

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 25th May, 2011

The House met at 2.30 p.m.

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

PRAYERS

PAPERS LAID

The following Papers were laid on the Table:-

Annual Report and Financial Statements of the Brand Kenya Board for the year ended 30th June, 2010 and the certificate thereon by the Controller and Auditor-General.

*(By the Assistant Minister for Education (Prof. Olweny) on behalf
of the Office of the Deputy Prime Minister and Minister for Finance)*

Financial Statements of Kenya Agricultural Research Institute for the year ended 30th June, 2010 and the certificate thereon by the Controller and Auditor-General.

*(By the Assistant Minister for Education (Prof. Olweny)
on behalf of the Minister for Agriculture)*

Financial Statements of Kabarnet Hotel Limited for the year ended 30th June, 2010 and the certificate thereon by the Controller and Auditor-General.

*(By the Assistant Minister for Education (Prof. Olweny)
on behalf of the Minister for Tourism)*

Financial Statements of the Industrial Training Levy Fund for the year ended 30th June, 2010 and the certificate thereon by the Controller and Auditor-General.

*(By the Assistant Minister for Education (Prof. Olweny)
on behalf of the Minister for Industrialization)*

Annual Report and Financial Statements of the Kenya Ports Authority for the year ended 30th June, 2009 and the certificate thereon by the Controller and Auditor-General.

*(By the Assistant Minister for Education (Prof. Olweny)
on behalf of the Minister for Transport)*

Financial Statements of the Kenya Investment Authority for the year ended 30th June, 2010 and the certificate thereon by the Controller and Auditor-General.

(By the Assistant Minister for Education (Prof. Olweny) on behalf of the Office of the Deputy Prime Minister and Minister for Finance)

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

(By the Assistant Minister for Education (Prof. Olweny) on behalf of the Office of the Deputy Prime Minister and Minister for Local Government)

Financial Statements of the National Hospital Insurance Fund (NHIF) for the year ended 30th June, 2010 and the certificate thereon by the Controller and Auditor-General.

(By the Assistant Minister for Education (Prof. Olweny) on behalf of the Minister for Medical Services)

Annual Reports and Financial Statements of the New Kenya Co-operative Creameries Limited for the year ended 30th June, 2010 and the certificate thereon by the Controller and Auditor-General.

(By the Assistant Minister for Education (Prof. Olweny) on behalf of the Minister for Co-operative Development and Marketing)

Financial Statements of the Kenya National Audit Office (KENAO) for Pyrethrum Board of Kenya for the year ended 30th June, 2010 and the certificate thereon by the Controller and Auditor-General.

(By the Assistant Minister for Education (Prof. Olweny) on behalf of the Office of the Deputy Prime Minister and Minister for Finance)

NOTICES OF MOTION

ALLOCATION OF FUNDS FOR PROVISION OF CLEAN WATER TO ASAL CONSTITUENCIES

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

THAT, recognizing the disastrous effects of climate change on the environment as shown by the devastating effects of the current famine ravaging the country; noting that this has led to acute water shortages in many parts of the country and especially in northern Kenya and other arid and semi-arid lands; conscious that water is life and essential to human

survival; appreciating the Government efforts to improve water availability and sanitation in the country; further appreciating that the Government has failed to realize its objective of providing water to all through water services boards; aware of the inequalities in the resource mobilization and allocations to districts and constituencies; this House urges the Ministry to allocate 10 per cent of its budget to all constituencies in equal proportion and another 10 per cent to northern Kenya and ASAL constituencies; and further that a constituency will have a constituency committee comprising the following membership:

1. One per cent of the provincial administration.
2. Water engineer responsible for water matters in that constituency or his or her designated representative.
3. Five representatives of the Constituency Development Fund Committee.
4. One representative each for the youth and women respectively.
5. The Chairmanship of the said Committee shall be from category (3) of membership and category (2) shall be the secretary to the Committee.

CONSULTATION BETWEEN KENYA/ETHIOPIAN GOVERNMENT
OVER CONSTRUCTION OF GIBE III HYDRO POWER DAM

Dr. Otchilo: Mr. Temporary Deputy Speaker, Sir, I beg to give notice of the following Motion:

THAT, noting that Lake Turkana which is the world largest and most saline lake is a source of survival for six communities in northern Kenya, that is, the Turkana, the El Molo, the Samburu, the Gabbra, the Rendille, and the Dasnach which depend on it for livestock grazing, watering and fishing; aware that River Omo, a trans-boundary river which originates from Ethiopia, contributes more than 90 per cent of the total water influx into Lake Turkana; further aware that Gibe III Hydropower Dam which is under construction by the Government of Ethiopia on River Omo will dramatically reduce the flow of River Omo into Lake Turkana by over 70 per cent leading to a 10 metre drop in the lake's level and increase in the lake's salinity which will significantly affect the lakes biodiversity; deeply concerned about the devastating impact this will have on the long-term ecology of the lake and the socio-economic and well being of the affected communities and cognisant of the fact that no independent comprehensive environmental and socio impact assessment of the Gibe III Hydropower Dam was undertaken in the River Omo/Lake Turkana trans-boundary water system areas prior to the commencement of its construction; this House resolves that the Kenya Government officially demands that the Government of Ethiopia stops the construction of the Gibe III Hydropower Dam until an independent and comprehensive environmental and socio impact assessment is undertaken and appropriate mitigation measures put in place.

ORAL ANSWERS TO QUESTIONS

Question No.818

LOSS OF REVENUE BY NAIROBI CITY COUNCIL

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

(a) if he is aware that the Nairobi City Council is losing a lot of money through fraud arising from non-payment of rates by persons disposing of properties within the city and knowingly issuing dud cheques to the council;

(b) if he could provide a list of all bounced cheques issued since 2008 and indicate who among the rate payers transferred their property without making alternative payment;

(c) what disciplinary measures the Ministry has taken against the officers involved and what action has been taken to recover the lost funds.

The Temporary Deputy Speaker (Mr. Imanyara): Deputy Prime Minister and Minister for Local Government! Any indication where the Deputy Prime Minister and Minister for Local Government is, Mr. Bett?

The Minister for Roads (Mr. Bett): Mr. Temporary Deputy Speaker, Sir, I want to admit that I am not aware of where the Minister is, but I would want to plead that you give him a few more minutes.

The Temporary Deputy Speaker (Mr. Imanyara): The House business time starts at 2.30 p.m. These Questions are circulated to all Ministries.

The Minister for Roads (Mr. Bett): Mr. Temporary Deputy Speaker, Sir, I agree. I also have the problem of traffic jams on our roads.

Mr. Linturi: Mr. Temporary Deputy Speaker, Sir, I had a discussion with the Minister at around 11.00 a.m and I can see him coming in. I think we could give him a chance.

The Minister for Roads (Mr. Bett): Mr. Temporary Deputy Speaker, Sir, he has arrived.

The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Local Government (Mr. Nguyai): Mr. Temporary Deputy Speaker, Sir, my apologies. I am a little late. I am presuming that it is Question No.818.

The Temporary Deputy Speaker (Mr. Imanyara): Order, Mr. Nguyai! You owe the House an explanation as to lateness.

The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Local Government (Mr. Nguyai): Mr. Temporary Deputy Speaker, Sir, I got held up at this particular roundabout for quite a period of time. I apologise to the House.

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

The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Local Government (Mr. Nguyai): Mr. Temporary Deputy Speaker, Sir, I had liaised with the hon. Member about this Question early this morning. We had agreed that since

there were certain lists that we had not provided, we defer this Question to Tuesday afternoon. I am seeking the indulgence of the House and the hon. Member.

Mr. Linturi: Mr. Temporary Deputy Speaker, Sir, I will not have any objection, bearing in mind that the answer given, in my opinion, is not complete.

The Temporary Deputy Speaker (Mr. Imanyara): The Question is deferred to Tuesday afternoon, next week.

(Question deferred)

Question No.899

TRACING OF CAPITAL LEVY PAID TO MOCO

Mr. Washiali asked the Minister for Agriculture:

(a) if he could explain the whereabouts of the Kshs6-per-tonne, capital levy paid by cane farmers to Mumias Outgrowers Company Ltd (MOCO) for a total of 21 years;

(b) How much was collected during this period; and

(c) When sugar cane farmers will benefit from the accruals.

Mr. Temporary Deputy Speaker, Sir, I also want to bring to the attention of the House the fact that I have not received an answer to this Question.

The Assistant Minister for Agriculture (Mr. Mbiuki): Mr. Temporary Deputy Speaker, Sir, I beg to reply.

The Temporary Deputy Speaker (Mr. Imanyara): Order! You have heard the hon. Member say that he has not received the written answer. You have an obligation to supply a written answer to the hon. Member.

The Assistant Minister for Agriculture (Mr. Mbiuki): Mr. Temporary Deputy Speaker, Sir, through our Parliamentary Office, we remitted the answer to the Clerk of the National Assembly and we thought the hon. Member received it. I have only one copy as at now and---

The Temporary Deputy Speaker (Mr. Imanyara): Order! Let me just establish that, indeed, that happened.

*(The Temporary Deputy Speaker consulted
with the Clerk-at-the Table)*

Mr. Mbiuki, I am given to understand that you have not circulated and you may be misleading the House by indicating that you circulated.

The Assistant Minister for Agriculture (Mr. Mbiuki): Mr. Temporary Deputy Speaker, Sir, it has been confirmed that the answer has not yet reached the National Assembly.

The Temporary Deputy Speaker (Mr. Imanyara): You will supply the answer. I will defer the Question to tomorrow afternoon, when the hon. Member will have gotten the written answer.

(Question deferred)

Next Question, hon. Ethuro!

Question No.921

CONTRAVENTION OF PENSIONS
(AMENDMENT) ACT BY GOK

Mr. Ethuro asked the Minister of State for Public Service:-

(a) why the Government is contravening the provisions of the Pensions (Amendment) Act, 2003, by failing to either retain or pay retiring employees until their pension is processed;

(b) whether he could indicate the outstanding pensions before 2003 and table the quantum of pension and the number of pensioners per cadre, month and year for all public servants who have retired from 2003 to date; and,

(c) what action the Government is taking to ensure compliance with the statute.

Mr. Temporary Deputy Speaker, Sir, despite your ruling, I have the same problem. I am yet to receive the written answer.

The Temporary Deputy Speaker (Mr. Imanyara): Yes, Minister of State for Public Service.

The Minister of State for Public Service (Mr. Otieno): Mr. Temporary Deputy Speaker, Sir, this Question was originally addressed to the Ministry of Finance. They wrote---

The Temporary Deputy Speaker (Mr. Imanyara): Order, Minister! The issue that I want you to address is whether or not the answer has been supplied to the hon. Member.

The Minister of State for Public Service (Mr. Otieno): Mr. Temporary Deputy Speaker, Sir, no answer has been prepared nor supplied to the Questioner. That is what I was beginning to explain.

The Temporary Deputy Speaker (Mr. Imanyara): Okay.

The Minister of State for Public Service (Mr. Otieno): The Question was initially directed to the Ministry of Finance, by which the Pensions Department is supervised. They wrote to us as the Ministry responsible for managing remuneration and benefits. Answers have to come from those Ministries. I only got the Question yesterday, and I still have to liaise with the Ministry of Finance, so that we can prepare an adequate answer, because the Question is alleging breach of a statute, which is a serious matter. So, if you give me up to Thursday next week, I should make my inquiries within the Pensions Department to determine the facts as alleged in the Question and bring an appropriate answer to the House.

Mr. Ethuro: Mr. Temporary Deputy Speaker, Sir, indeed, I have a lot of respect for this particular Minister, because he is thorough in his work, except that this is a repeated Question. It was filed in the last period but it did not come to the Floor of the House. So, I expected the Government to have been prepared since the Question was filed over a year ago.

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Ethuro, the Minister is seeking your indulgence up to next, Thursday. Would you agree to that request?

Mr. Ethuro: Mr. Temporary Deputy Speaker, Sir, I am willing to give him even until the Tuesday after that Thursday, because I may not be around next Thursday.

The Temporary Deputy Speaker (Mr. Imanyara): Minister, is up to Thursday next week sufficient time for you?

Mr. Ethuro: Mr. Temporary Deputy Speaker, Sir, Thursday next week will be 2nd June. I am asking that he answers the Questions on the Tuesday of 9th June.

The Temporary Deputy Speaker (Mr. Imanyara): Is that okay with you, Minister?

The Minister of State for Public Service (Mr. Otieno): Mr. Temporary Deputy Speaker, Sir, that is fine with me.

The Temporary Deputy Speaker (Mr. Imanyara): Very well. The Question is deferred. It will be on the Order Paper of 9th June, 2011.

(Question deferred)

Next Question, Member for North Imenti.

Question No.943

REHABILITATION OF MATE ROAD

The Temporary Deputy Speaker (Mr. Imanyara): Is the Member for North Imenti still not here? Question dropped!

(Question dropped)

Next Question, Member for Mathira.

Question No.954

LAND DISPUTES IN MATHIRA EAST DISTRICT

The Temporary Deputy Speaker (Mr. Imanyara): Is the Member for Mathira still not here? Question dropped!

(Question dropped)

Question No.963

NUMBER OF INTIMATE-PARTNER ABUSE CASES IN KENYA

The Temporary Deputy Speaker (Mr. Imanyara): Hon. Members, on Question No.963, the Chair has been informed that the Minister is bereaved and has requested that this Question be deferred. So, I am deferring the Question for the Minister to get in touch

with the Clerk, so that they can determine when it can be put on the Order Paper after he comes back from mourning.

(Question deferred)

POINTS OF ORDER

TERMINATION OF EMPLOYMENT OF LOW CADRE STAFF BY MINISTRY OF EDUCATION

Mr. Pesa: On a point of order, Mr. Temporary Deputy Speaker, Sir. I rise to seek a Ministerial Statement from the Minister for Education on the Ministry's intention to terminate employment of low cadre staff as communicated through Public Service Commission of Kenya (PSC) Circular Ref. 225/111, dated 18th May, 2011. In his Statement, the Minister should clarify the following:-

(i) the reason for rescinding his earlier decision communicated to Kenyans on the Floor of this House on Wednesday, 23rd February, 2011 while answering Question No.1 by Private Notice, when he assured the House that the said staff members would not be dismissed;

(ii) table the list of the 837 staff whose services are earmarked for termination, indicating when they were appointed and the stations at which they are working at the moment;

(iii) table the list of the 339 candidates who are supposed to replace some of those who are earmarked for dismissal.

The Assistant Minister for Education (Prof. Olweny): Mr. Temporary Deputy Speaker, Sir, I will avail the Statement on the Floor of the House on Tuesday, next week.

FLUCTUATIONS OF FUEL PRICES

Mr. Linturi: On a point of order, Mr. Temporary Deputy Speaker, Sir. I rise to seek a Ministerial Statement from the Minister for Energy with regard to the recent fluctuations in the prices of petrol within the first quarter of this year, starting from the month of January to the month of April. In the Statement, I would want the Minister to explain what have been the main causes of the recent increases of fuel prices and the increase in the shortages of petrol. I would like him to further clarify to the House who, when and at what price the open tender system was given; he is to clarify further who the financiers of this particular tender, the bankers and the suppliers or the procuring entity are. Finally, I want him to clarify when these consignments were delivered, in what quantities and by which ships.

Thank you.

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Otieno, could you hold brief for the Minister for Energy?

The Minister for State for Public Service (Mr. Otieno): Mr. Temporary Deputy Speaker, Sir, I will convey the information to the Minister for Energy to prepare an appropriate response.

The Temporary Deputy Speaker (Mr. Imanyara): On what day will the Ministerial Statement be given?

The Minister of State for Public Service (Mr. Otieno): He will issue it on Thursday, 2nd June, 2011.

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Linturi, is Thursday, 2nd June, 2011 okay with you?

Mr. Linturi: Mr. Temporary Deputy Speaker, Sir, considering the kind of problems Kenyans are going through, especially because of this matter, Thursday next week is too far. I would suggest that, if possible, he does it on Wednesday.

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Linturi, Mr. Otieno is giving an undertaking on behalf of the Minister for Energy, who is not here. So, please, give him sufficient time.

Mr. Linturi: I concede, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Imanyara): So, the Ministerial Statement will be given on Thursday next week.

If there are no more requests for Ministerial Statements, let us have Ministerial Statements from the Front Bench.

MINISTERIAL STATEMENT

HARASSMENT OF SMALL-SCALE TRADERS BY CITY COUNCIL ASKARIS

The Assistant Minister, Office of the Deputy Prime Ministry and Ministry for Local Government (Mr. Nguyai): Mr. Temporary Deputy Speaker, Sir, there was a Ministerial Statement which had been requested by the Member for Makadara on harassment of small-scale traders, and we have been ready for the last three days. I request if I could issue it at this time even though the hon. Member is not around.

The Temporary Deputy Speaker (Mr. Imanyara): Assistant Minister, I did not get what you said.

The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Local Government (Mr. Nguyai): Mr. Temporary Deputy Speaker, Sir, we have been ready with this Ministerial Statement from as early as yesterday afternoon. We came with it today, and I had requested the Chair if I could issue it today, even though the Member for Makadara has not been around.

The Temporary Deputy Speaker (Mr. Imanyara): Proceed and deliver it.

The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Local Government (Mr. Nguyai): Mr. Temporary Deputy Speaker, Sir, the City Council of Nairobi and other local authorities in the country are mandated by the Local Government Act, Cap.265, Section 162, to impose bylaws. Currently, the City Council of Nairobi is enforcing the following bylaws:-

- (i) the public service vehicle bylaw;
- (ii) the public nuisance bylaw;
- (iii) Illegal structures erected on road reserves and service lines such as sewer lines, electricity lines and other public utilities;
- (iv) the hawkers bylaws; and,

(v) the animal bylaws, amongst others.

Mr. Temporary Deputy Speaker, Sir, the operations of the councils in this area have attracted negative perception and public outcry, especially concerning the conduct of the officers enforcing the by-laws. From the experience, the problem is twofold. On one hand, the City Council of Nairobi strives to keep order and harmonious operations of the activities within the city limits by way of enforcing approved by-laws. On the other hand, citizens in seeking their economic livelihoods, view the pursuit of order and harmony in the city as oppressive. The public view is that the council's enforcement officers harass them.

While I admit that there have been cases of harassment of the public by the council officers, the media and the Press tend to exaggerate the magnitude or scale of the problem. At the same time, the public and media blame the council for the failure to keep the City clean. In our view, the conflict emanates from the lack of citizens' appreciation of the roles and responsibilities in securing orderliness and harmony in the City. The public often fail to keep their activities within their designated areas, thus creating conditions for conflict. Also, increasing population pressure is causing many problems amongst our local authorities.

Mr. Temporary Deputy Speaker, Sir, the City Council has mounted a programme called "Information Rapid Transformation Initiative", which seeks to address the issues of informal traders through the development of modern *kiosks*. The average cost and construction of modern *kiosks* is Kshs150,000. The beneficiaries of this programme engage with banks directly as individuals, provided they have the approval of the City Council and have met the threshold of acceptable collateral. This arrangement was put in place to support the informal business operators with limited access to capital. However, prior to granting technical approval to a modern *kiosk* projects, the Council must approve a list of informal traders in order to ensure that only deserving traders benefit from the programme.

We must appreciate that our information sector is multi-dimensional and that there is a category of informal business that may not be fully responsive to the set standards. Such businesses are to be accommodated in the Council markets which have economies of scale and thus, permit low cost delivery of business infrastructure.

On the basis of the above, it is important to mention that there have been no demolitions of existing *kiosks* to allow the development of modern facilities. I wish to assure this House that no such demolitions have taken place in Makadara as alleged by the hon. Member. Where the demand for commercial investment arises, property owners and developers can apply for consideration of approval and if permissible, within the City development planning framework, approval may be granted for either extension of use, which is mixed development or change of use. However, such approval must be within the Physical Planning Act, Cap.286 and the City Council Building by-laws under the existing Building Code. Anything done outside this legal framework will be irregular and subject to legal enforcement and action by the City Council of Nairobi.

Mr. Temporary Deputy Speaker, Sir, for quite sometime now, the City Council has been receiving complaints from the residents of Nairobi and the general structure, regarding the mushrooming of illegal developments within the estates. These complaints include grabbing of public utilities by private developers, rapid growth of illegal temporary *kiosks* within road reserves and illegal conversion of residential properties to

commercial properties. The Council has responded to these complaints by investigating the issues raised to ascertain the veracity and take action as necessary. The window of opportunity was provided to the owners and developers of illegal developments to regularize these developments within the Development Planning Framework. However, no one among those concerned seized the opportunity. Further, if one feels aggrieved by the enforcement notice, the legal recourse is for the aggrieved to appeal to the Nairobi Physical Planning Liaison Committee, under Section 38(4). There has been no appeal and there is no evidence of any attempts by the owners, developers or occupants of the said illegal extensions.

On 3rd February, 2011, the City Council of Nairobi received complaints from Riverbank Residents Association, on illegal developments in Makadara Constituency. The illegal developments were temporary structures and open air markets built on pedestrian walkways, thus causing obstruction. Consequently, the Council engaged the stakeholders on how to solve the problems. Several meetings were held and among those who attended were area councillors and representatives of the City Council of Nairobi and the Provincial Administration. A decision was made to demolish the illegal structures. A seven-day notice was issued on 24th March to the owners of the illegal structures. On 12th May, the City Council of Nairobi carried out an operation in the area, whereby:-

- (a) the 49 illegal structures were demolished;
- (b) ten were allegedly---

Mr. Shakeel: On a point of order, Mr. Temporary Deputy Speaker, Sir. Earlier, the Assistant Minister made a definite statement that--- He is misleading the House.

The Temporary Deputy Speaker (Mr. Imanyara): Order! The Assistant Minister has not even finished reading the Statement. You can seek clarification, but you cannot say that he is misleading the House, even before he concludes reading the Statement.

The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Local Government (Mr. Nguyai): Thank you, Mr. Temporary Speaker, Sir. I will finalise the comprehensive Statement and then I can give clarifications.

- (a) ten kiosks allegedly donated by the area Member of Parliament were among those structures demolished;
- (b) twenty iron sheets and six metal doors were impounded; and,
- (c) two motor vehicles were also impounded.

All the impounded documents were taken to the Dagoretti pound yard.

Mr. Temporary Deputy Speaker, Sir, in its efforts to create dialogue with its clients, the City Council of Nairobi has taken the following reform initiatives to re-engineer its enforcement and inspection process, as well as improve citizen's involvement in the management of the City:-

- (i) formulization of the City Council of Nairobi Stakeholders' forum;
- (ii) reforming of inspections and enforcement in terms of organization, procedure and systems; that is, public notice, giving information regarding inspection teams and prior notice for the removal and inspection and joint inspection of premises.
- (iii) establishment of a complaints register and customer care desk where members of the public are encouraged to register their complaints;
- (iv) the council has acquired a hotline through which members of the public can get in touch with Council officials;

(v) council officers to wear uniforms and badges while on duty for easy identification by the members of the public;

(vi) retraining of City enforcement officers on public relations to improve the way they handle members of the public; and,

(vii) the council is carrying out continuous public education on by-laws.

These efforts have paved way for dialogue between the Council and its clients. Any aggrieved party has the necessary channels to engage the Council.

Mr. Temporary Deputy Speaker, Sir, allow me to conclude by making a passionate appeal to hon. Member, especially those representing constituencies within the City Council of Nairobi, to conduct themselves with decorum and decency, as expected of hon. Members. The behaviour displayed by the Member for Makadara has been lacking in decency, to say the least.

There are better and more civil ways of addressing grievances of the public. However, leaving young men to destroy property and engaging public officers and behaving disorderly in the manner that the hon. Member did, set a very bad example to our youth. It must be condemned in the strongest terms by all Members of this august House.

Finally, we must avoid situations that may lead to a breach of peace. If our armed security officers on the day the hon. Members stormed our offices had used force to restrain him and his group, there may have been very ugly scenes.

Thank you.

Mr. Shakeel: Mr. Temporary Deputy Speaker, Sir, in the first part of the Statement, the Assistant Minister says that there were no demolitions in Makadara. Towards its end, he admits that there were demolitions and that certain notices had been issued. Could he tell us how those notices were given? Does his Ministry only give notices for demolition of kiosks and structures owned by the poor and yet, sparing buildings on road reserves owned by rich people?

Finally, could he tell us why hon. Bifwoli's house was demolished?

The Temporary Deputy Speaker (Mr. Imanyara): Order. Mr. Assistant Minister! You may not respond to the last question by the hon. Member. I am allowing a number of clarifications, so that you can respond to all of them.

Mr. Njuguna: Mr. Temporary Deputy Speaker, Sir, while appreciating the lengthy Statement issued by the Assistant Minister, I would like him to inform this House what steps the Ministry is taking to make sure that hawkers and members of the public are handled humanely and in a civil manner by Nairobi City Council (NCC) askaris? In the recent past, we have seen mistreatment meted to members of the public by NCC askaris.

Ms. Shebesh: Mr. Temporary Deputy Speaker, Sir, the Assistant Minister has stated that the Member of Parliament for Makadara acted in a way that was not befitting of a hon. Member of Parliament. Could he tell us when the NCC askaris will also start acting like Government agents and not like a rapid response team of the GSU when they are dealing with Nairobi residents?

Mr. Koech: Mr. Temporary Deputy Speaker, Sir, this Government is very good at destroying people's property in the name of dealing with illegal constructions in certain parts of this country. Small businessmen in this country spent a lot of money to put up the structures. When their property is destroyed, they undergo serious

psychological torture. What is the Government doing to ensure that the people are informed in advance to stop constructing their premises before they complete them? Where is the Government when these people are putting up those structures?

Mr. Chanzu: Mr. Temporary Deputy Speaker, Sir, the planning of this City was done for a population of a maximum of about one million people. However, its population has increased. This is the cause of the illegal constructions that we see all over the City. What is the Ministry doing to ensure that there is proper planning that can last for many years to come, so that we do not have these people taking the law into their hands, including NCC askaris?

The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Local Government (Mr. Nguyai): Mr. Temporary Deputy Speaker, Sir, I will very quickly respond to all clarifications sought by hon. Members. Let me start with the one raised by the hon. Member for Kisumu Town East.

We have never demolished a kiosk or a structure where notice has not been given. In this particular case, we did hold stakeholders meetings. We also ensured that the procedure was followed. It was very clear in my Statement that we followed the procedure. We do not only deal with kiosks, but we also deal with---

Mr. Shakeel: On a point of order, Mr. Temporary Deputy Speaker, Sir. The HANSARD will bear me witness. In his Statement, he clearly said that no stalls in Makadara were demolished. But later on, he admitted that stalls in Makadara were demolished. Could he be clear on the demolitions; were any stalls in Makadara demolished?

The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Local Government (Mr. Nguyai): Mr. Temporary Deputy Speaker, Sir, no stalls in Makadara were demolished without the due notice and approval being given. I can keep on repeating that and the HANSARD will also prove me right.

The final clarification he sought was in conflict with the relevancy of the statement that I issued. He said sometimes, we do demolish, not only kiosks, but also in the case of one hon. Member, which I do not have the details, houses.

On the question raised by the Member for Lari on what steps we are taking to ensure that we act humanely--- As I said, we are retraining our officers to ensure that they do act in customer care. We have a hot line in case anybody has been mishandled. All our officers are required to wear uniforms and badges, so that they can be easily identified. They are not allowed to demolish or to take action without full identification.

There was the question raised by the Nominated Member who asked when we will act in a befitting manner and not like an enforcement unit. I think it is a factor of cultural change. It is something that we are working very hard on. I am sure that we will get the results that are desired the soonest. We have taken the necessary steps to ensure that, that cultural shift happens.

The Member for Mosop wanted clarification on why we always traumatize the small business owners when we demolish their structures without issuing legal notices. Once again, I would want to say that if we have any such incidents where people have not been given the legal notice, please, bring them to our attention. We will take the necessary action against the chief officers or enforcing officers concerned because we want that culture to end completely. So, if you have such information, we will act on that.

I would like to thank Mr. Chanzu for saying that obviously, this town was not planned sufficiently. We now have a master---

Mr. Koech: On a point of order, Mr. Temporary Deputy Speaker, Sir. My question was very clear; that, what is the Assistant Minister doing to ensure that people are stopped from constructing these structures because, once they are demolished, they become traumatized?

The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Local Government (Mr. Nguyai): Thank you, for the clarification. In my Statement, I did provide quite a number of development control rules and development control enforcement processes under Public Nuisance By-laws and Hawkers By-laws. There is obviously sufficient policing done. However, in such cases, we will enhance the policing to ensure that that does not happen.

The final clarification was sought by Mr. Chanzu on what we are doing to accommodate increased population in Nairobi. We now have a new master-plan which is within the Vision 2030 framework. The original step is to redesign and remodel the whole of Eastlands, to become a modern metropolis. It rolls out in quite a number of phases. Hopefully, if we do have the funds to build bigger and better cities with sufficient infrastructure, the conflicts that you see will not be there because we do certainly have the sufficient land to contain the population if the infrastructure is provided.

DELAY IN MARKING KONYO GACHUKU L.R. No.168/KONYO
GACHUKU L.R.NO. 8907 IN MATHIRA

Eng. Maina: Mr. Temporary Deputy Speaker, Sir, mine is not a question. I wish to seek a Ministerial Statement from the Ministry of Lands with regard to their policy and, in particular, how long it should take them to respond to a problem on site. For example, it has taken them over one and half years after receiving payment to come and actually indicate the boundary between Konyo Gachuku L.R. No.168 and Konyo Gachuku L.R. No.8907. The Minister should also indicate, in his Ministerial Statement, whether it is really in order for the officers to make appointments with members of public and not turn up as it happened in Nyeri.

The Temporary Deputy Speaker (Mr. Imanyara): Order! You have sought a Ministerial Statement and you have done so. Ministry of Lands! Mr. Dalmas Otieno! When can that Ministry issue a Statement?

The Minister of State for Public Service (Mr. Otieno): Mr. Temporary Deputy Speaker, Sir, we will convey the urgency and need to make the Statement. Give us up to Thursday next week as well.

The Temporary Deputy Speaker (Mr. Imanyara): Eng. Maina, are you satisfied with Thursday next week?

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

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

MINISTERIAL STATEMENT

PRIME MINISTER'S RECENT OFFICIAL VISIT TO USA AND FRANCE

The Prime Minister (Mr. Raila): Mr. Temporary Deputy Speaker, Sir, I want to make a Statement in response to a request from the Member of Parliament for Cherangany. The Member of Parliament for Cherangany wanted basically to know what multi-lateral or bilateral agreements Kenya secured within the two weeks trip. He also wanted me to table the same. He also wanted me to highlight immediate or long-term benefits Kenya stands to gain from the countries that I visited.

Mr. Temporary Deputy Speaker, Sir, I will make this Statement in the spirit of our national values and principles of good governance and, in particular, transparency and accountability. Let me state from the outset that official travel abroad by Government officials is tightly regulated by various administrative circulars. Such travel is limited to official Government businesses and only concerned Government officials with a direct input in such businesses engage in such travel.

Mr. Temporary Deputy Speaker, Sir, all trips by Ministers and Assistant Ministers are approved by His Excellency the President. Composition of Government delegations on official travel overseas is determined by the nature of the business at hand. Each Government department normally meets the travel and accommodation costs of its officers on official travels abroad.

Mr. Temporary Deputy Speaker, Sir, I visited the United Arab Emirates (UAE) on March 27th, 2011 to attend the Education for all Conference at the invitation of the Government of UAE, which also paid for all the costs of that trip. I further visited the United States of America (USA) between April 10th and 18th this year. On April 11th, I presided over the African Investment Conference in New York City which was sponsored by Kenya to showcase to the potential investors some of our Vision 2030 flagship projects. Accompanying me to the conference were several Kenyan ministers, permanent secretaries, chief executives of state corporations, the Governor of the Central Bank and chief executives of some Kenya's leading private companies and a legislator. We presented to the potential investors opportunities in the power sector, particularly, the power generation on geothermal, Nairobi Urban Commuter Rail Project, Konza ICT Project, Jomo Kenyatta International Airport Greenfield Terminal Project and Nairobi Urban Toll Project. The conference was over-subscribed. In other words, we had invited just about 150 participants, but we had over 400 participants for those two days.

On the same day - that is April 11th - I met the Editorial Board of the *New York Times* to provide insights on Kenya's current and future political and economic prospects. I held discussions with the former US President, Bill Clinton, whose foundation is already working with my office to support the Mau Forest Rehabilitation Programme. Mr. Clinton offered to assist Kenya to migrate from charcoal to the use of bricks, a programme his foundation has successfully implemented in Haiti.

Mr. Temporary Deputy Speaker, Sir, on 12th April this year, I visited the White House and held discussions with the Vice-President, Joe Biden. We reviewed the Kenya-US bilateral relationship, discussed issues of mutual interest with regard to Somalia, Southern Sudan, Libya and Cote d' Ivoire. The US committed US\$15 million to assist Kenyan border patrol. We also agreed that the on-going reforms in Kenya such as the passage of the new Constitution should be considered when evaluating Kenya's good governance score for purposes of accessing funds from the millennium challenge account to support the millennium development goals such as universal free primary and

secondary education. I also met with the US Senate Foreign Relations Committee to update them on reforms in Kenya.

On April 13th, I addressed a distinguished audience of scholars and academics at the Centre for Strategic and International Studies in Washington DC. The subject was on democracy and governance in Africa. I explored the emerging challenges of elections without democracy in Africa. The dialogue was very illuminating.

Mr. Temporary Deputy Speaker, Sir, I also met with members of the Corporate Council on Africa to discuss how the US should increase its investments in Kenya. I was also able to brief the US Congressional Black Caucus on evolving political and economic trends in Kenya. I was also privileged to be invited to the premier of *Freedom Rights*, a movie produced by a Kenyan based on our very own Madam Daphne Sheldrick's work with our elephants.

Mr. Temporary Deputy Speaker, Sir, on April 14th, I visited Florida Agricultural and Mechanical University (FAMU) and witnessed the signing of a memorandum of understanding with our Ministry of Higher Education, Science and Technology and, through that agreement, Jaramogi Institute of Advanced Technology will get assistance in setting up a school of nursing and a faculty of agricultural engineering. On April 15th, I met the President of Massachusetts Institute of Technology (MIT) and agreed on a co-operation programme between the MIT and Kenya on the setting up of a satellite programme for weather, agricultural and educational use.

I was also hosted by the Governor of Massachusetts alongside the Kenyan athletes in the Boston Marathon. The Boston Marathon has been won the last 19 times by Kenyans. While I was there, the Kenyans won it for the 20th time. This event was to honour all the previous winners of the Boston Marathon.

Mr. Temporary Deputy Speaker, Sir, on April 16th I presided over the launch of projects by Prof. Yutaka Niihara of the University of California Los Angeles, and also of the US Doctors for Africa on the breakthrough of the treatment of sickle cell anemia. The programme aims to manufacture in Kenya medicine for treating sickle cell anemia that afflicts more than four million people in Africa. In our own country about 300,000 people suffer and die from sickle cell anemia. Prof. Niihara has been working on the project for the last one year, undertaking tests in western Kenya.

On April 20th I visited Paris as a guest of the French Prime Minister. We launched the Paris/Nairobi Climate Initiative for Africa. The initiative will have its offices in Nairobi. The French also agreed to support the enhancement of the mandates and status of United Nations Environment Programme (NEP) in Nairobi. France will support the development of geothermal resources, wind and solar hybrid systems, bio-energy, research and capacity building and financing of power transmission of the projects.

Mr. Temporary Deputy Speaker, Sir, these negotiations had started earlier in 2009. As a result of this initiative, Kshs7.5 billion has already been advanced to our Geothermal Development Corporation by the French Government. Currently, we are targeting, under what we are negotiating this time, one billion Euros for our renewable energy programme.

On April 22nd I visited Monaco. The Kingdom of Monaco is an appendage of France. I was the guest of Prince Albert. We agreed to set up a team that would develop a programme on water, food production and use of solar energy within the larger Turkana area. The programme is to produce solar energy and use it for desalination of the lake

water, which will then be used for irrigation of the land, and also for consumption by human beings and livestock.

Mr. Temporary Deputy Speaker, Sir, on May 4th this year I travelled to South Africa to attend the World Economic Forum for Africa in Cape Town. This was an official trip. I was accompanied by three Cabinet Ministers and other Government officials.

On May 20th this year I visited Cote de' Voire in my official capacity as the African Union (AU) mediator on the Ivorian crisis. I had earlier made two trips to Abidjan on January 2nd and January 16th respectively following my appointment by the AU as the mediator of the Ivorian crisis on December 24th last year. I also visited Ghana, Mali, Burkina Faso, Angola, South Africa and Ethiopia to mobilize support for the mediation process. These trips were not supported by the official resources of our Government. Their expenses were met by the AU.

I also visited Zimbabwe as a guest of the Zimbabwean Prime Minister. I was invited by hon. Morgan Tsvangirai in his capacity as the Leader of the Movement for Democratic Change (MDC) in Zimbabwe. I was invited to give a key note address at their National Delegates' Convention. I went there with some Members of Parliament. This was a party to party affair and, therefore, no public resources were used for that trip either.

Thank you.

The Temporary Deputy Speaker (Mr. Imanyara): I just want to get some indication as to how many clarifications will be sought.

Mr. Kutuny: Mr. Temporary Deputy Speaker, Sir, first of all, I want to appreciate the detailed information given by the Prime Minister about his travel. It is the mandate of every leader, particularly the topmost leaders in any country, to visit other countries. The partnership of other countries is very vital. I want to appreciate the efforts being made by the Government.

To that effect, the Prime Minister made quite a number of visits to various countries. Some declarations were made. I want to seek clarification if there was any declaration on strengthening France/Kenya partnership, which was signed by the Prime Minister of Kenya and his counterpart the Prime Minister of France. Did the signed agreement, if any, cover military cooperation? I want the Prime Minister to confirm if there was any military pact that was signed.

Mr. Temporary Deputy Speaker, Sir, the signing was agreed---

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Kutuny, are you seeking clarification or informing us?

Mr. Kutuny: Mr. Temporary Deputy Speaker, Sir, I am seeking clarification if there was any military agreement that was signed between Kenya and France by the Kenyan Prime Minister on behalf of this country. If there was any kind of signing, was there any consultation between the Prime Minister and the President of this country?

Mr. Temporary Deputy Speaker, Sir, I also want to seek clarification on the issue of expenses. When the Prime Minister was in New York, he stayed in one of the most prestigious hotels called Waldorf Astoria, where you pay US\$7,000 per night. I would like the Prime Minister to confirm to this House that, that is what they were spending per night.

I also want him to table the list of the Members of Parliament and any Government officials who accompanied him and the cost of their trips. Spending US\$7,000 per night is equivalent to spending Kshs600,000 per night.

Mr. Affey: Mr. Temporary Deputy Speaker, Sir, I would like to thank the Prime Minister for the Statement. Perhaps, the Prime Minister might want to know that Kenya is the---

The Temporary Deputy Speaker (Mr. Imanyara): Order! Do you want the Prime Minister to know?

Mr. Affey: Mr. Temporary Deputy Speaker, Sir, I want to ask for the following clarifications from the Prime Minister. One, why Kenya is the only country in this region which has no substantive Minister for Foreign Affairs and a substantive Permanent Secretary in the Ministry of Foreign Affairs. This has demeaned both the image and the stature of the Government of Kenya and the people of Kenya.

The Temporary Deputy Speaker (Manyara): One clarification at a time!

Mr. Affey: Mr. Temporary Deputy Speaker, Sir, why is it that in the list of projects that the Prime Minister negotiated with the investors in the USA he did not include the road between Garissa and Mandera?

The Temporary Deputy Speaker (Mr. Imanyara): Order! Prime Minister, you will only respond to the first one. I said one clarification at a time!

Mr. Baiya: Mr. Temporary Deputy Speaker, Sir, considering the prevailing harsh economic environment, rising inflation and the cost of living affecting the ordinary *wananchi*, I would want the Prime Minister to confirm whether any measures are being considered to control foreign travels because they are certainly very expensive. These trips do not just involve the Prime Minister but all the Government officials, including Members of Parliament. It is not to be lost ---

The Temporary Deputy Speaker (Mr. Imanyara): Order, Mr. Baiya! You have sought clarification.

Next, Mr. Lessonet.

Mr. Lessonet: Mr. Temporary Deputy Speaker, Sir, I would like the Prime Minister to tell us whether during this period, he succeeded in declining any invitations; whether by foreign governments or individuals. Did he succeed in declining the invitations?

Mr. Njuguna: Mr. Temporary Deputy Speaker, Sir, emanating from the statement issued by the Prime Minister, we note that Kenyans have won 19 times in the Boston Marathon. What is the Government doing in terms of planning a Kenyan Marathon so that international marathon athletes can also come to this country, enjoy our hospitality and bring a lot of resources to this country?

Mrs. Shebesh: Mr. Temporary Deputy Speaker, Sir, the Prime Minister has spoken about a meeting in France on climate change with the Government of France. During the Copenhagen meeting that took place over two years ago, over US\$100 billion was promised to African countries before the implementation of the Kyoto Protocol in order to help them deal with adaptation. Could the Prime Minister clarify whether he was able to get some of the US\$100 billion which was promised to the developing world of which we know that Indonesia, for example, has greatly benefited from the fund?

Dr. Otichilo: Thank you, Mr. Temporary Deputy Speaker, Sir. I would like to thank the Prime Minister for the comprehensive Statement. However, I would like to

have some clarifications, particularly, with regard to the Konza ICT Project which he talked about in the US. I would like to know the details of this project. Secondly---

The Temporary Deputy Speaker (Mr. Imanyara): Order! One at a time!

Mr. Keynan: Mr. Temporary Deputy Speaker, Sir, in the year 2000, both Principals in their campaigns promised to tarmack the Garissa-Wajir-Mandera Road. Now that their terms are coming to an end---

The Temporary Deputy Speaker (Mr. Imanyara): We are seeking clarifications from the Statement by the Prime Minister regarding his travels.

Mr. Keynan: Mr. Temporary Deputy Speaker, Sir, I am seeking a clarification on the agreements. Why did he not consider this important road as part of the agreement that he signed with the international organization and the Government officials that he interacted with?

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Prime Minister, you do not have to respond to that. In lieu of that, I will ask Mr. Ogindo to seek a final clarification.

Mr. Ogindo: Thank you, Mr. Temporary Deputy Speaker, Sir. The Prime Minister has said that he was invited to Zimbabwe by MDC. Could he clarify what lessons he learnt there that could be beneficial to this country?

The Prime Minister (Mr. Raila): Mr. Temporary Deputy Speaker, Sir, the hon. Member for Cherengany wanted to know the content of the agreement that we signed with the French Government and whether the agreement included a military component.

I would like to assure the hon. Member that the agreement that we signed had nothing to do with the military. In fact, the agreement that was signed between the Kenya Government and the French Government was signed by the Minister for Energy jointly with his French counterpart. It was only witnessed by the Prime Minister and has nothing to do with military. This is about cooperation between the two Governments in the field of renewable energy.

As I said in the statement, we have resolved to go green in terms of energy generation and we are trying to explore the potential available to us in this country which includes geothermal, solar, wind and bio-fuels. This cooperation, as I have mentioned, has already yielded Kshs7.5 billion which has already been advanced by the French Government to the Geothermal Development Corporation. This includes equipment for drilling. Last week, we were able to strike geothermal wells at Menengai which increases our generation capacity by 10 megawatts. So, this is real assistance that has already begun to yield results for this country. I table a copy of that agreement.

(Mr. Raila laid the document on the Table)

Mr. Temporary Deputy Speaker, Sir, secondly, the hon. Member was concerned about accommodation. I would like the hon. Member to understand that when Government officials travel abroad, bookings are done by Kenyan embassies and High Commissions abroad. Bookings are not done by the Prime Minister. We do not choose. I stayed at a hotel called Astoria Hotel in New York. That is where most delegates who visit the United Nations in New York stay. Even three years ago when I was there, I stayed there. I do not see why the Prime Minister of the Republic of Kenya should go and look for back street accommodation when he is on official business.

(Laughter)

Mr. Kutuny: On a point of information Mr. Temporary Deputy Speaker!

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Prime Minister, do you want any information?

The Prime Minister (Mr. Raila): I do not need the information, Mr. Temporary Deputy Speaker, Sir!

The Temporary Deputy Speaker (Mr. Imanyara): He does not need your information!

The Prime Minister (Mr. Raila): Mr. Temporary Deputy Speaker, Sir, I have changed my mind; I will receive the information!

The Temporary Deputy Speaker (Mr. Imanyara): He has changed his mind. He will receive the information!

Mr. Kutuny: On a point of information, Mr. Temporary Deputy Speaker, Sir. I would like to thank the Prime Minister for allowing me to give him information. The Prime Minister has said that he is not the one in charge of bookings. I would like to inform him that the Government was paying US\$7,000 per night, an equivalent of Kshs600,000 for his accommodation. The other Members of Parliament were paying US\$4,000 per night. That is Kshs320,000 per night.

The Prime Minister (Mr. Raila): Mr. Temporary Deputy Speaker, Sir, if he has that information, he could table it here because I do not have it.

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Kutuny, do you have that information? You are being asked to table the information. Would you like to table the information that the Prime Minister is seeking?

Mr. Kutuny: Mr. Temporary Deputy Speaker, Sir, it is in the public domain that if you have to stay in that hotel, you need to have that money.

The Temporary Deputy Speaker (Mr. Imanyara): Order! Member for Cherengany, we are not in the public domain; we are in the National Assembly of Kenya. We are governed by rules and are bound by those rules. Would you like to table the information that the Prime Minister has sought and wants you to substantiate?

Mr. Kutuny: Mr. Temporary Deputy Speaker, Sir, this is going to be very important for this House.

The Temporary Deputy Speaker (Mr. Imanyara): Table it.

Mr. Kutuny: Mr. Temporary Deputy Speaker, Sir, I hereby table the rate of the hotel. I got it from the internet. It is US\$7,000 per night.

The Temporary Deputy Speaker (Mr. Imanyara): Order! Let me assist you. You said that the Prime Minister paid. We are not asking you to table the hotel rates. We want you to table the information that the Prime Minister paid that money.

Mr. Kutuny: Mr. Temporary Deputy Speaker, Sir, I did not say that the Prime Minister paid. I said that I wanted to inform the Prime Minister that the charges of that hotel are very high, and that they start from US\$7,000 per night. I did not say that the Prime Minister paid.

The Temporary Deputy Speaker (Mr. Imanyara): Order! Order! To the extent that you are now withdrawing your statement that he paid, I would like the Prime

Minister to continue with his Statement, and I will take it that you have withdrawn your statement that he had paid that money.

The Hon. Prime Minister, please, continue.

The Prime Minister (Mr. Raila): Mr. Temporary Deputy Speaker, Sir, hon. Affey was wondering why Kenya is the odd one out in the region, operating without a substantive Minister for Foreign Affairs. I know that the hon. Member knows why we have an Acting Minister for Foreign Affairs. In keeping with the normal practice, when a Cabinet Minister is indisposed or is unable to perform his functions for any other reason, the President is allowed by the Constitution to appoint another Minister in an acting capacity. The reason as to why our Minister for Foreign Affairs is not able to discharge his functions is known to this House. That is why we have an Acting Minister for Foreign Affairs.

Mr. Washiali: On a point of order, Mr. Temporary Deputy Speaker, Sir. The rules of this House demand that if an hon. Member of this House---

The Temporary Deputy Speaker (Mr. Imanyara): Order, Mr. Washiali! You are late. The Prime Minister has already left that topic.

Please, continue, Hon. Prime Minister.

The Prime Minister (Mr. Raila): Mr. Temporary Deputy Speaker, Sir, the Minister is not able to continue with his functions until his matter is cleared by the Kenya Anti-Corruption Commission (KACC). That is why we have an Acting Minister for Foreign Affairs. We do not know how long this is going to take because KACC is an independent authority, which functions without direction from any other quarter. So, until that matter is resolved, we will continue to have an Acting Minister for Foreign Affairs.

Mr. Affey: On a point of order, Mr. Temporary Deputy Speaker, Sir. I asked the Prime Minister a specific question – whether he is aware that the absence of a substantive Minister for Foreign Affairs is hurting the image of Kenya. That is what I want him to answer, and not the process of appointing an acting Minister.

The Prime Minister (Mr. Raila): Mr. Temporary Deputy Speaker, Sir, whether the absence of a substantive Minister is hurting the image of the country or not, that is a matter of personal opinion. I do not want to get into that.

I agree with hon. Baiya the Member for Githunguri, that times are hard. Hard times are, indeed, very difficult. These are times for frugality. They are times for belt tightening. We should curtail not just expenditure on trips but expenditure generally, so that we only deal with what is absolutely necessary. However, I hope the hon. Member will appreciate that, in the old days, when there was famine, people would travel to where there was food in abundance to ask for assistance. The world will not just come to Kenya's assistance unless Kenya goes out to ask for assistance. That is why it is still necessary for Kenyans to continue to operate.

Mr. Temporary Deputy Speaker, Sir, this country will not operate in this global world if we say: "We do not want our people to travel. It is wasteful for Members of Parliament and Ministers to travel. They are wasting public funds", *et cetera*. We must do business and we do business by inviting people to come to Kenya and also going to their countries to engage with them.

So, this Government must continue to work irrespective of the difficulties that we are experiencing at the moment. I am saying this because there has been a tendency all the time of portraying the trips being made by Government officials as leisure trips. I do

not see it as pleasure. I see it as duty. In fact, it is punishing to travel, arrive at your destination and be in meetings throughout your stay. It is very strenuous. It is not a joyful thing. We do it because it is service to the country.

On the issue raised by hon. Lessonet, I would like to confirm that I have declined so many invitations. I receive invitations on a daily basis, but I only accept those which are absolutely necessary and in the interest of the country.

Mr. Temporary Deputy Speaker, Sir, on hon. Njuguna's clarification, it is true that Kenyans have won the Boston Marathon very many times, but they have also won the Chicago Marathon, the London Marathon, the Berlin Marathon, the Tokyo Marathon, *et cetera*. Four years ago, while in New York, that city was preparing for the New York Marathon. There was an American champion who was going to compete in that marathon and he was asked: "How do you rate your chances tomorrow?" His answer was: "It depends on how many Kenyans are going to be in the race. If it is one, I will be number two. If they are two, I will be number three".

So, there is nothing to prevent us from establishing a Kenyan marathon. In fact, we have got the Lewa Marathon, which is developing very fast to become an international marathon. I also know that Athletics Kenya is thinking of upgrading the Standard Chartered Bank Marathon to Nairobi Marathon in future. So, it is an idea whose time has come. I know that already, there is a lot of work being done by Athletics Kenya officials.

Mr. Temporary Deputy Speaker, Sir, hon. Shebesh asked about the US\$100 billion that I was promised at Copenhagen. Just to put the record straight, at first it was US\$30 billion; the Climate Fund promised in Copenhagen and also confirmed in Cancun last year. The US\$30 billion is supposed to be disbursed by the end of 2012. From 2012, this amount is supposed to be upscaled to US\$100 billion per annum up to 2020. What has happened is that this money has not been spent and that is really the reason for the Paris/Nairobi Initiative.

On one hand, the donor countries are saying that the most vulnerable countries are not coming up with bankable projects that qualify for funding. On the other hand, the developing countries are saying: "We are not seeing this money." So, we sat together with the French Government and decided that we should zero in on one particular item, because climate change is a very wide subject. Last year, Norway and Indonesia signed an agreement on afforestation, through which Norway is going to give Indonesia 100 billion Euros for that project.

So, the programme that we decided on was to zero in on renewable energy and help develop capacity among the African countries in the field of renewable energy so that we can identify the potentials in this area within our countries and then use those to apply for funds through the US\$30 billion Climate Change Fund. That is the purpose of this and we, as a country, are already moving on. I have mentioned the geothermal, wind, solar and bio fuel. We do hope that we will attract more funding before we go to Johannesburg later this year.

Mr. Temporary Deputy Speaker, Sir, with regard to Dr. Otichilo's clarification, the Konza Information and Communications Technology Project is one of the projects under the Vision 2030. We want to set up a model city so that we can benefit from the ICT. It will be a centre of excellence in the field of the ICT. It will also be a centre for research in this field, because it is a new area, where technology moves very fast. For us

to be able to leapfrog in terms of technological development, we need to identify a very special area, and we have zeroed on the ICT. So, the physical facilities will be set up by the Government; that is roads, energy, water and so on. It will then invite companies to come and invest in Konza. There will be incentives to attract these companies to invest there.

Mr. Ogindo wanted us to share the experience that we learnt in Zimbabwe. As I mentioned, this was an invitation of party to party. We were invited by the MDC as Members of the Orange Democratic Movement (ODM). So, I do not know whether our experience will be useful to Members of other political parties. I have already shared it with the ODM and I do not know whether it will be relevant to PNU, Safina, NARC(K) and so on. What we have learnt is that political parties, of course, do compete for space. Therefore, there is need for tolerance. When I was going to Zimbabwe I was very apprehensive. As you know, the President of Zimbabwe, Mr. Robert Mugabe, had declared me a *persona non grata* earlier on because of the very strong position that I took after their last general elections, but I was told that he wanted to meet me. I said that I had no problem and if he wanted to see me, I would see him.

On arrival in Zimbabwe, the President sent the Chief of Staff and Minister for Foreign Affairs to meet me at the airport. I then proceeded with my delegation to State House in Harare. The President was very jovial and he welcomed us in a very civil manner. In fact, he made me sit on the Chair where the former British Prime Minister, Harold Wilson had sat when they were talking about averting the unilateral declaration of independence by Mr. Ian Smith.

Mr. Temporary Deputy Speaker, Sir, he told us how they were inspired by the Kenyan liberation struggle and so on. I then shared with him our experience in this country following our post election crisis. I also told him about our new Constitution. I also told him that there is need for tolerance and bi-partisan approach in these matters in the spirit of give and take for them to get a new constitution. In Bulawayo, I shared the same with the MDC. I found out how united they were and how willing they were to move on from the turmoil of the post election crisis and rebuild an economy that was once the strongest in the continent, and which has now been ruined completely. I see that maybe a new spirit is dawning in Zimbabwe. Those are probably the only lessons that I have and I can share with the House.

Thank you, Mr. Temporary Deputy Speaker, Sir.

PROCEDURAL MOTION

REDUCTION OF PUBLICATION PERIOD OF THE SUPREME COURT BILL

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. M. Kilonzo): Mr. Temporary Deputy Speaker, Sir, I beg to move the following Motion:-

THAT, pursuant to the provisions of Standing Order 107, this House orders that the publication period of the Supreme Court Bill (Bill No.10 of 2011) be reduced from 14 to 5 days.

Mr. Temporary Deputy Speaker, Sir, with your kind permission I want to make very brief remarks about this very important Motion. The people of Kenya gave to

themselves, after serious demands lasting 20 years, the new Constitution. In it, they inserted Article 163 which says they wanted a Supreme Court to be above all other courts. This Court will among other things, keep their Constitution young---

The Temporary Deputy Speaker (Mr. Imanyara): Order! Minister, this is a purely Procedural Motion.

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. M. Kilonzo): Mr. Temporary Deputy Speaker, Sir, in that event, the Bill was published on 20th.

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

The Attorney-General (Mr. Wako): Mr. Temporary Deputy Speaker, Sir, I beg to second. My secondment is based on the fact that we are a bit late in enacting this particular legislation, in view of the fact that the interviews for Judges of the Supreme Court are shortly to begin from 6th June for two weeks. So, I think the sooner we debate and enact this Bill the better.

(Question proposed)

(Question put and agreed to)

BILL

First Reading

THE SUPREME COURT BILL

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

COMMITTEE OF THE WHOLEE HOUSE

(Order for Committee read)

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

IN THE COMMITTEE

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

THE SALARIES AND REMUNERATION COMMISSION BILL

The Temporary Deputy Chairman (Prof. Kaloki): Hon. Members, we are now in the Committee of the whole House on matters of the Salaries and Remuneration Commission Bill (Bill No.8) of 2011.

Hon. Minister, I think you have a Statement to make.

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. M. Kilonzo): Mr. Temporary Deputy Chairman, Sir, with your kind permission, I would like to bring to the attention of the House the fact that shortly before this Order was read out, I was approached by the Finance Committee Vice-Chairman himself who is no less than our Chairman right now, and requested that I cede ground and accept that this matter be put off until Tuesday next week for the reason that the Committee is still engaged in debate and discussions on the matters that must come before the Committee of the whole House.

I have very reluctantly agreed out of my respect for the person who made the request. Therefore, I would request with your permission, if you deem fit, the House allows that the matter be put off to Tuesday, next week.

The Temporary Deputy Chairman (Prof. Kaloki): Thank you, Mr. Minister. Now wearing the hat of the Vice-Chairman of the Finance Committee, as I speak, the Committee is still working on this particular Bill and hopefully we will be ready by Tuesday, next week.

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. M. Kilonzo): Mr. Temporary Deputy Chairman, Sir, I wish you could clarify whether the Committee is actually working on the Salaries and Remuneration Commission Bill or the Independent Electoral and Boundaries Commission Bill because I did not get that clearly from you. If that clarification can come forth, I have no problem.

The Temporary Deputy Chairman (Prof. Kaloki): Mr. Minister, the Committee on Finance is dealing with the Salaries and Remuneration Commission Bill and that is the mandate of the Committee. That is why it is meeting at this particular hour trying to complete that particular mandate.

So, Mr. Minister, you can move the Motion for the record of the House.

PROGRESS REPORTED

THE SALARIES AND REMUNERATION COMMISSION BILL

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. M. Kilonzo): Mr. Temporary Deputy Chairman, the Committee of the whole House is considering The Salaries and Remuneration Commission Bill and has instructed me to report progress and seek leave to sit again tomorrow.

(Question proposed)

(Question put and agreed to)

(The House resumed)

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

REPORT

THE SALARIES AND REMUNERATION COMMISSION BILL

Prof. Kaloki: Mr. Temporary Deputy Speaker, Sir, I beg to report that the Committee of the whole House did meet and was able to report progress that the Committee will seek leave to sit again tomorrow.

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr .M. Kilonzo): Mr. Temporary Deputy Speaker, Sir, I beg to move that the House doth agree with the Committee in said report.

The Minister for Public Works (Mr. Obure) seconded.

(Question proposed)

(Question put and agreed to)

BILLS

Second Reading

THE NATIONAL CONSTRUCTION AUTHORITY BILL

(The Minister for Public Works on 24.5.2011)

(Resumption of Debate interrupted on 24.5.2011)

Eng. Gumbo: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me the opportunity to contribute to this Bill. I thank the Minister for bringing it to the House.

I want to confirm that before coming to this House, I was an active practitioner in the construction industry, but mainly on the supply end of things. One of the concerns that we have had is that the construction industry is not in the hands of Kenyans.

I have gone through this Bill from cover to cover. However, I am disappointed to note that in this Bill there are no definite clear provisions to make Kenyans own the billions that accrue from the construction industry every year.

I think it is important that as we go to the Committee Stage, we make the necessary amendments, so that Kenyans who are truly the owners, should be the owners of capital in this country and seen to be the ones that are controlling the construction industry in this country.

I am nevertheless happy with other auxiliary provisions of the Bill, especially Part 2 where it is talking about the functions of the Authority and one of them is to promote and stimulate development improvement and expansion of construction industry in Kenya.

I think this is very important. As hon. Members will, probably, have noticed, part of the problem we have even at the constituency level is that even the local contractors that we give small contracts to construct our roads sometimes you cannot get it on time because the equipment that they need is not available.

As part of promoting, stimulating, developing, improving and expanding the construction industry in Kenya, let us go to those very grassroots levels where we can

support and empower our own brothers and sisters to undertake the construction at those levels.

I also noticed and appreciated that one of the purposes of the commission is to undertake commission research on any matter relating to the construction industry. This is very important. One of the reasons that we have had mushrooming of slums in this country is the fact that owning a house is becoming impossible to most Kenyans. The Minister will tell you that at the moment the cost of construction in Kenya even for a basic house comes to about Kshs30,000 per square metre which is well outside the reach of most Kenyans.

I think it is important as part of the duty of the Authority research to find a way that Kenyans can build a reasonable house where they can dwell with their families at a cost of not more than Kshs5,000 per square metre.

In the area of the Authority being able to assist in the exportation of services, I am always a proud believer of the fact that Kenya is a leader in this region. I think after nearly 50 years of Independence, we should be proudly exporting expertise to the neighbouring countries. Last year I attended the annual convention of the Engineers of Tanzania. I was very happy to note that the number of registered engineers in Tanzania is just about a third of the registered engineers in Kenya.

I think we should go beyond celebrating the numbers to start exporting services through construction and other ways to this region, so that we establish and emphasize our position as a powerhouse in this region.

There is a function of the Authority which I do not understand and, probably, the Minister might need to find out. When you say the Authority will also be charged with the function of providing consultancy and advisory services in respect to the construction industry, I think we need to be careful here. As it stands now, the Minister is well aware that consultancy in the construction industry is provided through statutory bodies like the Architects and Quantity Surveyors Registration Board, the Engineers Registration Board and the Registration Board of Surveyors.

Mr. Temporary Deputy Speaker, Sir, to avoid conflicting with existing laws and regulations, the Minister may try to find out if that is the case. The aim of promoting quality assurance in the construction industry is very important. I think quality, of necessity, must start with the built up environment. One of the biggest problems we have had in this country is the mushrooming of unplanned and un-coordinated structures. For example, peri-urban areas of Nairobi which were designated as low density areas are now awash with high density construction. That is beginning to completely throw out planning through the window. I think the Minister should look into that.

Mr. Temporary Deputy Speaker, Sir, I am not sure why in Part (h) of the functions of the Authority, the Minister is asking them to encourage the standardization and improvement of construction techniques in the country. Mr. Minister, I do not think we should ask them to encourage. We should ask them to enforce because, encouraging to me, is not the way we want to go here.

In Part (i) on the functions of the Authority; to initiate and maintain the construction industry information system, I think such an information system must, of necessity, include all stakeholders both from the supply end of the construction industry to the demand side so that, when one reaches such an information system, he is able to access a bank where they can be able to know the required capital, stakeholders in the

industry, consultants in the industry, contractors in the industry, the availability of capital such as land, financing and those kind of things.

Mr. Temporary Deputy Speaker, Sir, turning to Clause 7 of the Bill, it says:-

“A person nominated by the associations set out in Part II of the First Schedule shall qualify for appointment as a member of the Board under paragraphs (1)(f) and if such person is the holder of a Kenya Certificate of Secondary Education (KCSE)...”

I think we are being timid here, with all due respect. Kenyans have gone to school. We have hundreds of thousands of Kenyans who are holding university degrees and, as a minimum; I will be proposing, at the Committee Stage that the minimum education requirement there should be a university degree.

Similarly, under Clause 12(2), the categorization of the professions required for the chief executive is good. But I think when the Bill talks about a registered professional, the Minister should know that, according to our laws, it is illegal for me to call myself an engineer if I am not registered. So, I think the qualification we are looking for--- The ten years is good. But I will be pleading at the Committee Stage that it be ten years post qualification experience.

Mr. Temporary Deputy Speaker, Sir, Part III deals with trading as a contractor. Here, we have to be bold. The requirements for registration are stated. We must build capacity in Kenya. We must build our own people. I think Kenya remains--- Before I came to this House, I tried to register my company in Tanzania. It was a requirement that before I even submitted the papers, I had to have 50 per cent of the shareholders as Tanzanians. Why are we not saying it here? Why are we making our market to be a “free for all”? We must demand that all firms that are doing business in this country should have, at least, 50 per cent shareholding in the hands of Kenyans.

Mr. Temporary Deputy Speaker, Sir, Clause 16 again talks about a firm from outside coming to register and practise here. Clearly surely, we cannot just make it easy. Like I said earlier, for a foreign firm to come to Kenya, register and start having a business, it must have 50 per cent local shareholding. It is a requirement in almost all the countries. Before they are allowed to start working, let them, at least, incorporate Kenyans. That is also a way of transferring technology and expertise to our own people.

Mr. Temporary Deputy Speaker, Sir, Clause 17 talks about registration of foreign contractors. I think that is what I have tried to emphasise. Clause 21 is generally about inquiries by the Board. It talks about penalties to be levied to a person who does not heed the inquiries by the Board. The penalty put here, to me--- Contractors are not poor people. They are some of the wealthiest people in the country. When you say that by refusing to comply with the inquiries of the Board you are going to merely charge them Kshs10,000 or one year imprisonment or both, I think we are encouraging impunity. My suggestion at the Committee Stage will be that we push that to Kshs1 million and three years imprisonment or both. I will suggest that. Then Sub-clause 9 of that Clause--- I think there is a drafting error there. It says: “direct the to”. I think it meant to say “direct the contractor to”.

Mr. Temporary Deputy Speaker, Sir, I hope the Attorney-General is here because some of the things we see in the drafting of our Bills are a bit disappointing. Oh! The Attorney-General is here.

The Attorney-General (Mr. Wako): On a point of information, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Imanyara): Eng. Gumbo, do you want to be informed?

Eng. Gumbo: Mr. Temporary Deputy Speaker, Sir, I do not want to be informed. I just want to tell you of an omission here, and which I find embarrassing. This is a drafting issue.

The Attorney-General (Mr. Wako): On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for the hon. Member to assert: "I wish the Attorney-General was here", and yet the Attorney-General is here? Even if the Attorney-General is not here, he will be somewhere listening to the debate going on in the House?

Eng. Gumbo: Mr. Temporary Deputy Speaker, Sir, my apologies. I had seen him sitting here. I did not know he had moved to the back. But this is important for the Attorney-General to note. I think in this day and age, when we present Bills to this House, which are clearly cases of copy and paste, it is a shame to our country.

Part IV is about miscellaneous legislation. It says:-

"All documents other than those required by law to be used under seal made on behalf of the Board shall be signified by the hand of the chairman of the Board, the Executive Director or any other member of the council..."

There is no council in this Bill. We only have a board. It goes on to say:-

"---specifically authorized by the council."

There is no council in this Bill. When we see cases of copy and paste like this, I think it is embarrassing and the people who are concerned should take note.

Mr. Temporary Deputy Speaker, Sir, similarly, miscellaneous provisions under Clause 38 deal with protection of names. It states:-

"Any person misusing the name of the Authority..."

You are providing again a fine of Kshs30,000 and an imprisonment of one year. That is a very lenient fine. Again, I will be proposing Kshs500,000 and three years or both. I think from where we have come from, all the Bills that we have looked at in this House that are appendages of the new Constitution, we are talking about regulations. I think from the Bills that we have passed here, it is important that we now make it as part of drafting, a general provision that whatever regulations are going to be made to govern those bills, they must be brought to the House for debate and approval. That is something that we have done with all the other Bills that have come here.

Mr. Temporary Deputy Speaker, Sir, on Part I, First Schedule, bodies that are to nominate are stated there. There is the Architectural Association of Kenya, the Institution of Engineers of Kenya, the Institute of Quantity Surveyors of Kenya and Law Society of Kenya (LSK). I have no problem with the first three bodies, but I have a problem with LSK. We were debating the Commission for the Implementation of the Constitution in Kenya and a prominent lawyer, who is also a Member of Parliament, when I suggested that engineers should be part of the Commissioners, told me that engineers should concentrate on bending steel and pulling wires. I am also asking that in this case, this is work for people who bend steel and pull wires. Instead of LSK, I will be proposing that an amendment be made so that the body charged with regulating professionals in Kenya, the Association of Consulting Engineers, is allowed to nominate a person to that Authority.

Mr. Temporary Deputy Speaker, Sir, Part 1 of the Second Schedule says:-

“The Board shall meet at least four times in every financial year and not more than two months shall elapse between the date of one meeting and the date of the next meeting”

That is vague and contradictory. If the Board shall meet at least four times in a year, that is every three months in my understanding. However, when you say, “not more than any two months should pass”, you are making it six meetings. I think we will look at this and reconcile the provision.

Mr. Temporary Deputy Speaker, Sir, as I conclude, I believe that the construction industry is one of the biggest employers of indigenous Kenyans in this country. That is a fact. If you go to any construction site, the people you find working there are Kenyans. This Bill must deliberately put construction in the hands of Kenyans. It must concern us that as I speak today of the road contractors in this country, you can hardly find three notable contractors who can do more than 200 kilometers of road without problems. It must concern us that when we do projects whose value is in excess of Kshs3 billion, they are out of reach of most Kenyans.

It must concern us that most of the major public works in this country are done by foreigners. I have no problem; we are in a collaborative society. We are in a borderless society, but Kenya is, first and foremost, for the people of Kenya. Many times we are told the problem is about capacity. It is our duty, as the representatives of the people of Kenya, to give fellow Kenyans the capacity to do this work. How are we going to give Kenyans capacity when most of the available work is in the hands of foreigners? It happens in every country. All the big projects--- Even if you go to some of the most established countries, even if a foreign firm is undertaking a project, it does so in collaboration with the local people. Therefore, some of the amendments I will be proposing will make it mandatory for any foreign firm which, or anybody who, carries out construction work in Kenya to deliberately take steps to incorporate Kenyans and give them capacity

Mr. Temporary Deputy Speaker, Sir, it is very embarrassing. I have no problem with the Chinese. The other day, I was taking my children to school and outside the schools was an old Chinese, who was over 65 years of age, sitting there, smoking and counting Kenyans like goats. Honestly, is this what we want for our country? We must move to give capacity to our people. We must move to make Kenyans reap the maximum benefits from all the construction work that goes on in this country.

With those remarks and the amendments to come, I beg to support.

The Prime Minister (Mr. Raila): Mr. Temporary Deputy Speaker, Sir, I have listened to the hon. Member make very passionate contribution to this Bill. I share some of his sentiments, but I want to take the House down the memory lane. We are now 48 years old, and going to be 49 years old. There are certain things we have done before which we should not be repeating. We did have the National Construction Corporation, which had been established to promote indigenous contractors and give them opportunities to participate in this field. This was in the 1960s and 1970s. What we are doing here is basically trying to reinvent the wheel. We need to ask ourselves, what went wrong? What is it that went wrong, so that we now have to restart things? We are now talking about empowering our people. We are talking so passionately about how foreign contractors have monopolized jobs in our country. The foreign contractors are not to

blame. They are here to fill a vacuum, a void which has been created by many years of neglect and omission, and many years of doing things the wrong way.

Mr. Temporary Deputy Speaker, Sir, we used to have provisions that if a local contractor was higher in a tender by as much as 15 per cent, or sometimes 20 percent, the local contractor would be given preference. That has happened before. However, there came an era--- Let us look at the two systems we have been through---

Mr. Oyongo Nyamweya: On a point of information, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Imanyara): The Rt. Hon. Prime Minister, do you want to be informed? He wants to inform you about something.

The Prime Minister (Mr. Raila): Yes, I can receive it from him, Mr. Temporary Deputy Speaker, Sir.

Mr. Oyongo Nyamweya: Mr. Temporary Deputy Speaker, Sir, I want to inform the Prime Minister that the rule about 15 per cent preference is still there in the Act but it is not being used.

The Prime Minister (Mr. Raila): Mr. Temporary Deputy Speaker, Sir, I am coming to that. The hon. Member is impatient. This is an area in which I have a lot of information.

Mr. Temporary Deputy Speaker, Sir, look at the two phases of our development, the first regime and then the second regime; the first regime wanted to develop an indigenous bourgeois class. They want to indigenize the economy and, therefore, there was a passionate effort to try to empower our people to get involved in the private sector generally. There had been a lot of discrimination against the indigenous population in the colonial era. So when we came in, we started, first, with Africanization, and then there were complaints that it was racialist. It was then changed to Kenyanization. That was what helped to promote indigenous people in the commercial fields. Remember, there were certain businesses which were said could only be done by local people. Therefore, they were Africanized and there were facilities to give loans.

A similar policy was applied in the field of construction. The National Construction Corporation (NCC) was trying to promote our people. A number of them came up. Look at the buildings up the hill like Kilimo House and Afya House, which were all built by indigenous companies. We had a company called SKIMS. These houses were built by indigenous construction companies at that time. If you go to the Civil Servants Estate in Kileleshwa and other estates, they were built by indigenous companies at that time. But then when did the rain begin to beat us? I said that was intent on creating indigenous bourgeois class.

Mr. Temporary Deputy Speaker, Sir, then came the second regime, which was hell bent on reversing what had been done before by creating what we called comprador class. Comprador is basically commission agent, who stands between ventures and capital making it possible for people to come and invest. That was the era of licensing. They would procure licences for this and that and then get commissions. This means we were not investing properly. We were basically investing in speculation and land. Then now that was how the indigenous entrepreneurship was killed.

Corruption also expanded more in this era. This was the era of what I called cowboy contractors. This is a phenomenon that came up in the 1980s and 1990s. They became like a cartel. A few of them would collude to get contracts and exclude all others.

This was how the indigenous companies were then killed. If you are not able to pay the commissions which these cowboy contractors could pay, they would collude and say, contractor No. A will be the lowest for the particular one. The rest would then bid higher than A. The second would be B and C and so on. Therefore, they were just circulating contracts amongst themselves. It became then much more lucrative in those days not to complete a project. A project would be awarded to a contractor and he would do a quarter of the project. He would then go and declare a dispute with the Government under the excuse that there was an under-design of the project and, therefore, they needed to increase the cost of the project. If there is a dispute, they would abandon the site, remove the equipment and leave only some decayed equipment on the site. Then they would begin to charge damages for idle equipment.

All this would pile up and in the end, the Government would end up paying hefty fees for work that was not done. If there was a dispute and the contractor went to court, the Attorney-General – and he is here to confirm to you – would also go to court and say that the contractor was wrongly before the court. He would say that the case was wrongly before court because the contract provides for arbitration. The contractor in this case would have jumped the procedure and gone straight to court. So, we would request the court to refer the matter for arbitration. As usual, the court itself was part of that system and the magistrate would rule that the matter was rightly before court and give very hefty awards to the contractors. That is how the local contractors were killed.

I agree that we must start afresh and that this Bill provides a perfect opportunity for us to start afresh by giving our people more opportunities by creating an institution that will help our people to develop capacity and also give the Minister an opportunity to regulate this sector. We have capacity in terms of manpower. We can also get funding. What is required more here is discipline in execution of projects by our local people. The financiers are not to be blamed. Let the truth be told. The emergence of Chinese contractors in this country has created some kind of discipline and competition in this sector. They are the ones who have driven the cowboy contractors out of business. They are able to bid at much lower reasonable prices and complete contracts. So, sanity has finally come back to this industry. Before the emergence of the Chinese in this industry, the Government was being held at ransom by cowboy contractors. They knew that they were the only ones available.

Mr. Temporary Deputy Speaker, Sir, here, I want our people, when given an opportunity, to show that they can perform. Let them not just wave their skin colour by saying that they are indigenous. They should know that this country wants to have value for money and every penny of the taxpayer's money counts. Let them have the discipline while they are working with the Chinese to report early in order for them to be counted because at times, they come late. When they come in late, they are excluded from working on that particular day. We should instill discipline in our people. Countries that have made it like India and China, among others, have created skilled and cheap labour force. That is the secret to success. That discipline must start with the entrepreneur. The owner of the company, himself, must be disciplined.

We know about our skilled contractors who still do not know how to do construction work. If you give them a contract, the day they are paid, they abandon the site. You are left with workers who have not been paid while the contractor has already been paid money and moved out and gone back home, probably to marry a second wife.

By the time he comes back, he has already spent the money but the workers have not been paid. That is a fact; the way it is. We need to help our people change in terms of culture because we have a culture of being irresponsible in what we have been given. We also have our consultants. This field has contactors and consultants who are also part of the problem but will be part of the solution. Our consultants must also ensure that work is being done in accordance with the specifications that have been spelt out. Most of the time, there is a collision between contractors and consultants. The consultants are the ones who say that the contractor oversaw this and that and needs this and that. That is why a contractor is justified in asking for higher scales. That is how we end up with a project that has been over-estimated because there are no funds. The projects end up being abandoned in our country.

Mr. Temporary Deputy Speaker, Sir, we want to say that this country will move forward through development of infrastructure. I had said earlier that is the solution to our problem. If you asked me, solution number one would be infrastructure, number two, infrastructure and number three, infrastructure. Infrastructure can only be developed by contractors, be it roads, housing, water or energy, among other things. These projects require heavy investments in terms of capital because most of them are very capital intensive. This money is scarce and comes from our taxpayers. It must be used prudently by those who are given the opportunity to spend it on behalf of our people, the Government officials and the contractors.

I am looking forward to the day when our contractors will be almost 100 percent Kenyan like there are in Britain, China and so on. We are now laying the foundation for this to happen. Let us hope that in passing this Bill, sanity can be reintroduced in this sector and that our people can once again say that this is our country and we want to develop it. No one will develop Kenya but Kenyans themselves. Kenyans will not all the time be coming up with excuses such as we have been denied this and that. Let Kenyans come up as Kenyans and let patriotism prevail. Let all people be prepared to make sacrifices in the greater interest of our country.

With those few remarks, I beg to support.

Mr. Oyongo Nyamweya: Thank you Mr. Temporary Deputy Speaker, Sir, for giving me an opportunity to contribute to this Bill. This is a very important Bill. In the first place, economic growth can only take place when we have construction going on. In this country, in the past, a lot of money has been given out for construction work. This money has gone to people's pockets without any major works being done. So, this Bill will streamline the construction industry and minimize brokers who come into the industry. As I stand here today, as a Member of Parliament, I get a challenge in my constituency when I want to do construction. I get challenged because Government equipment is not there. There are no bulldozers, graders and many other basic things. I come from Kisii where we have one dozer which serves both Nyamira and Kisii counties. That shows the level of investment that the Government has undertaken in improving infrastructure. We cannot develop unless we give funds and the Government becomes more serious in giving funds and support. This Bill comes in handy and I hope that the Minister will take it seriously. There is one issue that I will propose an amendment during the Committee Stage.

Mr. Temporary Deputy Speaker, Sir, there is the second provision here, which says that the Minister, by publishing a notice in the Gazette, may amend the First

Schedule. If we allow the Minister to amend the Act anyhow, it will be abused. So, we must protect this provision and ask that this second provision be removed. We should find a way of removing people. If people have been appointed and they have not been competent, there should be a way of removing them. They should not be removed through a Gazette Notice by the Minister. Probably, there is going to be conflict of interest. People are going to do business here. Somebody might feel that so-and-so, who is a member, is not going to agree with me. So, the best thing is to remove this fellow. Therefore, this provision should be deleted.

Mr. Temporary Deputy Speaker, Sir, another issue is under Clause 7(4). I think the people who should be given a chance to be on the Board should have a diploma in engineering. In the field, we just want somebody who has reached Form IV, and who has experience. What experience would such a person have? So, this one should be replaced with someone who has a degree, who can contribute and assist.

Clause 15(3) also talks about the Minister having the authority to Gazette. We want to pass this to Parliament, after which the Minister should just Gazette the Bill and then we move on. So, this one should also be removed, so that once the Authority is formed, it will have powers. We have talked so much about Chinese contractors. Let us be honest to each other. Why are Chinese contractors cheap? What are the reasons for their being cheap? The first point is that we need to change our attitude towards work. We need to have ethics. We need to be disciplined. We cannot blame them when they actually use local materials and local manpower. Why are they still cheaper than our local contractors? We know that we do not have equipment.

Mr. Temporary Deputy Speaker, Sir, the Ministry should explore ways of coming up with enough equipment, which can be hired by local contractors. How do we promote our local contractors? The Chinese come with equipment. Construction equipment is expensive. Our local contractors cannot get the money to buy construction equipment. So, unless the Ministry makes deliberate efforts to buy equipment and make it available for hire, we will not be able to do much. I will give the example in South Mugerango and in Gusii, where I come from. We still have a problem. You have got money, you want to do a road, but you find that there is no grader or any other equipment on the ground. So, the Ministry should address the issue of equipment. Let us invest money in equipment, so that it can be hired. As much as we blame foreign contractors, local contractors will continue having problems unless equipment is availed for them to hire. If equipment will not be available for local contractors to hire, the Chinese, as much as we talk about them, will still take the jobs, because at the end of the day, we want the job to be done.

Mr. Temporary Deputy Speaker, Sir, under the procurement law, there is a section which allows local contractors to quote 15 percent higher than foreign contractors. This means if a local contractor quotes 15 percent higher than a foreign contractor, he should be given the job. Unfortunately, this section is never applied. Therefore, if the Government is serious about promoting local contractors, it should apply that section. It should give local contractors a chance to win these tenders. If they quote 15 percent higher, since they will have to hire the equipment, they should be given the job.

Another point I want to make relates to a situation where there is an inquiry and you want to take a step to discipline a contractor. Unless you include a clause saying that a contractor should not go to court until he passes through the Board, he will go to court and then you will stop the inquiry. So, we need to come up with a clause which will very

clearly specify that in case of a dispute, a contractor should pass through the tribunal of inquiry, and go through the appeal that has been provided for and if he is not satisfied, he can then go to court. If it is left the way it is, if I feel that I might not get a fair ruling from the Board, as a contractor, I will go to court and block the inquiry. What will you do? You will have to obey the court orders. Therefore, there is need for this Bill to be strengthened to make it effective, so that if there is a dispute, it goes to the Board of Inquiry first. If this is not done, we will have problems. People will not be able to work.

Mr. Temporary Deputy Speaker, Sir, I also want to support my colleague on the issue of penalty. Surely, you cannot levy a fine of Kshs10,000 on such an offender. Some offenders will pay Kshs10,000 every day. This amount is very little. So, the fine should be enhanced to be in excess of Kshs1 million. In any case, contractors are people with good money. It can even be increased to Kshs10 million, so that before somebody makes a mistake, he can think twice. A fine of Kshs10,000 means nothing to a contractor. Therefore, in order for contractors to be disciplined, there should be stiff penalties.

Another issue relates to contractors and consultants. There has been a problem in this country. You find that the contractor is busy changing the Bills of Quantities (BQs) to increase the scope of works, whereas the consultant is there to approve those BQs. So, what do you do when you find that a contractor and a consultant are conniving? You need to come up with some measures, so that consultants and contractors can know that they have a responsibility to do their jobs. In most cases, contractors change the BQs every day to increase the amount and get more money. That is what happens in this country.

Mr. Temporary Deputy Speaker, Sir, at Independence, we did very well but it came to a time when “cowboy” contractors came in. How were they making their money? It was by changing the BQs. A job would be awarded for Kshs500 million, but the final contract sum would end up being Kshs3 billion. What happens is that the contractor changes the BQs and then the consultant approves them. At the end of the day, no job is done because everybody goes for that money. So, when you find that somebody has increased the contract sum without justification, what do you do?

On the Appeal Board, the Bill says that the chairperson should be an Advocate of the High Court nominated by the Attorney-General. I find this provision not to be right. The persons who are going to sit in the Appeals Board should be men and women who can be respected. So, there is need to amend this provision, so that the people who will sit on the Appeals Board can be men and women with the right qualifications, and who can be trusted. The matters which will be taken to this Board will be serious matters. A contractor is going to be disciplined. Somebody can appoint a friend to chair the Board. What will you do? If you want a particular ruling, what will you do? So, there is need to look into the Appeals Board, so that we can have an Authority which will work for contractors as well as for this country and bring discipline. That way, public funds will be spent well and the country will move in the right direction.

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

The Assistant Minister for Public Works (Mr. Kiunjuri): Mr. Temporary Deputy Speaker, Sir, I stand to support this Bill.

It is very important that, for the first time, we will be able to regulate this industry. Looking at the functions of the Authority, it is very clear, in Clause 5(1) that the objects for which the Authority is being established are to oversee the construction industry and co-ordinate its development. It is very clear that the Authority is going to co-

ordinate activities concerning construction. I believe that, for the first time in the history of this country, we will get value for money. If you analyse corruption in this country, you will realise that one half of taxpayers' money goes to waste through corruption in the construction industry.

Mr. Temporary Deputy Speaker, Sir, the second level is the issue of supplies. The two are related; that is construction and supply. This is the only industry where Kenyans make super profits. It is the only industry where collusion is done. A contract can be tailor-made for a particular person and, therefore, even profits are determined before a contract is given out. Before we go to tender, already we know that so-and-so will win the tender. There is collusion between the consultants, the engineers who bring the estimates and the contractors. Everything is tied together and people know in advance what they will make out of that contract. It is the only industry where people can manipulate and know who will be the lowest bidder. They will hide some items and they are the only ones who know how and where they will make money. We have the Public Procurement and Disposal Act, but we are still able to negotiate or bend the law and it is business as usual. This is the only area where you can commit any criminal act and get away with it. This is also the only area where you can get incompetent people being awarded contracts. You will get irresponsible Kenyans who build houses and the following day, they collapse and kill Kenyans and they continue as usual. You will find substandard works being done and nobody cares.

Why does this happen? It is because even Ministries, for example, that have no capacity whatsoever to even hire or procure consultants or engineers, will pretend that they can do their work. Look at what happened last year through the Economic Stimulus Programme. The Ministry of Education pretended that they can become contractors and, therefore, they are the ones now doing the construction of centres of excellence across the country. They asked the Ministry of Public Works to go and supervise and yet they do not even know how the contract was tendered. They want to misuse them by calling them only when they are in problems. Look at the Ministry of Health, which also got money through the Economic Stimulus Programme. The Ministry of Health is the one responsible for the construction of health centres across the constituencies. Although the Office of the Deputy Prime Minister and Ministry of Local Government has some engineers, they have no capacity whatsoever to supervise, for example, the markets. That is why even today the markets have not been constructed. We do not want to regulate or take responsibility and say that we cannot do this. But because money is involved, we want our brothers and sisters to win these contracts, go ahead and misuse public funds. If we set aside Kshs1 billion in the Economic Stimulus Programme, I can assure you that 60 percent of that money will go to waste. We will have structures that will not last for the next 15 years. Therefore, the Kshs1 billion or Kshs3 billion will be wasted in the next five to ten years, because at the end of the day, over 80 percent of all construction will be substandard.

Mr. Temporary Deputy Speaker, Sir, the Permanent Secretary, Office of the Deputy Prime Minister and Ministry of Finance indicated the other day that 30 percent of our Budget goes to corruption. If we will not have institutions that will be firm enough and can be respected and really do their work, this trend will continue. We shall continue saying that we are poor and the Turkana of this country are dying of hunger. You can imagine 30 percent of the Budget of a trillion that was read in the last financial year,

which is Kshs300 billion, will go to the pockets of who is who in this country, because they are not those poor Kenyans who even if they steal a pen is insignificant. This money will go to the pockets of the “big fish” and business will continue. There will be hunger, poor infrastructure and lack of enough bursaries to give to our students. This must stop. The only way it can stop is by not only having this kind of regulators coming in, but by also making sure that they come and do their work.

On the conduct of the contractors, we have come up with penalties but they must be very heavy. I agree with my colleagues, because at the end of the day, these contractors are arrogant. They are not regulated on how many contracts a contractor should have at one particular time. That is why we get a lot of incompetence in their work. You can imagine a contractor with more than eight contracts worth billions of Kenya shillings and has no capacity to run all of them. That is the worst thing that we are doing. This is especially on African contractors. When I say “African contractors”, I mean the Indians and all those other Kenyan contractors. At the end of the day, these people want to take more than they can swallow. You will find them having a contract with the Ministry of Water and Irrigation, another contract with the Ministry of Energy, four of them with the Ministry of Roads and six of them with the Ministry of Public Works. They want to get everything like that stupid child who would choke himself with a lot of food in the mouth because he cannot consume all of it. You will get those contractors running all over, I do not want to mention names, but I have an example of one of them with eight contracts today; six contracts from the Ministry of Roads and two from the Ministry of Water and Irrigation. The projects are spread all over the country and the guy has not done anything. They are either quarterly or halfway done and yet nothing is happening. They are very arrogant that they can afford to tell the Minister to go to hell, because at the end of the day, they will go to court and bribe the officials and the Minister will have no way to gag them. They can go and do whatever they want. I believe that when we go to the Committee of the whole House, we shall come up with regulations, so that we can regulate these contractors and ensure that none of them should have contracts worth a particular sum of money. If it is Kshs1 billion, we should seal it at that level, so that if a contractor has contracts worth Kshs1 billion, he should not go and tender for others. Let us regulate them according to their classes. If you are in Class A, with a ceiling of Kshs1 billion, let us regulate you accordingly. If you are in Class E, where you not supposed to do work worth not more than Kshs20 million, let us make sure that you do not have two contracts of more than Kshs20 million, because at the end of the day, you will not perform.

Mr. Temporary Deputy Speaker, Sir, it is true that we have competition now between foreign contractors and our local contractors. But once again, it is not the local contractors to be blamed as such, although, I have said that they are to blame because they want to take too much than they can swallow. It is also the responsibility of the Government to check the contractors because when it comes to payment, you will get a situation where a contractor has done up to 50 percent, but he has been paid only 20 percent. Sometimes I wonder why we give out contracts when we do not have money to pay the contractors. At the end of the day, this contractor cannot be paid and hence, the prices of goods will go up due to inflation. At the end of the day, you will get a contract that was supposed to cost Kshs100 million, going up by Kshs200 million, and we have to

pay. Why do we want to pretend that we can give this contract when we cannot get the money?

Mr. Temporary Deputy Speaker, Sir, I would also like to ask the Office of the Deputy Prime Minister and Ministry of Finance to make sure that when it prepares the Budget, it allocates money that we can be able to give out. They should pay those contractors otherwise it will be business as usual. They are all there claiming a lot of money. I am in the Ministry of Public Works, and I have been in the Ministry of Water and Irrigation and the Ministry of Energy. I can assure you that those contractors really reap from where they did not sow.

If the Government, at the end of the day, has given out a contract and they are not ready to pay in good time, then they must be ready to pay for all the penalties. That is why I said it is very lucrative to be a contractor in this country.

Mr. Temporary Deputy Speaker, Sir, on the issue of due diligence, it is true that we have so many briefcase contractors even today. People will go there register, a company and tomorrow, they want a job. Then they will trade with the same contract they have won. They will pretend that they can do a tarmac road, which they cannot do, and go and trade. It is important that due diligence is conducted before we give out these contracts.

There is the question of titles; already we have the title of the Minister and that of the Permanent Secretary. Under the new constitutional dispensation, those titles will cease to be in use, immediately the next Parliament is elected. Therefore, it is important that this Bill be very clear in the Schedule that the Cabinet Minister for the time being will be replaced by the Cabinet Secretary. At the same time, the Permanent Secretary will be replaced by the Principal Secretary when the next Government will be in place.

Mr. Temporary Deputy Speaker, Sir, cowboy contractors will still continue to operate because the cartels are still there. This is the Chapter I would like to ask Members of Parliament, to really put emphasis on this part of the Bill, so that, that issue of penalties is addressed.

Lastly, I want to talk about the question of foreign contractors. This is the only country where foreign contractors will come in and walk out with briefcases of money and go and invest it elsewhere. It is the only country whereby we have no clear trade rules. We must have a local component. Every contractor who comes here is compelled to get a local component; even if it is at 20 percent. In other developed economies, we have it at 30 percent whereby no contractor will be allowed to work here without a local component handling of 30 percent. That is only what we shall be left with here in this country. I appreciate the Chinese who are already having a lot of contracts here. However, let us be proud of our country. Let us make sure that we also benefit from those contracts. They should not come here and give us sub-contracts. Our African contractors have become sub-contractors because these people are winning all the contracts. Our local contractors get peanuts out of all these contracts.

I believe that Members of Parliament will agree with us that we really must push on local component for every contractor, but in the near future, for every investor in this country, because that is the way to go.

With those few remarks, I beg to support.

Mr. Wetangula: Thank you, Mr. Temporary Deputy Speaker, Sir, for an opportunity to support this Bill and congratulate Mr. Obure for realizing the need to not only regulate, but also impose and monitor standards in construction.

Mr. Temporary Deputy Speaker, Sir, the construction industry in this country has gone through a lot of negative experiences. Today, the Government is virtually helpless in the face of rogue contractors. The public is helpless in the face of incompetent contractors. Local authorities are suffering in the face of incompetent contractors because there has been inadequate or none regulatory capacity to deal with contractors.

Mr. Ethuro: On a point of order, Mr. Temporary Deputy Speaker, Sir. I am seeking your guidance. Is it in order for the suspended Minister for Foreign Affairs to speak from this position?

Mr. Wetangula: Mr. Temporary Deputy Speaker, Sir, that point of order is for nuisance value, I believe.

Mr. Ethuro: On a point of order, Mr. Temporary Deputy Speaker, Sir. I was not asking for the hon. Member's opinion. I was directing my point of order to the Chair if it is, indeed, in order. Guide us. I was asking for your ruling and your guidance and not the hon. Member's preferred speaking position.

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Wetangula, you can speak from there.

Mr. Wetangula: Mr. Temporary Deputy Speaker, Sir, we have a lot of cases in this country where contractors are awarded contracts, paid public funds and they abandon sites before they finish their work. We have other cases where they knowingly and willfully carry out very substandard works, particularly on roads construction. You find that money has been paid; a 30 kilometre road is being done. By the time they finish, the road where they started is completely worn out. The public has no remedy because there has been no regulatory authority. Any quack in this country with money in a briefcase can become a contractor. They will go and get contracts. They have no knowhow, no capacity, no equipment and yet, they continue business as usual.

The amount of money this country loses in the hands of incompetence in construction is enough to do as many tarmacked roads as one can possibly imagine. I think it is now time that this country and this Parliament gave the country a proper regulatory framework that will manage contractors in terms of their output, competence and ability to do the work.

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

*[The Temporary Deputy Speaker
(Ms. A. Abdalla) took the Chair]*

Madam Temporary Deputy Speaker, we have problems in road construction particularly grading of roads. We do not have any means of regulating how graded roads should last and their quality. Once a contract is given out, the quacks will pick murrum of any quality, go and spread it on a road and within one rainy season, the road is gone. The public has lost money. There is no value for that money and there is no recourse.

I want to urge the Minister that once this law is passed, it should bring in place the Authority immediately. I would want him to expand the Clauses in the Bill for the authority to also have its original jurisdiction and authority to investigate where shoddy work has been done. It should be capacitated to look at final products. If a road has been done and you want to issue the final certificate, the Authority should have an opportunity and the capacity to hire professionals to inspect the road parallel to the Ministry officials or whichever authority, so that we get value for money.

We have also had cases where a building is constructed and when it reaches the sixth floor, it just collapses. We had the case of the collapsed building along Ronald Ngala Street. We were told that this construction was taking a floor every three days. It cannot possibly happen. Even lay people in construction know that you need about 21 days to cure a floor before you move on to the next. When you construct a seven storey building in two months, you obviously know that something has gone tragically wrong. We lose lives. We lose money and space.

Madam Temporary Deputy Speaker, if this country has to move to the level of a developed country, or a medium developed country in line with Vision 2030, the quality of our public structures, including roads, is very key. Sometimes you wonder, if we really want to build local capacity, why should we have local contractors? They are given jobs to do and they do not do them. You see them mushrooming elsewhere. I think I heard hon. Kiunjuri mention this. You find a contractor has abandoned the construction of a public market in Garissa, and then he is given another one in Machakos. He abandons the Machakos one and he is given another one in Nakuru. The cycle goes on. You find a contractor has messed up a road in Western and he resurfaces in Nyanza and he is given another road there. It goes on and on and on. I want to urge the Minister to have very stiff penalties for erring contractors, including criminal responsibility, because it is a loss of public funds. Where a contractor has done a road that is not, by any description, a road, such a contractor should not be given an opportunity to construct any other road. Such a contractor should be surcharged and prosecuted.

Madam Temporary Deputy Speaker, that is how China has instilled discipline. They are extremely harsh on people who use public funds to do substandard work, including petty things like hoarding. They deal with you at your shop as a public spectacle and as a lesson to others.

*[The Temporary Deputy Speaker
(Ms. A. Abdalla) left the Chair]*

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

Mr. Temporary Deputy Speaker, Sir, we have had initiatives like the Economic Stimulus Package (ESP). I had an incident in my constituency where a hoe or a *jembe* that costs Kshs89 in Uchumi Supermarkets, is being procured for Kshs600 for the youths to go and construct a dam. How do you explain that? A *jembe* of Kshs89 - and you can buy it over the counter in any shop - is procured for Kshs600. You know the wear and tear on a *jembe* cannot be in two weeks. The next week they move to another project and

they buy and procure similar implements for another project. This is something that, that Authority can be able also to look at – the procurement process.

Mr. Temporary Deputy Speaker, Sir, I think it is high time for us, as Parliament, to critically relook at the procurement law in this country. That is because the procurement law is so obsessed with the process. Was there an invitation to tender? What were the bids? Nobody goes to look at the value. At the end of the day, if the bids are 500, 600 and 700, even an item that costs Kshs100, they will say it was properly procured simply because there was a veneer of competition.

Mr. Temporary Deputy Speaker, Sir, I think within the realm of construction, Minister Obure should also look at the quality and process of procurement of construction materials on public projects. That is where we lose. You will find a red brick for construction that you can buy from young people who make them for Kshs5 being procured for kshs20, just because there were bids. Nobody cares and the public loses money. So, that Authority should also give guidelines in general terms and in specific areas on what procurement levels are expected. For example, like in western Kenya, a red brick should not go for more than Kshs6. In Turkana, where there is a water shortage, maybe, a red brick should not go for more than Kshs10. That is because it is more difficult to make a brick there because of the shortage of water. That way, we will get value for money.

Mr. Temporary Deputy Speaker, Sir, then, the Authority should also work - and this is totally missing in the Bill - in a consultative manner with the Ministry of Labour and the trade unions, so that they can also help save our young people who are routinely exploited on construction sites. You will find a construction site that is taking three years. The law says that you cannot employ somebody as a casual for more than three or five months. They resort to hiring young people to work on those sites on a daily basis to deny them the opportunity to be employed for the duration of the contract. I think this is something that the Authority can also help in assisting Kenyan youths.

Mr. Temporary Deputy Speaker, Sir, I have seen a clause where the Minister wants to levy some money from contractors. I think he should think twice about that. That is an Authority that is like a non-profit making arm of the Government to help it get value for its money. If we start levying money from contractors, we are simply escalating the cost of projects. It will be passed on to the same Government or whoever is procuring the services. I think if we want that Authority to be effective and efficient, we should not start giving them clauses like what I am seeing here - that when they have money, they can invest. They are not an investment organ! They are a regulatory organ! I would want to urge the Minister to relook at Clause 29 and all related clauses about this levy, and do away with it. That way, you simply have a budgetary provision within the context of the Ministry budget itself, and give the Authority money to run its affairs. What will eventually happen is that the contractors, even if you are saying that they are going to be levied 0.25 per cent of their contract sum as long as it is above Ksh5 million - will start building in the contracts up to 5 percent of the contract sum as a reimbursement for the levy. That will end up costing the public much more than we should have. So, I urge the Minister to rethink the issue of the levy. It is not necessary and helpful. We can budget for money to help that Authority to run. I am sure within the first two to three years; they will be able to know what their average annual running costs are, so that they can be able to run.

Mr. Temporary Deputy Speaker, Sir, looking at the First Schedule, Parts I and II, the Minister has listed the nominating bodies to the Board. I think you have left out a critical consumer of construction services. I think we should have a representative from local authorities. That is because there is a lot of construction both in building and roads that go on within local authorities. Take Nairobi, for example. I believe about 60 to 70 percent of the construction in this country is in Nairobi. If you are having Architectural Association of Kenya, Institute of Engineers, Institution of QSs, Law Society of Kenya, I think we should have the Nairobi City Council (NCC), for example, represented on that Board, so that they can be able to give first hand, either excellent examples or frustrations that they go through with construction. On simple things like how to protect constructions sites, the Board needs to look at that. Simple things as to how to vacate the site once they finish the construction--- Some contractors just finish with the site and they do not restore the excavations. They do not do anything. They just walk away. The local authorities that consume those services should be given an opportunity to serve on that board.

Mr. Temporary Deputy Speaker, Sir, another clause that I would wish to ask my brother to look at is that one that deals with appeals. You know, and being a lawyer myself, when you have appeals from the board to the High Court, the law should provide that, once you go to the High Court, it is final. That way, you do not keep the process of work from that body to be endless litigation. Now, you will end up in the High Court. From there, you will go to the Court of Appeal. From there, somebody will raise a serious constitutional issue and rush to the Supreme Court and, in the process, you are paralyzing the operations of the industry.

The same confusion, the same losses, the same frustrations and the same substandard works will continue despite the presence of the Board.

Mr. Temporary Deputy Speaker, Sir, I would want to see that once this Board is in place, the public must feel its presence. The public must feel its production. We must see, even without Members of Parliament asking questions here, the Board being able to order a Ministry or local authority not to pay a contractor because of sub-standard work done, to surcharge a contractor because of sub-standard work done, to black-list a contractor because of sub-standard work done, and not because Mr. David Were has come here to ask a question. Mr. David Were is not an *agent provocateur* for the Board. The Board must do its work. I hope and believe that whoever will be put on this Board will not have had just a job created for them; I hope the Board will truly help this country save public funds that we lose when shoddy work is done; it will have to deal with issues that have bedeviled the construction industry both in buildings and on roads.

My final point is that I hope this Board will also work hand in hand with schools. One of the biggest problems we have in this country is sub-standard construction in schools. In western Kenya where we have so much rain and gales, each Member of Parliament here from that region has a story to tell about a whole school blown off by winds every other day. This is not because the winds are as heavy as what we see in Loiyangalani and other parts of Kenya, but because the work is simply sub-standard. We have the CDF money, LATF, KESEP and money for free primary education. Unless we have an authority that makes sure that whatever we are building stands the test of time, we will just continue building and rebuilding.

Mr. Temporary Deputy Speaker, Sir, you go to Europe and you are told a building was built in 1460. You go to wherever and you are told a building is 400 years old. You

come here and a ten-year old building looks like a ruin. This is simply because the construction was poor. Once the foundation is hopeless, the end result will be hopeless. I hope that this Authority will make a meaningful difference in the construction industry.

With those few remarks, I beg to support.

Mr. Ethuro: Mr. Temporary Deputy Speaker, Sir, speaking after Mr. Wetangula is a bit of a challenge, because I must admit that he has raised all the pertinent issues that the Minister needs to consider.

I want to commend the Minister for Public Works and the Minister for Roads for bringing this Bill to the Floor of the House. I serve in a committee known as the Constituencies Fund Committee (CFC), and so I have more than passing interest in this particular Bill. I have had occasion to call the Minister for Public Works “Mr. BQs”. This is because whenever we go to his offices for the Bills of Quantities, you can be sure they are inflated at the very minimum ten times and to the maximum of 100 times.

Mr. Temporary Deputy Speaker, Sir, I am a bit disappointed with the content of this Bill. When the Minister was moving it, I really expected him to tell us the kind of work he has done, including what led to the collapse of the National Construction Corporation (NCC) that died many years ago, and what lessons he has learnt. This would inform this particular Bill.

This House needs to learn from the Minister, who has had the opportunity and seen it at work, so that we know that this Authority will try to mitigate some of the shortcomings of that other corporation.

I also want to agree very strongly with Mr. Wetangula that, indeed, there seems to be, in my view, the greatest value and contribution of this Bill--- Minister, I did not want you to be disappointed; but I will disappoint you on this one very strongly. I think we are not just creating opportunities for employment. Although creating employment is good in itself, it should not just be created for purposes of employment without the real task being performed.

What is our problem? We have the Kenya National Highways Authority (KeNHA) and all these other roads authorities. Both Ministers never made a single comment on their performance, so that when you come to this House to ask for another Authority we can say; “yes, the existing ones have added value to what we have been doing”.

Mr. Temporary Deputy Speaker, Sir, when responding I would really want the Minister to address some of these issues. Looking at the total contributions by the hon. Members, he should make some serious and substantive amendments to this Bill.

The Authority only needs money from the Exchequer for three years. After that, it is supposed to be self-sustaining. I thought the Minister would go further and say, “Three years, I need your money, three years I will sustain myself and forever I will be giving some money to the Treasury”. If I am investing money in the body and you are telling me now that after some period you will not need my money, then it means you will be generating your own money. I want you to generate sufficient money to also bring me a return of my original investment.

Mr. Temporary Deputy Speaker, Sir, I cannot agree more with Mr. Wetangula, again in terms of getting money from the contractors. You can. If you are a State regulatory body, you cannot go back to the same people you are supposed to be overseeing and demand money from them.

Minister, please, we do not want to bring the amendments. You do them. Delete that one because there will be a serious conflict of interest, because you cannot bite the hand that feeds you, as they always say. It is, therefore, very important that we consider that.

The Board is being proposed to do capacity building; for whom? Is it for the contractors? I thought you were supposed to be going out there to the market and ensuring that we get the best. What we expect, and what this country needs most, is an Authority that is going to supervise work. It is not acceptable that you can do a nice road and after two years you see those big potholes. It is not acceptable that you construct buildings, and before they get completed, you find they are already collapsing and killing our people. Once in a while you see everybody crying and even going to the site, but what happens after that? What we are looking for is not a Government entity that allows people to build on what they consider road reserves, and then even the Prime Minister goes there, the President goes there and when the buildings are operational you come back and tell us they were on a road reserves. Where were you when we were building? That is the kind of Authority we are looking for, an Authority that will be on the lookout from the very beginning, so that no construction will take place if it has not met the standards. The standards must be assured before the construction actually takes place.

Mr. Temporary Deputy Speaker, Sir, from the experience we have--- I really want to say that one of the good attributes of this Minister is that he has always been available to the Committees of this House. He has really provided leadership in the Ministry in terms of what we need to do. However, the Minister is held back by the cartels. Let the truth be told! The civil servants we have in our Ministries are holding back our Ministers. After we formulate policy here, they go back to them and they decide what needs to be done. You are given Kshs700,000 as the Economic Stimulus Package money, then you are told that you can only construct a classroom at Kshs1.5 million. When we had occasion to ask the Minister how much he spends in his constituency, he told us Kshs500,000. There are many “chiefs” who are involved in the construction; the chief architect, the chief quantity surveyor among others. There is a simple English saying; too many chefs spoil the broth. I think when we have too many chiefs, they spoil the construction industry.

We want to appeal to the Minister on what is reasonable. We said that you should change that code. I do not see any function of these authorities that would ensure that those codes are changed. We will not allow public money to be spent in the most expensive manner. As long as you are meeting the requirement of tendering, you can get the price even ten times. If you walked into a super market, you would know what the price of a particular item is. During those days when the law was not very clear, people would vary contracts beyond what was allowed by the law. What confidence has been put in this Bill to inspire us that what we are even proposing here will be followed?

Mr. Temporary Deputy Speaker, Sir, if there is any capacity building to be done by the Authority, the Minister must target it to the local contractors. What has undermined the Economic Stimulus Programme which was supposed to stimulate economic growth of this country by rolling out that expenditure within a defined period of six months is the fact that our local contractors, even when we made it obvious that they must be there, are not given those opportunities. I have challenged the officers concerned that if they think that our contractors are not good enough, they should put in

place a programme of action to build the capacity and plan within a reasonable period so that we know what will be done. This Authority should then follow to make sure that, yes, in Turkana, there are sufficient contractors who can do a good job. We do not need to import the contractors from elsewhere.

Just as we do not like foreign contractors to come to this country, we also do not want our own contractors to be ferried from every place, undermining capital formation within those communities. One important issue over which the law will never help us is supervision. As long as you leave people on their own, unless they are self-motivated and of high ethos, this is what is killing us. This is what is even destroying the performance of Government. That is why we voted for the Constitution. The Minister for Justice, National Cohesion and Constitutional Affairs is here and he would do better than talking a lot. We should have devolution so that that management is taken closer to where the action is. Part of the problem is caused by the Minister. Even within the CDF, there is a requirement that we work with Government officers. The quality of Government officers that we are sending out there is wanting. They are never available, are not competent enough and you demand that there should be some certificate of compliance. Those certificates of compliance have become sources of rent seeking. Mr. Minister, you can only address that mischief by ensuring that there is tight supervision and management of these projects. You should demand the reports. Again I think the new Constitution will save us there because our Ministers have been more interested in playing PR for Ministries than finding out what is there although this should not be an excuse.

We want Ministers who can come back to this House and tell us what they have done with the Economic Stimulus Programme money. You should not wait for hon. Members to ask Questions. Only this morning, we were being told about a Treasury which does not even know how much we get in terms of foreign direct investments. You want me to be confident of my Government when it cannot even do additions of the money that is coming in. How do we even know whether it is not money from money laundering schemes? There are some basic things that we do back home and only require knowledge of kindergarten arithmetic.

Mr. Temporary Deputy Speaker, Sir, with regard to procurement, the Minister could do very well if he does not use the Public Procurement and Disposal Act. I want to agree with the contributors who have spoken before me. We seem to worship the procurement process, irrespective of the outcome of the process. We are interested in value for money. We are not interested in what comes out of the system. We could as well just say garbage in, garbage out. We even said within the CDF that you must give us special consideration in some areas where the volume of the business concerned is not subjected to that lengthy provision. Once you have an arbiter as you have provided for, if someone wants to appeal, let them appeal to the High Court and that will be the end of the story. We have had it!

The last time the Government organized a meeting with Parliament at the Intercontinental Hotel to look into the issues of roads, we identified this as a problem coming from Government, and you promised us that you were going to look into that procurement process. Up to now, we have not seen anything being done. If these issues were addressed, the Kitale-Kapenguria-Lodwar-Lokichoggio-Nadapal road would have been tarmacked by now. We would now be talking of tarmac in terms of past tense.

If there is one role that the Board must play correctly, it must maintain standards. If it identifies how many layers of tar you are going to put on a road, it must be measurable and you must go out there and measure. If you decide that you are not going to allow this kind of tonnage on a particular road, it must be enforced.

We will support the Minister, but we want him to look beyond this. We want him to look at the attitude of his officers. We do not want them to look at the law as an opportunity for making money. I have an example; I own a few trucks as I try to exit myself out of poverty to the world of riches. I also try to be a very good citizen and abide by all the rules. So, I make sure that I have all the requirements on the windscreen of the truck so that I am a law abiding citizen and then a policeman stops the truck at a roadblock and says; *sasa ukijaza hii yote, sisi tutakulia wapi?* It is in their interest to find some fault instead of appreciating this citizen who has complied with the law. And they are not even pleading. They say that they will even remove something from there so that they find fault and then you are expected to do something. When you do not, they just tell you: *Weka kando*. This is the reality of Kenya that we want to bring to bear towards proceedings of this House. These are the things we should be on the lookout for because we can make very good laws, bring very good Bills, make amendments to them but at the end of the day, we will not be improving this country. We owe it to ourselves, to our leadership and to our posterity and to this country. We should get things done the right way.

With those few remarks, I support the Motion.

Dr. Nuh: Mr. Temporary Deputy Speaker, Sir, I would like to be very brief. I want to agree with the previous speakers, hon. Wetangula and Mr. Ethuro. They could not have said it better. You wonder whether it is a regulatory authority that is missing or it is just the Government that has gone to sleep and refused to do what it is supposed to do. With all the Authorities around, we still complain about our roads, that they have been done badly and the Government pays for the supervision through budgets towards these authorities.

Mr. Temporary Deputy Speaker, Sir, I do not know whether adding an another authority to oversee issues of construction in general, including roads and buildings, would sort out the problem, or whether it is for us to ensure that we enforce whatever statutes and regulations that we have within our purview.

I want to be very candid. The financial regulations specify that no single contractor can be allowed to handle more than four contracts at a go within Government circles. It is very clear. But is it the reality? Hon. Kiunjuri, a member of the Executive, was just affirming that contracts are doing up to a maximum or a minimum of eight contracts at a go and yet, the financial regulations are clear that regardless of the quantity of that contract whether it is Kshs1,000 or Kshs1 million, once a contractor has been allowed to do four contracts, the fifth one should never be allowed to pass. That opportunity should go to another contractor. This is for the purpose of efficiency. You will find contractors split between doing so many jobs just because of the hunger for money. They would want to do a road here, build five classrooms for a primary school somewhere, or construct staff houses in a different place. The same contractors could be involved in the construction of, say, Lamu Port and also engaged in the drilling of boreholes and so on. It is a mess! At the end of the day, contracts take longer than they were scheduled to.

Once the contract period is extended, you will hear the same contractor claiming some more funds on the pretext that fuel prices have gone up. You will hear him state other contingency measures. This is because they collude with the engineers from the Ministry. You will hear them say that they want to include more scopes of work. You hear them say since budgets have gone up, even water shortage has set in. All these is their fault and not of the Government. So, my question still stands: Is it an authority we need or is it the enforcement of regulations which is lacking?

Mr. Temporary Deputy Speaker, Sir, I want to go to the specifics in the Bill. I hope that the enactment of the Bill will bring changes and not serve to provide jobs for some people within the authority. Clause 2 of the Bill states that the Minister may by notice in a gazette amend the First Schedule. After we pass the First Schedule in this Bill, a Minister, perhaps, because he wants to exclude or include some of the institutions that are represented in the authority, is allowed to come up with a different schedule via a notice in a gazette. I think that is not correct. The schedules, once passed in this Bill, have to be the way they are. If a Minister wants to make any amends or changes, then we should not give him express authority to go and tamper with the people who are supposed to be constituted within that Authority. We will be giving the Minister so much leverage such that he will be operating at his own whims and even include associations or other entities within the authority or kick out the errant ones which he thinks do not comply with what he wants done. This is not because of the good side of the law, but because they will not be colluding to fleece the public of its money.

I am a bit uncomfortable with some of the clauses in this Bill. One would think that some of them were inserted purposely, maybe, to give some people jobs or to deny others an opportunity to serve. When you talk about the nominees of these associations and then go ahead to give guidelines on who they are supposed to nominate, I think we are not giving the relevant authorities autonomy to make nominations of people they think will be able to serve in those capacities. So, to me, when you say that the people mentioned in the second part of the First Schedule have to have a Kenya Certificate of Secondary Education, that looks a bit okay. For the purposes of communication, they should be able to communicate in English and Kiswahili languages. However, when we put experience of ten years, then we will be locking out young entrepreneurial Kenyans who have just joined the construction industry to come and serve in this authority. They may not have the competence of ten years experience, but they could have been serving in those associations which are supposed to nominate them, say, for three or four years. They could do a marvelous job within that Authority and try to infuse measures of reform and new energy. So, the issue of putting a period of ten years of experience will lock out the Kenyan youth, so that they are not nominated by these institutions. Instead, you would want some old guard with whom you will go to pubs to cut deals. If we want a serious authority, it is one that should allow the youth of this country to serve in it.

Finally, we are trying to have scheduled meetings for this Authority. One of the clauses says that the Board shall meet at least four times in every financial year. The same clause states that not more than two months shall elapse between the date of the first meeting and the second meeting. With basic mathematics in mind, if you say that not two months should elapse between the first and second meeting, then in a financial year there will be at least six sittings. However, I am a bit concerned with setting a minimum limit of meetings. Some Kenyans are very funny. Some boards just meet to cash on

allowances. We should set a maximum number of meetings that should take place in a financial year and not minimum. This is because if you set a minimum of four meetings, these people will be meeting every other week. This will drain the coffers because they will be entitled to allowances. It is, therefore, better for us to set a maximum number of meetings the board should have. It will be up to them to decide on the minimum number of meetings they want to hold, that is, whether they want to sit once a year or not. Setting a minimum of four sittings for them will amount to giving them a green light to sit every other day. You will, in fact, have them sit on all the 365 days of the year and that would drain their coffers.

Mr. Temporary Deputy Speaker, Sir, with those few remarks I support the Bill. However, some seriousness should be put in not only enacting the laws, but ensuring that the same laws are enforced by the authorities concerned.

Mr. Njuguna: Thank you, Mr. Temporary Deputy Speaker, Sir, for the chance to contribute to this very important Bill.

First, I want to thank the Minister, Mr. Obure, for the manner in which he has brought this Bill to the House. This Bill will address some of the ills that have recently plagued the housing industry. We have witnessed shoddy works being done in Government hospitals and even in the private sector. This Bill lays very strong emphasis on training. With proper training, it will be possible to have people with professional skills on board. The projects will be implemented as per the required time.

I recall that a few months ago we visited the Kenya National Examination Council headquarters. One of the incomplete buildings that we saw there was started 24 years ago. A child who was born 24 years ago, has already completed school. He is already married, and, probably, has children in school. A period of 24 years is a considerable time. This contractor has denied the Kenyan taxpayer value for his money. Indeed, money has gone into the drain. If we had qualified supervisors and contractors, that building would be put to good use. Proper planning of our national examinations would be done in that building.

We also visited North Eastern Province and noted poor quality works in one of the teacher training colleges. A lot of money had been invested in that college and yet, poor quality work was done. This is public money that has been misused in that manner.

We have seen collapsing buildings. One glaring case is where we have seen toilets being dug in our primary and secondary schools. At times, these toilets cave in because we lack proper supervisory capacity.

This Bill will address some of those concerns. When toilets cave in, we lose the diggers. At times we lose students in those toilets. So, the future of students is also at stake. We have also seen big buildings in Kiambu Town collapse. Investigations revealed that this was as a result of not using construction materials in the right manner. Sand, cement and ballast are not used in the right quantities. Sometimes even metal bars are not used as per specifications. This Bill will address the issue of correct application of materials, so that buildings can remain firm and be good for use.

Mr. Temporary Deputy Speaker, Sir, with the application of this Bill, even the revenue base will expand because investors will construct many buildings, which will bring in a lot of income for the investors. Even tenants will direct their efforts to conducting business in the new houses. Therefore, revenue from taxation and rates will increase. We also note that at times we waste a lot of time. The whole nation is anguished

when buildings collapse. We have seen buildings collapse in Nairobi. Some time back, Israelis came to Kenya to rescue our people who had been buried alive under the rubble of buildings which collapsed.

If we had this Bill in place, the Israelis, Americans and the Chinese would not have come to this country. Our military personnel would have been sent to rescue our people. Therefore, through the provisions of this Bill, we will create our own specialised teams to address some of these concerns. It is important to note that buildings under construction will be completed in good time, particularly those being constructed under the Economic Stimulus Programme. We have the model primary schools, the centres of excellence and health centres, which are not complete. These projects were meant to improve the welfare of our people. Therefore, the passage of this Bill will hasten the process of getting well trained and experienced personnel to address the problems in the housing sector. This development will rekindle confidence amongst tenants in the buildings they will be living in.

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

Mr. Affey: Mr. Temporary Deputy Speaker, Sir, I thank you very much for giving me the opportunity to register my strong support for this Bill. I have waited patiently to contribute to this debate, so that the HANSARD can bear me witness that I supported this Bill, because it is timely, important, relevant and critical.

As I welcome the passage of this Bill, I would like to ask the Minister to, through amendments, find ways of ensuring that it is compliant to the current Constitution because the current Constitution does not refer to “Minister” but rather to “Cabinet Secretary”. This Bill retains the term “Minister”. The Bill also speaks of two different Ministries. The Minister must understand that, since we will be having about 20 Cabinet Secretaries, there is definitely going to be a need to merge the Ministry of Roads with the Ministry of Public Works. Currently, these are two Ministries but, naturally, in January, 2013, we are going to have only one Cabinet Secretary to be in charge of these two Ministries. So, there will be no need of having Permanent Secretaries from two different Ministries.

Mr. Temporary Deputy Speaker, Sir, my colleagues have spoken on this matter in detail and I believe that, for the first time, the Minister will try to be more creative and establish the headquarters of this very important Authority outside Nairobi. In my view, the headquarters of this important Authority should be located in one of the places, in this country, which require construction. Why not locate it in Turkana or Mandera or in any such place, so that contractors can see the need to reconstruct this country? If we establish it in Nairobi, the contractors are based in Nairobi. They do not understand much of this country. I thought that the Minister would be a bit more creative and establish the headquarters of this Authority outside Nairobi.

There is need for us to, in this Bill, reflect devolution as envisaged in the new Constitution by establishing county offices for this Authority. As it is now, the Bill is not very clear. We have 47 counties. When this Authority is based in Nairobi, what level of presence will it have in our counties, so that its functions can also be carried out at the county level? This Authority will be important because it will regulate registration. It is very clear that the number of contractors we have as a country, both in the road construction and general building construction sub-sectors, are not uniformly distributed in the country.

Mr. Temporary Deputy Speaker, Sir, we need to have a sufficient number of local contractors in every county. That is why this Authority is supposed to build capacity for contractors; by identifying and training them, so that resources can be equitably distributed in the country, because, in terms of our national Budget, this Authority is expected to oversee a huge chunk of our resources. If it will only be confined to certain counties, there will be the danger that distribution of public resources might not be as sufficient as is envisaged in the new Constitution.

This Authority has the responsibility of regulating foreign contractors. That is very critical for us. There are very many foreign contractors who are bogus, but who find their way into Kenya, but there are quite a number of them who are good. I want to single them out, because people complain about the Chinese. I must confess that the Chinese do a good job. Given the quality of the roads the Chinese have built in Kenya, including the ones they are currently building in Nairobi and Mombasa, I must say that they are doing a good job. What is important for us is not who gets the job, but rather to have a legacy of doing a good job. Some of the foreign contractors have proved that they can give us good roads. So, let us not criminalise them for being foreigners. There are so many foreign contractors who are more patriotic than Kenyan contractors. Therefore, it is important to identify and encourage them.

Mr. Temporary Deputy Speaker, Sir, the Cabinet Secretary will have a lot of powers over this Board. Today we have hon. Obure, who is a very reasonable and good Minister. We have dealt with him in this House and outside the House. But we can get a rogue Cabinet Secretary to be in charge of this Ministry. I would like to see that we reduce the excessive powers that the Cabinet Secretary is going to enjoy under this Bill. He will have power to dissolve the Board. He will have power to amend the Schedule, without making any reference to Parliament, through a Gazette Notice. He can exploit or intimidate the board and divert their attention. So, even as the Minister crafts this Bill, he should establish a reasonable line or a check point.

Mr. Temporary Deputy Speaker, Sir, finally, there is no monitoring mechanism for this Authority. It is very important that it has a mechanism to monitor. We want the monitoring mechanism inbuilt in the Authority. The other day, we were investigating, as a Committee, a particular construction. A contractor appeared before our Committee and told us that he was supplying---

Mr. Muthama: On a point of order, Mr. Temporary Deputy Speaker, Sir. May I kindly request my colleagues just to try and share the remaining minutes by contributing for five minutes each?

Mr. Affey: Mr. Temporary Deputy Speaker, Sir, the Chief Whip has spoken. I beg to support this Bill.

Mr. Muthama: Asante, Bw. Naibu Spika wa Muda. Nitaongea kwa dakika tano ili tutumie dakika kumi na tano.

Bw. Naibu Spika wa Muda, inafaa Waziri afahamu kwamba Wakenya wanahitaji majengo mazuri na imekuwa kikwazo kikubwa sana kuweza kufanya ujenzi huo. Kikwazo kikubwa sana ni bei ya vifaa vya ujenzi. Ningependa Waziri aangalie sana bei ya simiti. Mfuko mmoja wa simiti sasa ni zaidi ya Kshs800 ilhali simiti kutoka Misri inaweza kupatikana kwa Dola Mbili au Kshs150. Hatujui ni kwa nini bei ni ghali hapa kwetu. Majengo ya kiajabu yametapakaa nchini kwa sababu wananchi hawawezi kujimudu.

Jambo la pili ni kwamba wananchi wa nchi hii wametengwa katika kupata kandarasi za kufanya kazi. Utapata kijana ambaye amesoma na kuhitimu na anataka kuanza kazi yake na anapoandikisha kampuni yake na kuweka zabuni yake ili aweze kupata kandarasi, anaulizwa kwanza athibitisha kwamba ana nguvu au pesa, mashini na vyombo vya kufanya hiyo kazi. Kijana aliyetoka shule hatakuwa na vitu hivyo. Kazi itamshinda na itapewa mgeni ambaye amekuja na anajimudu na mashini zake. Mwishowe huyo kijana atakuwa mwizi.

Jambo la tatu ni kwamba tunataka vijana wetu waliosoma watumiwe kuangalia ndugu zetu ambao wanaanzisha majengo yao bila ujuzi. Kuna wahandisi ambao wanaweza kwenda na kuwakashifu wanaofanya kazi duni. Kwa hivyo ikiwa tumewasomesha watoto wetu na wameajiriwa na Wizara, tunataka watembee wakitoa huduma zao na wasingojee majengo yajengwe halafu yaporomoke na kuanza kuwalaumu waliojenga na kuwaambia kwamba hawana ujuzi wa kutosha. Tunalipa karo kuwasomesha watoto wetu ili wasaidie nchi.

Bw. Naibu Spika wa Muda, jambo la nne ni kwamba katika *Schedule* ya Pili, kuna maneno ambayo hayaelezi sawa sawa hali ya mikutano ya halmashauri hii. Wanaposema kwamba inatakiwa mikutano minne katika mwaka na kila miezi mbili kuwe na thibitisho kwamba mkutano umefanyika. Hii inamaanisha mikutano sita. Jambo hili linaweza kuleta mtafaruku katika mpangilio wa mambo haya. Tunafaa kuhakikisha kwamba vyombo na vitu vinavyotengenezwa hapa nchini vinauzwa kwa bei ya kuwasaidia wananchi.

Bw. Naibu Spika wa Muda, kwa hayo machache ninaunga mkono.

Dr. Otichilo: Thank you, Mr. Temporary Deputy Speaker, Sir. I rise to support this Bill and thank the Minister for bringing this Bill to this House.

Mr. Temporary Deputy Speaker, Sir, the construction industry is the foundation of development of any country. If this industry is not well regulated and does not have a proper foundation on how to function, then the country cannot move forward.

Mr. Temporary Deputy Speaker, Sir, I must say that our construction industry has been in a maze and remains to be in a maze for a long time. This is because for one reason, this industry lacks regulations. If the regulations are there, they are not enforced.

I believe this Authority that we wish to establish will be able to rein in the contractors, so that they can behave. As most of my colleagues have said, the construction industry is full of “cowboy” contractors. These people have fleeced this country. This country would have developed. However, because of these cowboy contractors, this country is still many years backwards. So, I believe when we establish this authority, it will be one that will enforce what this Bill is talking about.

I believe that we will put in place very serious regulations. I am a Member of the Committee on Transport and Public Works. We have a lot of amendments which we want to put in this Bill. When it comes to the Bill of Quantities (BQs), this country has lost so much money. I do not know how these BQs are determined by our engineers and specialists. This is an area where I believe the Minister will have to look into and we must reinforce this in this Bill.

When you see the types of BQs that that we are given by our engineers, you wonder. You can go ahead and build a latrine for Kshs50,000, but the BQs from our engineers will say you need Kshs700,000. So, this is an area where we need to look at.

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

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

Mr. Temporary Deputy Speaker, Sir, the other area which I need to completely emphasize is the area of capacity building. We need to have capacity building in this industry, particularly when it comes to machinery. We are unable to construct our roads because the machinery available at the Ministry of Public Works is not adequate. So, this is an area where we need the Ministry to look into by providing equipment, so that the local contractors can hire the equipment.

On quality assurance, this is an area which is really lacking. If you look at our roads, they are constructed today, tomorrow they are in tatters. Look at our buildings and everything. So, I believe this Authority will look into quality assurance and ensure that we have quality structures, be it buildings or roads.

So, I do not want to talk much because a lot has been said but I want to support this Bill. When we go to the Committee Stage, we will be able to bring in as many amendments as possible. These amendments will be based on what has been discussed here and what will emanate from our Committee.

I wish to support.

Mr. Were: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to support this Bill. It is a Bill that is long overdue. It is a Bill that is necessary to be supported by all hon. Members of this House.

You will notice that the construction industry has been in a lot of confusion because there has been no Authority that was regulating it. We have heard all manner of people calling themselves contractors when they are not qualified to do so.

Mr. Temporary Deputy Speaker, Sir, I would like the Ministry, in the first place, to consider reinforcing the local contractors. From what I have seen, especially when it comes to roads, the so-called local contractors are actually not local. We have this preference where we levy maybe 15 per cent more. Whenever a local contractor quotes 15 per cent more than the international contractors, they are given preference. But when you look at the so called "local" contractors, they are really not local.

So, I would really want the Ministry to look into this issue when it comes to capacity building and training of local contractors, so that our local contractors can benefit from these contracts.

Mr. Temporary Deputy Speaker, Sir, when the foreign contractors or "local" contractors do their investments, they do not do them locally. So, whatever they generate from our economy, they use it to build their own economies back in their countries.

Mr. Temporary Deputy Speaker, Sir, I have been looking at this Bill and I have been wondering - and this one has been stated by hon. Affey - why is it that we must indicate on this Bill, that the headquarters of that organization will be in Nairobi? Why do we not leave it open so that it can be anywhere in this Republic?

Also looking at the membership of the board, I have noticed that the Ministry of Housing is not included. I thought that it is a stakeholder. It should also be included in the

board. Moving quickly, there is Section 29 which my brother hon. Wetangula has talked about. It is on financial provisions. Clause 29(2) says:-

“The levy shall be an amount not exceeding an equivalent of 0.25 per cent.”

But if you go back to Clause 29(1), it says: “The Minister may.” It does not say that it is a must. According to the Minister and in terms of the requirements, maybe, if there is a shortfall in terms of funds required by the National Construction Authority, the Minister may, by notice in the *Kenya Gazette*, impose a levy. I am seeing it as a window to help the National Construction Authority to raise funds in case the funds that they have are not adequate.

Mr. Temporary Deputy Speaker, Sir, I want to say that this Bill is long overdue. Because of time, I might not say much. But it gives us an avenue of knowing the rightful contractors. Some of us have had experiences that have been talked about in Nairobi. When I was constructing my own house, it collapsed halfway through. If at all we had those registered contractors, maybe, I would have known what kind of contractor to engage. But because the contractors are not registered, it becomes very difficult to know who is qualified and who is not. That is why I support this Bill and the legislation that all contractors must be registered. That way, we will identify the correct contractors.

With those few remarks, I support.

The Temporary Deputy Speaker (Mr. Ethuro): Order, Members! Since there is no more interest to contribute, I will call upon the Mover to reply.

The Minister for Public Works (Mr. Obure): Thank you very much, Mr. Temporary Deputy Speaker, Sir. First of all, I want to take the first opportunity to thank all Members who have shown tremendous interest in this Bill, and who have made very positive contributions in its support.

Mr. Temporary Deputy Speaker, Sir, in particular, I want to pay special recognition to the contributions made by certain Members like hon. Franklin Bett who seconded this Bill. Of course, he is one of the sponsors of this Bill and I thank him for the remarks he made while supporting this Bill. I want to thank the hon. Attorney-General who has shown tremendous interest in this Bill by supporting it. I also want to thank hon. Muriithi of Laikipia West, hon. Baiya and hon. Eng. Gumbo. They have contributed to this Bill with a lot of passion this afternoon and, of course, the Rt. Hon. Prime Minister, hon. Raila Odinga. He made very useful contribution. You recall that he took us down the memory lane, having been a Minister for Roads and Public Works. He gave us some insight which will be very useful. I also want to thank the hon. Member for Turkana Central, who happens to be in the Chair right now. Your contribution was very useful. I want to recognize the contribution of my own colleague, hon. Mwangi Kiunjuri. I want to appreciate the contribution of our lawyer and former Minister for Foreign Affairs, hon. Wetangula. Again, a lot of insight has been given by that particular contributor.

Mr. Temporary Deputy Speaker, Sir, the chairman of the Committee on Transport, Public Works and Housing, Mr. David Were, was one of the last contributors to this Bill. I thank him for the support he has given.

Mr. Oyongo Nyamweya, Dr. Nuh of Bura, Mr. Njuguna, Mr. Affey and Mr. Otichilo, I value the contributions you have made. I also thank all those who have indicated their support for this Bill.

Mr. Temporary Deputy Speaker, Sir, I want to assure hon. Members that we take their views seriously. We take their concerns seriously. We will work with them at the

Committee Stage to improve on this Bill, to strengthen it and make sure that it serves the purpose for which it has been brought to this House for enactment.

From the sentiments expressed, it is very clear that this Bill is long overdue. It should have been here much earlier, because Kenyans feel that they have been held captive for far too long by contractors, consultants, professionals and Ministry officials. The general feeling is that it should have been brought here earlier to give us relief. Nevertheless, I am particularly very grateful that the implementation of the reforms envisaged in the construction industry will now have a legal and institutional framework. This is very important and very critical for this country. The Bill, when enacted into law, will bring order and discipline. It will enhance professionalism in the entire construction industry. It is important that these issues are underscored, because we have had serious challenges in this particular industry since we did not have this legal basis and an institution in place. Now that we are on the way towards creating this legal basis, and the Authority that will look after the industry's affairs, it is a very good day for this country.

Mr. Temporary Deputy Speaker, Sir, the focus in the whole Bill was to create a centralized system of registration of contractors, and the fact that we are on the way towards supporting the creation of that centralized system of registration of contractors is a good signal; it will in itself instill discipline. It will in itself bring order, so that all the cowboy contractors and the briefcase contractors will be phased out once this system is in place.

All the contractors doing shoddy work in one Ministry and running away to do work in another Ministry, even when they have not been able to abide by their obligations and undertakings in the previous jobs, will be phased out.

The second focus was in respect to offering a structured training programme in the construction industry. In this country, we need a large pool of professionals, skilled workers and workers who can implement construction projects. In the absence of these workers, implementing projects becomes very difficult. You will appreciate that at the present stage, we have a situation where we have fairly highly trained people up to the university level and so on. For a period of time, we forgot to train people at certain middle level training institutions. We focused at the higher level when the actual work is done by skilled workers, who are normally trained at the youth polytechnics and middle level colleges. The intention of this Bill is to ensure that we put in place structured training programmes to ensure that this country has a pool of workers who can undertake these jobs and ensure that we have quality buildings, roads and many other things that will form the foundation of the future development of our economy.

The third main focus of this Bill is to carry out research on construction processes and on the use of construction materials that are locally available in certain areas of our country, approve them and standardize them for construction purposes. The sole purpose of this is to ensure that we make construction affordable so that people will build their own houses using local materials and build quality houses which can be afforded by the ordinary Kenyans. This is what we intend to achieve through the enactment of this Bill which will become law. This is the main focus of this law; to ensure that we have a centralized registration process and training programmes in place and carry out research with a view to ensuring that we standardize construction process and the use of raw materials in particular.

With the passage of this Bill into law, we will announce that it is time to change our attitudes. Those of us in the Ministry of Public Works, Ministry of Roads and those who are in any infrastructural Ministry in this country must change their attitudes. We must begin to conform to the requirements of the new law and the expectations of this country so that together, we can work in the spirit of this new Bill in enhancing professionalism. We should stop collusion between consultants and contractors and any other persons involved so that we can build a strong and vibrant construction industry in this country.

With those few remarks, 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 INSOLVENCY BILL

The Temporary Deputy Speaker (Mr. Ethuro): Hon. Members, the Chair had a discussion earlier with the Attorney-General who requested that this Bill be deferred.

(Bill deferred)

MOTIONS

ADOPTION OF REPORT ON 123RD ASSEMBLY OF IPU

THAT, this House adopts the Report of the IPU Kenya Delegation to the 123rd Assembly of the Inter-Parliamentary Union (IPU) held in Geneva, Switzerland from 4th - 6th October, 2010, laid on the Table of the House on Tuesday 23rd November, 2010.

The Temporary Deputy Speaker (Mr. Ethuro): Where is the Leader of the Delegation?

If he is not in, let us move to the next Order!

(Motion deferred)

ADOPTION OF REPORT ON STUDY TOUR TO PARLIAMENTS OF ITALY/SPAIN

THAT, this House adopts the report of the Library Committee on its study Tour to the Parliaments of Italy and Spain between 7th - 19th November, 2010, laid on the Table of the House on Tuesday, 10th May, 2011.

The Temporary Deputy Speaker (Mr. Ethuro): Where is the Chairperson of the Committee? Is he not around?

(Motion deferred)

ADJOURNMENT

The Temporary Deputy Speaker (Mr. Ethuro): Having exhausted the business on the Order Paper, it is now time to adjourn the House. The House stands adjourned until tomorrow, Thursday, 26th May, 2011 at 2.30 p.m.

The House rose at 6.30 p.m.