

NATIONAL ASSEMBLY

OFFICIAL REPORT

Thursday, 21st July, 2011

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

PAPERS LAID

The following Papers were laid on the Table:-

Report of the Budget Committee on the Estimates of Revenue and Expenditure for the Financial Year 2011/2012

(By Mr. Mbau)

Report of the Departmental Committee on Labour and Social Welfare on the visit to the Directorate of Industrial Training Centre, Bunyala Road, Nairobi.

Report of the Departmental Committee on Labour and Social Welfare on the Prohibition of the Female Genital Mutilation Bill, 2010.

(By Mrs. Noor)

NOTICES OF MOTIONS

ADOPTION OF REPORT ON REVENUE
ESTIMATES/ EXPENDITURE FOR
FINANCIAL YEAR 2011/2012

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

THAT, this House adopts the Budget Committee Report on the Estimates of Revenue and expenditure for the Financial Year 2011/2012 laid on the Table of the House, on Thursday, 21st July, 2011.

ADOPTION OF REPORT ON VISIT
TO DIRECTORATE OF INDUSTRIAL
TRAINING CENTRE

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

THAT, this House adopts the report of the Departmental Committee on Labour and Social Welfare on the visit to the Directorate of Industrial Training Centre, Bunyala Road, Nairobi laid on the Table of the House, on Thursday, 21st July, 2011.

ADOPTION OF REPORT ON PROHIBITION OF
FEMALE GENITAL MUTILATION BILL

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

THAT, this House adopts the report of the Departmental Committee on Labour and Social Welfare on the Prohibition of Female Genital Mutilation Bill, 2010 laid on the Table of the House, on Thursday, 21st July, 2011.

QUESTION BY PRIVATE NOTICE

INVASION OF MUCHIRI WA GITHAIGA
FARM BY WARRIORS

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

(a) Is the Minister aware that some warriors have invaded Muchiri wa Githaiga Farm in Mau-Narok Division of Njoro District and have destroyed property worth over Kshs10 million and, if so, what action has the Government taken to arrest the situation?

(b) Could the Minister consider compensating the owner of the farm for the loss?

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Speaker, Sir, this particular question had already been tackled and we had discussed with the hon. Member because it has been overtaken by events. He did accept that and said that he is able to withdraw it. So, I do not know whether he wants us to continue with it.

(Mr. Kiuna stood up in his place)

Mr. Speaker: Very well! Hon. Member for Molo, just before you continue, please resume your seat for a minute!

The last time this Question was on the Order Paper was on 2nd June, 2011 and, indeed, the Assistant Minister gave the reply as he has indicated. You, the hon. Member for Molo, when it was your turn to ask the first question, you made a claim which was in breach of our Standing Orders, in particular Standing Order No.79 and you said as follows:-

“Some political activists led by senior politicians, some of whom are in this House, visited the area and incited the communities”.

You were then advised by the Deputy Speaker, on 14th June, 2011 in the plenary that, that was in breach of the Standing Orders and I have referred to the particular Standing Order. What I would want you to do now, and I am directing you accordingly, given that you have not brought a Substantive Motion to this effect since the 14th June,

2011, is that, you must withdraw those words as I have read in quotes. Withdraw and apologize or, otherwise, undertake to bring a substantive Motion to canvass that position.

Mr. Kiuna: Mr. Speaker, Sir, I withdraw and apologize.

Mr. Speaker: Thank you, hon. Member for Molo! Do you then wish to pursue this Question any further beyond there?

Mr. Kiuna: Mr. Speaker, Sir, due to the fact that this matter was by then very sensitive and many things have happened; we have discussed with the relevant Ministry and also the community, I do not wish to continue with the Question because the situation has calmed down and the Government has taken the appropriate action.

Mr. Speaker: So, you confirm that the matter is settled?

Mr. Kiuna: Yes, Sir.

ORAL ANSWERS TO QUESTIONS

Question No.838

STATUS OF GITHURAI KIMBO POLICE STATION

Mr. Kabogo asked the Minister of State for Provincial Administration and Internal Security:-

(a) whether he is aware that Githurai Kimbo Police Station is currently under the Kasarani OCPD instead of the Ruiru OCPD;

(b) whether he is also aware that 72 police officers at the police station are assigned duties in Kasarani area, which is outside Juja Constituency; and,

(c) whether he is aware that insecurity cases have escalated as a result of the anomaly and what measures the Ministry is taking to ensure the trend is reversed.

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

(a) I am aware that Githurai Kimbo Police Station is under the Kasarani Police Division and not Ruiru Police Division.

(b) Police officers from Githurai Kimbo Police Station are assigned duties from Kasarani Police Division for efficiency purposes due to its proximity to the latter. The station was moved to Nairobi along with Ngong' and Ongata Rongai for efficient management of police operations within those areas.

Further, it is necessary to note that police operational areas are not guided by the administrative or constituency boundaries.

(c) I am not aware that insecurity cases have escalated in the area. In fact, I have statistics here with me, which I am tabling, which show that crime has actually gone down. I will give one example; that in the month of October, 2010 the total number of criminal cases reported were 27 but by June this year, they had gone down to 13 cases. That shows that the crime rate is going down. This decreasing trend is as a result of the following:-

(i) Enhanced patrol within the area.

- (ii) Enhanced intelligence collection.
- (iii) Enhanced co-operation with the members of the public.
- (iv) Strict supervision of the officers in the station and, indeed, the entire police division.

Mr. Kabogo: Mr. Speaker, Sir, I want to thank the Assistant Minister for the long answer which really does not address the matter. If you heard the Assistant Minister, he said that the station was moved, amongst others, for efficient management of police services. He is talking about efficient services in another area, Githurai 44. He is not addressing the issue of Githurai 45 which is a large area. In fact, it is half of Kasarani Constituency!

Could the Assistant Minister consider moving this police station to Ruiru District where we have an Officer Commanding Police Division (OCPD)? Any crime that we report in Githurai, they say that they cannot handle it because they are answerable to another district in another constituency! Can they try to relocate the reporting to the Ruiru OCPD so that our problems can be addressed?

Mr. Speaker: Order! Respond, Mr. Assistant Minister!

Mr. Ojode: Mr. Speaker, Sir, you will agree with me that we do not have boundaries for operations of the police. On a number of occasions, we even take detectives from here to go and investigate a matter in Ndhiwa or Emuhaya. What we are trying to do is that police officers, just like the motto says, "*Utumishi kwa Wote*" do not discriminate and we will never discriminate. What is happening is that we need the services of police officers anywhere.

Mr. Speaker: Order, Mr. Assistant Minister! Even before the hon. Member for Juja intervenes, he stated in his question that whenever they go to report any matters to that police station wherever it has been moved, the officers there give explanation to the effect that they are in a different district. So, you need to deal with that, obviously.

Mr. Ojode: Mr. Speaker, Sir, that happens because of some officers being inefficient! I will investigate---

Mr. Speaker: Order! We want to use our time well! I gave those directions two days ago as we resumed this Session. Because of the assertions made by the hon. Member, if you are not aware, then ask for time to go and investigate then come and give a satisfactory answer!

Mr. Ojode: Mr. Speaker, Sir, if there is a case like that then it borders on inefficiency!

Mr. Speaker: Go and investigate!

Mr. Ojode: Let me just tell you the reasons why. The operations of the police do not have boundaries and if there is an officer who is denying the people of Githurai or Kasarani services, then my duty is to remove that particular officer! I also want to assure--

Mr. Speaker: Order, Mr. Assistant Minister! I have just said that we must use our time optimally! You do not have information as the hon. Member for the area has asserted and whatever hon. Members say on the Floor of this House, they speak to the nation and so it must be taken seriously! If you do not have information then you must go and investigate then come back and give us a satisfactory answer!

Mr. Ojode: Mr. Speaker, Sir, I have mentioned here that I will investigate the matter and if, indeed, it is true that they are being referred elsewhere, that borders on

inefficiency of that officer. In the meantime, I will try and get the services of that particular police station to include his place.

Dr. Khalwale: Mr. Speaker, Sir, maybe this Assistant Minister is not hearing what you are telling him. While you were seated on that Chair, he has on very many occasions told hon. Members that: "I am going to give you a police patrol" car and all manner of stuff. However, he never lives to effect those things. In our view as hon. Members from the Back Bench, we believe that he does not take us seriously. He just plays to the gallery!

Mr. Speaker: Order, Mr. Assistant Minister! Let us save time! I direct you to go and investigate the claim made by the Member for Juja. Ascertain whether or not it is true. Proceed to take action as is necessary and then come back and respond to this Question. Once again, it will be on the Order Paper two weeks hereafter. That is how we will proceed. I have directed and you must comply.

(Mr. Kabogo stood up in his place)

Member for Juja, you will have another day on Thursday two weeks hereafter.

(Question deferred)

Question No.851

LEVEL OF SUCCESS OF TREE PLANTING
EXERCISE IN EMUHAYA

Dr. Otichilo asked the Minister for Education:-

(a) how successful the programme to establish tree nurseries in 20 primary schools in each constituency, was, particularly Emuhaya Constituency, considering that Kshs60,000 was allocated to each school through the Economic Stimulus Programme (ESP) in 2009/2010; and,

(b) how successful the programme was to purchase and plant seedlings in 50 schools in every constituency, particularly in Emuhaya Constituency, considering that Kshs30,000 was allocated for this purpose.

The Assistant Minister for Education (Prof. Olweny): Mr. Speaker, Sir, I beg the indulgence of the House to give me more time to get the appropriate answer to this Question.

Mr. Speaker: Mr. Assistant Minister, what did you say?

The Assistant Minister for Education (Prof. Olweny): I am requesting for more time to get an appropriate answer for this Question because it involves the whole country. We have 4,190 schools to deal with and we do not have the information as required yet, so that we get a good answer to present to this House.

Mr. Speaker: How long do you need?

The Assistant Minister for Education (Prof. Olweny): I need three weeks.

Mr. Speaker: Member for Emuhaya!

Dr. Otichilo: Mr. Speaker, Sir, yes, I have discussed with the Assistant Minister and we have agreed.

Mr. Speaker: It is so directed.

(Question deferred)

Question No.993

DISMISSAL OF JOSEPH K. NJOROGE

Mr. Gaichuhie asked the Minister for Education:-

(a) why Mr. Joseph K. Njoroge (PF No.81157301) who worked as an Education Officer in Busia, was summarily dismissed from service on 25th October, 1999; and,

(b) whether he could consider retiring him on medical grounds considering that he had served for 28 years before he was diagnosed with acute malaria.

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

(a) Mr. Joseph K. Njoroge (PF. No.81157301) who worked as an Education Officer in Busia was summarily dismissed from the service on 5th October, 1999 on account of absence from duty without lawful authority from 25 October, 1999 up to and including 16th April, 2000.

(b) The Ministry cannot consider retiring him on medical grounds because his second appeal to the Public Service Commission was disallowed and the case was closed on 2nd October, 2002.

Mr. Gaichuhie: Mr. Speaker, Sir, I want to ask the Assistant Minister why they did not consider his letter from the Provincial General Hospital which indicates that he was suffering from acute malaria and that is why he was absent during that time. Most of the time he was in Nairobi trying to chase for his transfer and that was well known to the District Education Officer in Busia. Why did you not consider that medical report from the doctor?

Prof. Olweny: Mr. Speaker, Sir, this gentleman was absent for a very long time from work. It was some time, I think in July, that he came up with a report indicating that he had been sick. From October, 1999, he was absent!

It was reported on 29th November, 1999, that he had deserted duty in October. He did not come back to work until April the following year without anything. He then went away again and came back with a report in July. So, a case like that is difficult to deal with.

Mr. Mwangi: Mr. Speaker, Sir, the answer given by the Assistant Minister contradicts itself. If this officer was away in November, 1999 and he was dismissed in April, 2000, how come the Public Service Commission promoted the same dismissed person in July, 2000? Could he confirm that this officer was promoted after he was dismissed?

Prof. Olweny: Mr. Speaker, Sir, I do not have the records of that promotion!

Mr. Speaker: Very well. Member for Lari.

Mr. Mwangi: Mr. Speaker, Sir---

Mr. Speaker: Order, Member for Kiharu! That is not how we conduct business here, you know!

Mr. Njuguna: Mr. Speaker, Sir, while alluding to the response given by the Assistant Minister, I would ask him to give documentary evidence as to whether this Education Officer was at any one time given a warning or suspension prior to the dismissal by the Ministry.

Prof. Olweny: Mr. Speaker, Sir, let me give this information to the House regarding his history. The officer was posted to Busia in August, 1999. In early October, he wanted a transfer from Busia, but he did not get it. He then disappeared from work on 29th October. The whereabouts of this gentleman were not known. The District Education Officer in Busia confirmed to the Ministry that the man reported back on 17th April, 2000. So, that is several months of being away from work. He then, on 10th July, availed a sick sheet. He was not even there to be given a warning.

By 14th November, he had not resumed duties though in July he was given two-week off, but he did not come back. He resumed duties on 14th November. On 3rd January, 2001, a registered letter was addressed to him, to show cause why he should not be disciplined. There was no response. A registered letter was posted to the address he had given the Ministry. He did not respond. Based on all this, the Public Service Commission dismissed him.

Mr. Gaichuhie: Mr. Speaker, Sir, I want to table a letter from the Teachers Service Commission promoting this gentleman on 12th July, 2000 after he had been dismissed!

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

Mr. Speaker: Mr. Gaichuhie, please, proceed and ask your question.

Mr. Gaichuhie: Mr. Speaker, Sir, how could this gentleman have been promoted on 12th July, 2000? The reason for his absence was very well known; that he was in hospital, he had a sick sheet and a letter from the doctor. That is why he was absent trying to pursue medical attention and chasing his transfer in Nairobi. We very well know that teachers have to come to Nairobi to get their transfers.

Prof. Olweny: Mr. Speaker, Sir, there is no way an individual can be an education officer and at the same time a teacher. Mr. Njoroge was a teacher before he was given the position of an Education Officer II, Job Group K, on 4th August, 1999. Unfortunately, the TSC had not removed him from the payroll. That is probably where that mistake came from. He was already an Education Officer II by 4th August, 1999. So, he could not have been promoted as a teacher more than one year later.

Mr. Koeh: Mr. Speaker, Sir, you have heard the Assistant Minister trying to deny a letter from his own Ministry. He is trying to ask a question that, we, as Members of Parliament should be asking. Why did the TSC promote the teacher when he was no longer under the TSC? Is that not mismanagement in the Ministry?

Prof. Olweny: Mr. Speaker, Sir, unfortunately, I was not there at that time. It was a mistake and an error by the TSC to retain that gentleman on the payroll as a teacher. His name was struck off the list of teachers in May, 2001.

Mr. Gaichuhie: On a point of order, Mr. Speaker, Sir. Is it in order for the Assistant Minister to say that this person was in the TSC and also in the Ministry of Education while he was only drawing one salary?

Mr. Speaker: Order, Member for Subukia! That, at best, is just a question. So, I am afraid I will rule that out of order.

Question No.938

PAYMENT OF BENEFITS TO FAMILY
OF LATE AP G.M. MUTAMBAA

Mr. K. Kilonzo asked the Deputy Prime Minister and Minister for Finance:-

(a) whether he is aware that the compensation benefits of Administration Police Officer George Mbuvi Mutambaa (P/No. 212647/87085502) who died on 3rd October 1994 (Treasury file No. K.717719/20 and Public Trustee Case No. 155/1995), have not been paid;

(b) why his next-of-kin, Mrs. Esther Mutambaa (mother), has not been paid his gratuity and refund of his shares at the Harambee Cooperative Society; and,

(c) when the benefits will be paid.

The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Local Government (Mr. Nguyai): Mr. Speaker, Sir, I had asked the indulgence of the hon. Member---

Mr. K. Kilonzo: On a point of order, Mr. Speaker, Sir. Unless my memory does not serve me right, this is not the Deputy Prime Minister and Minister for Finance. In case the Deputy Prime Minister and Minister for Finance is not here, the Leader of Government Business is here. Is he in order to raise the issue when there are more senior Ministers here?

Mr. Speaker: Order! Member for Mutito, the Assistant Minister is in order! I have previously made findings on this matter. If you go back to the HANSARD, you will find what explanation was given for the finding that I made. Proceed, Mr. Assistant Minister!

The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Local Government (Mr. Nguyai): Mr. Speaker, Sir, I wish to seek the indulgence of the House to allow this Minister to come and answer this Question on Thursday next week.

Mr. Speaker: Mr. Assistant Minister, what did you say? I was still attending to the Assistant Minister for Education.

The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Local Government (Mr. Nguyai): Mr. Speaker, Sir, I am seeking the indulgence of the House because the specific answer is not ready but will be ready on Thursday next week.

Mr. Speaker: Member for Mutito, are you comfortable with that?

Mr. K. Kilonzo: Mr. Speaker, Sir, Ministers have a tendency of coming here and asking for time to answer Questions later, yet these Questions have been properly served to their Ministries. Could the Assistant Minister give a compelling reason why he cannot

answer this Question now before I decide whether I will be willing to allow him to answer it another day?

The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Local Government (Mr. Nguyai): Mr. Speaker, Sir, the Deputy Prime Minister and Minister for Finance is not able to answer this Question at present because of other budgetary issues and commitments. He has been dealing with some Committees of the House and he has given a serious undertaking that he will answer this Question on Thursday next week.

Mr. Speaker: Order! You are the Member for Kikuyu which was previously known as Kabete. Are you not? You know the finding which I previously made was that, applying the doctrine of collective responsibility, any Minister can step and fit in the shoes of the Minister he is purporting to represent. So, you cannot now be heard to be saying that the Minister has been away and yet you have stood to answer the Question!

The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Local Government (Mr. Nguyai): Mr. Speaker, Sir, you are very correct. I undertake that I will make sure that this Question is answered. I do not have the answer right now and if I had, I would have answered the Question. Thank you for the directive and reminding me of that.

Mr. K. Kilonzo: Mr. Speaker, Sir, I reluctantly accept and hope that on Thursday, the Question will be answered without fail. .

Mr. Speaker: The Question is deferred to Thursday next week. Mr. Assistant Minister, please take note.

(Question deferred)

Question No.947

ILLEGAL REVOCATION OF TITLE DEEDS

Mr. Speaker: Member for Chepalungu!

(Mr. Lessonet approached the Speaker)

Mr. Speaker: Order, Member for Eldama Ravine! Again that is not the way we conduct business here! I do not call out a Question and then you start running to the Speaker to offer an explanation! You are actually grossly out of order! Member for Chepalungu!

Mr. Lessonet: On a point of order, Mr. Speaker, Sir. I wanted to let you know that the Member for Chepalungu---

Mr. Speaker: Order, Member for Eldama Ravine! I direct that you withdraw for the next 30 minutes and, please, proceed to the Clerk's office and be advised on how you will conduct yourself in a situation such as this one!

(Mr. Lessonet withdrew from the Chamber)

In the meantime, Question No.947 is dropped!

(Question dropped)

Question No.966

IMPACT OF SOCIAL NETWORKS ON CHILDREN

Mr. Speaker: Hon. Odhiambo-Mabona! She is not here! The Question is dropped!

(Question dropped)

Question No.973

STALLING OF KIRIGITI-KIBICHOI ROAD PROJECT

Mr. Baiya asked the Minister for Roads:-

(a) why the construction of Kirigiti-Kibicho Road (C64) was abandoned in 2009, five kilometres before completion; and,

(b) when the Ministry will resume construction and when the remaining section of the road will be completed.

The Minister for Roads (Mr. Bett): Mr. Speaker, Sir, I am sorry for responding to your call late. I beg your indulgence.

I beg to reply.

(a) The construction of Kirigiti-Kibicho Road (C64) was not abandoned, but was wound up after the contract sum was exhausted. This was occasioned by an increase in the scope of works especially the volume of earthworks that had not been anticipated during the design stage.

(b) The Ministry has plans to execute the remaining works in the Financial Year 2012/2013.

Mr. Baiya: Mr. Speaker, Sir, I wish to thank the Minister for the answer he has given. There is only one aspect of the answer I am not satisfied with. This is a contract which was going on. The road is 22 kilometres long, but only 17 kilometres were done. Since 2009, construction on the five kilometre section has not been going on. If that does not really amount to abandoning of the project, I do not know what the Minister would mean by “abandonment”.

Secondly, why have resources not been provided to complete the five kilometre stretch, so that the residents of the area can benefit from a complete road? Right now, they are not able to benefit from the complete section of the road.

Mr. Bett: Mr. Speaker, Sir, I want to reiterate that the money that was set aside was outstripped by what was unforeseen in form of earth works. We had to remove and shift a lot of earth, and this took a lot of money. The effect of that unforeseen expenditure is the undone five kilometres of the road. We estimate the construction of those five kilometres to cost Kshs350 million. I would like to give the hon. Member an undertaking that works on that road will commence again in the year 2012. We expect to complete the

five kilometres then. We will continue to maintain the five-kilometre stretch of that road, so that it remains in a motorable condition as we await additional funds to pave the road.

Mr. Kabogo: Mr. Speaker, Sir, this bit was not done because of unanticipated expenditure; why should it take years, from 2009 to financial year 2012/2013? Do they not give priority to projects which are ongoing as opposed to starting new projects? Could he consider completing that section of the road in the current financial year? Why should priority on this bit come two years later?

Mr. Bett: Mr. Speaker, Sir, I would love to do that but already the Printed Estimates for this financial year are in the works. So, I cannot promise to do it this year.

Mr. Gaichuhie: Mr. Speaker, Sir, the Minister has said that they had a lot of unforeseen earth works to do. I thought before they do a road, they always do a proper design, which takes a lot of time and money. Could he tell us why the designer of the road could not anticipate those earth works?

Mr. Bett: Mr. Speaker, Sir, that is the situation I have been battling with since I got to the Ministry, where I found that the design works do not disclose the nature of the materials or the nature of the conditions where we are to traverse. So, I have since changed the rules completely for road designers to face the consequences of such omissions. Indeed, the particular designer involved in this case is being disciplined for not being careful and not disclosing all the details. I became aware that there were consultants who were actually preparing design works while in their offices in Nairobi as opposed to being on the ground to appreciate the condition of the soil and rocks that could be there. This is something which is not being tolerated by the Ministry.

Mr. James Maina Kamau: Mr. Speaker, Sir, this is not the first time the Minister has abandoned a road. We have a similar road in Kandara, which is only four kilometres long. The project was for 6.5 kilometres. Four kilometres were done and the remainder of 2.5 kilometres was abandoned. The contractor actually left the site. Why can the Government not be serious on this issue? In my case, the same Minister made an undertaking in this House to complete the remaining 2.5 kilometres. That was eight months ago but to date, nothing has happened.

Mr. Bett: Mr. Speaker, Sir, we have given that undertaking, and we will comply with it. I know that the hon. Member has asked about it so many times. We will do it as promised.

Mr. Njuguna: Mr. Speaker, Sir, while thanking the Minister for his commitment to continue maintaining the five kilometres that have not been done, could he inform this House on the amount of money he has allocated to continue maintaining the undone part of the road?

Mr. Bett: Mr. Speaker, Sir, I think we have set aside Kshs10 million.

Mr. Langat: Mr. Speaker, Sir, the Minister has said that the engineer who designed the road is currently facing disciplinary action. Could he confirm whether part of the disciplinary action being taken against the particular engineer is refunding some of the money that was paid to him for the consultancy?

Mr. Bett: Mr. Speaker, Sir, I cannot anticipate the sort of punishment we will give to the consultant, but we are taking action against him.

Mr. Speaker: Member for Githunguri, you are undecided. You come up and go back down. proceed.

Mr. Baiya: Thank you, Mr. Speaker, Sir. The remaining five-kilometre section is in an extremely bad state. I am confirming this because I was there this week. Could the Minister confirm when the allocation of Kshs10 million for maintenance of that section of the road will be forthcoming, so that the road can be made motorable?

Mr. Bett: Mr. Speaker, Sir, if it suits the House, I would want the hon. Member to see me in my office, so that we can jointly make arrangements for officers to go with him to the field, assess the situation and see how fast we can give assistance to that section of the road.

Mr. Speaker: Very well! That should settle the matter.

Hon. Members, Question No.922 is deferred to Tuesday next week because, as I indicated earlier on in the week, the Member for Turkana Central has a funeral in his constituency as a result of insecurity, as I was informed, and he has not been able to get back to Nairobi in time. This Question is deferred accordingly.

Question No. 922

PROFILES OF GOVERNMENT WORKERS IN TURKANA

(Question deferred)

Mr. Speaker: Hon. Members, that brings us to the end of Question Time.

POINT OF ORDER

EROSION OF SUPREMACY OF PARLIAMENT
BY HIGH COURT JUDGEMENT

Mr. Olago: On a point of Order, Mr. Speaker, Sir. I rise on a point of order to bring to the attention of the House a matter that, in my humble view, touches on the privileges in the National Assembly (Powers and Privileges) Act, and the Constitution on the freedoms and rights of Parliament. I am referring to the Judgement of Nairobi High Court Civil Case No.1250 of 2004 – George Odinga Oraro versus Erick Gor Sungu – delivered by Justice K.H. Rawal on 14th July, 2011.

From the outset, I wish to say that the issues I intend to raise on this point of order have nothing to do with the persons of these two gentlemen. They are both very well known to me, because George Oraro is an Advocate of the Supreme Court of Kenya, as I am, whereas hon. Erick Gor Sungu is a former A-Level classmate of mine at Maseno High School. The issues I intend to raise, in my view, are so serious that I ask to lay before the House a certified copy of the Judgement.

(Mr. Olago laid the document on the Table)

Mr. Speaker, Sir, the Judgement I am referring to, and the issues I wish to seek the Chair's direction on, is, first of all, how that Judgement erodes the supremacy of Parliament by negating the principles of Parliamentary privilege, under the National

Assembly (Powers and Privileges) Act, Chapter 6, Laws of Kenya, and how it impacts on the provisions of Section 117 of the Constitution.

Mr. Speaker, Sir, I wish to quote, for the benefit of Members, Article 117 of the Constitution; Powers, privileges and immunities:-

(1) There shall be freedom of speech and debate in Parliament.

(2) Parliament may, for the purpose of the orderly and effective discharge of the business of Parliament, provide for powers, privileges and immunities of Parliament, its Committees, the Leader of Majority Party, the Leader of the Minority Party, the chairpersons of committees and Members.

Mr. Speaker, Sir, that judgment arises from actions of Eric Gor Sungu as the Chairman of a Parliamentary Select Committee inquiring into the demise of the late hon. Dr. Robert Ouko. He is alleged to have uttered certain words within the precincts of Parliament that offended the plaintiff in that suite. The defence that was raised in the High Court is that those issues were privileged and they should not have been subject of a successful High Court suit.

Mr. Speaker, Sir, in my own view, that judgment impacts so seriously on the privileges of this Parliament that if it is left the way it is, then the freedoms that we enjoy of speech in this House will be curtailed and suits will be filed. Suits will be filed in a flurry of activities against Members of Parliament. I am, therefore, asking that the Chair intervenes in giving directions on what line of action Parliament should take in that judgment so that Parliament is protected from the Judiciary.

I also ask, with your permission, that because this matter touches on freedoms enjoyed by Members of Parliament, you give them a chance to ventilate before you issue your directions.

Mr. Speaker, Sir, in my humble view, if this House is not extra vigilant and if it will not scrutinize these types of judgments and digest and interrogate them thoroughly, then Parliament is going to be an institution under threat.

Mr. Speaker, Sir, the direction I wish to ask from you is that, having considered that judgment and views from Members of Parliament, may this matter be referred to the Parliamentary Service Commission (PSC) to find out ways and means of protecting the privileges of this Parliament?

Thank you.

Mr. Speaker: Very well! I will hear just a few more who want to speak to that point of order; not to ventilate. If you want to strengthen the point of order by the Member for Kisumu Town West, you may. However, it is not an opportunity to debate.

Dr. Khalwale: Mr. Speaker, Sir, I would like to reiterate that it is important that you consider that request and, indeed, refer this matter to the Committee on Powers and Privileges.

Mr. Speaker, Sir, you will recall that the time Mr. Gor Sungu was caught up in this matter, it was before the transmissions of this House were made live. If members of the Judiciary could understand how we were operating at that time, then they would appreciate that now when we are enjoying our privilege of immunity while on the Floor of the House. Because we are being transmitted live, members of the press have no problem in reporting what takes place here. However, at the time of Gor Sungu, the process was that after you enjoyed your Parliamentary immunity on this Floor in camera, as soon as you stepped out, the press would want you to clarify while you are still in the

precincts of Parliament. While you were clarifying, it would then be very difficult for you to be found to have been malicious the way this particular hon. Judge found. For this reason, it is important that we have a re-look now that this disparity has been exposed.

When we look at it, maybe we are just looking at the Kshs3 million that Mr. Gor Sungu was asked to pay. I have seen in the ruling that he was also supposed to meet the costs. We have no idea what those costs were. This is a former hon. Member of Parliament whom I know very well is not a businessman. He was relying on his salary here and I know that he relies on his pension. He might now be impoverished because of this particular ruling.

Mr. K. Kilonzo: Mr. Speaker, Sir, I also want to add my voice in this request for you to give direction on this matter. The reason I am asking for this is, I happened to be one of the Members who served in this Committee under the chairmanship of Gor Sungu.

Mr. Speaker, Sir, you will agree with me that indeed, to single out the chairman is very harsh. If such judgment was ever to be arrived at, it was collective responsibility. All Members are included. They were part of the deliberations which formed the basis of this ruling. I must say that this judgment raises serious issues regarding Parliamentary privileges and the doctrine of separation of powers.

These are issues which, in future, are going to impact on the exercise of business on matters of legislation. We are asking ourselves, if these are the kind of judgments we are going to have, what is going to happen on the issues of checks and balances that Parliament provides to the Executive?

Lastly, when we look at the independence and freedom of Parliament, it is going to be under threat.

As I sit down, the issue which has been canvassed on who is to pay these penalties; should it be Parliament or the individual Member who was acting in his capacity as a Member of the House? I pray that you give directions to this matter.

Mr. Cheruiyot: Thank you Mr. Speaker, Sir, for allowing me to speak on this matter. I will be brief.

Privileges come with responsibility. This matter was aired and it was so clear that one of the Members never allowed others to speak. They instead decided to harass and intimidate witnesses. We must learn to bear responsibility for all our matters if this country has to move. We should not scandalize people and harass them without giving them an opportunity to defend themselves.

On the basis of that, I support that this matter be looked into.

(Laughter)

Mr. Namwamba: Mr. Speaker, Sir, let me add my voice to this important matter. The time when proceedings before this Committee were going on, I did participate in those proceedings at that time as an Attorney representing one of the key witnesses who appeared before this Committee; a Swiss national called Maryanne Brinner. I, therefore, got the opportunity to be intimately associated with the work of this particular Committee.

However, my submission is that this gives this House an opportunity to set a precedent in terms of responsibility, what properly falls within the purview of privilege and what any Member of a Committee of this House can properly be held to be

personally responsible for, and how that relates with the freedoms enshrined in our Constitution and provisions related to privilege.

Mr. Speaker, Sir, I am particularly interested in the guidance of the Chair in terms of where the responsibility for the record of matters uttered in this House lies.

Mr. Speaker, Sir, when you look at Standing Order No.31, it is clear that the custody of all journals, records and proceedings in this House lies with the Clerk of this House. Therefore, it would be very important to be clarified as to whether a member or a Chair of a Committee can be held personally responsible for a record of the House that the Standing Orders themselves place in the custody of the Clerk.

Mr. Speaker, Sir, finally, the Constitution at Article 117(1) is clear and provides emphatically that there shall be freedom of speech and debate in Parliament. It then goes on to indicate how Parliament may exercise and enjoy that freedom, including any powers, privileges and immunities that are necessary for Members, Committees and persons holding various positions of responsibility in the House. I would invite the Chair to read that Article 117 of the Constitution, alongside Article 33, which guarantees every citizen of this country, together with Members of this House, the freedom of expression.

Mr. Speaker, Sir, I have had occasion to look at the court ruling. It is important to note that the Judge was very clear in his ruling in indicating that--- And I quote the Judge verbatim. "The defendant was at all relevant times the Chairman of the Committee (that is the Committee that the defendant chaired) and further, it is averred by the plaintiff that during the course of hearing, the Committee received false and malicious evidence, wherein the plaintiff was named as one of the persons who removed the deceased from his home at night when the deceased disappeared." So, primarily, the whole ruling that attempts to place liability on the defendant in this matter is related to the proceedings before a Committee of this House. Therefore, it will be very critical that in your ruling, you draw the line as to where our responsibility becomes personal and where that responsibility is properly privileged in terms of the House.

Mr. Kabogo: Mr. Speaker, Sir, as I support the point of order, I find myself, as a Member of this House, in a predicament due to the issue of the doctrine of separation of powers. This is a matter that has already been dealt with in the High Court. I am not sure how the House, without going through the same process in the High Court, Court of Appeal or Supreme Court, will be able to deal with a decision of the High Court that has already been made. As I support this issue and while you consider that, how do we deal with the issue of separation of the powers of the Judiciary, the Legislature and the Executive? I support.

Mr. Speaker: Order, hon. Members! I have heard the point of order raised by the Member for Kisumu Town West, as supplemented by five of his colleagues. I will be able to give directions as necessary and on notice. Much as it is an urgent matter, I will be away representing you at the Commonwealth Parliamentary Association Conference in the United Kingdom (UK) beginning from Monday. But I will see if it is possible for the directions to be given while I am away. But if it is not possible then, obviously, I will give those directions when I return. We will be careful to look at the judgement, the doctrine of separation of powers and also the concept of checks and balances. We will do the best we can to give directions that do not hurt any institution, except where the Constitution or the law permits.

But in the meantime, I think it is necessary that all Members of Parliament acquaint themselves with the judgement so that, even as I give directions, you will be listening from a point of knowledge. It is necessary that you know how far your privileges extend and what is protected and what is not protected. It is important that you do so. I, otherwise, thank you and will give directions.

Next Order!

MINISTERIAL STATEMENTS

BUSINESS FOR THE WEEK COMMENCING
TUESDAY, 26TH JULY, 2011

The Vice-President and Minister for Home Affairs (Mr. Musyoka): Mr. Speaker, Sir, pursuant to the provisions of Standing Order No.36(4), I take this opportunity to make the following Statement with regard to the business for the following week.

Mr. Speaker, Sir, first, allow me to convey my best wishes to all Members of this House following the resumption of our business last Tuesday. After the month-long recess, I believe that Members have come back fresh, re-energized - and shall I say re-wired - and ready to discharge our national duties. Without re-emphasizing the enormity in variety of legislative business before us, I am comforted by the fact that we have managed to cover substantial ground, especially in debate and passage of key Bills, especially the ones expected to anchor our new Constitution.

Mr. Speaker, Sir, Kenyans are hopeful and ready to enjoy the new judicial dispensation in Kenya. The Chief Justice, his Deputy and Director of Public Prosecutions are now in office and are properly seized of the matters affecting our Judiciary. Also, the earlier apprehension and fear over the delay of our electoral legislation has been allayed by the recently assented to Independent Electoral and Boundaries Commission Act of 2011. Already, proposed nominees to the selection panel have been submitted by the Principals and are awaiting vetting by Parliament, pursuant to provisions of the First Schedule of the Independent Electoral and Boundaries Act of 2011.

Mr. Speaker, Sir, regarding our business for next week, the House is expected to deliberate on the Motion to adopt the Budget Committee Report on Annual Estimates for the Financial Year 2011/2012, as we await the maturity of the following Bills: The Political Parties Bill (Bill No.20) of 2011, the Commission on Administrative of 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. Also lined up for debate is the Unclaimed Financial Assets Bill (Bill No.7) of 2011 and any other business pending before the House.

Mr. Speaker, Sir, finally, as usual, the House Business Committee will reconvene on Tuesday 26th July, to consider the business for the following week.

SAFETY OF GENETICALLY MODIFIED FOODSTUFFS

The Minister for East African Community (Prof. Sambili): Mr. Speaker, Sir, on Tuesday 19th July, 2011, hon. Eng. Gumbo asked for a Ministerial Statement on the safety of Genetically Modified foodstuffs. That question was directed to the Ministry of Agriculture and later, the Ministry of Higher Education, Science and Technology, which work closely together.

Mr. Speaker, Sir, I beg to respond on my part. Kenya is a signatory to the Cartagena Protocol on Bio-safety, which is a supplement to the Convention on Biological Diversity. The protocol specifically provides a guide for the regulation of handling, use and trans-boundary movement of living modified organisms, also referred to as Genetically Modified Organisms (GMOs).

To domesticate the protocol, the Government published the National Biotechnology Development Policy in 2006 and thereafter enacted the Biosafety Act in February, 2009. The policy provides guidance in research, development and use of biotechnology in various fields such as agriculture, environment, human health and industry.

Prior to the enactment of the Biosafety Act, 2009, the National Council for Science and Technology, under the Ministry of Higher Education, Science and Technology developed and published the following documents to provide guidance on the development and application of modern biotechnology and research work involving GMOs under the Science and Technology Act, Cap.250, the Laws of Kenya. The documents are: Guidelines on handling requests involving GMOs in Kenya; and A Manual for Inspection and Monitoring of GMOs in Kenya.

The Biosafety Act was enacted in February, 2009, to regulate activities in GMOs and establish the National Biosafety Authority. The mandate of the Authority is to exercise general supervision and control over the transfer, handling and use of GMOs with a view to ensuring safety of human health and provision of an adequate level of protection of the environment. The Act makes provisions to address safety issues through risk assessment and risk management where applications have been made to the Authority for importation, research, and development of GMOs.

The Act further provides for the establishment of a National Biosafety Clearing House and a mechanism for participation in the Global Biosafety Clearing House whose secretariat is based in Montreal, Canada, for sharing information and experience in GMOs.

The Biosafety Clearing House is a web-based virtual clearing house – a mechanism that makes it possible for any country to share information and experience with GMOs. Through this mechanisms, Kenya has unlimited access to comprehensive information on approval of GMOs for use as food, feed, and processing and release in the environment which is available in the Biosafety Clearing House posted by different countries all over the world.

Mr. Speaker, Sir, following the establishment of the National Biosafety Authority, the following biosafety regulations have been developed:

1. The biosafety contained use regulations. These regulations have been developed to govern the content of scientific research work in GMOs within contained or laboratory and greenhouse as well as confined field trial research establishment.

2. The biosafety environmental release regulations. These regulations have been developed to govern the release into the environment of GMOs with potential to propagate and placing of the same in the market.

3. The biosafety import/export and transit regulations. These regulations have been developed to govern the import into Kenya and the export out of Kenya and the transit through Kenya of GMOs. These regulations also detail the application procedures and requirements that must be made for import/export and transit of GMOs. This is the regulation that is very relevant now.

Mr. Speaker, Sir, let me assure this House and the public in general that the regulations have undergone a thorough and complete process of review by technical experts in biosafety/biotechnology drawn from the Ministry of Higher Education, Science and Technology, the National Biosafety Authority, the National Council for Science and Technology, the Ministry of Agriculture, the Ministry of Environment and Mineral Resources, key regulatory agencies, and the Attorney-General's Chambers.

The regulations were further subjected to a wide stakeholder consultation with representation from farmer organizations such as the Kenya Organic Agriculture Network, the Grain Millers Association of Kenya, the Cereal Traders Association, research institutions, institutions of higher learning or universities, NGOs, representatives of indigenous communities, Parliamentary Committees on Agriculture and Education, the press and media, AGMI/AU, NEPAD, and members of the public at large.

The regulations have been cleared by the Attorney-General and approved by the hon. Minister for Higher Education, Science and Technology. They were forwarded to the Attorney-General for publication on 18th July, 2011.

The National Biosafety Authority is in the process of developing regulations to prescribe procedures for handling, packaging, and labeling GMOs. The process shall involve wide stakeholder consultations.

It is important to note that the Kenya Bureau of Standards (KEBS) has developed two standards, namely, the Kenya Standard 2182 of 2009 on the code of practice for handling, transfer and use of GMOs and derived products. They have also developed the KEBS 2225 of 2010 on GMOs and derived products, labeling of food and feed. These standards will be taken into account by the Authority in the development of the labeling regulations.

Mr. Speaker, Sir, on the issue of capacity, I want to assure this House and the public in general that institutional, infrastructure, and human capacity exists in the Government and public institutions to regulate GMOs. Universities in Kenya have training programmes at various levels of undergraduate, Masters, and PhD in the area of molecular biology, genetic engineering and biotechnology which are the foundation sciences in the development of GMOs. These institutions include, the University of Nairobi, Jomo Kenyatta University of Agriculture and Technology, Egerton University, Kenyatta University and Moi University. I have not given the details of the programme.

The other public institutions with capacity to analyse and test GMOs include the Kenya Plant Health Inspectorate Service (KEPHIS) which is the regulatory agency responsible for biosafety in plants. It has the capacity to analyse and test for presence of GMOs. The plant health laboratories at KEPHIS are ISO Certified and are recognized as reference laboratories for genetic analysis by the COMESA regional body.

The Kenya Agricultural Research Institute (KARI) has a fully fledged biotechnology centre that has---

Mr. Mbadi: On a point of order, Mr. Speaker, Sir. You will realize that all Members of Parliament are not scientists. I remember the Ministerial Statement that hon. Eng. Gumbo sought was so direct and specific. I would ask that you rule that the Minister goes directly to addressing the issues that hon. Eng. Gumbo had sought, for example; are we importing GMO? Are we going to eat GMO food?

Mr. Speaker: Order, Mr. Mbadi! You will be running the risk of being repetitive. So, you will be out of order even as you raise the point of order against the Minister. However, Minister, I cautioned you earlier, even before you took the Floor, that you needed to ensure that you deliver your statement in a summary form. You have so far not complied. You know you are doing your 22nd minute. Honestly, that is not the way we want to go. That is not the way we want to do business here and I said that two days ago.

Proceed!

The Minister For East African Community (Prof. Sambili): Mr. Speaker, Sir, this is a very technical issue, and it is causing a lot of anxiety; I thank you and I apologize.

In addition, the National Biosafety Authority is delivering its mandate with support from various organizations; I am going to table this document so that hon. Members can read it. Finally, I will read the last statement. The Government recognizes that the lack of access to accurate and balanced information by the stakeholders has brought about fears and needs about biotechnology. I want to say here that we have a policy on the strategy, which is in Kiswahili, but I will table the one in English. I also table a document on the national biotechnology awareness. Finally, this morning the Bioaware organization that is led by the Chief Executive Officer (CEO) of National Council for Science and Technology (NCST) held a breakfast Press briefing and you will be able to get that information.

Mr. Speaker, Sir, on the specific responses, I table all these things including the Act. I want to say that the document from the Ministry of Agriculture that is talking specifically about what the hon. Member has said is here and I want to table it. Ideally, this question should have been responded to by me giving the regulations and my colleague, the Minister for Agriculture, giving the details; I have the answers here.

On whether it is true that the Government is in the process of importing Genetically Modified Organisms (GMOs) food, I wish to remind the hon. Members - I am reading the response - that this august House deliberated on and passed the Biosafety Act of 2009. Therefore, I have no doubt that the correct procedures and guidelines regarding importation and handling of GMOs shall be strictly followed; they will be adhered to. There has not been any importation and I do not want to read the others. Also, we have the foods and the countries that are dealing with GMOs. They are all here and I will table the material, so that hon. Members can look at everything.

On the level of preparedness--- I do not know whether I should read this. May I table this statement from the Ministry of Agriculture and the statement from my Ministry for the hon. Members to look at? I table all these documents, including the standards from the Kenya Bureau of Standards (KEBS), as well as the huge book on the Cartagena Protocol.

Thank you, Mr. Speaker, Sir, and I am sorry.

(Prof. Sambili laid the documents on the Table)

Mr. Speaker: Very well. Let us get clarifications beginning with the Member for Rarieda, Eng. Gumbo.

Eng. Gumbo: Mr. Speaker, Sir, I thank you for giving me the opportunity to seek a clarification. You were listening to my good friend, the Acting Minister for Higher Education, Science and Technology, Prof. Sambili, who, I must acknowledge, may have spent more time than me in school. But I am equally learned.

The point I am making here is that I had difficulties following what she was talking about, yet my education is above average. So, the majority of Kenyans may too have had difficulties. The points I was raising were very simple; I honestly did not think that I needed that walk through the policy statement.

The point is: Is Kenya in the process of importing GMOs or not? That is the first clarification. The second one is not about countries that are experimenting with GMOs, but it is about countries that are currently using GMOs to feed their people, and whether or not this has contributed to reduction in hunger in those countries. Lastly, in the spirit of collective responsibility, it does not matter whether Kenyans are misinformed or not, what we want to know is whether these foods are safe. Also, in the spirit of collective responsibility, I want to ask you, through the Chair: Would you be willing to lead the Cabinet in broad daylight in front of Kenyans to eat GMOs to satisfy the people that they are safe?

(Applause)

Mr. Speaker: Very well. Minister, please take notes; note that you have specific areas on which clarifications have been sought. Mr. Mureithi!

Mr. Mureithi: Mr. Speaker, Sir, this is a very touchy issue; it is with respect to GMOs, considering that the original GMOs were in cotton in the United States of America. Butterflies continued dying because of a GMO variety of cotton.

I have listened to the able Minister, but there are a lot of aspects in terms of risk assessment and compatibility of the GMO food with human beings. Could the Minister tell us what made the Chairman of grain millers go public and say that the price of maize meal will never come down unless they are allowed to import GMO maize? Does it mean that somebody somewhere is trying to make Kenya a guinea pig in terms of experimenting with the GMO foods?

(Applause)

Dr. Nuh: Mr. Speaker, Sir, when the Minister was asked whether this country is importing GMO maize, she circumvented the question, and said that the Biosafety Act will be followed strictly. She had previously stated that the Biosafety Act gives room for research on this. Therefore, does the Biosafety Act guarantee the consumption of GMO maize, or does it guarantee only research?

Mr. Mbadi: Mr. Speaker, Sir, I would like the Minister to clarify whether in the unlikely event that the Government decides that GMO foods will be imported into this

country--- I hear that if that happens, it will be strictly for milling. What steps is the Government going to take to make sure that in the unlikely event that this maize comes to this country, it will not be allowed to affect our agriculture in the long run?

Mr. Kutuny: Asante Bw. Spika. Ningependa kupata ufafanuzi kutoka kwa Waziri. Waziri anajua kwamba ikiwa Serikali ya Kenya itaagiza mahindi ya muundo au mtindo huu wa kisayansi--- Je, ana habari kwamba itaingilia bei ya mahindi ambayo yanazalishwa hapa Kenya, na wakulima ambao wanajitokeza asubuhi mapema na kutoa jasho jembamba wakikuza mahindi ambayo wanategemea kuwapeleka watoto wao shule na kuwalisha? Kwa namna yoyote bei itashuka kwa sababu inasemekana kwamba bei ya mahindi ya kisayansi ni ya chini kuliko ya mahindi yanayozalishwa hapa Kenya! Vile vile ufafanuzi ninaotaka kutoka kwa Waziri ni kwamba utafiti ambao umefanywa unaonyesha kwamba mahindi haya yanaleta ugonjwa wa saratani, hasa sana saratani ya sehemu za siri au nyeti. Sijui kama Waziri ana habari kwamba hii itafanya idadi ya Wakenya kupungua kwa kiwango kikubwa sana; saratani ya sehemu za siri itadhuru sehemu za uzazi za akina mama.

Mr. Wamalwa: Thank you, Mr. Speaker, Sir. Eng. Gumbo had raised a very specific issue that I did not hear the Minister addressing. It was on the interest of the Kenyan farmers *vis-à-vis* the international companies like Monsanto, that are developing Genetically Modified Organisms (GMOs). What is the Government doing to ensure that Kenyan farmers are empowered to produce enough food and even export, like the Malawian farmers are doing, so that we do not have to import GMOs?

Thank you, Mr. Speaker, Sir.

Mr. Mututho: Thank you, Mr. Speaker, Sir. The Minister has said that they followed the law strictly. The law states that among the critical ingredients and prerequisite to import, you must have a clearing house. A clearing house is where data and information would be exchanged and where they would have equipment and facilities to identify GMOs. Where is that clearing house as far as the Ministry is concerned?

Number two, Mr. Speaker, Sir, we know for a fact that maize variety MON 810, MOA 836 and MK 603, all of which are GMO varieties, have not been released anywhere in the world for animal consumption or even for human beings. The maize variety that is being imported from South Africa is all about those varieties I have mentioned. What informed the authorities to allow South African authorities to issue Permit No. 032 all through to 037 that informed the importers and milling corporations to import that maize?

Finally, Mr. Speaker, Sir---

Mr. Speaker: Order, hon. Member for Naivasha! You may have taken advantage while consultations continued between me and the Assistant Minister in the Office of the President. We cannot allow you that extra latitude!

Proceed, the hon. Member for Mathira!

Eng. Maina: Thank you, Mr. Speaker, Sir. The Minister has gone ahead and narrated some scientific jargon, but the question before this House is whether this country and the Government has truly allowed the importation of GMO maize. There has been information in the market that some packets of maize will be marked "GMO" so that ordinary people can choose. That has gone on record. What would necessitate that if, truly, you have not authorized importation of GMO maize?

Madam Minister, you, as a scientist, in spite of whatever you are reading, doctors are saying that we should stick to natural food. What really made this country – an agricultural country that should be exporting food – to reach a decision to import risky foods? Those are foods that are not being eaten in some countries in Europe; food that is not being eaten by humans in North America. What would warrant this country to reach that decision?

Mr. Speaker: The last two; and it depends on who is faster than the other!

The hon. Member for Emuhaya!

Dr. Otichilo: Thank you, Mr. Speaker, Sir. First, I want to say that I am a great supporter of Biosafety Act. I am also a great supporter of genetic engineering. Having said that, I want to know from the Minister whether the following has been done:- That is because according to the Biosafety Act, no person shall introduce into the environment GMOs without written approval from the National Biodiversity Authority (NBA). Secondly, no person shall import into Kenya a GMO without written approval from the National Biosafety Authority (NBA). Finally, no person shall place on the market a GMO product or material without approval from the NBA. I want to know whether that has been adhered to.

Mr. Speaker: Mr. Mohamud was first and he will be the last one!

Mr. Ali M.H. Thank you, Mr. Speaker, Sir. I wish the Minister to clarify and confirm that in the past there have been allegations that GMO food has been imported into Kenya, but has never been declared. Kenyans have never been told that what they are eating or what they are getting in the stores is GMO maize. Now, there are also plans, maybe, immediately or in the future, to import GMO maize. Can the Minister assure this House that when such maize is imported into this country, it will be declared so, so that those who want to eat the GMO maize can decide, and those who do not want to eat it can abstain?

Thank you, Mr. Speaker, Sir.

The Minister for East African Community (Prof. Sambili): Thank you, Mr. Speaker, Sir. These are very loaded issues and I respect my brother, Eng. Gumbo.

Mr. Speaker, Sir, I want to respond to some of these issues, but for the others, because of their seriousness, and because of the need to give Kenyans proper information, I will request for more time to liaise with the Ministry of Agriculture, which has been dealing with this issue so that we can bring to this House proper information that is going to guide us.

But, Mr. Speaker, Sir, I want to say that no approval has been given to import GMO foods. Nobody has applied to bring GMOs to Kenya.

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

The Minister for East African Community (Prof. Sambili): I need your protection, Mr. Speaker, Sir.

Mr. Speaker: Order, Prof. Sambili! Points of order are allowed, whether or not I give you protection!

(Laughter)

The Minister for East African Community (Prof. Sambili): Okay, Mr. Speaker, Sir.

Mr. Mbadi: Mr. Speaker, Sir, I remember last time when this issue came up, you gave a very direct instruction and directive that this matter needs to be addressed quickly, because it is of national concern.

Mr. Speaker, Sir, Madam Minister is asking for more time to go and consult. How much time is she asking for? Suppose those GMOs are imported tomorrow; what are we going to do as a country?

Mr. Speaker: I do not see that as a valid point of order. Madam Minister, what you need to do is give answers that will allay the concerns and fears of Kenyans for the time being, even as you seek for more time. That is what you need to do!

The Minister for East African Community (Prof. Sambili): Thank you, Mr. Speaker, Sir. Yes, any imports--- I have been working on the regulations. I gave the regulations to the Attorney-General on 18th of July for publication. No imports will be brought without proper regulation. I can assure this House as the Acting Minister for Higher Education, Science and Technology. Nobody has made any application to the NBA to date. The countries that use---

Mr. Speaker: Order, Madam Minister! Order! I think you will help this House if you go through the queries raised by hon. Members one by one, and give a quick answer, Then we will conclude! I know you are very good as a professor. But you see, professors lecture. But now here, we want quick answers!

(Laughter)

The Minister for East African Community (Prof. Sambili): Mr. Speaker, Sir, to answer Eng. Gumbo's question, the countries that are using GMOs are the Republic of South Africa, the USA, Egypt, Burkina Faso and Brazil.

Eng. Gumbo: On a point of order, Mr. Speaker, Sir. This point cannot be lost and I think it is the gist of the question. I had asked which countries are making GMOs. I had asked which countries are using GMOs to feed their people and whether or not this has pushed back hunger in those countries. That is the question.

The Minister for East African Community (Prof. Sambili): Mr. Speaker, Sir, I had not finished. That question from Eng. Gumbo, I do not want to answer it now. I want to discuss with the Ministry of Agriculture and then we give you proper answers. We are not doing politics here.

Mr. Mureithi asked about the millers whether they want to use Kenya as guinea pigs. We will not allow them to use Kenyans as guinea pigs.

With regard to the effect of GMO, we will have to follow the procedures to make sure that there will be proper labeling. Mr. Hussein asked a question and I think we will respond to it after consulting with the Ministry of Agriculture.

With regard to what Mr. Kuttuny and Dr. Otichilo asked, we will respond to their concerns and other questions after consulting with the Ministry of Agriculture to give a comprehensive response.

The studies that have so far been done about the effects of these GMOs, have not shown adverse effects on health. However, we will give a proper comprehensive answer after looking at the HANSARD.

Mr. Langat: Mr. Speaker, Sir, the Minister has kept on saying they will consult with the Ministry of Agriculture. Given that this matter seems to be touching on two or

three Ministries, including the Ministry of Public Health and Sanitation, would I be in order to request that this question be transferred to the Prime Minister's office because he is the one co-ordinating all these Ministries?

Mr. Speaker: Hon. Members, I will allow the Minister the time that she requires. Madam Minister, I did indicate earlier on this week that this was an urgent matter. So, you must treat it as such. Which day next week is good for you?

The Minister for East African Community (Prof. Sambili): Mr. Speaker, Sir, I think we should consult with the Ministry of Agriculture and Ministry of Public Health and Sanitation as Mr. Langat has said with guidance from the Prime Minister's office. Maybe Thursday, next week will be appropriate because my colleagues are not here.

Mr. Speaker: Thursday next week, that is fine.

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

Mr. Speaker: Order, Member for Bura! This business must be concluded. Madam Minister, you have while making your responses among other things said that GMO maize has not yet been imported. Will you give a commitment to this House that no GMO maize will be given to Kenyans until after Thursday when you have offered adequate explanation to the House? In your own words, you said no GMO maize is being imported yet. Could you give that commitment?

The Minister for East African Community (Prof. Sambili): Mr. Speaker, Sir, I said nobody has applied to supply GMO to Kenya yet. That is going by the NBA which is under the Ministry of Higher Education, Science and Technology.

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

Mr. Speaker: What is it, Member for Naivasha.

The Minister for East African Community (Prof. Sambili): I am also undertaking---

Mr. Speaker: Order! You may proceed, but you know that there is a fault as you have done now. But proceed.

The Minister for East African Community (Prof. Sambili): I want to say that once the regulations which were forwarded on Monday are published I do not see any possibility of this food being brought to Kenya before Thursday. We will follow the rule and God will help Kenya that we have enough food.

Mr. Mututho: Mr. Speaker, Sir, I rise on a point of order specifically Standing Order No.82(2) which allows an hon. Member, if a Member cannot substantiate to substantially convince the Speaker to come and produce documents at a future date and say this: That I have evidence that GMO has been imported in Kenya in the past and that the records from Kenya Plant Health Inspectorate Services (KEPHIS) indicate that certain vessels that landed in Kenya at various times tested positive for GMO. Am I in order, therefore, to seek your ruling and guidance that I table these documents on the next sitting day which is Tuesday, confirming that, indeed, certain shipments came into the country and were positive to GMO on testing by KEPHIS?

Mr. Speaker: Member for Naivasha, the point of order you have raised is important. I will direct that you avail those documents to the Minister as she prepares to bring a comprehensive answer on Thursday, next week. Then on Thursday next week, you come armed with those documents and table them depending on the answer that the Minister will give. That then will settle the matter.

Madam Minister, this is a serious matter. You have indicated to this House that as far as you know there has been no request to bring into Kenya GMO maize. So, we will go by the import of that utterance from you that no GMO maize is in Kenya now and none will be allowed to be consumed by Kenyans until you come on Thursday. That is the import of what you said. Confirm by saying yes!

The Minister for East African Community (Prof. Sambili): Yes, Mr. Speaker, Sir.

Mr. Speaker: That is adequate.

The Minister for East African Community (Prof. Sambili): No! Oh my goodness!

Mr. Speaker: Order, Madam Minister! That is adequate. You must ensure that it happens.

Minister for Transport!

SEVERE POWER OUTAGES AT JOMO KENYATTA INTERNATIONAL AIRPORT

The Minister for Transport (Mr. Kimunya): Mr. Speaker, Sir, I wish to make the following Statement on the power outage at Jomo Kenyatta International Airport as was requested by Eng. Gumbo.

On Sunday 17th July, 2011, at 3.27 a.m. a power outage occurred at Jomo Kenyatta International Airport which was caused by an earth fault on one of the high voltage underground cables which is part of the JKIA Internal Power Distribution System. The outage was as a result of tripping at the KPLC sub-station that feeds the airport as a consequence of the underground fault. The same fault inhibited loading of the standby generators and we have four of them. As efforts were being made to restore the power supply, a team of the Kenya Airports Authority (KAA) personnel commenced deployment of the emergency temporary runway lights which was subsequently completed by 5.30 a.m. enabling the resumption of flights.

Mr. Speaker, Sir, in the meantime, the KAA personnel in liaison with the KPLC engineers identified and isolated the faulty section of the underground cable and power was restored by 7.30 a.m. on Sunday allowing resumption of the full operations at the airport.

Regrettably, 14 flights were diverted and eight were delayed. On Monday, 18th July, the repaired cable was again tested and energized. However, at 6.40 p.m. an earth fault later occurred leading to a similar shut down as experienced the previous day. The technical team moved in, identified the fault and power was restored within 30 minutes. Again during that 30 minutes, eight flights were diverted and another eight were delayed.

On Tuesday, 19th July, the engineers from the KAA and the KPLC did test and confirm the serviceability of the repaired cable and in addition they assessed and harmonized the protection settings on both the JKIA and the KPLC sub-stations. This is intended to ensure that faults are isolated nearest to the occurrence without disrupting other areas.

The system has since stabilized and the engineers will continue with further tests, to fully address any arising issues. It is not currently possible to estimate the financial, economic and social investment losses that have resulted from the disruptions caused by

the outage. I want to state at this point that we regret all the inconveniences that have been caused to all the travellers using the JKIA because of those two disruptions.

The Member also wanted to know what has happened in the last one year and I have a log that I wish to table together with this Statement, of all the outages in the last one year, which basically summaries the outages. There have been 11 different occasions ranging from two minutes to two hours. The good news is that on all the occasions, the generators have started, loaded and supplied power to the airport during the outages. It is only these two days in the last one year that we had total failure.

Mr. Speaker, Sir, going forward, the Authority is undertaking major upgrade of the JKIA power supply and distribution system to cater for the current facilities and the ongoing expansion programme. The Kenya Airports Authority has in the last few years initiated, as we all know, various projects to enhance reliability, safety and efficiency of operations at the international as well as our domestic airports in the country. I just want to highlight some of the things that have been going on. You are aware of the construction that has been going on of the new Terminal 4 or Unit 4 Building, parking garage, grade parking and associated works at the JKIA. This is ongoing and we expect it to be complete by the end of next year. We also have upgrading of facilities at the Kisumu Airport through the construction of a 3.3 kilometre runway linking taxi ways, apron and a new terminal which is substantially complete and could well be commissioned in the next month or so.

We also have rehabilitation of aircraft pavements at the Moi International Airport, which is expected to commence in February, 2012 and we are working on the modalities of this. At the Malindi Domestic Airport, the construction of a new terminal building is ongoing and is expected to be completed by September this year. There are several other projects that are ongoing across the entire country. We are doing far much more which is probably not being visible. All these projects are geared towards greatly improving the services offered by the Authority and ensuring passenger comfort and safety for people transiting or travelling through our airports.

Mr. Speaker, Sir, specifically on the last item that was requested, I wish to further clarify that on 19th July, 2011, at 6.35 p.m., a cargo flight registration No.APB4 Boeing747 from Islamabad was reported by the control tower to have developed an emergency while airborne. The pilot reported that the aircraft was running low on fuel and requested for permission to land on Runaway 24 rather than Runaway 06 to save on fuel. Full emergency procedures were observed by opening new crew gate and flight gates. The flight landed safely at 6.53 p.m. out of which the control tower called off the emergency. This occurrence had no association with the power outage and was dealt with as recommended by the International Civil Aviation Organization (ICAO) in its standards and the recommended practices.

I wish to table this Statement plus the log showing the 11 occurrences in the last one year, which like I have explained, have all been sorted out and we did not end up with a blackout expected on these two occasions.

(Mr. Kimunya laid the documents on the Table)

Eng. Gumbo: Mr. Speaker, Sir, allow me to start by thanking the Minister profusely for the action that he has taken to bring the Statement here, appreciating the

urgency of the matters at hand. I am sure it is not lost to the Minister that the airport other than being a development of ultimate prestige for our country, it is also a major security installation. I thank him for realizing that it is important to address the matters that occurred as it impacts very negatively on the image of our country and our people.

The Minister is aware, and I am sure most Members here are aware, that prior to coming here, I was a practising Electrical Engineer. In fact, a consulting Engineer for that matter. That means that I have some privileged information and one bit of the privileged information that I have is that airport installations are some of the most complicated electrical installations anywhere in the world. That means that in a country like Kenya you can hardly find ten or 20 competent contractors that can handle that kind of installations satisfactorily. This, therefore, brings to question the competence of the contractors that are maintaining electrical installations at the airport. I know it and the Minister knows that one of the people who are currently maintaining the installation at the airport is Magnet Ventures. Magnet Ventures, to the extent that I know, are general merchants.

Mr. Speaker, Sir, I want the Minister to clarify, if indeed, Magnet Ventures, who are currently maintaining the electrical installation at the airport, do, indeed, have the competence to maintain that installation and if, in fact, part of the problems that we are realizing here today are not arising from the fact that the skewed tendering process at the KAA allowed somebody without competence to maintain that installation. The second clarification---

Mr. Speaker: And it has to be the last one!

Eng. Gumbo: Mr. Speaker, Sir, it is the second and the last one. It has been alleged and the Minister may clarify that the current managers at the KAA have demonstrated some level of highhandedness and brutality in promotions and handling of staff. Some of the promotions that have been done are whimsical reactions to the pleasure of the managers. For example, it is being stated - I want the Minister to clarify- that the current Airport Manager who is in charge of ensuring that the facilities at the airport work properly does not have both the qualifications and the experience necessary to undertake to manage a huge facility of that size. Could the Minister clarify how the current Airport Manager was promoted, his experience and qualifications and whether he believes that the manager has the competence to undertake the required maintenance at that facility?

Mr. Njuguna: Mr. Speaker, Sir, the Minister has informed this House that 14 flights were diverted and eight flights were delayed. Could he, therefore, inform this House the total loss incurred by Kenya Airways as a result of that incident? Finally, could he also tell the House the amount of money that has been set aside for upgrading the facilities at the JKIA?

Mr. Mututho: Mr. Speaker, Sir, while addressing this problem, could the Minister candidly tell us when we expect to see the first Jumbo A380 land at the JKIA? What arrangements have been made to ensure that we do not allow Rwanda to lead in this zone by allowing her Jumbo A380 to land at the JKIA before our own?

Mr. Omollo: Mr. Speaker, Sir, you have heard the Minister say that the incident occurred as a result of somebody trying to cut the HT cable. In normal circumstances, if the main KPLC line trips, the standby generator is supposed to go on. In such facilities, whether the generator has enough capacity or not, we have automatic load sending

facilities for the essential and the non-essential side. The non-essential side is lighting in rooms and the essential side is the runways. Why did lines in the essential side, namely, the runway, go off? Why does such a big facility not have a second standby generator? I really wanted to add another one, which is a very tricky question. I hope you will allow me. We read in the newspapers that so many flights were diverted to Kigali, Dar-es-Salaam, Entebbe and Moi International Airport, Mombasa. I did not hear of any flight having been diverted to Eldoret International Airport. Is it operational or not?

Mr. Shakeel: Mr. Speaker, Sir, I would like to ask the Minister whether he can tell us where the Airport Tax that is collected is credited. Does it go to the Kenya Airports Authority? Does it form part of the national Budget or does it not?

The Minister for Transport (Mr. Kimunya): Mr. Speaker, Sir, I wish to begin with the last one. Hon. Shakeel may remember that this House passed an amendment to the law which created the Airport Service Charge Fund, to which all the airport service charge is credited. This is maintained in accordance with the same law that this House passed. The Fund is part of the national accounts.

Going to the other specific requests, again in no particular order, the issue raised by the Member for Uriri, on whether the main generator should not have kicked on, the airport has four generators. Indeed, during the incident on the second day, the generator supplying power to the terminal building was on. So, there was light in the terminal building. However, the generators supplying power to the runway and the navigation systems were affected by the tripping. It is part of that complicated network.

The cabling and the earth wire supplying both was the same. So, even though the generators kicked on, they could not supply power because of the same tripping, due to the inter-connectivity of the internal distribution system; this has now been sorted out. In addition to the four generators that comprise the current standby mechanism, we have agreed that the KAA will acquire another three generators, so that we can isolate the different areas of operation – the navigation system, the runway system and general lighting – so that there can be specific back up for each of those areas.

So, irrespective of where the problem comes from, we should never compromise on the navigation system and the runway lighting, so that flights can continue landing and taking off at any one time as we have enough lighting at the terminal. That is something which is being worked on. We would rather have more generators than we need than compromise on the safety of any aircraft that lands or takes off at any one time.

Mr. Speaker, Sir, the aircraft were not diverted to Eldoret and Kisumu because we are yet to complete the ongoing works at Kisumu Airport and commission the facility. When we eventually turn it into an international airport, the issue of diverting flights there will depend on its capacity to handle flights. Again, it is an issue of personnel.

The same applies to Eldoret Airport. If you divert there eight flights during an emergency, you will really need to have the safety of the passengers in mind. We could not have handled that much without deploying personnel from the various departments to Eldoret. So, in terms of such decision, it is all set out in international regulations, and it depends on what you do and where a flight is at the time when you divert it. If it is overlying Uganda, you are supposed to divert it to Entebbe International Airport. It also depends on the direction it is coming from.

First of all, you should make sure that the passengers can land as you sort out your issues. Regardless of the fact that we would all have wanted them within Kenya, it

depends on where the flight is at the time you are diverting it, because you declared that the navigation system at the airport of destination cannot support the aircraft that is just about to land.

Mr. Speaker, Sir, on the issue raised by hon. Mututho, as to when we are expecting the first A380 aircraft or any of those 787 aircraft and all that, again those are commercial decisions by the airlines. Our airport has been tested. Indeed, the 4.5-kilometre runway that we have can support an A380 aircraft. The only challenge we would have is that an A380 aircraft is a double-decker aircraft. So, in order to evacuate all the passengers fast enough, you need to think around air bridges.

The design of the new terminal we are building includes a place where we can have a gate which can accommodate that kind of aircraft. Our airport has been tested and we know that we can offer emergency landing for an A380 aircraft that may be passing through our airspace. We have that capacity, and we will not allow any other country to outcompete us.

Mr. Speaker, Sir, hon. Njuguna mentioned the issue of the total losses incurred. I indicated that at this point it will be very difficult for us to quantify the losses incurred. We know that there was so much inconvenience to the airlines – not just Kenya Airways but all the airlines whose aircraft had to be diverted elsewhere. That is part of the risks of the air travel industry. We hope that they will understand. We are working together to ensure that we do not end up with this kind of situation again.

At this point, I would rather we leave out the figures until we see whether there will be any claims that will arise from this incident. I can update the House on the same later on.

Mr. Speaker, Sir, in terms of how much funds have been set aside for upgrading of facilities, I would say that the KAA has had to survive on internally generated funds. As you know, there is very little in the Budget in terms of monies that have been voted for advancement of the airport's facilities. We have less than Kshs500 million available for all the airstrips across the entire country. We require substantial amounts to do a new terminal and do all the works that we want. We have had to borrow from the KAA's cash flow for all the funding that we require, including for the new terminal and all other works.

It would help us very much if this House could also support us in terms of some of the proposals we have made, like increasing the Air Service Charge to make it comparable with that in the rest of the region. We charge the lowest in the region. We do not know why we give people discounts, yet we compete with the rest of the region. We have proposed to the Treasury to increase the Air Service Charge, which should generate for us a minimum of US\$45 million per year. So, if that proposal is carried, in ten years' time we should have enough money to amortise and secure the building by upgrading the facilities at the airport to be at par with what is in the rest of the region. In terms of the money that we have, it is still too little compared with our needs. We are doing what we can, from a purely commercial perspective, to ensure that facilities are upgraded.

Mr. Speaker, Sir, coming to Eng. Gumbo's concerns, as to whether the current airport managers have the relevant qualifications, I remember giving a comprehensive answer on the entire staffing of KAA in response to a request which was made on the Floor of this House. I tabled the details of the managers and their qualifications and the matter rested there.

The Board made the decision in good faith, in accordance with the mandate we have given them, and ensured that the people occupying the current positions have adequate experience and the requisite qualifications to do the jobs that have been given to them. I have discussed with the Board and it is something that they have to do on an on-going basis. They assess the requirements even going forward as we advance and put more investment in the airport. They continuously look at all the people working at the different areas to make sure that they are still capable of providing us the first class service that we require. The human resource teams are all working on that to synchronize the people with the job requirements. So, again it is something we are alive to. We want to make sure that people do the right things and the right jobs are done by people with adequate qualifications because an airport is a place you do not want to joke around with. This is not just in terms of our own national perspective but we also have international regulations through International Civil Aviation Organization (ICAO) and International Air Transport Association (IATA) that we need to observe.

Mr. Speaker, Sir, lastly in terms of the teams that are maintaining the electrical installations, I am not quite sure whether there is any link with Magnate Ventures on this. Magnet Ventures may have been one of the tenderers. I am not sure of the specifics of who is doing what specific aspect and whether they are doing the entire airport or just some specific tenders for new installations. I would say that the airport has its own engineers in addition to the contractors. Following the incidences that took place in the morning and in the evening, I did also ask the Kenya Power to move in there with their engineers. This is because Kenya Power and the Kenya Airports Authority (KAA) are two public bodies. The kind of thing that we saw yesterday; buying space to start faulting one another is really regrettable. I did ask the two of them to move in there together and sort out the problem. We do not want to know who is at fault. What we want to know is that the airport is safe and the electrical systems within the airport are safe. I, however, will check the role played by the contractors, if any. My understanding is that the fault had nothing to do with the lack of maintenance because of some works that perhaps may have been going on around that area leading to some exposure. That has been sorted. The good thing is that, that is history. Let us hope that the work that is going on will isolate any other fault. That airport is very important for all of us going forward.

Eng. Gumbo: On a point of order, Mr. Speaker, Sir.

Mr. Speaker: What is it, Member for Rarieda? I thought the Minister has been fairly extensive!

Eng. Gumbo: Mr. Speaker, Sir, actually he has done very well. I only want to help him as a Kenyan patriot. Through the Chair, I told the Minister that I have privileged information; I am a consulting engineer for life actually because you cannot take from me. There are rules governing which classes of contractors work in which installations. The airport is a symbol of prestige. Could I request through the Chair that the Minister asks the management of KAA to make sure that this is adhered to? When you hear that general merchants like Magnet Ventures who are known only to put signage are working as contractors, it is a cause for worry. I think, through the Chair, I would request the Minister to follow up this matter and make sure that only the right classifications of contractors undertake work at our airports.

Thank you.

Mr. Speaker: Minister, that you just need to confirm.

The Minister for Transport (Mr. Kimunya): Mr. Speaker, Sir, I had already confirmed to the hon. Member that I would be following up all those in addition to all other leads that we are looking at to ensure that the airport is safe.

Mr. Speaker: Is there any other Statement?

(Mr. Ndambuki stood up in his place)

Assistant Minister for Agriculture, you have a Statement. How long is it going to last? Otherwise, we have run out of time?

The Assistant Minister for Agriculture (Mr. Ndambuki): Less than ten minutes.

Mr. Speaker: Are you sure? I will time you from now and you will not be allowed to go beyond ten minutes to 5.00 p.m.

ILLEGAL DEALS/THEFT OF COFFEE IN KENYA

The Assistant Minister for Agriculture (Mr. Ndambuki): Mr. Speaker, Sir, my Ministerial Statement is on illegal coffee deals and theft of coffee in this country.

The Government recognizes that the coffee industry plays a key role in the Kenyan economy in line with Vision 2030. The coffee industry is a source of foreign exchange earnings and creates employment opportunities and it is generally a source of livelihood to an estimated 5 million Kenyans. Over the last ten years, the Government has introduced major reforms in the industry geared towards revitalization of the sub-sector. In addition, the Government has made several interventions including debt waiver, institutional restructuring and the establishment of Coffee Development Fund. These reforms are anticipated to drive industry to full recovery into the future.

Over the last two years, the high coffee prices globally and at home has, indeed, increased illegal practices as evidenced in the number of cases reported over the last 12 months. The cases range from cherry hawking to robbery with violence. In some instances, lives have been lost. Coffee thefts take place at the coffee farms, coffee stores, on drying beds and even on transit. Like any other criminal act, the cases are reported to the police but there has been few successful arrests and prosecution.

Mr. Speaker, Sir, my Ministry notes with concern that its effort to revamp the industry is being negated by rampant coffee theft in coffee growing areas. The malpractices are widespread and span across the country, namely; Rift Valley, Nyanza, Western, Central, Eastern and south east Kenya. In the last 12 months, July 2010 to June 2011, an estimated 2,348 bags of parched coffee valued at Kshs50 million have been lost. This, therefore, denies the farmers their rightful returns and, of course, escalates the cost of doing business in terms of insurance cover, security, mechanized drying of coffee and transit coffee tracking devices. It must be noted that any illegal coffee dealings not only contravene the Coffee Act but is also an affront to the fight against poverty. Indeed, illegal coffee deals are an economic crime and against the national development blue print of Vision 2030 of poverty alleviation in the rural areas.

The illegal dealings and theft if unabated have the potential to turn this country into non-coffee producer hence denying the country foreign exchange earnings, the livelihood of an estimated 5 million Kenyans, employment for an estimated 240,000 people and, of course, related services sectors such as banks, input supplies *et cetera*.

Mr. Speaker, Sir, provisions of the Coffee Act, pursuant to Section 17(1) (a) of the Coffee Act (No.9 of 2001) provides that anybody who buys, sells, mills, warehouses, exports or otherwise deals in or transacts any business in coffee, unless he is a holder of a current licence issued by the Board for the purposes, engages in illegal deal.

Section 17 (1) (b) demands that any transportation or possession of any such coffee be supported by a valid movement permit issued by the Board. Therefore, buying and selling of coffee without the relevant licence and transporting of coffee without movement permit, therefore, contravenes the Act.

Mr. Speaker, Sir, I would like to put those who are doing this business of stealing coffee and going to sell it in other places to be aware. We are now alert and the Government is ready to face them. They should stop. Those millers who are buying coffee which is stolen from factories should also be aware that their licences are going to be revoked.

The following are the factories which have lost their coffee; in Kiambu Komothai lost 118 bags, Kandara lost 35 bags, Kwenga Estate lost 800 bags and Gatunyu Kigio lost 30 bags. In Bencha Estate, cherry from trees was stolen. Benda Estate lost cherry, Mukura lost 80 bags; Kahuhia lost 20 bags; New Gatari lost 11 bags; Gathangaini FCS, 60 bags; Muthithi, 21 bags; Muruga, 80 bags; Kandara, 21 bags, Muruga, 40 bags, Kigetuiini , 20 bags, Musilili, 17 bags, Muvuti, 23 bags, Kithangathini (Makueni), 19 bags, Kivani (Makueni), 100 bags and Kangundo-King'oti, 20 bags.

Mr. Speaker, Sir, if you look at the amount of money the farmers lost, it is really a lot. We are talking coffee worth Kshs50 million which has been stolen from factories. I want to ask hon. Members and also Kenyans to make sure that those who are involved in that business are arrested. We should not buy any coffee from anybody who has no documentation. If you want to lose your mill, do that and you are out of business.

Thank you, Mr. Speaker, Sir.

Mr. Njuguna: Mr. Speaker, Sir, while I thank the Assistant Minister for this very timely Statement, could he, in addition, inform this House the very active measures the Ministry is taking to bail out the farmers who are currently affected by that serious menace?

Eng. Maina: Mr. Speaker, Sir, the issue of theft of coffee has been going on for years. Truly, the Assistant Minister has not told us what measures they are taking to ensure that coffee is not stolen. *Wananchi* have no capacity to go after those criminals. You are just telling us here that you will withdraw licences. Up to now, can you itemize the culprits who have been stealing coffee, tell us which particular millers are involved and say what action you are taking, rather than repeating promises that have been given over the years?

Dr. Nuh: Mr. Speaker, Sir, apart from the Minister asking for the goodwill of the public and Members of Parliament to be whistleblowers, what instructions has he given to the agricultural officers in the districts? That is because the Ministry has a network that surpasses many other Ministries. What is he doing to ensure that they investigate and bring those stealing the coffee behind bars?

The Assistant Minister for Agriculture (Mr. Ndambuki): Mr. Speaker, Sir, on the first question by the hon. Member, the Ministry is not in a position to reimburse the Kshs50 million, but most of those coffee factories have insurance covers. They are pursuing the insurance companies to make sure that farmers do not lose their money.

Mr. Speaker, Sir, with regard to Eng. Maina's question, already, quite a number of people have been arrested and are in police custody awaiting to be taken to court. We have not caught some of them but we are still pursuing them. We have also advised the factories to hire guards and also install alarm systems in their factories. That is because majority of the coffee is stolen from the stores and dryer beds when it is being dried.

Eng. Maina: On a point of order, Mr. Speaker, Sir. The issue is: If you have the culprits, what are you doing with millers? If you can deal with the millers who are receiving the stolen coffee, the theft will stop. Now, what are you doing because you cannot just say that you got the thieves and never got the millers who bought the coffee?

Mr. Speaker: Order! You are asking a different question from what the Assistant Minister was answering.

Mr. Assistant Minister, proceed!

The Assistant Minister for Agriculture (Mr. Ndambuki): Mr. Speaker, Sir, I have said that we have arrested those people. Once they identify the millers who have bought the coffee, we are going to withdraw their licences.

Mr. Speaker, Sir, we have revoked the licences of some of the millers. If anybody is caught having bought stolen coffee from thieves, his or her licence will be withdrawn.

Mr. Speaker: Very well! The matter must rest there then.

Next Order!

BILL

First Reading

THE ALCOHOLIC DRINKS CONTROL (AMENDMENT) BILL

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

Mr. Speaker: Member for Ikolomani, please note that we are actually stretched out of time that is normally allowed for Order No.7. So, we could not really reach you, but you will have the earliest opportunity on Tuesday.

Next Order!

(The Clerk-at-the-Table read out Order No.9)

COMMUNICATIONS FROM THE CHAIR

DEFERMENT OF PROCEDURAL MOTION ON APPOINTMENT OF MEMBERS TO HOUSE COMMITTEES

Mr. Speaker: Order, hon. Members! With respect to Order No.9, with all the sub-orders there (i), (ii), (iii), (iv) and (v), I have intimation from the Leader of Government Business that he has neither been able to get up for this business nor seen full compliance with our Standing Orders and, in particular, Standing Order No.59, which I want all hon. Members, if you have your Rules of Procedure, to turn to. You will find

that, at that Order, there is extensive provision as to what the House Business Committee ought to do before a Motion of this nature is brought to the House. So, the Leader of Government Business is just taking steps to ensure that there is full compliance before this Motion comes before the House.

In those circumstances, I direct that Order No.9 be deferred in its entirety until such time that the Leader of Government Business lives within the full provisions of the Standing Orders.

PROCEDURAL MOTION

APPOINTMENT OF MEMBERS TO HOUSE COMMITTEES

THAT, pursuant to the provisions of Standing Order No. 159, the following Members be appointed to serve in the Select Committees stated here below:-

(i) House Business Committee

Hon. Boni Khalwale, M.P.

(ii) Public Accounts Committee

Hon. Boni Khalwale, M.P.

(iii) Local Authorities and Funds Accounts

Hon. Joseph Gitari, M.P.

(iv) Catering Committee

Hon. Joseph Gitari, M.P.

(v) Constituencies Development Fund Committee

(Appointed Pursuant to Section 27(1) of the CDF Act No. 10 of 2003)

1. Hon. Ekwee Ethuro, M.P.
2. Hon. Charles M. Nyamai, M.P.
3. Hon. (Dr.) Nuh Nassir, M.P.
4. Hon. Francis T. Nyammo, M.P.
5. Hon. Moses Lessonet, M.P.
6. Hon. Charles Onyancha, M.P.
7. Hon. John D. Pesa, M.P.
8. Hon. Nkoidila ole Lankas, M.P.
9. Hon. (Eng.) Nicolas Gumbo, M.P.
10. Hon. Justus M. Kizito, M.P.
11. Hon. Alfred Sambu, M.P.

(Motion deferred)

MINISTERIAL STATEMENT

DEFERMENT OF CONSIDERATION OF PRESIDENTIAL MEMORANDUM ON PRICE CONTROL (ESSENTIAL GOODS) BILL

Mr. Speaker: Before we move to the next Order, I want the Leader of Government Business to indicate if the Minister is ready to proceed.

The Minister for Transport (Mr. Kimunya): Mr. Speaker, Sir, I regret to inform the House that the Minister for Finance is not available this afternoon to proceed with this important deliberation in the Committee. Also, because of the amendments that are coming, there are still consultations in terms of the position that needs to be taken so that, by the time we come to the Committee of the whole House, it can speed up the work. The Minister is consulting on that and so, in the circumstances, I would like to ask the indulgence of the House that this business be deferred until we meet again on Tuesday, as the House Business Committee, and allocate the time when the Minister will have to indicate as to when the consultation that he requires on the amendments that have been proposed on the Presidential Memorandum could be completed.

Eng. Maina: On a point of order, Mr. Speaker, Sir. As you are aware, this matter had been deferred three times in the past and through your wise directions you said that this matter should come up at a time after the Budget which we have obliged. This issue has been on the Order Paper for the last six months.

Mr. Speaker, Sir, the amendments are largely in conformity with the President's amendments. In view of the circumstances in the country, I beg your indulgence, with all humility that this matter should proceed.

Ms. Karua: Mr. Speaker, Sir, this Bill is very important to Kenyans, especially at this time when there is extreme poverty and people cannot afford food and there is famine which makes the situation even worse.

It appears clearly that the Government is trying to avoid tackling the issue. They are not handling the issue of food distribution and relief to those who are in dire straits well and yet, they are withholding the passage of this Bill which may very well offer relief to the majority.

Is it in order for the Assistant Minister to claim that there are consultations on amendments? What consultations are needed after the President has issued his memorandum? Why did the Minister not indicate this to the House Business Committee (HBC) yesterday? Are we being taken for a ride?

Dr. Khalwale: Mr. Speaker, Sir, indeed, this is a very weighty issue, especially now when Kenyans are faced with the challenge of accessing food. It is true that food is very expensive and, indeed, the other essential goods like petrol and so on. Could the Assistant Minister be specific? When are those consultations going to end, so that we know for sure when we are going to put this statute in place for us to have a situation whereby Kenyans are cushioned?

Mr. Mbadi: Mr. Speaker, Sir, one would have imagined that if the input of the Minister was required on this particular Bill that consultations would have been carried out between the Minister and the House Business Committee (HBC). That this Bill has found its way back in the House courtesy of the HBC, I wonder whether the HBC appreciates that very soon we are going to embark on Bills that are supposed to help us implement the Constitution and, therefore, we may not have time for other Bills.

So, I would urge that the amendments to this Bill be debated today. I would ask you to rule that we continue with the debate on the amendments, so that we conclude debate on this Bill.

Mr. Mututho: Mr. Speaker, Sir, the reason we were to set aside this Bill is that the Minister for Finance was not in. Now that we have the Assistant Minister here, I would invite you to make an order that we continue with this business. As we sit here,

many Kenyans today will sleep hungry for issues that can be solved at policy level and because of this matter which can be resolved just now.

Mr. Speaker: The Assistant Minister for Finance, because you are here, we must hear you on this matter!

The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Finance (Dr. Oburu): Mr. Speaker, Sir, the instruction which I have from the substantive Minister is that he is appealing to the House to be allowed to handle it himself because there are certain consultations which he is still carrying out. I think hon. Eng. Maina, we discussed this issue several times with you. There are issues which we need to harmonize and agree on before we can proceed with this.

Mr. Imanyara: On a point of order, Mr. Speaker, Sir. I am just wondering whether there is any provision in our Standing Orders for this thing called “substantive Minister”. Whom is he referring to because it is not to be found anywhere in our Standing Orders?

Mr. Speaker: Dr. Oburu, that is a valid point of order.

The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Finance (Dr. Oburu): Mr. Speaker, Sir, I know that I am an Assistant Minister for Finance, but I am not Deputy Prime Minister. In this particular case, hon. Uhuru Kenyatta has pleaded that he handles this matter himself.

Eng. Maina: On a point of order, Mr. Speaker, Sir.

Mr. Speaker: What is it? Is it relating to what the Assistant Minister has said?

Eng. Maina: Mr. Speaker, Sir, I stand here to say that due consultations have been held. What we are seeing here is the final position that has been taken after due consultations.

Mr. Speaker: Could you articulate that point of order better than you have?

Eng. Maina: Mr. Speaker, Sir, the hon. Assistant Minister has said that there have not been enough consultations and this is tantamount to misleading the House because due consultations have been taken and he is not in order to---

Mr. Speaker: Order, Member for Mathira! You know you belong to my generation and that of many of us. If you want to challenge the Minister and, therefore, that this passes as a valid point of order, you ought to go this way: Is the Assistant Minister in order to mislead the House that consultations are yet to take place when, in fact, I held meetings with the Minister and the Assistant Minister on 4th of May, 2011? That is the way to go. Simple! So, go that way and let us hear the Assistant Minister then.

Eng. Maina: Mr. Speaker, Sir, is the Assistant Minister in order to mislead the House that no consultations have been taken whereas he is aware that I have had meetings with the relevant Ministry on the direction of the Minister and what we have here is the final position which is as a result of those meetings?

The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Finance (Dr. Oburu): Mr. Speaker, Sir, this is a very fundamental issue which, not only requires consultation with the hon. Member, but also with all the relevant departments within and without Treasury. So, it is Government within Government also. Some of the amendments here are very fundamental. I have held consultations with the hon. Member and I said as much. However, because of the consultations we have held, we now have to conclude our own position in relation to those consultations, so that we can effectively dispose of this matter.

Mr. Shakeel: The Assistant Minister has just mentioned that there are consultations within Government yet the amendments here are recommended by the Head of Government, His Excellency the President. Could he tell us which other Government he is having consultations with when the Head of Government has already given these recommendations?

The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Finance (Dr. Oburu): Mr. Speaker, Sir, if it was only the amendment by His Excellency the President, there would be no problem. However, there are also amendments by the hon. Member. Those are the ones we are consulting on.

Mr. Ethuro: On a point of order, Mr. Speaker, Sir. I want to refer to Standing Order No.125(6), which give timelines on how long the consultations will take. If you look at the time the memoranda was submitted, and the time when we are debating this particular matter--- I may read it out for the benefit of the House, it states:

“When the President submits a Memorandum on a Bill to the Speaker pursuant to Section 46 of the Constitution, the House shall deliberate on such memorandum within twenty-one days on the date when the House next meets.”

Mr. Speaker, Sir, the hon. Eng. Ephraim Maina tells me that the memorandum was submitted last year. Surely, the twenty-one days have elapsed, and I just want to confirm that if there is really any urgent matter in this country, then it is this one. This House has established a Departmental Committee on the cost of living. This Government has declared a national disaster on this matter.

Mr. Speaker, Sir, can you rule and rule in a manner as to compel the Minister to realize that we cannot wait for one more day for Kenyans to continue suffering, so that he can come and prosecute this matter?

Mr. Speaker: Deputy Leader of Government Business, your final response.

The Minister for Transport (Mr. Kimunya): Mr. Speaker, Sir, I agree fully that there is need to dispose of this matter sooner rather than later, but it will also not be good for this House to pass a law that is so fundamental in a controversial manner. It will be very good if the whole House moves together, that is the Government side as well as the non-Government side. The time we are asking for is today, so that we go to the House Business Committee (HBC) on Tuesday and allocate specific time, which will preferably be within next week. The HBC had already looked at this matter and allocated it today in the hope that all the consultations would have been completed and the matter would be finalized today. So, I think I can say yes, Kenyans are waiting. We are all suffering the impact of huge prices. Price control has been tested on fuel and it has not worked. So, perhaps there is something else we need to learn in terms of how to do it in respect of food prices.

The important thing that I want to mention is that let us have the opportunity to go to the HBC on Tuesday. At that point we will be very clear in terms of when the Minister will come here and finalize this matter; I think this will not be later than next week. So, it will have to be cleared within next week; that extra two or three days will not hurt anyone, but will get us full concurrence of both sides of the House, and ensure that we move in unison rather than having the House compelling the Government or the Government is compelling the House on what to do. We would like to feel that we are passing this legislation together.

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

Mr. Speaker: Order, hon. Members! I will want to give directions on this matter, which is obviously very sensitive and significant. Sensitive as it is, I want to say the following:-

First, I have listened and heard what the Leader of Government Business has had to say as presented by the hon. Amos Kimunya, who is also the Minister for Transport; I have heard the reaction of the sponsor of this Bill, the Member for Mathira, who has expressed several sentiments with respect to what has transpired between him and the Minister. First I note that this Bill has been pending since 2009; indeed the House deliberated on it and passed it in 2009, and we are now in 2011. It is, therefore, two years since this Bill was passed. Minister, your reason that you need to hold consultations obviously does not hold any water. Two years is a long time by any standard. You can only be ridiculed if you say you need to consult for more than two years; obviously you are not serious with what you are doing. I think you are being casual with this business.

With respect to the role of the HBC, I am afraid again, I do not find any substance in the reasons given by the Deputy Leader of Government Business. As a matter of fact, both the Minister and the Deputy Leader of Government Business are members of the HBC, and this matter was deliberated at the HBC. The HBC, among other things, found that this Order was urgent and that it had been pending for too long, and there was need for it to be transacted. So, again, that ground will, obviously, fail.

The Bill is important to Kenyans as, indeed, the hon. Members who have spoken on this matter have clearly indicated, beginning with hon. Ms. Karua, Dr. Khalwale, hon. Mbadi, hon. Mututho, hon. Shakeel and hon. Ethuro. I think I fully sympathize with their sentiments. I, however, have a difficulty – a difficulty that is this: According to our Standing Orders, and any other enabling law that has a bearing on this matter, a presidential memorandum is piloted through the House by a Minister. As things stand now, the two Ministers who are available to speak on this matter have indicated clearly that they are not prepared to proceed; so, anything we do will be unprocedural if it is not piloted through the House by a Minister. So, painful as it is, I have actually agonized over this matter, and, I am afraid, I will have to defer this Order very reluctantly and caution the Front Bench, as led by both the Minister and Deputy Leader of Government Business, that it must take the business of this House seriously, and particularly legislation which goes to address the welfare of Kenyans. I really hope that you have heard these sentiments, and that, as a Government, you really have to get up on your feet and govern the people of Kenya – provide leadership.

So, I will defer this business to be brought before the HBC on Tuesday with a view to being allotted the earliest date for it to be transacted. I want to believe that date will not be anything away from August this year. I so direct. You must engage some way or other. This must be transacted. Obviously it follows. So, please hear those sentiments. You have heard Members of the House in the plenary this afternoon, and I want to believe that you will take this seriously. So, I accordingly direct. Minister, I want your confirmation, as Deputy Leader of Government Business, that you have noted those sentiments and you will ensure compliance.

The Minister for Transport (Mr. Kimunya): Mr. Speaker, Sir, they are noted and we will comply with your directive.

Mr. Speaker: Assistant Minister, the Leader of Government Business has spoken for you, are you satisfied with that confirmation?

The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Finance (Dr. Oburu): Mr. Speaker, Sir, we shall oblige.

Mr. Speaker: Okay; very well!

COMMUNICATION FROM THE CHAIR

DEFERMENT OF COMMITTEE STAGE OF BILLS UNDER ORDER No.11

THE MUTUAL LEGAL ASSISTANCE BILL

Mr. Speaker: Order, hon. Members! With respect to Order No. 11, we are unable to proceed with it for the following reasons:- With respect to Order No. 11 (i), the Attorney-General is bereaved and bereavement, as you know, does not give notice. So, the Attorney-General is unable to be here because the person that has passed on is a close relative and he is involved in the funeral arrangements as we speak.

(Bill deferred)

THE LIMITED LIABILITY PARTNERSHIP BILL

Mr. Speaker: Order, hon. Members! The same applies to Order No. 11 (ii).

(Bill deferred)

THE MALARIA PREVENTION BILL

Mr. Speaker: Order, hon. Members! With respect to Order No. 11 (iii), hon. Kaino, who is the hon. Member who sponsored this Bill, is actually away officially on parliamentary business, except that he did not give due notice to the Speaker. Fortunately, I want to believe that he will live within the provisions of the Standing Orders because without notifying the Speaker, if he stays away for eight sittings, he will be risking loss of his seat. But for the moment, we cannot proceed because he is not here.

(Bill deferred)

THE PROHIBITION OF FEMALE GENITAL MUTILATION BILL

Mr. Speaker: Order, hon. Members! With respect to Order No. 11 (iv), the sponsor of this Bill did prepare amendments and so did the Minister but, unfortunately, they did not forward those amendments timeously to the Office of the Clerk and, so, the requisite approvals to those amendments by the Speaker were not given. That is why those amendments do not appear on the Order Paper. So, really, we are incapacitated to proceed with that business.

I, therefore, defer business at Order No.11 (i) and (ii) to such a time that the Attorney-General will be available. The Attorney-General, as you know, has no deputy,

but the House Business Committee will allot time depending on the availability of the Attorney-General.

Order No. 11 (iii) is deferred to Wednesday next week in the afternoon and Order No. 11 (iv) is deferred to Tuesday, next week.

(Bill deferred)

ADJOURNMENT

Mr. Speaker: Hon. Members, that brings us to the end of business for today. The House, therefore, stands adjourned to next week, Tuesday, 26th July, 2011, at 2.30 p.m.

The House rose at 5.18 p.m.