

NATIONAL ASSEMBLY

OFFICIAL REPORT

Thursday, 27th October, 2011

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

COMMUNICATION FROM THE CHAIR

DEFERMENT OF DIRECTION BY THE CHAIR

Mr. Speaker: Order, hon. Members! You will all recollect that yesterday there were two documents tabled as the Prime Minister's Statement was delivered on the *Kazi Kwa Vijana (KKV)* Project. I had indicated that I will give directions today with respect to the document that was tabled by the Deputy Prime Minister and Minister for Local Government and the one which was tabled by the hon. Member for Ikolomani. However, we are not able to give final directions because there are certain facts that I have requested be ascertained before I make that communication. So, I will give my findings on Tuesday, next week at 2.30 p.m.

PAPERS LAID

The following Papers were laid on the Table:-

Financial Statements of the County Council of Tana River for the year ended 30th June, 2008 and the certificate thereon by the Controller and Auditor-General.

(By the Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode) on behalf of the Deputy Prime Minister and Minister for Local Government)

Financial Statements of the National Council for Law Reporting for the year ended 30th June, 2010 and the certificate thereon by the Controller and Auditor-General.

(By the Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode) on behalf of the Minister for Justice, National Cohesion and Constitutional Affairs)

Abstract of Accounts of the Town Council of Burnt Forest for the two years ended 30th June, 2007 and the certificate thereon by the Controller and Auditor-General.

Abstract of Accounts of the County Council of Bureti for the two years ended 30th June, 2003 and the certificate thereon by the Controller and Auditor-General.

Financial Statements of the County Council of Moyale for the year ended 30th June, 2008 and the certificate thereon by the Controller and Auditor-General.

Abstract of Accounts of the Town Council of Londiani for the three years period ended 30th June, 2007 and the certificate thereon by the Controller and Auditor-General.

Abstract of Accounts of the County Council of Keiyo for the year ended 30th June, 2004 and the certificate thereon by the Controller and Auditor-General.

Abstract of Accounts of the County Council of Isiolo for the years ended 30th June, 2003, 2004, 2005 and 2006 and the certificate thereon by the Controller and Auditor-General.

*(By the Assistant Minister, Ministry of State for Provincial
Administration and Internal Security (Mr. Ojode) on
behalf of the Deputy Prime Minister
and Minister for Local Government)*

QUESTIONS BY PRIVATE NOTICE

LIVESTOCK THEFT IN NYATIKE CONSTITUENCY

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

(a) Is the Minister aware of the increased cases of stock theft in Nyatike Constituency in the last few months and could he state the number of stock theft related cases reported to the police in Nyatike, the number of animals that have been reported stolen (and indicate those recovered, if any) as well as the number of persons who have been arraigned in court in relation to such cases in the past 6 months?

(b) Can the Minister confirm that one of the motor vehicles used by the suspects in the stock theft cases in the recent past belonged to a police officer from Macalder Police Station?

(c) What security measures has the Government put in place to curb the problem and could the Minister also consider establishing an Anti-Stock Theft post in the constituency, considering that Nyatike is a border constituency and most of the stolen livestock have not been recovered?

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

(a) Yes, I am aware of increased cases of stock theft in Nyatike Constituency. The increase has come from five cases reported to nine. We have nine cases of stock theft that have been reported in Nyatike involving loss of ten bulls, two cows, and two goats all totalling 14 animals. Out of these, four bulls and two cows were recovered. Six people have been arrested and taken to court and the cases are pending before Migori Law Courts. Three cases are pending under investigations.

(b) I cannot confirm that the motor vehicle used by the suspects belonged to one of the officers attached to the police station. Consequently, no officer within the station has a vehicle with a capacity to ferry animals. However, if there is anyone who has any

information linking any police officer to the theft cases, he or she is invited to share this information with the police or myself, for an appropriate action to be taken.

(c) The police have put in place the following measures to curb the problem of stock theft in the constituency: Increased foot and mobile patrols by security personnel along the porous borders; reactivating community policing initiatives up to the location level to enhance information sharing; and to establish contacts and maintenance of networks with our neighboring intelligence units for action on cross border criminal activities.

Mr. Anyanga: Mr. Speaker, Sir, I wish to make some correction. The police officer is not from Nyatike District, he is from Migori District.

In the recent past, hon. John Pesa of Migori has made several complaints in this House regarding insecurity in Migori District that has led to several deaths. It seems as if all that is now spilling to Nyatike District. On 18th October, 2011 at around 7.30 p.m. at a place called Watho Ong'er in Nyatike District an Administrative Police (AP) Officer, Constable Abdi Ismael stationed at Migori District Commissioner's Office while using his own vehicle KBE 733G and his driver were involved in a robbery in Nyatike District. The Assistant Minister is my neighbour and he is aware that Nyatike District is understaffed. Could he confirm the possibility of beefing up or deploying police officers to Nyatike District so that---

Mr. Speaker: Order! Order! Just stop there. You are now beginning to answer by saying "so that". Allow the Assistant Minister to answer.

Mr. Anyanga: Yes. Could the Assistant Minister confirm the possibility of deploying police officers to Nyatike District?

Mr. Ojode: Mr. Speaker, Sir, the Questioner is admitting that a vehicle belonging to an AP was used, but this vehicle is a small Toyota Corolla. We normally call them "*Olwenda*" which in English means "cockroach".

Mr. Pesa: On a point of order, Mr. Speaker, Sir. Unless the Assistant Minister is an accomplice---

Mr. Speaker: Order, Member for Migori! You must withdraw and apologise.

Mr. Pesa: Mr. Speaker, Sir, I withdraw unconditionally and apologize to the House. These animals are not supposed to be transported when they are alive by these thieves. These people slaughter the animals and put them in a saloon car and then transport them. So, for the Assistant Minister to say that the police do not have vehicles which have the capacity to transport these animals, he is misleading the House. Is he in order?

Mr. Ojode: Mr. Speaker, Sir, this particular vehicle, I agree with the Questioner, was spotted after having been hijacked. They went all the way to Ong'er Market on 18th October, 2011 where they robbed a shop owner. The police officers followed this vehicle and arrested the driver of the vehicle. He is called Bernard Ochieng Olang, a 22 years old man from Oruba area. The same driver was charged in court with robbery with violence. The case number is 663/115/2011 and it is Court Case No.253/2011.

Mr. Anyanga: On a point of order, Mr. Speaker, Sir. Is the Assistant Minister in order to mislead this House when he knows very well that the vehicle in question belongs to the AP officer stationed at the DC's office in Migori?

Mr. Ojode: Mr. Speaker, Sir, I mentioned here that the same vehicle which belongs to APC, Ismael Abdi, was carjacked on the same day. His driver was arrested by

the local people in Wath Ong'er when they went there to steal. They were followed all the way to Ndhiwa, in fact, Lwanda. That is where they were arrested. After the driver had been arrested, the police in Ndhiwa transferred his case to Migori Courts. That is where he was charged with the offence of robbery with violence.

Cases of stock theft are a worrying trend. There are those who steal or make arrangements with locals who trade in livestock. Some of these thieves come from Kuria.

(Laughter)

Mr. Speaker, Sir, I will give one case scenario.

Dr. Machage: On a point of order, Mr. Speaker, Sir. The facts of this Question point to the thief who is called Ochieng. No Kuria is ever called Ochieng. Is the Assistant Minister in order to paint my people in bad faith in this issue? My people do not steal!

Mr. Speaker: Order, hon. Members! I have previously cautioned hon. Members that you refrain, unless it is absolutely necessary, from referring to one another in tribal terms or even Kenyans for that matter. This is the National Assembly of Kenya and not the Tribal Assembly of Kenya. I have said this before.

So, Mr. Ojode, proceed but be careful that you do not begin to refer to tribes here.

Mr. Ojode: Mr. Speaker, Sir, I do not want to refer to a tribe. But let me say that there is a security road from Changiwadu, which borders Kuria. It stretches from Changiwadu all the way to Kituka. In August, one of the thieves was lynched. That particular thief came from those sides. We border Kuria District and that particular person was lynched at Kituka.

Mr. Mbadi: On a point of order, Mr. Speaker, Sir. Is it in order for the Assistant Minister to evade answering questions and misrepresenting facts? Nyatike does not border Kuria. It is Migori that borders Kuria. Is he in order to mislead the House that the thieves came from Kuria, when there is a whole district between Nyatike and Kuria?

Mr. Ojode: Mr. Speaker, Sir, maybe, he did not listen to what I said. I said that there is a security road which stretches all the way from Kuria, Migori and Nyatike. That particular road is being used by those who are stealing livestock. It goes all the way to Migori and even Tanzania and Nyatike. We have put in place measures and we have a police post at Ochuna.

Dr. Machage: On a point of order, Mr. Speaker, Sir. You have clearly ruled that the Assistant Minister should not refer to my community on this issue and he is still persisting. Is he in order?

Mr. Speaker: Order, hon. Member for Kuria! In fact, the Assistant Minister has not persisted to refer to any tribe, including the Kuria, except as prompted by the hon. Member for Gwassi. I thought, maybe, you could have taken your point of order against the hon. Member for Gwassi rather than the Assistant Minister.

Mr. Assistant Minister, proceed!

Mr. Ojode: Mr. Speaker, Sir, we have put in place some measures. We have an Administration Police post at Ochuna. I have also carried out some reshuffles within that particular area. In fact, within Ochuna, we are going to receive new officers to patrol the area. I think once we have those officers in those areas, the stealing of livestock will be a thing of the past. Otherwise, I really sympathize with the people because of those cases. I

want to warn those who are trading in livestock not to encourage their colleagues on the other side to come and steal from Nyatike.

Mr. Njuguna: Mr. Speaker, Sir, it is now evident that livestock keepers in that region have continued to suffer as a result of livestock theft. Could the Minister indicate to this House what measures he is taking to assist livestock keepers to restock the stolen animals?

Mr. Ojode: Mr. Speaker, Sir, we have put in place measures to curb that menace. The issue of restocking is in the docket of the Ministry of Livestock Development. My colleague is here. He can talk about restocking which is done not only in Nyatike, but also in other places where there is a problem of cattle rustling.

Dr. Munyaka: Mr. Speaker, Sir, could the Assistant Minister tell us whether Kenya is in a position to use technology to trace stolen animals? There are tracking devices which are electronically activated.

Mr. Ojode: Yes, Mr. Speaker, Sir. We have suggested to the Ministry of Livestock Development to use “e-animal” so that it can be easier to trace stolen animals.

(Laughter)

Dr. Nuh: Mr. Speaker, Sir, when the Assistant Minister was referring to the conduit being used by the cattle rustlers, he said that they usually use a security road which links up Kuria, Nyatike and Migori districts. Is he referring to it as an “insecurity” road or “security” road? What are they doing as a Ministry to ensure that, that road serves the purpose it was meant for and not become an insecurity road?

Mr. Ojode: Actually, the name of that particular road is “security road”. It stretches from Kuria, Migori and all the way up to Nyatike. It passes a place called Ochuna where we have an AP post and a District Officer (DO) for purposes of surveillance.

Mr. Speaker: Last Question, hon. Member for Nyatike!

Mr. Anyanga: Mr. Speaker, Sir, my last question to the Assistant Minister is this: I am glad he has confirmed that he is going to deploy some officers at Ochuna. Could he, please, confirm to this House when that is going to be done and how many are going to be sent to Nyatike?

Mr. Ojode: Mr. Speaker, Sir, I have reshuffled the officers who were at Ochuna for purposes of beefing up security. I hope the Questioner is aware that we have a police post at Migingo, which is within the island. We also have a police patrol base at Lwanda, Muhuru Bay and another one at Ochuna. So, those police posts will be enough to control the menace.

Mr. Ethuro: On a point of order, Mr. Speaker, Sir. You heard the Assistant Minister say that he has reshuffled the officers. Did he do a reshuffle within the station or outside the station? He needs to be clear because he likes promising heaven and delivers hell.

Mr. Speaker: Order! That does not pass for a point of order. That passes for a supplementary question. But Mr. Assistant Minister, could you kindly address yourself to the question asked by the hon. Member for Nyatike? He asked you: You have said in your statement that you are going to beef up security in that area. How many officers are you going to add to that station and when?

Mr. Ojode: Mr. Speaker, Sir, as at last night, we changed the commandant of that particular place. We have a new person.

Mr. Speaker: Order, Mr. Assistant Minister! It is a straight forward question. How many and when? Let us use our time optimally.

Mr. Ojode: Ordinarily, an AP post carries between seven to ten police officers. But I wanted him to know that the commandant of that particular base has already been transferred. In other words, he is going to have between seven to ten officers in Ochuna.

Mr. Anyanga: On a point of order, Mr. Speaker, Sir. I want this House to know that Mr. Ojode is my neighbour and, maybe, he is not ready to assist. Let me use that term. You confirmed to this House that you are going to add new officers. New officers mean additional ones. Could you, please, confirm the number and when it is going to be done?

Mr. Ojode: Mr. Speaker, Sir, we are going to have a minimum of seven officers at Ochuna. There were four officers at Ochuna.

Mr. Speaker: When will you do that?

Mr. Ojode: As from today, we are going to have seven officers.

Mr. Speaker: Very well! Hon. Member for Juja!

SUSPENSION OF ISAAC MUTWIRI

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

(a) What is the Ministry's policy on suspension of students from school and is there a provision for suspension for an indefinite period of time?

(b) Is the Minister aware that the Principal of Meru School suspended Master Isaac Mutwiri, a Form III student on 25th July, 2011 and has since declined to allow the student back to school despite weekly reporting to the school by the student and his parents and, if so, what is the justification of the Principal's conduct?

(c) Could the Minister order the immediate reinstatement of the student and ensure that he sits the KCSE Index Number allocation examinations, which are currently ongoing in the school?

Mr. Speaker, Sir, I would like to indicate to the Chair that this matter was discussed between me, the Minister and the area Member of Parliament. I am satisfied that it has been sorted out, without wasting the time of the House.

Mr. Speaker: Very well! Since the hon. Member for Juja represents the core interest of the House in this Question, and he says that the matter has been satisfactorily resolved I will let that Question be stood down and recorded as such.

(Question stood down)

Next Question by the hon. Member for Turkana Central.

ORAL ANSWERS TO QUESTIONS

Question No.925

SCHEDULE OF ASSETS AND LIABILITIES
OF CIVIC BODIES

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

(a) whether he could table a schedule of assets and liabilities of the County Council of Turkana and Lodwar Municipal Council for 1963, 1970, 1980, 1990, 2000 and 2011;

(b) whether he could also table a schedule showing LATF and other Government grants/loans, all creditors and debtors, and amounts owed and used to service loans for the County Council of Turkana and Lodwar Municipal Council since 1963 to date; and,

(c) when the Ministry will undertake asset sharing between the County Council of Turkana and Lodwar Municipal Council.

Mr. Speaker, Sir, I do not have a written answer.

Mr. Speaker: You do not have a written answer? Deputy Prime Minister and Minister for Local Government, the hon. Member does not have a written answer. If you have an extra copy, please, pass it over to him.

The Deputy Prime Minister and Minister for Local Government (Mr. Mudavadi): Mr. Speaker, Sir, maybe, I could seek your indulgence. I believe I sent copies here and I am surprised that the hon. Member does not have one.

Mr. Speaker: The copy is now passed on but I do not know how long ago you sent copies. How long ago did you send copies?

The Deputy Prime Minister and Minister for Local Government: Mr. Speaker, Sir, I was scheduled to answer this Question earlier and, in fact, on that day, we sent copies to the House.

Mr. Speaker: We will then have to revisit this Question a little later, so that the hon. Member for Turkana Central has time to acquaint himself with your answer. In the meantime, let us take Question No.1123 by the hon. Member for Eldoret South.

Question No.1123

GOVERNMENT DIVESTURE FROM
PUBLISHING HOUSES

Ms. Chepchumba asked the Minister Education:-

(a) when the Government plans to divest from Publishing Houses in order to open the market for indigenous private publishers and enhance the quality of education in the country; and,

(b) whether he could confirm that Government divestiture from the Jomo Kenyatta Foundation and the Kenya Literature Bureau will help produce more learning materials at lower prices.

Mr. Speaker, Sir, I do not have a written answer to the Question.

Mr. Speaker: You too do not have a written answer? Mr. Assistant Minister.

The Assistant Minister for Education (Prof. Olweny): Mr. Speaker, Sir, we sent an answer to Parliament earlier today and I do not know what happened. I am not sure whether the hon. Member will allow me to answer the Question.

Mr. Speaker: Hon. Member for Eldoret South, you have the option. Do you want to proceed or you want to have the answer first?

Ms. Chepchumba: Mr. Speaker, Sir, I want to have the answer because this is a very important Question and the Assistant Minister cannot use that as an excuse. He has to give me the answer first.

Mr. Speaker: That is fair enough. You are entitled to that. Do you think you will be able to proceed a little later on during this Sitting or you want it deferred to another date?

Ms. Chepchumba: Later today, Mr. Speaker, Sir.

Mr. Speaker: Then I will want you to have a bit of time with the Assistant Minister because he had indicated to the Chair that he wishes to travel on official business. So, discuss it between yourselves and let us see at what point in time or a later date that Question can be dealt with.

Hon. Member for Kisumu Town West!

Question No.1027

REINSTATEMENT OF SAMUEL DANIEL
WAFULA BY KU

Mr. Olago asked the Minister for Higher Education, Science and Technology:-

(a) whether he could inform the House why Mr. Samuel Daniel Wafula - a former employee of Kenyatta University who was dismissed from service on grounds that he was involved in the student unrest in 2009 – has not been reinstated to his job, contrary to the recommendations of the Departmental Committee on Education, Research and Technology;

(b) whether he is aware that Mr. Wafula was innocent of all allegations made against him; and,

(c) what steps the Ministry is taking to ensure that the university administration does not victimize staff, in compliance with the recommendations of the Report.

Mr. Speaker, Sir, before the Question is answered, please allow me to say this: This Question came up last week on Tuesday and only parts “b” and “c” were answered. It was adjourned to enable the Minister to answer part “a”. Yesterday, he was not here when the Question was called, but I did draw the attention of the Chair that the answer which had been supplied to me ignored to answer the issue why Samuel Daniel Wafula was not reinstated by Kenyatta University despite the recommendations in the Report of the House. The answer which I have, and which purports to answer that Question does not touch on that. Yesterday, you directed that he should address that issue.

Mr. Speaker: Fair enough! Proceed, Mr. Assistant Minister!

The Assistant Minister for Higher Education, Science and Technology (Mr. Kamama): Mr. Speaker, Sir, this Question had been partially answered in parts “a” and

“b”. But the explanation that I have is very exhaustive and it is going to take too long. Could I ask that I just go to the bottom-line.

Mr. Speaker: Please do.

The Assistant Minister for Higher Education, Science and Technology (Mr. Kamama): Mr. Speaker, Sir, the Ministry has actually allowed Mr. Wafula to appeal to the Appeals Board and his case is going to be heard in the next two weeks. That is because we had exhausted all the steps. There are many committees that had sat down before he was disciplined, but since he appealed, he is yet to appear before the Appeals Board. Once he does that, we will get the last verdict about his fate. So, that is the position unless you want me to explain---

(Mr. Olago stood up in his place)

Mr. Speaker: Order, Mr. Olago! I have recognized you to ask the first supplementary question. So, please, do. Proceed!

Mr. Olago: Mr. Speaker, Sir, I wish to table the Report of the Committee on Education, Research and Technology that was adopted by the House, and draw the attention of the Assistant Minister to the bottom of page 34. It says as follows: “All staff suspected of involvement in the strike should be reinstated accordingly, as the university administration could not prove their involvement in the strike when they appeared before this Committee.” This is the Report of the House which I wish to table for the benefit of the Assistant Minister.

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

Therefore, why has Kenyatta University (KU) not acted according to that recommendation and, instead, opted to make Daniel Wafula go through the whole process of appeal instead of complying with the House?

Mr. Kamama: Mr. Speaker, Sir, first of all---

Mr. Speaker: Order, Mr. Kamama! Mr. Olago, this Report has already been tabled in the House. So, you cannot re-table it. So, I will not admit it now, but you may refer to it. It is presumed that the Assistant Minister is aware of it because it is already the property of the House.

(Mr. Olago took back his document)

Mr. Kamama: Mr. Speaker, Sir, the Ministry takes the recommendations of the House very seriously. But it will not allow any departmental committee and especially the Departmental Committee on Education, Research and Technology, to micromanage universities to the extent of dealing with disciplinary matters. That is contained in the statutes which are a product of this House. We debated and passed the Kenyatta University Act!

Mr. Mbadi: On a point of order, Mr. Speaker, Sir. Is it in order for the Assistant Minister to imply that the Committee is micromanaging the Ministry and yet, the Report has already been adopted by this House? So, it ceased to be the property of the

Committee. This House adopted the Report. So, is it in order for the Assistant Minister to insinuate that the Committee is micromanaging the Ministry when, the question asked is why the Ministry has not complied with a report which has already been adopted by the House?

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

Mr. Speaker: On a related aspect? Proceed.

Mr. Olago: Mr. Speaker, Sir, a supplementary to Mr. Mbadi's point of order, you heard the Assistant Minister say that he is aware of the Report which I wanted to table for his benefit. In view of what he has just said, is it in order to assume that what he is telling the House is that the recommendations adopted by this House are of no consequence at all?

Mr. Speaker: Order! Mr. Olago, that is why, apart from the difference in words, you have just repeated the same thing as was said by Mr. Mbadi. So, try hon. Members, live within the Standing Orders: Avoid being repetitive. If a point is made, do not say it again. Proceed, Mr. Kamama!

Mr. Kamama: Mr. Speaker, Sir, first of all, I just want to confirm to the House that we followed the recommendations of the Departmental Committee. Every person who was involved in that strike, one way or the other, was subjected to the due process that is contained in the Kenyatta University Act. I can tell you the statutes and the number if you want. But I want to confirm to the House that the *ad hoc* Council Committee sat down and deliberated on this issue. The Special Senate Committee actually deliberated on this issue before they were disciplined. Now that Mr. Wafula has appealed, his case is going to be heard. I want to confirm that, that committee will be fair. It will factor in the recommendation of the departmental Committee. We are not going to just say that what the House recommends is useless. But we have to give a bit of latitude to the university to manage its affairs.

Mr. Mbadi: Mr. Speaker, Sir, since the Ministry has the recommendation of the Departmental Committee; and since the Report is very clear that the Ministry, together with the university, did not offer satisfactory explanation as to why that person was removed from employment by the university, could the Assistant Minister explain whether they have accepted the Report as adopted by the House, or they have started the process afresh of disciplining staff?

Mr. Kamama: Mr. Speaker, Sir, the process started way back in 2009 and is still going on. I want to confirm to the House that when a Departmental Committee recommends that all the people who were involved in the strike should be reinstated, I do not think that is the way we should deal with disciplinary matters. It cannot be like that! So, let us not prejudice this case. The cases are still being handled by the Appeals Board and if you want to confirm the position when the verdict is reached, I will still contact Mr. Olago and even the Chairman. That is if he wants to know the verdict.

Mr. Speaker: Order, Mr. Assistant Minister! Perhaps, you will satisfy the House if you do the following: I have looked at the recommendation myself and it is on page 34 of the Report. It is recommendation No.20. The Committee recommended as follows: "All staff suspected of involvement in the strike should be reinstated accordingly, as the university administration could not prove beyond reasonable doubt their involvement in the strike when they appeared before the Committee". So, in general terms, the recommendation asks the university to reinstate all members of staff who were suspected

to have been involved in the strike. That is because the university was not able to prove beyond all reasonable doubt that they were so involved. So, what then I understand - and you are right to a certain extent, Mr. Assistant Minister – is that Parliament will not micromanage the implementation of its recommendation. Now that you have received these recommendations, how many members of staff have been reinstated, what is the balance and what are you doing about that balance? That would be helpful!

Mr. Kamama: Mr. Speaker, Sir, thank you for that advice. I want to confirm that many members of staff were involved in that strike and we have dealt with their cases. We went case by case. We did not lump the cases together.

Mr. Speaker: Order, Mr. Kamama! You know that is not what the House expects. Parliament expects that Ministers will come with information. That is the essence of asking Questions so that you provide information.

(Applause)

Now, you cannot come with generalized answers like “we have dealt with many”. We are asking you: How many have you dealt with? What is the balance? What is the number left and how are you going to deal with that balance? Then hon. Members will have information. But now you are giving generalized answers and you are not helping.

Mr. Kamama: Mr. Speaker, Sir, I want to confirm that all of them have been dealt with, apart from this one. His case is now going for appeal.

Mr. Speaker: Very well! Last question, Mr. Olago.

Mr. Olago: Mr. Speaker, Sir, the Assistant Minister has said that in dealing with the appeal of Daniel Wafula, the administration will take into consideration the Report of the House in respect of Mr. Wafula. Could he confirm to the House exactly what weight the administration is putting on the Report of the House?

Mr. Kamama: Mr. Speaker, Sir, on a scale of one to ten, we will give it eight over ten.

Question No.1123

GOVERNMENT DIVESTURE FROM
PUBLISHING HOUSES

Ms. Chepchumba asked the Minister for Education:-

(a) when the Government plans to divest from Publishing Houses in order to open the market for indigenous private publishers and enhance the quality of education in the country; and,

(b) whether he could confirm that Government divestiture from the Jomo Kenyatta Foundation and the Kenya Literature Bureau will help produce more learning materials at lower prices.

Mr. Linturi: On a point of order, Mr. Speaker, Sir. I came in a bit late, but I am sure going by the order of sequence of Questions in the Order Paper, I thought I was the person to ask the Question.

(Laughter)

Mr. Speaker: Mr. Linturi, you know this is a matter on which I have given directions previously on more than two occasions, and you have been in this House now going into the fourth year. Surely, you can do better than that! Do better than that! I want you to apologize to the House for raising a frivolous point of order.

Mr. Linturi: I apologize, Mr. Speaker, Sir.

Mr. Speaker: Thank you!

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

(a) The Government has no plans to divest from publishing houses to open the market for private sector indigenous publishers. The two public publishing houses; namely, Jomo Kenyatta Foundation and the KLB make their own unique contribution to the quality of education and economic development in the country. In addition, the third public institution is KIE, which is the national curriculum and research centre, whose core functions include developing research based quality and curriculum support materials. It advises the other publishing houses on the curriculum and learning material requirements and it is also the publisher of the last resort.

(b) The two institutions; that is, Jomo Kenyatta Foundation and KLB are actually indigenous publishing houses operating in a competitive environment along with other publishers in the private sector. The Ministry does not protect them and, therefore, they do not enjoy any monopoly or undue advantage over other publishers. Jomo Kenyatta Foundation's establishment was for advancement of education and that, part of income be expended for the purpose beneficial to the citizens of Kenya. It publishes educational books for all levels of education and readers of all ages donate books towards educational institutions and libraries, offers scholarship programmes that enable and guide needy children to obtain secondary education. This has been the hallmark of Jomo Kenyatta Foundation's special and unique contribution to the national goals and ideals. It is an indigenous publishing house developing quality and competitively priced educational materials which are used in most schools.

The KLB on the other hand is a profitable self supporting parastatal that pays corporate tax and dividends annually to the Treasury. In addition, KLB annually donates Kshs20 million worth of books to the schools in most needy communities as part of its corporate social responsibility. It also employs a large number of people in the publishing industry.

Ms. Chepchumba: Mr. Speaker, Sir, although I appreciate the answer given by the Assistant Minister, you realize that the Kenya Shilling has deteriorated following the rise in value of the dollar. The prices of books and learning materials have skyrocketed in the past few weeks. Does the Government have plans to decentralize the activities of those two organizations at the grassroots in order to arrest the high cost of those materials?

Prof. Olweny: Mr. Speaker, Sir, the two institutions are based in Nairobi, but their books are sold through anybody else who sells books across the country.

Mr. Imanyara: Mr. Speaker, Sir, the Assistant Minister has said that, as part of the corporate social responsibility of those two publishing houses one of them donates large quantities of books that are distributed to schools. Could he tell us the criteria used to ensure that there is fairness in the distribution of those books and that all the schools

are beneficiaries? It should not be a policy that favours schools that are connected to politically- correct individuals.

Prof. Olweny: Mr. Speaker, Sir, the institutions give donations to all Kenyans. You can make a request, reach out to them and then they will respond to you. I do not think there is any discrimination that is done by any of those two institutions.

Mr. Imanyara: On a point of order, Mr. Speaker, Sir. The Assistant Minister does not appear to have understood my question, which is: What is the criteria that you use to distribute those books to ensure that there is fairness to all schools in the country and that you do not distribute them to politically connected individuals or friends of the Minister?

Prof. Olweny: Mr. Speaker, Sir, I have said that any Kenyan can make a request. So, the donations from those organizations will be based on who requests them. If you need to make a request to them, then they will reach out to you and provide you with whatever they have. They will not provide you with what they do not have.

Mr. Koech: Mr. Speaker, Sir, KIE is both a publisher and, at the same time, it is expected to approve books published by other publishers. Could the Assistant Minister consider establishing a different body to approve the books, so that even the KIE books are also approved?

Prof. Olweny: Mr. Speaker, Sir, the approval of books is not done by KIE alone. There is a body that approves books. KIE facilitates the body. They get together, but it is a body that is independent of KIE that does it.

Mr. Chanzu: Mr. Speaker, Sir, I want to thank the Assistant Minister for explaining to us the role of KIE. But I think the gist of this Question is the cost of books and the commission that is paid. That is because of the restricted nature in which it is done. What is the Assistant Minister doing to ensure that, that practice is reduced? I think it is a matter of trying to allow some competitiveness at all levels.

Prof. Olweny: Mr. Speaker, Sir, I did not get him well. Could he repeat the question?

Mr. Chanzu: Mr. Speaker, Sir, he has been very articulate in telling us the role of KIE and what it is supposed to do. But the gist of the question is the cost of books when we get down to the districts and constituencies. That is because of the restrictive nature in which the Government gets involved. What are they doing to ensure that there is competitiveness in the publishing of the books so that the prices can go down?

Prof. Olweny: Mr. Speaker, Sir, as regards the pricing, it is a liberalized market. But the Government also gives its recommendation in terms of pricing, so that Kenyans are not exploited. That is because education is an essential service. So, the pricing must be reasonable. So, the Government, through KIE gives its recommendations as regards pricing. As regards competition, the publishing sector in this country has been liberalized since 1996. So, anybody who wants to publish will do it competitively. That also helps to control the market.

Mr. Speaker: Last question, hon. Chepchumba! You may donate your time to the Member for Bura if you wish to. I notice you are reluctant to rise.

Ms. Chepchumba: Mr. Speaker, Sir, I am not reluctant as such, but I felt that he needed to interrogate this question.

Mr. Speaker: Donate the last opportunity to him!

Ms. Chepchumba: Mr. Speaker, Sir, I do donate it to Dr. Nuh.

Mr. Speaker: Proceed, Member for Bura!

Dr. Nuh: Mr. Speaker, Sir, I thank hon. Chepchumba for that. Mr. Speaker, Sir, you heard the Assistant Minister say that the Government regulates the prices through KIE. Then he talked again of KIE assisting another body to regulate. Could the Assistant Minister tell us the other body that approves books, other than KIE? What is the name of the body?

Prof. Olweny: Mr. Speaker, Sir, the Ministry has what we call Ministerial Vetting and Technical Committee that vets textbooks that are used in this country for the purpose of education.

Question No.1049

DELAY IN COMPLETION OF CDF PROJECTS
IN KISUMU TOWN

Mr. Shakeel asked the Minister for Public Works:-

(a) whether he is aware of the frequent delays in CDF projects in Kisumu Town East, due to delay in preparation of bills of quantities and relevant documents by officers in the Ministry, including engineers;

(b) why Omollo Goro Bridge and Chiga Health Centre, both CDF projects for the 2006/07 Financial Year, and which were designed and approved by the Ministry, were declared unsuitable for use three months after the issue of Certificate of Completion; and,

(c) whether the Ministry is compliant with its Service Charter, which it has repeatedly presented to the public during the Public Service Week.

Mr. Speaker: Is the Minister for Public Works not here?

(Mr. Kiunjuri walked into the Chamber)

The Assistant Minister for Public Works (Mr. Kiunjuri): Mr. Speaker, Sir, I apologize.

Mr. Speaker: Proceed!

The Assistant Minister for Public Works (Mr. Kiunjuri): Mr. Speaker, Sir, I beg to reply.

(a) I am not aware of the frequent delays in CDF projects in Kisumu Town East, due to delays in preparation of bills of quantities and other relevant documents by officers in my Ministry. However, due to poor planning by CDF officials, the request for provision of documents and bills of quantities is forwarded without giving adequate time before project implementation. It should be noted that relevant drawings, that is, architectural, structural, electrical and mechanical, will first be produced before preparation of bills of quantities. The design team may also need to visit the site and carry out relevant site survey and soil investigations before preparation of the final design.

Mr. Speaker, Sir, I urge not only the Member for Kisumu Town East but all the Members of Parliament to be contacting my officers three months before the commencement of the projects.

(b) Omollo Goro Bridge was procured by the Kisumu Town East CDF based on drawings prepared by M/s Jekco Construction Limited without reference or approval from the Ministry of Roads and Public Works then. The contractor informally requested for advice on the works after the abutments were complete. Due to the fact that the project was a footbridge, the Ministry gave guidance on the decking as well as other works accompanying the bridge. Among the advice given was fixing of the barrier on both ends of the footbridge to deter vehicular traffic from using the bridge. This was confirmed and has been done. However, the local community is said to have removed the barrier and vehicles started using the footbridge, leading to the deterioration and eventual failure of the deck.

Following the failure of the footbridge, the CDF approached the Kenya Rural Roads Authority (KeRRA) for advice. The bridge was redesigned as a motorable bridge by KeRRA and parts of the footbridge were demolished to accommodate the new bridge. The redone bridge is complete and is in use.

Chiga Health Centre involved the construction of a maternity wing based on architectural drawings to be prepared by the Ministry of Public Works. However, no structural drawings were prepared. As works progressed and due to soil type on site, the Ministry of Public Works officers advised that structural issues pertaining to the foundations be addressed. Additional works were introduced, that included septic tanks and fencing.

Mr. Speaker, Sir, after the project was completed, the CDF Committee invited the Ministry of Health to inspect the facility. The Ministry recommended that some remedial improvements and works be carried out before the facility could start operations. However, the CDF never approached the Ministry of Public Works for advice on the proposed remedial improvement works, and neither were the works undertaken. Therefore, the facility remained unused up to date.

In addition to the above works, the CDF and the local community undertook and constructed a staff administration block within the same compound without referring to the Ministry of Public Works for advice or supervision. That facility remains unused up to date.

(c) The Ministry is fully compliant with the Service Charter and adheres to given timelines in provision of services with the highest professional standards.

Mr. Shakeel: Mr. Speaker, Sir, the Assistant Minister has given a very good reply. However, he has said that CDF officials need to give three months notice to the Ministry of Public Works. Ordinarily, that is given. The details he has given regarding Omollo Goro Bridge defies any explanation. A footbridge has been designed in the middle of the main road. Are cars going to stop at that main road for people to walk? Then, the Ministry gave a certificate of clearance for the money to be paid for Chiga Health Centre. The Ministry, again, gave a certificate of final completion and the building was irreparably cracked even before it was condemned. So, I am afraid that the answer by the Assistant Ministry does not address the actual facts. He is trying to cover the failures. I would like him to, please, have somebody to investigate. Could he, perhaps, be kind enough to come to the site so that I can show him what happened? That was done by the

CDF Committee of my predecessor. Yes, we have since built the bridge during my tenure but, this time, with the involvement of the Ministry. But that also took us a lot of time. Could the Assistant Minister tell us what he is going to do and when he will visit us?

Mr. Speaker: Order! Before the Assistant Minister stands up to respond to that question, hon. Members will notice that the Member for Kisumu Town East, in fact, went into a very long address which lasted about three minutes. This habit does not appear to be applying to the Member for Kisumu Town East alone. It is actually developing in this House. I want just to refer the hon. Members back to Standing Order No.43, because we intend to enforce this Standing Order to the letter. If we have not done so in the past, beginning from today, we will. So, I want the hon. Members to take notice that this is what we will do.

Standing Order No.43, paragraph 1, on contents of Questions reads:-

“Except as the Speaker may otherwise allow, a Question shall not be in effect a speech or limited to give information or framed so as to suggest its own answer or to convey a particular point of view.”

You will notice that many hon. Members have been guilty of this, and quite a few times we let it pass. Occasionally, Members who look at me will see me smiling. So, I actually just let it pass. But if we apply the rules strictly, so that we use our time optimally which is one hour for Question Time, then we will not allow such situations. Each Question ought to last a maximum of five minutes. So, ideally, we should deal with 12 Questions in every sitting that pertains to Questions.

The second part that is important is paragraph 3 which says this:-

“A Question shall not contain any argument, inference, opinion, imputation or ironical or offensive expression or epithet.”

A lot of us engage in those arguments which are not permissible. There is also paragraph 2 which says in part:-

“The facts on which a Question is based may be set out briefly---”

Now, we intend to enforce this Standing Order strictly from now onwards. Lest Members say that they were not put on notice, I have now put you on notice and all Members of the Speaker’s Panel will apply this rule to the letter.

Mr. Imanyara: Mr. Speaker, Sir, I thank you for that direction. Would you also consider giving the Ministers some indication on what form an answer should take because quite a number of them take it as their opportunity to give long statements and speeches from the Dispatch Box, contrary to the rules? So, could you be kind enough to extend some advice to the Front Bench, particularly the Ministry of--- No! I will not mention the name.

(Laughter)

Mr. Speaker: Very well! I also direct the Front Bench that you are compelled to answer Questions precisely. Respond to the Question briefly, be precise and answer the issues raised so that you do not wonder around like you do most of the time. For instance, this afternoon, my good friend, the Minister of State for Provincial Administration and Internal Security was asked how many and when, and then he went on to give a long answer as to how he has posted officers to another station and so on. That was obviously irrelevant. You could have answered that Question in a matter of 30 seconds.

Please, proceed, hon. Kiunjuri.

Mr. Kiunjuri: Mr. Speaker, Sir, that is also exactly what I wanted to alert you. For example, when I received this answer from my officers, I told them that this was not a Ministerial Statement and the answer should be precise. In fact, you can see that I had cancelled the first paragraph. They would have just stated that they are not aware. However, I beg to reply to the other questions raised.

It is good that we be honest with each other. If this bridge was meant to be motorable (to be used by vehicles), then the CDF itself could not have allocated Kshs2.5 million to a bridge that is supposed to be used by vehicles. At the end of the day, even the Ministry of Public Works cannot use Kshs2.5 million to build a foot bridge which is supposed to be 2.4 meters and not more than 5 meters. We must spend between Kshs4 million to Kshs6 million for such works. Even when KeRRA came in to build the bridge, they spent Kshs7.5 million.

It is important that we look at the way our people behave. When we came in, the abutment was already completed and we were forced to put barriers so that vehicles could not use the bridge as it would have collapsed. However, I will be pleased to come to Kisumu both as working and visiting trip. We could go and see the area.

Dr. Kones: Mr. Speaker, Sir, I would like to know from the Assistant Minister whether the charges or the levies charged by the engineers to draw the designs and the Bill of Quantities are official from the Ministry or they are just random from the engineers in the field?

Mr. Kiunjuri: Mr. Speaker, Sir, I am not aware that there are charges that are levied because we are supposed to provide that service. One problem we have been facing is that Members of Parliament advise their committees not to go for the drawings from the Ministry.

Two, they are always complaining that whatever the Ministry gives out is very expensive; it is almost three or four times higher than the actual market price. Therefore, they do not seek our advice.

Lastly, we have been very constrained in terms of our officers. However, I want to assure all Members that we have sent out teams in every county. We have a team of civil engineers, quantity surveyors and mechanical engineers. It is a full team of about six officers. This means that every county can be able to undertake any technical work with the support of the Ministry of Public Works. We are advising that you come to our offices or, in future, I will table a list of the officers that we have sent to your counties so that we can operate in a professional way.

(Loud consultations)

Mr. Speaker: Hon. Shakeel, last question!

Order! Hon. Yusuf Haji, if you want to have a conversation with the Member for Embakasi or the Member for Kamukunji, I gave directions yesterday; find space within the Chamber or in the working rooms behind the Chamber and you can have a healthy conversation.

Mr. Shakeel: Mr. Speaker, Sir, I am sorry that I took longer than you had said. I will take your guidance henceforth.

The Assistant Minister answered part “c” of the Question about compliance very generally. In part “a” of his answer, could he tell us whether the Service Charter is compliant? Whether the limit of time is three months per plan, so that we are very clear on how long it takes for them to do a plan?

Mr. Kiunjuri: Mr. Speaker, Sir, our charter is very clear that is between one month, the shortest time possible and seven months, the longest time possible.

Question No.1052

PAYMENT OF THIRD PARTY INJURY CLAIMS

Mr. Linturi asked the Attorney-General:-

(a) whether he could provide details of payments made by the Government arising from Third Party (T.P) injury claims and provide a per-year breakdown from 2009 to-date;

(b) how much is pending payment following court judgments; and,

(c) whether the Government could consider transferring all such risks to a competent underwriter, in view of the colossal amounts involved.

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

(a) Records held by the State Law Office indicate that from the year 2000 to date, a total of Kshs50,130,386.65 was made as payment in respect of third party injury claims. The year to year breakdown is as hereunder:-

Year 2009	Kshs 13,870,279.50
Year 2010	Kshs29,701,302.95
Year 2011	Kshs6, 558, 804.20.

That makes a total of Kshs50,130,386.65

(b)The records held by the State Law Office indicate that the current payments pending following court judgments amount to Kshs100, 126,803.65. The breakdown is as follows:-

Year 2009	Kshs5,778,760.80
Year 2010	Kshs36,359,015.75
Year 2011	Kshs57,989, 027.10

That makes a grand total of Kshs100,126, 803.65.

(c) The State Law Office is undertaking several reforms alongside the rest of Government on ways of prudential use of scarce resources, including reducing the risk of financial loss arising from court awards and judgments from third party injury claims. Due to the numerous unpaid judgments and decrees against the Government, many of which date a long time back, the State Law Office is currently conducting a stock-taking exercise that will enable us to prepare a Cabinet Memorandum seeking policy guidelines and directions on this matter of a recurrent nature. It is at this stage that the Government will make a reasoned decision and the most prudent mode of mitigating the risk arising from third party injury claims, including the suggestions made by the hon. Member.

I thank you, Mr. Speaker, Sir.

Mr. Speaker: Proceed.

Mr. Linturi: Thank you, Mr. Speaker, Sir. I want to thank the Attorney-General for the answer given and, at the same time, congratulate him for his appointment as the third Attorney-General of the Republic of Kenya.

Mr. Speaker, Sir, the Attorney-General is the keeper of the law of this country. I want to ask him now why it has taken him two years to compensate the claimants whose judgments were given in the year 2009 and 2010; why has it taken you more than 24 months?

Prof. Muigai: Mr. Speaker, Sir, I am on record as admitting that not only do we have claims against the Government that have been outstanding for two years--- In fact, in a recent case that I answered here, it had been outstanding for 11 years. This is a very unhappy situation; the Government is acutely conscious of the injustice of this situation; that is why I have said in the last paragraph of my answer that we are going to have a major policy change based on consultations. I am happy to say that we will be consulting this House and, ultimately, will bring to the House legal changes to the existing statutes.

Thank you, Mr. Speaker, Sir.

Mr. Speaker: Last question, hon. Member for Igembe South.

Mr. Linturi: Mr. Speaker, Sir, is when you look at part “a” of my Question, I had asked the Attorney-General to provide me with the details of payments that the Government has made. I have a breakdown but the details, to me, should also include the name of the claimants for those particular years. Attorney-General, when will you provide me with these details?

Mr. Speaker: Order! Hon. Member for Igembe South, in part “a” of your Question you asked as follows:-

“Could the Attorney General provide details of payments made by the Government arising from Third Party (TP) injury claims and provide a per-year breakdown from 2009 to date?”

If you wanted the names of the claimants, you should have specified that among other details you wanted the names of the claimants. You know that is going beyond what the Attorney-General anticipated in this Question. But I am sure the Attorney-General can supply those details to you if you now want them. Do you understand, hon. member for Igembe South?

Mr. Linturi: Mr. Speaker, Sir, I stand guided. I will do a follow up with him.

Mr. Speaker: Indeed. Attorney-General, would you, please, confirm if you are able to give those details to him?

Prof. Muigai: Mr. Speaker, Sir, I am happy to confirm that we are running an open and transparent Attorney-General’s Chambers. These documents would have been available if they were required.

Thank you, Mr. Speaker, Sir.

Mr. Speaker: Hon. Member for Igembe South, do you want those details?

Mr. Linturi: Yes, Mr. Speaker, Sir.

Mr. Speaker: Attorney-General, I direct that you supply them; table them in the House and copies will be made available to the hon. Member.

Yes, very well. You have done well, hon. Member for Igembe South.

Hon. Member for Turkana Central.

Question No.925

SCHEDULE OF ASSETS AND LIABILITIES
OF CIVIC BODIES

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

(a) whether he could table a schedule of assets and liabilities of the County Council of Turkana and Lodwar Municipal Council in 1963, 1970, 1980, 1990, 2000 and 2011;

(b) whether he could table a schedule showing LATF and other Government grants/loans, all creditors and debtors, and amounts owed and used to service loans for the County Council of Turkana and Lodwar Municipal Council since 1963 to date; and,

(c) when the Ministry will undertake asset sharing between the County Council of Turkana and Lodwar Municipal Council.

The Deputy Prime Minister and Minister for Local Government (Mr. Mudavadi): Mr. Speaker, Sir, I beg to reply.

(a) I will table a document to which I have annexed the schedule of assets and liabilities of the County Council of Turkana and the Municipal Council of Lodwar for the years 1963, 1970, 1980, 2000 and 2011.

(b) I have also attached and I, again, will table the list showing the LATF and other Government grants for the County Council of Turkana and the Municipal Council of Lodwar since 1963 to date.

(c) I wish to state that the issue of the sharing of assets and liabilities in all local authorities in the country, which include the County Council of Turkana and the Municipal Council of Lodwar, is going to be addressed when a clear audit of this is done in preparation for the new dispensation under the county governments.

Mr. Ethuro: Mr. Speaker, Sir, I want to thank the hon. Deputy Prime Minister and Minister for Local Government for the answer; it is a detailed one. I am only surprised by part "c" of the answer, where he seems to be waiting until we go to the county governments. Lodwar Municipal Council was established in 1997, and my predecessor in Parliament then actually requested this and was promised that, that exercise would be undertaken within two to three years. Lodwar Municipal Council has accrued liabilities to the creditors to the tune of Kshs11 million, and that debt is crippling the Municipal Council. Could the Minister consider ensuring that, at least, these assets are shared out equally, so that the Municipal Council gets its proper share and is able to offset some of these debts?

Mr. Mudavadi: Mr. Speaker, Sir, I just want to highlight that the point that the hon. Member is raising is extremely important. I want to assure him that we want to do a very thorough job in terms of ascertaining the assets and debts of these two local authorities and, indeed, for all other local authorities. I want to assure him that in the process, we will make sure that what is rightfully due to either local authority is properly accounted for, so that this crippling debt can be mitigated.

Mr. Imanyara: Mr. Speaker, Sir, while thanking the Deputy Prime Minister and Minister for Local Government for his diligence on matters of the House, I notice that in

the written answer, under the column of assets disposed, he talks about vehicle registration number KTU 555 and a hotel in Lodwar Township. Could he tell the House how much was realized from this disposal, and how the disposal was done, particularly bearing in mind the requirements of the procurement law?

Mr. Mudavadi: Mr. Speaker, Sir, because that is an extra detail, I would have to undertake to be able to respond to that particular question separately. I can do it by Tuesday next week, so that I can be more specific on what was realized and to whom.

Dr. Nuh: Mr. Speaker, Sir, you realize that hon. Ethuro said that creditors to the Municipal Council are owed up to Kshs11 million against realizable assets of about Kshs3 million. Now that we are going to a new dispensation, how does the Minister plan for the new counties to start on a clean bill of health, or on a positive note, rather than having Kshs6 million in salary arrears?

Mr. Mudavadi: Mr. Speaker, Sir, the whole issue of debt in these local authorities is going to be a major task. I would like to point out that, indeed, as we move ahead, the county governments are going to be the successors to some of these institutions.

But in relation to the LATF that is disbursed to the local authorities, the law allows them to use a portion of the LATF component that they get to reduce their debts.

Dr. Nuh: On a point of order, Mr. Speaker, Sir. The LATF has been there. It is not something that the Government is starting afresh. It has always been there, but the debts have been piling. What deliberate effort are they making to ensure that, at least, all counties start on a clean footing, notwithstanding the LATF they keep?

Mr. Mudavadi: Mr. Speaker, Sir, the point I am trying to put across is that through LATF which we are giving, we urge the council to mitigate on their debts. In certain instances, indeed, we have said that there could also be debt swap arrangements, particularly when it comes to the statutory institutions, for example, the Local Authorities Pension Trust (LAPTRUST) or Local Authorities Provident Fund (LAPFUND) or, indeed, an organization like the National Housing Corporation (NHC), where there are debts of that nature owed to public institutions. We have allowed that there can be a debt swap, so that the council can value an asset and then give it to one of these institutions in lieu of cash if they do not have the cash.

Mr. Ethuro: Mr. Speaker, Sir, there is the issue of how these assets are disposed. County Councils hold land in trust for communities. Could the Ministry ensure that the councils do not dispose of more property until this asset sharing is done? Two, respond to hon. Gitobu's question in terms of those ones already disposed of, how they were done and whether there was value for money.

Mr. Mudavadi: Mr. Speaker, Sir, on the issue of how they were disposed of and value for money, I think I did request that the House allows me to make this clarification on Tuesday, specifically to deal with that particular issue.

Mr. Speaker, Sir, the other point is that in terms of disposal of assets, there is the Public Procurement Act in place. But when it is a fixed asset, for instance, land or any residential house and so forth, we have made it very clear that they should not engage in any transfer. We have, in fact, written to the local authorities that they should not engage in any transfer of assets now because we are preparing to go to the county governments. The only adjustment we are allowing is if that land is for a school, hospital or a public entity. That is when we can allow that transfer to take place.

Question No. 1107

NUMBER OF EXPATRIATES
AT HOTEL INTER-CONTINENTAL

Mr. Njuguna asked the Minister for Labour:-

(a) whether he could provide a list of all expatriates working in managerial positions at the Inter-Continental Hotel, Nairobi, indicating their respective qualifications and positions held,

(b) why the General Manager, one Mr. Karl Hala, continued to harass and dismiss Kenyans from managerial positions, and whether he is aware that the motive is to create employment for expatriates, and,

(c) what steps the Ministry will take to ensure qualified Kenyans are accorded opportunity to work at the hotel.

Mr. Speaker, Sir, if you agree the Minister did fairly well on parts “a” and “b” and there were some issues and concerns that were raised by hon. Members in this House. He is aware.

The Minister for Labour (Mr. Munyes): Mr. Speaker, Sir, I agree with the hon. David Njuguna that this is the third time we are responding to this Question. I will, therefore, respond quickly that we have now ascertained that there are six expatriates in Inter-Continental Hotel, Nairobi. We have five staff under what we call the understudy programme. There is no issue of harassment. I want to table documents showing names of Kenyans working in managerial positions. They are about 15, the top one being the Area Director of Finance and Business Support, Africa. As we all know, Inter-Continental Hotel in Nairobi is also serving as the headquarters of Africa. So, the top Kenyan in the Inter-continental Hotel is Jaswant Babra, Area Director of Africa.

Let me table the list.

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

I must also table the list containing names of those who have left the Inter-continental Hotel to look for greener pastures.

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

Mr. Speaker, Sir, I must talk about this hotel. This is the best paying hotel in the country. This is a hotel that is expanding in this region and has made Kenya its headquarters. As we speak, the President of Inter-Continental Hotel is in Nairobi. They are opening two hotels. The lowest paid staff in the Inter-Continental Hotel earns Kshs57,000. Other hotels are complaining that this hotel is destroying business.

Mr. Speaker, Sir, I can talk for this hotel; let me have some few minutes. I have spoken to the trade union, and they have cleared this hotel. The Ministry of Tourism has

cleared this hotel as one of the best hotels around. Surely, this should not be entertained at a time when this country is looking for investors---

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

Mr. Speaker: I have seen you, Member for Dujis. Please, Minister will you kindly conclude.

Mr. Munyes: Mr. Speaker, Sir, I was just about to finish by saying that we have done all due diligence to prove this hotel is not harassing Kenyans. I was just saying, in conjunction with the Ministry of Tourism, trade unions, 300 workers themselves, we have ascertained that there is no harassment---

Mr. Duale: On a point of order, Mr. Speaker, Sir. A while ago, you made a ruling on the procedure to be followed in terms of Question Time. The Minister is making a speech instead of answering the Question. Is he in order?

Mr. Speaker: Member for Dujis, the Minister is in order because as I followed the proceedings, he did answer the Question and then he did ask the indulgence of the Speaker to say a few words about Inter-Continental Hotel. If you heard as I read that Standing Order, it said, "except as the Speaker may allow". So, I did allow, otherwise, I would have stopped him.

Mr. Speaker: Member for Lari, this matter had already been dealt with substantively, so you must be restricted to just one question.

Mr. Njuguna: Mr. Speaker, Sir, while thanking the Minister for labouring to respond to the concerns that were raised in this House, I would like him to inform the House clearly; why did the hotel management bring gastronomists or cooks from Egypt to work in Nairobi? These are jobs that Kenyans can very well do? Is this not de-africanization and discrimination on colour?

Mr. Speaker: Proceed, Minister!

Mr. Munyes: Mr. Speaker, Sir, I said we have hoteliers understudy programme. We have so many Kenyans also cooking *ugali* in other places, for example, Egypt. You know that kind of cuisine we are talking about from Egypt cannot be cooked by some Turkana cook from Lodwar.

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

Mr. Speaker: Order, Member for Lari! As a matter of fact, for me I am satisfied and I understand that answer. We find Kenyans in hotels in London, we find them in Toronto and all manner of places.

Mrs. Shebesh: Mr. Speaker, Sir, I am glad that the Minister acknowledges that this is a hotel that is doing very well and is opening many branches. As much as the lowest paid earns Kshs57, 000, how many of the highest paid are Kenyans?

Mr. Munyes: Mr. Speaker, Sir, I think there are about 12 expatriates at the managerial level. Many have gone for greener pastures to other hotels like the Kempinski and the Crowne Plaza which they started the other day as a franchise. Therefore, many people have moved out and they are encouraging them to go to other Inter-Continental Hotels in Africa.

Mr. Speaker: Order, Minister! You know if you heard my directions earlier on; you have been asked a simple straightforward question; how many Kenyans are employed by this hotel in senior positions and how much money do they earn?

That is a simple question which you should answer very easily.

Mr. Munyes: Mr. Speaker, Sir, there are about 12 senior managers I would not know how much---

An hon. Member: Are they Kenyans?

Mr. Munyes: Yes, they are Kenyans. I have the list here. I did not itemize but I think they are about 12 Kenyans. Let me read them; we have Jaswad Barbra---

Mr. Speaker: Order, Minister! If you say that they are 12 and you are tabling the document and that they are paid salaries commensurate to those positions, that would be good enough.

Please, Minister, learn to answer questions!

Mr. Munyes: Mr. Speaker, Sir, the Deputy Chief Executive Officer is a Kenyan. He is not an expatriate. The Deputy for Africa is a Kenyan. This is the best hotel I think we have in this country.

Mr. C. Kilonzo: On a point of order, Mr. Speaker, Sir. I do not know whether you heard what the Minister said. He said that this is the best hotel. In many cases, this Minister acts as if he is representing the Federation of Kenya Employers (FKE) as opposed to representing the workers. Is the Minister in order to mislead the House that this is the best hotel in terms of managing and handling employees?

Mr. Speaker: Order, Member for Yatta! You are asking if the Minister is in order to mislead the House that this is the best hotel when in fact the truth is what?

Mr. C. Kilonzo: Mr. Speaker, Sir, when in fact, there are very many complaints about the management favouring the expatriates and mistreating local employees.

Mr. Munyes: Mr. Speaker, Sir, as the Minister for Labour, mine is to support workers and employers in this country. That is what the Constitution says.

I go by what the same workers he is talking about are saying. Three hundred workers in that hotel signed a vote of confidence in the management. The Ministry of Tourism also wrote to me and told me that it is the best hotel. Surely, what should I follow? Do I follow what I do not know or what I have?

Mr. Duale: On a point of order, Mr. Speaker, Sir. As a hotelier in this country, there is an institution that grades and rates hotels in this country. It is not done by the workers. Is the Minister in order to say that the 300 workers in Inter-Continental Hotel have rated that hotel as the best? He is misleading the nation!

Mr. Speaker: Order, Member for Dujis! Did you really follow keenly what the Minister said? Among other things, the Minister also said that the Ministry of Tourism has written to him. Are you challenging that? If you are then say so, otherwise---

Mr. Duale: Yes, Mr. Speaker, Sir, I am challenging that unless he tables a letter from the Kenya Tourism Board (KTB) to that effect.

Mr. Speaker: Order, hon. Members! Hon. Members, you know the practice of this House is that we take information from the Government as presented by the Front Bench as truthful. If we want to challenge it, then we must counter it with facts that are to the contrary. That is what we have done. That the Minister makes a statement in this House or an assertion as a matter of fact; it is presumed that that is true and accurate. The Front Bench knows the consequences of presenting a matter as factual when it is not. The day we eat into that practice then we will have dealt a death blow to the Front Bench. We cannot afford to do that. We should not go that way. We have to get to the last question on this. It is 4.00 p.m.!

Member for Lari, please, proceed!

Mr. Njuguna: Mr. Speaker, Sir, I would like the Minister to inform the House clearly, now that about 32 workers have recently resigned from this hotel, what is the Ministry doing to improve the working conditions and harmony at the hotel? Currently, there is hostility towards some workers in this investment.

Mr. Munyes: Mr. Speaker, Sir, there is no hostility. I work with the unions working with the hoteliers. I have sent my team to investigate and they have given me a report. I know there are a few cases like Mr. David Nguru who was sacked and that is what is bringing this problem.

Mr. Mbadi: On a point of order, Mr. Speaker, Sir. The Minister has alluded to a report following investigation and survey by his Ministry. Would it be in order if I asked that this House benefits from the same report?

Mr. Munyes: Mr. Speaker, Sir, there is no problem. I can table it next week. However, it will be the fourth time we are doing this and I know really---

Mr. Speaker: Have you tabled it before?

Mr. Munyes: Mr. Speaker, Sir, I was not asked to do so.

Mr. Speaker: Very well! In fact, you will be entitled to make that claim because that may not have been anticipated even as you prepared to answer the Question. Can you conclude your answer? Try and make it available to the Member for Gwasi as a gesture of goodwill.

Mr. Munyes: Mr. Speaker, Sir, what I can say is that at a later stage---

Mr. Speaker: Say, "Yes, I will!"

Mr. Munyes: Yes, I will.

Mr. Speaker: That is done!

Next Question by Mrs. Sophia Noor!

Question No.1118

STATUS OF HEALTH FACILITIES IN IJARA/HULUGHO DISTRICTS

Mrs. Noor asked the Minister for Public Health and Sanitation:-

(a) whether he could provide details of health facilities and the medical personnel in Ijara Constituency, indicating which ones are operational and which ones closed down and the reasons for the closure;

(b) how many vehicles and ambulances are operational in Ijara and Hulugho districts; and,

(c) when he will provide ambulances to Ijara and Hulugho districts to deal with emergency cases.

The Assistant Minister for Public Health and Sanitation (Dr. Gesami): Mr. Speaker, Sir, I beg to reply.

(a) Ijara Constituency has a total of 15 health facilities out of which 14 are operational. At the moment, all these facilities are operational except Bultuma Dispensary, which is being renovated. Currently, it is being served through outreach services.

Mr. Speaker, Sir, I now table a document showing the current status of health facilities in Ijara and Hulugho districts as at 4th September, 2011.

(Dr. Gesami laid the document on the Table)

(b) There are four utility vehicles and one ambulance in Ijara and Hulugho districts.

(c) Ijara and Hulugho districts will be considered for an ambulance this financial year.

Thank you, Mr. Speaker, Sir.

Mrs. Noor: Mr. Speaker, Sir, I would like to thank the Assistant Minister for his answer but, unfortunately, he has not fully responded to part “a” of the Question. He has not indicated the personnel that are in all the health facilities. Could he tell this House how many members of staff are in Ijara and Hulugho districts covering hospitals, health centres and dispensaries?

Dr. Gesami: Mr. Speaker, Sir, details on the members of staff are contained in the document that I have just tabled. I have indicated the number of vehicles and number of staff members in each health facility. I have also indicated whether the facilities are operational or not operational.

Mr. Affey: Mr. Speaker, Sir, this situation is very common in all the areas of the North Eastern Province, particularly Ijara Constituency. The Assistant Minister has said that he has provided an ambulance but is he aware that Ijara Constituency now has an additional district called “Hulugho”, and that the distance between Ijara and Hulugho is very long? What arrangement is he making to provide new ambulances since the old ones have been boarded and sold?

Dr. Gesami: Mr. Speaker, Sir, I have already answered that question. I said that Ijara and Hulugho districts will each receive an ambulance this financial year.

Mr. Bahari: Mr. Speaker, Sir, one of the biggest hindrances to provision of emergency medical services in northern Kenya is the cost of maintenance of vehicles and operational costs relating to fuel. Patients in that part of the country pay for fuel for Government ambulances. What is the Assistant Minister doing to ensure that this comes to a stop and the Ministry provides the necessary fuel and meets maintenance costs?

Dr. Gesami: Mr. Speaker, Sir, I have indicated here before that we are working under obvious budget ceilings. However, we try to provide to each facility the amount that we are allocated by Treasury. Therefore, we will continue asking Treasury to provide us with more funds to enable us provide services in all parts of the country.

Mr. Speaker: Last question, hon. Sofia Abdi Noor.

Mrs. Noor: Mr. Speaker, Sir, I have just gone through the list that the Assistant Minister has tabled, in which he has indicated the number of nurses. He has indicated that Masalani District Hospital alone has 20 nurses, yet in the whole of Ijara and Masalani, we have only 14 nurses. So, the list he has tabled contains misinformation to the House. This is not correct and I would like to be given enough time to look at this list. I have just looked at the list, on which he has indicated that Masalani District Hospital has 20 nurses when I know that both Hulugho and Ijara districts have only 14 nurses.

Mr. Speaker: How many lists do you have there, hon. Sofia Abdi Noor?

Mrs. Noor: I have three pages, Mr. Speaker, Sir.

Mr. Speaker: You received that document---

Mrs. Noor: Just after he tabled it. I have just looked at it, Mr. Speaker, Sir.

Mr. Speaker: Even then, five minutes is enough for you to look at three lists. Just ask the question. If you are not satisfied that the number is adequate, put the question to the Assistant Minister.

Mrs. Noor: Mr. Speaker, Sir, why is the Assistant Minister misleading the House by saying that Masalani District Hospital has 20 nurses when we know very well there are only 14 nurses in the whole of Ijara Constituency?

Dr. Gesami: Mr. Speaker, Sir, I have been given this information by the Medical Officer of Health (MOH), Ijara. The MOH knows the consequences of lying to us. It would mean that we are lying to this House and to the nation. Therefore, we will find out how many nurses are actually in Masalani.

(Several hon. Members stood up in their places)

Mr. Speaker: Order! Order, hon. Members! I think this matter can settle. Hon. Sofia Abdi Noor, you have an answer which tells you that there are 20 nurses and it is your contention that they are not, in fact, 20. I want you to be in touch with the Assistant Minister and establish the exact position. If that is not accurate, you can re-visit that matter by bringing a further Question, which I will approve. In that Question, you will say that contrary to the Assistant Minister's assertion to the House on this day, the truth of the matter is whatever, and ask that the Assistant Minister explains why there is a discrepancy. Assistant Minister, we will hold you to account at that point.

Hon. Members, Questions Nos. 1139 and 867 will stand deferred to Tuesday next week because, as you can see, we are out of time for Question Time. It is now at 4.15 p.m. We should have been at this point at 3.30 p.m.

Question No.1139

PAYMENT OF HARDSHIP ALLOWANCE TO TEACHERS
IN SUBA DISTRICT

(Question deferred)

Question No.867

LACK OF FEMALE CELL/DOG UNIT
IN YATTA DISTRICT

(Question deferred)

Hon. Members, Question No.815 is deferred to Thursday afternoon, next week because hon. Sheikh Dor Yakub is bereaved.

Question No.815

NUMBER OF PRISONERS WITH KCPE
QUALIFICATIONS

(Question deferred)

Hon. Members, you will have noticed that we have already disposed of the rest of the Questions. Therefore, we shall move to the next Order.

STATEMENTS

MINISTERIAL STATEMENTS

The Vice-President and Minister for Home Affairs (Mr. Musyoka): Mr. Speaker, Sir, I have two Ministerial Statements, one of which is purely procedural.

BUSINESS FOR THE WEEK COMMENCING TUESDAY 1ST NOVEMBER, 2011

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

- (i) the Pyrethrum (Amendment) Bill (Bill No.49 of 2011); and,
- (ii) the Consumer Protection Bill (Bill No.50 of 2011).

The House will also consider the following two Bills, which will be read a Second Time:-

- (i) the Ratification of Treaties Bill (Bill No.28 of 2011); and,
- (ii) the Books and Newspaper (Amendment) Bill (Bill No.48 of 2011).

Mr. Speaker, Sir, the following Bills, which are currently at the Committee of the whole House Stage, will be considered:-

- (i) the Unclaimed Financial Assets Bill (Bill No.7 of 2011)
- (ii) the Engineers Bill (Bill No.25 of 2011); and,
- (iii) the Capital Markets (Amendment) Bill (Bill No.13 of 2011).

Mr. Speaker, Sir, further, a Motion for the adoption of the Report of the Departmental Committee on Finance, Planning and Trade on Grains Discharge at the Port of Mombasa will be considered alongside other Motions contained in the weekly programme.

Finally, the House Business Committee will meet as usual, on 1st November, 2011, being next Tuesday.

Thank you, Mr. Speaker, Sir.

Mr. Imanyara: On a point of order, Mr. Speaker, Sir. You will recall that during our last session, we kept raising the issue of Constitution implementation and the Government's inability or failure to bring Bills that were supposed to be brought on time in order for us to meet the deadline set in the Constitution. We are, again, moving towards recess time, and you will have noticed that amongst all the Bills that are coming, conspicuously absent are Bills relating to Constitution implementation. I want the Leader of Government Business to tell this House how many Bills he expects to bring to this House in this Sitting in order for us to be in line with the requirements of the new Constitution with regard to implementation, so that we do not, the end of this Sitting, again, have to be asked to sit at night during the last days and pass Bills that are not properly thought-out.

Mr. Speaker: Leader of Government Business, maybe, you want to respond to that one.

The Vice-President and Minister for Home Affairs (Mr. Musyoka): Mr. Speaker, Sir, the Government is acutely aware of that challenge and the Cabinet committees dealing with these matters are meeting. In fact, we are aware that, for instance, before December certain Bills which have 18 months deadline will have to come before the House.

I want to assure hon. Members and the country at large that we are literally burning the midnight oil. It is only that for now Cabinet committees are dealing with these matters. I want to assure hon. Members that I will do everything possible to avoid the situation that we found ourselves in on the 25th and 26th of August this year.

Mr. Mbadi: On a point of order, Mr. Speaker, Sir. I appreciate the assurance from the Leader of Government Business. However, the same assurance was given to us last time and we ended up in the state in which we found ourselves in just before we went on recess. I would ask the Chair that if the Leader of Government Business has no clear details of how we are likely to receive these Bills in this House, then he should be given up to next week to clearly state to this country how we intend to deal with the Bills, especially those which have 18 months deadline so that we do not find ourselves in the same situation we found ourselves in, where we ended up with Bills that had so many errors. I think the Government should treat this matter more seriously.

The Vice-President and Minister for Home Affairs (Mr. Musyoka): Mr. Speaker, Sir, I thank the Member for Gwassi for that statement because it makes a lot of sense. Let me come back next Thursday when I make this statement to actually indicate what we are doing with regard to those Bills that have a date attached to them, particularly the 18 months. I think the House will be satisfied with the conditions with regard to each of those particular Bills.

Mr. Speaker: Very well. Leader of Government Business, will you kindly as you do so, next Thursday, come with a schedule that will, among other things, have a list of expected Bills that will go towards implementation of the Constitution. Could you also indicate how many we may have already passed and what the balance is, so that then we have a status report for the House.

Mr. Mungatana: Mr. Speaker, Sir, as the Vice-President and Leader of Government Business comes next week, he should also confirm to us about the statements with regard to the Provincial Administration. We have heard statements from senior Government officials to the effect that they will appoint county commissioners and yet the Constitution is very clear---

Mr. Speaker: Order, Member for Garsen! That will be a completely different perspective. If you want that address, then you will have to request for a Ministerial Statement on the matter.

Mr. Mungatana: I will do so, Mr. Speaker, Sir.

POINT OF ORDER

PRESIDENTIAL MEMORANDUM ON INDEMNITY BILL

Mr. Affey: Mr. Speaker, Sir, I want to thank the Vice-President, but also to bring to his attention and to that of the House about a matter which has been outstanding for nearly two years; this is the Indemnity Bill of 2009. As you are aware, I sponsored this Bill and the House unanimously endorsed it in April, 2010. The President, in exercise of the powers under Section 46(3) and (4) of the former Constitution, refused to assent to the Bill and returned a memorandum dated 26th August, 2010, outlining the reasons for his refusal.

Mr. Speaker, Sir, the memorandum is yet to be considered by the House. I want to table a letter I wrote to the Vice-President dated 12th September, 2011, as the Leader of Government Business, where I said that it is apparent this matter has taken an inordinately long period of time. I am concerned that despite the memorandum having been sent to the National Assembly over one year ago, it is yet to be disposed of by the House. This is despite my frequent requests that the same be urgently considered. I request the intervention of the Office of the Vice-President to ensure this matter is concluded in order to bring this long outstanding issue to a closure.

Therefore, I just want to find out from the Vice-President when he will ask the Attorney-General to bring this memorandum to the Floor of this House, so that we can discuss it one way or the other because keeping it in abeyance does not help both myself, the country and the House.

Mr. Speaker: Leader of Government Business, so that hon. Members become aware, I allowed that point of order because it passes under Standing Order No.36 (2) because you give a statement every Thursday indicating what business will be transacted in the House in the ensuing week, so that then passes under that Standing Order.

Mr. Affey: Mr. Speaker, Sir, I table the letter.

(Mr. Affey laid the document on the Table)

The Vice-President and Minister for Home Affairs (Mr. Musyoka): Mr. Speaker, Sir, while I appreciate the concern of the hon. Member, I think he will also have to accept that once or twice this matter came before the House. However, he was not there to prosecute this very important business. I want to assure him and the House that we will give this matter priority. Indeed, I think it should come up on Tuesday, so that we can see how best to deal with it. I am sure the Attorney-General will be able to comply.

Mr. Speaker: Very well. You may proceed to the next Statement.

(Resumption of Ministerial Statements)

THE STATUS OF THE JUSTICE AND
LEGAL AFFAIRS COMMITTEE

The Vice-President and Minister for Home Affairs (Mr. Musyoka): Mr. Speaker, Sir, the second Statement has to do with the status of the very important Committee of this House, the Justice and Legal Affairs Committee.

Mr. Speaker, Sir, on Wednesday, 19th October, 2011, the hon. Member for Chepalungu sought a Ministerial Statement from the Leader of Government Business with regard to the operation of the Departmental Committee on Justice and Legal Affairs.

The hon. Member also sought clarification as to why the Committee had not been allowed to meet and perform its duties despite the Leader of Government Business' assurance on 1st September, 2011.

Mr. Speaker, Sir, I would like to give a background to this matter. The problem facing this Committee came to the attention of the House Business Committee on Tuesday, 26th April, 2011 where the Committee was informed that some hon. Members intended to move a Motion of no confidence on the chairperson.

Subsequently, the Departmental Committee by a resolution of a majority of its membership passed a vote of no confidence on the chairperson and communicated the resolution to the Liaison Committee in accordance with the provisions of Standing Order No.175.

The House Business Committee revisited the matter on Tuesday, 10th May, 2011, and noted that despite efforts by the Speaker and the Chair of the Liaison Committee to resolve the problems facing the Departmental Committee, the paralysis still persisted. The House Business Committee, during its sitting on Tuesday, 17th May this year, recommended that the Liaison Committee directs the Departmental Committee to hold a meeting to elect the chairperson. It was expected that the election would bring the matter to a conclusion. The election never took place. Thereafter, three Members of the Committee tendered their resignation.

Mr. Speaker, Sir, the House Business Committee, concerned that the matter was taking inordinately long to resolve, agreed on 16th August, 2011, that the only way left to effectively and conclusively bring this matter to a close was for the Committee on Justice and Legal Affairs to be reconstituted. The joint Whips were, therefore, requested to submit names of nominees for appointment to the Committee in the event that the Motion to rescind an earlier decision by the House on 17th June, 2009 of appointing the Committee Members was agreed to by the House. On 7th September, 2011, the Committee received six names and was informed that the joint Whips would submit the rest of the names in the ensuing week. Since then no other names have been submitted making it difficult for the House Business Committee to make progress.

The House Business Committee has explored all avenues to resolve this stalemate facing the Committee, but apparently, no progress has been made. This has been occasioned by the very delicate nature of the processes involved which essentially require political goodwill from all sides of the House. The House Business Committee revisited the matter during its sitting last Tuesday. While noting that it must be addressed once and for all, it expects that the names that have not been submitted will be forwarded during the next sitting of the Committee which is Tuesday, 1st November, this year.

Thank you, Mr. Speaker, Sir.

Mr. Speaker: Those seeking clarifications; we will begin with the Member for Chepalungu. You have the first bite to the cherry. Leader of Government Business, just keep notes so that you can respond at once.

Mr. Ruto: Mr. Speaker, Sir, the Statement by the Vice-President and Minister for Home Affairs is not exactly factually correct. It is the hurdles that have been placed on the path of the resolution of this problem that have delayed. It is factually incorrect to say that the Committee was unable to carry out elections. In fact, the Chairman of the Liaison Committee instructed the Committee not to go on with the elections. In fact, when the Committee met, there was an adjournment to sit the next day, but instructions came from

the Chairman of the Liaison Committee that that Committee should not meet. It is also factually correct that right now, the Committee is in place. There has been no rescinding of appointments of those Members.

For the Vice-President to say that he is expecting new names is to put the cart before the horse. Has this House rescinded its decision on its appointments? When you are bringing new names, with what authority are you bringing them? You would, first, seek the leave of the House to rescind its decision of the appointments.

Mr. Speaker, Sir, therefore, I would be seeking your directions on this. Actually, the way forward is to follow the Standing Orders that guide the House. The Committee has a quorum. If, indeed, three Members out of 11 have resigned, there are eight Members willing to proceed. Can those Members be availed the necessary facilities to meet and resolve this matter? We should not continue to operate in a situation whereby there is no oversight over several departments of Government which this Committee is charged with. This has continued for close to eight months now since February. I think this is just too long.

Would you, Mr. Speaker, Sir, get a resolution to this?

Mr. Speaker: Order! The Statement has been issued by the Leader of Government Business. So, address your requests for clarifications to him.

Mr. Ruto: Mr. Speaker, Sir, would the Vice-President and Minister for Home Affairs, be more clear on this and accept that we do not require those political wheeler dealings behind the scenes? What we require is for the House Business Committee to respect the House and House procedures.

Mr. Mbadi: Mr. Speaker, Sir, the Leader of Government Business has stated clearly that they received six names. We have two sides of the Coalition Government represented in this House, namely, the PNU side and the ODM side. Where did these six names come from? Did they come from the PNU side or from the ODM side? Based on the Standing Orders, I would like the Leader of Government Business to clarify to us which party should nominate how many Members.

Mr. Bahari: Mr. Speaker, Sir, what has happened has already set a very dangerous precedent where the functions of the august House have been paralyzed.

Mr. Speaker: Order, Member for Isiolo South! The business of the House have been paralyzed and even now you are transacting business in the House?

Mr. Bahari: Mr. Speaker, Sir, just to clarify, I mean to the extent of the functions of that Committee.

Mr. Speaker: Kindly, then withdraw the words that the business of the House has been paralyzed.

Mr. Bahari: Mr. Speaker, Sir, I withdraw, but substitute it with the words that the functions of that Committee have been paralyzed. Why would the Vice-President not allow this House perhaps to form an *ad hoc* Committee to investigate this matter and report back to the House with a view to making appropriate recommendations for those who are responsible for paralyzing the activities of this important Committee?

Mr. Koech: Mr. Speaker, Sir, the Justice and Legal Affairs Committee is a very important Committee of this House, especially at this very important time of implementing the Constitution. Courtesy of this, you have been referring very important decisions to the Committee on the Implementation of the Constitution (COIC) where the

decisions made by the principals are supposed to be interrogated by some Members of the Executive in the COIC. That puts that Committee into some confusion.

Yesterday, I thanked my colleagues for saying: Let us go by the Standing Orders of this House. Under what Standing Order did the Vice-President and Minister for Home Affairs resolve to reconstitute this Committee?

Secondly, if three Members resigned, what do the Standing Orders say about that? I thought they should be replaced. It is important that we put the Justice and Legal Affairs Committee into operation.

Mr. Duale: Mr. Speaker, Sir, during yesterday's sitting, you challenged the leadership of this House to live to the expectations of the nation. This is a House of rules. The Standing Orders are very clear on this matter. Standing Order No.175 gives the rules and procedures by which a Committee transacts its business. It is not only this Committee. Another Committee of this House had a similar situation where the Chair had an issue and it was resolved according to the Standing Orders.

We do not want the Leader of Government Business to bring a long story here. Notwithstanding the House Business Committee's ways of finding a solution, why would the Standing Order No.175 not be applied in this situation? We must go to the bottom of this matter. We should not introduce coalition politics into this matter. This is a very important Committee of this House. So, the Leader of Government Business must call a spade a spade. Why is he not applying Standing Order No.175 to resolve this impasse?

Mr. Speaker: Order, Member for Dujis! You are now becoming repetitive as you will no doubt have noticed even by yourself.

Mr. Midiwo: Mr. Speaker, Sir, I want to seek the following clarification from the Leader of Government Business. As the Leader of the House Business Committee, how does he intend to resolve this matter taking into account the implications of the new Constitution on the Standing Orders; how it affects the Standing Orders and when he intends, together with the management of Parliament, to revise the Standing Orders to conform with the new Constitution as well as the Political Parties Act?

Further, I want him to clarify why he has not told the House that the ODM as a political party withdrew its Members according to the Standing Order No.176, from the said Committee. Which resolutions would he propose so that we can seek and address this issue once and for all?

Mrs. Shebesh: Mr. Speaker, Sir, I would also like to get some clarification from the Leader for Government Business. Yes, we use the Standing Orders in this House, but we also use precedence. In the House Business Committee, have they discussed the issue of precedence that has been set before when a political party has the right to withdraw its Membership? Has that precedence been discussed? What is the House Business Committee doing in obeying the rules and procedures of this House?

Mr. Jamleck Kamau: Mr. Speaker, Sir, could the Leader of Government Business clarify to this House from where the House Business Committee (HBC), or any other organ of Parliament, gets the authority to disband any committee, or even remove a member of a committee appointed by this House before the House itself has actually rescinded its own appointment?

Mr. Speaker: Leader of Government Business, because of the importance of this matter, note that bending over, you can allow hon. Members to raise as many issues as they can. Mr. Ethuro.

Mr. Ethuro: Mr. Speaker, Sir, could the Vice-President, His Excellency, hon. Kalonzo Musyoka, who is also the Leader of Government Business, confirm whether political parties play a role in the deliberations of a committee or in its formation. Is it not at the stage of proposing names through the whips and after the names have been proposed and the committees have been constituted, then the political parties' involvement ceases forthwith? Secondly, could he confirm that according to Standing Order No.175, the role of the Liaison Committee chaired by none other than the Deputy Speaker is actually to register a vacancy in a committee and to organize for the election of a chairperson to take place? Could the Vice-President confirm why the Liaison Committee failed to do so? They failed to do their duty! What can the Chair do when we, as chairs, fail to perform our duties?

Mr. Wamalwa: Mr. Speaker, Sir, there is a glaring gap in the Leader of Government Business's statement. He has indicated in his statement that pursuant to the provisions of Standing Order No.175, the HBC on 17th May 2011, recommended to the Liaison Committee to direct a meeting of this Committee for purposes of electing a chair, but that election did not take place. The Leader of Government Business has not said what happened, why the election did not take place and why this same Committee, that still has eight members in view of resignation of three, cannot be given the opportunity to reconvene and elect their chair. We have not been told why that has not happened.

Mr. Imanyara: Mr. Speaker, Sir, the importance of committees is specifically recognized by the Constitution in Article 124, which clearly states that: "In each House of Parliament, may establish committees and shall make Standing Orders for the orderly conduct of its proceedings."

I wish to request the Leader of Government Business to tell this House why there is discrimination in the application of the Standing Orders in relation to the replacement of chairs of committees. I am a member of the Committee on Implementation. When it was set up, Hon. Jamleck Kamau was the chair. He resigned. Following the Standing Orders, we informed the Liaison Committee of this. The Liaison Committee gave us permission. We elected a chair, and business has been continuing without any interruption. Why is the Leader of Government Business allowing discriminatory application of the law in relation to certain committees when the Constitution says that the House may establish committees, and we have established them? We have appointed membership of these committees and now they are not performing their tasks and, therefore, we are undermining the spirit and the letter of the Constitution!

Dr. Nuh: Mr. Speaker, Sir, with your indulgence, I would like to seek two clarifications and very briefly. One, are the members that the Leader of Government Business wants to appoint the three who resigned, or he is reappointing the whole committee? Secondly, the Leader of Government Business said that the Liaison Committee directed the Departmental Committee on the Administration of Justice and Legal Affairs to meet and elect a chairperson. Could he table the evidence in form of minutes of such direction that was given by the Liaison Committee?

Mr. Njuguna: Mr. Speaker, Sir, according to my own observation, it is clear that we have political divisions in this committee. It is, therefore, important to understand what the Leader of Government Business is doing to heal these divisions between the two main political players.

(Mr. Pesa stood up in his place)

Mr. Speaker: Very well. Hon. Pesa, you have come out belatedly. So, I will take hon. Affey and he is the last one. Hon. Pesa, I have been observing all the time.

Mr. Affey: Mr. Speaker, Sir, this is a very serious matter, and if the House is not careful, then we can have a replica effect in all the committees, and within no time, we will have no committee that will be operational. So this must be stopped. If the committee that the Leader of Government Business chairs has been struggling for several months--- We, in the Liaison Committee, were unable to solve this problem because of political interference. I guess that the same thing is happening in the HBC. Why then is it that you cannot bring those names before the House and then the House takes ownership of all the names and we approve or reject them as House? Why do you not bring the nine names here? In fact, the nine names form a quorum, with or without the participation of a political party.

Mr. Speaker: Leader of Government Business, you can now give responses.

(Mr. Pesa stood up in his place)

Mr. Speaker: Hon. Pesa, just be innovative. You can raise what you want to raise but find a way.

The Vice-President and Minister for Home Affairs (Mr. Musyoka): Mr. Speaker, Sir, on a light note the Deputy Leader of Government Business wished me good luck. We have a problem and, therefore, I want to thank hon. Ruto, hon. Mbadi, hon. Bahari, the hon. Member for Mosop and hon. Duale. In fact, when this matter first came to the House--- Hon. Duale raised this matter under Standing Order No.175 from the same position where he is speaking from. I recall that very clearly. I also want to thank the Joint Chief Whip, hon. Midiwo, who actually should be here trying to assist, but I am amazed that he took the opportunity to throw in very hard issues. I would also want to thank hon. Shebesh, hon. Jamleck Kamau, hon. Ethuro, hon. Wamalwa and hon. Imanyara, my learned friend, for raising the all important matter of Article 124 of the Constitution. Hon. Dr. Nuh wants evidence to show that there was a direction to the Liaison Committee. Hon. Njuguna, I think, has identified the problem as political, and he is wondering what we can do to bridge the gap. I agree with him absolutely. Hon. Affey thinks we should just bring everything before the House.

Mr. Speaker, Sir, since you sit in the HBC, you will know - without quoting me as an authority - how the HBC has had to agonise over this matter. At some stage, hon. Midiwo will remember that he and I had to go and sit down with this Committee. When we left that place, we felt that there was a sense in which we could be optimistic that we would resolve the matter, and, in fact, elect another chair. Hon. Ruto feels that hurdles have been placed on the way of this all important Committee, even as we deal with the matter of implementation of the Constitution. I urge that this House, in fact, rises to deal with this matter if, by next Tuesday--- That is because you have given a deadline, Mr. Speaker. By next Tuesday, if we do not get the additional names, we will then prescribe a final solution. I am just communicating a decision of the House Business Committee.

Mr. Speaker, Sir, the Member for Gwassi--- I wish did not have to answer that question. That is because he actually wants a division. I am guided by the wisdom of hon.

Ethuro, who actually thinks that, if we are going to make progress by the way of Committees of this House, the moment political parties participate in the nomination of the names to the various House Departmental Committees, I think we should allow from that point, hon. Members to interact as Members of the House. Therefore, they can build confidence in each other. I find it difficult and yet, I have to answer hon. Mbadi because he wants to know the division between the PNU Alliance and ODM and who brought which names. We did not have to do that because these are Members of the Committee on Justice and Legal Affairs. They come from various political parties. I wish I did not have to answer that, but I can tell you because hon. Midiwo is here. He raised that issue about whether to configure; how many from this side and how many from the other. But the names came from the PNU Alliance. The names that are awaited are those from the ODM side.

Mr. Speaker, Sir, the Member for Isiolo South feels that the House should form an *ad hoc* Committee. I do not think that I can recommend that action at this stage. This is because---

Mr. Mbadi: On a point of order, Mr. Speaker, Sir. I get the feeling that the Leader of Government Business is through with the answers to my two questions. But I was very specific in my second question; that according to the Standing Orders, which political party, as constituted in the House, should bring six names and which one should bring five or three? Can you just briefly tell us how you are reconstituting that Committee? How many should come from ODM and how many should come from PNU? That is a matter that should not be debated because it should be in the Standing Orders!

Mr. Speaker: Order! Member for Gwasi, that may be valid, but I would have preferred that we allow that Leader of Government Business to go through his Statement. If he does not respond to matters that you have specifically requested, then you can raise it. So, please, let us just bear with him.

The Vice-President and Minister for Home Affairs (Mr. Musyoka): Yes, indeed, Mr. Speaker, Sir. *Haraka haraka haina baraka.*

Mr. Speaker, Sir, I will answer my good friend straightaway and tell him that the formula was: Six from the PNU Alliance and five from ODM. That is what the whips had agreed. They may probably want to meet and disagree again, because everything is possible. But that was the configuration.

Mr. Speaker, Sir, the Member for Isiolo South did, of course, talk about the *ad hoc* Committee bit. The Member for Mosop wants to know under what Standing Order we went in for reconstitution. I want to say that we did not have to follow any Standing Order in this matter, and I hope I am correct. We just had to look at the politics surrounding this whole matter. Of course, if one was to follow strictly the very straight Standing Order No.175, that is what would govern the conduct of the Committee once their Chairman resigned.

Mr. Speaker, Sir, with regard to hon. Midiwo - who is a Member of the Committee--- I said I wish he was trying to help me rather than complicate my life. But, obviously, we do need to align the Standing Orders with the provisions of the new Constitution. That is a matter that we cannot deal with at this particular point. But I think all of us have taken note of that. We are all committed to our new Constitution. I think that as we prepare---

Mr. Imanyara: On a point of information, Mr. Speaker, Sir.

The Vice-President and Minister for Home Affairs (Mr. Musyoka): Mr. Speaker, Sir, I can take that information.

Mr. Speaker: Very well! Member for Central Imenti, you may proceed!

Mr. Imanyara: Mr. Speaker, Sir, I would like to inform the Leader of Government Business that, in fact, yes, Mr. Speaker has been moving in this direction and the Committee on Rules and Procedure has been meeting. It has actually drafted more than one copy of the new Standing Orders and it is actually in the process of beating the deadlines that we have set for ourselves to introduce the new Standing Orders before this House. The Leader of Government ought to know that because he is part of this House and he is represented in that Committee.

The Vice-President and Minister for Home Affairs (Mr. Musyoka): Mr. Speaker, Sir, the last bit was expected because he had to put in a punch. But I thank the Member for Central Imenti and I am sure that the hon. Midiwo will also have been educated.

Mr. Speaker, Sir, regarding whether we are aware that ODM withdrew its membership, it is common knowledge that, that actually did happen. In fact, the Joint Chief Whip was able to do that. That is a matter that is clean and I think he is quoting now the authority of the Political Parties Act. I do not know whether it has come into effect yet, but I suspect that it has not. So, these are some of things that have complicated the workings of that Committee.

Mr. Speaker, Sir, of course, hon. Shebesh dealt with the same issue on whether we have precedence with regard to political parties withdrawing their membership. The Member for Kigumo wants to know where our Committee gets its authority to disband the committee. He used the word “disbanding,” but the word that I used in my Statement is “reconstitution,” which might be “give and take”, probably, the same issue.

Mr. Speaker, Sir, hon. Wamalwa, who is a Member of that Committee, wants us to advise this House as to what exactly happened following the direction to the Liaison Committee. Of course, what I do remember vaguely is that when the Liaison Committee met, at that level, they had issues even between themselves. Regarding the proposed election, all we know is that there was no election.

Mr. Speaker, Sir, direction to the Liaison Committee is what the Member for Bura requested. I think he has to take my Statement as the Chair as the authority for that direction. I want to plead with him that he accepts that what I have said is actually what transpired.

Mr. Speaker, Sir, regarding what hon. Njuguna asked, we have deliberated at length on this matter. I want to plead with the hon. Members to accept--- That is because whatever decision we take, it has to come to the Floor of this House. I did say that even if we do reconstitution, we will have to come with a special Motion, as the Member for Chepalungu actually indicated. That is clearly contained in my Statement; where I said:-

“The Joint Chief Whips were, therefore, requested to submit names of nominees for appointment to the Committee. In the event that the Motion to rescind an earlier decision of this House, which was taken on 17th June, 2009, of appointing the Committee Members--- We must come to this House.”

Mr. Speaker, Sir, I think that is where some of the difficulties are. I think we are all political leaders. We calculate and see some difficulties. I want to urge that we stop

that political calculation, without prejudging what would happen on the Floor of the House, so that when we come with the names, we will all rise to the occasion. This is a Committee of this House. It is not a Committee of ODM and PNU Alliance.

Thank you, Mr. Speaker, Sir.

Mr. Mbadi: On a point of order, Mr. Speaker, Sir. My second clarification was very specific. I did ask the Leader of Government Business the following: “Based on the Standing Orders, if a Committee is composed of 11 Members, and you are constituting or reconstituting the Committee, what is your take? How many should come from ODM and how many from PNU, without a gentleman’s agreement. That is because these gentlemen’s agreements have failed us now. It was very good at that time. But, since there is no gentleman’s agreement, could we get clarifications from the Standing Orders and Constitution? How many should you get from ODM and how many should come from PNU?”

The Vice President and Minister for Home Affairs (Mr. Musyoka): Mr. Speaker, Sir, I have actually dealt fairly clearly with that concern. I think we have to move from a position of brinkmanship when we are dealing with these issues. As I said, let us look at the better interest of this country. I would rather if you did not look at it strictly in terms of ODM entitlement and the PNU Alliance entitlement because after all, a lot of ground has shifted. I want to let my young friend to know that the political ground has shifted a lot in these matters. The best thing is that we look at ourselves as a House.

Mr. Speaker: Member for Chepalungu, you are on a point of order now.

Mr. Ruto: On a point of order, Mr. Speaker, Sir, I would like to bring the attention of the Leader of Government Business to Standing Order No.198 which says-

“There shall be select committees to be designated Departmental Committees which shall be nominated by the House Business Committee and approved by the House at the commencement of every Parliament.”

At no other time are you empowered – I want to inform the House - to bring fresh names. As of now, could the Leader of Government Business confirm to this House whether the Committee on Justice and Legal Affairs is still in place and that you have not rescinded the decision of the House by a simple sitting of the House Business Committee and that it is still the House to rescind or not, its own decisions.

I would also like to bring to the attention of the Leader of Government Business, Standing Order No.176 because it was raised by the Whip.

It states:-

“A vacant position occasioned by the resignation, removal or appointment of a Member to the Government shall be filled within seven days after the National Assembly next meets.”

Those Members who have resigned should actually have been replaced within seven days, according to the Standing Orders. The word “removal” does not award the Leader of Government Business or the whips authority to do the removals. This is removal when someone has been absent four times consecutively in a committee. No other removal is envisaged by the Standing Orders.

Could the Leader of Government Business be very clear on this? Even as we speak today, the Committee is legally in place. He has no powers to remove them.

(Mr. Midiwo stood up in his place)

Mr. Speaker: What is your point of order, Mr. Chief Whip? I can sense that it is against, may be a statement by the Member for Chepalungu.

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

Mr. Speaker: Okay, proceed!

Mr. Midiwo: Mr. Speaker, Sir, I think he has misquoted the Standing Orders. As we are here, we need to be true to the spirit and the letter of these rules. Standing Order No.176 states:-

“A vacant position occasioned by resignation, removal or appointment of a Member to the Government shall be filled within seven days after the National Assembly next meets.”

(Mr. Midiwo pointed at Mr. Ruto)

That is, like I removed you! That should have been filled within seven days.

(Laughter)

Mr. Speaker: Order! Order, hon. Members! Leader of Government Business, do you want to make a response to the Member for Chepalungu?

The Vice President and Minister for Home Affairs (Mr. Musyoka): Mr. Speaker, Sir, I think the Chair may want to---

(Loud consultations)

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

Mr. Speaker: Order, Member for Mosop! Let us, first of all, take the response.

The Vice President and Minister for Home Affairs (Mr. Musyoka): Mr. Speaker, Sir, you may have noticed the emphasis on the word “removal” by the Joint Whip. That emphasis was phenomenal. That, of course, is with a light note.

Again, one might want to look at what the meaning of removal is. Is it removal by the whips, the parties or by the House? I am not clear on that point, because I must admit, I have not had sight of the full wording of Standing Order No.176.

However, that notwithstanding---

Mr. Ruto: On a point of information, Mr. Speaker, Sir.

The Vice President and Minister for Home Affairs (Mr. Musyoka): Mr. Speaker, Sir, I do not think I want to be informed.

Mr. Speaker: There is a point of information, Leader of Government Business. Proceed and inform the Leader of Government Business.

Mr. Ruto: Mr. Speaker, Sir, I would like to inform the Leader of Government Business that “removal” in the Standing Orders is only removal pursuant to Standing Order No.169 or somewhere around there, which states that you are removed when you fail to attend the sittings of the Committee.

Hon. Members: No! No!

Mr. Ruto: Mr. Speaker, Sir, I can give you the exact Standing Order. It does not include removal by Jakoyo Midiwo, at whatever time.

(Laughter)

Mr. Mbadi: On a point of order, Mr. Speaker, Sir. My understanding is that any information given is supposed to help the House. I would like to get it from you; information that is misleading like what Isaac Ruto has given us, could we still allow it to be left in the records of the House when it is clearly misleading?

Dr. Nuh: On a point of order, Mr. Speaker, Sir. Is hon. Mbadi in order to mislead the House that hon. Isaac Ruto is misleading this House when, indeed, he is citing the Standing Orders?

Standing Order No.169 says:-

“If a Member fails to attend four consecutive sittings of a Committee without the written permission of a chairperson of the Committee, or the permission of the Speaker, if the Member is the chairperson, the Member or the chairperson as the case may be, shall cease to be a Member of that Committee and the matter shall be reported to the Liaison Committee.”

It is upon the report given to the Liaison Committee that it directs that Member to be removed from the Committee. So, removal in essence, is not by any party Whip but by the Liaison Committee; a Committee of this House, which has the power to remove any Member.

Mrs. Shebesh: Mr. Speaker, Sir, the Leader of Government Business did not address my issue which I believe is very relevant to the matter we are talking about today. I spoke about precedence and I want to quote it. In the last Parliament when Members voted for the “No” Camp, they were not only sacked from Government but also removed from all Committees. That is the precedence of this House. I asked, clearly, whether that was part of the discussions in terms of precedence in the removal of Members by political parties from Committees.

Mr. Speaker: Leader of Government Business, could you now proceed and respond?

The Vice President and Minister for Home Affairs (Mr. Musyoka): Mr. Speaker, Sir, I would rather say that the opinion of hon. Shebesh on precedence should strictly lie with her. I do not think I stand guided by that one.

As I said, save with regard to the issue of removal, because my own feeling which I am to refine, the most valid removal is that by the House and not by anybody else. Whatever we do, we have to bring the names before the House, save for---

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

The Vice President and Minister for Home Affairs (Mr. Musyoka): Mr. Speaker, Sir, I seek your protection.

Mr. Speaker: Order! You have the protection. Hon. Members, let us hear the Leader of Government Business.

The Vice President and Minister for Home Affairs (Mr. Musyoka): Mr. Speaker, Sir, I can now conclude my remarks. I was aware that that would elicit some reaction but we are all entitled to our well thought out opinions. So, save for difference of

opinion on the word “removal”, I agree, entirely, with what the hon. Member for Chepalungu said in his submission.

Mr. Midiwo: On a point of order, Mr. Speaker, Sir. What the hon. Vice President has said is very serious. I think the Vice President may leave us with the impression that his interpretation on the word “removal” under Standing Order No.176 is the correct one.

A few months ago, I took my time and wrote a letter to the Chair which was forwarded to the House Business Committee. However, the Legal Department of this House sat with me and said that in all their research, they did not find the meaning of the word “removal” under Standing Order No.176, other than the interpretation that it meant the appointing authority removing. When we were at the Safari Park Hotel revising our Standing Orders, we, who were in---

(Several hon. Members stood up in their places)

You will have your time!

Mr. Speaker, Sir, when we were at Safari Park revising our Standing Orders, we, who were kicked out to the opposition in the 9th Parliament, made sure that our removal, or the removal of anybody else, must not be a matter for interpretation. Therefore, we put it in the Standing Orders that we must be able, as a political party, to remove an errant Member for any other reason, as hon. Isaac Ruto was.

(Applause)

(Several hon. Members stood up in their places)

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

Mr. Speaker: On the same perspective as addressed by the Chief Whip?

Dr. Nuh: Yes, Mr. Speaker, Sir.

Mr. Speaker: Then let us hear the hon. Member for Rangwe.

Mr. Ogindo: Thank you, Mr. Speaker, Sir. I am aware that every hon. Member in this House is a Member of at least two constituencies, the physical one that they represent and the party that they represent. What the Standing Orders envisage there, in my view, is that before you are removed, there is somebody who takes you there. In that context, that somebody has the authority to remove you. Kenya is a multi-party democracy and in view of that, hon. Members remain the property of their parties.

So, Mr. Speaker, Sir, I want the Vice-President to clarify whether he agrees that hon. Members are a property of their parties.

(Several hon. Members stood up in their places)

Mr. Speaker: Order! Order! Order!

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

Mr. Speaker: Order! Leader of Government Business, since these points of orders are addressing the same matter from different perspectives, I would want you, before you respond, to have the advantage of hearing different approaches. So, let us hear the hon. Member for Bura.

Dr. Nuh: Mr. Speaker, Sir, hon. Midiwo, while on a point of order, said that the interpretation that was advanced to him by the Legal Department of Parliament is that the only meaning of “removal” you could find was removal by the appointing authority. Is he not, in essence, confirming what the Vice-President said – that the only removal is by this House – because it is this House that appoints and the chief whips only nominate? They are only a nominating body. They are not an appointing authority. So, the appointing authority is this House. Then it is only this House that can---

Mr. Speaker: Come to the point!

Dr. Nuh: So, Mr. Speaker, Sir, is he confirming that the Vice-President is actually giving the right perspective on this matter?

Mr. Midiwo: On a point of order, Mr. Speaker, Sir. Just to correct him---

Mr. Speaker: Let us take the hon. Member for Mosop first.

Mr. Koech: On a point of order, Mr. Speaker, Sir. Is my good colleague in order to mislead this House on the meaning of the word “removal” when the procedure of this House is that when names are brought to this House for whatever body, whether to an *ad hoc* committees or to other committees, sometimes this House moves amendments to include or to remove a name and put in a new name before the names are passed? When they are passed, it means, therefore, that it is only this House that has the power to remove them. The appointing authority is this House.

(Several hon. Members stood up in their places)

Mr. Speaker: Order! Order! Order! Order, hon. Midiwo! I will proceed in this manner. The points of order by the hon. Member for Bura and the hon. Member for Mosop appear to be by way of an argument against the position by the Chief Whip. I will allow the Chief Whip to respond first and then the Leader of Government Business will take the Floor.

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

Mr. Speaker: Order! Order! Order!

Mr. Midiwo: On a point of order, Mr. Speaker, Sir. I just needed to remind my colleagues that for us to be able to reach a good conclusion one day of this matter sooner or later, it needs all of us to be sober for the betterment of this country. I want to inform the hon. Member for Bura that while it is the House Business Committee, which is an organ of this House, that appoints people, it does that in consultation with political parties through the whips. It is in the Standing Orders.

Number two, Mr. Speaker, Sir, I want to correct my friend from Mosop that there are some lists that you can amend. The lists which come here by way of a Motion have never been amended in the nine-and-a-half years that I have been here. You can reject the whole list or approve it.

Thank you, Mr. Speaker, Sir.

(Several hon. Members stood up in their places)

Mr. Speaker: Order!

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

Mr. Speaker: Order! Hon. Member for Bura, now, I want you to relax. You know we cannot go on this way. An altercation between you and the hon. Member for Gem, who is also the joint Chief Whip, is not healthy and I will not allow it to continue!

(Hon. Ruto stood up in his place)

Hon. Member for Chepalungu, that will have to be last one before the Leader of Government Business finally responds.

Mr. Ruto: Mr. Speaker, Sir, this is a heavy matter, and it is before the House. In every matter that I have raised, I have referred to written Standing Orders. It would have been in order for the Chief Whip to state the specific Standing Order that empowers him to purport to remove hon. Members from Committees. I have read Standing Order No.176 and I have read to you Standing Order No.169. I have read to you Standing Order No.198 in terms of the fact that hon. Members are appointed for five years.

Mr. Speaker, Sir, the position that it is this House that can only remove a Member from a committee through a Motion is actually the true position. But would I be in order to request that either the Joint Chief Whip specifically indicates the Standing Order that empowers him to purport to remove hon. Members from committees, or he withdraws his statements, because they are statements that continue to confuse the public? Would he, also, if, indeed, his statement is correct, table a legal opinion from the Legal Department of Parliament, so that it is a real authority? Otherwise, he should withdraw from peddling rumours in the House! He should either table a legal opinion or have his statements withdrawn and expunged from the records of this House.

Mr. Speaker: Order! Order, hon. Members! It will not be right and, indeed, the Speaker will not allow the House to draw members of staff into an argument in the House, or even into a Motion or deliberations, otherwise than by a substantive Motion. I would not want the opinion of members of staff challenged in the House. There will have to be better ways of dealing with that. So, hon. Member for Chepalungu, I will urge that we refrain from that part.

(Several hon. Members stood up in their places)

Mr. Speaker: Carry on, I will hear you.

Mr. Ruto: Mr. Speaker, Sir, indeed, it is in reference to members of staff who are not here that I asked the Chief Whip to withdraw his statement, because he is quoting them, yet I do not think it is proper for him to quote members of staff in this debate. Otherwise, he should table the said legal opinion. It should have been sought through the proper procedures; through you!

(Applause)

Mr. Speaker: I think the position I want to take is this, that members of staff are employed as a result of their qualifications. They are deemed to be experts and professionals in their respective areas. If they give an opinion to any hon. Member, including the Joint Chief Whip, they do so away from the plenary. That opinion is supposed to help the hon. Member have the capacity to address business before the

House. So, if the Joint Chief Whip said he benefitted from an opinion, for me, that is harmless.

(Applause)

It is harmless and it is up to the House to decide whether or not, in fact, the opinion that the Joint Chief Whip benefitted from will be binding in its effect on the House. So, the final authority is still the House. You can rubbish that opinion.

Yes, Leader of Government Business.

The Vice-President and Minister for Home Affairs (Mr. Musyoka): Mr. Speaker, Sir, I cannot agree any more that the final authority, indeed, is this House. Even if we disagree on the meaning of the word “removal”, as, indeed, we are, and that we proceed as proposed to on Tuesday to get new names, those names will have to find themselves before this House. Even as they do, we will have to bring another Motion to try and rescind the decision of this House which was arrived at on 17th of June, 2009.

Mr. Speaker, Sir, truly, the final authority is this House. Therefore, this is a political problem which requires a political solution. I think that is the way I just want to put it. I hope that we will be fortunate on Tuesday when we meet, so that we can make progress.

Mr. Speaker, Sir, we have to get this Committee working. The whole country is expecting this Committee to take leadership in the implementation programme of our new Constitution. I cannot imagine this House going for another six months without this essential Committee.

Mr. Speaker: Leader of Government Business, you seem to have correctly diagnosed the problem. This is a political problem. Therefore, all the politicians, include Members of Parliament, should get together and resolve the matter. Provide a political solution to it. So, please, expedite that political solution. I think I want us to end on that note.

Hon. Members, we will want to take requests for Statements. That is where we are going now.

Member for Juja!

(Mr. Ojode stood up in his place)

We will not take delivery of further statements unless it is absolutely urgent. I do not think we want to go there.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): On a point of order, Mr. Speaker, Sir.

Mr. Speaker: What is it, hon. Assistant Minister!

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Speaker, Sir, if you remember the Chair ordered that the Statement which I was supposed to give yesterday be deferred to today. I did indicate to the Chair that I have more than four statements. Now in the event that I do not give this Statement again, I am still getting more statements. I have been sitting here since 2.30 p.m., waiting to actually deliver some of these statements.

Mr. Speaker: Let me just have an indication, perhaps, from the Leader of Government Business, and then we will see how we can manage our time. The Assistant Minister of State for Provincial Administration and Internal Security appears to have built a padlock---

(Mr. Ojode walked out of the Chamber)

Order, Assistant Minister! We are trying to help him and he has left.

Leader of Government Business, where I am going is this. If I have an indication from you, because I already have an indication that Order No.8 will not, perhaps, be prosecuted, because the Member is bereaved. Order No.9, if I had an indication from you that you are ready to proceed with it, then I am afraid, we do not have time to take further statements.

The Vice-President and Minister for Home Affairs (Mr. Musyoka): Mr. Speaker, Sir, I see the Assistant Minister in the Office of the Deputy Prime Minister and Minister for Finance ready and able to proceed. Indeed, he looks very ready. So, I think this can be prosecuted.

Mr. Speaker: In that case, then we cannot take further statements. We already have spent too much time then. Yes, Member for Juja.

Mr. Kabogo: On a point of order, Mr. Speaker, Sir. I also wanted to seek the indulgence of the Chair because you had ordered that a statement by the Ministry of Foreign Affairs regarding two girls who were detained in Lebanon be issued today. The Minister was here a few minutes ago and he has given me a copy. I do not know whether it is urgent enough to be getting the attention of the House.

Mr. Speaker: We can defer that to Tuesday, next week at 2.30 p.m.

Mr. Kabogo: Much obliged, Mr. Speaker, Sir.

Mr. Speaker: Next Order!

POINTS OF ORDER

THE CRIMINAL COMPLAINT MARKED "SECRET WILL KENYA"

Mr. Kabogo: Mr. Speaker, Sir, thank you for giving me a chance to seek a Ministerial Statement. I wish to seek for a Ministerial Statement from the Minister of State for Provincial Administration and Internal Security, with regard to the criminal complaint marked secret will Kenya, tabled before this House on February 17th, 2011, by the Minister and in which some Members of Parliament had been adversely mentioned.

In the Statement, the Minister should clarify the following:-

- (1) Whether the US Drug Enforcement Authority (DEA) agents and the UNODC have provided the Government with any evidence on the allegations contained herein and indicate how many US Drug Enforcement Agencies have been in Kenya since 22nd December, 2010, and if the Ministry would arrange a meeting of the adversely mentioned members with this agency to bring finality to this matter.
- (2) Whether the Minister is aware of the alleged recruitment of youth to carry placards on the streets calling for the arrest and prosecution of the mentioned members in the criminal

complain marked “secret will Kenya” and demonstrators being offered asylum and money.

Mr. Speaker, Sir, whether he has information that Mr. John Githongo and other members of an organization called Inuka Kenya, including two foreigners, a Mr. Stela, and a Mr. Davies, have been recruiting Kenyan youth and members of Bunge La Mwananchi at Jeevanji Gardens, among other places in apparent conspiracy with international media to hold demonstrations and carry placard scandalizing the reputation of Members of Parliament and other prominent Kenyans with a view to posting the scandalous information internationally through internet. If so, what action is the Minister taking on investigating this matter?

Mr. Speaker, Sir, I have a document I would like to help the Minister with that might help in the investigation. I thank you.

Mr. Speaker: Hon. Orwa Ojode, on behalf of the Minister in charge of internal security, I think this request is directed to your Ministry. I know you are not too happy. But try and calm down and indicate when that statement can come.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Speaker, Sir, I will be able to issue that statement in two weeks time, because of the number of statements which I have, which we have not been able to deliver. You can sympathize with the situation I am in. I have so many statements to make. Later on, we will be blamed that we are unable to make the statements requested by my colleagues.

Mr. Speaker: I, definitely, understand your position. You will give this statement two weeks hereafter. But on Tuesday at 2.30 p.m., I will personally ensure, as the Speaker in that capacity, that you deliver as many statements as you possibly can on Tuesday next week.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Speaker, Sir, let us make it on Wednesday morning, because on Tuesday I will not be around.

Mr. Speaker: Wednesday morning, we will do so and we will accommodate you as much as we can. We will among other things ensure that other business is not given as much prominence so that you have a field day as much as possible.

(Mr. Kabogo stood up in his place)

Mr. Speaker: Yes, what is it, Member for Juja.

Mr. Kabogo: Mr. Speaker, Sir, you have heard the Assistant Minister say that, and he looks very upset. He has said that because of what has happened, that he has not been able to give statements. He will do it two weeks from now. So, it is like giving punishment to the request of my statement---

Hon. Members: No!

Mr. Kabogo: Let me build my case. Please, allow me to speak.

Mr. Speaker: Carry on, Member for Juja!

Mr. Kabogo: Mr. Speaker, Sir, I am of the impression that the Assistant Minister is saying, because of not being able to do this; “I will do it in two weeks.” Probably, what he needs to say is that he can bring this Ministerial Statement with the others. It is an important matter that touches on the reputation of Members of Parliament.

If I urge you, the Chair, to seek Mr. Ojode to bring this Ministerial Statement along with the others, just in case, he has it ready.

Mr. Speaker: We will check the position on Wednesday morning, if the Assistant Minister will have that statement ready and there will be time accorded to him, and then if it is ready he can deliver it.

But hon. Members you must understand the Assistant Minister's position. Indeed, hon. Members must co-operate to ensure that only those matters that must go by way of request for Ministerial Statements are taken as such. I am afraid, hon. Members, there seems to be a habit building up that even matters, which will have been adequately addressed as Questions by Private Notice are taken as requests for Ministerial Statement. But requests for Ministerial Statement are supposed to address a policy issue and a situation that is gravely urgent such as, for example, persons who may have been killed for some reason or other, and you want to bring this matter promptly to the attention of the Minister concerned to address, among other things, the single incident against the backdrop of what Government policy is in place. That is what I understand is subject to qualify for a request for a Ministerial Statement to be.

Indeed, as I performed my role as a Member of Parliament in the Ninth Parliament, that is what we did all the time.

However, many of us, Members, will, for example, go to an officer. When the officer advises professionally that this does not pass the test, the Members then find another way of circumventing that. Among these, being to approach the Chair at the last minute, when the Standing Orders say that you must bring this request to the attention of the Speaker at least one hour before the sitting. This is another area that I think we will want to enforce the rules strictly as they stand.

Mr. Kabogo: Mr. Speaker, Sir, I would want you to clarify to the House that I followed the rules. I came to you many hours before and that reference is not to me.

Mr. Speaker: I have not isolated you and said that the Member for Juja did not follow the rules. Therefore, I will not make that clarification. I think I am clear. The fact that I allowed you to make the request means that you passed that test and you want your constituents to hear that.

Member for Imenti Central, please, proceed!

PROVISION OF BAD MAIZE BY
PROCTOR AND ALLAN COMPANY

Mr. Imanyara: Mr. Speaker, Sir, I stand to seek a Ministerial Statement from the Minister in charge of Public Health and Sanitation.

As I speak to you now, between 60,000 and 100,000 Kenyan children from certain parts of Eastern Province, Coast and almost the entire region of northern Kenya stand the grave risk of being affected by bad maize that has been given to them by a company known as Proctor and Allan. This is a product known as Unimix. This is, therefore, exposing these children to aflatoxin.

I would like the Minister for Public Health and Sanitation to address this issue urgently and tell the country what the situation is regarding this grave situation that is facing our children with regard to aflatoxin and Unimix product that is being distributed in those parts of the country.

Mr. Speaker: Deputy Leader of Government Business, I do not see your Minister here.

The Minister for Transport (Mr. Kimunya): Mr. Speaker, Sir, we will communicate the matter to the Minister for Public Health and Sanitation. We will endeavour to have a response by Wednesday afternoon. In the meantime, I would like to urge the hon. Member to give us more information in terms of the link between Unimix and aflatoxin, which can expedite the investigation.

Mr. Speaker: Member for Central Imenti, please, do so. Liaise with the Deputy Leader of Government Business if you can today and then with the line Minister beginning tomorrow.

Hon. Members, that then brings us to the end of Order No.7.

Next order!

COMMUNICAITON FROM THE CHAIR

THE UNCLAIMED FINANCIAL ASSETS BILL

Mr. Speaker: I wish to bring to the notice of Members that the Member who is sponsoring business at Order No.8 has communicated to me that he is confronted with a serious insecurity situation in his constituency which, in fact, has resulted in the death of some Kenyan citizens. He is therefore, unable to be here this afternoon to prosecute the business at Order No.8.

I, therefore, defer it to Wednesday next week. It could come in the morning or afternoon depending on the business that is pending to be placed on the Order Paper.

(Committee of the Whole House deferred)

Next order!

BILL

Second Reading

THE NATIONAL PAYMENT SYSTEM BILL

The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Finance (Dr. Oburu): Mr. Speaker, Sir, I beg to move that The National Payment System Bill (Bill No.46 of 2011) be now read a Second Time.

Mr. Speaker, Sir, the Government's initiative to modernize payment systems began with the automation of the Nairobi Clearing House in May 1998 with the aim of enhancing the clearing of cheques between banks and using Magnetic Ink Character Recognition Technology and Electronic Funds Transfer Payment. This initiative resulted in the reduction of clearing time for cheques from 14 days to the present three days. Subsequently, the amendment of the Evidence Act provides for electronic documents followed together with the introduction of a two session clearing process in 1999. Further, the amendments to the Bills of Exchange Act contained in the Finance Act 2009

were aimed at facilitating cheque truncation, a process that involves movement of cheque images rather than physical cheques.

I am pleased to inform the House that this process which has since been implemented will help reduce the cheque clearing cycle in the country.

[Mr. Speaker left the Chair]

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

Mr. Temporary Deputy Speaker, Sir, in 2003, the mandate of the Central Bank of Kenya (CBK) was expanded through the amendment of the Central Bank of Kenya Act to insert section 4(a) (i) (d) that gave the Bank the mandate of formulating and implementing such policies as to best promote the establishment, regulation and supervision of efficient and effective payment, clearing and settlement system.

The CBK has embarked on strategies largely geared towards modernization of Kenya's large value and retail payment system. Thus, following the above amendment, the CBK in consultation with the Treasury and the Kenya Bankers Association, drafted and launched in September 2004, the National Payment System Framework and Strategy document to provide insight on Kenya's payment system evolution and modernization roadmap. This document also provided a strategic roadmap whose implementation would see Kenya's payment system attain international standards and further ensure that the country maintains a lead role in the region and remains a preferred investment destination for growth and development.

Mr. Temporary Deputy Speaker, Sir, the CBK proceeded with the preparations for the introduction of a Real Time Growth Settlement (RTGS) system for the country in line with the East African Community Monetary Affairs Committee (EACMAC) directive in May 2002 which culminated in the launch of the Kenya Electronic Payment and Settlement System (KEPSS) in July 2005. Tanzania and Uganda had earlier implemented their RTGS systems called Tanzania Inter-Bank Settlement System (TIBSS) and Uganda National Inter-Bank Settlement System (UNIBSS).

The implementation of KEPSS helped phase out the previous paper based inter-bank settlement system and transformed the management of liquidity in the country's banking industry. Further, the Government recently enhanced the use of this safe large value payment system through the implementation of the Value Capping Policy. Value Capping limits the value of cheques and the EFTSS going through the clearing house to Kshs1 million and below. The policy dubbed KEPSS usage by the public, today, the system processes an average of about 4,500 transaction messages per day with a corresponding daily average value of about Kshs70 billion compared to the pre-value capping implementation level of Kshs50 billion and approximately 2,500 transaction messages per day. This translates to settlement of over 60,000 transaction messages with a value of over Kshs1 trillion per month.

Mr. Temporary Deputy Speaker, Sir, the emergence of the innovative mobile phone money transfers has put Kenya on the world's payment system map particularly with the launch of Safaricom M-Pesa mobile phone money transfer service in March,

2007, Zain's Zap which has now been translated into Airtel Mobile phone money transfer service in March, 2009 and Yu cash mobile money transfer service in December 2009.

Mr. Temporary Deputy Speaker, Sir, the success of these retail payment products have positively impacted both sides of demand and supply for retail payment services leading to a surge in the number of applicants seeking authority to roll out such value added payment products. It is notable that the mobile phone-based money transfer services have greatly enhanced access to financial services, which is one of the key objectives of the Government. I wish to indicate that these low value payment systems, including the payment card industry, continue to register remarkable growth. It is, therefore, evident that our country's national payment system is a critical infrastructure through which the economy functions.

One of the core principles of Systematically Important Payments Systems (SIPS) by Bank of International Settlement (BIS) requires that payment systems should have a well founded legal basis. However, while Section 4A(1)(d) of the Central Bank Act provides the Central Bank of Kenya (CBK) with a broad policy formulation and implementation mandate over the country's payment system, the Bank requires enhanced powers to effectively oversee the country's payment system.

Mr. Temporary Deputy Speaker, Sir, therefore, there is an urgent need for us to put in place legislation on the national payment system to enforce the CBK's oversight mandate over the wide spectrum of payment systems in order to enhance the safety and efficiency of the country's payment system that has witnessed increasing technology-based innovation and sophistication in the last five years.

The principle object of the National Payment System Bill, 2011, is to provide for the regulation and supervision of payment systems and payment service providers. This will enable Kenya's payment system to comply with the BIS core principles as well as the CBK's responsibilities as recommended by the BIS while at the same time giving the CBK specific enhanced powers over payment systems in Kenya.

Mr. Temporary Deputy Speaker, Sir, allow me to give some highlight on the parts of the Bill. Part I of the Bill deals with the preliminary matters focusing on the Short Title, the commencement date of the Bill and interpretation of the terms used in the Bill, whereas Part II of the Bill provides for the procedures for designation of payment systems and instruments.

Part III of the Bill provides for the recognition of the management body of a designated payment system, settlement, clearing and netting agreements and rules; and the procedures for authorisation of payment service providers, application for authorisation, renewal of authorisation and revocation of such authorisation.

Mr. Temporary Deputy Speaker, Sir, Part IV of the Bill provides for the regulation and supervision of the designated payment systems and instruments. The last Part of the Bill – Part V – which covers Clauses 25-33, contains miscellaneous provisions relating to the utilisation of assets of a designated payment system participant, retention of records, use of confidential information for personal gain, priority of certain instruments on winding up, prohibition of misleading advertisements, relief from prosecution, regulations and guidelines, and transition and savings.

With those remarks, I beg to move and request hon. Kimunya to second the Bill.

The Minister for Trade (Mr. Kimunya): Mr. Temporary Deputy Speaker, Sir, I rise to second the National Payment System Bill of 2011, whose history goes back to

over a decade in terms of the clamour for harmonising the payment system in the country. We are all very happy that it has now come this far.

This Bill aims at deepening the reforms with the financial sector. You may recall that in the last two weeks, this House had to debate Bills on similar initiatives, all of which are aimed at formalising the kind of reforms that have been taking place as they relate to what has been happening with the Central Depository System and the reforms in the Capital Market Authority. This Bill needs to be looked at within the same perspective as part of further deepening those reforms.

Mr. Temporary Deputy Speaker, Sir, the Bill is very technical but, again, very straightforward in terms of what it aims to achieve. The most fundamental thing is that once the House enacts this Bill, it will bring Kenya at par with the rest of the world in terms of conformity with the international best practice and in terms of what is contained within the BIS. Kenya should not have been left behind because we are the leaders in this region in terms of these reforms.

Looking at what we have gone through and noting some of the innovations that have taken place in this country; particularly the coming into being of the M-Pesa money transfer service in 2007, I have a sense of pride in terms of what happened to that particular innovation.

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

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

Madam Temporary Deputy Speaker, as I launched this innovation in March, 2007 and declared to the rest of the world “here comes one great innovation from Kenya, let the whole world watch where Kenya is going”, I knew that there were lots of people who did not believe that M-Pesa could work. There were, indeed, pessimists who even thought that this would be a scandal similar to that of the pyramid schemes but here we are! Four years down the line, the M-Pesa money transfer system has been heralded as one of the greatest innovations to come not only to Kenya but to the whole world in terms of ensuring that people can use their mobile phone cells to transfer money. Even people who feared approaching banks and other formal financial systems now have an alternative.

I recall some of the discussions we had with the then CEO of Safaricom Limited, Mr. Michael Josef, as he came and said: “We have an innovative system here but, unfortunately, we do not have the legal framework upon which to implement it. We do not want a lack of legal framework to be the reason as to why Kenyans cannot partake of this system which will help the millions of unbanked Kenyans.” I told him: “We cannot let the absence of a legislation stand in the way of technological advancement. We will do whatever we can, as Treasury, to help the implementation of this innovation.”

Madam Temporary Deputy Speaker, therefore, M-Pesa came into being. The passage of this Bill will ensure that future innovations will find in place a payment system that is all facilitative. Nobody will say: “We do not have a facilitative law in place. So, your innovation cannot be taken on board”, as would have happened had I

stuck to the law as it was then and, therefore, we would not have the M-Pesa money transfer system in place.

So, I am very happy that we took this and then brought to the world a very innovative system with all the back-up enabling legal framework. I am also happy that the law has caught up with the technology.

Madam Temporary Deputy Speaker, the banks have been struggling to ensure that money can be cleared. They have also been accused at times of abusing the system to ensure that money moving from customer “A” to customer “B” is kept inordinately long within the system. They are accused that customer “B” is not credited with what is due to him and is constantly being shown as uncleared funds, while “A” has been instantly debited for the funds he has paid. Banks have been accused of taking advantage of those three or four days to do other things with that money which is in their systems at the expense of customer “A” or “B”. If the person who has deposited that cheque dare withdraw or pay against those uncleared effects, the punishment has always been very severe, yet the money has actually left the payer and is not with the payee.

I hope that with the advancements that are taking place and with the bringing in of the cheque truncation with all the other systems, that will almost lead us to real time. These complaints between the person who has paid out a cheque and the recipient who has deposited it, has not been given credit. That gap will be bridged soon so that the banks are then not accused fairly or unfairly over this delay in giving people value while they use that money *in lieu* of overnight borrowing or lending and the people do not receive that credit.

Madam Temporary Deputy Speaker, I do not intend to go through the details of the Bill because the hon. Members have read it. It has been with us for a while now since August. Suffice to say that we, as a House, owe it to our financial system to pass this Bill and then seek for its expedited implementation. We want Kenyans to get the benefit of operating within a very formal system. Hopefully, also encourage those of innovation that we can then bring the millions of people who have not as of now benefited from operating within formal systems to come in with the confidence that they have a system that is now is being monitored. I believe that cannot be interfered with because there are restrictions within this Bill in terms of what can be done to this payment system. Nobody will interfere with it because the Central Bank of Kenya will oversee it. What happens should we get into financial problems in terms of the insolvency of this system? All these safeguards have been input into this Bill which is part of building the confidence among the users of the system that there is a legal framework that guards and protects the users of this system now and in the future.

Madam Temporary Deputy Speaker, if I continue, I might end up starting to repeat myself in terms of saying how important this Bill is to us, as a nation, and to our payment system as part of bringing that credibility.

With those words, I beg to second.

(Question proposed)

The Assistant Minister of State for Defence (Maj.-Gen. Nkaisserry): Thank you, Madam Temporary Deputy Speaker for giving me this opportunity to contribute to this very important Bill. This Bill has come at an opportune time. As you realize, if

adopted, it will empower the CBK to make efficient and specific regulatory financial framework.

As you know, although today we have reduced the time of money transaction to three days between banks, but this one will be very specific. This is because once this Bill becomes the law, it will reduce the time even much shorter.

For people like me with children learning overseas, I would want to see that if I carry out a transaction, I want them to receive their money the same day. This Bill will make that possible. The transfer of money will create a very efficient system. It will also reduce fraud. As you realize, human handling of money is what is bringing problems in our system today. If this Bill is enacted into law, electronic transfer of money will reduce the human handling of large sums of money and that definitely will reduce fraud. As you realize, the other day, we were talking about somebody doing a transaction over a counter, buying a house with billions of money. You can just imagine how could that fellow carry so much money? That subject has already been discussed before this House that a house was bought using a lot of money and somebody carried the money. So, if we had this system in place, that could not have happened. As I said earlier, this Bill has come at an opportune time.

Thirdly, this law will also strengthen the financial institution of transferring money and handling money electronically; institutions like Safaricom and the M-Pesa issue. So, instead of sending a maximum of Kshs50,000, you can now be able to send a lot of money even with other networks like YU, Airtel and Orange. So, this is a very important law.

Madam Temporary Deputy Speaker, fourthly, we are already getting into the East African region. As we continue to grow democratically, although this country is on a very fast track than most of our neighbours, if this becomes law, it will ease the monetary transactions within the East African region. Eventually, if we are serious enough, it will become a stimulus for the monetary union in our region. This is a very important Bill that requires the support of the whole House. We need to make it law.

With those few remarks, I support.

Prof. Kaloki: Thank you, Madam Temporary Deputy Speaker. I rise to support the National Payment System Bill, Bill No.46 of 2011. This is the era of Information Technology (IT) and this Bill will stabilize money transfers in our economy. It will strengthen our financial institutions and make it possible for people to transact their financial transactions through electronic transfer system. I would like to support this especially because issues of money laundering will be dealt with. There are provisions in this Bill which will protect the users against that. If you look at Clause 20(5), it provides that:-

“A person who contravenes the provisions of (1), (2) or (3) commits an offence and shall be liable on conviction, to a fine not exceeding five hundred thousand shillings, or to imprisonment for a term not exceeding one year”.

Although I agree with this section, I would like to propose that we increase the penalty so that we can strengthen this and discourage people from abusing the system. I would like to propose that we increase that fine to at least, Kshs1 million and imprisonment for a term not exceeding five years. This will discourage any individual or system that will be planning to interfere with the system and from committing any crime. Also, I would like to propose that this system be tested before it is implemented to make

sure that it is in line with what is happening in the region and make sure that no individuals out there can abuse the system.

I must also appreciate this Bill because we will be able to move along with the other countries in the region, for example, Tanzania. As the Minister was moving the Bill, he stated that Tanzanians are ahead of us in this particular area. Uganda is also part of the East African Community and they are already implementing the money transfer system. They have their national payment system in place. I support the Bill, so that we can implement this financial system.

This is a financial hub of East Africa. I believe this Bill will strengthen our institutions and make Kenya continue to shine not only in the East African region, but also in Africa. I fully support this Bill. We should pass it this evening, so that we can give the necessary tools to the Minister to manage our financial institutions.

With those remarks, I support.

Mr. Njuguna: Thank you, Madam Temporary Deputy Speaker, for the opportunity to make a few observations on this very important Bill. First, let me thank His Excellency the President for appointing a Deputy Governor for the Central Bank of Kenya, Dr. Sirma. This appointment has been overdue and therefore, it has come at the appropriate time, so that the management at the Central Bank of Kenya can be strengthened. I note that Dr. Sirma has worked at the Central Bank of Kenya for close to 20 years. He has brought a lot of experience to the institution. I hope that through his performance at the Central Bank of Kenya, working together with the others, services will be improved. I also hope that his energy and commitment will be utilized in the mechanism or plans to bring very quick recovery of the performance of the Kenya shilling.

I note that this new payment system will create the necessary investment climate in this country. Faster economic growth and faster procurement of goods and services will be realized. There will be expansion of the various sectors. Confidence building will also be created by this newly introduced body and even industrialization of this country will be realized. We need to create the necessary environment in this country geared towards creating jobs for our youth.

Madam Temporary Deputy Speaker, on the service payment provider, this new Authority will make sure that adequate discipline is maintained in the sector, so that confidence in the clients will be maintained. Concerning committing offences by the service providers, the minimum penalty of Kshs500, 000 is too little. I would suggest that the penalty be enhanced to a level that will instill discipline to the players. Leaving the penalty the way it is, is like leaving a very big joke in the industry. The time for application for the service providers has not been given. This must be clearly specified so that those who are interested in this sector will have the opportunity to apply and be given leeway to establish their businesses.

As a country, we have been losing a lot of investments to our neighbouring countries like Rwanda and South Africa where the cost of conducting business is very minimal. You open a business and the following day, you have the necessary documents. This should be the mentality and the way forward in this country. The application fee is not indicated in the Bill. I would suggest that the minimum application fee should be Kshs200,000, so that those who are interested will be serious service providers.

Madam Temporary Deputy Speaker, I note that this industry has caused a lot of agony in the minds of Kenyans. Recently, pyramid schemes were allowed to conduct business in this country, which were meant to loot funds from Kenyans. Churches, individuals and groups lost a lot of money. I would urge the Office of the Deputy Prime Minister and Ministry of Finance to put in place corrective steps to make sure that the assets held from the owners of the pyramid schemes are disposed and the funds are given to the owners. Many families have already broken up, children have been denied chances to get education and even some family members have already committed suicide. This should not be allowed to happen. Along with that, I wish to reckon that some micro-finance institutions like the Family Bank and Equity Bank have played a major role in the economy of this country.

Madam Temporary Deputy Speaker, it is important that discipline is maintained, and the necessary investment climate must be allowed to thrive, so that young Kenyans will continue to benefit in terms of jobs and even from the way these banks are providing money for our university students. The new payment system will not allow the microfinance institutions to collapse because strict discipline will be maintained and the system will be constant and prudent in the discharge of its mandate.

Madam Temporary Deputy Speaker, finally, let me congratulate the Central Bank of Kenya (CBK) and the Minister for Finance for the new steps that they have taken to contain the current inflation in the country. It is, therefore, important that the steps that they are taking are translated to lowering the prices of food, fuel and even the transport services.

With those few remarks, I, therefore, support the implementation of this timely Bill.

Mr. Ogindo: Madam Temporary Deputy Speaker, I also rise to support the Bill, which seeks to reform our payment system. Also, let me start by congratulating Dr. Harun Sirma on his appointment as the new Deputy Governor of the CBK. We appreciate how much the ongoing reforms impose responsibilities on the CBK. It is imperative that there is capacity to deal with these emerging responsibilities. It is on that account that I want to laud the appointment of Dr. Sirma.

Madam Temporary Deputy Speaker, I also want to congratulate the Minister on the initiative to reform our payment system. I think this is in keeping with technological development that Kenya needs to remain part of. I also want to point out that it is very important that we create a payment system that ensures accountability and trail. There are transactions that we have between individuals and between companies and individuals. I have seen situations where Government payments are concerned. There are certain times when payments have been done and you were left wondering who the beneficiary of that payment was. I would want to see this Bill seal such loopholes.

Madam Temporary Deputy Speaker, I have looked at the Bill and seen Article 24 that deals with reports; it says:

“The Central Bank of Kenya shall prepare and submit to the Minister such reports as the Minister may require.”

I wonder whether this is in tandem with our new Constitution which envisages a Minister who will be outside Parliament. It would be important that a way is found where the reporting system reaches some independent body that is able to scrutinize the reports. To that end, I wish to propose to the Minister to consider bringing in a provision for the

report to be coming to the relevant committee of the House. I know we will have the opportunity to pursue that further in the Committee of the Whole House.

The other thing that I want to comment on is that I know this is going to regulate the private sector, but I think the biggest spender is the Government; the biggest transactor in money is the Government. So, I want to see how clearly the Government is safeguarded in this national payment system Bill

With those few remarks, I support.

Mr. Namwamba: Madam Temporary Deputy Speaker, thank you for this opportunity to add my voice to this landmark piece of legislation, because, indeed, that is what it is.

Let me also join my colleagues in congratulating our new Deputy Governor of the CBK, Dr. Sirma. Indeed, there has been quite some concern about the longevity of the vacancy in this very important position of the Deputy Governor of our CBK. Therefore, it is in order for us to congratulate this eminent Kenyan and encourage him to be part of the solution, because he comes into office at a time when the monetary environment in the country is facing monumental challenges. Our shilling has been in a free fall against major currencies, and inflation is at a record level. We hope that the new Deputy Governor will join the Governor and the rest of the team responsible for managing this state of affairs to put a firm hand on this matter and get our economy firmly back on track.

Madam Temporary Deputy Speaker, I say this because the economic growth projections of this financial year, I am reliably informed that have had to be revised downwards, because of this alongside other challenges. We really look forward to seeing remedial measures in that direction. So, congratulations and I send my appreciation to the President and the Rt. Hon. Prime Minister for this particular appointment.

Madam Temporary Deputy Speaker, the movement and handling of capital is basically the heart and soul of any economy. How money is handled, how it moves, how it changes hands and how money is allowed to oil the various aspects of the economy determines everything for a country. We are living in very exciting times in the country. We have this big dream of Vision 2030. We want to become a medium-sized industrialized country in the next 19 years. It is a major ambition. In interacting with the Kenyans across the country--- I have just been chairing a Select Committee of this House that was put in place to investigate the whole challenge of the cost of living that has spiraled. In our interactions, because we have met Kenyans of all walks of life basically across the entire spectrum of the economy, many Kenyans have expressed frustration about the economy set-up in this country. In one hearing in Kibera, one Kenya told us that unless we fix these problems and fix them expeditiously, then perhaps the economic haunches in this country should revise Vision 2030 to become Vision 3020. That Kenyan could not see how we were going to honestly raise the status of this country to a newly industrialized medium-sized economy by 2030, which is a very short 19 years from now. So, if we want to achieve the goals of Vision 2030 and respond to the major challenges affecting our people today, then we have no choice but to take the bull by the horns and find a solution to the challenges that face us today. One of those, of course, is how we facilitate and regulate the movement and utilization of capital.

Madam Temporary Deputy Speaker, hon. Members have spoken at length about the so-called Ponzi schemes or what Kenyans know as pyramid schemes. Americans

know them better as Ponzi schemes. Of course, we know that the manner in which those schemes--- Perhaps, this is something that those who run, drive and manage our economic affairs in this country have not done, to really determine the economic costs and even the social effect of that moment when we went to sleep and allowed some space to crooks. “Crooks” is not parliamentary language but I am struggling to find the right English word to describe the people who crafted those schemes and sent so many Kenyans to penury. Many Kenyans lost their minds. Some actually lost their lives. It has been documented. There are Kenyans who, having lost their savings because of those pyramid schemes, just lost their heads and some committed suicide. It was a horrifying spectacle. It was because of laxity in the regulation of how capital moves and is handled in this country.

Madam Temporary Deputy Speaker, one of the landmarks of this Bill that has caught my attention is the provision for designation of payment systems and instruments. That is because in that, I see a panacea of some crooked business person or someone who wants to make quick money out of the plight of a Kenyan who is desperate to invest--- By the way, we need to applaud the entrepreneurial spirit of Kenyans because Kenyans want to make money and drive the economy up. So, they are always on the lookout for an opportunity to invest; something that really needs to be encouraged. But when things like pyramid schemes or the so-called Ponzi schemes ruin the dreams of Kenyans in the manner that we have witnessed before, it dampens the enthusiasm of those who wish to invest or even be adventurous. I do believe that, sometimes, to be an investor you have to be adventurous.

Madam Temporary Deputy Speaker, I am looking at the clock and I can see that we need to give time to the Mover to respond. Just two quick ones before I conclude. I want to call the attention of the Mover to the provisions of Clause 7, that is, on recognition of a payment system management body. Under Clause 7(3), there is a provision for revocation of a payment system. But my interest has been drawn to the provision under that subsection. It reads:-

“Provided that where a recognized payment system management body managing several designated payments systems, the revocation of designation of any one of the payment systems shall not affect the recognition status of the payment system management body with respect to the payment systems whose designation has not been revoked.”

Madam Temporary Deputy Speaker, my concern is that you may take action against impropriety in a particular system under the management of a particular management body and allow the body to continue operating other systems which may have challenges that have not come to the fore yet. I do not see anywhere in the Bill--- I may have missed that because I admit that I have brushed through the Bill at great pace. But I have not seen in the Bill how then you address that challenge where one system has been revoked, but the same body managing that system continues to manage other systems which, though have not yet registered danger signals on the radar, but could also be problematic in future because of that connection to the particular management body. That is something that requires some attention. In the interest of time and because the Mover has to respond, let me conclude with the opportunities that this Bill provides to this country for it to take full advantage of the integration of the EAC.

As a country, we can now move capital easily; our banks are now all over the place, whether you go to Kampala, Kigali, Bujumbura or Dar es Salaam, you will see the Kenya Commercial Bank and the Equity Bank. We need to take advantage of the integrated economy by regulating our system and making it easy but safe to move capital. I foresee our business people and our economy taking full advantage of the opportunities presented by the EAC.

With those remarks, I support.

The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Finance (Dr. Oburu): Madam Temporary Deputy Speaker, I want to take this opportunity to thank all hon. Members who have contributed to this very important Bill.

All the points that they have raised are very relevant and are meant to improve on the Bill. I am here with my officers who have been keenly taking notes. When we come to the Committee Stage, we will take into consideration some of the views that have been expressed. Prof. Kaloki raised the issue on Clause 12(2) about the punishment and proposed some enhancements.

The Temporary Deputy Speaker (Dr. Laboso): It was under Clause 20 - Punishment.

The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Finance (Dr. Oburu): Madam Temporary Deputy Speaker, that is something that we will look at positively because it is meant to strengthen the Bill. We will consider it when we are presenting the Bill at that time.

He also raised the issues about the EAC which are important. We want to be a financial hub and that is one of the objectives of this Bill and to improve the situation so that investors feel safe when they come to invest in our country.

The points raised by hon. Njuguna were the same. He also raised the same issue you raised about punishment and we will take that into consideration. He also talked about application which is not stated. The Bill provides for regulations. The Deputy Prime Minister and Minister for Finance will provide for regulations which will give details of how you apply and the fee you pay when you apply. That will be part of the subsidiary legislation which will also come to this Parliament.

Pyramid schemes have been illegal and they are not under the supervision of the Central Bank of Kenya. These are by people who are stealing *wananchi's* money. Some of them were arrested. However, we did not have proper laws. Some of the proposals here might take care of them. We are proposing to bring before this Parliament a Bill like the one in Tanzania which will specifically deal with the pyramid schemes and take care of some of the concerns of Members. It has been quite a thorn in our flesh. We have tried to answer questions here but unsatisfactorily. This is because the issues raised are very emotive. I want to thank everybody who contributed; hon. Ogindo, hon. Namwamba and everybody else for the points they raised which are very important. We will take them into consideration.

With those few remarks, I beg to move.

(Question put and agreed to)

(The Bill was accordingly read a Second Time and Committed to a Committee of the Whole House)

ADJOURNMENT

The Temporary Deputy Speaker (Dr. Laboso): Hon. Members, it is now time for interruption of the business. This House stands adjourned until Tuesday, 2nd November, 2011 at 2.30 pm.

The House rose at 6.30 pm.