT, Clause 31 of the Bill be amended-

- (a) in subclause (1), by deleting the words “The Authority may” and substituting therefor the words, “The Authority shall have powers to”;
- (b) in subclause (3), by deleting the words “The Authority may” and substituting therefor the words, “The Authority shall have powers to”;
- (c) in subclause (4), by deleting the words “The Authority may” and substituting therefor the words, “The Authority shall have powers to”;
- (d) in subclause (5), by deleting the words “The Authority may” and substituting therefor the words, “The Authority shall have powers to”;
- (e) in subclause (6), by deleting the words “the Authority may” and substituting therefor the words, “the Authority shall have powers to”;
- (f) in subclause (8), by deleting the words “the Authority may” and substituting therefor the words, “the Authority shall have powers to”.

(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 31 as amended agreed to)

(Clause 32 agreed to)

Clause 33

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

THAT, Clause 33 be amended in subclause (6) by inserting the word ‘summarily’ immediately after the word “debt”.

(Question of the amendment proposed)

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

(Clause 33 as amended agreed to)

(Clauses 34, 35, 36, 37, 38 and 39 agreed to)

Clause 40

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

THAT, clause 40 be amended—

(a) in subclause (1), by inserting the words “not being public officers” immediately after the words, “five persons” appearing in paragraph (a);

(b) by deleting the word “Minister” wherever it appears and substituting therefor the words, “Cabinet Secretary”.

(Question of the amendment proposed)

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

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

(Clause 40 as amended agreed to)

Clause 41

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

THAT, Clause 41 be amended by—

(a) inserting the following new paragraph immediately after paragraph (a)-

“(aa) act as the Trustee to the Fund in accordance with Part V of this Act;

(b) deleting the word “Minister” appearing in paragraph (e) and substituting therefor the words, “Cabinet Secretary”.

(Question of the amendment proposed)

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

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

(Clause 41 as amended agreed to)

Clause 42

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

THAT, Clause 42 be amended by inserting the following new subclause immediately after subclause (2)-

“(2A) The Chief Executive Officer shall be the managing trustee of the Fund.

(Question of the amendment proposed)

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

(Clause 43 as amended agreed to)

New Clauses 45A, 45B and 45C

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

45- THAT, the following New Clauses be inserted immediately after Clause

Accounts and
Audit

45A. (1) The Authority shall cause to be kept all proper books of account and other books and records in relation to the Fund and to all the undertakings, funds, investments, activities and property of the Fund as the Authority may deem necessary.

(2) Within a period of three months after the end of each financial year, the Authority shall prepare, sign and transmit to the Auditor-General or to an auditor appointment under subsection (3)-

- (a) a balance sheet showing in detail the assets and liabilities of the Fund;
- (b) a statement of income and expenditure of the Fund; and
- (c) such other statements of account as the Authority may deem necessary.

No.12 of 2003 (3) The accounts of the Fund shall be audited and reported upon in accordance the Public Audit Act, 2003 by the Auditor-General, or by an auditor appointed by the Authority under the authority of the Auditor-General.

(4) The Authority shall cause the audited accounts of the Fund to be published in the Gazette and in at least two newspapers with national circulation.

Penalties Payable
To the Fund45B.

45B. (1) The court before whom any person is convicted of an offence under this Act may, without prejudice to any civil remedy, order such person to pay to the Fund the amount of any other sum, together with any interest or penalty thereon, found to be due from such person to the Fund, and any sum so ordered shall be recoverable as a fine and paid into the Fund.

(2) All sums due to the Fund shall be recoverable as debts due to the Authority and without prejudice to any other remedy shall be a civil debt recoverable summarily.

Investment of

Funds. **45C.** (1) All moneys in the Fund which are not for the time being required to be applied for the purposes of the Fund shall be invested in such investments, being investments in which any trust fund (or part thereof) is permitted by the Trustee Act to be invested, as may be determined by the Authority with the approval of the Cabinet Secretary.

(2) All investments made under this section shall be held for and on behalf of the Fund in the name of the Authority.

(Question of the new clauses 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 be
added to the Bill, put and agreed to)*

New Clauses 46A and 46B

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

THAT, the following new clauses be inserted immediately after Clause

46-

Authority may institute
Proceedings in court.

46A. All criminal and civil proceedings under this Act may, without prejudice to any other power in that behalf, be instituted by the Authority and, where the proceedings are instituted or brought in a court, an officer of the Authority authorized by the Board in that behalf may prosecute or conduct the proceedings.

Powers of the Authority
to enter, etc.

46B. (1) The Authority shall, for the purpose of ascertaining whether this Act is being or has been complied with by any person, have power to enter any premises or place at all reasonable times.

(2) An institution liable to inspection under this Act, and any employee, shall furnish the Authority all such information and produce for inspection all such documents as the Authority may reasonably require for the purpose performing its functions under this Act.

(Question of the new clauses proposed)

(New clauses read the First Time)

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

Mr. M'Mithiaru: On a point of order, Madam Temporary Deputy Chairlady. On Clause 46A, I would wish the Mover to explain a little bit the import of this Clause 46A which says:

“All criminal and civil proceedings under this Act may, without prejudice to any other power in that behalf, be instituted by the Authority, and where the proceedings are instituted or brought in a court, an officer of the Authority authorized by the Board in that behalf may prosecute or conduct the proceedings.”

So, is that consistent with all the other laws of the land and everything else? Please, explain?

Mr. Lekuton: Thank you, Madam Temporary Deputy Chairlady. Yes, it is and we wanted to give this Authority teeth because if we do not do it, the laws will be abused. So, we wanted them to have that power to be able to be effective.

*(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 be
added to the Bill, put and agreed to)*

(Title agreed to)

(Clause 1 agreed to)

Mr. Lekuton: Madam Temporary Deputy Chairman, I beg to move that the Committee doth report to the House its consideration of The Unclaimed Financial Assets Bill and its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

(The House resumed)

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

REPORT, CONSIDERATION OF REPORT AND THIRD READING

THE UNCLAIMED FINANCIAL ASSETS BILL

Dr. Laboso: Mr. Temporary Deputy Speaker, Sir, I beg to report that the Committee of the whole House has considered The Unclaimed Financial Assets Bill and approved the same with amendments.

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

Mr. Abdikadir seconded.

(Question proposed)

Mrs. Odhiambo-Mabona: Mr. Temporary Deputy Speaker, Sir, I wish to congratulate the hon. Member for moving such an important Bill that will help us especially those who are poor and widows to benefit from the property of their husbands.

Mr. M'Mithiaru: Mr. Temporary Deputy Speaker, Sir, may I also congratulate the Mover Mr. Lekuton for moving this---

The Temporary Deputy Speaker (Mr. Ethuro): Order, Members! That comes after the Third Reading.

(Question put and agreed to)

Mr. Lekuton: Mr. Temporary Deputy Speaker, Sir, I beg to move that The Unclaimed Financial Assets Bill be now read a Third Time.

Mr. Abdikadir seconded.

(Question proposed)

Mr. Njuguna: Mr. Temporary Deputy Speaker, Sir, with the passage of this Bill, the held assets will now be released to the beneficiaries. This is particularly those in the pyramid schemes where contributors up to now have been undergoing a very trying moment. I congratulate the Mover of this Bill, Mr. Joseph Lekuton.

Dr. Laboso: Mr. Temporary Deputy Speaker, Sir, I also rise to support this Motion. We know that there are so many unclaimed assets, particularly, as we said, to widows and other people who have lost so much property. All this property is enriching a lot of banks. Therefore, this is a great day. The rightful administrators of the estates of lost loved ones can now begin to enjoy some of these assets.

With those remarks, I beg to support.

Mr. Konchella: Mr. Temporary Deputy Speaker, Sir, I want to also congratulate the Mover for bringing this wonderful Bill to the House.

A lot of Kenyans have suffered. A lot of families have become paupers as a result of not knowing the whereabouts of their relatives' financial assets. A lot of people, especially men, tend to hide their property. They do not include it in their wills. When they pass on, their families do not know where the money is. Most of it is stuck overseas in banks. Therefore, the Authority that we are going to set up under this law will follow up and ensure that the right people access such financial assets. So, I want to congratulate hon. Lekuton for bringing this Bill to the House

I beg to support.

The Assistant Minister, Ministry of State for Defence (Maj-Gen. Nkaisserry): Mr. Temporary Deputy Speaker, Sir, let me thank hon. Joseph Lekuton for bringing to the House this very important Bill.

You realise that there are billions of shillings lying in banks, unclaimed. First and foremost, we need to do a speedy implementation of this law. After that, we want all the unclaimed money being held by whatever institution to be brought to the public fore, so that any money which has not been claimed, and in respect of which there are no people to claim it, it can be taken by the Government for national development.

With those very few remarks, I beg to support.

The Temporary Deputy Speaker (Mr. Ethuro): Hon. Members, just to remind you, this is Third Reading. So, you should not treat it like Second Reading.

Mr. Kioni: Mr. Temporary Deputy Speaker, Sir, I thank you for allowing me to congratulate my colleague within the PNU, hon. Lekuton, for being so resourceful. This is a very vulnerable group of Kenyans that he has thought about. It is a Bill which is going to help a lot of Kenyans. This is an area which had been completely forgotten, and people were enjoying proceeds from things they have not invested in. It is important that we recognise and encourage others to come through similar routes.

Thank you.

The Minister for Transport (Mr. Kimunya): Mr. Temporary Deputy Speaker, Sir, I would like to take this opportunity to congratulate the initiator of this Bill, hon. Lekuton, for the efforts he has put in it. He has been on our back, as the House Business Committee, in terms of saying: "I want you to prioritise this Bill because the work that entails within this Bill needs to be brought out, so that all these assets can be put into better use."

Let me also take this opportunity to thank hon. Members of this House for having agreed earlier that we spend hours beyond 6.30 p.m., so that we can dispose of the

business that is before us, including this very important Bill which we are just about to conclude. The passage of this Bill is a reminder to Kenyans, especially wealthy Kenyans who would not even want to tell their children what they have. When they pass away, we end up with unclaimed assets. Let people be proud to say what they have and be sincere with their families, so that we do not have accumulation of unclaimed assets. That way, people will be able to know what their loved ones have left behind.

With those remarks, I beg to support.

(Several hon. Members stood up in their places)

The Temporary Deputy Speaker (Mr. Ethuro): Order, hon. Members! I will only take the four standing hon. Members, and not any more, starting with hon. M'Mithiaru.

Mr. M'Mithiaru: Mr. Temporary Deputy Speaker, Sir, mine is to congratulate hon. Lekuton for bringing this overdue Bill to ensure that the financial assets that are unclaimed are actually released to their rightful owners. I am so happy because I remember that I actually started this process myself, in the year 2008, and in particular, now that the Act will be there, it places the onus on the custodians or the banks or insurance companies. Time will be gone when pensioners' money would lie idle at the National Social Security Fund, and when somebody would know that the money does not belong to anybody and steal it.

With those remarks, I beg to support.

Mr. Kaino: Mr. Temporary Deputy Speaker, Sir, I also join my colleagues to register my name in congratulating my friend, Mr. Lekuton, for bringing this very important legislation. Many Kenyans today are rejoicing because they know that they will now benefit from these pieces of legislation we have passed in this House today.

Mr. Washiali: Mr. Temporary Deputy Speaker, Sir, I also want to join my colleagues in thanking my brother Mr. Lekuton for bringing this very important Bill. I would like to inform the House that what has been happening in Mumias, the constituency that I represent in this House, is that we have a lot of spilled cane which has been collected by factories. Since the 1970s, they have been collecting cane which they have been crashing. They have never known to which account that money would go to. Now that we have this Bill in place, we will now approach Mumias Sugar Company to get this money to assist the community. We want the farmers and the people who live around Mumias to enjoy the benefit of this cane.

Therefore, I want to thank my brother here and ask him to proceed with the same idea, so that we can benefit from the same.

Mr. Chachu: Mr. Temporary Deputy Speaker, Sir, I would like to join my colleagues in congratulating my neighbour and friend, Mr. Lekuton, for this very important Bill. I have all the faith that the President will assent to this Bill. I hope the financial institutions in this country will co-operate to see to it that we can realize the results of this Bill.

(Question put and agreed to)

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

The Temporary Deputy Speaker (Mr. Ethuro): Hon. Members, you will appreciate that there was a Procedural Motion for us to terminate at Order No.11. I think we have done so.

ADJOURNMENT

The Temporary Deputy Speaker (Mr. Ethuro): Hon. Members, it is now time for interruption of the business of the House. The House stands adjourned until Tuesday, 8th November, 2011 at 2.30 p.m.

The House rose at 8.05 p.m.