

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 20th July, 2011

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

COMMUNICATION FROM THE CHAIR

MEMBERS' CONSULTATIVE WORKSHOP TO DISCUSS DRAFT BILLS ON DEVOLUTION

Mr. Speaker: Hon. Members, I have two Communications to make. First, as you will recall, the Deputy Prime Minister and Minister for Local Government hosted a consultative workshop between Members of Parliament and the taskforce on Devolved Government on 6th June, 2011 at the Kenya Institute of Administration (KIA). The Ministry of Local Government has organized a follow-up workshop to deliberate on the Draft Bills on devolution. I, therefore, wish to invite all hon. Members to the consultative meeting with the taskforce on Devolved Government which will be held at the Great Rift Valley Lodge, Naivasha, from Saturday, 23rd July, 2011 to Monday, 25th July, 2011.

I urge all hon. Members to attend the workshop in order to familiarize themselves with the provisions contained in the drafts and, more importantly, give their input in the formulation of the Bills which are critical for the operationalization of devolved governments in our country.

NOMINEES TO THE SELECTION PANEL OF IEBC

Hon. Members, as you are aware, Section 1(i) of the First Schedule to the Independent Electoral and Boundaries Commission Act of 2011 provides for the establishment of a selection panel on the following terms:-

“Within 14 days of the commencement of this Act, the President shall, in consultations with the Prime Minister and with the approval of the National Assembly, appoint a selection panel comprising;

- (a) two persons, being one man and one woman nominated by the President;
- (b) two persons, being one man and one woman nominated by the Prime Minister;
- (c) one person nominated by the Judicial Service Commission;
- (d) one person nominated by the Kenya Anti-Corruption Advisory Board; and,
- (e) one person nominated by the Association of Professional Societies in East Africa”.

Section 1(ii) of the First Schedule to the Act further provides or requires the Judicial Service Commission, the Kenya Anti-Corruption Advisory Board and the

Association of Professional Societies in East Africa, when making their nominations under Section 1(i) of the First Schedule to the Act to each propose and submit two names of nominees being one man and one woman to the Clerk of the National Assembly. The National Assembly is then required, under Section 1(iii), (iv), (v) and (vi) of the First Schedule to the Act to consider and either approve one of the nominees or reject both of the nominees and request for the names of new nominees.

Hon. Members, the following nominations have been received by the Office of the Clerk of the National Assembly:-

1. Nominations made by His Excellency the President by a letter dated 19th July, 2011 and received on the same date –
 - (i) Prof. Marion Wanjiku Mutungi
 - (ii) Amb. Mwanyangela Ngali
2. Nominations made by the Prime Minister by a letter dated 19th July, 2011 and received on the same date-
 - (i) Dr. Aukot Ekuru
 - (ii) Ms. Rosa Akinyi Buyu
3. Nominations made by the Judicial Service Commission by a letter dated 19th July, 2011 and received on the same date-
 - (i) Hon. Mr. Justice Isaac Lenaola
 - (ii) Hon. Ms. Emily Ominde
4. Nominations made by the Kenya Anti-Corruption Advisory Board by a letter dated 19th July, 2011 and received on the same date-
 - (i) Ms. Irene Cheptoo Keino
 - (ii) Mr. Charles Kariuki Wambugu
5. Nominations made by the Association of Professional Societies in East Africa by a letter dated 19th July, 2011 and received on the same date-
 - (i) Dr. William Okelo Ogara
 - (ii) Ms. Sophie Njeri Muturi.

Hon. Members, I direct that these names and the accompanying curriculum vitae (CV) be forwarded to the Constitutional Implementation Oversight Committee (CIOC) for consideration prior to approval by the House. The CIOC is subsequently hereby directed to table its report on or before Wednesday, 27th July, 2011.

PAPERS LAID

The following Papers were laid on the Table:-

The Financial Statement of the County Council of Kakamega for the two-year period ended 30th June, 2009 and the certificate thereon by the Controller and Auditor-General.

Abstracts of Accounts of the County Council of Garissa for the year ended 30th June, 2007 and the certificate thereon by the Controller and Auditor-General.

Abstracts of Accounts of the Town Council of Malakisi for the year ended 30th June, 2006 and 2007, and the certificate thereon by the Controller and Auditor-General.

Abstracts of Accounts of the Town Council of Funyula for the year ended 30th June, 2005, and the certificate thereon by the Controller and Auditor-General.

Abstracts of Accounts of the Town Council of Suneka for the year ended 30th June, 1998 to 2003 and 2005 to 2006, and the certificate thereon by the Controller and Auditor-General.

Abstracts of Accounts of the County Council of Nyandarua for the year ended 30th June, 2008 and the certificate thereon by the Controller and Auditor-General.

Abstract of Accounts of the County Council of Malindi for the year ended 30th June, 2009 and the certificate thereon by the Controller and Auditor-General.

*(By the Minister for Housing on behalf of
the Deputy Prime Minister and Minister for Local Government)*

Annual Report and Financial Statement of the Kenya National Examinations Council (KNEC) for the year ended 30th June, 2010, and the certificate thereon by the Controller and Auditor-General.

(By the Minister for Housing on behalf of the Minister for Education)

Annual Report and Financial Statement of the National Communications Secretariat for the year ended 30th June, 2010, and the certificate thereon by the Controller and Auditor-General.

*(By the Minister for Housing on behalf of the
Minister for Information and Communications)*

Annual Report and Financial Statement of the Kenya Ports Authority (KPA) for the year ended 30th June, 2010, and the certificate thereon by the Controller and Auditor-General.

*(By the Minister for Housing on
behalf of the Minister for Transport)*

Report of the Departmental Committee on Land and Natural Resources on scrutiny of Annual Estimates for the Financial Year 2011/2012 for Vote 20 – Ministry of Water and Irrigation, Vote 21 – Ministry of Environment and Mineral Resources, Vote 36 – Ministry of Lands and Vote 55 – Ministry of Forestry and Wildlife.

(By Mr. Musyimi)

Report on the resolution of the House of 6th April, 2011 on the decentralization of issuance of national identity cards to the 47 counties.

*(By the Assistant Minister, Ministry of State for Immigration
and Registration of Persons (Mr. Baya) on behalf of
the Minister of State for Immigration and Registration of Persons)*

ORAL ANSWERS TO QUESTIONS

Question No.857

SLOW EXECUTION OF WORKS AT KABATI MARKET

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

- (a) why the works at Kabati Market are slow and currently behind schedule;
- (b) how much money was allocated to the project; and,
- (c) when the project will be completed.

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

(a) The development of Kabati Market in Kitui County is on schedule. Works commenced on 8th April, 2010 and are due for completion on 9th October, 2011. That is a contract period of 18 months. To date, the period lapsed is 11 months. There is an outstanding balance of seven months and we expect the works to be completed on schedule.

(Loud consultations)

Mr. Speaker: Order, Mrs. Shebesh! Proceed, Minister!

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

(b) The amount of money allocated to the project was Kshs67,180,833. So far, two interim certificates have been honoured totalling to an amount of Kshs29.8 million; that is, 44 per cent of the contract sum.

(c) The development of the market is expected to be completed on or before 9th October, 2011 in accordance with the scheduled programme of works that is part of the signed contract. In addition, there is going to be a six-month defect liability period after the handover.

Mr. Nyamai: Mr. Speaker, Sir, I want to thank the Deputy Prime Minister and Minister for Local Government for that answer. It is indeed good to note that the work is going on well. However, in terms of the physical works on the ground, they do not seem to tie up with the answer he has given. Could he just confirm that the works will be completed in time as he has stated?

Mr. Mudavadi: Mr. Speaker, Sir, I wish to confirm that the completion date is 9th of October, and we expect no less from the contractor because the contract period was for 18 months. As we speak today, there are a few months to go for him to complete the work. If the contractor defaults on this, there are, of course, the necessary penalties that go with it. But we expect him to complete his work by 9th October.

Mr. Kabogo: Thank you, Mr. Speaker, Sir. The problem of ESP projects is not unique to Kitui West. We also have a market in Ngoliba in Thika West and since I came to Parliament, after the by-election, that project has been abandoned. What will the

Deputy Prime Minister and Minister for Local Government do to look into this issue, nationwide, to make sure that taxpayers' money is not wasted in white elephant projects? An example is that of Ngoliba Market.

Mr. Mudavadi: Mr. Speaker, Sir, I would like to clarify that, that market is not part of the ESP. This is a different market. On the issue of the ESP markets, the Chair had ruled earlier that the Committee that deals with the ESP holds discussions with the Ministry so that we can give an update on all the projects. I think the relevant Committee is looking into this so that a comprehensive report comes to the House on all the ESP markets all over the country. This is because there have been several Questions on different markets and, rather than trying to repeat the same thing all the time, we want to give a report through the relevant Departmental Committee.

Mr. Chanzu: Thank you, Mr. Speaker, Sir. I think the question the previous Member asked is very relevant to this one. That is on the markets. Generally, the projects that fall under the Office of the Deputy Prime Minister and Ministry of Local Government, that is the markets and so on, tend to stall. The Deputy Prime Minister and Minister for Local Government also knows that there are markets in Chavakali and so on, which have stalled. Could he tell us whether this is because of underfunding or whether it is because of poor planning when these markets are built? This is because there are several markets which have stalled all over the country.

Mr. Mudavadi: Mr. Speaker, Sir, I would really like to seek the indulgence of the House that, since we are going to prepare a detailed report in conjunction with the Departmental Committee, I would rather that we answer this at that time. Indeed, there are many markets that which started in different parts of the country but completion is a major challenge. So, I would rather give a comprehensive response on this in the context of the report.

Mr. Nyamai: Mr. Speaker, Sir, when we first requested money for this market, we were told that we required a market of about Kshs100 million because Kabati is one of the fastest-growing towns in Kitui County. Actually, it has become a satellite town of Kitui Town. What plans do you have to give us the balance of the money which we had requested so that we have a sufficient market to be able to take care of the traders in Kabati?

Mr. Mudavadi: Mr. Speaker, Sir, they may have requested for much more, but what was available and what was allocated was Kshs67 million. I would like to request the hon. Member to appreciate that this is the starting point and that there are also similar demands in other parts of the country. However, the fact that this is fairly advanced is a good step in the right direction. However, there is room for expansion in this market in future.

Mr. Ruteere: On a point of order, Mr. Speaker, Sir. Is the Deputy Prime Minister and Minister for Local Government in order to tell us to wait for the report of the Committee when the markets have stalled?

Mr. Mudavadi: Mr. Speaker, Sir, I was just trying to be prudent in terms of giving the House information that can be meaningful, because I do not, for instance, have a list of all the individual markets throughout the Republic with me here. This is because I was focusing on the Question by Mr. Nyamai.

Mr. Speaker, Sir, I think it is fair because I have requested that since the Departmental Committee on Local Authorities is seized with this matter and we are preparing a joint report, it would be a neater way to present this matter to the House.

Mr. Speaker: Yes, the Member for Butula!

Question No.896

OVERPRICING OF HOUSES BY PROPERTY DEVELOPERS

Mr. Odhiambo asked the Minister for Housing:-

(a) whether he is aware that property developers are making over 200 per cent profit by pricing their houses without disclosing to the buyers the bill of quantities and profit margins allowed by the industry;

(b) whether he can confirm that the unscrupulous dealings are prevalent between developers, valuers and banks and how the Government plans to curb the trend; and,

(c) when the Government plans to table legislation requiring developers to disclose construction costs and profit margins in the House to tame the errant property pricing trends in the country.

The Minister for Housing (Mr. Shitanda): Mr. Speaker, Sir, I beg to reply.

(a) I am aware that property developers are making super normal profits by pricing their houses without disclosing to the buyers the cost of construction and the profit margins allowed by the industry. The housing market is operating in a liberalized economy where the market process of demand and supply dictates the terms of sale.

(b) I am not in a position to confirm that the unscrupulous dealings are prevalent between developers, valuers and banks. This is because the developers, as alluded in "a" above, normally set their prices based on the market forces of demand and supply while the valuers base their valuation on market comparables of sales of similar properties at those exorbitant prices. When the banks finance the purchase of such properties, they have to ensure that the collateral given is adequate to safeguard their interests.

(c) Our Ministry has finalized the preparation of the National Housing Bill which is soon to be tabled before Parliament for deliberation. I would urge the hon. Member and other hon. Members to support the passage of this Bill, which is aimed at streamlining the housing sector.

Thank you, Mr. Speaker, Sir.

Mr. Odhiambo: Mr. Speaker, Sir, I thank the Minister for the answer he has given, but in part "a" of my question, I was particularly referring to newly built houses. That is the ones that are newly built and the cost of building or bills of quantity should be provided to the buyer so that he or she is able to compare the cost of the building *vis-à-vis* the selling price. What has the Minister done to enforce that so that the bills of quantities can be given or exposed to the buyer in order for him to be able to argue out against those exorbitant prices?

Mr. Shitanda: Mr. Speaker, Sir, as I said, the prices of houses are normally dictated by forces of demand and supply and currently, we do not have any law that would compel a developer to disclose issues of cost to the buyers. Operating in a market

where we have an acute shortage of housing, it would be very difficult for the Government to compel developers to disclose all their costs to the buyers.

Mr. Chanzu: Mr. Speaker, Sir, one of the things that the Government could have done is full intervention. One of them would be for the Government to put up housing schemes at a cost at which they are able so that, that can determine the pricing. What has the Minister done to have that kind of scheme like what was there in the Government housing in Kimathi Estate or Otiende? That determined the price at which the unscrupulous people would price their houses.

Mr. Shitanda: Mr. Speaker, Sir, my Ministry, in collaboration with the Ministry of Finance, has developed a series of incentives which are aimed at encouraging developers to fairly price their houses. Additionally, the Government through my Ministry is doing infrastructure development in areas where housing is supposed to be done just as a way of supplementing the costs to the developers, so that when they are able to roll out the houses for sale and sell them at affordable prices.

We are, for instance, doing a sewer line in Mavoko. We are doing roads and water lines in some of the areas where housing will come up. We expect the developers in these areas to price their houses minus the cost of the infrastructure.

Mr. Mwangi: Mr. Speaker, Sir, the Minister has said that buying and selling of these houses will go to those who can afford. Could he tell us whether the Government has a policy to cater for the low income groups that are getting into their unplanned settlements in the urban areas, more so, in Nairobi? What measures have they put in place to cater for the low income earners?

Mr. Shitanda: Mr. Speaker, Sir, as I said, my Ministry, in collaboration with the Ministry of Finance, has developed a series of incentives which mainly target the low-income groups. For instance, any developer who is doing more than 20 units and he costs those units at not more than Kshs2.1 million is entitled to tax waivers on building materials. We are doing this as one way of trying to encourage developers to venture into the low income housing projects.

More importantly, the Government, through the Kenya Slum Upgrading Programme, is also undertaking some development of housing estates like the Phase I in Kibera where 600 housing units were done for the low income people living in Kibera slums. We are just about to embark on Phase II where we will do an additional 1,600 units for the slum dwellers of Kibera. We want to roll out this programme to other slums in Nairobi and other urban areas.

Mr. Odhiambo: Mr. Speaker, Sir, the Minister has said that we do not have any laws which can regulate the selling and buying of property in housing, but his Ministry has been selling some houses which have been built by the Ministry of Housing. I am sure when the Ministry sells houses; they have a guideline on which they base their sale price. I am sure this is in accordance with the building. So, why do you not also use the same guidelines to assist those who are also buying property from private developers?

Mr. Shitanda: Mr. Speaker, Sir, we cannot really force private developers to sell their houses at specified prices because they are operating in a liberalized market where demand and supply dictate the price at which you have to sell. But the programme---

Mr. M'Mithiaru: On a point of information, Mr. Speaker, Sir.

Mr. Speaker: If it is a point of information, then you have to abide by the Minister's willingness to take information. Mr. Minister, do you want information?

Mr. Shitanda: No, Mr. Speaker, Sir. As I was saying, the housing programme that the Ministry has been operating for civil servants is actually one of the incentives that have been developed by the Government as a way of retaining quality civil servants within the service. The terms on which these houses are being given out to the civil servants are totally different from what is happening in the open market. There is really nothing we can do about what the other developers are doing. We cannot compel them to sell their houses at set prices because of the liberalized market we are operating in.

Mr. M'Mithiaru: On a point of order, Mr. Speaker, Sir. Is the Minister in order to say that he cannot do anything about the private developers when already it is known that the National Housing Corporation (NHC) is a Government parastatal where the Minister has got the free hand to have them benchmark the prices for houses within towns?

Mr. Speaker: You have a substantive matter there, but you have not quite articulated it properly to fit in a point of order. All the same, I will permit that and try and urge you to re-familiarize yourself with the rules!

Proceed, Mr. Minister!

Mr. Shitanda: Mr. Speaker, Sir, the National Housing Corporation develops housing units which they sell to the open market. When we are selling these houses to the open market, we try as much as possible to sell them at prices that are fairly affordable, mainly through the tenant purchase programme where the buyers just have to raise 20 per cent and the rest of the money is a loan that is repaid over a period of 18 years. So, while the NHC strives to lead the pricing, there is a huge housing shortage in the whole Republic. We are not at a point where the NHC can be a lead in terms of setting the price.

Question No.946

LACK OF SEWERAGE SYSTEM AT MAKUTANO IN MERU

Mr. Ruteere asked the Minister for Water and Irrigation:-

(a) whether she is aware that due to lack of a sewerage system in Makutano area of Meru Town, raw sewage may find its way into the streams around Meru Technical Training Institute, Consolata Primary School, the hotels and other public utilities and that Ngaciuma River and its tributaries could be a risk to those who depend on it due to pollution;

(b) what she is doing to ensure that Makutano is connected to the sewerage system of Meru Town; and,

(c) when she will cater for the budgetary allocation for sewerage expansion in the financial year 2011/2012.

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

(a) Yes, I am aware that due to lack of a sewerage system in Makutano area of Meru Town, raw sewer may find its way to the streams around Meru Technical Training Institute, Consolata Primary School, hotels and other public utilities and that Ngaciuma River and its tributaries could be a risk to those who depend on it due to pollution.

(b) My Ministry, through the Tana Water Services Board, has procured two exhausters to be used in Meru Town, Makutano area, to exhaust septic tanks in Makutano

area as we await expansion of the sewerage system in Meru Town that will cover Makutano area.

(c) The Government is consulting with development partners for funding and implementation of the improved sewerage system in Meru Town. A feasibility study has been undertaken and is being updated to produce a bankable document on the basis of which negotiations within this financial year can be finalized.

Mr. Ruteere: Mr. Speaker, Sir, this is a very serious matter. You will realize that the Minister has accepted that the people who depend on Ngaciuma River and its tributaries are at risk because of the raw sewer that goes into the river. Makutano area has a population of over 20,000 people. Meru Town is one of the fastest growing towns in Kenya. The Minister is not serious about providing Makutano with a sewerage system. There was a design and we were promised that money would be provided in the Budget. How come nothing has been provided in this financial year's Budget for that particular township?

Mrs. Ngilu: Mr. Speaker, Sir, first and foremost, I want to inform the Member that I am very serious. He knows that we already have a design. I have kept him informed on everything that we have been doing. We have been talking to our development partners and we are still talking to them. We are hoping that we can get a favourable response by October this year. At the time the study was done in 2005, the cost was close to Kshs700 million. We expect that it is going to cost a little more because of the time that we have lost. We are aware that this is happening and that is why we provided two exhausters, so that every now and then, the sewerage is removed. Otherwise, we are very serious.

Mr. Mwaita: Mr. Speaker, Sir, could the Minister confirm that projects undertaken by the Ministry are accompanied by the sewerage component? Any project being developed by the Ministry is accompanied by a sewerage component!

Mrs. Ngilu: Mr. Speaker, Sir, that is the right thing to do, but sometimes, we do not have adequate resources to carry out both the sewer and water services in towns. But I understand and appreciate the importance of sanitation in every town. Sometimes we do water projects and treatment and after that, we ensure that we also provide resources for the sewerage. Otherwise, that is the right thing to do.

Dr. Khalwale: Mr. Speaker, Sir, only yesterday, a similar Question was asked to the Deputy Prime Minister and Minister for Local Government about Kerugoya Town. I remember the Deputy Prime Minister telling us that he is at an advanced stage of addressing not only the problem in Kerugoya, but in the rest of the country. Could the Minister confirm that, indeed, there are consultations which are taking place between the two Ministries so that we can get satisfied that yesterday, the Deputy Prime Minister and Minister for Local Government was not subjecting us to sweet talk?

Mrs. Ngilu: Mr. Speaker, Sir, I am aware that sewerage and sanitation coverage in the country does not cover more than 40 per cent of the urban areas. Therefore, this has to be done through all the Ministries, for example, the Office of Deputy Prime Minister and Ministry of Local Government, the Ministry of Public Health and Sanitation, the Ministry of Water and Irrigation and all the others including the towns. We are going to integrate all the work that we are doing because the source of the funds is the same, namely, the Treasury. This is something that can be done.

Mr. Ruteere: Mr. Speaker, Sir, could the Minister tell the House when she thinks the sewerage system in Makutano will be in place?

Mrs. Ngilu: Mr. Speaker, Sir, we have been talking to two donors. One of them has already said that they will not be able to fund the project, but we are still talking to the other one. We expect that in October this year, they will tell us specifically whether they are going to fund this project or not. If they fail to do that, then we will have to put pressure on the Treasury to allocate money for the sewer system in Makutano. Honestly, Makutano is really growing very fast, even maybe much faster than Meru Town. Therefore, this is a serious issue the Member is raising.

Question No.950

PAYMENT OF GRATUITY TO FAMILY
OF LATE TITUS KIEKE KISINA

Mr. Kiilu asked the Minister for Environment and Mineral Resources:-

(a) whether he is aware that the next-of-kin to Titus Kieke Kisina (P/No.1982069349), who died on 25th April, 2009, have not been paid his service gratuity and, if so, what the reasons are; and,

(b) when the payment will be made.

The Vice-President and Minister for Home Affairs (Mr. Musyoka): Mr. Speaker, Sir, I wish to seek the indulgence of the House and to report that hon. Michuki would have wanted to answer this Question. He is indisposed and his Assistant Ministers are out of town. He requested the Office of the Leader of Government Business to communicate this matter, through you, that this Question be deferred to next week and, indeed, any other Question that relates to the Ministry of Environment and Mineral Resources.

Mr. Speaker: Very well! I confirm that that is so and, in fact, I am already on notice that, that is the situation. Member for Makueni, do you want to accommodate the Minister so that we defer this Question to Wednesday next week?

Mr. Kiilu: Yes, Mr. Speaker, Sir.

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

(Question deferred)

Question No.978

DELAYED COMPLETION OF NEW MITIHANI HOUSE

Mr. Koech asked the Minister for Public Works:-

(a) why the construction of the New Mitihani House, which started 25 years ago, has not been completed; and,

(b) when the project will be completed.

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

(a) The construction of the New Mitihani House has not been completed for the following reasons:-

(1) The project commenced on 3rd March, 1987, but stalled on 28th July, 1989 owing to inadequate budgetary allocation from the Ministry of Finance to the Ministry of Education, which is the funding Ministry. The Ministry of Public Works was involved in providing technical support and supervision of project works.

(2) The project was then placed under the stock of stalled projects in 2003 and is being implemented in phases as follows:-

(i) Phase I, which is a printing factory, commenced on 7th February, 2005, and was completed and handed over on 17th May, 2006, at a cost of Kshs112 million.

(ii) Phase II, which consists of additional works on the printing factory, commenced on 29th May, 2006. It was completed and handed over on 8th February, 2007, at a cost of Kshs16 million.

(iii) Phase III consists of completion works to the basement and ground floor. The construction commenced on 29th November, 2006. This contractual arrangement was mutually wound up at 97 per cent completion on 30th September, 2007, at a cost of Kshs378 million due to challenges attributed to sharing the construction site with the next phase contractor.

(iv) The final phase comprises first to sixth floors of the office block which commenced on 21st October, 2008. It was, initially, programmed for completion on 21st April, 2011, but was extended to 31st December, 2011. It is expected to cost Kshs934 million.

(v) The final phase comprises finishes and fittings to the basement and ground floors at an estimate cost of Kshs320 million. This is the final phase of the project whose construction is projected to commence in December, 2011, and be completed by December, 2012.

(b) The project is scheduled for completion by December, 2012, and it is my hope that funds will be availed by the Treasury on the basis which it is projected.

Mr. Koech: Mr. Speaker, Sir, I want to thank the Minister for being candid and open, especially on the fact that this project was started 25 years ago and is yet to be completed. There are no clear indications as to when it will be completed. The Minister said that the project has a committee, and that there was serious undertaking by the Ministry that this project would be completed in December, 2011. However, he is now pushing the completion date to 2012. He has indicated that the sixth floor would be completed by 1st December, 2011, which means within this year. Could he confirm this by telling us how much money has been set aside for the project in the current Budget, so that we can confirm that he is telling us the truth?

Mr. Speaker: Minister, proceed to answer. Restrict yourself to the Question.

Mr. Obure: Mr. Speaker, Sir, the current contract for completion of the sixth floor is scheduled to end in December, 2011. As you know, this is part of the Stalled Projects Programme. We have not been able to get all the funding that we required. At the moment, we are negotiating with the Treasury and the Ministry of Education to ensure that we get the funding necessary to complete this project at the scheduled time.

Mr. Chepkitony: Mr. Speaker, Sir, I would like the Minister to tell this House how much money is required to complete this part of the building and the total amount

of money that will be required up to when the whole building will be completed? What will be the total cost? How much is required to complete it?

Mr. Obure: Mr. Speaker, Sir, the total amount required to complete this project is Kshs934,299,450. Out of this amount, the Ministry of Public Works will contribute a sum of Kshs650 million, leaving a balance of Kshs491,796,499. This is the amount in respect of which we are negotiating with the Ministry of Education and the Treasury to provide, so that we can complete this particular project.

Mr. Speaker: Yes, Member for Mathioya!

Mr. Wambugu: Mr. Speaker, Sir, most of our contractors are being forced to close shop because of the Government's failure to pay for contracts which have been awarded to them. How much money does the Government owe the contractor who is on site, and when does he expect to pay the whole amount?

Mr. Obure: Mr. Speaker, Sir, we owe this particular contractor a sum of Kshs124 million. We expect to pay this money in the course of the next one month or so.

Mr. Mwathi: Mr. Speaker, Sir, it looks like 25 years are going to be over and we are not going to have this building because the Minister says that completion will be next year. That is just anticipation. I want the Minister to tell us what the initial cost of this project was supposed to be and how much it is ultimately going to cost when it is completed?

Mr. Obure: Mr. Speaker, Sir, I am not able to provide the figures right away. What I have are the costings of the various phases by the Ministry of Public Works after it took over this particular project in 2003.

Mr. Mwathi: On a point of order, Mr. Speaker, Sir. Am I in order to request that the Minister answers my question because we want Kenyans to know whether they are getting value for money?

Mr. Minister, this project commenced in your Ministry. It was undertaken and supervised by your Ministry. It will be completed by officers from your Ministry. I used to work in that Ministry and I know that is information you can get any time you want it. The information is required, so that we can see whether we are getting value for money. Am I in order to request that he gives us those figures?

Mr. Speaker: Order! The Minister has, in fact, answered the question although the answer is not satisfactory. Is there anybody who is interested?

Dr. Laboso: Mr. Speaker, Sir, mine is really to confirm from the Minister whether the Government is really serious about the importance of this building. The role that examinations will play in the future of Kenyans will actually be determined by the seriousness with which this project is taken. That building has been pending for a very long time. So, I want the Minister to confirm that this is not one of the many white elephant projects dotting this country despite the fact that examinations, which are so crucial to the youth of this country, are kept in safe custody and conducted under one roof.

Mr. Obure: Mr. Speaker, Sir, indeed, the Government is very serious about completing this particular project. The Government appreciates the critical role played by the Kenya National Examinations Council (KNEC). The Government, indeed, believes in the integrity of our examination system and processes. Therefore, we have a firm commitment to ensure that this project is completed.

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

Mr. Speaker: Order! Order! Minister, please, proceed and finish.

Mr. Obure: Mr. Speaker, Sir, you will see that quite a number of phases of this project have already been completed and handed over. Even the major one, which comprises an office block and the rest of it, will be delivered at the end of this month. The bit that will be done in the year 2012 is a small portion, part of which is complete. So, I want to assure this House that this project will be completed and handed over, so that our examinations can be produced and supervised in a conducive environment.

Mr. Speaker: Hon. Members, in view of the supplementary question by the Member for Limuru, in respect of which I have indicated that even in my own assessment has not been satisfactorily answered, on my Motion, I will defer this Question to two weeks away, so that the Minister can come and answer the supplementary question by the Member for Limuru. Indeed, the House and the country are entitled to know what the initial cost of this project was 25 years ago, and what it will ultimately cost at the end of the day. That is important information, Minister. As a matter of fact, as you prepared to answer this Question, it was information which you should have anticipated you would have supplementary questions on. So, you will have to come and give that answer.

(Applause)

Mr. Obure: I am obliged, Mr. Speaker, Sir.

Mr. Speaker: Very well!

(Question deferred)

Mr. Speaker: Next Question, Member for Ainamoi!

Question No.983

EQUIPMENT/STAFF AVAILABLE FOR EMERGENCY RESPONSE

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

(a) whether she could provide details of equipment readily available for emergency responses to cases of serious fire and water disasters in the country;

(b) what capacity, in terms of staff, the Ministry has in cases of serious emergencies in the country, and how they are coordinated; and,

(c) how much funds the Ministry has for emergency responses.

Mr. Speaker: Hon. Member for Ainamoi, I have communication from the Minister that she discussed this matter with you and you were agreeable to it being deferred to next week because she is not available.

Mr. Langat: Mr. Speaker, Sir, I confirm that I discussed the matter with the Minister and we agreed to push this Question to Wednesday next week.

Mr. Speaker: It is so directed.

(Question deferred)

PRIME MINISTER'S TIME

Question No.QPM/015

CHALLENGES FACING CIC

Mr. Musyimi asked the Prime Minister whether he could address the House on the problems facing the Commission on the Implementation of the Constitution (CIC) specifically with regard to failure by the Executive arm of the Government to recruit staff for CIC, failure to pay CIC commissioners' salaries for seven months and lack of accountability by Government for funds allocated to CIC in the 2010/2011 financial year.

The Prime Minister (Mr. Raila): Mr. Speaker, Sir, I beg to reply.

On the first question on the failure of the Executive arm of the Government to recruit staff for the CIC, according to Section 18 of the Commission for the Implementation of the Constitution Act (No.9 of 2010), hiring staff is a matter entirely at the discretion of the Commission. The Executive arm of the Government does not and cannot recruit staff for the CIC. The Executive may only second staff to the CIC on request as provided for in Section 15(3) of the Act.

In line with its mandate and following a request from the Ministry of Justice, National Cohesion and Constitutional Affairs, the Ministry of State for Public Service carried out a study covering organization structure, staffing levels, salary structure, terms and conditions of service and job descriptions and specifications for the CIC secretariat. These are the basic requirements for operationalizing a new institution. The study came with a tentative staffing requirement of 117. However, the report is still in draft form awaiting finalization to enable the CIC to act conclusively on its recommendations.

Mr. Speaker, Sir, I would like to confirm to hon. Members that as at now, the CIC has a staff complement of 77 officers. Forty five of these staff are on secondment from the Government while 32 officers have been recruited by the Commission. In addition, through the support of the Ministry of Justice, National Cohesion and Constitutional Affairs, UNDP has assisted in the recruitment of a media and communications advisor. I hereby table the list of staff on secondment to the CIC from the Government and those directly recruited by the CIC.

(Mr. Raila laid the document on the Table)

Mr. Speaker, Sir, in this regard, the allegation that the Executive arm of the Government has failed to hire staff for the Commission is not true.

(b) I now want to address this question of lack of accountability for funds allocated to the CIC in the Financial Year 2010/2011. As hon. Members are aware, no funds had been allocated to the CIC in the financial year 2010/2011. This is because the Commission was only constituted in December 2010 long after the Budget Estimates for the 2010/2011 financial year had been approved. However, during the same Financial Year, the Government allocated Kshs262 million to the CIC under Vote 017 of the Ministry of Justice, National Cohesion and Constitutional Affairs for preparations including staff salaries.

Mr. Speaker, Sir, I would like to assure hon. Members that there has been neither budgetary nor audit queries from the Controller and Auditor-General to the Public Accounts Committee (PAC) in relation to the concerned Ministry's expenditure during that financial year. The CIC's recurrent and operational expenditure has always been incurred at the request of the Commission itself. In addition, the Commission is involved in all stages of procurement of goods and services for the Commission.

Consequently, in view of the foregoing, the allegation that there has been lack of accountability by the Government for funds allocated to the CIC in the financial year 2010/2011 is not true.

(c) Mr. Speaker, Sir, on the allegation that the Government has failed to pay CIC commissioners' salaries for seven months, I would like to respond as follows:

The CIC was established through the Commission for the Implementation of the Constitution Act (2010). Subsequently, the commissioners were sworn into office on January 4th this year. The CIC Act (2010) adequately provides for the determination of salaries and remuneration for the commissioners of the CIC. Article 18(1) of the Act reads as follows:-

"The salaries and allowances payable to and other terms and conditions of service of the chairperson and members shall, pending the establishment of the Salaries and Remuneration Commission, be determined by the Public Service Commission (PSC) in consultation with the Treasury"

In this regard, since the Salaries and Remuneration Commission has not been established yet, the CIC Act provides that the PSC in consultation with the Treasury determines the salaries and allowances payable to the CIC commissioners.

Mr. Speaker, Sir, in May this year, my attention was drawn to concerns by the CIC commissioners over the delayed payment of their salaries. I directed that pursuant to the Act, consultations between the relevant Government agencies commence so that the matter could be resolved expeditiously. Subsequently, on May 16th and 20th this year, the PSC in accordance with the CIC Act held consultations with the Treasury where remuneration and terms for the commissioners of the CIC were agreed on. The PSC subsequently communicated the approved terms and conditions via the correspondence to the CIC on 25th of May 2011. These terms were then accepted by the CIC.

Mr. Speaker, Sir, the Government has a responsibility and is, indeed, obligated to ensure that terms offered to the CIC Commissioners are within the Government's pay policy framework and are affordable and sustainable concerning the implication of the remuneration of the many constitutional commissions and independent offices arising from the Constitution of Kenya 2010. However, in view of the foregoing, the Government agencies legally mandated to determine the salaries and allowances for the CIC commissioners have discharged their legal mandate and the Government is bound to abide by the clear provisions of the law.

Mr. Speaker, Sir, it is true that genuine concerns have been raised with specific regard to the time taken for consultations to determine the salaries and remuneration of the CIC Commissioners. I want to inform hon. Members that the salaries have been approved. As I have indicated here, the Ministry of Finance has been directed to prepare and sign on behalf of the Government service contracts to the Chairperson and Members of CIC. Accordingly, I do hereby table the relevant correspondence.

Thank you.

(Mr. Raila laid the document on the Table)

Mr. Musyimi: Mr. Speaker, Sir, I wish to thank the Prime Minister for the answer to the Question. However, I would wish to draw your attention to the spat that we all witnessed between the CIC and Office of the Head of Public Service. The view of most Kenyans watching on television and listening to radio disagreements regarding the remuneration and package in broad daylight left us so rather concerned. We must also appreciate that there is sufficient disquiet regarding the process of the implementation of the Constitution. Given that reality, it would be important to get sufficient comfort that enough steps have been taken. That is because we find it very difficult to understand what the disagreement is all about if the Public Service Commission has already communicated its position before, of course, the Salaries and Remuneration Commission is put in place. That package has been agreed upon by CIC.

Mr. Speaker, Sir, when will the Salaries and Remuneration Commission be put in place? We also, of course, are concerned---

Mr. Speaker: Order! Order! This is Question Time. Ask one Question! Could you answer the question, Right Honourable Prime Minister?

The Prime Minister (Mr. Raila): Mr. Speaker, Sir, the hon. Member is talking about the disquiet, correspondence and disagreement between the CIC and the Head of Public Service. I have already stated in my response the genuine concerns of the Government about levels of remuneration. That is because the money that is being paid by the Government in form of salaries is public money. We are concerned because, as you know, the new Constitution has created so many other commissions. We did not want to create precedence, where other commissions are going to come and say: "We want to be paid as commission A, B, C and D." So, I recognize that this is a very unique and special commission, but we have a situation where the Commissioners are earning more than Members of Parliament, Cabinet Ministers and the Prime Minister. We want it to be very clear that this is a one-time deal that refers only specifically to this particular commission. It cannot be used as precedence by all the other commissions established under the Constitution to demand to be remunerated along this line. Those were the concerns of the Government and I am sure that hon. Members will agree with me that they are very genuine.

Mr. Speaker, Sir, the letter has already been written by the Chairman of the Public Service Commission to the Treasury. I have already stated that we have given instructions that the Treasury moves forward and implements the contents of the letter from the Public Service Commission.

Dr. Nuh: Mr. Speaker, Sir, the Prime Minister, when answering the Question had referred to the statement by CIC Commissioners, of not being paid for many months, as allegations. But he has already confirmed that they are not allegations but the truth. So, I would request that he withdraws the word "allegation" and substitutes it with "reality."

Mr. Speaker, Sir, given that those in Treasury and the Public Service Commission were supposed to harmonise salaries across the board and they did not factor in that fact, what action is the Prime Minister going to take against them? They seemed to be out of tune with what the Commissioners were supposed to be paid and this has now resulted in those back and forth fights.

The Prime Minister (Mr. Raila): Mr. Speaker, Sir, I did not understand what I was supposed to withdraw or why.

Mr. Speaker: Answer the Question, Mr. Prime Minister! It is Question Time and you have been asked a question. Just concentrate on the question.

(Applause)

The Prime Minister (Mr. Raila): Mr. Speaker, Sir, the hon. Member wants to know what action the Government is going to take. There is very limited scope of action on behalf of the Government on this matter. Why is that so? It is because there is an Act of Parliament; the CIC Act of 2010, which states very clearly that until the Salaries and Remuneration Commission is established, the salaries and terms and conditions of employment of those Commissioners shall be determined by the Public Service Commission, in consultation with the Ministry of Finance and Treasury. That is what the Act says. As the Government, we are bound to fully respect the provisions of the Acts which are passed by this Parliament. So, I would refer that matter to the House. What action will the House take against those officers who completely implemented the provisions of the Act which was passed by this Parliament? The hands of the Government are completely tied and that is why we tried---

Dr. Nuh: On a point of order, Mr. Speaker, Sir. I do not know whether the Prime Minister understood my question. I do not doubt the legality of---

Mr. Speaker: Order! Order! Member for Bura, you remember I gave directions yesterday. So, on that point of order, if the Prime Minister has not answered your question, then draw his attention to that fact, so that he can answer your question. But note that he has not completed his answer. So, maybe, you should be a little more patient until he concludes the answer to your question.

The Prime Minister (Mr. Raila): Mr. Speaker, Sir, all I have said is that the Public Service Commission and Treasury were the institutions entrusted by Parliament to determine the salaries and allowances of the Commissioners. Using those powers they have determined them. So, there is very little scope for the Executive to interfere with powers which have been clearly spelt out in the Act of Parliament.

Dr. Nuh: On a point of order, Mr. Speaker, Sir. I was asking that because Treasury and Public Service Commission ignored the salary scales which already exist as per the Government--- I did not ask why they set the salaries. They have the powers but because they ignored the reality that there is a salary scale within which commissions are supposed to be paid, the amount that has been recommended for CIC has superseded the amounts that are paid to commissioners across the country. That is what has resulted in the fight between the CIC and the Government. What action is he going to take against the officers who ignored the realities of the salary scales that have been set by the Government?

Mr. Speaker: Hon. Prime Minister, I am prepared to grant you a little more time. We could, if you say so, even defer this question.

The Prime Minister (Mr. Raila): Mr. Speaker, Sir, those officers who approved those salaries, in fact, gave reasons why they did so. They said that this particular Commission is a special one whose life ends after five years. Its mandate, according to the Constitution, is among other things to supervise other commissions. It also carries out

an oversight function over Parliament, the Executive and the Judiciary. Because of these added responsibilities conferred upon this Commission, they saw it in their wisdom that it was necessary to remunerate it especially outside the guidelines which have been set by the Government.

Mr. Speaker, Sir, using the arguments that they have used, it seems it is fairly persuasive. That is why the Government is not inclined to take any other disciplinary action against those officers.

Mr. Olago: Mr. Speaker, Sir, the question posed by Mr. Mutava Musyimi is quite fundamental and raises very serious issues. The House must commend the Right Honourable Prime Minister for giving a full answer to this question. However, the issue that come to play, now that he has explained the background is that the service contract should have been given to the Commissioners to sign before they were sworn in. As it is, the service contract was formulated after they were sworn in hence the trouble we are in now. Under the circumstances, what action has the Government taken to ensure that all future commissioners will have their service contracts determined and signed before they are sworn in? That is one. What is---

Mr. Speaker: Order, the Member for Kisumu Town West! Our rules allow you to ask one supplementary question at a time.

The Prime Minister (Mr. Raila): Mr. Speaker, Sir, of course, experience is the best teacher. According to the panel that carried out interviews on these Commissioners, we were told that every Commissioner when asked about the kind of salaries they expected said that they were offering themselves in the service of the country. They said that they would accept whatever remuneration they would be given by Government. They were told that it would be Kshs250,000 and all of them answered in the affirmative that they would accept it. However, while in office, the situation has changed.

So, we have learnt the hard way and instructions are that when people are being recruited they should be made to sign there and then that they will accept this level of salaries so that it is not left to negotiations in the future.

Mr. Njuguna: Mr. Speaker, Sir, from the response given by the Prime Minister, it is clear that these Commissioners have been heard saying that they will not be performing full time and they are demoralized. What has the Government done about this stigma or demoralization so that these Commissioners perform their delegated responsibilities?

The Prime Minister (Mr. Raila): Mr. Speaker, Sir, that was, of course, when the negotiations were being carried out. The Commissioners issued threats that if they were not remunerated to the level they expected they would be forced to carry out some other jobs outside what is expected of them in order to complement or supplement their incomes. Now that the matter has been resolved and the Government has agreed to pay what the Commissioners were demanding, of course, the Government has a right to demand value for money that is being paid, the Government expects these Commissioners to work full time and to deliver on time.

Mr. Ochieng: Mr. Speaker, Sir, the work of this Commission was to implement the law. When did they arrogate themselves powers to interpret the law instead of doing what this House assigned them to do?

The Prime Minister (Mr. Raila): Mr. Speaker, Sir, the Commission is supposed to oversee the implementation of the law itself. That is really what the Act says. That is also what was said in the Constitution. So, I do not see that what they are doing is

contrary to their mandate. They are very much within their mandate in doing what they are doing right now.

Mr. Olago: On a point of order, Mr. Speaker, Sir. In view of the answer by the Right Honourable Prime Minister, is it in order for the Chairman of this Commission to behave as if he is the Third Principal in this country?

(Laughter)

The Prime Minister (Mr. Raila): Mr. Speaker, Sir, I do not know what behaviour about the principal implies. I do not know that the Chairman of this Commission has behaved as if he is one of the principals. What the Public Service Commission has said in its letter, and we have disagreed with him is that the Commission was supervising the Executive, Parliament and the Judiciary. What I said is that their work is basically to ensure that the Constitution is implemented and that each arm of the Government does its work. I do not know whether that amounts to supervision, but I know that the Constitution gives them power to ensure that all arms of the Government co-operate in order to see to it that the Constitution is implemented in accordance with the time.

Mr. Baiya: Mr. Speaker, Sir, is the Prime Minister satisfied with the explanation given by the Public Service Commission regarding the salaries of this Commission? If, indeed, he is could he tell us if an officer is arrogated power by the law to implement a particular decision, would the Government consider that power as having been duly exercised if the result is one which the Government cannot support? For instance, supposing the Commission had been awarded a salary of Kshs1 billion, would the Government say that because it is the Public Service Commission and whoever else was allowed to award that salary, it is powerless? Could the Government go ahead and implement it?

The Prime Minister (Mr. Raila): Mr. Speaker, Sir, Commission's mandate goes thus:

“The mandate of the Commission requires it to oversee all institutions, including the Executive, the Judiciary and Parliament on all aspects of the implementation process. The executive mandate of the Commission for the Implementation of the Commission (CIC) requires unusual and intense input of time and energy by the commissioners. The mandate of the Commission involves responsibility of a high sensitive nature, with wide ranging political and social ramifications; it includes making decisions which have impact on the entire social and political fabric of the Republic”.

Mr. Speaker, Sir, having quoted all that, they go on to say that: “This therefore, requires special type of remuneration”. The hon. Member asked whether I agree. Of course, if there was complete agreement, there would not have been these other negotiations that have been taking place. We felt that this remuneration was on the higher side, and it could be scaled down. But the other parties were very adamant that this level of remuneration was adequate. Nevertheless, we have decided that we must respect the law to the letter as passed by this Parliament. Therefore, we will not engage anymore in bargaining or in further wrangling. We will pay the money the way it is because as in *The Merchant of Venice*, they have demanded a pound of flesh. All that we are saying is that let there be no blood spilled in the process of taking the pound of flesh.

Dr. Khalwale: Mr. Speaker, Sir, under the new Constitution, issues of integrity have become very important. In view of the altercation between the Head of the Public Service and the CIC, could the Prime Minister table the resolutions of those consultations, so that this Parliament can find out, or be informed, who between the two is saying the truth and who is not telling the truth, so that this Parliament can have the opportunity to now make up its mind whether to side with Mr. Muthaura or Mr. Nyachae, depending on who is telling the truth?

The Prime Minister (Mr. Raila): Mr. Speaker, Sir, I think Parliament has got a very specific mandate. The question was why there has been a delay. I have said that we have agreed to pay; I have also tabled the copies of correspondence between various arms of the Government on this matter; we have been very transparent, indeed. I do not see what other role Parliament can play in this matter. The issue was to have these Commissioners paid and they are going to be paid. So, I do not see any further role that this Parliament wants to play; its role is very clear, it is oversight.

Mr. Musyimi: Mr. Speaker, Sir, this escaped my attention. Please indulge me. Could the Prime Minister kindly tell us when we should expect the Salaries and Remuneration Commission to be in place? Is it possible to anticipate some kind of timelines in this respect?

Mr. Speaker: Mr. Musyimi, are you sure that is the way you want to go since that is a different Question?

Mr. Musyimi: Mr. Speaker, Sir, I am not sure it is totally different because we are talking about salaries of a commission. I think the Prime Minister has told us that in the absence of this commission, the institution that the Government uses is the Public Service Commission. There are many commissions that are coming into existence.

The Prime Minister (Mr. Raila): Mr. Speaker, Sir, since the hon. Member has come to this House to participate in debate today, I want to refer him to today's Order Paper, the Salaries and Remuneration Commission Bill, Bill No.8 of 2011; Order No.14 is coming. What else does the hon. Member want me to say?

Mr. Speaker: Very well. That brings us to the end of Question Time. Prime Minister, please note that all the documents you have tabled are admissible except one, a letter dated 26th May, 2011, purported to be from the Chairman of the Public Service Commission. It is not signed and since you are talking from a high level in the Executive, you ought to have accessed a signed copy. The rest is admitted.

Rt. Hon. Prime Minister, please note that we are actually out of the Prime Minister's time by 15 minutes. We allowed a little more time on this matter pertaining to the CIC, because of its significance and importance. We would like you to make your assessment; if this matter on drought and refugees is not very urgent we can defer it to next week. But if you are of the view that it is extremely urgent, then we will let you make the statement but we will not allow requests for clarification until next week, because we did undertake yesterday, as a House, to try and avail as much time as possible to business pertaining to Bills to implement the Constitution. Let me hear your assessment.

The Prime Minister (Mr. Raila): Mr. Speaker, Sir, I am much obliged. I know that the issue of the implementation of the Constitution is the first priority in this country. However, the issues of drought, famine and refugees are also equally urgent. However, I

can wait and make the statement next week, if that will allow the House time to deal with more urgent Bills.

Mr. Speaker: Very well. It is so directed.

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

Mr. Speaker: It is so directed, Dr. Khalwale! Let us live within the Standing Orders. Once I give directions we do not revisit a matter.
Next Order!

POINTS OF ORDER

JUSTIFICATION FOR ANNUAL HEAD TEACHERS CONFERENCES

Eng. Gumbo: Mr. Speaker, Sir, I wish to request a Ministerial Statement from the Minister for Education on the value and need for the annual head teachers conferences. In the statement, the Minister should clarify the following: the purpose of the annual head teachers conferences for both primary and secondary schools; why these conferences are always held in the middle of school terms instead of during school holidays; the average cost of the annual conferences broken down from district, provincial down to national, and who funds these conferences; who regulates the amount to be paid to head teachers as daily allowances; to what extent the resolutions of these conferences have informed formulation of policies in the education sector; finally, are there no other less costly and constructive ways that head teachers can use to address their concerns and those of the education sector in general?

Mr. Speaker: Is the Minister for Education not here? Deputy Prime Minister and Minister for Local Government, when will this Ministerial Statement be available?

The Deputy Prime Minister and Minister for Local Government (Mr. Mudavadi): Mr. Speaker, Sir, the Statement can be available on Tuesday, 26th July, 2011.

Mr. Speaker: It is so directed! Make sure that the Minister for Education is aware.

The Deputy Prime Minister and Minister for Local Government (Mr. Mudavadi): Thank you, Mr. Speaker, Sir.

ACUTE SHORTAGE OF FOOD IN PUBLIC SCHOOLS

Eng. Gumbo: Mr. Speaker, Sir, I wish to request for a Ministerial Statement from the Minister for Education on the dire food situation in most public schools in Kenya. In the Statement, the Minister is to clarify the following: what precipitated the national food crisis in most of Kenya's public schools; how the food served in most of our public schools is procured; what the Government is doing to immediately arrest the biting and dire food situation in most of our schools, especially now that Form Four students and Standard Eight pupils are facing their mock examinations; what contingency plans are available to immediately arrest and avoid recurrence of such situations in future; what the Government is doing to capacitate most of our public schools which sit on vast acres of land to be able to meet their basic food needs and what steps are being taken by the Ministry to stop over-reliance on maize as the main source of food in most of our schools

Thank you, Mr. Speaker, Sir.

The Deputy Prime Minister and Minister for Local Government (Mr. Mudavadi): Mr. Speaker, Sir, I request that this Statement be made on Wednesday, next week.

Mr. Speaker: Very well. It is so directed! Prof. Sambili, we would like you to get on to your feet a little faster next time!

That brings us to the end of that Order!

PROCEDURAL MOTION

REDUCTION OF PUBLICATION PERIOD OF CONSTITUTIONAL IMPLEMENTATION BILLS

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. M. Kilonzo): Mr. Speaker, Sir, I beg to move, on behalf of the Leader of Government Business, the following Procedural Motion:-

THAT, pursuant to the provisions of Standing Order No.107; this House orders that the publication period of The Political Parties Bill (Bill No.20 of 2011), The Commission on Administrative Justice Bill (Bill No.21 of 2011), The Kenya National Human Rights Commission Bill (Bill No.22 of 2011) and The National Gender and Equality Commission Bill (Bill No.23 of 2011) be reduced from 14 to 5 days.

Mr. Speaker, Sir, these are fundamental constitutional implementation Bills and they have received an enormous amount of public participation---

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

Mr. Speaker: What is it, Dr. Eseli?

Dr. Eseli: Mr. Speaker, Sir, I rise on Standing Order No.47(3)(b). Section 59 (1) of the Constitution says:-

“There is established the Kenya National Human Rights and Equality Commission.”

Section 59 (4) says:-

“Parliament shall enact legislation to give full effect to this Part, and any such legislation may restructure the Commission into two or more separate commissions.”

Mr. Speaker, Sir, the Procedural Motion that the Minister is moving is trying to imply that we should, therefore, go to the First Reading for Orders No.10, 11 and 12. This, therefore, means that the Minister has usurped the role of Parliament, whereby Parliament is the one that is supposed to either restructure into two or three commissions and not the other way round. That is the Minister to restructure and come to Parliament. Otherwise, what the Minister should have done was to bring a Motion to seek leave of Parliament to be able to restructure the commissions into three.

As we have been speaking just now, the cost of commissions is very high. So, we do not want very many of them and the Constitution is very clear. It says:-

“There is established the Kenya National Human Rights and Equality Commission.”

The Minister has not yet established that but he is already asking us to restructure.

Mr. Speaker, Sir, I beg your indulgence to rule whether what the Minister is doing is constitutional or not before we proceed with the matter. Otherwise, I have no objection

with the Political Parties Bill. However, the rest of the Bills appear to me to be against the Constitution.

(Several hon. Members stood up in their places)

Mr. Speaker: Order! Order! Let me hear the Minister first! I do not think this is a matter that we---

Dr. Khalwale: It is on the same matter, Mr. Speaker, Sir.

Mr. Olago: It is in relation to the same matter, Mr. Speaker, Sir.

Mr. Speaker: Order! Order! I do not think it should occupy us for too long. Anyway, Mr. Minister, hold your horses! Let me hear the Member for Ikolomani and then the Member for Kisumu Town West!

Dr. Khalwale: Mr. Speaker, Sir, as you make that consideration, allow me to draw you to Article 248 of the Constitution of Kenya. Sub-section 2 of this Article tells us clearly the commissions that are provided for under this Constitution. It is only these commissions for which legislation can be brought before this House.

Mr. Speaker, Sir, since Commission No.2 (a), the Kenya National Human Rights and Equality Commission is the one that encompasses the three commissions for which the Minister wants to bring legislation, it is important that in your ruling, you ask yourself whether this Minister has the power to create a commission outside the commissions that have been provided for in Section 248.

Mr. Speaker, Sir, as you make that consideration, I want to refer you further to Article 261 part 1, the First Schedule. This Schedule clearly tells this House the timeframes through which these commissions should be implemented. This is the case and yet, the commissions that the Minister talks about are nowhere in this Schedule. You will find that, again, we are expected before 27th August to talk about the Kenya National Human Rights and Equality Commission.

Finally, may I also draw the Chair's attention to Article 249(3) which reads:-

“Parliament shall allocate adequate funds to enable each commission and independent office to perform its functions and the budget of each commission and independent office shall be a separate vote.”

Mr. Speaker, Sir, if the Minister, either through consulting the two principals or through a decision of Cabinet has decided to avoid Parliament, when it will come to the time of allocating funds, will he also avoid Parliament and go to the two principals or the Cabinet? This is because we are the only ones who, under the Constitution, can discharge Article 249(3).

For this reason, Mr. Speaker, Sir, I beg that you find that this Motion is unconstitutional. The Minister should bring the proper Motion and in the wisdom of this House, we can then go ahead and restructure, within that Motion, so as to provide for what he wants to achieve.

Thank you, Mr. Speaker, Sir.

Mr. Olago: Mr. Speaker, Sir, I rise on a point of order and wish to state categorically that I wish to adopt the point of order by Dr. Eseli and Dr. Khalwale. In addition to that and with respect to my learned friend, the Minister for Justice, National Cohesion and Constitutional Affairs, I believe that he has done the wrong thing because he has misunderstood Part 5, Clause 59 of the Constitution. What he needs to do is to

create one commission comprising of all the three commissions which are separated in the Bills. For the proper understanding of the writing and reading of the Constitution, I humbly refer to Clause 59(5)(b) and (c). Here, the Constitution is very clear. It is referring to successor commissions.

With your permission, Mr. Speaker, Sir, Clause 59(5)(b) states:-

“each successor commission shall be a commission within the meaning of Chapter Fifteen, and shall have the status and powers of a commission under that Chapter.”

Mr. Speaker, Sir, what this means is that, first, there must be one Commission comprising of all the others and then later if there is need, Parliament may then have successor commissions. Under the circumstances, the Bills as they appear before the House now are unconstitutional.

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. M. Kilonzo): Mr. Speaker, Sir, quite honestly and out of enormous respect for my colleagues who have raised these points of order, I am glad to see that they have read the Constitution. There are many people who have not yet read it.

I would like to suggest that they look at it a little further and stop being afraid of the Bills I am bringing on the Floor and anticipating them. The points that have been raised go to the question as to whether Article 59(4) is available to the Ministry of Justice, National Cohesion and Constitutional Affairs to formulate policy, in consultation with the public, particularly women and the marginalized who are covered under Order No12; particularly with the issue pertaining to administrative justice; the millions of Kenyan people who end up in Government offices and are treated shabbily, files lost or they are asked for bribes. That is intended to be addressed by Order No.10.

I, therefore, would suggest that the Chair finds that I am quite in order, because it is enough for me, as Minister, in consultation with women and the marginalized group who are very much affected by Order No.12 and the Kenyans I have mentioned covered under Order No.10, to bring proposals in the form of Bills to this House without commanding the House. I am glad to notice that they are not objecting to the Motion in substance; but they are objecting to what the Bills I will be presenting will be saying to the country.

Mr. Speaker, Sir, I would beg your permission to find that I am quite in order to utilize Article 59(4) and to create this policy without in any way demanding that Parliament must agree with me. But do not ask the House to shut me up and say I can only create one policy on Article 59(4). Allow these Bills to proceed forth in the manner that we have requested.

Mr. Speaker, Sir, I beg your ruling in support of my Motion.

Thank you.

(Mr. Mungatana stood up in his place)

Mr. Speaker: Order! I was actually going to stop this matter by allowing the Minister to respond to those points of order. Member for Garsen Constituency, with the utmost respect, I would otherwise accommodate you under normal circumstances as a matter of course.

Hon. Members, these will be my directions. What is before the House is a Procedural Motion brought by the Leader of Government Business pursuant to and under the provisions of Standing Order No.107 which pertains to publication of the Bill. The publication period is provided under Standing Order in respect to different categories of Bills namely, constitutional Bills and ordinary Bills. The periods are given there. The only way that the provisions of Standing Order No.107 can be varied is with leave of the House which is granted out of a Motion such as this. So, what is before the House is the Procedural Motion which normally this House would treat largely as a formality so that business is not brought before the House prematurely.

Hon. Member for Kimilili as well as the Member for Ikolomani and Member for Kisumu Town West are concerned about the content of the Bills that are intended to be brought before the House. The Bills in respect of which publication period is sought to be reduced from what is provided in the law to a lesser period; the lesser period being from 14 to five days. That is what I understand you to be doing. It is clear in my mind.

So, the arguments as to the substance, the content of those Bills, their being constitutional or otherwise, would at this point be anticipatory because those Bills are not yet before the House. Until such time that they are before the House and being moved, these arguments are anticipatory.

In those circumstances, I rule that the Minister is in order to proceed with the Motion under Order No.8. However, these arguments, obviously, will have every legitimacy and they will have a right to be canvassed and processed to a point where the Speaker or whoever will be presiding will make a finding as to whether or not they are in consonance with the provisions of the Constitution, including Article 59. So, this is not the time to do so. So, I direct and rule.

Mr. Minister, you may proceed.

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. M. Kilonzo): Mr. Speaker, Sir, I would like to conclude my remarks by asking this House to give the leave sought, so that the country can enjoy the very healthy and vibrant debate that will arise from Order Nos.9, 10, 11 and 12. Those are the Bills that I will be presenting which have been created in very elaborate consultative process.

Mr. Speaker, Sir, I beg to move. Mr. Bett has agreed to second the Motion.

The Minister for Roads (Mr. Bett): Mr. Speaker, Sir, I second the Motion.

Mr. Speaker: Hon. Members, so that you are not lost as to what I was doing, I was looking at which is the opportune moment for those objections to be raised by all those Members who are concerned. I have been able to make up my mind as to which stage because then the business will be before the House in substance. So, maybe if I let you know at this stage, you will have to wait until these Bills come to Second Reading then you can raise those objections and we will make considered rulings in respect of each of them.

So, Mr. Minister, you are actually on notice that these matters will be raised.

(Question proposed)

Dr. Khalwale: Mr. Speaker, Sir, in spite of the points of order that we raised I feel that we should support this Procedural Motion for only one reason that if we do otherwise, we would then hurt the Motion that touches on political parties.

Mr. Speaker, Sir, we are supporting this, so that the Motion on the Political Parties Bill can see the light of the day and enjoy the same shortened period. However, during the Second Reading, we will be requesting that you consider the points of order that we have raised.

I support.

Mr. Olago: Mr. Speaker, Sir, I wholeheartedly support.

Dr. Eseli: Mr. Speaker, Sir, I would have wished to support subject to deletion of “The Commission on Administrative Justice Bill, Bill No.21 of 2011, The Kenya National Human Rights Commission Bill, Bill No.22 of 2011 and The National Gender and Equality Commission Bill, Bill No.23 of 2011.” If those three were deleted from there, it would have made me feel easier in supporting.

However, I support.

(Question put and agreed to)

BILLS

First Readings

THE POLITICAL PARTIES BILL

THE COMMISSION ON ADMINISTRATIVE JUSTICE BILL

THE KENYA NATIONAL HUMAN RIGHTS COMMISSION BILL

THE NATIONAL GENDER AND EQUALITY COMMISSION BILL

*(Orders for First Readings read – Read the First Time
and ordered to be referred to the relevant
Departmental Committees)*

COMMITTEE OF THE WHOLE HOUSE

(Order for Committee read)

[Mr. Speaker left the Chair]

IN THE COMMITTEE

*[The Temporary Deputy Chairman
(Mr. Mungatana) took the Chair]*

THE SALARIES AND REMUNERATION COMMISSION BILL

(Consideration of Memorandum from His Excellency the President)

The Temporary Deputy Chairman (Mr. Mungatana): Hon. Members, we are in the Committee Stage to consider the Memorandum from His Excellency the President on The Salaries and Remuneration Commission Bill, Bill No.8 of 2011. I now wish to call the Minister to move.

Clause 4

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. M. Kilonzo): Thank you very much, Mr. Temporary Deputy Chairman. On the recommendations of His Excellency the President as provided for in the Constitution, I beg to move:-

THAT, Clause 4 be amended by renumbering the existing Subclause (2) as Subclause (3) and inserting a new Subclause (2) as follows:-

(2) The member of the Commission under Article 230(2)(c)(iii) of the Constitution shall be nominated by a joint forum of professional bodies represented by the Association of Professional Societies of East Africa.

The reasons for this are very clear. This proposal, as an amendment, was tabled during the last sitting of this Committee and, through misadventure, the proposal did not find its way on the Order Paper.

I beg to move.

(Question of the amendment proposed)

Dr. Eseli: Mr. Temporary Deputy Chairman, let us give the old man what he wants.

Thank you.

Mr. Mwau: Mr. Temporary Deputy Chairman, I would like to seek your guidance. I would like to raise an issue relating to the Standing Order No.47 and also Article 1 of the Constitution of Kenya. All the sovereign power of the Republic of Kenya has to belong to the people of Kenya and there is no way they can be able to delegate the power to the bodies represented by the Association of Professional Societies of East Africa. This will be taking the power of the people from Kenya to East Africa. I would want you to note that there is no corresponding circumstance upon which Kenyans are asked to contribute or to appoint people within the Constitution of Uganda or Tanzania. Therefore, what we are trying to do by trying to transfer the powers that are vested by the Constitution to the people of Kenya under Article 1 of the Constitution to other persons other than the people of Kenya, looks like it will be unconstitutional.

The Temporary Deputy Chairman (Mr. Mungatana): Hon. Mwau, this is the Chairman of the Committee. I want to invite the Minister if he has comments in response.

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. M. Kilonzo): Mr. Temporary Deputy Chairman, Sir, I would like to respond to hon. Mwau, whom I respect a great deal, and invite his attention to Article 3(2) of the Constitution which has expressly extended the operation of Article 46(4) of the retired

Constitution. In fact, if he looks at the Order Paper, he will see those particular areas underlined.

Therefore, I would like to suggest, and with respect, that the Association of Professional Societies of East Africa is not a stranger to this House. It is not a stranger to this country and it is not a stranger even to my good friend and neighbour, hon. Mwau. It is an association that brings together the Law Society, architects, engineers and lots of other people. Therefore, His Excellency's recommendation must be understood from that perspective that this is a man who is looking beyond the narrow borders of the City of Nairobi. Therefore, by bringing a joint forum - and I recommend that those words be emphasized - for the nomination of these particular persons, it will bring an enormous wealth of experience and training to the nomination of these particular persons.

Mr. Temporary Deputy Chairman, Sir, again, this is a nomination process. It is not, in fact, creating substantive rights or otherwise, so that he would worry about Tanzania, Uganda, Rwanda or the Republic of South Sudan, when she joins the East African Community. This is purely a nomination process. I beg to persuade him to withdraw his reservations.

Thank you.

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

The Temporary Deputy Chairman (Mr. Mungatana): Dr. Khalwale, let me just deal with this matter and then I will give you the Floor.

Hon. Mwau, the Chair agrees with the Minister that the reservations that you have raised will, in fact, not, in any way, be negated by the inclusion of the Association of Professional Societies of East Africa (APSEA). Further, I want to bring to your notice the fact that if you wished to amend the Memorandum from His Excellency the President on the Salaries and Remuneration Commission Bill, or any other Memorandum, there is a whole constitutional procedure, which would have involved you in circulating a notice for all Members of Parliament to have a look. You would also have to raise a two-thirds majority of the membership of this House to overrule the recommendation from His Excellency the President. So, I rule that we proceed.

Dr. Khalwale: Mr. Temporary Deputy Chairman, Sir, I want to agree with you, and will take over what you have just said. You will appreciate that our Standing Orders, deliberately, have Standing Order No.1 to allow the Speaker the discretion of moving the House forward in challenging situations like, I think, that which has arisen from what hon. Mwau has raised.

Mr. Temporary Deputy Speaker, Sir, you will agree with me that hon. Mwau, in the recent past, has had a lot of problems locally and internationally. It is quite possible that, because of that pressure, he forgot to go through the due process. Otherwise, what he has raised is so important that if it was allowed under Standing Order No.1, we would still have what the President has recommended, provided that the member of that society is a Kenyan national. So, I beg that you give that consideration.

Eng. Gumbo: Mr. Temporary Deputy Chairman, Sir, I just wanted to emphasise what both hon. Mwau and hon. Khalwale have said, because, as the Minister rightly pointed out, APSEA is an association of professionals from the whole of East Africa. What hon. Mwau is seeking to cure is the fact that if you give APSEA a blanket ticket to nominate a member without limiting that ticket, you cannot stop them from nominating anybody. If they nominate a Tanzanian, they will have broken no law. So, we want to

request your discretion. As it is, this provision has a serious potential to be in conflict with the Constitution, which gives the sovereign authority to the people of Kenya. I am a member of APSEA. I am sure that the Minister is also a member of APSEA. As it is, if the APSEA Council sits down and nominates a Tanzanian or a Rwandese they will have broken no law, but we will have breached our own Constitution by bringing a foreigner to sit in the Salaries and Remunerations Commission. So, I ask you to look at this matter and see how that potential dangerous conflict with the Constitution can be cured at this stage.

Thank you.

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

The Temporary Deputy Chairman (Mr. Mungatana): Minister, maybe, you will want to listen to Dr. Eseli and then you take them together.

Dr. Eseli: Mr. Temporary Deputy Chairman, Sir, using that same Standing Order No.1, which gives the Chair discretionary powers, you could perhaps find a way of asking the Minister to recall this Memorandum from the Committee of the whole House so that he can cure that potential problem and then we can reconvene and pass the amendment.

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. M. Kilonzo): Mr. Temporary Deputy Chairman, Sir, I hear the concerns expressed by hon. Members, but I think they are overlooking one thing; this is a fundamental oversight. This is a nomination process. In fact, the word “nominated” has been used by His Excellency the President in his Memorandum. The President would not use such a word to say “shall be nominated” in idleness. It must be understood that the President is well aware that the nominee by APSEA will come to this House for vetting and approval. I do not see hon. Khalwale, knowing him as well as I do, approving a nomination of somebody from Rwanda or elsewhere. So, do not worry. There are sufficient safeguards in the Constitution.

Thank you.

The Temporary Deputy Chairman (Mr. Mungatana): Thank you, Minister. I want to draw the attention of the House to Chapter 15 of the Constitution, which deals with Commissions and Independent Offices. In particular, I want to draw the attention of the House to Article 250, which deals with the composition, appointment and terms of office of commissions. One of the things that need to be understood is that all the commissions under Article 250 will go through the due process of approval by this House and will follow the requisite national legislation. If it so happens that APSEA nominates someone who does not fit the Bill, I am sure that Parliament, or the relevant Committee, will see to it that, that officer does not take that position. So, I want to give comfort to the House that nothing of that nature will, in fact, take place.

Let us proceed.

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

(Clause 4 as amended agreed to)

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. M. Kilonzo): Mr. Temporary Deputy Chairman, Sir, I beg to move that the Committee doth report to the House its consideration of the Memorandum from His Excellency the President on the Salaries and Remuneration Commission Bill, 2011, and its approval thereof without amendment.

(Question proposed)

(Question put and agreed to)

(The House resumed)

*[The Temporary Deputy Speaker
(Dr. Khalwale) in the Chair]*

REPORT

THE SALARIES AND REMUNERATION COMMISSION BILL

Mr. Mungatana: Mr. Temporary Deputy Speaker, Sir, I beg to move that a Committee of the whole House has considered the Memorandum from His Excellency the President on the Salaries Remuneration Commission Bill and approved the same without amendments.

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

The Assistant Minister for Lands (Mr. Bifwoli) seconded

(Question proposed)

(Question put and agreed to)

The Temporary Deputy Speaker (Dr. Khalwale): Next Order!

BILLS

Second Reading

THE PUBLIC APPOINTMENTS (PARLIAMENTARY APPROVAL) BILL

(Mr. Mungatana on 19.2.2011)

(Resumption of Debate interrupted on 19.2.2011)

The Temporary Deputy Speaker (Dr. Khalwale): Who was on the Floor? Eng. Gumbo was on the Floor. The hon. Member is not around. Any more hon. Members interested in contributing?

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. M. Kilonzo): Mr. Temporary Deputy Speaker, Sir, thank you for giving me this opportunity. I want to very loudly and publicly thank the hon. Member for removing a big burden from my narrow shoulders by moving this very important Bill. It will be recalled that before the House went on recess, I was asked to give an undertaking that as the Minister, I would propose such legislation. Therefore, Mr. Mungatana is a brother and truly a brother indeed for bringing this Bill forth.

I had already communicated with Mr. Mungatana suggesting that we discuss the Bill to see whether I would take it over. However, as you are aware, I have an enormous amount of legislative agenda on my desk and it has not been possible to hold that meeting or even to discuss the Bill. Therefore, I unreservedly support this Bill although it must be noted that during Committee Stage, I will be making a number of recommendations. I am going to speak with Mr. Mungatana before that event. The events that this country has witnessed in the last few weeks of public participation in the recruitment of important personalities to carry out the job of serious representation of the Kenyan people in the realization of the new Constitution has made it very clear that the sooner we have a clear method on how Parliament will decide and deal with nominations, the better.

In fact, above all, the country needs to be reminded that come the next elections, at whatever date, the Ministers who will serve this country will no longer be called Ministers. They will be called Cabinet Secretaries. All of them without exception, including the hon. Attorney-General, will require approval of this House. Therefore, the time has come for us to have a mechanism; a structured method of ensuring that those Kenyans who want to donate their careers to the country are accorded proper respect and treatment when they appear before this august Assembly for purposes of approval.

Mr. Temporary Deputy Speaker, Sir, I will go even further. I will be suggesting that at some point, we also develop a criterion for the selection committees that are now going to be a feature of our political and social life for a long time in order to avoid some of the problems we have witnessed in the past. I salute the Judicial Service Commission (JSC) for the work they have done and continue to do. I salute the other selection panels that are grappling with a very complicated issue of nomination. Therefore, this law itself will be a yardstick or land mark opportunity for Kenyans, particularly the women folk whose role in human and social spheres including politics and economics will begin to come to the fore as we implement the Constitution.

We want a mechanism to establish and enable women, particularly those who are married, so that they are not denied the opportunity to serve the country merely because political parties want to do gerrymandering and asking them where they come from as though a married woman can actually have a fixed aboard. The issue is whether they were born in a particular place and where they are married.

Therefore, I want to salute the hon. Member for bringing this Bill. It is fair that I restrain myself at this point from saying what proposals I will be tabling because I will. He is a man who I know will give me a suitable hearing so that we can see whether we can reach a consensus.

In addition, I am pleading with this hon. House through the leadership of the House and political parties, to find a very fast solution to the fact that I remain the only Minister without a departmental committee. This is because of the challenges the Departmental Committee on Justice and Constitutional Affairs has faced for several months. My work has been made double complicated. As it is, I have been forced, even on Budget proposals, to go directly to the Budget Committee. On legislation, I have been forced to go directly to the Constitution Implementation Oversight Committee (CIOOC). That alone eliminates a window for cross checking the work that the Ministry is doing before it reaches the Floor of the House.

Mr. Temporary Deputy Speaker, Sir, in addition, you notice I do not have a departmental committee that would have helped me to audit this proposed Bill so that we can have an input of the people specializing and elected by this House to that very important committee. I would urge hon. Members to support Mr. Mungatana and to salute him for taking this initiative.

I would also like to urge other Members of Parliament who have expertise in various areas to join my Ministry in ensuring that the implementation of the Constitution is fast tracked by interrogating Bills that we bring and above all to remember that after the 27th August this year, the real work of constitutional implementation will begin. There are many people in the country I meet who think that constitutional implementation is limited to the status listed in Schedule Five. Perish the thought. I want to tell my country that the problems that lead to a 20 year period fighting for a new Constitution are buried in existing legislation. They are buried in existing practices. They are buried in existing viewpoints that our country has enjoyed since Independence and before.

Therefore, I am hoping that Members of Parliament will, during this short period of four weeks remaining between now and 26th August, when my Ministry will finalize the particular Bills we are originating, we will also be looking at the existing law, including the Penal Code, the Criminal Procedure Code, the Marriage Act and all those things. That will ensure that we can, once and for all, formulate other legislative instruments for purposes of making sure that Kenyans truly enjoy the benefits of the dream they brought to reality in August last year, when His Excellency the President, on their behalf, promulgated the new Constitution.

Mr. Temporary Deputy Speaker, Sir, with those many remarks on an essential law, I beg to support.

(Eng. Gumbo stood up in his place)

The Temporary Deputy Speaker (Dr. Khalwale): Order, Eng. Gumbo! You have already lost your chance. Please, resume your seat!

(Eng. Gumbo resumed his seat)

Is there any more interest? Apparently, there is no more interest and so, I will now ask hon. Mungatana to reply.

Mr. Mungatana: Mr. Temporary Deputy Speaker, Sir, I want to thank you very much. I will reply very briefly. First, I want to thank the House for supporting this Bill. In fact, I want to thank, in particular, hon. (Dr.) Nuh, hon. (Dr.) Khalwale, hon. Njuguna,

hon. C. Onyancha, hon. Midiwo, hon. Kimunya, hon. (Eng.) Gumbo and hon. M. Kilonzo, for their very innovative ideas. Like I said, this Bill has the input of many hon. Members. Like I have said before, we need to enrich it even further. Some of the ideas which have come through, I truly think, will go a long way towards making this an even richer Bill.

Mr. Temporary Deputy Speaker, Sir, we will, therefore, at the Committee stage, be accepting some of the proposed amendments to some of the clauses. I will also be moving amendments to accommodate the views of all the hon. Members who have sought to enrich this Bill. So, I want to undertake to burn the midnight oil to ensure that the necessary proposals are incorporated. These will also include proposals from hon. Members who were not able to debate for various reasons but who have, maybe, written proposals to the office of the Member for Garsen. At the Committee stage, we will be bringing various amendments to enrich this Bill.

Mr. Temporary Deputy Speaker, Sir, I want to close by saying that the most pressing and very important public appointment that we have been thinking about is that of the Office of the Attorney-General. But unknown to us, and which was brought to my attention today by some hon. Members, the Constitution requires the Controller of Budget to be appointed. He is the person who will be assigning or approving the release of funds for purposes of various Government departments to execute their mandates. If we do not have that officer in place through this process by 27th August, 2011, we might get ourselves in a problem. That is because there will be nobody who will be approving or releasing the funds that need to be released for Government Ministries to execute their mandates. It is my prayer that the House Business Committee will prioritize the Committee Stage of this Bill so that the officer, who will be looking after our money as a nation, will undergo a proper process, like we propose in this Bill. The country will recall that the initial proposal that was brought by His Excellency the President had to be withdrawn because of very many issues that were raised at the time. I pray that this Bill will be law by the time we are dealing with the Offices of the Controller of Budget and the Attorney-General.

Mr. Temporary Deputy Speaker, Sir, 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)

THE UNCLAIMED FINANCIAL ASSETS BILL

The Temporary Deputy Speaker (Dr. Khalwale): Hon. Members, I am reliably informed by the Office of the Clerk that the Mover of this Bill, hon. Lekuton, is out of the country on official Parliamentary work. For this reason, this particular Order is deferred.

(Bill deferred)

Next Order!

MOTION

ADOPTION OF REPORT ON SOUND INTERFERENCE OF HOUSE PROCEEDINGS

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

THAT, this House adopts the report of the House Broadcasting Committee on Investigation into the Sound Interference of Kenya National Assembly House Proceedings on Thursday 28th April, 2011 laid on the Table of the House on Tuesday 17th May 2011.

Mr. Temporary Deputy Speaker, Sir, this Report is a product of investigations by the House Broadcasting Committee, as directed by the Speaker, on the interference of the proceedings of the House, which occurred on three separate occasions during the Afternoon Sitting on Thursday 28th April, 2011, between 4.26 p.m. and 5.14 p.m. During the Sitting of Thursday 28th April, 2011, strange sounds intermittently interfered with the House proceedings. The external sound which was carried through the Chamber public address system made Members' contributions to become inaudible. The sounds were distinct from the ongoing Chamber business and were audible and intelligible. The sounds would momentarily override Members' contributions on the Floor of the House for a period of about 15 seconds. The interference occurred on three separate occasions, as indicated herewith.

Mr. Temporary Deputy Speaker, Sir, at 4.26 p.m., the message which went through the Chamber Public Address System, which was not parliamentary debate, was:-

“What the Equity customers will be for--- (*inaudible*)--- it is easy to persuade them to come. The power of persuading--- (*inaudible*).”

At about 5.00 p.m. another message was heard which stated; “--- inaudible--- look at this but from treatment and behavior. The agency will look like that--- Do not worry about people. Do not care about the look of the premises. It is the way you treat them. Be humble, friendly so that the centre of it--- inaudible.” At 5.14 p.m. another message was also heard; “---inaudible and you can see the reason why. So then if you succeed here you can also succeed in Rwanda. So, please, help us because we do not want to do this training. Instead of people going to train in Tanzania, we want Tanzania---”

Mr. Temporary Deputy Speaker, Sir, the Committee sought to establish the following.

1. The source of the strange sounds.
2. How the interfering sounds find their way into the Chamber's public address system.
3. Actions to be taken to avoid a repeat and recurrence of similar situations in future.

With regard to the source of the strange sounds, the Committee was supported by a technical committee formed by the Clerk of the National Assembly which:-

(a) Reviewed the Parliamentary Broadcast Unit (PBU) and HANSARD recordings for the day and confirmed that the interference as noted above was recorded in both systems.

(b) Reviewed news updates for the day and established that there had been an event organized by Equity Bank Limited at the Kenyatta International Conference Center (KICC) which had been broadcast by various media houses.

(c) Sourced for tape recordings from the Kenya Broadcasting Corporation (KBC) of the day's proceedings of the event at KICC confirmed the event was, indeed, organized by Equity Bank Limited.

(d) Reviewed the news content from various media houses and the tape recording from KBC on the Equity Bank Limited event established that the sound bytes recorded above may have, indeed, been the cause of the interference in the Chamber proceedings.

The Committee, therefore, concluded that the interference emanated from the bank's event at KICC.

With regard to how the interfering sounds found their way into the Chamber, the Committee toured the Chamber and reviewed the findings of the technical team and established the following.

(a) The Chamber public address system includes the mixer and the microphones - the hardwired and the cordless microphones which used to be here, but have since been discontinued.

(b) The only possible input into the public address system in the microphones in the Chamber, that is, both the hardwired and cordless microphones.

(c) The two cordless microphones; one for the Speaker and another for the Clerks-at-the-Table were on at the time the strange sounds were recorded.

(d) Experiments and possible ways of sound interference were carried out by the Committee including walking with the cordless microphones to various locations within Parliament Buildings and also working with playback sounds from a mobile phone to both hardwired and cordless microphones. As a result of this experiment, the Committee found out that:-

(i) Both the hardwired and the cordless microphones can pick sounds from any playback equipment when it is switched on and it is near the microphone.

(ii) The reception range of the cordless microphone can be as far as the farthest corner of Parliament Grounds which is along Harambee Avenue.

(iii) The inquiries into the public address system used at KICC on 28th April, 2011 during the Equity Bank Limited function were cordless microphone systems supplied by Pillar Limited. It is worth noting that Pillar Limited is the same company which supplied the cordless system in use at the National Assembly Chamber at the time.

(d) The Committee sought technical assessment on the issue and was informed that the cordless system in use in the Chamber is an Ultra High Frequency (UHF) equipment. This kind of equipment when placed on a high elevation can send and receive communication signal within a radius of 500 metres; this is half-a-kilometre or more. Thus the cordless microphone does not guarantee privacy or security of the public address system network.

Mr. Temporary Deputy Speaker, Sir, the Committee made the following observations and conclusions guided by the above findings as indicated below.

(i) Having established the sound bytes correlation with the events at KICC, the source of interference in the Chamber public address system was from the Equity Bank Limited event at the KICC.

(ii) Having established that the cordless microphones can pick sounds from as far as 500 metres and that the frequencies used in the cordless microphones are not protected from interference (this is fundamental), the Committee concludes that the source of the interference in the Chamber public address system on that day; that is 28th April, 2011 in the afternoon sitting was from the cordless microphones used at the KICC that were picked by the cordless receiver in the Chamber.

Mr. Temporary Deputy Speaker, Sir, from the conclusions above the Committee recommends the following.

(a) That the cordless microphones should only be used as a back-up system and that only wired microphones should be used in the Chamber. I want to reiterate that since that event, the cordless microphones that used to be here and at the Clerks-at-the-Table have since been discontinued and retired from service.

(b) Parliament should install a mobile phone demobilizer in the Chamber which can disable mobile phones and other communicating devices that could interfere with the public address system.

(c) As Parliament is installing various communication systems the Committee recommends that they be properly integrated and synchronized to avoid any interference that may arise now and in future.

(d) The wired public address system is ageing, and I think this has been noted on many occasions, and, therefore, prone to failure and intermittent faults. It is the recommendation of the Committee, and a strong one, indeed, that this system should be considered for retirement and replacement with a more modern and functional system.

Mr. Temporary Deputy Speaker, Sir, with those remarks, I beg to move and ask Mr. Letimalo to second the Motion.

Mr. Letimalo: Mr. Temporary Deputy Speaker, Sir, I second the Motion.

(Question proposed)

Mr. Mungatana: Mr. Temporary Deputy Speaker, Sir, I want to thank Eng. Gumbo for the way and manner in which he has ably moved this Report. I also agree with him that we need to adapt the recommendations of the Broadcasting Committee.

I want to thank the Chairman for dealing with this matter in a very quick manner and bringing the Report to this House timeously to enable us consider the issue that was at hand, which was the interference of the parliamentary proceedings on that day.

It might appear to be a very minor issue. Perhaps, members of the public are wondering why we should take over an issue of interference of the proceedings of this House with such seriousness as the Speaker and the Committee did.

It is, and it was, a very serious matter to find that the proceedings of the House can actually be interfered with by things that were happening outside. It borders even on the question of national security, because this is a Chamber of the people of Kenya. When the debates going on here can be interfered with arbitrarily, then very serious questions arise as to how our matters should be handled. I, therefore, want to agree with the recommendations that have been put before us and also urge other hon. Members to adopt them.

Mr. Temporary Deputy Speaker, Sir, maybe this is an opportune time for us to ask certain questions about the whole area of broadcasting in Kenya. The distribution of

signals across the country is a very serious matter. As I stand here today, I am reliably informed that there was a major tender that was given by the Communications Commission of Kenya (CCK); it was to do with distribution of signals across the entire country. Our own big media houses like Citizen and the Nation Media Group (NMG) participated in trying to secure that tender; this would ensure that signals are distributed across the entire country. This tender was won by a Chinese company, which is owned by people who are not nationals of this country. The directors and ownership of that company is Chinese; they have now been given the opportunity to distribute signals in the entire nation of Kenya. Who are these people? These are people who do not belong to this country.

Mr. Temporary Deputy Speaker, Sir, the Kenyans who tried to bid in that tender, tried to appeal so that they could be given an opportunity but they failed. So, when this thing starts working, it will be a national of another country distributing signals across the entire country. I do not know whether we are not exposing ourselves, in terms of security. I want to relate this to what happened on this day. On this day, whatever was going on in this House was interfered with. The sound system was interfered with by some programming, or things which were going on outside this House. Fortunately for us, it was Equity Bank which was having a function out there, as the report indicated; the technical systems were similar and, therefore, there was that interference. Fortunately for us, those are just Kenyan bankers and we all know the bank is owned by so many Kenyans. The bank is publically quoted on the stock market. Many of us have shares in that bank. We own it since it is a local bank. Obviously whatever they were doing out there could not have been intended to have been sabotage, as this report implies. But I am not sure that if it was a foreign company, for example, that was holding that function, and through its equipment there, the debates of this House were interfered with that this report would have been a harmless one, as it is today. I am not sure that if we are dealing with a company whose directorship is foreign, and which is not quoted in the local stock exchange that this House would have been debating this report in a light manner. It would have been very serious.

Mr. Temporary Deputy Speaker, Sir, so, I think as we adopt this report, we need to bring into question what it is that we can give out to other people, and what it is that we need to retain by law in this country. I am very uncomfortable with a situation where the signals of this nation will be distributed by a person who is not a Kenyan. I do not know whether our security people are even comfortable with a situation such as this one.

I beg, as I support the adoption of this report, to also say that it is time now that the Minister, and the Government, brought legislation that is going to protect this nation. It is terrible to be in a situation such as this. I think if there is a way in which we can interfere legally with this planned takeover of the signal distribution in this country by a foreigner, then it must be done, because we do not know what is going to happen in future. Anything that is done by foreigners is done to the strategic benefit of their government. It can never be for the strategic benefit of our country.

So, I support this report and say that we have to do something to protect this nation as a whole, and also this Parliament as this report has recommended.

I support. Thank you.

Mr. Njuguna: Mr. Temporary Deputy Speaker, Sir, let me also take the opportunity to contribute to this very important Motion. At the outset, let me thank the

current Speaker, particularly for steering the current parliamentary proceedings, and hope that in future he will get another opportunity. Let me also thank the Chairman of the Parliamentary Broadcasting Committee, Eng. Gumbo, for his stewardship. Without that diligent stewardship, this report would not have come in here in good time as has happened. I also thank the members of the committee for participating in its affairs effectively. I also note that they have held many sittings and during these sittings, they were able to compile this credible report. I also remember the good work that has been done by the parliamentary technical team; without their contribution, this report would not have been concluded and presented to the House in good time.

Mr. Temporary Deputy Speaker, Sir, I am trying to go back to this particular day and remember what really took place. This sound interference caused some apprehension in this House, and almost paralyzed its operations. There were even suggestions that deliberations be stopped to investigate this unique sound interference. Even Kenyans outside there were appalled by the development that took place in this House. The trigger of this problem was the parliamentary address system that has been noted to be outdated and needs to be upgraded.

Mr. Temporary Deputy Speaker, Sir, I, therefore, call upon the Parliamentary Service Commission to urgently set aside funds so that this system in this Parliament is updated as required. One of the fantastic recommendations made by this Committee is the acquisition of a de-mobilizer that will stop interferences from other activities that are likely to be taking place within this area. Occurrences of this nature will not be taken very kindly by this House, with these very strong recommendations.

Therefore, it is my view and the view of this House that the current public address system should be overhauled to maintain the dignity of this House. This is the Kenya National Assembly of the Republic of Kenya and over 40 million Kenyans watch what really happens here. Therefore, to rekindle the confidence and our confidence in this House, replacement of the current public address system should be done with immediate effect. I request the restoration of free-flow of information through acquisition of the required public address system.

With those few remarks, Mr. Temporary Deputy Speaker, Sir, I fully support the recommendations contained in this report.

Thank you, Mr. Temporary Deputy Speaker, Sir.

The Assistant Minister for Industrialization (Mr. Muriithi): Thank you, Mr. Temporary Deputy Speaker, Sir. I quite agree with Mr. Njuguna that with such a prolific debater on the Chair, the debate will be more than adequately carried on.

Mr. Temporary Deputy Speaker, Sir, I----

(Applause)

The Temporary Deputy Speaker (Dr. Khalwale): Order, Mr. Assistant Minister! Can you indicate whether yours is the official Government position on this Motion as your respond?

The Assistant Minister for Industrialization (Mr. Muriithi): Mr. Temporary Deputy Speaker, Sir, in the spirit of collective responsibility and as a Government Assistant Minister, I want to speak for the Government and say that we support what the

Committee has recommended and appreciate as the other speakers who have spoken before me, the timely manner in which they have dispatched their duty.

The Temporary Deputy Speaker (Dr. Khalwale): You may go ahead!

The Assistant Minister for Industrialization (Mr. Muriithi): Much obliged, Mr. Temporary Deputy Speaker, Sir. Let me say that I am not an engineer, but I did clearly hear the Mover explain that, in fact, technically, the reason the interference occurred is because in the Chamber, we had equipment that uses Ultra High Frequency (UHF), and that at the event at the Kenyatta International Conference Centre (KICC), where the signal is thought to have come from, the equipment that was used there was itself using UHF.

Mr. Temporary Deputy Speaker, Sir, this, technically – and I will get to the point in a moment – is the reason--- When you broadcast or you are transmitting signals and it is a wave, if two separate equipments broadcast at the same frequency, one wave can overrun the other and that is how that sound or that transmission found its way into the equipment that was in this Chamber.

This is the reason, as a country, we are moving to digital transmission. In digital transmission, the transmission is in such a way that two transmitters cannot overlay and, therefore, you cannot actually interfere with the transmission of the next person.

Mr. Temporary Deputy Speaker, Sir, this – in light of the debate that has been going on – needs to be clarified because this country has committed itself as many other countries around the globe to going towards digital transmission. What it requires is to build a digital network which is akin to a road network. You build a road and all the road users; all the vehicles and so on follow that route. If this is not well understood, the goings on of the last two days can create a lot of confusion. A couple of years ago, this House, for example, approved the concessioning of a toll road so that the Southern Bypass would be built, maintained and operated by a private company. However, they would build the road to certain specifications and operate it in a manner that was agreed to in the concession. What goes with digital migration is exactly like that. The Government was looking for private companies to build a digital network so that signals – just the same way vehicles use a toll road--- The same way private operators have build the fibre optic cable networks and data passes through those networks for a fee is really what is going on. Therefore, there is no reason to be terribly afraid whether it is Nderitu; Mr. Wong or Eng. Gumbo who built the network. What is important is that the network is built, just like in a toll road, but the network is built within the specifications that are required and that it is able to deliver the service that it is able to deliver.

Mr. Temporary Deputy Speaker, Sir, this is the position of the Government as well. Our key question is about local content in broadcast. This is because what is broadcast has a lot of effect on what we think and so on. It also has a lot of effect on local drama, film and so on. So, what we should really be concerned about is the extent of local content and I think the Government has been firm on this; that as we migrate to digital content, we expect well upwards of 40 per cent of what is broadcast to be content originated by Kenyans for Kenyans and that is where the strategic interest lies.

Mr. Temporary Deputy Speaker, Sir, if our children are brought up on a menu of say, North American culture in music, arts and film, then the attitudes that they will develop will be those of North Americans. I am not saying that there is anything wrong with that but our strategic interest is for us to be able to build pride in ourselves and be

proud of whom we are. Therefore, the key question is not the builder of the toll road but the key question is the vehicles that pass through that toll road and that is about local content.

Therefore, I would like to urge that there should be no reason whatsoever for us to be very anxious about who is to build the digital network. Of course, in a competition when bidders are bidding for a toll road or to build a digital network, because the winning bidder will derive some revenue, you can expect that those who did not win the bid are not happy. This is because, obviously, there is revenue involved in the operation of the digital network. Therefore, this debate should be seen in that context.

Mr. Temporary Deputy Speaker, Sir, I support the recommendations of this Committee and urge my colleagues that we support and adopt this Report.

Thank you, Mr. Temporary Deputy Speaker, Sir.

Mr. Mututho: Thank you, Mr. Temporary Deputy Speaker, Sir. First of all, I thank the Committee for coming up with this Report. Looking at the quorum in the House, it is clear that very few people really understand the implication of that kind of interference. We have that kind of thing happening in the United Kingdom now and media houses have been closed down and the Prime Minister is travelling and gasping for air because of something some people heard through the telephone. We do not know whether the mushrooming FM stations and TV stations here are hacking into our system and, in the process, interfering with the airwaves.

The best we can do is for us to take this matter very seriously and urgently, so that we overhaul, like the Committee recommends, the whole system from scratch. We should scan through all the networks that we have here, so that even if they bring bugs in order to hack into our own internal system, they will not be able to broadcast and then ridicule us as they would wish to.

Mr. Temporary Deputy Speaker, Sir, this is a total infringement of all the privileges that we enjoy in this House, when unauthorized hackers like would happen, get access to our transmission system and given that most of these public address systems, particularly the one broadcasting to the offices here is slightly older than most people in this Chamber. These systems were installed well before 1963 when even the technology in transmission was obviously not where we are at the moment. Two years is a very long time in technology. We should without delay be able now to come and recommend that we at the very least clear all these systems and install a new system as a security measure in this Parliament.

Mr. Temporary Deputy Speaker, Sir, I thank the Parliament security system. They have a very comprehensive camera network. But that too has its own shortcomings. As I speak here, I am facing about three cameras here which could be active in front of us. These are not the normal audio ones. These are the security cameras. But how do these cameras talk to each other? Where is the server? How safe are they? How do they relate to the other overall systems here? All these issues need to be looked at together. Most importantly, we need to have those people who are in charge of security like they do here. I see sniffer dogs every now and then going round. They come around and check again at high tech. Is there a possibility that another Wikileaks is in the making by just continuously leaking what we are discussing here even when our microphones are off?

Mr. Temporary Deputy Speaker, Sir, this is one of those very sensitive reports. It borders on what happened in the Committee of Agriculture at one time, in the pigeon-

hole area. We found out that the House was infiltrated by a stranger who has never been identified. That stranger brought some very slanderous items that provoked the Speaker to make certain very strong rulings and we had to go and do investigations. On counter-checking, we tried to find out; how did the letters get into the pigeon-holes? Who brought the letters? Up until now, that has not been resolved. I believe that in the new Chambers, that will be something of the past. We will be able to monitor in real time what is happening to the mail of the hon. Members.

Mr. Temporary Deputy Speaker, Sir, in congratulating this Committee, we should have a timeline. When is Parliament going to take action on this matter as a security concern? The noise you are hearing is simply the fact that certain signals or waves are going the wrong way and then interfering with the quality of sound as it is now.

We have to give this House at least not more than 60 days, so that they can come and put their act together. We either use this system or we use the Africa system whereby we just go under a tree then if we are so unsafe electronically here in our Chamber. After all, we did allow that we can hold our proceedings anywhere. That is how serious this matter is.

I want to confirm that, indeed, a lot of people, including the Mars Group, have interests not necessarily the interests of this State, but interests of their paymasters who do quite often want to get certain information. Unless you look at the totality of the performance of this House then you will continue getting those kinds of slanderous information you get; that the Tenth Parliament is not doing this or that.

Not long ago, we had in, one of the newspapers, photographs of the legs of one of the lady MPs. It is not bad for somebody to show legs. But legs of an hon. Member in the Chamber is an intrusion of our privacy in this particular Chamber. Quite too often, we do whisper our personal information around. But now the very fact that you are able to have that in the public, that is the making of a major scandal.

I want to remind you again like I did the other time that from where you sit, one Jean Marie Seroney sat there and the same hacking system by the intelligence picked all that he was doing and all his rulings. He was seated on that same Chair you are seated on. When he got outside here, he was arrested and the man became a pauper thereafter.

Martin Shikuku, whose point of order had resulted in the ruling by the Chair that you do not substantiate the obvious was so humbled that, up until now, he is still asking the Government to, at the very least, give an apology. It is that kind of event, the interest other people have in your Chair, the kind of interest that people have in what we say in the Chamber that compels me to urge this House to implement this Report in totality.

I beg to support.

The Temporary Deputy Speaker (Dr. Khalwale): Any more interest? Hon. Members, it looks like we do not have any more interest. So, I will call upon Eng. Gumbo to respond. Eng. Gumbo, as you respond, maybe you just want to clarify: Did you think about interference from our mobile phones while we are in the Chamber? What did you say about it?

Eng. Gumbo: Thank you, Mr. Temporary Deputy Speaker, Sir, once again for giving me the chance to reply to this Motion. Allow me to start by thanking the hon. Members who have found time to contribute to this Motion. I want to thank Mr. Letimalo, Mr. Mungatana, Mr. Njuguna, Mr. Ndiritu Muriithi and Mr. Mututho who has just spoken.

As we adopt this report, as Mr. Mungatana said, what we have presented here looks like a harmless report, but I want to say that anyone thinking that this is a harmless report should, indeed, perish the thought, especially when we consider that Parliament is a key pillar of statehood in Kenya. Therefore, the entire question of security around Parliament, particularly in the chamber should be comprehensively reviewed.

Mr. Temporary Deputy Speaker, Sir, you may want to know that in some parliaments of the world the issue of security is taken so seriously that even among the Members themselves, no one is exempted from being a suspect. For example, you cannot carry an electronic item into the debating Chamber. It is not even permissible to carry your mobile phones into the Chamber.

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

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

Madam Temporary Deputy Speaker, this is out of the realization that because of the advancements in technology as much as you need your mobile phone to communicate, it can also be used as a device to cause devastation. That is why one of the recommendations we have made here is that we should find a way to demobilize mobile phones once we get into the Chamber.

During the course of our investigations, we were very amazed as a Committee with the ease with which cheap communication installations in Parliament, in fact, in this Chamber can be accessed.

Madam Temporary Deputy Speaker, we found out that where the mixers and the amplifiers have been put, it is very easy for an outsider, especially someone with ill intentions to access them and as a result cause sabotage. We were also very concerned at the ease with which outsiders can access Parliament. We even have in mind diplomats who come here for State functions. We have been to other parliaments of the world and the security checks that you are taken through before you can witness what is going on in the Chamber are very elaborate. I have been to the House of Congress and you pass through not more than four security checks where the body is checked and all the items that you are carrying. In fact, in the Congress of the United States, you cannot even carry a mobile phone into the Chamber because they realized that that is a device through which somebody with ill intentions can cause a major catastrophe in the Chamber.

We should be alive to the fact that even though this appears to be a harmless incident where the loss that is countable at the moment is merely the fact that contributions were interfered with, we cannot run away or ignore the potential threats that are inherent in malfunctioning or misuse of the electronic items that we carry and use in the Chamber.

Let us not forget that, indeed, some of the most infamous murders in the world have occurred inside the chamber of parliament. I have in mind the murder of the architect of apartheid in South Africa, the late Hendrik Verwoerd, who was killed inside the apartheid Parliament of South Africa. God forbid that it should happen here because we are not immune. That is why we, as a House, must insist, and this is a matter that we

are taking up to the Parliamentary Service Commission, that the entire security around Parliament must be looked at under a comprehensive security review in totality. This should include the key installations within Parliament and the security of the Members both within the Chamber and the precincts of Parliament.

As I thank the Members for unanimously supporting this Report, I want to emphasize that as we adopt this Report, we must re-emphasize that there are quite a number of security lapses within and around the precincts of Parliament. As a matter of urgency, it is very important that we undertake a comprehensive review, so that the security of Parliament and within the Chamber can be enhanced to a level that can win the confidence of Members.

Madam Temporary Deputy Speaker, I want Members to realize that some of the measures that we may take, for example, mobile phone immobilizers, may appear inconvenient, but let us look at the wider picture and the implications. Let us look at what the world we live in has become. We have extremely bad people out there. We have extremely bad people in this world who would see nothing wrong if they had a chance to cause a major catastrophe both within and without the Chamber. Therefore, this is a matter that we, as a Committee in charge of broadcasting, will be requesting the Members to bear with us when the measures that are intended to improve the security of the Members and that of the nation are installed. Anything untoward happening within this Chamber will be a national catastrophe.

As I once again thank all my colleagues who contributed to this Motion, I beg to move.

(Question put and agreed to)

ADJOURNMENT

The Temporary Deputy Speaker (Dr. Laboso): Hon. Members, that marks the end of our business for today. The House, therefore, stands adjourned until tomorrow, Thursday, 21st July, 2011, at 2.30 p.m.

The House rose at 5.55 p.m.