

NATIONAL ASSEMBLY

OFFICIAL REPORT

Tuesday, 29th November, 2011

The House met at 2.30 p.m.

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

PRAYERS

COMMUNICATION FROM THE CHAIR

ELECTION OF HON. KOMBO AS ACP-PA PRESIDENT

The Temporary Deputy Speaker (Mr. Imanyara): Hon. Members, I wish to convey the decision of the 22nd Session of the ACP-EU JPA of 23rd November, 2011 that hon. Musikari Kombo, EGH, MP was elected as the next President of the ACP Parliamentary Assembly and consequently next Co-President of the ACP-EU JPA. The announcement was made at the conclusion of the 22nd Session with took place in Lome, Togo. The representative of the Kenya Parliament will hold this position for the next two years. The hon. Kombo joins European Union (EU) MP, Louis Michelle from Belgium to form the Presidium of the Joint Parliamentary Assembly (JPA).

Hon. Members, on behalf of the House and on behalf of myself, I congratulate the hon. Kombo for this new office and assure him of our support. I also thank hon. Joyce Laboso, hon. Affey, and, indeed, His Excellency Kembi-Gitura, Kenya's Ambassador to Belgium and the EU for their roles in seeking and consolidating support for Kenya.

Hon. Members, as the Chairman of the Parliamentary Service Commission (PSC), the Chair also reassures him and the rest of the delegation that the Commission will provide them with the support necessary to facilitate the Co-President to discharge his new responsibilities.

(Applause)

POINT OF ORDER

EXTENSION OF DURATION OF COMMITTEE ON VETTING OF NOMINEES TO SALARIES/REMUNERATION COMMISSION

Prof. Kaloki: Mr. Temporary Deputy Speaker, Sir, the Departmental Committee on Finance, Planning and Trade is working on the vetting of nominees to the Salaries and Remuneration Commission. This is an assignment that was mandated to us by the Speaker. We were supposed to bring a report here today. However, we have proposed a way forward on which we wanted the Chair to give directions.

Today, 29th November, 2011, we have done an advertisement through the Clerk of the National Assembly to notify nominees of the dates and time of hearings. We have notified the public of the same and at the same time invited representations to the Committee on the suitability of the nominees. This is in accordance with Section 6(4) of the Public Appointments (Parliamentary Approval) Act.

We are also proposing that on 1st December, 2011, we proceed with the interviews and vetting of the nominees. On 6th December, 2011, we have planned to receive representatives on the suitability or otherwise of the nominees. On 7th December, 2011 the Committee will sit and prepare the Report which it will table in the House. Notice is also given of a Motion of the adoption of the Report. On 8th December, 2011 we are planning to deliberate on the Report.

As you can see from our proposal on the way forward, it is impossible for us to table the Report today. That is why we are seeking an extension, so that we bring the report here on 8th December, 2011.

The Temporary Deputy Speaker (Mr. Imanyara): Very well! You get the extension up to and including the 8th December, 2011.

QUESTIONS BY PRIVATE NOTICE

AWARD OF TENDER FOR SECOND HAND MOTOR VEHICLE INSPECTION

(Mr. Kapondi) to ask the Minister for Industrialization:

(a) How many companies bid to offer second hand motor vehicle inspection clarification services to the Kenya Bureau of Standards (KEBS)?

(b) Under what circumstances was the tender awarded to a Japanese company, M/s Japan Vehicle Inspection Centre?

The Temporary Deputy Speaker (Mr. Imanyara): Hon. Members, with regard to Question No.1 by Private Notice, the Chair has received notification from hon. Kapondi asking that this Question be deferred. Good reasons have been given. Therefore, the Question is deferred to next week.

(Question deferred)

MEASURES TO AVERT NATIONWIDE STRIKE BY HEALTH PERSONNEL

Dr. Eseli: Mr. Temporary Deputy Speaker, Sir, I beg to ask the Minister for Medical Services the following Question by Private Notice.

(a) Is the Minister aware of the planned nationwide strike involving the members of the Kenya Medical Practitioners, Pharmacists and Dentists Union (KMPDU) scheduled to start on 5/12/2011 and, if so, what measures is the Government taking in order to avert the strike?

(b) How many medical doctors, pharmacists and dentists who were trained using public funds have left the Civil Service since 2006 and the reason for their exodus, where possible?

(c) How much are medical doctors paid per month and how much money has been allocated for training doctors, pharmacists and dentists at post-graduate level in the 2011/2012 Financial Year?

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

(a) I am aware of the planned nationwide strike involving members of the Kenya Medical Practitioners, Pharmacists and Dentists Union (KMPPDU) scheduled to start on 5th December, 2011. The Ministry has taken the following measures in order to avert the strike.

1. On Monday, 21st November, 2011, the Minister for Medical Services met the union officials and received their demands.

2. On Tuesday, 22nd November, 2011, Ministry officials met KMPPDU and initiated dialogue on their concerns. During the meeting, it was agreed that the Union's grievances would be shared with other relevant Government Ministries.

3. An inter-Ministerial meeting was held on Wednesday, 23rd November, 2011 and representatives of the following Ministries attended: the Ministry of Medical Services, the Ministry of Public Health and Sanitation, Ministry of Labour, the Ministry of State for Public Service and the Public Service Commission. The Office of the Deputy Prime Minister and Ministry of Finance was invited but they did not attend.

During the meeting, the health Ministries presented the concerns of the Union, which included the following among others:

1. improved terms and conditions of service;
2. higher salaries and allowances;
3. funding for training, and,
4. better working conditions.

The meeting noted that the majority of the issues fell under the mandate of the Salaries and Remuneration Commission. However, the meeting identified a number of pending concerns that had already been authorized. This included promotions, upgrading, re-designations and payment of extraneous allowances.

The issue of training was also identified as an urgent concern as students needed to sit for their national examinations. The meeting agreed that this position will be shared with the Treasury, including the documents and concerns by the Union.

Following these resolutions, the Permanent Secretaries wrote to the Treasury. On Thursday, 24th November, 2011, the Ministry officials met the Director of Budget at the Treasury and discussed the grievances of the health workers. The Director of Budget informed the team that he would present the concerns to the Permanent Secretary, Treasury, and the Deputy Prime Minister and Minister for Finance. Consultations between the Health and Finance Ministries are ongoing.

Mr. Temporary Deputy Speaker, Sir, on Friday, 25th November, 2011, Ministry officials met with the Professional Association for Health Workers, who were 16 in number. The representatives of the Association confirmed their intention to enjoin themselves in the strike notice effective from 7th December, 2011. The KMPPDU was not invited to this meeting. During the meeting, the Ministry communicated previous actions taken to improve the terms and conditions of service of health workers and the challenges the Ministry had been facing.

On Saturday, 26th November, 2011, the Minister for Medical Services issued a Press statement urging the health workers not to go on strike. In the briefing, the Minister discussed the enormous funding constraints that the Ministry was facing and pleaded with the health workers to continue working and to ensure that the ongoing dialogue reached a conclusion.

On Monday, 20th November, 2011, a further meeting took place involving the health Ministry officials, the Union, COTU, and Ministry of Labour officials. Meetings are continuing to date.

(a) Records of the minutes indicate the following numbers of medical doctors, pharmacists and dentists, who have left the service since 2006 are as follows: Medical Officers, 989; Pharmacists, 163; Dentists, 71; total, 1,223. Most of them do not state the reason for departure, but it is common knowledge that they leave for greener pastures.

(b) Mr. Temporary Deputy Speaker, Sir, doctors in the Civil Service fall under Job Group L to Job Group T, whose pay scales and allowances are as attached to this document. I beg to table it.

(Mr. Kambi laid the document on the Table)

In the financial year 2011/2012, Kshs24, 335,602 has been allocated for training of health workers. At least, 95 per cent of it is used to pay for the training of medical doctors at post-graduate level. However, this allocation is insufficient to meet the training needs of health workers as it falls short of the requirement of Kshs350 million annually. Due to this funding shortfall, the Ministry has over a time accumulated debts with training institutions that currently stand at Kshs85 million.

Dr. Eseli: Mr. Temporary Deputy Speaker, Sir, I have listened to the Assistant Minister and what he has been saying. I think it is the saddest story ever told in this Parliament. This is a litany of neglect of the medical profession over the last two decades. It is very sad that the Assistant Minister can stand here and tell us that he is paying a medical doctor Kshs30,000 per month. What is he doing right now? What is he putting on the table for the doctors so that you avert this strike? What is the Ministry putting on the table now?

Mr. Kambi: Mr. Temporary Deputy Speaker, Sir, negotiations are ongoing between my Ministry and the Office of the Deputy Prime Minister and Ministry of Finance. As we are talking now, we have already held many meetings, because this is not a question of one Ministry---

The Temporary Deputy Speaker (Mr. Imanyara): Order, Assistant Minister! Please, listen to the question you are being asked. Do not repeat the fact that negotiations are ongoing. What steps are you taking? That is the question. Do not be repetitive. Just answer the question that you have been asked.

Mr. Kambi: Mr. Temporary Deputy Speaker, Sir, the first step we have taken is to negotiate with the Union officials.

Mr. Wambugu: Mr. Temporary Deputy Speaker, Sir, having listened to the Assistant Minister, I think he is still not in touch with what is happening on the ground. The shortage of doctors in our country is because of the poor conditions they work under. Could the Assistant Minister tell us how many qualified doctors we have employed in a hospital like Kenyatta National Hospital (KNH)? Could he also confirm that the people

providing medical services at KNH are actually students from the universities and not doctors who are on the payroll?

Mr. Kambi: Mr. Temporary Deputy Speaker, Sir, we have both of them and we are talking about 800. I am not certain, but that should be the number. We have about 800 qualified doctors serving in the KNH.

Dr. Monda: Mr. Temporary Deputy Speaker, Sir, you heard the Assistant Minister tell the House that the doctors who have left the service are over 1,500. When you look at the number of trained doctors, and considering the resources that have been put into the post-graduate training of doctors, it is clear that the doctors who have been trained are equal to the number of those who have left the service in the same period. What is the Assistant Minister doing to ensure that this is stopped, and that we have doctors who have been trained using the public resources retained in service? We should not continue having hospitals that do not have doctors to serve the public!

Mr. Kambi: Mr. Temporary Deputy Speaker, Sir, as I said earlier, we have taken steps to make sure that we retain these doctors. These steps include:-

- (i) To negotiate with Treasury so that we can see how we can upgrade their salaries and allowances.
- (ii) We have made a proposal to the Office of the Deputy Prime and Ministry of Finance so that we can get the training fees.

Dr. Monda: On a point of order, Mr. Temporary Deputy Speaker, Sir. You have heard the Assistant Minister talk about negotiations all the time but we are saying that those negotiations have been going on since 2006 to date and have not been concluded. Is he in order to talk about negotiations that do not have an end so that substantial action is taken to address the loss we are making and the suffering that Kenyans are undergoing in our hospitals?

Mr. Kambi: Mr. Temporary Deputy Speaker, Sir, on our part, we have done the paper and given it to the Office of the Deputy Prime and Ministry for Finance. If you look at our budget, we are operating at a very minimal budget.

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Kambi, let us please be serious. This is a very serious issue. Regarding the negotiations that you are talking about, in your answer, you said that you invited Treasury and they did not turn up. So, who are you negotiating with if you are talking about money?

Mr. Kambi: Mr. Temporary Deputy Speaker, Sir, they never attended the meeting but I have taken it up myself and talked to the Deputy Prime Minister and Minister for Finance, Mr. Kenyatta, and he has agreed that we should continue with the dialogue and negotiations. I am sure something is going to come up.

Mr. Njuguna: Mr. Temporary Deputy Speaker, Sir, the number of doctors leaving this country is alarmingly high. What is the Ministry doing to attract a similar number to replace the doctors who have left?

Mr. Kambi: Mr. Temporary Deputy Speaker, Sir, as I stated earlier, the only reason why doctors are leaving the public service is because the salaries are not good so they go for greener pastures. So, what we have done and what we are doing is that, once we finalize with the Office of the Deputy Prime Minister and Ministry of Finance and the salaries are increased, I am sure they are not going to leave the public service.

Ms. Karua: Mr. Temporary Deputy Speaker, Sir, in view of the seriousness of this matter and the Assistant Minister having admitted that there is massive brain-drain,

what comprehensive plan does the Government have about improving the doctors' terms and conditions, including the nurses and all other staff in the hospitals and also to equip our hospitals? Some of the conditions in the hospital include lack of proper diagnostic equipment and lack of proper facilities for treatment, including cancer treatment.

Mr. Kambi: Mr. Temporary Deputy Speaker, Sir, as I said earlier, what we have done as a Ministry is to recommend to the recently formed Salaries and Remuneration Commission which has not started its work. As we are talking, the doctors and nurses are Government officers and their salaries are normally determined by the Ministry of State for Public Service. The Ministry of State for Public Service had already passed their recommendation to the Office of the Deputy Prime Minister and Ministry of Finance. So, our hands are tied because the money comes from the Office of the Deputy Prime and Ministry of Finance and they have not yet approved it.

Mr. Yakub: Mr. Temporary Deputy Speaker, Sir, the Assistant Minister is taking this issue very lightly. Regarding negotiations, up to this morning, they had not started any negotiations. Negotiations mean what the doctors had proposed and they should come back with counter proposals but the Ministry had not done that up to this morning. Could he tell us what he had negotiated because he is using the word negotiation? What has he negotiated using their proposed scheme which is in his office?

Mr. Kambi: Mr. Temporary Deputy Speaker, Sir, I cannot say the exact figure that we have agreed upon. If you look at the new Constitution which demands that everything must pass through the Salaries and Remuneration Commission, what we have done has even been explained to them because we share in their concerns. As a Ministry, we are trying to minimize the pain and maximize pleasure. But with very little resources, it is not possible.

The Temporary Deputy Speaker (Mr. Imanyara): Dr. Eseli, last question!

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

The Temporary Deputy Speaker (Mr. Imanyara): Order! You have been overtaken by events.

Dr. Eseli: Mr. Temporary Deputy Speaker, Sir, as you heard from the Assistant Minister's answer, the medical workers in this country are caught between two Ministries which are hostile to the medical workers; the Office of the Deputy Prime Minister and Ministry of Finance hates them so much that they can pay a doctor Kshs30,000. The Ministry of Medical Service hates them so much that they do not equip the hospitals. The Ministry of Medical Services even sacks them, apart from those ones resigning.

Could the Assistant Minister explain to this House why Dr. Onyimbo Kerema, file No.2009042821 was interdicted on 6th October, 2011 for agitating for the formation of this union? You can go ahead and sack him and yet you are paying him peanuts. Could you explain when you are going to reinstate this doctor?

Mr. Kambi: Mr. Temporary Deputy Speaker, Sir, that is a different question but I will answer it. I do not have that information about the doctor he has mentioned, but I will take the information and carry out investigations.

The Temporary Deputy Speaker (Mr. Imanyara): Order, Mr. Kambi! We do either; I concede that it is a different question. So you either seek the hon. Member to ask that Question or if you undertake to answer it, then answer it. You cannot have it both ways. Which one do you choose?

Mr. Kambi: Mr. Temporary Deputy Speaker, Sir, I choose that the hon. Member should file a Question so that I can get enough details for a comprehensive answer.

Dr. Eseli: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the Assistant Minister in order to say that he does not know about the case yet this particular doctor is a member of the Kenya Medical Practitioners and Pharmacists Union that he says he is negotiating with? He was the National Assistant Treasurer. He is a member of that union that he is negotiating with. He has told us many times that he is negotiating with them. So, who are you negotiating with if you do not know the particulars of this doctor? Is he in order to say that he does not know the case when he knows it and he is refusing to answer the question?

Mr. Kambi: Mr. Temporary Deputy Speaker, Sir, it is a different question but as an Assistant Minister, I am not negotiating with an individual but with the union and I would not know whether one of the members is interdicted or not.

Mr. Olago: On a point of order, Mr. Temporary Deputy Speaker, Sir. From the consistent answers given by the Assistant Minister, it is evident that they admit that doctors have grievances which should be addressed. In view of the difficulties that he is facing from the Office of the Deputy Prime Minister and Ministry of Finance, would it be in order for the House to take over this matter with the relevant Committee?

The Temporary Deputy Speaker (Mr. Imanyara): Order, Mr. Olago! That is not a point of order and you know it.

Next Question, by Mr. Yakub!

STRIKE NOTICE BY KENYA FERRY SERVICES EMPLOYEES

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

(a) Is the Minister aware that employees of the Kenya Ferry Services (KFS) have issued a 21-day strike notice over refusal by KFS management to acknowledge their membership to the Dock Workers' Union?

(b) What are the reasons for KFS management's refusal to acknowledge the employees' membership, despite monthly contributions to the union?

(c) What measures will the Minister take to ensure KFS respects the employees' right of membership to the union?

Mr. Yakub: Mr. Temporary Deputy Speaker, Sir, I do not have a copy of the written answer.

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Minister, have you supplied Mr. Yakub with the answer?

The Minister for Transport (Mr. Kimunya): Mr. Temporary Deputy Speaker, Sir, I signed the answer and it was forwarded to Parliament this afternoon.

The Temporary Deputy Speaker (Mr. Imanyara): Let me establish from the Clerks-at-the-Table whether that is indeed the position.

*(The Temporary Deputy Speaker (Mr. Imanyara)
consulted with the Clerks-at-the-Table)*

Mr. Yakub, apparently my staff did not convey the answer to you! Would you like the Question deferred or would you like to look at the answer that is being provided to you now?

Mr. Yakub: Mr. Temporary Deputy Speaker, Sir, if you give me three minutes, it would be enough.

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Minister, we will come back to this Question later.

Question No.4 by Private Notice, for obvious reasons, is deferred to a day to be communicated to the House later.

NON-INVESTIGATION INTO DEATH THREATS ON MR. JOHNSON KIBIA

(Mr. Imanyara) to ask the Minister of State for Provincial Administration and Internal Security:-

(a) Is the Minister aware that Mr. Johnson Kibia, a resident of Mikinduri, has complained about the failure by CID officers from Meru North to investigate death threats on him and his family on various occasions?

(b) What steps is the Minister taking to ensure that CID officers act on Mr. Kibia's complaint?

(Question deferred)

ORAL ANSWERS TO QUESTIONS

Question No.1234

UPSURGE OF COFFEE BEANS THEFT IN KANDARA DISTRICT

Mr. James Maina Kamau asked the Minister of State for Provincial Administration and Internal Security:-

(a) whether he is aware of the recent rise in cases of theft of coffee beans from factories in Kandara District and, if so, which factories have been affected and how much coffee has been stolen;

(b) whether he could inform the House how many suspects have been apprehended and convicted in connection with the above; and,

(c) whether he could confirm the existence of a cartel coordinating the crime and, if so, what measures he will take against the cartel.

Mr. James Maina Kamau: Mr. Temporary Deputy Speaker, Sir, I do not have a response yet.

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Ojode, have you provided the hon. Member with the answer?

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): It is here!

The Temporary Deputy Speaker (Mr. Imanyara): Mr. James Maina Kamau, would you like the Question answered now or would you like to be provided with the answer first?

Mr. James Maina Kamau: Mr. Temporary Deputy Speaker, Sir, as he answers, I will be able to look at it.

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Ojode, you can proceed!

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

(a) I am aware of five cases of theft of coffee from the following factories:-

- (i) On 2nd September, 2010, 34 bags were reported stolen from Kiguthi Coffee Factory.
- (ii) On 2nd June, 2011, 40 bags were reported stolen from Muruka Coffee Factory.
- (iii) On 3rd June, 2011, 25 bags were reported stolen from Naaro Coffee Factory.
- (iv) On 22nd December, 2010, 34 bags were reported stolen from Mung'ara Coffee Factory.
- (v) On 10th January, 2011, 32.5 bags were reported stolen from Kioru Coffee factory.

Mr. Temporary Deputy Speaker, Sir, that brings the total amount of coffee bags stolen to 165.5. In all the five cases reported, the police have managed to arrest 13 suspects as follows:-

Kiguthi Coffee Factory, one suspect was arrested and charged vide criminal case No.271/134 2010 before Kandara Senior Resident Magistrate's Court.

Muruka Coffee Factory, three suspects were arrested and charged vide Criminal Case No.271/97 2011 before Senior Resident Magistrate's Court, Kandara.

In Naaru Coffee Factory, criminal case No.271/97 2011 is under investigations. In Mung'ara Coffee Factory, four suspects were arrested and charged vide criminal Case No.273/59/2010 before Senior Resident Magistrate Court, Kandara. Kiori Coffee Factory, five suspects were arrested and charged before Thika Principal Magistrates Court, Thika.

They were, however, acquitted on 30th June, 2011.

(c) I am not aware of any cartel existing in the area. Each case is investigated and dealt with on its own merit.

Mr. James Maina Kamau: Mr. Temporary Deputy Speaker, Sir, I would like to thank the Assistant Minister for the answer that he has given but I would like him to tell this House---

(Loud consultations)

The Temporary Deputy Speaker (Mr. Imanyara): Order, hon. Members! Please, consult in low tones so that the hon. Member can be heard.

Proceed, hon. Member for Kandara!

Mr. James Maina Kamau: Mr. Temporary Deputy Speaker, Sir, I would like to thank the Assistant Minister for the answer he has given but I would like him to tell this House which arrangements are in place in that area to make sure that those operating private milling factories are regulated because we suspect that the coffee stolen from---

The Temporary Deputy Speaker (Mr. Imanyara): Order, Mr. James Maina Kamau! You are supposed to be asking a question! Ask him a question!

Mr. James Maina Kamau: Mr. Temporary Deputy Speaker, Sir, I would like the Assistant Minister to tell this House what arrangements are in place to control those operating milling factories without licences.

Mr. Ojode: Mr. Temporary Deputy Speaker, Sir, the regulations do not fall under my docket. That falls under the Minister for Co-operative Development and Marketing, and he is here. I had seen him around! I provide security. When there is a theft case reported, I arrest those people. That is exactly what I have done. Anything to do with regulations and fighting amongst themselves is not under Mr. Ojode. I will arrest those who steal your coffee bags. I will do that as I have already done!

Mr. Letimalo: Mr. Temporary Deputy Speaker, Sir, now that the Assistant Minister is aware of the theft of coffee beans, what measures is he going to put in place to ensure that he stops further stealing of coffee beans?

Mr. Ojode: Mr. Temporary Deputy Speaker, Sir, we have said that if there is any theft case within the factory, we need those cases to be reported immediately for my officers to arrest the suspects immediately. In the same vein, we are requesting the factory owners to try and employ security people like the watchmen, so that they can also help in alleviating these criminal activities.

Mr. James Maina Kamau: Mr. Temporary Deputy Speaker, Sir, I know the theft of this coffee beans is going on because there are people buying it. What is the Government doing to make sure they know where this coffee is being sold?

Mr. Ojode: Mr. Temporary Deputy Speaker, Sir, I did not get the question.

The Temporary Deputy Speaker (Mr. Imanyara): Where is the coffee that is stolen being sold?

Mr. Ojode: Mr. Temporary Deputy Speaker, Sir, I would not know where they are selling what they have stolen. However, what we are trying to do now is to at least know what has been stolen. If it is reported on time, we will take action. I would urge the hon. Member to ask the factory managers to report any theft, so that we can recover what has been stolen from the factories and we will do it.

Mr. James Maina Kamau: On a point of order, Mr. Temporary Deputy Speaker, Sir. The Assistant Minister is not giving a proper answer. Why could he not ask the police to do proper investigations, so that they can know exactly who is stealing this coffee beans and where it is being sold?

The Temporary Deputy Speaker (Mr. Imanyara): Order, Mr. Ojode! That is not a point of order and you need not respond to it!

Next Question, hon. Daniel Muoki!

Question No.1188

LIST OF BOREHOLES IN MWALA CONSTITUENCY

The Temporary Deputy Speaker (Mr. Imanyara): The Chair has received information that the hon. Member is away and this Question---

(Mr. D. Muoki stood up in his place)

Mr. D. Muoki: I am here, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Imanyara): Order! The Chair appears to have been misled! I am sorry! The Chair had been misled that you had sought that the Question be deferred. Please, proceed!

Mr. D. Muoki asked the Minister for Water and Irrigation:-

(a) whether she could provide a list of all boreholes drilled in Mwala Constituency from 2006 to date and state how many of them are still capped;

(b) how much it costs to equip a borehole and when will the capped boreholes be equipped; and,

(c) what other measures the Ministry is taking to alleviate the acute water shortage in Mwala Constituency.

The Minister for Water and Irrigation (Mrs. Ngilu): Mr. Temporary Deputy Speaker, Sir, I beg to reply.

(a) The number of boreholes drilled in Mwala Constituency since the year 2006 to date is 41. Out of which, 13 boreholes are still capped due to budgetary constraints. The list of the boreholes is contained in the list that the hon. Member already has.

(b) To equip one borehole, there are parameters considered before arrival at the final cost like the depth, yield, head to pump, quantity of water to be pumped and the source of energy to be used. The civil works like tanks, pipelines and auxiliary works are also considered. The average cost to equip a borehole could range from Kshs1 million to Kshs5 million when the above factors are considered.

My Ministry has funds under the Drought Mitigation Programme and the capped boreholes will be considered under this programme.

(c) My Ministry through the Water Services Trust Fund has set aside Kshs5,398,814 for use to improve water services in Mwala/Wamunyu Water Project. Further, Mbaika/Mwasa/Kibauni/Wamunyu Water Supply will receive a further Kshs76 million for rehabilitation in the current financial year.

The above will be achieved if the hon. Member will prevail upon his constituents to be part of the programmes that are on the ground.

Mr. D. Muoki: On a point of order, Mr. Temporary Deputy Speaker, Sir. May I know whether this was a supplementary answer to one that I was given earlier because some of the details are not the same? May I know what the Minister referred to in her last statement?

Mrs. Ngilu: Mr. Temporary Deputy Speaker, Sir, if you look at this Question, it is about the number of boreholes that have been drilled and capped since 2006 to date. I have personally been in one meeting where the hon. Member was with the former Member of Parliament of the area and where they were talking about these same water projects. I told them that this should not be brought to the meetings, but they should make sure that all these boreholes which are capped are equipped for the benefit of the people.

Eng. Gumbo: Mr. Temporary Deputy Speaker, Sir, I wish to thank the Minister for the answer, but I want to ask what policy she has in building boreholes in constituencies.

Mrs. Ngilu: Mr. Temporary Deputy Speaker, Sir, the policy that we have is that there are areas where we can only give people water through boreholes. There are others that we can give people water through using available rivers or streams. As I said, we consider various factors to see where we can get the source of water. It is different! As I said, a borehole will cost between Kshs1 million to Kshs5 million. In other areas, it may

cost more, but we have to provide people with water. Like in the area of Eng. Gumbo, we could get water for Asembo Ndori region from Lake Victoria. So, we do not have to do boreholes in that area because there is a plenty of water from Lake Victoria. I think that is the policy he wants to know.

Mr. Njuguna: Mr. Temporary Deputy Speaker, Sir, while thanking the Minister for the answer, could she inform the House what plans the Ministry has put in place to complete the remaining boreholes?

Mrs. Ngilu: Mr. Temporary Deputy Speaker, Sir, I have already answered that question. However, I will answer it once again. As I said, we prioritize areas to provide water. In fact, I normally ask for information pertaining to all the capped boreholes, so that I know whether we have water in them. After that, we equip them and distribute water. So, when we get money, we prioritize boreholes that have already been drilled and capped.

Mr. D. Muoki: Mr. Temporary Deputy Speaker, Sir, when this Question was referred back to the Minister, she was specifically asked to come and clarify what happened to Kshs40 million and Kshs20 million, respectively, that she undertook to make available for Wamunyu and Mbiuni water projects. That part has not been answered! Could she also clarify out of Ksh76 million, how much will go to Wamunyu and Mbiuni water projects?

Mrs. Ngilu: Mr. Temporary Deputy Speaker, Sir, if the hon. Member understood my answer correctly, I said we have allocated Kshs76 million to Mbika/Mwasa/Kibauni and Wamuya water projects this financial year. Over and above that, we have also allocated another Kshs5,398,814 to that particular project. This particular amount of money will be spent in the next three months. This money will come from the WSTF. Once they complete their project, we will inspect it and give them more money. This is what the donor wants. What I would kindly ask the hon. Member to do is to help bring people together and not to do politics with water. Thi is a very essential commodity that we must provide to our people. I urge him to do this project very fast and get more money from donors because that is what they want to see happen in the ASAL areas.

Question No.903

LIST OF EDUCATION ATTACHÉS IN KENYAN EMBASSIES

Mr. Kaino asked the Minister for Foreign Affairs:-

(a) whether he could provide a list of Education Attachés in all the Kenyan Embassies, High Commissions and diplomatic missions, stating their respective stations, qualifications, positions and district of birth;

(b) whether the officers deployed meet the minimum educational requirements to hold their respective positions; and,

(c) whether he could consider rationalizing the deployment of the officers with regard to regional and ethnic balancing.

The Temporary Deputy Speaker (Mr. Imanyara): Where is the Minister, Leader of Government Business?

The Minister for Transport (Mr. Kimunya): Mr. Temporary Deputy Speaker, Sir, we probably need to find out whether they are still on the way coming to the House. If you could give some time, then I will come back to you at the end.

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Minister, it has just been pointed out to me that, in fact, this Question was here last week and you said that it would be answered next week at 2.30 p.m. That is what Mr. Mudavadi said speaking on behalf of the Government and I have the HANSARD here!

The Minister for Transport (Mr. Kimunya): Mr. Temporary Deputy Speaker, Sir, there may have been a communication problem and I just wanted---

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Mudavadi is here, maybe you can just consult him and then we come back to this Question.

The Minister for Transport (Mr. Kimunya): Mr. Temporary Deputy Speaker, Sir, that is okay.

The Temporary Deputy Speaker (Mr. Imanyara): We will come back to it.

Question No.1237

GOVERNMENT EXPENDITURE ON FRESH CUT FLOWERS

The Temporary Deputy Speaker (Mr. Imanyara): Where is Mr. Sirat? We will go to the next Question!

Question No.868

NEMA'S FAILURE TO ACT ON MS. LEATHER INDUSTRIES FOR AIR POLLUTION

The Temporary Deputy Speaker (Mr. Imanyara): I think there was a request to defer this Question. Is that so? There was this indication, but I would like this confirmed that he is away on official Parliamentary business. He is in Burundi on official Parliamentary business and so this Question will be deferred to next week.

(Question deferred)

Question No.1059

RECONSTITUTION OF TEA BOARD OF KENYA BOARD

(Question deferred)

Question No.1215

DROWNING OF TWO STUDENTS AT MASINGA DAM

(Question deferred)

Question No.1299

PURCHASE OF RICE BY KENYA RED CROSS SOCIETY

Mr. Gitau asked the Minister of State for Special Programmes:-

(a) where the Kenya Red Cross Society buys rice to distribute to persons affected by famine in the country; and,

(b) how much rice the Society has bought from farmers in the Mwea Irrigation Scheme since January, 2011.

The Minister of State for Special Programmes (Ms. Mathenge): Mr. Temporary Deputy Speaker, Sir, I beg to reply.

(a)The Kenya Red Cross Society does not buy rice and has never bought rice locally for food distribution. The entire scope of their food interventions whether via direct food aid or food security initiative are non-rice related unless there is a specific rice donation.

(b)Therefore, the Red Cross does not buy any rice from Mwea Society.

Mr. Gitau: Mr. Temporary Deputy Speaker, Sir, the other day, there was the Kenyans for Kenyans programme and money was being distributed to buy foodstuff for the starving Kenyans. Money was handed over to the institution of Red Cross which we expected some activities as purchase of rice in Mwea which was part of the food that the Kenya Red Cross distributes. Could the Minister tell us whether with the improvement of the scheme, the Government programme on the purchase of rice will start?

Ms. Mathenge: Mr. Temporary Deputy Speaker, Sir, once the scheme is under process, perhaps, we will buy because the Government then will be under obligation to support the farmers. However, under the Act that incorporated the Kenya Red Cross, I cannot dictate to them where they will purchase their rice or other foodstuff.

Mr. Mwangi: Mr. Temporary Deputy Speaker, Sir, when you travel to Mwea area, you find that most of the small-scale farmers are hawking rice by the roadside. Would that have to wait for the Government for the project to be upgraded, so that they can buy? Why would you not make effort and buy what has already been produced to support the farmers? Why do they have the economic stimulus programmes if what we have today the Government cannot cater for the farmers?

Ms. Mathenge: Mr. Temporary Deputy Speaker, Sir, the Ministry has a contract with a supplier and when we needed rice, the Mwea Irrigation Scheme did not have adequate supplies and they were also not willing to sell at the price that the contractor wanted to buy.

Mr. Ngugi: Mr. Temporary Deputy Speaker, Sir, on the same note, I would like to know what is the Government policy about buying locally grown foods like rice, vegetables and potatoes from Nyandarua and feeding people in those areas that have been hit by drought. What is the policy of the Ministry for supporting farmers locally?

Ms. Mathenge: Mr. Temporary Deputy Speaker, Sir, we would love to buy the vegetables and potatoes, but they are perishables. So, in most cases, they may not last the duration that we need to transport them to wherever we need to take them.

Mr. Ngugi: On a point of order, Mr. Temporary Deputy Speaker, Sir. People in Nairobi feeds on potatoes and vegetables yet they are perishable. When Kieni is dry---

The Temporary Deputy Speaker (Mr. Imanyara): What is your point of order, Mr. Ngugi?

Mr. Ngugi: Mr. Temporary Deputy Speaker, Sir, is the Minister in order to mislead this House that perishables cannot feed all those who are hungry when it is very well known that Nairobi feeds on potatoes and cabbages and we could feed Kieni and Makuyu?

The Temporary Deputy Speaker (Mr. Imanyara): Order! I never heard the Minister say that she cannot feed people with perishables. She did not say anything of the sort!

Mr. Pesa: Mr. Temporary Deputy Speaker, Sir, we want to encourage our local farmers. The Minister has told us very clearly that Mwea Irrigation Scheme did not have enough rice and that may be right. But she also claims that the price that was charged at Mwea when the contracted supplier wanted rice was higher than what was charged by the other farms from where they got the rice. Could we compare the two prices here so that we know that she is telling us the truth?

Ms. Mathenge: Mr. Temporary Deputy Speaker, Sir, I can provide the prices later. I do not have them right now.

Ms. Karua: Mr. Temporary Deputy Speaker, Sir, the Minister says it is the contractor who was trying to buy rice from Mwea. However, is there anything preventing the Government from bulk buying the rice just like they do the maize and providing rice as a relief food? After all, it is easier to cook than maize!

The Temporary Deputy Speaker (Mr. Imanyara): Madam Minister, fortunately, my attention was got by other hon. Members and I did not get what Dr. Nuh said. But just proceed.

Ms. Mathenge: Mr. Temporary Deputy Speaker, Sir, policies are not cast in stone and they can be changed. We are working on it and as soon as it is done, I am sure you will be able to contribute and help me to change it.

Thank you, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Imanyara): Ask the last question, Mr. Peter Gitau!

Mr. Gitau: Thank you, Mr. Temporary Deputy Speaker, Sir. Now that we are expecting a bumper harvest of rice, could the Minister also consider purchasing rice for strategic food reserve for the future of Kenyans in case hunger strikes again?

(Loud consultations)

Ms. Mathenge: Yes, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Imanyara): What have you said, Madam Minister?

Ms. Mathenge: Mr. Temporary Deputy Speaker, Sir, I have said that we shall consider buying rice as part of relief food.

QUESTION BY PRIVATE NOTICE

The Temporary Deputy Speaker (Mr. Imanyara): Yes, Sheikh Dor?

Mr. Yakub: Mr. Temporary Deputy Speaker, Sir, I have gone through the reply and I can now give the Minister the chance to reply.

STRIKE NOTICE BY KENYA FERRY SERVICES EMPLOYEES

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

(a) Is the Minister aware that employees of the Kenya Ferry Services (KFS) have issued a 21-day strike notice over refusal by KFS management to acknowledge their membership to the Dock Workers' Union?

(b) What are the reasons for KFS management's refusal to acknowledge the employees' membership, despite monthly contributions to the union?

(c) What measures will the Minister take to ensure KFS respects the employees' right of membership to the union?

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

(a) I am aware that employees of the KFS have issued a 21-day strike notice.

(b) The unionisable KFS staff were, initially, represented by the Transport and Allied Workers Union (TAWU) and in June, 2009, all the unionisable staff resigned from TAWU and enrolled with the Dock Workers Union. The KFS Management was initially reluctant to recognize the Dock Workers Union as there was already a recognition agreement with the TAWU and were consulting the Central Organization of Trade Union (COTU), the Federation of Kenya Employers (FKE) and the Ministry of Labour for advice on the way forward.

(c) The KFS and the Dock Workers Union were scheduled to meet yesterday, 28th November, 2011, to review the proposals by both parties with a view to agree and conclude the recognition agreement.

Mr. Yakub: Thank you, Mr. Temporary Deputy Speaker, Sir. I wish to thank the Minister. All the information that he has given the House is true except the date which he had mentioned, which is 28th November. I would like to inform the Minister that they are meeting today, this afternoon and I have just confirmed right now that the management of KFS are meeting with the Dock Workers Union. They are trying to sort out the issue so that there is no strike at all.

Thank you, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Imanyara): So, you have no question?

Mr. Yakub: I have no further questions.

Thank you, Mr. Temporary Deputy Speaker, Sir.

ORAL ANSWERS TO QUESTIONS

The Temporary Deputy Speaker (Mr. Imanyara): All right! Let us move on to Question No.903 by the Member for Marakwet West!

Question No.903

LIST OF EDUCATION ATTACHÉS

IN KENYAN EMBASSIES

The Temporary Deputy Speaker (Mr. Imanyara): The hon. Member for Marakwet West, I understand the Minister is out of the country and I defer this Question until next Thursday.

(Question deferred)

Let us move on to Question No.1237!

Question No.1237

GOVERNMENT EXPENDITURE ON FRESH CUT FLOWERS

The Temporary Deputy Speaker (Mr. Imanyara): Is the Member for Wajir South not here? His Question is dropped!

(Question dropped)

Yes, the Member for Manyatta!

Mr. Kathuri: Thank you, Mr. Temporary Deputy Speaker, Sir. I rise to ask Question---

The Temporary Deputy Speaker (Mr. Imanyara): Order! If that is the approach you will take, I will not allow you to ask this Question!

Mr. Kathuri: Thank you, Mr. Temporary Deputy Speaker, Sir. Let me start by, first of all, apologizing for not having heard my Question being mentioned. It is just that I was busy reading my answer and it escaped my notice.

The Temporary Deputy Speaker (Mr. Imanyara): Very well! You may now ask it.

Question No.1215

DROWNING OF TWO STUDENTS
AT MASINGA DAM

Mr. Kathuri asked the Minister for Regional Development Authorities:-

(a) whether he is aware that two students from St. Christopher's Day Secondary School, Nembure, drowned at Masinga Dam on Friday, 5th August, 2011;

(b) whether the use of boats for commercial purposes has been authorized at the dam and, if so, what measures are in place to ensure safety standards are adhered to by the boat operators; and,

(c) when the families of the deceased will be compensated.

The Assistant Minister for Regional Development Authorities (Mr. ole Metito): Mr. Temporary Deputy Speaker, Sir, I beg to reply.

(a) Yes, I am aware that two boys who were students of St. Christopher's Day Secondary School, Nembure, drowned in the reservoir on 5th August, 2011. However, the TARDA was not aware that the mentioned school planned to visit the reservoir on the particular day. Since there was no communication concerning the visit, TARDA was not able to make arrangements for logistical support and guided tours of the area.

(b) Commercial boats have not been authorized by TARDA for use on the reservoir. However, a few locals own boats which they use for subsistence fishing on the reservoir but without permission from TARDA. These boats are sometimes unmanned or abandoned. Any such activity whenever brought to the attention of the authority is highly discouraged. It would appear that the two students who drowned used one of such abandoned boats.

On safety measures, the Authority has designated entry or access points to the reservoir which are used during organized and guided tours.

(c) The incident was a trespass on TARDA property by the organizers of the visit; that is, St. Christopher's Day Secondary School, Nembure, and, therefore, TARDA neither authorized nor was it aware of such a visit and, hence, cannot be held responsible. However, TARDA deeply regrets the loss of the two young Kenyans during the incident.

Thank you, Mr. Temporary Deputy Speaker, Sir.

Mr. Kathuri: Mr. Temporary Deputy Speaker, Sir, while I thank the Assistant Minister for coming up with the answer today, although belatedly, this Question was listed and it appeared as if the Ministry, first of all, decided not to respond early enough.

What is shocking is the fact that the Ministry is talking of discouraging and yet it is the one that is in charge of waters. The Ministry is very much aware that the waters belong to TARDA and we have not seen any signboard anywhere. We have not seen any patrol anywhere; we have not seen anybody---

The Temporary Deputy Speaker (Mr. Imanyara): Order, Mr. Kathuri! Please, ask your question.

Mr. Kathuri: Mr. Temporary Deputy Speaker, Sir, could the Assistant Minister specifically tell us who is responsible for those waters because we need to know who is supposed to patrol the waters so that we do not have such students using boats that are not licensed?

Mr. ole Metito: Mr. Temporary Deputy Speaker, Sir, it is TARDA which is in charge of the water in the reservoir. However, for TARDA to be held responsible, any organized group that would like to have site-viewing of the reservoir must pass through the official gate or the official entry point to the reservoir. By doing so, they will be provided with guided tours and patrols as they go to the reservoir. In this case, the bus that was carrying the students did not pass through the authorized gates to the reservoir.

The Temporary Deputy Speaker (Mr. Imanyara): Ask the final question, Mr. Kathuri?

Mr. Kathuri: Mr. Temporary Deputy Speaker, Sir, it sounds very strange that Ministry is talking about guided tours, and yet we know that if you boarded somebody's truck at the back, even if you are involved in an accident, you will find the owner of the vehicle being sued for damages. How come that the Ministry is not being held responsible, and yet it is the one that mans the waters?

Mr. ole Metito: Mr. Temporary Deputy Speaker, Sir, TARDA can only be held responsible if at all the tour to the reservoir was authorized, there was communication so that they planned for it and they ensure that unsafe points are not visited by the would-be tourists. In this case, I would advise my honorable friend that the school should be held responsible for taking the students to the site-viewing of the reservoir without communicating to the institution, which is TARDA. Therefore, we were not aware. Actually, as an institution, we learnt about that incident when it had already occurred and the police had been informed. This is because they used the *panya* routes or the unauthorized routes to the reservoir.

The Temporary Deputy Speaker (Mr. Imanyara): Next Order.

I will first take the requests. Are there any requests for Ministerial Statements?

POINTS OF ORDERS

SAFETY OF KENYANS LIVING IN SUDAN

Mr. Gitari: Mr. Temporary Deputy Speaker, Sir, I rise to ask for a Ministerial Statement from the Minister for Foreign Affairs on the safety of Kenyans living in Sudan following the issuance of a warrant of arrest of the Sudanese President by the High Court in Nairobi on 28th November, 2011.

In his Statement, I would like him to address the following issues.

1. What measures will the Government put in place to guarantee Kenyans living and working in Sudan on their safety?

2. I would like him to clarify whether our Government will be in a position to engage the Sudanese country leadership in agreements like the current DOHA and in bilateral and regional relations in view of the court order.

The Minister for Transport (Mr. Kimunya): Mr. Temporary Deputy Speaker, Sir, as you are aware, the Minister and his Assistant Minister for Foreign Affairs are out now. However, I will communicate to them and probably have a comprehensive Statement on Thursday, next week.

The Temporary Deputy Speaker (Mr. Imanyara): Is that okay with you, Member for Kirinyaga Central?

Mr. Gitari: Mr. Temporary Deputy Speaker, Sir, because they are out, I will wait for Thursday, next week.

The Temporary Deputy Speaker (Mr. Imanyara): Very well.

PREMATURE REPLACEMENT OF JKUAT COUNCIL MEMBERS

Mr. Wambugu: Mr. Temporary Deputy Speaker, Sir, I had requested for a Ministerial Statement on Wednesday last week and I had been promised that I would get the Statement today from the Ministry of Higher Education, Science and Technology.

The Assistant Minister for Higher Education, Science and Technology (Dr. Mwiria): Mr. Temporary Deputy Speaker, Sir, I am not the one who promised, but he asked for it. I would like to ask for a little bit more time because I have just known about it. I know you had asked for it, but I thought the Minister had prepared something for it.

Apparently, nothing was prepared. I have been out of Nairobi for some time. So, I would like to ask for more time. So, we could give it next week.

The Temporary Deputy Speaker (Mr. Imanyara): Capt. Wambugu, is that okay? Are you satisfied?

Mr. Wambugu: Mr. Temporary Deputy Speaker, Sir, I think it could come earlier the better. However, if he insists on one week, that should be alright. We can expect the Statement on Wednesday, next week?

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Assistant Minister, I think it is a reasonable request. Could you bring it on Wednesday morning or afternoon?

The Assistant Minister for Higher Education, Science and Technology (Dr. Mwiria): Mr. Temporary Deputy Speaker, Sir, Wednesday afternoon, will be okay with us.

The Temporary Deputy Speaker (Mr. Imanyara): Very well.

Eng. Gumbo: Mr. Temporary Deputy Speaker, Sir, two weeks ago, I requested for a Ministerial Statement from the Minister for Sports and Youth Affairs---

The Temporary Deputy Speaker (Mr. Imanyara): Order. You know right now it is actual requests, and not the Statement that are due. I will come to that as soon as I finish on the requests.

If there are no requests now, are there any Ministers giving Statements today? The Clerks-at-the-Table, please, let me know what Statements were due today.

I am told there was a Statement due from the Ministry of Youth Affairs and Sports. I saw the Assistant Minister here. Anyone from the Ministry of Youth Affairs and Sports? I can see the Assistant Minister chatting away.

Madam Assistant Minister, do you have a Statement?

The Assistant Minister for Youth Affairs and Sports (Ms. Ndeti): Yes, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Imanyara): Alright, go on.

MINISTERIAL STATEMENTS

NOMINATION OF IAAF FEMALE ATHLETE OF THE YEAR

The Assistant Minister for Youth Affairs and Sports (Ms. Ndeti): Mr. Temporary Deputy Speaker, Sir, I am sorry about that.

Mr. Temporary Deputy Speaker, Sir, on 23rd November, 2011, the Member for Rarieda, Eng. Gumbo, rose on a point of order to seek a Ministerial Statement on award of female athlete of the year.

I beg to state as follows. The IAAF World Athlete of the Year Award takes place every year to recognize and reward excellence by the athletes in the season under consideration. The season begins in November and ends in October the following year. Some of the winners of the award include Usain Bolt; 200 metres and 4x100 metres relay, world champion and world record holder, from Jamaica in 2011. Mr. David Rudisha, 800 metres World Athletics Champion and world champion and world record holder of Kenya in 2010.

The IAAF shortlists outstanding athletes of the season and gives their names out for voting. Voting is done by selected athletics public bodies by sending in their choices

of outstanding athletes. The voters are IAAF and IAF council members and IAAF member federations, IAAF committee and commission members, IAAF meeting directors, IAAF ambassadors, athletes' representatives, top athletes, international Press and IAA staff.

Mr. Temporary Deputy Speaker, Sir, further eliminations are done in three rounds of voting. The best 10 athletes in each category are put to the final voting and the international community votes for them. The voting ends on the night preceding the Gala Night in Monte Carlo, Monaco, Headquarters of the IAAF where the final verdict is given.

The selection of the athletes goes beyond performance and also looks into the outstanding personality of the athletes, media friendliness and *etcetera*. Because of this, sponsors also lobby behind the scenes and push for their athletes.

Mr. Temporary Deputy Speaker, Sir, the hon. Member may wish to note that the decision finally arrived at is final and cannot be petitioned. This year, the female category was won by Sally Pearson of Australia in the 100 metres hurdle race. During the season, she won 10 out of 11 competitions. She won the events at the World Athletics Champions in Daegu, South Korea, with a time of 12.28 seconds which was the fourth fastest time ever in the event.

Kenya's closets athlete to this title was Vivian Cheruiyot who won the Senior Women 8 kilometres event in the World Cross Country Championship in Punta Umbria, Spain. She also won the 5,000 metres and 10,000 metres race at the world championship in Daegu. After this rigorous selection process given above, the IAAF council reached the final verdict and made the announcement during the world athletes of the Year Gala in Monaco.

I agree with the hon. Member of Rarieda that it would appear that Vivian Cheruiyot's performance was more impressive than that of the final winner Sally Pearson. However, the decision is final. We cannot contest it. I would further urge Kenyans to get into the habit of voting whenever the opportunity to vote for our people presents itself at the international forum. This would make a significant change in the outcome of this contest in the future.

Thank you, Mr. Temporary Deputy Speaker, Sir.

Eng. Gumbo: Mr. Temporary Deputy Speaker, Sir, I want to thank the Assistant Minister for the Statement but unfortunately as a Kenyan, the Statement sounds to me more like a justification of why Sally Pearson won and not Vivian Cheruiyot.

Mr. Temporary Deputy Speaker, Sir, indulge me just for a moment to tell you the story of these two girls. Sally Pearson is an Australian athlete and she won the 100 metres women's title at Daegu, South Korea this year. As the Assistant Minister said, Sally Pearson has only run the fourth fastest time in this event. On the other hand, Vivian Cheruiyot, as we know, is a Kenyan athlete. This year alone, as the Assistant Minister has said, she won the world cross country senior women title in Punta Umbria in Spain. She also won double gold medal at 5,000 metres and 10,000 metres at the world athletics championship in Daegu. Most importantly, she has been unbeaten in the IAAF Diamond League meetings the whole of this year and she has also run the world's fastest time this year in 3,000 metres and 5,000 metres.

I want to add that, this event which nominated Sally Pearson to be, according to the IAAF, the world woman athlete of the year, is 100 metres hurdles. It is one of the

least glamorous events in any championship. In fact, the only time people got interested in this event was through an American athlete called Gail Devers.

Having said that, our view as Kenyans, and in fact, one of our leading newspapers actually predicted her win even before she won and put a whole pull out, we clearly thought that in nominating the woman athlete of the year, it was going to be a procession not a competition. Clearly to us, we were robbed. The question I want to ask the Assistant Minister is: What are we doing? Those things about sensitizing athletic federations, the voting and all that does not mean much to Kenyans. What are we doing to make Kenyan athletes believe that it is still worth participating in these kinds of competitions?

The Temporary Deputy Speaker (Mr. Imanyara): Is there any clarifications sought in respect to that Statement? Assistant Minister, please note the clarifications being sought so that you can respond to all of them at once.

Mr. Mungatana: Mr. Temporary Deputy Speaker, Sir, the Assistant Minister said in her Statement that the voting is influenced by a lot of behind-the-bar lobbying. Did the Government try to lobby for our athlete? Were they in any way involved in trying to help our athlete clinch this title or they just sit and wait for us to come and complain after the event?

Mr. Njuguna: Mr. Temporary Deputy Speaker, Sir, it is evident from the Statement issued by the Assistant Minister that sponsors lobby for their versatile athletes. What is the Government doing to make sure that in future, our athletes will not lose ready awards in international meetings?

Dr. Khalwale: Mr. Temporary Deputy Speaker, Sir, Kenya is a powerhouse in athletics. We are also members of the nominating body. What is our Government doing to ensure that the rules of nomination that reward people are based on talent and achievement rather than on lobbying?

Mr. Kiptanui: Mr. Temporary Deputy Speaker, Sir, in view of the fact that Vivian Cheruiyot almost won this international award, what has the Assistant Minister done to reward Vivian, now that the international award was given to somebody else?

The Assistant Minister for Youth Affairs and Sports (Ms. Ndeti): Mr. Temporary Deputy Speaker, Sir, there is no question; our lady is one of the best ladies in the world. She is the best and there is no question about that. However, what went wrong is that as Kenyans, we are not involving ourselves in voting internationally, when some of these things come up. I would request every Kenyan to be alert and as a Ministry we should sensitize Kenyans that when something like that comes up, we put our efforts together and try to vote for our own to win. We have to learn how to back our own. This was a very big lesson to all of us. We have to make sure that this does not happen again.

I think I have answered.

The Temporary Deputy Speaker (Mr. Imanyara): There were four questions seeking clarifications!

The Assistant Minister for Youth Affairs and Sports (Ms. Ndeti): It was about voting and what we have done. Most of the athletes who did well were awarded by the President. I am sure she is among the ones who were awarded but I am going to confirm that. We awarded most of our athletes who did well.

Thank you.

The Temporary Deputy Speaker (Mr. Imanyara): Dr. Oburu, did you have a Statement?

POINTS OF ORDER

GOVERNMENT'S INTENTION TO INVEST IN PRINTING OF KENYA CURRENCY

The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Finance (Dr. Oburu): Mr. Temporary Deputy Speaker, Sir, last week a Statement was referred to our Ministry. It was sought by Dr. Khalwale. The Statement was on the partnership with the Kenya Government on De La Rue. It was ordered by the Speaker that we bring the Statement today, Tuesday. However, there are a few things we are still trying to put together in order to come with a comprehensive Statement on this matter. We would have liked to come tomorrow afternoon but we have agreed with the hon. Member that we bring the Statement on Thursday afternoon.

The Temporary Deputy Speaker (Mr. Imanyara): Dr. Khalwale, is that the position?

Dr. Khalwale: Yes, indeed, Mr. Temporary Deputy Speaker, Sir. However, my worry is, I hope the Government is not buying time so that by the time they come before the House, they will have concluded the joint venture.

The Temporary Deputy Speaker (Mr. Imanyara): This Assistant Minister does not normally shy away from giving Statements, so next Thursday.

(Several hon. Members stood up in their places)

Are these requests or just reminders? I did away with requests before I came to Statements!

Mr. Eugene Wamalwa, what is it?

CONSTRUCTION OF SIGIRI AND MULWANDA BRIDGES

Mr. Wamalwa: Mr. Temporary Deputy Speaker, Sir, there was a disaster last week in Busia County at a place called Sigiri. I wish to request for a Statement from the Ministry of Roads with regard to the construction of Sigiri and Mulwanda bridges in Busia County to avoid any further disasters like the one we saw last week.

This disaster followed a boat capsizing along River Nzoia in the Sigiri area killing ten people. I wish the Minister in his Statement to state when this bridge will be constructed in order to avoid any further disasters and loss of human life in this area. I would also like the Minister to confirm what urgent measures have been put in place to provide a ferry in the meantime and also have a motorboat for emergency services around this area before the permanent solution envisaged in the construction of these bridges is found.

Lastly, I would like the Minister to also tell the House what the Government has done to assist the affected families.

The Assistant Minister for Roads (Mr. Kinyanjui): Mr. Temporary Deputy Speaker, Sir, in view of the urgency of the matter, I undertake to deliver a Statement on Thursday this week.

UNCONSTITUTIONAL WITHDRAWAL OF FUNDS FROM CONSOLIDATED FUND

Mr. Mbadi: Mr. Temporary Deputy Speaker, Sir, mine is just a follow-up. The Attorney-General had promised to issue my Statement today.

The Temporary Deputy Speaker (Mr. Imanyara): You have reminded me; there is actually a request made in writing by the Attorney-General that he is part of the Kenyan delegation to some official trip and he has requested that all matters relating to his office for this week be deferred to next week. I have consulted and indeed established that that is the position and I agreed that matters relating to the office of the Attorney-General will be deferred to next week. However, you may request for a specific date next week.

Mr. Mbadi: Mr. Temporary Deputy Speaker, Sir, since it is due today Tuesday, then I would only request for Tuesday next week.

The Temporary Deputy Speaker (Mr. Imanyara): Deputy Leader of Government Business, is Tuesday alright?

The Minister for Transport (Mr. Kimunya): Mr. Temporary Deputy Speaker, Sir, I would have preferred it later than Tuesday but we can try. I hope he will have come back by then.

The Temporary Deputy Speaker (Mr. Imanyara): Let us not try, we want a specific answer.

The Minister for Transport (Mr. Kimunya): Thursday next week.

The Temporary Deputy Speaker (Mr. Imanyara): Alright, Thursday next week!

CONTROVERSY SURROUNDING JUSTICE AND LEGAL AFFAIRS COMMITTEE

Mr. Baiya: On a point of order, Mr. Temporary Deputy Speaker, Sir. Mine is a follow up with the Deputy Leader of Government Business. I would like him to confirm matters relating to the Departmental Committee on Justice and Legal Affairs.

About two weeks ago, the Leader of Government Business assured this House that the House Business Committee would have finally resolved the controversy surrounding this Committee. The solution was expected to come by Tuesday, last week but to date there has been no word about it. As you may be aware, and, indeed, you are aware, there is some business relating to this Committee which is pending including the vetting of nominees to the Select Committee on the appointment of the Registrar and the Deputy Registrar of Political Parties. All this work is pending and legal deadlines have already passed unmet as a result of the dilly-dallying that is still taking place with regard to this. I would like the Leader of Government Business to tell this House what they are doing and whether they are ready to take responsibility for the failure by the Committee

to discharge its mandate because this Committee is still in place and it is willing to perform but it is only that the problem has not been resolved.

The Minister for Transport (Mr. Kimunya): Mr. Temporary Deputy Speaker, Sir, the issue of the Departmental Committee on Justice and Legal Affairs is complex as I have said before. Every time we think that we have resolved it, something else comes up. I am hoping that we will get an update this evening, at the rise of the House, after which I can authoritatively tell the House when the matter can be resolved. However, I would like the House to bear with us as we try to wade through the political intrigues of this Committee and, hopefully, within the next week or so, we would have come up with a solution. The two whips will be there and would have resolved the task that was assigned to them by the House Business Committee.

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Minister, before Mr. Mungatana stands up, this House has become the stumbling block to the implementation of the Constitution. Three very important commissions cannot perform because of the non-performance by this House of its tasks. You, as the Deputy Leader of Government Business, must address these issues substantively this evening during the House Business Committee and should you not resolve it, the Chair will give directions on the matter tomorrow at 2.30 pm, one way or the other, to conclude this issue finally!
Security of Office Holders Categorized as High Value Individuals

SECURITY OF OFFICE HOLDERS CATEGORIZED AS HIGH VALUE INDIVIDUALS

Mr. Mungatana: Mr. Temporary Deputy Speaker, Sir, this is a follow up to my requests. I saw the Assistant Minister, Ministry of State for Provincial Administration and Internal Security, Mr. Ojode here. He had undertaken to deliver the Statement today. I do not know what the fate of that is.

USE OF DRUGS MONEY TO FUND KENYA POLITICS

On Wednesday, last week the Speaker had directed that today he will give direction on a Question that had been directed to the Prime Minister as to whether he will answer it in person or his office will be able to answer it. He directed that I provide the evidence to the Office of the Speaker, which I did. So, I was expecting those two.

The Temporary Deputy Speaker (Mr. Imanyara): On the first one, I do not know whether, in fact, there was an undertaking but if there was and the Assistant Minister was in the House and he failed to honour the undertaking, obviously, that amounts to disorderly conduct. I wish to establish from the Clerks-at-the-Table whether there was an undertaking by the Assistant Minister, Ministry of State for Provincial Administration and Internal Security to give that Statement today so that they can handle that aspect.

With regard to the issue of the Prime Minister's Time, the Chair is on the picture with regard to that matter and the issue will be dealt with tomorrow. As you know, the Chair is on official business out of the House. However, the matter will be dealt with and addressed tomorrow afternoon.

(The Temporary Deputy Speaker (Mr. Imanyara) consulted with the Clerk)

Indeed, I have confirmed that the Assistant Minister undertook to the House to give the Statement. Given that he was in the House, the Chair holds and finds him guilty of disorderly conduct and we expect that tomorrow he will show cause why action should not be taken against him. The Leader of Government Business, convey to the Assistant Minister concerned that he will be expected to show cause why action as envisaged in the Standing Orders should not be taken against him for failing to honour an undertaking that he personally gave to the House.

Is there any other Statement?

DEMOLITION OF HOUSES IN EASTLEIGH

Mr. Hassan: Thank you Mr. Temporary Deputy Speaker, Sir. I am following up on an undertaking that was made by the Government last week that it would issue a Statement on the demolitions and forced evictions that are taking place in Nairobi. I think it was the Attorney-General's Office that was given that responsibility.

The Temporary Deputy Speaker (Mr. Imanyara): As I had indicated, the Attorney-General acknowledges that. He sought the indulgence of the House. He is away on official Government business and I have personally established that is so. We allowed him to give the Statement next week. The Leader of Government Business, that Statement should be given together with the others on Thursday, next week.

Is that okay hon. Hassan?

Mr. Hassan: Mr. Temporary Deputy Speaker, Sir, I am a bit concerned that, perhaps, the Government is not giving the urgency and importance the subject demands because we do not know whether these demolitions will continue. There is a large number of people who have been forcibly moved from their homes and are in the open. I think it is important that they address this issue urgently.

The Temporary Deputy Speaker (Mr. Imanyara): I appreciate that. However, as you know, the House is seized of the matter through one of the Committees that is sitting. The Attorney-General has also appeared before that Committee and it is reasonable, acknowledging the importance that the matter deserves, that it is addressed in the context of the hearings going on now. So, let him give it on Thursday together with the others. Is there any other?

COMMITTEE OF THE WHOLE HOUSE

THE INDEMNITY (REPEAL) BILL

With regard to Order No. 8, hon. Affey, this matter, for two reasons will be deferred. One, the amendments that were suggested were not fully incorporated in the Order Paper and number two, the Attorney-General is away on official Government business and he specifically requested that this matter be deferred to a time that he will be here because there are issues that he wants to address as the Official Government Legal Advisor. Is that okay with you?

Mr. Affey: Mr. Temporary Deputy Speaker Sir, naturally, I am not happy only that I may not have any options. This matter has taken nearly a year since the President returned the memorandum to the House. So, it is important that we dispose of this matter. In any case, the Government must be ashamed that they are returning it to Parliament when it is, essentially, an illegal law. You cannot amend a law that is essentially illegal but I have no option but to comply with the ruling.

The Temporary Deputy Speaker (Mr. Imanyara): You can raise all those issues when the Attorney-General is here so that he can address them. This particular order will be---

Dr. Khalwale: On a point of order, Mr. Temporary Deputy Speaker, Sir, probably you could help us because of your experience and the fact that you are a long serving lawyer. The Bill that we had and which we sent to the President wanted the law to be repealed. By saying that we wanted it repealed, we were saying that everything in that Act should not obtain. Now that they are saying that we only change the name of the Bill, it is, therefore, suggesting that everything in that law is good and the only bad thing is the name of the law. So, could you guide us?

The Temporary Deputy Speaker (Mr. Imanyara): Hon. Dr. Khalwale, I am very sympathetic to the issue that you raised. However, these are issues that should be addressed to the Chief Legal Advisor of the Government. They are issues you can validly raise when he is here next week. So, you would be perfectly entitled to raise them when he is in the House. I agree with you. I sympathise with the issue that both of you are raising regarding the constitutionality of the memorandum. Those are issues that could be addressed when he is in the House.

(Mr. Duale stood up in his place)

On the same!

Mr. Duale: Yes. Mr. Temporary Deputy Speaker, Sir, through your indulgence, we need interpretation of the Constitution. We need your ruling on this. In case the Attorney General---

The Temporary Deputy Speaker (Mr. Imanyara): Order, Mr. Duale! I respect your wisdom. However, this is an issue I have dealt with. Please, bring them up when the Attorney-General is in the House. I acknowledge they are serious issues. But let us bring them when he is in the House, so that we address them and get an official response. Any other matters on Statements?

Hon. Ojode, the Chair has just made a ruling that you show cause why it should not act against you for failing to honour an undertaking that you gave in this House.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Temporary Deputy Speaker, Sir, my attention has just been drawn to this matter which was sought by hon. Mungatana.

Mr. Temporary Deputy Speaker, Sir, I am sorry that I did not check my diary to know whether I had a statement to deliver. I only knew of two which are coming tomorrow morning. However, I will go back to the office to check whether there is any Statement which is ready. If so, I could issue both of them tomorrow morning including the one sought by hon. Mungatana, if it is ready.

The Temporary Deputy Speaker (Mr. Imanyara): I recognize that the Assistant Minister is one of the most diligent Assistant Ministers. I am very reluctant to propose as I indicated now that he is on the Floor of the House. I am sure Mr. Mungatana, you share the Chair's view on this. So, let us allow him to deliver it tomorrow and not take any action against him.

Mr. Mungatana: Mr. Temporary Deputy Speaker, Sir, he has not given a firm undertaking. He says "if it is ready he will deliver it." Could we get an affirmative indication because I am prepared to wait for it to be delivered in the afternoon? But let him not says "if". I want a definite undertaking.

The Temporary Deputy Speaker (Mr. Imanyara): I think that is a valid concern.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Temporary Deputy Speaker, Sir, if that is the case, then why can I not deliver it on Thursday, next week because I have two Statements tomorrow? In any case, it is also Prime Minister's Time in the afternoon. So, I beg that I deliver it on Thursday, next week, without any "if".

The Temporary Deputy Speaker (Mr. Imanyara): There are no "ifs"

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Temporary Deputy Speaker, Sir, there is no "if"

(Committee Stage of the Indemnity (Repeal) Bill deferred)

The Temporary Deputy Speaker (Mr. Imanyara): Very well, next Order!

MOTION

ESTABLISHMENT OF CATERING AND HEALTH SERVICES COMMITTEE

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

Whereas the provisions of Section 45B(5) (c) of the former Constitution as saved by Section 3(2) of the Sixth Schedule to the Constitution provides that the Parliamentary Service Commission (PSC) shall have power to provide such services and facilities as are necessary to ensure efficient and effective functioning of the Parliament, and noting that the PSC during its meeting held on 15th November, 2011 resolved that in order to streamline provision of catering and health services, a committee be formed to take over and be responsible for provision of effective and efficient catering and health club facilities to Members of Parliament; and whereas the National Assembly on 14th March, 1967 established a Catering Fund and a Catering Committee with powers to hold and manage the Catering Fund among other functions; this House resolves to establish a Catering and Health Services Committee to take over the functions of the Catering Committee set up on 14th March 1967 and the health club facilities and that the following are appointed to serve in the committee:-

1. Hon. Cyprian Omollo, MP
2. Hon. Rachel Shebesh, MP
3. Hon. (Dr.) Wilbur Ottichilo, MP
4. Hon. Elijah Lagat, MP

5. Hon. Ekwewe Ethuro,MP
6. Hon. Danson Mungatana, MP
7. Hon. Shakilla Abdalla, MP
8. The Joint Government Chief Whips
9. The Chairman of the Parliamentary Service Commission Committee on Member's Welfare
10. The Speaker of the National Assembly
11. The Clerk of the National Assembly; to be the Secretary.

Mr. Temporary Deputy Speaker, Sir, this is a straightforward matter. Members have expressed concerns about the twin issues of the Health Club and Catering Committee. The PSC has responded by coming up with this Committee that would take over the current arrangement and provide more focused services to the Membership. It is a belief of the PSC and, indeed, the House Business Committee, that the formation of this Committee will go a long way in terms of sorting out some of the issues that are being identified by the Members as causing some concern in matters to do with catering and management, and running of the Health Club. It will also update some of the things that were proposed in 1967. Between then and now, a number of things have changed and this new Committee might have to inject a whole new way of doing things.

Mr. Temporary Deputy Speaker, Sir, it is a straightforward Motion. It is a procedural matter; I do not need to belabour the point. I would like to urge the House to approve the formation of the Committee. We should endorse these Members of this Committee, so that we give them the task to manage these facilities on behalf of the Members.

Mr. Temporary Deputy Speaker, Sir, I beg to move and I ask the joint Chief, hon. Midiwo to second.

(Mr. Midiwo moved to the Dispatch Box)

The Temporary Deputy Speaker (Mr. Imanyara): Order, Mr. Midiwo! I would like the Deputy Leader of Government Business to assure me that you may actually speak from the Dispatch Box! Leader of Government Business, I would like to know!

The Minister for Transport (Mr. Kimunya): Mr. Temporary Deputy Speaker, Sir, I think it has been determined before that the Whips could speak from the Dispatch Box. They have been doing so before. So, I will give the same assurance that I have seen it happen before.

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Midiwo, what do you have to say to that before you second?

Mr. Midiwo: Mr. Temporary Deputy Speaker, Sir, it is straightforward. You remember, a couple of years ago when the Principals could not see eye to eye, the Whips were the Leaders of Government Business.

The Temporary Deputy Speaker (Mr. Imanyara): I am aware that at that time the Whips were the Leaders of Government Business. However, they are no longer Leaders of Government Business now.

Mr. Midiwo: Yes. But the Whips are Government Whips, and---

(Mr. Mungatana stood up in his place)

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Mungatana, I will give you a chance. Let Mr. Midiwo finish what he was saying!

Mr. Midiwo: Mr. Temporary Deputy Speaker, Sir, this is Government Business, and what the Whips are doing is precisely not private to them or not individual on their behalf. What we are doing is Government Business. The Government Business is done from this particular Dispatch Box. It is a straightforward matter because we are dispatching Government Business. So, I think that is self explanatory.

Mr. Temporary Deputy Speaker, Sir, just to draw your attention further, in the very near future there will be no Government Ministers sitting behind me, it will be the Whips and the Leader of Majority who will be doing Government Business in this House. So, I think this is the practice everywhere in the Commonwealth jurisdictions. I want to persuade you that the Speaker has never been wrong. I do it even when the substantive Speaker has been there. If it is different, I will not mind doing it from behind there.

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Mungatana, what was your point of order?

Mr. Mungatana: Mr. Temporary Deputy Speaker, Sir, if my memory serves me right, during the Ninth Parliament, the then Government Chief Whip, hon. Norman Nyagah brought here a Motion which I remember debating very clearly and supporting that the position of the Chief Whip be elevated to a Cabinet position. We did urge before this House and the House adopted the Motion that the whips should be named as Ministers in charge of Parliamentary Affairs. Of course, that was never implemented.

At the time, hon. Midiwo and the Whip were acting as Leaders of Government Business, they were within their right to address from the Dispatch Box. However, when that issue was resolved, obviously, the status changed. They cannot address this House from the Dispatch Box. In fact, they have not been elevated to the Cabinet Minister level as this House had recommended.

Mr. Temporary Deputy Speaker, Sir, so, we just have to use this opportunity to tell the Executive that they must obey what we said, but as of now they have not done so; so hon. Midiwo should address the House away from the Dispatch Box. Thank you.

(Mr. Midiwo stood up in his place)

The Temporary Deputy Speaker (Mr. Imanyara): Order, hon. Midiwo! I am actually doing this for your benefit.

You Whips of the Government must acknowledge that if you are serving the Government then they must recognize the status as such and accord the privileges attendant to the office. I am aware that when the whips were acting as the Leaders of Government Business, they were entitled to all the privileges of the Dispatch Box, but that situation has changed. So, I want to get from the Leader of Government Business whether the whips enjoy the privileges that are attendant to the Leader of Government Business in order to address the House from the Dispatch Box.

The Minister for Transport (Mr. Kimunya): Mr. Temporary Deputy Speaker, Sir, I will need to consult on that matter.

The Temporary Deputy Speaker (Mr. Imanyara): Very well. While you consult, we can make progress and Mr. Midiwo will address the House from the Back Bench.

Mr. Midiwo: On a point of order, Mr. Temporary Deputy Speaker, Sir. As the Leader of Government Business consults we want some clarification. It appears that we are being paid Ministers' salaries which we do not deserve; I would be glad to refund that plus the allowances, because I am a good citizen. Further to that, I also want to draw your attention to the Salaries and Remuneration Act of Parliament which says our remuneration and positions are those of Government Ministers.

Mr. Temporary Deputy Speaker, Sir, just the mere fact that the Motion which we passed here was not implemented does not take away our responsibility, which is defined in law. So, I think---

(Mr. Midiwo stood up again in his place)

The Temporary Deputy Speaker (Mr. Imanyara): Order, Mr. Midiwo! The Deputy Leader of Government Business has indicated that he is going to undertake further consultations. The Chair has ruled that while that is taking place, you will address the House from where you are or from wherever else but not from the Dispatch Box; after the consultations have been completed, there will be a communication on the matter. Please continue now to second!

(Mr. Midiwo moved to the Back Bench)

Mr. Midiwo: Okay, Mr. Temporary Deputy Speaker, Sir. So as to please the House, let me do it from here!

I rise to second the Motion. While doing so, I want to say the following: The Members of Parliament called for this committee. In the Ninth Parliament, we had a Speaker's Committee in charge of catering, which had been there since 1967. But when the health club was created we also formed a Speaker' Committee to run it. This health club, which the public and the media keeps talking about, that hon. Members are over-privileged to have, although they pay dearly for it, is very poorly run. If you talk to the staff there, they will tell you that they do not have powers to do certain things.

Mr. Temporary Deputy Speaker, Sir, those of us who frequent that gym know that even the towels we use there are hand washed; that is below the leve of this National Assembly. We also know that the money which we pay in the restaurants, there is no committee to approve how we can spend it. So, we want to put the two committees together. We have said that this is probably one of the most powerful committees in Parliament as it has the Speaker, the Clerk as the secretary, the whips and Members who are regular in both the health club and the restaurant, so that they know the issues which affect them.

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

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

Mr. Temporary Deputy Speaker, Sir, so, I want to urge the House to approve this committee. I second.

(Question proposed)

QUORUM

Mr. Nyammo: On a point of order, Mr. Temporary Deputy Speaker, Sir. According to my counting, I do not think we have a quorum to continue with this Business in the House.

The Temporary Deputy Speaker (Prof. Kaloki): Yes, we do not have a quorum! Ring the Division Bell!

(The Division Bell was rung)

The Temporary Deputy Speaker (Prof. Kaloki): Order! Hon. Members, we have a quorum now.

Proceed, Dr. Khalwale and make your contribution!

Dr. Khalwale: Mr. Temporary Deputy Speaker, Sir, this committee will be charged with matters of health and the stomach. It is a very important committee. We know very well that in this House we have able women Members of Parliament and some doctors who are also Members of Parliament. My disappointment, as I support this Motion is that this is the first committee that should have, under the new Constitution, recognized two points. The first point is that the Leader of Government Business should have recognized the fact that the new Constitution demands that committees should capture the one gender rule. It is unfortunate that in a Committee of 11 hon. Members, we only have two Members of Parliament who are ladies.

Mr. Temporary Deputy Speaker, Sir, this was also an opportunity where Dr. Eseli would have served. Because he is a doctor, he would have been very useful on matters of health in the gym.

Mr. Temporary Deputy Speaker, Sir, I support with those disappointments.

Dr. Eseli: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the hon. Member who has just spoken in order to disrespect his professional senior and suggest that I should actually be catering for his stomach needs?

Dr. Khalwale: Mr. Temporary Deputy Speaker, Sir, I concur that I am his junior, but I am also aware that when we were at the Medical School, Dr. Eseli used to be very useful whenever the servings were not quite in--- But for that reason, I withdraw and apologize to my senior---

(Dr. Khalwale laughed)

Mr. Njuguna: Mr. Temporary Deputy Speaker, Sir, in supporting this Motion, I want to indicate that there is a saying that a new broom sweeps clean. The new committee will reform the services. This committee is equal to the task because in my

view the new team has varied talents, experience and commitment. The new committee is expected to be very efficient and effective.

I would like to urge the new committee to make sure that the funds allocated to the committee are utilized properly for the benefit of the Members. They should make sure that our offices are kept clean. At times, our offices are dirty and unhealthy. Therefore, the committee will be expected to improve services in these areas.

With those few remarks, I support the membership.

Mrs. Odhiambo-Mabona: Mr. Temporary Deputy Speaker, Sir, in supporting the Motion, I only want to say one thing; I am happy with the composition of this committee because it actually debunks the gender stereotypes. Whenever you see catering, it is never about women. I am happy that in this committee, out of 11 members, there are nine men and two women. For the sake of hon. Khalwale, my friend, I want to tell him that we know the old tricks of their club; that if there is a benefit and there is money, suddenly a women sector like cooking is given a fancy name like the “chief chef” and then men take over. Despite that, I am regretting because we should have put Dr. Bonny Khalwale in the committee because he has expertise in traditional cuisine and it would have been very beneficial here.

Mr. Namwamba: Mr. Temporary Deputy Speaker, Sir, I want to support this Motion. I want to support the establishment of this obviously very important committee. I want to emphasize that time and shape have handed this Tenth Parliament a very unique opportunity to reform the entire spectrum in the management of the affairs of this country. We are reforming the Executive, the Judiciary, the police force and every single facet of this nation. It would be a contradiction, actually some kind of paradox, if we reformed everything else and forgot to reform ourselves. When you talk about reforms, there is no better place to start than where it matters the most; matters of the stomach and matters of health. Therefore, I want to believe that this very important committee will be the beginning; the first block in the reconstruction of this very honourable House. Some of us have not been particularly impressed by the standard of cuisine that we enjoy in Parliament. We want to see more variety. We want to see more than just *mandazis* and cakes for our snacks. We want to see a broader menu that celebrates the richness of African cuisine, something that we never see on our menu. Even the quality of the *obusuma* that is served in Parliament, one would certainly want a better quality.

On a more serious note, sometimes we get visitors in our offices and they balk at the state of our offices and the buildings in which we serve. When you look at Continental House, you tell yourself that this place could certainly be better. Even if you go to our Health Club where some of us spend quite a bit of time, you get the feeling that the services and the facilities could be better and yet when you interact with the media, one of the favourites of the media in this country is to call every facility in Parliament “state-of-the-art”. They go on and on, how we undeservingly enjoy these state-of-the-art facilities. One would want to stress that if, indeed, there are state-of-the-art facilities here, then let them be state-of-the-art and let them be run at the level of state-of-the-art.

So, I want to congratulate the House for coming up with this committee. I hope that as soon as this committee is put in place, it will turn around and overhaul the entire structure of our catering and health club and make this House truly up to scratch in terms of the services that are provided to the Members.

With that, I support the Motion.

Mr. Mwachugu: Bw. Naibu Spika wa Muda, ninaomba kutoa mchango wangu kuhusu Hoja hii ambayo Bunge linapendekeza. Kama tujuavyo, pahali pa mazoezi na mankuli ni pahali ambapo ni pa muhimu sana kwa Wabunge. Kama hakutakuwa na kamati maalum ya kushughulikia jambo hili, kamati ambayo iko na uzoefu na ambayo inaweza kushughulikia shughuli kama hii kwa undani, hata Bunge lenyewe litafadhaika. Tukiangalia pahali petu pa mazoezi, mpaka sasa haparidhishi. Hapajafikia kile kiwango ambacho tulikuwa tunatarajia kinaweza kuwa kwa Wabunge. Ni muhimu kuwa, wakati huu ambao tunasawazisha mambo mengi nchini, vitendo kama hivi vya pahali pa mazoezi, navyo vipate nafasi ya kusawazishwa, ili navyo viweze kufaa kutoa nafasi ya kutosha ya kupatia Wabunge yale mazoezi ambayo wanahitaji.

Ninaunga mkono ombi ambalo lilitolewa na mhe. Khalwale kuwa, ingekuwa jambo la busara kama tungeona Wabunge akina mama wengi katika kamati hii. Lakini hata hivyo, ninaomba niseme kuwa wale ambao wameteuliwa katika kamati hii wajijumuishe kwa kikamilifu ili wahakikishe kuwa, hata chakula kile ambacho tunapatiwa, angalau kiwe na sura ya kiafrika. Tumekula vyakula vingi ambavyo kwa muda mrefu vimekuwa ni mfano tu. Bado tunakumbushwa ubepari. Nchi hii iko na vyakula vya aina nyingi vya Kiafrika. Tunaomba kamati hii, inapopitishwa ihakikishe kuwa jambo hili linatiliwa mkazo.

Kwa hayo machache, ninaunga mkono.

(Question put and agreed to)

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

BILLS

Second Reading

THE PUBLIC PROCUREMENT AND DISPOSAL (AMENDMENT) BILL

(Mr. Wamalwa on 17.11.2011)

(Resumption of Debate interrupted on 24.11.2011)

Mr. Mungatana: On a point of order, Mr Temporary Deputy Speaker, Sir. If you look at the Order Paper, there is a star against all the Bills that have been listed thereon, and that star denotes Government Orders of the day. The Public Procurement and Disposal (Amendment) Bill, Bill No.27 of 2011, is not a Government Bill, so, are the other Bills. The Government is not producing any Bills. The Government has not been working hard to bring any laws to this House. Why are they trying to masquerade as the sponsors of these Bills?

The Chair should direct that a Private Member's Bill, is a Private Member's Bill. The Government must wake up and bring Bills to this House, and not pretend that these Bills are theirs. Can you direct, if you so please, that proper Orders on the Order Paper be indicated properly? We are not happy with this, as Backbenchers.

The Temporary Deputy Speaker (Prof. Kaloki): The Deputy Leader of Government Business is here. I think he can give a clarification.

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

The Temporary Deputy Speaker (Prof. Kaloki): Let the Deputy Leader of Government Business respond first.

The Minister for Transport (Mr. Kimunya): Mr. Temporary Deputy Speaker, Sir, the reason why the Private Members' Bills appear as what would ordinarily be Government Bills is that we thought that hon. Members have done a lot of work in drafting those Bills, and that they need to be shared with the rest of the House. So, what the Government has done is donating its time, which is usually reserved for Government Bills, to expedite the Private Members' Bills. Otherwise, these Bills would have had to queue for debate on Wednesday morning. So, the Government also means more than the Executive. Parliament is part of Government.

Therefore, when we sat in the House Business Committee, we looked at this business as belonging to the wider Government and allocated it Government time. However, that is not to say that the Government does not have Bills of its own that it would have preferred to bring to this House. We recognised the fact that these Private Members' Bills have been queuing for a long time and they needed to be given some time, the only time available was Government time. Otherwise, we would have to queue them all to be debated on Wednesday morning, which would have been unfair to the hon. Members who have done a lot of work in drafting them.

The Temporary Deputy Speaker (Prof. Kaloki): Minister, the star against the Bills denotes Government Orders of the day. Is it an error? These are Private Members' Bills. I think it is just an error. You can just admit it. It is not a big issue.

The Minister for Transport (Mr. Kimunya): Mr. Temporary Deputy Speaker, Sir, it is not an error. The Government has donated its time and allowed the Private Members' Bills to occupy its time. I believe that is a procedural matter. It is the generosity of the Government which the hon. Member should appreciate, instead of blasting us for donating our time, so that passing of the Private Members' Bills can be accelerated.

Mr. Mungatana: On a point of order, Mr. Temporary Deputy Speaker, Sir. The Minister does not have to insist when he knows that he is wrong. All we are saying is that if the Government has taken over a Bill, that becomes a Government Order of the day. If the Government had not taken over the Bill and is merely donating its time, it does not become a Government Order of the day. We just want a correction and recognition of the fact that the Back Bench is doing its bit, and that the Government is not doing what it is supposed to be doing.

Dr. Khalwale: On a point of order, Mr. Temporary Deputy Speaker, Sir. On the same issue, I want to congratulate the Deputy Leader of Government Business for allowing Bills belonging to Backbenchers to find space during Government time. However, all that we are talking about is the question of credit being taken away from the sponsors of the Bills. In this era, may the Deputy Leader of Government Business know – I think he does – that the Order Paper is posted on the internet and that Kenyans in the Diaspora want to see the potential within the Back Bench. The hon. Members whose Bills are on the Order Paper are signifying that they are the ones who are going to take over the Government from these people next year. So, we would like the voters to know that we

have potential material in the Back Bench from which we can produce the President, Ministers and so on. So, could the Leader of Government Business consider designing a different symbol for us as they continue donating this valuable time to us?

The Temporary Deputy Speaker (Prof. Kaloki): Deputy Leader of Government Business, we do not want to turn this into debate but those are valid concerns. The star on the Order Paper denotes Government Orders of the day. Just clarify that bit.

The Minister for Transport (Mr. Kimunya): Mr. Temporary Deputy Speaker, Sir, as I said before, Private Members' business is only allocated Wednesday mornings. At any other time, so long as an Order appears on the Order Paper, it occupies time allocated for Government Business. What we have done is to basically allocate that time to the Private Members' Bills. Until we have a change in our Standing Orders to create a symbol for donated time items, we will have to accept the current symbol indicating that it is a Private Member's Bill that has been allocated prime time by the Government in order for it to be debated within the House. So, I take the point but there is no confusion being caused. The Order Paper is very clear as to whom the sponsor of the Bill is, and who its Mover is. That will take place all the way to the Committee Stage, unless there is discussion and the Bill is taken over by the Government.

The Temporary Deputy Speaker (Prof. Kaloki): Very well. We will proceed with the Second Reading of the Public Procurement and Disposal (Amendment) Bill, Bill No.27 of 2011.

Hon. Njuguna, you were contributing to debate when the House adjourned last time. You have a balance of 19 minutes but you may choose to utilise only a portion of those minutes.

Mr. Njuguna: Mr. Temporary Deputy Speaker, Sir, I thank you for giving me an opportunity to contribute to this very important Bill.

It is high time we recognise the fact that our youths have talents that need to be used for the good of this country. We have been "sitting" on these talents, and the country has not moved as speedily as expected. You can look at countries where talents have been used well, like in Israel. The youth of that country have been put into the security apparatus of their country. The youths in that country have also been seen on construction of roads and in irrigation. You realise that the best fruits come from Israel. These fruits are produced in their irrigation schemes, where the youths have been put to work.

Mr. Temporary Deputy Speaker, Sir, we have seen the good work that has been done by our athletes in the world. We have seen Vivian Cheruiyot and David Rudisha improve the image of this country in the world by marketing the name of this country. Our country is known globally as a result of the contributions by the youth of this country. They have also won medals and money for their own good. So, if the youth of this country are used properly this country can advance faster. You realise that we have mature trees in our forests worth Kshs10 billion.

Mr. Temporary Deputy Speaker, Sir, what would happen if 25 per cent of these trees are given to the youth of this country? Our youth will prevent the trees from going to waste, job opportunities will be created and our youth will become employers – they will employ the other youth – they will start milling the trees or the timber and start exporting business to those countries where timber is a rare commodity. The economic growth of this country will also be realized. This will become an exporting nation as a result of the youth participating in that sector.

The Nyayo Car Project was another enterprising sector where the graduates from the University of Nairobi and other universities contributed immensely. So, it is high time that we revived this sector. The Government is only required to inject additional funds so that 25 per cent of our youth who are jobless right now can start production of locally assembled cars. We want Kenyans to start driving cars that are manufactured locally and, by so doing, we will be creating job opportunities for our youth.

Mr. Temporary Deputy Speaker, Sir, you realise what is happening at the Kenya Medical Supplies Agency (KEMSA), where procurement of drugs is very slow and at times drugs do not reach dispensaries and health centres. Even the distribution has been very slow and it affects lives of innocent Kenyans in the rural areas. What would happen or imagine if our youth are given 25 per cent of the procurement process at KEMSA? The lives of Kenyans will improve; the life expectancy in this country will also rise.

Look at the Kenya Airways (KQ), *The Pride of Africa*; look at the gracious ladies who deliver services. These are the youth of this country. These are very enterprising youth. You will also realise that the demand for our young pilots who are handling our planes is immense internationally. Therefore, if 25 per cent of our services were given to our youth, this country would be a happier nation and it will be very aggressive in terms of advancement.

This is the time to come to the rescue of our youth and if we can allow all the Ministries in this Government to allow 25 per cent of services to go to the youth, we will create the necessary wealth for the entire population. Therefore, it is important that we utilize the human resource for the benefit of the entire population and mainly the bigger segment of our society, which is the youth.

Mr. Temporary Deputy Speaker, Sir, with those few remarks, I fully support the Bill.

Thank you, Mr. Temporary Deputy Speaker, Sir.

Mr. Mungatana: Thank you, Mr. Temporary Deputy Speaker, Sir. I want to start my brief contribution by thanking the Mover of this amendment Bill, hon. Eugene Wamalwa for sponsoring this Bill to the House. I also thank the Seconder, hon. Odhiambo-Mabona and all the previous speakers who have spoken before me. I fully agree with their sentiments.

Mr. Temporary Deputy Speaker, Sir, I want to bring a different angle to this Bill in supporting it. This Bill basically wants to put a law in this House and to the country that 25 per cent of all business that belong to Government should go to people who are defined as youth by the Constitution.

Given our little experience when we were younger, I personally worked in a professional law firm for a period of one month and then I decided to set up my own practice. It was impossible at that time to secure any work from any Government parastatals. It was impossible to go to banks of standing that had shares in Government; it was impossible even to approach Government departments because they would look at you and say: "You are too young for us to give you this kind of job" even though you were employed previously; you were actually the person handling that professional work. Everybody shuns and avoids you because they say that you lack experience of ten or 20 years.

Mr. Temporary Deputy Speaker, Sir, it is not only in legal practice that this happens. If you go to engineering, medical practice or any type of professional work, you

will find that older people dominate the work that is supposed to go to the younger people. In fact, young people never get important Government briefs where they can improve themselves professionally. I, therefore, wish to support very strongly that the young people should be given 25 per cent of jobs that come from Government work.

Mr. Temporary Deputy Speaker, Sir, the immediate impact that this law will have is that if there is a law firm, engineering firm or any professional body that has been denying young professionals an opportunity for partnership, that kind of thing will stop. If there is a firm of professionals which has deliberately been refusing to admit into partnerships young people, then they will lose some of the Government jobs that they have been getting. By the stroke of the signature of this Bill into law, we will have a few young Kenyans who will take up serious responsibilities within our economy. For us who have had to struggle through life because we never had these kind of opportunities, we want to say that we will leave Kenya a better country when we have this affirmative action.

Mr. Temporary Deputy Speaker, Sir, I am reminded that, actually, Article 55 of the new Constitution deliberately states that we should have affirmative action for the youth so that they can participate in economic activities. I think this Bill needs to be supported by all people who are of goodwill and are doing something or want to do something about the young people in Kenya who have not had opportunities to come up.

Mr. Temporary Deputy Speaker, Sir, we know contracts like murraming roads and cutting bushes by the roadside are done by older people. They have continually dominated these kinds of jobs. Even most projects of Constituencies Development Fund (CDF) are done by older people in our society. All these Government procurement rules have discriminated against the young people.

Mr. Temporary Deputy Speaker, Sir, I really want to urge this House and everybody else who will contribute that we must take a step forward. The step forward is for us to say with finality that now younger people must get into the economic activity of this country by passing this Bill. It must now be compulsory for this Government to do the same. This is a Bill that we need to pass yesterday.

With those few remarks, I beg to support.

Dr. Khalwale: Thank you, Mr. Temporary Deputy Speaker, Sir. Like my colleagues who have spoken before me, I would like to strongly support this Motion.

This Motion is so important because yet, for a second time, the hon. Wamalwa has chosen to walk the talk. I am glad that Prof. Saitoti and Mr. Kenneth are here. These are formidable presidential candidates. But unlike these two presidential candidates, hon. Wamalwa has gone all out of his way to address legislation for ensuring that the youth are empowered. I want also to encourage all presidential candidates to support this Motion and participate in ensuring that through legislation, youth are empowered.

The Assistant Minister, Ministry of State for Planning, National Development and Vision 2030 (Mr. Kenneth): On a point of order, Mr. Temporary Deputy Speaker, Sir. With due respect to my friend Dr. Khalwale, is he really in order to assume that the youth agenda belongs to only one Member of Parliament in our country when most of us have articulated and even put it even in our manifestos that it is a burning problem in Kenya that requires the entire House, the entire leadership of this country to actually address and deal with? Is he in order?

Dr. Khalwale: Mr. Temporary Deputy Speaker, Sir, indeed, I would be completely out of order if that was the case. But if what I have said has forced him to jump onto the Dispatch Box, it shows that we have achieved; we want presidential candidates to be responsive---

Mr. George Nyamweya: On a point of order, Mr. Temporary Deputy Speaker, Sir. I have listened rather carefully to Dr. Khalwale. However, surely, there is no election which has been declared in Kenya where we can say we have candidates. Therefore, when he says “presidential candidates” is that not completely misleading the House and the country that there are presidential candidates when there are no such candidates? Maybe he could talk of aspirants. There are many of them. Some are yet to declare their ambition. Is he not misleading the House by referring to certain characters or human beings as presidential candidates when there is no election being conducted in Kenya?

The Temporary Deputy Speaker (Prof. Kaloki): Dr. Khalwale, are you misleading the House? Are these candidates or aspirants?

Dr. Khalwale: Mr. Temporary Deputy Speaker, Sir, thanks for the correction from Mr. George Nyamweya. Indeed, Mr. Peter Kenneth, Prof. Saitoti and others - I respect them - are presidential aspirants. However, we at New FORD (K), have no doubt that our presidential candidate is Wamalwa. This is why we do not have to waste time thinking about aspirants. We have already provided him with whatever the Independent Electoral and Boundaries Commission (IEBC) desires.

Mr. Temporary Deputy Speaker, Sir, I was making a point of the need for the leadership of the country to ensure that through statutes, youth in this country are empowered. There is the debate which is raging about the *Kazi kwa Vijana* (KKV) project. If we had had a law like the one we are trying to craft, if we had the *Boda Boda* Enterprise Fund as had been promoted in an earlier Bill by Mr. Wamalwa--- If there were laws, instead of putting the KKV funds in the kind of projects that we are currently putting them in, we would be actually channeling them to the youth through that enterprise fund. There is no single town where we do not get a bicycle that serves as a *Boda Boda*.

Allow me to speak on the issue of corruption and procurement. I have found in my four years in Public Accounts Committee (PAC) that the beginning of corruption is at procurement. It is such that if an investor must win a tender, he must set aside some funds which he will spend on the tender committee. Our poor youth have no such slash funds which they can keep aside for purposes of paying 10 per cent to the procurement committee, the tender committee and the balance to do the actual investment.

It is important that this law passes because we are encouraging ministerial tender committees and district tender committees to ensure that at the stage of procurement and tendering, they should profile all companies. They profile companies so that they pick out the real merit for giving a company a job. For example, if the owner of a company is a very wealthy person and this person does not have the technical know-how of the job that he is applying for, even if he has the money to fund the project, he should get second consideration compared to a professional who is bidding for the same job.

So, if this law is passed, it, therefore, means that a youth who is technically competent, but financially challenged will then have affirmative action that will enable him to win a job. In the process, we will be helping our youth to be empowered.

This is nothing new. The Ghanaian Youth Empowerment Programme which is a world success--- In fact, it has contributed to Ghana moving from a low income to a medium sized economy.

I want to thank the Mover of the Motion, Mr. Wamalwa that yes, we are now moving in the right direction. I hope that the Government will move with quick speed to make sure that assent is given to this Bill for it to become law, so that the youth can be empowered.

With those many remarks, I beg to support.

Mr. Mututho: Mr. Temporary Deputy Speaker, Sir, I rise to support this Bill. First and foremost, I would like to congratulate the Mover of this Motion, Mr. Wamalwa.

Without going into the politics of who is the presidential candidate or aspirant, one thing is clear; if you happen to be in the bracket they call youth, that is between 18 and 35 years in Kenya, your fate is doomed, especially if your father was not a great chief or he is a Cabinet Minister. As we have always said, if you happen to be from Nakuru County where the last Cabinet Minister was appointed in 1966, then you have no chance. There will be no chiefs, District Commissioners, Provincial Commissioners or Permanent Secretaries to push things for you. Nothing will come from that particular area.

So, you cannot really be able to push your agenda in procurement whatsoever. The only remedy to this is for us to look again at our legislative framework. I used to work at some point for United States Agency for International Development (USAID). One of the requirements then and it was in bold, was that a product must come from the free world. Free world did not include the Eastern Bloc at that particular time.

That measure in itself enabled the people who were Americans and people who were friends of Americans like the United Kingdom and other places and a few African states to be able to sell certain goods and services running into billions of dollars because that was the legislative framework.

One of the most prohibitive points under which youth is drawn out of business is what we call the performance bond. Performance bond is expressed under the Procurement Act as a percentage of what you really want to procure. It is usually between 2 to 10 per cent depending on the product that you want to do. Let us assume a Mr. Oteo would like to supply computers. He knows the best computers come from a factory in the United States of America or somewhere in China or wherever it is. He meets all the specifications, but for him to be able to tender, he needs to do that bid bond. Such ones can be waived competently by having your counter guarantee from the Ministry of Youth Affairs and Sports or Youth Fund, for that particular matter. So, this young man can be registered as a supplier on that particular basis.

The other point is that you shall have to go to the Technical Evaluation Committee which includes visiting your premises. The premises of a young man who has a problem affording for the day at about Kshs100 or Kshs200 will never qualify for a tender for Kshs1 million or Kshs100,000, forget even a tender for Kshs10 million. Those are provisos that can be adequately addressed. We can say that a young man of known character, domiciled to one youth group and based in a physical address here, operating from a café, that is good enough. This is so and so, not necessarily the son of a Chief so and so. He can be addressed that way and then be allowed to bid.

Mr. Temporary Deputy Speaker, Sir, the reason we are putting this thing, and it is so important - I must thank Eugene Wamalwa again and again - is that, when the

Government wants to procure goods and services worth about Kshs1 billion, it does not anticipate that the supplier is going to have Kshs1 billion in their account. It anticipates that they will be able to pay for the services to the tune of Kshs1 billion. We are creating a false impression that the big companies now then, have that capability to supply goods and do trade to a level of Kshs1 billion. We should be able to evaluate documents originating from a young man and allow the young man to get specifications from those factories because they will be the ultimate suppliers. They can then work out the instruments like the letters of credit that will encourage that young man to enter into that deal and we will achieve two advantages.

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

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

First of all, the youth do not have the baggage. By baggage I mean those big offices, big cars, many secretaries, security and what have you, all of which the consumer and the Government for that matter, will have to pay for. So the goods and services will be cheaper to the Government. That is a plus to the Government.

Madam Temporary Deputy Speaker, since all of us do appreciate that some of these goods and services we are talking about, like medical equipment come from a company, for example, in Sweden, there will be nothing to lose either way. Therefore, there will be a win-win situation.

There is another draconian requirement, may I put it that way, that most of these organizations must put an advertisement in the local newspapers and dailies. Currently, there are about three or four dailies. These dailies are getting bulkier by the hour and soon or later, they are going to be as big and as fat as that one of the Edge of Australia, Melbourne. This is a newspaper which is about one and a half kilogrammes or two kilogrammes in weight. An advertisement pinned there, surely, is not meant to be read. Why do we not then put it this way; that we revise the procurement rules and regulations so that the Government website becomes the principle media for advertisement? We have 14 million mobile phones in the Republic of Kenya and more. All Government institutions have computers. Most of the chief offices have computers; most of these young men can afford at least basic computing even from their mobile phone. They can scan through and check those tenders that are forthcoming from the Government websites. By saying that you have to advertise in the dailies, truly very few people can be able to buy all the three or four major newspapers and work through to pick up these advertisements. Therefore, we need to amend the principal Act so that, other than advertising as a requirement, you must also be specific that it must appear in the official Government website. That is the way we need to work out Section 34 of the principal Act.

Madam Temporary Deputy Speaker, why do we say this again? The same money which the Government is squandering in advertisement which I would estimate at not less than Kshs6 billion annually, can be used as a security bond for this young people. You will excuse me for that. The amount of money we are plundering with full three pages of

advertisements that are never read, safe for a few, is already adequate. Therefore, we do not require additional funding on this particular aspect.

I said earlier and I am repeating without causing any contradiction, that the Government, if willing, can follow the Malaysian model. In Malaysia, what they say and what they do is this; if a young man has invented a product, say how to bind a book like this or mineral water like this, the Government enters into a partnership with that particular young man. Since the Government has the funds, there is a specific parastatal or body that deals with that. At the point when business begins, the Government will win its equity position with time so that the young men or the youth for that particular matter, are left doing the business. That way, they have been able to enter into serious manufacturing in Malaysia. They have been able to convert people who are not sons of Queens and Kings, but ordinary youth to be millionaires and they are out there doing very serious business in the world.

Madam Temporary Deputy Speaker, Mr. Eugene Wamalwa, with or without saying whether he is aspiring to be a President or whatever he wants to do, if he can aspire to give us this good law that will ensure that somebody in Ikolomani down in the village who has a mobile phone that can hook into the Government website and sees there is a tender for the supply of pens, who meets the requisite conditions of the order, with the help of those instruments we are putting in place, can supply and convert himself into a millionaire without necessarily breaking into a bank; that will be very remarkable. That is the essence of this amendment the way I see it. I do not expect it to get very kind reaction from the multi-nationals of this world, the sons of Kings and Queens. I do not expect it to be very acceptable by the sons of millionaires and billionaires of this world. We do not expect it to go well with the people who trade in billions. However, with or without their support, our cardinal role as Parliamentarians is three-fold; representing the people. The youth are crying. They are saying that they also want to participate in nation building. They have the brain power which is critical to any serious development. Our role is representing those people. It does not say we represent a certain class of multi-nationals or certain business people.

Our second role is to make laws. That is the legislative function. We amend them, append them and repeal them. That is where Eugene Wamalwa comes in with this particular one. We must make amendments to accommodate the very spirit of our working together with our youth because as they say, old people must die, but young people may die. We do not want them to die. We want them to participate in the building of this society. The final function is oversight. That is later on when this Act comes to fruition.

Madam Temporary Deputy Speaker, I conclude by saying once again, that we have gone in all media houses, we have spoken in all rallies, I see some men at 70 years trying to call themselves youth because they admire the youth. However, the youth we are talking about here are those between age bracket of 18 years and 35 years. They are the people who are likely to be converted to paupers because of some legislative framework that we can be able to amend. That is why I sit by supporting this particular Bill wholeheartedly.

Thank you.

Mr. Olago: Madam Temporary Deputy Speaker, I rise to support this Bill very brilliantly done by my learned friend, hon. Wamalwa.

This Bill has already caught the attention of young Kenyans. Over the weekend, I was presiding at a hand-over ceremony after the elections of Kisumu Centre where we had over 1,000 youths in Kisumu. One of the things that they mentioned to me, very clearly, was this Bill. They said that they would like to see me support it with all my heart and that is what I stand here to do. This Bill will clearly meet resistance from entrenched interests, particularly procurement entities in Kenya. We expect that. However, I am sure that this Bill has the overwhelming support of Members of this House and it will be passed. We want, when it is finally passed, that the Government gives its support to the amendment and ensures that it is implemented to the letter.

As we open procurement to the youth, one area that will pose a challenge to them is the area of appeals by disgruntled tenderers in the Public Procurement and Administrative Review Board. In the operations of this Board, appeals are entertained but whether frivolous or not and whether they are meant to delay the process or not, the Board has no powers to punish or award costs against the person who has filed a clearly frivolous appeal. To that extent, this Board acts as a stumbling block to the expeditious disposal of the tender proceedings. While I support this Bill as it is, I wish to say that at the Committee Stage, I intend to introduce another amendment to Section 4 of the main Act to introduce the power to award costs by the review board against tenderers who file appeals on frivolous grounds, whose intention is, merely, to delay the process of awarding tenders. If that happens, I am sure that the Bill will support the youth wholesomely by ensuring that when they get their 25 per cent, they are not frustrated by frivolous appeals.

With those few remarks, I beg to support the Bill.

The Minister for Transport (Mr. Kimunya): Thank you Madam Temporary Deputy Speaker. I rise to make my contribution on this Bill. I support, in principle, the issue of preferences, especially when the preferences relate to the youth, the disabled or to the people who will not, ordinarily, compete at par with those who are already established in business. I believe that the Public Procurement and Disposal Act had already provided for those preferences.

I have a slight problem with putting, within our law, the age limits and saying that 25 per cent of all procurement must be reserved for the people who are between 18 and 35 age bracket.

Dr. Khalwale: On a point of order, Madam Temporary Deputy Speaker. Whereas I respect my brother's contribution, is he in order to mislead the House that we cannot create a statute that gives room to preferential treatment to certain groups when he knows that the very Constitution of Kenya deliberately goes out of its way to create that kind of preferential treatment for the sake of affirmative action? Is he in order to do that?

The Temporary Deputy Speaker (Dr. Laboso): Are you in order, Mr. Kimunya? Is there affirmative action in the Constitution?

The Minister for Transport (Mr. Kimunya): Madam Temporary Deputy Speaker, if the hon. Member had been a little bit patient, he would have listened to my argument to know why I have an issue I would like addressed by the time we get to the conclusion of this Bill. In principle, it is very good but we do not want a situation where it gets challenged from a constitutional perspective because the Constitution does not allow discrimination on account of age. Age is one of the factors where you cannot discriminate. You will recall---

Mrs. Odhiambo-Mabona: On a point of order, Madam Temporary Deputy Speaker. Is the hon. Minister in order to mislead the House about the provision of the Constitution when it is very clear that as much as you may not discriminate on the basis of age, you can put in place affirmative action measures which take into account the marginalization of certain categories of persons including the youth, women and persons with disabilities? Indeed, I want to refer the Member to Article 227(2) of the Constitution on procurement of public goods and services which says:-

“An Act of Parliament shall prescribe a framework within which policies relating to procurement and asset disposal shall be implemented and may provide for all or any of the following –

(b) protection or advancement of persons, categories of persons or groups previously disadvantaged by unfair competition or discrimination.”

This as read together with the affirmative action, clearly, the hon. Minister is misleading the House.

The Minister for Transport (Mr. Kimunya): Madam Temporary Deputy Speaker that sounds to me more like an argument and the hon. Member will have her time on the Floor. What I was saying is that if you read the amendments as proposed by hon. Eugene Wamalwa; and I must congratulate him for the time and effort he has put in this, you will find that it is not addressing the issue of protection of people who have been marginalized. It is actually seeking to say that 25 per cent of all procurement shall be given to the people of his category. I think that is the difference. I am looking at a situation where we must be very careful as we do this law. I would like to urge that between now and the time we go to the Committee, let us not pass a law that will be declared to be unconstitutional when we have applauded and said that we have done a law for our youth. It is a very good principle but before we pass it into law, let us look at all the options and then put it in a way that it will not be subject to challenge because there will be many people who will be willing to challenge this law.

I am saying this because even as we bring the amendments to the procurement law, I was at the heart of bringing all these preferences. We saw the changes that came to this House as people lobbied. What we thought we had reserved enough for our youth, for our Kenyan artisans and the *Jua Kali* people, instead of importing everything, was thrown out because it was challenged that it was discrimination. It was said that we were discriminating against one Kenyan; favouring one against another one, and I do not want to see this Bill suffer the same fate. I urge that between now and the time we go to the Committee, we look and see whether we will have the law being challenged on account of age because age is one of the grounds on which you cannot discriminate. Indeed, the reason we removed the age bracket for the presidential candidates, which used to be there, was on the basis that you could not discriminate on account of age.

I wanted to highlight that bit. The other thing we also need to be very careful about is the practicability. Twenty five per cent of procurement in a Government Department may well be one procurement. For example, if one Government Ministry wanted to do its headquarters and there was Kshs1 billion to be spent, you would not say that 25 per cent of that building would be done by the youth and the remaining 75 per cent by another contractor. There are some things that may not be practical and we need to make sure that, within the wording of the law, we provide the flexibility where a task cannot be assigned to different people without compromising on the quality so that we

capture the essence of the youth but without creating restrictions to the procuring entities; that they cannot move in a given direction because they have to split all the procurement.

There has been a lot of debate on the youth and we seem to be equating the youth of Kenya to be synonymous with the poor.

I have listened to hon. Mututho talk about the sons and daughters of kings. They are also youths. I think it is important we do not pass a law here that will discriminate against some youths who are in the bracket of 18 to 35 years old. These youngsters you see driving big cars in this City qualify as “youth” even if they hail from the privileged families. Some of us, like hon. Dr. Khalwale and others were brought up in the upcountry. However, we had to survive our way through. There are people who were born into privilege and they have everything. They will be competing with young men from Kipipiri who will be setting up small shops. Much as you are talking about the youth, the term “youth” is not generic. There are some youths in this country who own Kenya. We are talking of them owning billions of shillings. If we are not careful, they will take up all these opportunities. We must be very careful as to what we are talking about. We want to make sure that as many people as possible are given these opportunities, especially in procurements in counties. That is where we should really be concentrating, to ensure that all these procurements benefit as many youths as possible in the counties.

The money that we spend on CDF would have benefited many youth if we had such a law. How can we ensure those preferences go to the youth who go through our youth polytechnics? They are the ones who should produce the furniture for our schools. We should not be sending out those tenders to people in Nairobi to supply them. We do not want to see suppliers from Nairobi coming up with all ready-made desks, when local youths can supply them. We do not want to see our schools full of very good looking desks, but the fathers of the children in those schools cannot afford even to buy shoes because all the money has gone to Nairobi instead of to the local *fundis* who would have benefited. This is the only way we can empower the whole community.

Madam Temporary Deputy Speaker, the spirit of this Bill is very good. It opens the door for much more amendments that are required for the public procurement, especially to bring in our youth and the people in the counties. As we talk about the youth, let us also remember we have a lost generation. The 1980s and 1990s produced a lost generation in this country. These are the people who are the fathers of some of these children. These people have gone beyond 35 years. These are the people we find now sitting around in the shopping centres, drinking. They have nothing to do; we cannot classify them as youths or adults. Now, are we going to have preferences for those as well? So, even as we start thinking of the youth, let us remember we have a lost generation. We need to take care of it. I am looking at those people; they are in their own age groups. Some are our agemates. We went to school with them. However, when you look at them, you would think they are our fathers. They have aged because of the vagaries of nature, the vagaries of *Yokzuna* and the other things they have been taking. You would actually think this is not the person you were with, in primary school. You would think that he is the father of your colleague because of what they have gone through. These are the people we need to also take care of as part of the marginalized groups.

So, let us not just look at the age as the discrimination factor. Let us see how we can use this amendment to help them. I would like to urge the Members that when we go to the Committee Stage, we start looking through the spirit of this Bill. Let us have as many of these procurements going to Kenyans out there who deserve it rather than just targeting the young people, because their fathers may not even have the livelihoods. They may need to carry the burden of their fathers longer than the fathers could help them if we are to discriminate against them. If we say let 25 per cent go to those youths between 18 to 35 years and 75 per cent goes to the multinationals, we will not be helping our people. What will happen to those who are between 35 and 50 years who cannot participate in making furniture, or in selling stationary to the Government office? They are not youth. They are not in the capacity to supply, based on the international competitive bidding.

Madam Temporary Deputy Speaker, that is my humble contribution. I would urge the Members, as we move forward, to seriously think so that we do not flout the Constitution in terms of discrimination. This law should become an enabler to facilitate as many people as possible to participate in this procurement, in the supply chain, rather than just segregating a small group, who may end up being the old youth of this country; not the youth we are targeting, whom we then can confine to the KKV. There are richer people who would be supplying them with the spade because they can afford it.

Madam Temporary Deputy Speaker, with those remarks, I beg to support. I urge that those matters be looked at before we get to the Committee Stage.

Mr. Midiwo: Madam Temporary Deputy Speaker, I rise to support this amendment to the procurement Act by hon. Eugene Wamalwa.

Madam Temporary Deputy Speaker, let me take this opportunity to thank hon. Eugene for his persistent thoughts for the youths. I want to begin by saying that I want to plead with hon. Eugene to take note of the sentiments of Mr. Kimunya whom we do not often quite agree with. But today, I think his sentiments are correct. I want to urge you to listen to them. He always thinks in unorthodox ways, but today I think he means well. I was in this House when he amended the procurement Act and I saw what happened. I think at the Committee stage, hon. Eugene would want to help us further, now that he has taken the initiative to make a raft of further changes in the Procurement Act. The reason why even the youth cannot afford to supply is because in these Ministries, particularly a pen is supplied for Kshs1,000. That pen at retail in a kiosk is Kshs10. So, it is theft. It is not procurement. I would wish to see a Bill that seals procurement loopholes.

Madam Temporary Deputy Speaker, when I was a young teenager, there used to be a Ministry of Supplies and Procurement. I cannot remember who headed it. One time it was even merged with the Ministry of Co-operatives. That Ministry would procure everything from school milk to pens, pencils, exercise books, pens for offices, and everything, and everybody else could only go to fill their orders.

Madam Temporary Deputy Speaker, today, we have a scenario where we are buying things for our Government Ministries at exorbitant prices. That money is going to individual pockets through corrupt means. That money is money which we could well use for infrastructural developments. It is in billions. I read somewhere that it is about Kshs7 billion which we lose in unnecessary and corrupt procurement of simple goods.

I also would want to see a scenario where in law the Government is forced to buy locally. We keep talking about Vision 2030, how we want to rejuvenate and build a

vibrant jua kali sector. How can a furniture maker hope for the future and the vision of 2030, if the same Government that is telling us, how they are going to be vibrant by 2030, is importing furniture from China?

Madam Temporary Deputy Speaker, the same Government is buying furniture from Singapore and Malaysia. We want a scenario where we buy or procure locally first and if we cannot find it, then we go foreign and not the other way round. The furniture that I use in my house was bought from the Kenya Prisons Service (KPS); many people who have seen it come to me and tell me that they have also gone to the KPS and bought it, and it is for peanuts. The same furniture goes for hundreds of thousands if you go to Nakumatt. How do we expect to broaden and make vibrant our local economy if all the *pangas* we use today are imported from Brazil - a *panga* from Brazil with a handle made of a car tyre which, when I was growing up, used to be made in our local market! It is a shame! What do you expect a *Jua Kali* person from hon. Olago's constituency, where the *Jua Kali* business is supposed to be vibrant, or from Gikomba to make? What do you want them to make after you have imported *pangas* from Brazil?

Hon. Wamalwa, this is one thing that I thank you for. You are making a good law and make it tight. If you do that, there will be no reason to ring-fence part of the procurement for the youth because there will be a market for us. Let people be creative. We are only trying to ring-fence because these people have nowhere to go, and they cannot afford to access the people who want to procure a pen for Kshs1,000. That is the reason; but if you create the market for them and stop the Government from buying things externally just to create a window of corruption, you will have such a large market that there will be nobody who will be left out just because they are young.

Madam Temporary Deputy Speaker, now the Government has done very well. They have supplied electricity to just about every market across the country. I want to thank the Ministry of Energy for that, but what good is electricity if we cannot use it to make a living? It is not good enough. Therefore, I want to plead with you, hon. Wamalwa, to make it impossible in law for the Government to fail to invest the budgetary allocations we give it twice every 12 months locally. We are exporting our budgetary money while our *jua kali* people, a majority of whom are the youth, are without a place to turn to. I want to see that because I know you are capable of doing that.

Madam Temporary Deputy Speaker, I also want to say that in law, we must do something to stop the procurement review board from being a place that people run to stop procurement if they cannot perform. It is a place where people go to delay things. There is need for sanctions against those people who ran to that board for frivolous reasons. You should not run just to stop so-and-so from getting a procurement order. Those are things which we need to stop in law.

Madam Temporary Deputy Speaker, therefore, with those very many remarks, I want to plead with my brother Eugene to consider the discrimination which he would create just because he had an idea put across by hon. Kimunya; that, to me, is not the way to go. That limits and creates reverse discrimination. Let us force the Government. The Government has so much money that if we bought locally, there would be no reason---. The Government will be supplying the money and the goods will be there for it to buy. If we did this, we will not have people beyond 35 years of age saying that they have nowhere to turn to.

Also the very major point which I was trying to think of, and which has been put across by hon. Kimunya is; what procurements are singular in nature? You do not want to create a mess by trying to legislate. You do not want legislation that makes it worse for our people. You will get so-and-so who has the capacity forming several companies and getting contracts. They will still go to the same people because they have the capacity and they are often very corrupt.

Madam Temporary Deputy Speaker, I want to inform hon. Eugene Wamalwa that procurement in roads, which I was almost forgetting, involves corrupt road contractors, who must be stopped from fleecing our people. Right now it is raining and the country has no roads. I said something last week and some people said I was using politics. I said that it is only one contractor who is always given the tender to do the Kisumu-Busia Road. This guy was on that road nine months ago, and now around Chulaimbo, the road is impassable. As soon as you go beyond the Sidindi-Rang'ala-Busia stretch, you cannot drive fast on that road. It takes four hours to drive from Busia to Kisumu, just because one contractor must be given the job. I want to say that I called the Minister and the PS last week. I also wrote to them and told them that if they gave that contract to M/s Hayer, I would go to court because it is not fair to our people. It is all over our country. We must use this Bill to stop corruption in procurement in the Roads Ministry once and for all, and we will be coming up with a raft of amendments.

Madam Temporary Deputy Speaker, I thank you.

Mr. Baiya: Thank you, Madam Temporary Deputy Speaker for giving me this opportunity to also contribute to this very important Bill. I would also want to thank hon. Eugene Wamalwa for bringing in this suggestion.

Madam Temporary Deputy Speaker, the gist of the amendments as proposed makes a lot of sense, in that it is actually an attempt to intervene in favour of a section of society which for many years has been neglected, or has actually been left out. Indeed, when you look at the result of allowing open operations, it is that the best players take all, so to speak. The end result is that only some few competitors become eligible and actually enhance their capacity to compete even more, thereby excluding from business the rest of the players or citizens.

Therefore, I can very well understand the spirit of this Bill. It is a recognition that there is a lot of unfairness and substantial inequality among those who actually attempt to compete for various procurement jobs, yet by their very nature most of the contracts arise as a result of the employment of public resources.

Therefore, the Government has an obligation not only to enhance the collective interest by giving to the most competitive, but also to nurture and enhance the competitiveness, especially of the young ones.

Madam Temporary Deputy Speaker, I have listened attentively to the arguments by my colleagues, including those by hon. Kimunya and his concern about the possible objections to this kind of amendments, on the grounds of discrimination. I would answer by saying that the Constitution itself does, indeed, anticipate discrimination. Nowhere is it said that discrimination is outlawed. Indeed, when the Constitution says that there will be minimum gender balancing – at least one-third – when you try to apply that, what you really end up doing is actually discriminating. You resort to discrimination to achieve the result prescribed by the Constitution. So, what is being proposed by hon. Wamalwa is only one more criteria. It may have a discriminative role, but this is legitimate

discrimination to bring up a section of citizens who have been disadvantaged. I am very sure that if there was any legitimacy in what he was possibly arguing, that is also taken care of to the extent of his argument that some of the youth are well off. I would like to say that most of the well off youth are, first of all, in the minority. By and large, if there is any injustice across the generational divide, it is actually against the young people. They experience unemployment most of the time. They are also subjected to other criteria such as experience. They actually suffer from all manner of disadvantages. They have not had ample time to accumulate stocks of capital as their older competitors do. Indeed, one of the questions they have always asked is: "If experience or capital is one of the conditions, where are we the young people expected really to go?"

Madam Temporary Deputy Speaker, Sir, this kind of legislation, therefore, seeks to assure the young people in this country that they are being recognized, are entitled to participate and we owe them a responsibility. I am sure that no court would seek to challenge this because it is part of the affirmative action, indeed, anticipated under the Constitution. The youth can even be recognized as a marginalized category to the extent that when it comes to sharing, they suffer great disadvantage. They are to that extent marginalized and the Constitution anticipates Parliament to take progressive measures to alleviate that marginalization of the young people.

I would, therefore, argue that I do not doubt that this piece of legislation will benefit the nation if it is really looked through further, when it is goes to the Committee in the next stage. But I really urge that we do not also dismiss the spirit upon which it is based, because it is a noble one. If you consider some of the procurement that we are dealing with even at the Constituencies Development Fund (CDF) level, under the current procurement law, we are actually allowed to give preferential treatment to local contractors. For you to achieve that preferential treatment for the local contractors, it does require that you do some kind of discrimination in favour of the local people. The basis upon which you are doing that is because you also want to develop capacity locally for this kind of contract. That means that you limit the applicability of the competitive principle in terms of other criteria, so that you can give way and room to one of the local contractors. It ought to apply the same way with regard to the youth. I have not had a problem with the applicability of that rule at the constituency level. Indeed, it has been very helpful. Actually, if the country wants the citizens to own development, the most that it must strive to do is to bring the local people to own those projects. Even as we implement those projects, we have seen the participation of youth. So, the 25 per cent requirement proposed by hon. Wamalwa would even have been met in certain cases. If they are not being met, the threshold will easily be achieved when we have made this kind of law.

Madam Temporary Deputy Speaker, maybe there is one area where this provision might have a challenge and, perhaps, may require that we possibly do some specification. We know that there are certain contracts which, by their very nature, in terms of skills and capacity needed, may be too large or huge. Already the existing law recognizes that. If, for instance, it comes to bitumen contracts and so on in the Ministry of Roads, if you applied this kind of law where even most of our local contractors do not fit and we end up having foreign companies coming in, this law might not achieve the results we want to achieve. That is on account of the magnitude of the contract involved and, perhaps on the basis of the complexity of skills and capacity needed. Perhaps, exceptions should be

made for those kinds of contracts. I also have in mind other contracts that may really anticipate substantial technical input that sometimes may not be locally available. Those kinds of criteria would, indeed, be admissible as a basis for excluding this requirement for affirmative action in favour of the youth. But when it comes to the majority of procurement cases, for example, stationery, small road construction in the constituencies and many others, there is a strong case for us to insist that our youth be looked into.

Madam Temporary Deputy Speaker, with those remarks, I beg to support.

The Assistant Minister for Roads (Mr. Kinyanjui): Thank you, Madam Temporary Deputy Speaker. I wish to thank the Mover of this amendment, hon. Wamalwa, and indeed, say that time has come for the country to recognize the important role played by the young people in this country, but also to realize that without proper support their contribution to the economy will probably never be realized.

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

*[The Temporary Deputy Speaker
(Mrs. Odhiambo-Mabona) took the Chair]*

Madam Temporary Deputy Speaker, having said that, I also wish to acknowledge that as we do the amendments, we would like to do it in an environment that will not open a window for challenge. Therefore, at this particular stage and as we move to the Committee stage, we would like to address all those issues that have been raised here. In that connection I wish to just address a few.

It has been said that the rate of unemployment in Kenya, especially in the last three or four years has been rising significantly. One of the ways that we can address this is by ensuring that the youth have a market for their services and goods. When the youth compete for these limited opportunities and they have to compete with people who have been in business for long, who have huge contacts and a wide base from which they can quote in terms of reference, it becomes extremely difficult for them to get preference. Therefore, it may be necessary for us to look at how we can address some of these issues.

But there are key challenges and I want to quickly go to my docket in the Ministry of Roads. Even before we look at the youth, we have had the challenge of trying to see how we can encourage Africans and Kenyans, for that matter. Forget about even the youth. We have categories A, B and C in terms of contractors; A being the highest level of contractors that we have in this country. Within Category A, the numbers of African contractors we have are so few and far down there that if you want to bring them up, you need more than a miracle. You will remember some of the key contractors who are there, for example, the Kirinyaga Construction, Mugoya Construction and a few Asian companies that are here. So, there is a big gap between the foreign contractors and the local contractors. Even before we talk about the youth, we have a major challenge. This is important because if you look at the money that we are spending on those big contracts, it is in billions. So, if you have about Kshs80 billion to spend on those contracts and more than a half of that is going to foreigners, already you can see why your Kenya Shilling is not able to hold against the other major international currencies.

So, we would want to see how we can address this and at the Ministry, we have made several interventions. One, we have proposed to send the money directly to the constituencies. When you send money directly to the constituencies, you are giving preference to the local contractors. At that stage, you do not encourage the international contractor to come and bid for the small contracts. More importantly is also the issue of training our contractors at that level, to look at the job of contracting as a business. Many of them will take up two or three jobs, take the initial payment here, they do not do the work and they go and take another job there. They go to the Ministry of Water and Irrigation or the Ministry of Energy for that matter. Instead of doing the actual work, we end up having four legal cases. Some, in fact, have more lawyers than engineers in their companies. So, it has also to do with the work ethic and it has been a major concern.

The other issue that we have also found is that as we go in the lower categories of D, E and others, that is where all the African contractors are. They are in their thousands. Therefore, we have been trying to ask if they can come together, amalgamate and form a formidable force to compete for the major contracts in this country. We have done that, but still, much more needs to be done. There is the other issue of training. Many people for a long time did not look at the business of contracting as a long-term business. It was a quick way of getting money and going away. The investment that you require in any road project runs into millions. So, if you plan to be there for just one year or one contract, then you will never recoup your money. Therefore, the Ministry has tried to come up with equipment that belongs to the Ministry, so that if a small youth group or a team of young men get a contract, they can hire this equipment which previously was not available or when it was available, it was from the private contractors who would never agree to hire it to the young men. So, we have done a few things, but I agree that much more needs to be done.

The other issue that we probably need to address is that, even as we talk about the youth, it is not enough to talk about them as if they are all poor. As we all know, there are a few young men in this country who are getting about 90 per cent of the contracts in this country. We will live within this law, but only benefit about 10 or 20 and these are normally the sons and daughters of the big people in this country. So, we are well within the law, but are we benefiting the youth that we intend to? May be not! When we talk about the youth, all the big contracts that are being done here, be it in IT or banking, you will find that almost five industries are monopolized by a small team of people. So, if your aim was to empower our young men back there in the constituencies and the villages, then the law must also take cognizance of how we can benefit, not just a few, but the many others who we want to benefit.

The other thing is that if this amendment is brought into force, most naturally, all of us who want to form companies to procure in the Government would make our daughters and sons the directors in these companies. So, when they go to procure, you will see a 25-year old and a 30-year young person. For all that they know, they will only get maybe 5 per cent and the rest goes to the same old people. Once again, it will be the same old story of *Kazi Kwa Vijana* and the money goes to the old people. So, we must also want to see to what extent the young people that we claim to be giving the contracts are benefiting. Are they the real beneficiaries or are they holding brief for the older people? Within the law, I am sure that can be done.

The other issue that we may probably want to address is that as we talk of the youth and their ownership, when you talk of a company, it is a corporate entity. If you are asked whether the East African Breweries or Safaricom are young companies or old companies, do you want to look at the age of the company or the directorship? You cannot give age to a corporate entity. You can only give it to an individual. So, we may also have challenges describing whether it belongs to the youth or it is operated by the youth because we may well have a situation where it belongs to one old man, but 100 per cent of the employees who would be the beneficiaries, if the law is enacted or if the service was contracted, would be the youth. So, in a situation where I am employing about 100 young people to procure a service, but I am 40 or 50 years old, will I be denied that yet when that comes, I am going to employ 100 *fundis* and 100 service people? So, we may also want to deal with that.

There is also another issue that came up and I would want to emphasize this; that even as we talk of empowering the youth, we also have a generation that grew at a time when they were being told that they are the leaders of tomorrow. They were told that when they were in primary school, when they got to secondary school, they were told the same story; in their 30s, they were told the same story and when they get to their 40s, they are now being told that focus is now on the youth just after they have left that bracket. That group also will feel that life must be very unfair. That when they were there, nobody catered for them. To that extent, it will be discriminatory.

I would also want to plead with my colleagues that if we say we want to give 25 per cent of the contracts to the young people, we must also think about the inefficiencies that will come with inexperience. A company that has been there for ten years has invested in the services, systems and machinery that they require and can, therefore, procure these services at a much lower cost. If we pay Kshs1 million or Kshs2 million more just to meet this law, then the question is; is the public or the taxpayer ready to pay this other cost just to benefit the young people? Is it important for the country? Would we rather not go for competitive services and then the net effect would basically be shared by all?

More importantly is to ask ourselves; who are the real beneficiaries because the economy is so intertwined. If you give me money today, I am sure the first beneficiary of my money would basically be my children. So, even as we talk of the young and the old, the economy is so intertwined that sometimes if you are talking of the middle class or the middle aged, say 40 to 50 years, our biggest burden is to educate our children. They are in universities. So, although the money is coming to me, the first beneficiary of that money is basically my young ones. So, by denying me that and giving it to another person, you are denying another one indirectly. This is an area that we may want to address as we move to the Committee Stage.

*[The Temporary Deputy Speaker
(Mrs. Odhiambo-Mabona) left the Chair]*

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

Lastly, hon. Midiwo, our Chief Whip, mentioned about a particular road in Kisumu. Indeed, we have seen his letter which I must say is very unprocedural in the sense that when we get a letter specifically saying “give so and so this contract or do not give this”, that would essentially amount to interfering with the tendering process. But having said that, our biggest concern with Kisumu and the larger lake region, is the under-capacity of the contractors who are there. I will challenge you to tell me three or four big contractors that you have within that region whom we can give any work on short notice. This is the challenge that we have had over time. In 2009, we went to Siaya and some parts of Bondo and that time we used to send money to the districts because we did not have the Constituency Roads Committee, and much of that money used to be returned to the Ministry because we had one contractor who had about five or six jobs and could not complete them in time and, therefore, the money had to go back to the Treasury. Therefore, my challenge also to some of these areas---

(Mr. Midiwo stood up in his place)

The Temporary Deputy Speaker (Dr. Laboso): What is your point of order, hon. Midiwo? Remember, this was a question on procurement!

Mr. Midiwo: On a point of order, Madam Temporary Deputy Speaker. I do remember and I will remain relevant to that question.

I would like to inform the Assistant Minister that the people who are supposed to do roads in Nyanza Province, particularly in the Lake Region, need not necessarily be from there. We now have a magnificent highway being done between Nairobi and Thika, and the person who is doing it so magnificently is from all the way in China. All we are saying is that we know. If I were to get another chance, I would tell you that M/s Hayer Bishan Singh Contractors Limited are corrupt. That is why their roads do not last one year. They do not put enough materials on the roads, and we are telling you so.

The Temporary Deputy Speaker (Dr. Laboso): What is out of order in what the Assistant Minister has said, Mr. Midiwo?

Mr. Midiwo: Madam Temporary Deputy Speaker, I was giving him information, so that he knows that people from Kisumu, Siaya and Busia Counties are telling me that they do not want M/s Hayer Bishan Singh Contractors Limited to do their roads. What is so special in him? We do not want him. Please, keep him away from us.

The Temporary Deputy Speaker (Dr. Laboso): So, it was a point of information. I do not think it was a point of order; continue, Assistant Minister.

The Assistant Minister for Roads (Mr. Kinyanjui): Madam Temporary Deputy Speaker, Sir, I agree with hon. Midiwo’s sentiments. I am only trying to say that as much as they do not want M/s Hayer Bishan Singh Contractors Limited to do their roads, we also want to challenge the people in that area. You must invest in the construction sector. You have said that Thika Road has actually been given to the Chinese. We do not want to give the Chinese even the village roads just next to you. We would rather that local contractors do those roads. “Local” does not mean M/s Hayer Bishan Singh Contractors Limited or anybody else. We are simply trying to say that when we go to Mombasa, we would want to encourage local capacity to be developed, so that when we go there we have about 10 contractors, and the best contractor wins.

However, you find that when you go to that region, the only big contractor is M/s Hayer Bishan Singh Contractors Limited, although he has his own challenges. We note the allegations made by the hon. Member, and we would want to look into them, but for now the biggest challenge we have, not just at that level but even at the level of small roads, is that local contractors have very little capacity in terms of road construction in that particular area. If there is a road you want to do on an emergency basis, you cannot get somebody from China to come, bring the equipment, develop a quarry and do the road.

Madam Temporary Deputy Speaker, therefore, what we are trying to say is that we want to give work to other contractors, or any other contractor for that matter; let it also go on record that we would really want to encourage local capacity in road building at that level, so that we can put road construction money into the local economy of the areas we will want to develop.

Mr. Baiya: On a point of order, Madam Temporary Deputy Speaker. Hon. Kinyanjui has argued eloquently about ensuring efficiency and quality; he is now complaining about lack of capacity yet this Bill is precisely meant to ensure that we enhance that kind of capacity. Is he in order to insist on eating his cake and having it?

The Assistant Minister for Roads (Mr. Kinyanjui): Madam Temporary Deputy Speaker, I want to plead with my colleague to appreciate where we are coming from. We support the Bill but even as we do so, there is the important Committee Stage. We are saying that once we get to that stage, these are issues he would want to address. We do not want to come up with an amendment and the first thing you hear is that Kenyans have gone to court because they are being discriminated against on account of age. Now that we have that opportunity, we would want to tap all the benefits arising from our different experiences. We are, in principle, not objecting to the Bill. We would want to support our young Kenyans. In supporting them, we will also be supporting the economy.

Lastly, the Government had also realised that the young people in this country face a major challenge in terms of accessing Government procurement services. For that reason, we came up with what we call the Youth Enterprise Fund because we realised that the biggest challenge is that if you give a team of young people, or a young person, an order worth Kshs100 million or even Kshs1 million, when they have no title deeds or anything else, it becomes impossible for them to deliver the services. Therefore, the Government came up with the Youth Enterprise Fund. It has not lived up to our expectations, but if you are able to support the Youth Enterprise Fund and make sure that it works, so that when young people get Government contracts they can get funding to support them, it will help us achieve our goal.

With those few comments, once again, I wish to thank all those hon. Members who have contributed in support of this Motion and assure the House that my Ministry, together with all those that work in the infrastructure sector, would want to work with those who are more empowered and are ready to participate in nation building.

Thank you.

The Temporary Deputy Speaker (Dr. Laboso): I will now call upon the Mover to respond.

Mr. Wamalwa: Madam Temporary Deputy Speaker, I want to thank all the hon. Members who have contributed to this Bill. I want to start by thanking hon. Odhiambo-Mabona for seconding this Bill. She was actually the first one to propose amendments to

improve the proposed Bill, particularly noting that apart from the youth, women have also been discriminated against. We also have the disabled people. I really welcome the proposed amendments that will come during the Committee Stage.

I also welcome the proposed amendments by hon. Olago and hon. Midiwo. I also appreciate the caution that hon. Amos Kimunya put in, particularly on the issue of practicability. I also appreciate the issues that have been raised by hon. Kinyanjui. I believe that all these proposed amendments will come during the Committee Stage, and will go a long way in improving the proposed Bill.

Madam Temporary Deputy Speaker, I wish to remove fear from hon. Members on the issue of the constitutionality of this Bill, and particularly in relation to the issue of discrimination. The same Constitution, under Article 27(4), prohibits discrimination by providing that the State shall not discriminate directly or indirectly against any person on any ground, including race, sex, pregnancy, marital status, health status, ethnic or social origin, colour, age or disability. They are genuine concerns because the Constitution, under Article 27(4), prohibits discrimination but the same Constitution, under the very Article 27(6) also directs the State to give full effect to the realisation of the rights guaranteed under the Article. It says that the State shall also take legislative and other measures, including affirmative action programmes and policies designed to redress any disadvantages suffered by any individuals or groups of individuals.

This is the same Article that gives a basis for this proposed Bill, so that those who have been disadvantaged, including the youth, women and disabled persons, can now, on the basis of the new Constitution, and through affirmative action, participate in the economic life of our nation. I wish to inform hon. Kimunya that, under Article 55 of the Constitution, it is now a requirement for the State to take measures. In fact, Article 55 is couched in mandatory terms. It says that the State shall take measures, including affirmative action programmes, to ensure that the youth of this country have opportunities to participate in the economic life of this nation. So, it is now a requirement. It is not a favour. The State must think outside the box and come up with measures that will allow the youth of this nation to participate in the economic life of the nation.

Madam Temporary Deputy Speaker, lastly, I think many of the hon. Members who have contributed to this Bill have not looked at the interpretation part of the Constitution under Article 260, which, clearly, defines affirmative action. It provides that affirmative action, which the State is now required to undertake, under Article 55, includes any measures designed to overcome or ameliorate an inequity or the systematic denial of a right. We are saying that the youths of this country have been denied their access to public procurement, and now, time has come for affirmative action to be taken for them to be given this opportunity. That is the proposal before the House.

I want to thank all the hon. Members who have supported this Bill. We welcome all the amendments proposed to improve it, so that we can make the youths of this nation feel that they are part of this nation and they can also have a share of the national cake. Particularly as we move towards devolution, we want to say that this Bill, or the new Act that will come into place after these amendments, will facilitate that down to the county level. We particularly want to see that the proposals by hon. Kinyanjui and hon. Midiwo are included in the Bill, so that the youth in the counties and at the village level can also have a share of public procurement business.

Madam Temporary Deputy Speaker, I want to end now by saying what John F. Kennedy once said that: "A nation that cannot take care of the many who are poor cannot protect the few who are rich."

Madam Temporary Deputy Speaker, 70 per cent of this nation are the youth. If they are the majority who are poor, we must take measures now to take care of them, otherwise, we may not be able to protect the few who are rich.

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

(Question put and agreed to)

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

Second Reading

THE ALCOHOLIC DRINKS CONTROL
(AMENDMENT) BILL

The Temporary Deputy Speaker (Dr. Laboso): Hon. Members, this Bill has been deferred to next week because the hon. Member who is supposed to move it is involved in the Syokimau hearings that are ongoing.

(Bill deferred)

Second Reading

THE LABOUR INSTITUTIONS (AMENDMENT) BILL

The Temporary Deputy Speaker (Dr. Laboso): Hon. Members, this Bill is also deferred to Wednesday because of unforeseeable circumstances. I need clarification. Is it Wednesday, tomorrow, or Wednesday, next week?

An hon. Member: Wednesday, next week!

The Temporary Deputy Speaker (Dr. Laboso): It is Wednesday next week. Therefore, this Bill is deferred. I will now call on the next Order.

(Bill deferred)

Second Reading

THE RATIFICATION OF TREATIES BILL

Mrs. Odhiambo-Mabona: Thank you, Madam Temporary Deputy Speaker. I beg to move that The Ratification of Treaties Bill, Bill No. 28 of 29th July, 2011, be now read a Second Time.

Madam Temporary Deputy Speaker, this is a Bill for an Act of Parliament to provide for the ratification of treaties and for connected purposes.

Though not specifically indicated, it also seeks to give better effect to Article 26 of the Constitution of Kenya that provides:-

“Treaties ratified by Kenya shall form part of the laws of Kenya.”

It also seeks to give effect to Article 94(1) of the Constitution that provides:-

“ The legislative authority of the Republic is derived from the people and, at the national level, is vested in and exercised by Parliament.”

Madam Temporary Deputy Speaker, in a way, it may also give effect to – but not in a strict sense – Article 2 (5) of the Constitution that provides:

“ The general rules of international law shall form part of the law of Kenya.”

Madam Temporary Deputy Speaker, the reason I am saying that it does not strictly refer to Article 2 (5) but may, in a way, affect is because the process of crystallization of general rules of international law is very different from the way treaties or conventions crystallize or become law.

Madam Temporary Deputy Speaker, Governments go through a deliberative effort of coming up with treaties or conventions and one of the processes is through ratification of treaties. This was one of the issues that was the main bone of contention during the campaigns for the Constitution, where the “No team” was actually using Article 2 (6) to oppose the Constitution because, in their view, they were saying that if we leave the ratification of treaties, then we are taking away the mandate of the people of Kenya through their representatives in Parliament to enact legislation and pass legislation that Kenyans have looked into and Kenyans have examined and Kenyans are satisfied with.

Indeed, one of the concerns---

ADJOURNMENT

The Temporary Deputy Speaker (Dr. Laboso): Order, hon. Members! It is now time to adjourn the Business of the House. Hon. Odhiambo-Mabona, you shall have a balance of 57 minutes when this Order appears on the Order Paper. Therefore, the House stands adjourned until tomorrow, Wednesday, 30th of November, 2011, at 9.00 a.m.

The House rose at 6.30 p.m.