

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 18th May, 2011

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

COMMUNICATION FROM THE CHAIR

NOMINATION FOR APPOINTMENT TO POSITIONS OF CHIEF JUSTICE, DEPUTY CHIEF JUSTICE AND DIRECTOR OF PUBLIC OF PUBLIC PROSECUTIONS

Mr. Speaker: Hon. Members, in accordance with the provisions of Standing Order No.37 (2) which *inter alia* reads and I quote:

“The Speaker shall as soon as he or she has taken the Chair and before the Clerk reads any orders of the day, except the Administration of the Oath, read to the House any message from the President delivered to the Speaker for communication to the House.”

I wish to convey the following message to the House from His Excellency the President. Yesterday, Tuesday, 17 May, 2011 I received three letters from His Excellency the President informing me that on the recommendations of the Judicial Service Commission (JSC) and interviewing panel and after consultation with the Rt. Hon. Prime Minister, he has nominated the following persons for approval by the National Assembly for appointment to the State offices stated here below pursuant to the provisions of Articles 166(1)(a), 262, 157(2) of the Constitution read together with Section 24(2) of the Sixth Schedule of the Constitution: Dr. Willy Munywoki Mutunga for the position of Chief Justice; Ms. Nancy Makokha Barasa for the position of Deputy Chief Justice; and Mr. Keriako Tobiko for the position of Director of Public Prosecutions.

(Applause)

Hon. Members, pursuant to the provisions of Articles 166(1)(a), 262, and 157(2) of the Constitution read together with Section 24(2) of the Sixth Schedule of the Constitution and Standing Order No.198, I do direct that the names of the nominees together with their curriculum vitae be referred to the relevant Departmental Committee for consideration.

Due to the urgency of the matter, the Committee should table its recommendations in the House by Wednesday 25th May, 2011 and the House should consider the Report on the nominees preferably on Thursday 26th May, 2011 at 2.30 p.m.

POINT OF ORDER

REQUEST FOR EXTENSION OF TIME FOR COMMITTEE TO TABLE REPORT ON PETITION BY PARENTS OF AGA KHAN PRIMARY SCHOOL

Mr. Koech: Mr. Speaker, Sir, on 24th March, 2011, hon. Jeremiah Kioni laid a Petition on behalf of the parents of the Aga Khan Primary School which stood committed to the Departmental Committee on Education, Research and Technology. When we embarked on this very important issue, some other issues arose which required my Committee to seek legal interpretation. We sent this to the Justice and Legal Affairs Committee which ended up tabling the report to our Committee last week. My Committee is now in the process of inquiring into the issue. My request on behalf of the Committee is to seek your indulgence that we table the Report before 14th June, 2011.

Mr. Speaker: Fair enough! The extension you seek is granted and the time is extended up to 14th June, 2011.

PAPERS LAID

The following Papers were laid on the Table:

Annual Report by the Attorney-General for the year 1st January, 2010 to 31st December, 2010 in respect of prosecution of anti-corruption and economic crime related cases pursuant to the provisions of Section 37 of the Anti-Corruption Economic Crimes Act, 2003.

The First Quarterly Report by the Kenya Anti-Corruption Commission (KACC) for the year 2011 covering the period 1st January, 2011 to 31st March, 2011.

(By the Attorney-General)

Economic Survey, 2011.

*(By the Assistant Minister for Agriculture (Mr. Ndambuki)
on behalf of the Minister of State for Planning, National
Development and Vision 2030)*

Abstracts of Accounts of the Municipal Council of Kapsabet for the years ended 30th June, 2004, 2005, and 2006 and the certificate thereon by the Controller and Auditor-General.

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

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

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

Financial Statements of Cotton Development Authority for an eight months period ended 30th June, 2010 and the certificate thereon by the Controller and Auditor-General.

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

Financial Statements of the Export Processing Zone Authorities for the year ended 30th June, 2010 and the Certificate thereon by the Controller and Auditor-General.

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

Financial Statements of Kisii University College for the year ended 30th June, 2010 and the certificate thereon by the Controller and Auditor-General.

*(By the Assistant Minister, Ministry of State for Provincial
Administration and Internal Security (Mr. Ojode) on behalf
of the Minister for Higher Education, Science and Technology)*

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

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

Abstracts of Accounts of the County Council of Pokot for the three years ended 30th June, 2003 and the certificate thereon by the Controller and Audit-General.

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

Financial Statements of Kenya Industrial Property Institute for the year ended 30th June, 2010 and the certificate thereon by the Controller and Audit-General.

*(By the Assistant Minister, Ministry of State for Provincial
Administration and Internal Security (Mr. Ojode)*

on behalf of the Minister for Industrialization)

Abstracts of Accounts of the County Council of Kilifi for the ten years ended 30th June, 2003 and the certificate thereon by the Controller and Audit-General.

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

Abstracts of Accounts of Municipal Council of Kapsabet for the year ended 30th June, 2007 and the certificate thereon by the Controller and Audit-General.

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

QUESTION BY PRIVATE NOTICE

UNLAWFUL CONSTRUCTION OF POLICE HOUSES ON L.R.209/14582

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

(a) Why is the Ministry proceeding with the construction of police houses on L.R. 209/14582, which is almost complete, in contravention of an injunction issued vide High Court Case No.673/2008, Joseph Mburu & Others vs The Commissioner of Police and Others?

(b) When will the Government compensate the owners of the land for the unlawful acquisition?

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

(a) The Miscellaneous Civil Application No.673 of 2005 in the High Court of Kenya sitting at Nairobi in which Joseph Mburu and others filed contempt proceedings against the Commissioner of Police and others on two occasions were dismissed; one on a technicality and the other was stood over generally to await determination of an appeal filed in the Court of Appeal and conclusion of the criminal cases pending before court.

It is worth noting here that no injunction was issued vide this Miscellaneous Civil Application which I wish to table.

(Mr. Ojode laid the document on the Table)

The parcel of land in question is subject to various cases pending in court and thus it would be *sub judice* to comment or reveal details of the same in the House.

(b) The Government will not compensate the applicants while there are pending court cases.

Mr. Imanyara: Mr. Speaker, Sir, the Assistant Minister has not found it necessary to avail to me the answer that he has read to you or the document that---

Mr. George Nyamweya: On a point of order. Mr. Speaker, Sir. I was just wondering whether we could assist my schoolmate because we never really quite get to hear him when he is addressing the House. I was just wondering whether we could design something for him to enable us hear him.

Mr. Speaker: Member for Imenti Central, do you have anything to say in response to that point of order?

Mr. Imanyara: Mr. Speaker, Sir, I am a bit surprised that this “patch” boy; former head of Nairobi School would make such accusations against a fellow old Cambrian. The truth of the matter is that he is hearing me very well. He has heard me very clearly even when I sit here. Every time I have addressed them, he has never complained. Maybe he wants to be noticed that he has sought to assist me. If his intention is to assist me, I have heard that and I will raise my voice so that hon. George Nyamweya can hear me better.

Mr. Speaker: Order, Member for Central Imenti! I am able to confirm that from where I sit, I hear you all the time, but it is possible that the hon. George Nyamweya, after those many years from the days you were in school with him, has aged a bit and his hearing is not as efficient as it was those many years ago. So, please, Member for Central Imenti, try and raise your voice as you speak in the House.

(Laughter)

Mr. Imanyara: Mr. Speaker, Sir, I can confirm that he always had those problems, but I thought that they were dealt with long time ago.

Mr. Speaker, Sir, nevertheless, the Minister has sought to rely on the doctrine of *sub judice*, to avoid answering this Question. But you will notice that the Question itself refers to the case. Contrary to what the Minister is alleging here that there are pending proceedings or the contempt proceedings were dismissed, I have documents with me which I will table as he has done this afternoon. I hope that after looking at them, he will be modest enough to answer this Question which really tests the Government to the rule of law; that is, whether under this new dispensation, this Government is committed to the rule of law and particularly to the protection of the landless and vulnerable members of the society.

Mr. Speaker, Sir, I wish to table a judgement by hon. Justice Nyamu, dated 2nd May, 2008, in Miscellaneous application No.678 of 2005, which injuncted or prohibited the Government from being in this land or evicting these women group that comprises of more than 700 mitumba women group. The ruling was dated 2nd May, 2008 and following that ruling, a decree was drawn, a copy of which was extracted on 14th May, 2008. Clearly, it says:

“Judicial review order of prohibition be and is hereby issued to prevent the Commissioner of Police, Commissioner of Lands and the hon. Attorney-General by themselves or their agents from evicting or interfering with the applicants’ quiet possession of L.R. 209/14582 Nairobi South C.”

(Mr. Imanyara laid the document on the Table)

Mr. Speaker, Sir, there is a further order issued by the court to serve the respondents by notice in the newspapers, dated 15th July, 2009. Attached to it is the announcement as published in the newspapers.

(Mr. Imanyara laid the document on the Table)

Mr. Speaker, Sir, I also wish to table a letter of allotment of this particular land to Wilson Mitumba Women Group together with all the receipts that they were issued with when this land was allotted to them.

(Mr. Imanyara laid the document on the Table)

Mr. Speaker, Sir, I also wish to table a registration of title duly certified indicating that this women's group are the legitimate owners of this land.

(Mr. Imanyara laid the document on the Table)

Mr. Speaker, Sir, I also have a judgement of the court, because what the police did was to charge these people with the offence of trespass on this land--- The Chief Magistrate's Court at Kibera, on 20th February, 2007, not only acquitted them, but held that they had reasonable basis for being on the land.

(Mr. Imanyara laid the document on the Table)

Mr. Speaker, Sir, all these documents do not tally with the answer given by the Minister in this House. Given these documents, I ask him to confirm that the answer he has given to this House is not only misleading, but intended to suppress the truth and, therefore, keep away the rightful owners of this land from their property without any form of compensation or acquisition in accordance with the law.

Mr. Ojode: Mr. Speaker, Sir, while I appreciate the tabling of some documents by my friend, hon. Imanyara, he was short of tabling also a ruling which was made by Judge R.V.P Wendo on 1st February, 2010. I would want to give an extract from that ruling. It says:

“I decline to grant the leave sought in the Chamber summons dated 9th October, 2009. The same can only be made after determination of the appeal.”

Mr. Speaker, Sir, it goes on to say:

“The respondents have also raised the issue of their pending cases in Court CRC1738/08 in which the first, third and seventh applicants have been charged with making false documents in relation to the land in question.”

Mr. Speaker, Sir, it goes on to say:

“The said case is yet to be heard and determined, although this court granted an order or prohibition. In light of the intended appeal and the fact that there is a court order, which is, CRC1738/08, this court cannot ignore the existence of that case.”

Mr. Speaker, Sir, it looks like my honourable friend does not have that one. It also says:-

“The respondents were once represented by counsel in the application before Dulo J.

Mr. Speaker, Sir, they are represented here and aware of the court order of 2nd May, 2009. It says:

“It is worth noting for the reasons that the court has considered above, the respondents should have been asked to comply with the order of 2nd May, 2009, prohibiting them from interference with the land. However, in light of what I have considered above, the applicants are not deserving of leave at this stage. Leave can only be considered after determination of the appeal and the criminal case that are pending. I will, therefore, dismiss the Chamber summons dated 9th October, 2009, with each party bearing their own costs.”

Mr. Speaker, Sir, this is dated, 1st February, 2010 by Judge R.V.P Wendo. So, the court wants to wait until the determination of the appeal case and criminal case which involves these people. I wish to table the same for the hon. Member to peruse.

(Mr. Ojode laid the document on the Table)

Mr. Speaker: Mr. Assistant Minister are, you in a nutshell, therefore, reiterating that your claim that this matter is *sub judice*?

Mr. Ojode: Mr. Speaker, Sir, that is the truth of the matter.

Mr. Speaker: Okay! Hon. Imanyara, do you want to make any further response because, otherwise, I want to give directions?

Mr. Imanyara: Mr. Speaker, Sir, given my very casual initial look at this document that the Minister has tabled, it has nothing to do with orders that have been granted and disobeyed. This is an application that specifically refers to it, because it refers to the ruling of Justice Nyamu. It is contempt proceedings and nothing to do with the determination of the issues. The cases were fully determined. They are not pending and what the Assistant Minister is referring to was an application for contempt of court proceedings, which has nothing to do with the Question that I have asked.

Mr. Speaker: Very well! Order, hon. Members! I will defer this Question to next week on Thursday afternoon, so that I acquaint myself with the documents which have been tabled and make a determination as to whether or not this matter is *sub judice*.

ORAL ANSWERS TO QUESTIONS

Question No.718

STATUS OF INVESTIGATIONS INTO FIRE INCIDENT AT PETMA RESTAURANT

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

(a) whether the police have finalized investigations into the fire incident at Petma Restaurant along Kaunda Street in Nairobi on 20th July, 2009, in which a member of staff, Andrew Otieno Ayugi, lost his life;

- (b) whether the restaurant was equipped with firefighting equipment and fire escape passages to facilitate quick and safe exits; and,
- (c) what steps the proprietors of the restaurant have taken to compensate the family of the deceased worker.

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

(a) The police conducted investigations and found out that:-

(1) The relatives of the deceased had been negotiating with the management of Petma Restaurant for compensation and only reported to police after failing to agree as neither the management nor the relatives reported the incident to the police until after four months; that was on 10th November, 2009.

(2) Negligence on the part of the deceased can be attributed to the cause of his death as he was attempting to refill the burners when they were already lit. This can be attested by the circumstances under which the death occurred in that on 10th July, 2009, the late Andrew Otieno Ayugi who was employed as a cook at Petma Restaurant went to the kitchen to warm food. As he was adding more methylated spirit into the burners which were already on, the jerrican containing spirit exploded burning him and a colleague, John Munyao Mutua aged 23 years. They were both rushed to Kenyatta National Hospital where they were admitted in serious condition.

On 20th July, 2009, Andrew Otieno Ayugi passed away while undergoing treatment. On 29th July, 2009, a postmortem was conducted and the body handed over to the relatives by the hospital. The cause of death was found to be a complication of second and third degree burns and inhalation burns.

On 10th November, 2009, four months since the incident, the relatives reported the matter at Central Police Station and Inquest File No.11/2009 was then opened.

(b) When the incident was reported four months later, police visited the scene and found out that the restaurant had been equipped with fire-fighting equipment and adequate fire exits. However, police could not establish whether such facilities existed at the time of the accident.

(c) The relatives of the deceased should be advised to seek compensation through civil remedy as the police do not have jurisdiction over civil matters. I would want to urge the hon. Member that now that he has brought in this matter, I would request him to convert himself from being a Member of Parliament to be an attorney for these family members to help them get some compensation from the court of law.

Mr. Olago: Mr. Speaker, Sir, I do not know if the Assistant Minister is giving instructions to act as an attorney for the family of the deceased.

At the burial of Andrew Otieno Ayugi in July, 2009, in Ojola Village in Kisumu, his workmates who came to assist in his burial stated clearly that his life would have been saved if the burners that he was using in the kitchen were not faulty; if there was a fire escape and if there were fire extinguishers.

Under these circumstances, with this information coming from those who were working with him, who did the police take statements from to confirm that there were firefighting equipment and a fire escape at the site?

Mr. Ojode: Mr. Speaker, Sir, I did mention here that Ayugi's family was trying to negotiate with the proprietor of Petma Restaurant. When they failed to agree, four months later, they then reported the matter to the police.

By the time the police went to the restaurant to check whether there were facilities such as a fire extinguisher and the exits, they found that there were fire extinguishers and an exit. So, if they had reported this matter immediately, we would have known whether there was any existence of the fire extinguisher equipment and an exit. After four months and we find those equipment already in use, it becomes very difficult for us to blame the management of the restaurant. That is why I was suggesting that the hon. Member can take this case to court in order for the court to order for compensation if there is some evidence or not.

Mr. C. Kilonzo: On a point of order, Speaker, Sir. Is the Assistant Minister in order to mislead the House that they would not have been in a position to tell when the fire exits were done while we know very well that in order to do any amendments in construction, you need approvals from the City Council? If he had ordered to get that information from the Nairobi City Council, he would have seen the approved drawing showing when these works were done. So, is he in order to mislead the House that the police force is not in a position to carry out such an investigation while the law is very clear on approval of any construction works or alterations in buildings within the city centre?

Mr. Ojode: Mr. Speaker, Sir, when investigations were done, we found the existence of fire extinguishers. We also found that there was an exit. The only thing which we are not aware of is whether they were done after the incident. But from the look of things, the investigation report says that those required regulations were in existence.

Mr. Olago: On a point of order, Mr. Speaker, Sir. Is it in order for the Assistant Minister to avoid the issue that was raised as point of order by Mr. C. Kilonzo that for the police to identify whether there were fire escapes or extinguishers, they would have to go to look at the plans which are approved by the City Council which are there?

Mr. Speaker: Order. That becomes a question and not a point of order. You still have one opportunity to ask a question.

Mr. Mwangi: Mr. Speaker, Sir, the answer given by the Assistant Minister clearly shows that no investigations were done professionally. Had they taken time, they would have been able to trace what the cause of the fire was and what kind of equipment they had by the time the accident took place. The City Council or the Ministry of Works could have given expertise to trace whether the equipment or the exit passages were later done after the accident or they were there initially. Could he clearly tell us what kind of expertise from the relevant Government departments were requested to carry out the investigations?

Mr. Ojode: Mr. Speaker, Sir, I did mention here that the investigations were done exhaustively. Fire extinguisher equipment and fire exit routes were found to be in existence. They were existing by the time we went for the investigation.

Although we are reprimanding the deceased, Mr. Ayugi, I would request that the family members should engage the court for purposes of compensation. Otherwise, according to the report which we have there is an existence of fire equipment and exit routes.

Mr. Olago: Mr. Speaker, Sir, the family of Andrew Otieno Ayugi is of the view that his colleagues at work knew exactly what happened. In coming to this conclusion, did the police interview other workers apart from the proprietor of the restaurant?

Mr. Ojode: Mr. Speaker, Sir, the workers were interviewed together with the proprietor of Petma Restaurant. If you go deeper into this matter and take it to court, you will be able to know who was wrong at that particular time in order for the family to get compensation.

Mr. Speaker: Next Question by Mr. Kabogo!

Question No.627

COMPENSATION\RESETTLEMENT OF IDPS IN GITHURAI DIVISION

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

(a) why the 254 Internally Displaced Persons (IDPs) residing in Githurai Division have not been paid despite several pleas made to the Ministry by the group; and,

(b) when the Government will resettle and compensate them as well as all IDPs affected by the 2007/2008 post-election violence.

The Minister of State for Special Programmes (Ms. Mathenge): Mr. Speaker, Sir, after this Question was raised and I was given a list of the 254 IDPs, I requested for time to go and peruse the list. The letter that is forwarding the list is actually dated 26th September, 2009. That is nine months after the closure of the registers. However, we have had a chance to look at the register and we have found out that, 14 people in the register had already been paid in other camps. Another 13 had already been paid in Thika. Two other people are sharing identity cards and three other people are duplicated. The remainder of the people - totaling 225 - will be considered under the IDP policy. They will be considered with other IDPs in the rest of the country.

Mr. Kabogo: Yes, Mr. Speaker, Sir. Indeed, the letter the Minister is referring to was written in September 2009 by the District Commissioner (DC). I am not sure what I am expected to say when a DC decides to write nine months later. The point is that the DC is confirming that there are IDPs and, indeed, the Minister is confirming that some of them were profiled. It is the Government that is profiling and paying Kshs10,000. So, the Minister has decided that those ones were profiled and they ought to be paid. They are IDPs. Whether they are captured by profiling or by policy, they ought to be paid. When will they be paid?

Ms. Mathenge: Mr. Speaker, Sir, I have said that those who were profiled and are missing here and were not paid, will be paid. The rest who were not profiled within the time that we closed the register will be considered when we are considering all the other IDPs. But we are recognizing them as IDPs.

Mr. Imanyara: Mr. Speaker, Sir, the issue of IDPs comes every single day in this House and the Minister gives the same answer that they have closed the register. Could the Government consider - because the failure to submit names in most of these instances was a direct result of your own agencies in the districts like DCs and District Officers (DOs) - taking all the cases, even those that came after the so-called closure date, for consideration because it is not fair to deny IDPs their rightful dues simply because the Government unilaterally and arbitrarily placed a closure date that suits it and not the IDPs?

Ms. Mathenge: Mr. Speaker, Sir, I would love to consider those IDPs but, unfortunately, I do not have the funding.

Mr. Koech: Mr. Speaker, Sir, the issue of IDPs in this country has been coming every other time. Yesterday, the Minister indicated that 90 per cent of them have been resettled but on record, they have approximately over 8,000 still awaiting resettlement. The reasons behind that are: One, the Ministry of Lands is in charge of buying land. Two, the Ministry of Finance is in charge of giving money and three, the Ministry of State for Special Programmes is in charge of resettlement; meaning they are not working together. The Minister has indicated that some of the people who are actually suffering in IDP camps owned some businesses and not land. Could the Minister consider giving them money so that they can continue doing what they used to do, instead of keeping on looking for land? Allow them to go and look for land wherever they can get it so that we can do away with the issue of IDPs once and for all.

Ms. Mathenge: Mr. Speaker, Sir, that is under consideration and once the Government gives the approval, I believe we shall go that way.

Mr. Kabogo: Mr. Speaker, Sir, my Question is partly answered. I am asking the Minister: The profiling is done by the Ministry through the DCs. The DC of Ruiru has forwarded a profile – a list of names she knows are IDPs and some of them have been paid. Could she inform the House when the others will be paid because the DC has profiled them? The issue of timings is again in the hands of the Ministry. I would not be able to know why the DC did it nine months later but they are profiled. When will they be paid?

Ms. Mathenge: Mr. Speaker, Sir, like I said, since we put a closure on 31st December and I do not have funding right now, I would have to go and look for funding for those ones and many others. That is why we have done the IDP policy so that whoever was not captured or profiled by the time we closed the registers, can be profiled and taken care of.

Mr. Speaker: Next Question by Mr. Gitari! Is Mr. Gitari not here? Hon. Members, I have deliberately called that Question too many times because this is a relatively new Member of the House. I was extending as much indulgence as I could to accommodate him. But now that all my efforts are in vain, the Question is dropped.

Question No.906

LACK OF FACILITIES AT KERUGOYA DISTRICT HOSPITAL

(Question dropped)

Next Question by Mr. Isaac Ruto!

Question No.928

NON-PAYMENT OF COMPENSATION TO FAMILY
OF LATE R.C. LANG'AT

Mr. Ruto asked the Minister for Forestry and Wildlife:-

(a) why the family of Robert Cheruiyot Lang'at, who was killed by wildlife on 26th June 1995 has not received any compensation to date;

(b) what the Government is doing to ensure that the family is compensated and that any person injured or killed by wildlife is compensated expeditiously in future; and,

(c) whether he could consider paying the amount of Kshs203,000 awarded to the family with interest from 1995 to date.

(Mr. Mbadi and Mr. Olago stood up in their places)

Mr. Speaker: Order! I am able to guess where both the Member for Gwasssi and Member for Kisumu Town West want to go. Please, read your Standing Orders.

Mr. Ruto: Mr. Speaker, Sir, they ought to know that I am well versed in this.

Mr. Speaker: Proceed, Member for Chepalungu.

Mr. Ruto: Thank you, Mr. Speaker, Sir. I have asked the Question.

The Minister for Forestry and Wildlife (Dr. Wekesa): Mr. Speaker, Sir, the issue of compensation to the families of the bereaved and those who are injured is a very sensitive and important matter not only to this House, but particularly to the Member who has raised the Question. However, with your indulgence and that of the House, and with my good friend, the hon. Ruto, I would request that I bring more information to add to what I have next week. I have looked through this answer and there are issues that I am not happy with. I am willing to get more information so that I can satisfy the House and, of course, the Member.

Mr. Speaker: Mr. Ruto, the Minister wants time to give you an adequate answer.

Mr. Ruto: Mr. Speaker, Sir, the hon. Minister is a very senior Member of this House even in age and I really wish to oblige. I take his words seriously.

Mr. Speaker: Very well. I direct that the Question be deferred to Thursday next week at 2.30 p.m.

(Question deferred)

The Minister for Forestry and Wildlife (Dr. Wekesa): Mr. Speaker, Sir, I agree that I am a senior Member, but I am not as old as he tends to imply.

Mr. Speaker: Order, Minister! Let the matter settle there. The Question is deferred to Thursday next week at 2.30 p.m. At any rate, the Member for Chepalungu will also get to the age where you are. So, he might as well begin to prepare to be like you.

That brings us to the end of Questions.

Next order!

Hon. Members, we are at a point where we must take the Prime Ministers Time first.

The Right hon. Prime Minister, please, proceed with your Statement!

PRIME MINISTER'S TIME

PRIME MINISTERIAL STATEMENT

SECURITY SITUATION IN TURKANA
NORTH DISTRICT

The Prime Minister (Mr. Raila): Mr. Speaker, Sir, I today want to talk about the security situation in Turkana North District, and also generally about our national borders.

Mr. Speaker, Sir, about two weeks ago, at least 20 Kenyans were killed by Merille militia from the neighbouring Ethiopia. This round of killings came after a fairly prolonged period of calm and peace in the area, following the peace accord signed by the two communities in 2006 in Todonyang. The prolonged period of relative calm notwithstanding, the recent attacks left our citizens feeling vulnerable and unprotected. The attacks raised questions about the security at our borders.

In my Statement this afternoon, Mr. Speaker, Sir, I will outline the measures the Government is taking to address the unfortunate murders in Todonyang and to secure all our borders. These measures were deliberated and agreed on by the Cabinet Committee on Security under the chairmanship of His Excellency the President, Mwai Kibaki, who is also the Commander in Chief of the Republic of Kenya.

Mr. Speaker, Sir, at the outset, I make it clear that we accept that our primary responsibility as a Government is to protect the life and property of our citizens. In line with our Constitution, we shall promote and guarantee the national security of Kenya. We shall protect our country's sovereignty and territorial integrity against internal and external threats in line with our Constitution.

When I led the Ministerial delegation to Todonyang one week ago, I was shocked. In the Omo/Turkana Delta, well within the Kenyan side of the Kenyan–Ethiopia border, the Merille were preparing the land for cultivation. In the adjacent arid land, the Turkana were languishing for lack of food. Even the District Commissioner (DC) could not access the delta, neither could our security officers. I was informed that about 2,500 Merilles live there, 900 among them armed militia. They use the arms to kill our citizens, while exploiting our land and water resources.

Mr. Speaker, Sir, we are taking steps to put these acts of aggression to a stop once and for all. For a start, the Government has directed the Ministry of State for Provincial Administration and Internal Security, in conjunction with the Ministry of State for Defence, to ensure that the 2,500 Merilles residing in the River Omo Delta are relocated to Ethiopia.

The Government has equally directed the Ministry of State for Provincial Administration and Internal Security, in conjunction with the Ministry of Lands and the Ministry of Foreign Affairs, to ensure that the broken and dilapidated boundary beckons are repaired. The Ministry of State for Provincial Administration and Internal Security has been tasked to scale up our security presence in this area. It will increase the number of police officers in the area, upgrade Todonyang Police Post to a Police Station, and provide it with necessary facilities and equipment.

Mr. Speaker, Sir, as I said at the start, we are determined to secure all our borders, and not just the Kenya/Ethiopia border. Consequently, we have directed the Ministry of State for Provincial Administration and Internal Security, together with the Ministry of Lands, to fasttrack the delimitation, demarcation and alienation of Kenyan's boundaries

with all our neighbouring countries, including replacing broken and dilapidated boundary beacons. The Ministry of State for Provincial Administration and Internal Security, jointly with the Ministry of State for Defence, have been tasked to work out the modalities of deploying joint security forces, including the military, closer to our borders. Specific instructions have been given to the Ministry of State for Defence to ensure our country's territorial integrity and safety from external aggression in all places, including Migingo and Ugingo islands.

As we speak, the Government has beefed up security along the Kenya/ Ethiopia border at Todonyang'. We have relocated the General Service Unit (GSU) and Administration Police (AP) camps at Todonyang' to the actual border point, 14 kilometers away, to counter any planned attacks between the two communities.

The Ministry of State for Immigration and Registration of Persons will also move in and set up the border control at the actual border point to strengthen the border surveillance and control. In addition, the Government has vetted responsible and respected Turkana men, who will immediately start working with the Kenya Police Reserve (KPR) along the border. As we do this, we are also preparing to meet our Ethiopian counterparts to seek a joint and lasting solution to this border menace. In this regard, a joint Ministerial consultative meeting has been fixed to take place in Addis Ababa between 31st May and 2nd June 2011. Before our Ministers travel to Addis Ababa, we will hold a joint Kenya/Ethiopia border commissioners' meeting here in Kenya on 25th and 26th of May, that is next week, to discuss matters of mutual interest.

Mr. Speaker, Sir, as we embark on these measures, we are taking steps to address the other urgent needs of the residents of Turkana other than security. The Ministry of State for Special Programmes has been providing food to the people here on a monthly basis. So far, the Ministry has distributed at least 100 bags of rice, 100 cartons of vegetable oil and 100 bags of beans in the last two weeks. The Government will scale up food distribution in this area in the next two months to ensure nobody dies of hunger and to reduce the need by the local population to cross into Ethiopia in search for food.

For many years the Turkana region has been subjected to marginalization and neglect. This, indeed, was part of what was known as the Northern Frontier District in the colonial days. I firmly believe that we owe it to the people of Turkana County to dedicate our time and resources specifically to enhance their social and economic well being. With security restored here, the Government intends to embark on a massive economic empowerment of this region, beginning by providing a reliable and constant source of water and food. We intend to replicate in the Omo Delta what we achieved at the Tana Delta, Bura and Hola through a massive irrigated agriculture. In fact, the Government has already initiated a major programme for the development of the Turkana region. For example, the Government is currently expanding a number of irrigation schemes in Turkana East and South, which in total covers 5,800 acres. When these schemes are completed, 145,000 bags of maize will be harvested annually.

In addition, since January 2011 the Government has released Kshs27 million to Turkana County for drought mitigation measures. If the drought persists for a further six months, the Government shall spend another Kshs130 million by June of this year. With food and security in place, the Turkana County will take its place in the development of our nation and the whole country will be uplifted. This Government has pooled many

pass. I would like to tell this House that we will pool this one in Turkana County and replicate it across northern Kenya.

Thank you, Mr. Speaker, Sir.

Mr. Speaker: Very well. We will allow some requests for clarification beginning with the hon. Member for Central Imeni.

Mr. Imanyara: Mr. Speaker, Sir, the Prime Minister's Statement is a shocking admission of Government failure and irresponsibility to a section of its own population. But nevertheless, the commitment that the Prime Minister is giving is welcome. How much in terms of actual cash allocation has the Government provided in order to ensure that what you have told this House will happen and that it will not be another Internally Displaced Persons (IDP) story where the Minister comes everyday to say that the Government policy is there, but we have no funds? Can he tell us how much money the Government has set aside immediately to realize this objective that you have addressed today?

Mr. M.H. Ali: Mr. Speaker, Sir, I wish to appreciate the Prime Minister's visit to Todonyang when the local people were actually suffering and mourning their dead. The fact that he has confirmed that at least 20 Kenyan Turkana's were killed in Todonyang is actually very serious. Although he has given a number of actions to be taken, could he give the assurance that such incident will not recur because he will deploy our military, who are just idle and who are in the centre of this country? Could they be deployed at the borders and have their camps there, so that they protect us from aggression of our enemies?

Thank you, Mr. Speaker, Sir.

Mr. Kiuna: Mr. Speaker, Sir, I would like to ask the Prime Minister whether this country has enough military personnel to man and protect our territory considering the various invasions we have had in recent times. If it is possible, could he tell this House and the nation at large the kind of personnel they have deployed at our borders to protect our people. The information we have is that there are few Administration Police (AP) officers manning our border. Is it the responsibility of the AP, the General Service Unit (GSU) or the army to take care of our borders?

Mr. Kapondi: Thank you, Mr. Speaker, Sir, for giving me this opportunity. I would like the Prime Minister to satisfactorily explain to the House how the Government plans to relocate the 900 armed Merille militias who are occupying the Omo Delta which, in essence, is in Kenya? Relocating means basically persuading these people to go and they are armed! This is something that has been taking place year in, year out. There must be some very serious and effective measures to do so.

Mr. Linturi: Mr. Speaker, Sir, I want to take this opportunity to convey my condolences to the people of Turkana for losing their dear ones.

At the same time, I would like to commend the Government for the measures they are trying to take, although very late, to restore security in Turkana. The question that I want to ask the Prime Minister is; we have the National Security Intelligence Service (NSIS) in this country that gathers information and feeds this information to the relevant Government arms. So, I am wondering how this particular incident escaped the knowledge of the NSIS that is taking so much money from public coffers. Is it that the relevant Government arms were not given any prior information or alert or is it that these

people were not in a position to gather any intelligence information with regard to these attacks?

Mr. Muthama: Asante, Bw. Spika. Kulingana na arifa ya Waziri Mkuu katika Bunge hili ni kuwa alipofika pale mpakani, aliwaona wavamizi wakitayarisha mashamba kwa minajili ya kulima na kupanda. Je, wavamizi hao bado wana endelea na shughuli zao za kulima na kupanda au wametimuliwa? Ikiwa Serikali haijafaulu kuwaondoa mahali hapo, itafanya nini? Ni lini wavamizi hawa wataondolewa kutoka nchi ya Kenya? Je, usalama wa taifa letu ni shwari?

Mr. Ruto: Mr. Speaker, Sir, I would like the Prime Minister to clarify to us in whose docket or who actually amongst our security forces is responsible for protecting Kenyans from external aggression because they keep telling us about police formations being sent to these trouble-prone areas. We are quite aware that, for example, the APs and other police formations are ill equipped to deal with this situation. It has become a yearly ritual; people dying and the statements we get – just like what the Prime Minister has just given us – are like cyclostyled answers which we always receive whenever there are problems in these areas.

Mr. Speaker, Sir, there are serious problems of communication in those areas; like poor roads. Could he clarify or tell us why the Government cannot ensure that these areas can actually be accessed quickly by the security forces, so that we do not have any more deaths actually being reported every other year? This is a serious matter!

Mr. James Maina Kamau: Mr. Speaker, Sir, I am actually disturbed and, indeed, most Kenyans are when we hear that Kenyans are being attacked almost right, left and centre; we have the Merille attacking our Turkana people in the north, we have the Ugandans at Migingo Island and we have the *Al-Shabaab* in the Somalia area. I am wondering what the Government is doing to make sure that we are safe here because we think that we are not safe! Could the Prime Minister tell this House why the Government is not prepared to face this problem head on?

Mr. Ogindo: Mr. Speaker, Sir, I would like to get a clarification from the Prime Minister. This Parliament has been giving money to the Department of Defence (DoD). In the past 20 years, that money has been doubling after every five years. When you get to our waters, one single pirate can chase away Kenyan Navy. When you get to north eastern, the *Al-Shabaab* are there; when you get to Migingo, we are not sure; when you get to Turkana---

Mr. Speaker, Sir, despite the money that is going to the DoD, our borders are still not secure from any front. What is the problem?

Mr. Koech: Mr. Speaker, Sir, when you watch the Turkana's, most of them carry guns. When you ask them why they do that, they say that they are trying to defend themselves because the Government has failed to defend them.

Mr. Speaker, Sir, the Prime Minister has indicated here that they have increased the number of police or that they intend to increase the number of police and deploy the army at the border. How many police officers are actually being deployed here or how many are they going to deploy soon? Could he confirm that the Turkana's now feel safe as citizens of this country?

Mr. Speaker: Finally, the last question by the hon. Member for Lari!

Mr. Njuguna: Mr. Speaker, Sir, while thanking the Prime Minister for that timely Statement, I urge him to inform this House what urgent measures the Government is taking to supply medicine to the weak, sick and injured in that area.

Mr. Speaker: The Right Honourable Prime Minister, you may respond.

The Prime Minister (Mr. Raila): Mr. Speaker, Sir, you will agree that some questions have been repeated. In order not to bore the House, I will give one answer to all the questions that were repeated. The Member for Imenti Central wanted to know how much money has been set aside. I had already said in my statement, Kshs27 million has been spent for mitigation. We have also spent Kshs135 million for relief food supplies. That money was from the Government.

The hon. Member for Mandera East wanted us to deploy the military to secure our borders. Let me explain something that will clear the air regarding this matter. How did the Merilles come into the delta? Members need to know that there is a river called River Omo which comes from Abyssinian Mountains and flows into Lake Turkana. That river is a major supplier of water into Lake Turkana. The Ethiopian Government has constructed hydro-electric dams upstream. They have already constructed three hydro-power generation projects. There is a fourth one, which has some disagreements. Those construction works have undermined the amount of water flowing into Lake Turkana. As a result of that development, the lake waters have been receding towards the Kenyan side. Initially, the lake went up to the border and the delta was on the recipient side. But as the lake has receded, the delta has moved to the Kenyan side. The Merilles have ignored the border posts because, as far as they are concerned, it is the delta that is the border. So, they have followed the lake as it has receded into the Kenyan territory. That is how you find Merilles farming 17 kilometers deep into the Kenyan side of the border.

That may clear the air. To them, the delta forms the boundary. However, the delta has shifted and moved right into the Kenyan side for a period of time. This is an issue that needs to be corrected. We have also stated clearly that we have a responsibility as a Government to ensure the territorial integrity of our country and the responsibility of protecting the borders of our country is the responsibility of the military and not the police.

(Applause)

I want to say that very clearly in this House so that this message goes right deep. We spend a lot of money in our military. We recruit, train and promote them until retirement. There has been no war. When people invade our territory and carry out such activities, there should be no question as to who is responsible. That is a statement which should be made very clear. It is not failure on the part of the police at all. It is not the police, the APs, or the GSU. It is the failure of our military.

Mr. Ruto: On a point of order, Mr. Speaker, Sir. The Prime Minister is making very serious statements and yet, he is in charge. The two Principals are in charge. So, what is your responsibility then if you have not made sure that the military personnel are at the border? Is the Right Honourable Prime Minister in order?

Mr. Speaker: Mr. Ruto, please, resume your seat. The fact that you asked whether he is in order does not make it a point of order. Up to what you have said, it is not a point of order. However, I will accommodate you. Try again.

Mr. Ruto: Mr. Speaker, Sir, is the Prime Minister in order to shift blame to a department which he is in charge of? He has the overall responsibility.

Mr. Speaker: Order! Member for Chepalungu, I am afraid you have not done very well. However, I can see what the problem is. Mr. Prime Minister, I will help the Member. The concern here seems to be: Are you in order to mislead the House that it is the responsibility of the army and the army must be blamed for failing to secure our borders when, in fact, the army takes orders from some command position?

The Prime Minister (Mr. Raila): Mr. Speaker, Sir, I had not, in fact, apportioned blame. I am talking passionately because we are talking about lives of Kenyans who have died. The issue I am underscoring is that somebody tried to blame the police, when it is not the case. I have not said that I have failed in my responsibility. I have said as much in other forums. For the information of the hon. Member, the responsibility of protecting our borders vests with our armed forces; the army in this particular case. That is what I have said. I am not apportioning blame. If we are to straighten this wrong, it is the army who should lead the way and all other security forces will come under their command.

Having said that, the hon. Member for Molo wanted to know whether we have enough military personnel in the country. Yes, we have enough security personnel to secure our country. Therefore, there should be no panic. The forces that we have are equal to the task. What needs to be done is to ensure that there are no lapses in the responsibilities. Hon. Kapondi wanted to know how we will relocate the 900 armed Merilles from our country. I would like to inform the hon. Member that notice has already been given to that community to move out of our territories. They have been issued with a notice to move and, if they do not move, they will be rounded up and taken as refugees. Alternatively, Ethiopia will be asked, during the discussions that are going to take place between 21st and 25th of this month, to remove them and take them back to Ethiopia. Therefore, action is being taken.

There are 900 people who are armed but this country has a bigger police force and a much bigger army. We cannot be defeated to remove 900 militiamen from our territory.

Mr. Speaker, Sir, hon. Linturi wanted to know how this matter escaped the attention of our NSIS. I want to inform him that, that is not the case. The matter was known and attention drawn to the relevant authorities to take action. So, it is not that this information was not available. It is a question of not acting or acting late, but the information was available, and it was provided by the NSIS.

Mr. Linturi: On a point of order, Mr. Speaker, Sir. I am really getting confused on this matter. The relevant Government Department and the authority that is supposed to have commanded the Kenya Army to act appear to have had the information on the planned attack on the Turkana people, yet nothing was done. Would I be in order to ask the Prime Minister to tell us why no command was given to the Kenya Army to take charge and protect our borders, given that the information was with the authorities? Does this not amount to negligence on the part of the two Principals?

(Applause)

Mr. Speaker: Order! Order! The Rt. Hon. Prime Minister, that does not amount to a point of order, but you may want to be courteous and respond to it. Otherwise, I do not admit it as a point of order.

The Prime Minister (Mr. Raila): Mr. Speaker, Sir, let me explain, for purposes of information to the House, how that incident occurred. It was not an initially planned thing. Some Kenyans had gone to the area that is occupied by the Ethiopians to buy food, and one of them was killed by the Ethiopians. So, when members of the Turkana community saw that the Kenyan had been killed, they retaliated by killing four members of the Merille community. When that happened, members of the Merille community regrouped, came back and mounted a raid in which other 19 Kenyans were killed, bringing the total number of Kenyans killed to 20.

As I said, the Merille are about 900 strong men and are armed, against a Kenyan Police Post with eight men, in addition to a General Service Unit (GSU) company of about 60 people. So, the Kenyan security personnel were grossly out-numbered in terms of arms and personnel. It would be suicidal for Kenyans to retaliate against such a heavy force.

I have responded to the other aspect of this question.

Mr. Koech: Mr. Speaker, Sir, the revelations being made before this House are very serious. Members of the Merille community are in Kenya illegally, and they can afford to attack Kenyans and move back to their places of stay, which are within Kenya, and the Prime Minister can afford to tell this House that the Government was helpless. Is he in order to tell Kenyans that the Government is too helpless to protect Kenyans, who are being attacked by foreigners within Kenyan territory?

The Prime Minister (Mr. Raila): Mr. Speaker, Sir, I have already stated the facts as they are, and there is nothing we can do to change those facts right now. What we can do is basically to deal with the facts *post facto*, and that is what we are doing. We have said that we are sending the army to ensure that those people leave our territory.

Hon. Muthama wanted to know whether these people are farming in Kenya. I have said that they are farming in Kenya. That is the fact, but we are asking them to leave Kenyan territory and go back to Ethiopia.

Mr. Muthama: On a point of order, Mr. Speaker, Sir. I do not think the Prime Minister got my question clearly. My question was: If, truly, we found those invaders planning to plant in Kenya, when is the Government going to take steps to remove them and stop them from farming in Kenya? So, the question is about what the Government is currently doing about the situation.

The Prime Minister (Mr. Raila): Mr. Speaker, Sir, I have said that we are actually taking action to get these people out of our territory. I do not know whether I need to begin to speak French. That is what I have said. We are taking action to make sure that these people get out of our territory.

Mr. Speaker, Sir, hon. Isaac Ruto raised the issue of access roads. I have talked about a very comprehensive programme of changing the lives of the people in that area, which includes the development of the infrastructure and setting up of a settlement scheme. You cannot introduce an irrigation scheme without having access roads to the area. So, the plan that we have is similar to what we did in Hola and Bura of Tana River County two years ago, which has changed the lives of the people in that area.

A task force consisting of officials from the Ministries of Livestock Development, Fisheries Development, Agriculture, Special Programmes, Health, Water and Irrigation, and Regional Development Authorities has prepared a Paper for this particular programme, which is estimated to cost Kshs1.7 billion, which we are trying to factor into

the coming national Budget, so that this programme can start as early as the next financial year.

We hope that by doing so, this area will be self-sufficient in food production so that we do not have to be carrying relief food all the time from other parts of the country to that area. That place can actually be completely self-sufficient in terms of food production. There is also a lot of fish in Lake Turkana. We need to introduce energy in that area, so that fish can also be processed for export, which will also be another source of revenue generation for the people of that area.

Mr. Speaker, Sir, the hon. Member for Kandara is concerned about the general security of our borders with Ethiopia, Somalia, Sudan and Uganda. I would like the hon. Member to appreciate the fact that Somalia is a failed State. So, there are no authorities with whom we can interact, but we share a border with Somalia. The authorities in Mogadishu are not in control of the territory that borders Kenya, which we call "Jubaland". That is why we have got the *Al Shabaab* militia there.

What we have done is to move our army closer to the border to secure the border and ensure that no hostile activities are exported into our territory, and also ensure that we control the illegal immigration of people from that country into our country.

Mr. Speaker, Sir, Ethiopia has been, and still is, a friendly country, but they also have their own internal conflicts. As hon. Members know, there is the Oromo Liberation Front (OLF) movement, which has been fighting the Ethiopian Government for a long time. These are people who carry weapons illegally, and who sometimes find their way into our country.

Mr. Speaker, Sir, with regard to Uganda, as you know, we commissioned a survey between us and the Ugandan Government to determine the clear boundaries of Kenya and Uganda. That survey stopped abruptly at the request of the Ugandans; that they were consulting. Then later on, they came and said that they were in the middle of electioneering. Now we have given instructions that, that survey must be completed within the next two months.

With regard to Ugingo Island where there were reports that Ugandans had hoisted flags. I want to confirm to this House that we sent an aircraft this morning to overfly Ugingo Island and there is no Ugandan flag there. If it was there yesterday, it was not there this morning when the Kenya Air Force plane flew there. As I speak, I want the House to---

Mr. George Nyamweya: On a point of order, Mr. Speaker, Sir. The matter that the Prime Minister is dealing with touches on the security of the country. From what he has described, it seems that all our borders are not very safe. Would I be in order to suggest that he gives the House a comprehensive security Statement and if need be, in camera? There are some issues that I think we cannot quite discuss publicly. I speak as a Member of the Defence and Foreign Relations Departmental Committee and there are some things which I do not think it will be in the interest of our country to debate them openly.

Mr. Speaker: Order! Right hon. Prime Minister, perhaps you want to be guided accordingly and only say what you must say and whatever else is of great importance to our security including our systems, you can divulge to the Members in camera.

The Prime Minister (Mr. Raila): That is correct, Mr. Speaker, Sir. Indeed, the Statement that I have read here has been cleared in terms of security for delivery to this

House. There are some other areas where you have seen that I have been much guided; like I have not been talking about numbers, days or deadlines. The information that I am giving to this House is information which is intended for public consumption. If need should arise for information to be given to this House in camera, I will be so guided.

Hon. Ogindo talked about the unsecure borders. That is basically the same matter that I have already dealt with. Hon. Koech wanted to know the numbers of the police officers who are going to be deployed. For security reasons, I do not want to give figures here in the House.

Hon. Njuguna wanted to know---

Mr. Koech: On a point of order, Mr. Speaker, Sir. While I agree with the Prime Minister, I asked him whether the Turkanas feel safe as we speak today. Is he in order to avoid answering that question?

The Prime Minister (Mr. Raila): Mr. Speaker, Sir, they feel safe because as I have said, we have deployed security personnel to protect the Turkanas. That was the first thing that we did when we realized the situation was very grave.

Mr. Speaker: Right hon. Prime Minister, so that the record is clear, I am not so certain you are able to say whether or not the Turkanas feel safe. What you can say is that you guarantee their safety. You have put in place measures to ensure that they are safe, but as to whether or not they feel safe, really you cannot say.

The Prime Minister (Mr. Raila): Mr. Speaker, Sir, I was responding to the question whether the Turkanas are feeling safe.

Mr. Speaker: You can say if they are safe!

The Prime Minister (Mr. Raila): Mr. Speaker, Sir, I can say that we have provided security to make them feel safe, but as to whether they feel safe, it is only them who can tell and not the Government.

Hon. Njuguna was concerned about the provision of things like food and medicine. I want to assure the Member that, yes, measures have been taken to provide the necessary medicines for those who require them and all other basic needs of the people of this area.

Mr. Speaker: Order! The matter must rest there. That is why we took very many interventions.

The Prime Minister (Mr. Raila): Mr. Speaker, Sir, I just wanted to conclude by first giving the House the assurance that the Government is taking this matter very seriously. We will, in due course, be issuing another Statement with regard to the security of all our borders in future. At this moment in time when we are going through very critical legislations which are aimed at implementing our Constitution, I want to inform the House that the Executive is working very unitedly in order to provide leadership for this country during this very critical time.

Mr. C. Kilonzo: On a point of order, Mr. Speaker, Sir. Is the Prime Minister in order to mislead the House that the Executive is working hand in hand while the other day, he said that there are people who are sabotaging him and His Excellency the President? For example, on the issue of the cost of living, decisions are being made by some people in the Executive against the authority of His Excellency the President and the Prime Minister. Is he in order to mislead the House and say one thing out there and another thing inside the House?

The Prime Minister (Mr. Raila): Mr. Speaker, Sir, I was talking about the Principals in this Coalition Government working together to provide leadership at this very critical time in our country. I would like to urge the Members of the Executive and Kenyans at large to be united at this moment in time. We should shun trivial matters and focus ourselves because the whole country is looking to the leadership of this House.

I know that a number of other issues are going to be coming before the Members here and the Members should be guided by the greater fundamental principles and values which are enshrined in our Constitution. We should ensure that this House lives to the expectations of our country by passing all the laws that are going to come before it as required before the next general elections.

Mr. Speaker, Sir, finally, let us shun ethnic divisions and not look at what comes before us here with ethnic lenses. Names of Kenyans are going to be coming before this House. Look at them first as Kenyans and not as representatives of their respective ethnic communities, because they do not represent their ethnic communities. They are Kenyans and so, deal with them as Kenyans. Again, do not try to look down upon the cultures of other people of our country. We have some people in this country who remove two teeth and there are those who remove six lower teeth.

Mr. C. Kilonzo: On a point of order, Mr. Speaker, Sir. Obviously, the Rt. Hon. Prime Minister is anticipating debate. Is he in order to anticipate debate on a matter which will eventually come to the House?

Mr. Speaker: Rt. Hon. Prime Minister, what is your reaction to that?

The Prime Minister (Mr. Raila): Mr. Speaker, Sir, I am talking about any debate. Maybe the hon. Member has some dreams. I was---

Mr. Speaker: Order, Rt. Hon. Prime Minister, can you, please, try and conclude, because if you look at the Standing Orders, there is something which is the matter here. The Order Paper has a provision for a Statement from you on the Security Situation in Turkana North District and the Standing Orders tell you that you must be relevant to the matter that is before the House.

The Prime Minister (Mr. Raila): Mr. Speaker, Sir, I was just concluding, because this has also got something to do with---

Mr. Speaker: Try and conclude!

The Prime Minister (Mr. Raila): Mr. Speaker, Sir, I conclude by urging hon. Members to look at Kenyans as Kenyans and not as representatives of their respective ethnic communities.

Thank you, Mr. Speaker, Sir.

(Mr. Ruto stood up in his place)

Mr. Speaker: Order, Member for Chepalungu! That matter must rest there! We have one more Statement by the Minister for Agriculture. How long will you take?

MINISTERIAL STATEMENTS

The Assistant Minister for Agriculture (Mr. Ndambuki): Mr. Speaker, Sir, I will take less than five minutes.

Mr. Speaker: Okay! Begin now.

Mr. Washiali: Mr. Speaker, Sir, yesterday, I talked to the Minister and he requested me that I should understand his position that he was not able to give that Statement today. I am surprised because he requested to give that Statement tomorrow, since he was not going to be in the House this afternoon.

Mr. Speaker: Order, Member for Mumias! Let us use our time optimally. If you want to ask for more time to be ready to interrogate the Statement, just say so.

Mr. Washiali: Mr. Speaker, Sir, I am not prepared because I was preparing for tomorrow afternoon.

Mr. Speaker: Very well! Minister, can you bring that Statement tomorrow afternoon?

The Assistant Minister for Agriculture (Mr. Ndambuki): Mr. Speaker, Sir, we will do so.

Mr. Speaker: Very well! It is so directed.
Minister for Finance!

The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Finance (Dr. Oburu): Mr. Speaker, Sir, first, I would like to apologize for failing to be in the House on Tuesday 10th May, 2011 when the House was expecting a Ministerial Statement to be delivered. Kindly, accept my apology and that of my Minister.

Mr. Speaker, Sir, I want to make a Statement following---

Mr. Speaker: Very well! You may resume your seat for a minute!

(Dr. Oburu resumed his seat)

Hon. Members, I have heard the explanation tendered by Dr. Oburu on behalf of the Deputy Prime Minister and Minister for Finance and, further, he has made presentations to me prior to this sitting and I am satisfied that they have put in an explanation as to why they were not available to deliver the Statement nor in the House to participate in Parliamentary business. I, therefore, lift the sanctions imposed against the Deputy Prime Minister and Minister for Finance as well as his colleagues in the Ministry. You may proceed!

STATUS OF REVENUE ACCOUNT AT TREASURY

The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Finance (Dr. Oburu): Mr. Speaker, Sir, on 21st April, 2011, the hon. Mbadi requested for a Ministerial Statement concerning revenue accounts from the Minister for Finance. The matter came up in the House on Tuesday, 10th May, 2011, where the Speaker ruled that the Minister for Finance should not conduct any business in the House until the Ministerial Statement has been given to the House. The very next day, Wednesday, 11th May, 2011, in Serena Hotel, there was a Press conference called by the Mars Group, where hon. Mbadi participated and, indeed, the exact same issue that the Minister was to make a report on was subject matter of discussion and debate in the full public glare.

Mr. Speaker, Sir, when we scrutinized the matter and inquired into the issues that have been requested by hon. Mbadi, we conclude as follows:-

1. The accounts for the 2007/2008 Financial Year were queried by the Controller and Auditor-General and he submitted the report to the House. The Public

Accounts Committee (PAC) duly investigated the matters raised for that financial year and in December 2010, submitted to this House their Report containing its recommendations.

2. The accounts for the Financial Year 2008/2009 were audited by the Controller and Auditor-General and he has submitted his Report to this House. The PAC has taken up the matter and is currently investigating those accounts.

Mr. Speaker, Sir, it is with this in mind that we are stating that making a Statement as requested would be in violation of the Standing Orders and in breach of the Parliamentary practice. Hon. Mbadi, would be invited to present his queries to the PAC where all the technical officers of the various Ministries and agencies can be invited to assist the PAC in investigating and reporting of the matters raised. This will facilitate proper and thorough deliberations of the issues raised, pursuant to established Parliamentary procedure and in accordance with the Standing Orders.

Thank you, Mr. Speaker, Sir.

Mr. Speaker: Any clarifications? Member for Gwassi!

Mr. Mbadi: Mr. Speaker, Sir, I am actually surprised by the Statement from the Minister for Finance, where he is implying that this House cannot interrogate issues with regard to the performance of the Executive, if such issues have either been looked at by a Committee or the House or if it is in the process of being looked at. I want to remind the Minister that this PAC Report has actually been adopted by this House. If you look at the PAC Report *vis-à-vis* what I have asked, there is no mention of specifically the issues I have raised. Since this Minister has the information, I do not understand why he finds it difficult to address the issues I asked.

Mr. Speaker, Sir, the issues I asked are as follows: -

One, I asked the Minister to tell us how many accounts, for example, in the year 2007/2008, were certified and why the others which were not certified, were not certified. But, the issue which I raised that is so fundamental is that this House was given some information with regard to actual revenue collection. That information is completely different from what the Controller and Auditor-General reported as the actual revenue collection that went into the Exchequer account.

Mr. Speaker, Sir, I am referring to 2007/2008 Financial Year. In the Exchequer Account, the auditor reported on 4th November, 2008 that the Government collected Kshs516 billion. The following year, that is June, 2009, this same Assistant Minister came before this House and told the whole country that the Government only collected Kshs410 billion; a difference of Kshs105 billion. I simply wanted the Assistant Minister to clarify why the figures that are in the Exchequer account are different from what we were given in this House.

I would also like him to tell this country whether the Ministry mislead Parliament into approving figures that are not accurate to the tune of Kshs105 billion. It was that simple and there is no need to pass this to the Public Accounts Committee (PAC). That issue was not addressed by the Public Accounts Committee. I, as hon. Member of Parliament, should be giving authority to the Executive to tax the people of Kenya and I believe it is within my mandate and responsibility to question why the Government is giving us two contrasting figures for the same Vote Head.

Mr. Speaker: Mr. Assistant Minister, do you have any reaction to that?

The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Finance (Dr. Oburu): Mr. Speaker, Sir, it is not true that the issues which the hon. Member has raised were not canvassed by the PAC. I can give you an extract from the PAC just as an example on the issue which the hon. Member asked on the taxes on international trade and transactions. The PAC deliberated on this particular item and even made recommendations at the end. It states as follows:-

“The Committee recommends that the Accounting Officer should always ensure that audit queries are promptly responded to and all relevant documents availed for audit as required. Officers who fail to perform the duties to the expected standards and occasion unnecessary audit queries should be severely punished.”

What this means---

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

Mr. Speaker: Order! Let us hear the Assistant Minister first.

The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Finance (Dr. Oburu): Mr. Speaker, Sir, what this means is that actually the officers produced those documents. The PAC was satisfied that the documents were okay. The only thing is that they omitted to give them at the right time. Therefore, the recommendation is that they should be giving this information at the right time, so as to avoid unnecessary audit queries.

Mr. Ogindo: On a point of order, Mr. Speaker, Sir. Is the Assistant Minister in order to avoid the question? This House has a right to interrogate the Ministry of Finance. The Ministry of Finance is the custodian of revenue. The House is at liberty to engage the Controller and Auditor-General. What the hon. Member for Gwassii is asking is from the perspective of the Ministry of Finance. He says the Ministry of Finance has given two conflicting figures to this House. What is the explanation from the Ministry of Finance for this? Is he in order to avoid that question?

The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Finance (Dr. Oburu): Mr. Speaker, Sir, I am not avoiding the question. The issue is that there were discrepancies. What he is giving is a global figure. There were items of expenditure where the auditor queried. This query is what gave that total amount. On each of the items where there was a query---

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

Mr. Speaker: Order, Mr. Assistant Minister. I think that point of order may be useful. That is why I am interrupting you at this point.

Mr. Mbadi: Mr. Speaker, Sir, it is appearing to me that the Assistant Minister has not really understood the question that I raised. The Controller and Auditor-General audited the Exchequer account where he had issues. That was done on 4th November, 2008 and a report was issued.

The following year, the Ministry brought to this House - that figure was not subject to the audit - figures that were materially different from what the Controller and Auditor-General audited in the Exchequer Account. I said the Exchequer Account which the Controller and Auditor-General audited and gave a report on 4th November, 2008, had a figure of Kshs516 billion as a global figure. However, what was given to this House seven months later in June, 2009 is Kshs410 billion. So, the Question I am asking is: Why should the Ministry bring to this House the figure of Kshs410 billion as opposed to

what the Controller and Auditor-General audited in November, 2008 of Kshs516 billion? It is that simple.

The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Finance (Dr. Oburu): Mr. Speaker, Sir, these discrepancies are before the PAC right now. These are the subjects of the audit queries. So, this is the reason why there were those differences in figures. Our officers are---

Dr. Kones: On a point of information, Mr. Speaker, Sir.

Mr. Speaker: Order! Let us just hear the Assistant Minister first.

The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Finance (Dr. Oburu): Mr. Speaker, Sir, these are the audit queries before the PAC; they are being discussed. Even the Budget Committee is also querying the Ministry about these figures. So, I do not know really whether we should---

Dr. Kones: On a point of information, Mr. Speaker, Sir. Let me speak as the Chairman of the PAC. It is true that the subject matter raised by Mr. Mbadi is an audit query in the 2008/2009 Financial Year. It is a matter that we are yet to deal with because it is normally raised under the first chapter of the accounts book. We normally look at it after scrutinizing and interrogating all the Ministries.

As I said, this matter is before the PAC. However, I believe the House also has the right to interrogate it at any time.

(Mr. Ogindo stood up in his place)

Mr. Speaker: Order, Member for Rangwe! I think I have heard enough on this matter. I will reserve it and, therefore, defer it until I give direction next week Thursday at 2.30 p.m. I will give directions as to how we should proceed.

Mr. Assistant Minister and the hon. Members who are concerned, please note.

(Ministerial Statement deferred)

Proceed, Mr. Bifwoli.

PERSONAL STATEMENT

INVASION\DEMOLITION OF MR. BIFWOLI'S HOUSE BY NAIROBI CITY COUNCIL EMPLOYEES

The Assistant Minister for Lands (Mr. Bifwoli): Mr. Speaker, Sir, I rise under Standing Order No.76 to make a Personal Statement.

Last night, Nairobi City Council *askaris* invaded my house and my son was there. My family that is living in South C along ole Shapara Road is now in danger following the demolition of the whole of the servant quarters of my house by Nairobi City Council *askaris*.

Mr. Speaker, Sir, a contingent of Nairobi City Council *askaris* came to my house in a lorry and demolished my house in the middle of the night, last night!

Hon. Members: Ohh!!

The Assistant Minister for Lands (Mr. Bifwoli): Mr. Speaker, Sir, the Nairobi City Council has never served me with a notice whatsoever. I purchased this premise, using National Assembly Mortgage Scheme, from the National Housing Corporation (NHC).

So, I have all the documents and I think my life and those of my family members are in danger. Even the houses of innocent Kenyans who live next to me were demolished. If I am the one to be targeted because I want to be the President, let these people face me alone!

Mr. Speaker: Very well. Hon. Members, under Standing Order No.76, that matter must rest there. But I hope the Minister for Local Government, who is also the Deputy Prime Minister, has taken note to take some remedial measures as may be necessary.

(Debate arising from hon. Bifwoli's personal statement was declared invalid and accordingly expunged from the record of the House as ordered by Mr. Speaker)

Next Order!

MOTION

ADOPTION OF REPORT ON CHALLENGES FACING SUGAR SECTOR

THAT, this House adopts the Report of the Departmental Committee on Agriculture, Livestock and Cooperatives on Hearings on the Challenges facing the Sugar Sector in the country, laid on the Table of the House on Wednesday, 13th October, 2010.

(Mr. Mututho on 17.5.2011)

(Resumption of Debate interrupted on 17.5.2011)

Mr. Speaker: Who was on the Floor? The Mover was on the Floor. Proceed, Mr. Mututho!

Mr. Mututho: Thank you, Mr. Speaker, Sir. In moving this Motion yesterday, I went into great length to analyse and state the frustrations that the sugar farmers experience on a daily basis. It is one thing to talk about sugar as a sweetener, but it is a completely different ball game when you talk of sugar as a farmer. Sugar as a farmer, is a source of misery, poverty and literally all farmers that have been involved in sugar production from 1902 have nothing to show for it but misery and poverty.

Mr. Speaker, Sir, that situation can be corrected by having a clear policy framework that recognizes and rewards appropriately the efforts of those farmers. I was at the point where I was discussing the Sugar Act (2001) and its relevance. For clarity, yesterday, I said that the cardinal principles upheld in doing this Sugar Act (2001) are; in fact, you pay in accordance with the weight of the cane and two, the prevailing price of the cane. Let us look at the weight of the cane. Weight of the cane in its entirety is

misleading for a start. They normally take, maybe, one day up to three to four days with what they call the stacks before they can harvest. During that time, you have lost about anything between 5 and 15 per cent weight because of that operation. Again, that is money lost. When you look at it again, looking at two crops; that is sugar-cane, what you are trying to get there is something called sucrose, which is the sugar content. Some of that cane can double the sugar content. So, ideally, those ones who tend their crops very well are underpaid by 50 per cent by ignoring the sucrose content of that particular sugar-cane. So, it is erroneous to that extent.

[Mr. Speaker left the Chair]

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

Mr. Temporary Deputy Speaker, Sir, however, more disturbing is the fact that if you look at the current sugar prices, they are cartel driven. Not more than four families would just sit over a table and then decide on the volumes of sugar to import, supposedly to fill the gap, and that now sets the current market prices of sugar. So, you find that the sugar formula as described in the Sugar Act (2001) is not only inaccurate, but also oppressive in that it does not reflect the situation driven by demand and supply, but rather by intricacies, cartels and so on.

Mr. Temporary Deputy Speaker, Sir, I also dwelt at length yesterday on the issue of weighing of cane and I said this: When we examined all factories, without exception, we found that the average loss at the weighbridge is approximately 20 to 30 per cent. They manipulate the weight - and we have evidence to this effect, which can be availed to any Member who is interested - to show that upon weighing, they lose that amount of weight. Now, for that, we come to one conclusion that all this wealth that is held by Sony Sugar, Nzoia and everybody else there is common wealth. It is wealth generated through forced contributions by farmers and indirect contribution through weight loss, plus, plus plus. All those factors put together make us come to this one recommendation that I would like hon. Members to listen very carefully - that all growers of cane, present and past, even if they died a century ago or whatever happened, be awarded part of that cake. This is how it will be done. We take the cumulative total of all the kilos harvested and processed within particular factories. This will show how it was arrived at; then issue free shares up to 30 per cent. I want to emphasis that, that piece of paper to give free shares will be earning dividends just like any other piece of paper because it is clear. If the hon. Minister in front of me would like to challenge me on this, we would prove fraud, theft, name it. That is because we cannot come and establish such factories on such parameters that are well known and established. We cannot abuse the generosity accorded to us by the farmers in Western, Nyanza and other places to an extent that we are now coming to sell off those factories, without recognizing that, that wealth created is, in essence, their wealth. That is why we say without any reservations in this Committee that they must issue 30 per cent free shares to those farmers.

The second lot of shares should be 21 per cent, which should be drawn on a check off system. What do I mean? Any farmer who is currently growing some cane will now, by check off system or paying directly, will buy the shares appropriately. For example,

farmers who take their cane to Sony, for instance, will now own 51 per cent of that factory. When I say this, I am very serious. For those of you who know Dubai, everybody who has invested in Dubai knows very well that you have to have 51 per cent local and 49 per cent is foreign investment. All investment envisaged in this is foreign because the Mututhos of this world should not be allowed to come and own 100 per cent of Sony, pushing out all the farmers and all that wealth that came through.

Mr. Temporary Deputy Speaker, Sir, I will shortly be talking about Mumias, in particular. In doing so, I want you to reflect again on what happened there. Those people are believers. Trust and believe you me, they are believers. They gave their land for Kshs90 an acre so that we can have a nucleus estate. Now, this House is built so that lawmakers like you and me can come here, debate and state the facts the way they are supposed to be. That land should be considered. Since the land is known, those farmers should be compensated to the current value of that land.

How do we live and reconcile with ourselves, while in Mwea over 15,000 acres have been taken at only Kshs90 an acre. Look at it that way and assume a sale of the same. That is not good.

Mr. Temporary Deputy Speaker, Sir, I said yesterday and it is good that I repeat here, with your permission that the sugar---

The Temporary Deputy Speaker (Mr. Imanyara): Order, Mr. Mututho! I have just been reminded that I misled you when I said that you have 18 minutes. You have 28 minutes and not 18 minutes!

Please, proceed!

Mr. Mututho: Mr. Temporary Deputy Speaker, Sir, I want to tell you that the two well known sugar traders were Mr. Lloyds and Mr. Bucklays; both of them ran a business that was called Safe Trade. They had big sugar plantations in West Indies and in other parts of the world. They became so rich that one of them became a banker and the other a shipping agent. That is the sweet story about sugar.

Now, we cannot sit here and create a new Lloyds and a new Bucklays. We cannot sit here again to see millions of Kenyans come here year in, year out, and wait for nothing but a debit payment. A debit payment comes this way: a farmer who has 10 acres of land is over-supplied with inputs, which are overpriced. At the end of the year the farmer is, for all practical purposes, supposed to be paying instead of being paid, having waited for 18 months. By any other word, this Committee found this to be scandalous and a total disgrace to the integrity of modern thinking in Kenya, and mistrust of all the efforts that this Government has put into that.

Mr. Temporary Deputy Speaker, Sir, I am delighted to see that no less a person than the Right hon. Prime Minister is in the House to listen to this. This is because at the very core of it all, we have a group of people in western and Nyanza now threatened by both COMESA rules and/or sale of those factories. You are going to have mass poverty injected into the people through this skewed policy framework that does not consider the fruit of people's labour.

Mr. Temporary Deputy Speaker, Sir, we have worked out the new Sugar Bill. This Bill will, once tabled here, incorporate the views and good ideas held by the Ministry of Agriculture. We thank them for their views, but I want to remind them that we started this whole business in 1902. They have been there in their slumber. They have been there waiting and seeing one generation after another go to the grave, poor as usual.

Even their own factory, called Nzoia Sugar Company--- The Committee found everything very wanting. We are recommending total investigation into that particular factory by the relevant authorities. When you post losses of Kshs20 billion, and you are not paying the farmers, we must understand how you came to this loss of Kshs20 billion. It is mind boggling. I said yesterday that the whole industry is worth Kshs20 billion per annum. Now, one sugar factory by the name of Nzoia, has accumulated loses of Kshs20 billion. It is not possible. We also want to be told why SONY--- The Ministry came up there and told farmers to produce cane because they were going to expand the factory. The net effect of that was something even more scandalous. We have had mature cane over the last couple of years valued at Kshs2.8 billion. This cannot be purchased by anybody.

Again, because of this archaic rule that you cannot have another factory within a 40-kilometer radius, no one is prepared to come and harvest that cane. So, ultimately we have a situation where farmers are stuck with cane valued at Kshs2.8 billion. They cannot sell it. They were promised by the Ministry of Agriculture that the new factory would be built. In fact, they brought equipment there and it is on the ground, but it has never been commissioned, installed or whatever. I want to remind the Ministry of Agriculture of the provisions of our Constitution at Article 46, which are related to services. At some point, you should accept the blame and be able to compensate the farmers.

Mr. Temporary Deputy Speaker, Sir, I would encourage anybody listening to this, including hon. Members, to move in and cause this Ministry to compensate those farmers for potential loss and the loss they have incurred, after growing that cane worth Kshs2.8 billion on the instructions of the Ministry of Agriculture, which eventually could not commission the equipment. These are matters that were very carefully canvassed. We have evidence to this effect, and we are inviting hon. Members to look at the HANSARD on the public hearings related to this particular matter; it is over 3,300 pages.

There is the question of cess. This is part of what makes 27 per cent taxable income of cane farmers. Why should we allow this? Why do we have people who are already suffering being taxed? Why do we have to put them into their graves with such a big tax debt? Sugar cane is overtaxed! I think it is the only crop that is taxed to a level of 27 per cent. Why do we have to have all these deductions? What we are saying is that all this taxation, if it must be there, must not be more than 10 per cent, so that we can have some income for the farmers, as this will make them enjoy growing sugar-cane.

Mr. Temporary Deputy Speaker, Sir, I said passionately again, yesterday that I sought your further indulgence to mention one particular farmer. This farmer is from the Mumias area, and is doing 100 acres of cane. It is very good cane. When you look at it, it is deep green and very good. He has been farming since 1975. He says that from 1975, not a single farmer has been able to buy a new car. A new car is not a yardstick for economic measurement. However, I am very passionate about this new car idea. If from 1975 in all the 22 constituencies no farmer has afforded a new car, and indeed---

Mr. Temporary Deputy Speaker, Sir, the Committee went to pain to invite the farmer here. The farmer came clad in a suit that he bought in 1978, a three piece suit with stripes. That has remained his Sunday best, Monday best and Christmas best from 1978 to date. The important thing is, as I explained yesterday--- When you look at the whole thing, and look at a farmer who is doing 100 acres of sugar-cane and still remains with

his Sunday best of 1978, there must be a problem. Again, I am inviting Members of Parliament and the Cabinet in particular, to look at this thing sympathetically.

I reminded you that one day in Kitui, at a place called Mutitu, somebody refused to do a very big bridge, because it was not economically viable. However, inside the document, there was one sentence by an engineer. That sentence by the engineer went like this: "During the rains for three to four months families have to use a bow". There was no M-Pesa at that time. You shoot across the river, so that the family on the other side can receive the money. That was how they received money from the people who worked in Nairobi.

The engineer, who was with International Monetary Fund (IMF) and the World Bank at that particular time said due to that sentence alone, they were going to finance that big bridge, because there must be a problem. Now, I am saying, and I want you to understand it that way, even if we do not have the language to make you understand that these farmers have been suffering from 1902--- That suffering was reconfirmed in 1922, 1960 and to date, 2011, they are still suffering. Please, understand their plight.

Mr. Temporary Deputy Speaker, Sir, a majority of the people here, come from that zone. We all enjoy taking sugar but if you knew what makes that sugar and the suffering it causes to other people, then you would support this Report.

There is the Tana Delta and Ramisi. Ramisi Sugar Company is by an investor; we tried to get his identity. We did all we could to try and get the investor; again, this Committee is recommending full investigations. Who is this investor who has no name, and who has got 10 acres to 11 acres? What is his name? Why does he declare the other people to be squatters? There must be somebody, who is connected to the investor; he can be traced and be able to table the plans.

Besides, Mr. Temporary Deputy Speaker, Sir, for both Tana River and Ramisi, the people were there over 100, 200 or 300 years ago. How come that Mumias Sugar Company is now declaring local resident around Tana Delta as squatters? Who is a squatter? Is it Mumias Sugar Company or the residents who have been there for over 100 years? There is nothing to debate there, but if Mumias is interested, then they should follow the same formula of 30 per cent investment. Let them give free shares to those local people. They can continue enjoying the land because that land has been conserved, preserved and owned by those local people. It would be scandalous for us to sit here in this august House and then declare those people who have been there for 200 years as squatters because Mumias Sugar Company wants to do modern farming.

Mr. Temporary Deputy Speaker, Sir, yesterday, I talked about sugar quality. We are at a loss again in understanding why the Ministry of Agriculture cannot come up with our own sugar cane varieties, even with all the money we have invested in research. They have done very well in the past; they have done it in maize where we have over 20 or 30 varieties. We had good root crops varieties. As early as 1980, we had the sweet potato, KSP-20. That was a wonderful product. Why do they have difficulties now in coming up with a new variety that is suitable and that we do not have to wait for a long 18 months to harvest?

Mr. Temporary Deputy Speaker, Sir, varieties are available today for rice that can do without that heavy irrigation and which you can do in the highlands because researchers are working. I believe that those people, too, are working. They must also produce those varieties, so that the farmers can enjoy the same.

Mr. Temporary Deputy Speaker, Sir, on the cane transport, the current arrangement is using huge trucks and heavy tractors. This has two problems. Even in simple engineering, hauling such weight of metal, in itself, costs. That cost is ultimately pushed to the farmers; there is nothing free! The cost of that huge tractor and the weight you have to haul every day, whether empty or carrying, has to be paid by the farmers. So, we have recommended liberalization of transport. The best photography or painting is found in the VIP Lounge in Kisumu Airport.

(Loud consultations)

I am sure, Mr. Temporary Deputy Speaker, Sir, that you would like to protect me from the Ministers who are consulting so loudly, having taken tea with sugar that is coming from these---

(Laughter)

Mr. Temporary Deputy Speaker, Sir, the best painting is that one you find in Kisumu Airport VIP Lounge. I would invite the Prime Minister, the Vice-President, the Ministers who use that airport and everybody else; next time you go to the VIP Lounge, just look at the wall to your right and see an ideal situation. This is a simple tractor. You are harvesting cane and loading simultaneously and then you deliver. There is no provision of those monstrous tractors that end up just messing up the farmers' pockets!

Mr. Temporary Deputy Speaker, Sir, we have found transportation of cane riddled by corruption. There is something they call there "helicopter harvesting." Just like a helicopter, it hops from one point to another and to another, depending on how much kickback you are able to give. By the time you get to Trans Mara, for you to invite the helicopter, you need to give about Kshs10, 000. However, it can be as low as Kshs2, 000 per farm. Those are some of the issues that the Committee came by.

Mr. Temporary Deputy Speaker, Sir, looking at the Sugar Act, 2001, and looking at the specific provision that all sugar should be weighed at the farm gate, we now came with a conclusion that the immediate effects, subject to your approval, hon. Members, we shall not allow the millers to own any weigh bridges. This issue of 30 per cent theft and this issue of cheating and stealing as you transport the cane will be the thing of the past. There are some people who actually sell a lot of cane, but they do not have any farms. They only collect the stuff that is dropped by the roadside and they are still farmers!

Mr. Temporary Deputy Speaker, Sir, I have gone through the highlights of this Report. The public hearings started in 2009 and it has taken over one year, met thousands and hundreds of people and we want to thank them for their honesty. We want to really apologize to them for this long, long delay, because at this rate, then they need ten parliaments to solve their problems. They listened to us; they were there promptly and they gave us all. We got all the original invoices. We saw the demonstration and we saw the poverty in its reality generated by this. I want to thank the parliamentary staff who were with us. I would like also to thank the civil servants, of course, who have also been around all the time and who also helped us get critical information on that particular end. I also want to thank the hon. Members from the area who assisted us with information when we required it the most.

Mr. Temporary Deputy Speaker, Sir, I want to conclude this with the sweet news that we have drafted the Bill as the Committee of Agriculture, Livestock and Cooperatives, incorporating all these recommendations. We are looking at that Bill drafted by the Minister for Agriculture. The two Bills will marry in the open before this Parliament, so that we have a powerful law that will supersede everything else in having a very good law that will make this sugar cane business worthwhile.

Mr. Temporary Deputy Speaker, Sir, I want to invite an hon. Member of my Committee and also an hon. Member from that area and also a very senior citizen who is also very passionate to the whole area, incidentally from the Sony area; hon. John Pesa, to second this Motion.

Mr. Temporary Deputy Speaker, Sir, I beg to move and do ask hon. Pesa to second.

I thank you.

(Applause)

Mr. Pesa: Thank you, Mr. Temporary Deputy Speaker, Sir. I rise to second this important Motion.

Mr. Temporary Deputy Speaker, Sir, this Motion, as my Chairman has ably put it, has taken a lot of time before it came to the Floor of this House. I want to thank him and our team for the good work that we have done.

Mr. Temporary Deputy Speaker, Sir, the Motion before us here took us to travel the entire Republic of Kenya, especially in western Kenya, where we grow sugarcane and, of course, at the Coast. We heard a lot of people, the stakeholders, who are actually involved in sugarcane growing. We heard very sad observations during that time. As I continue talking, I want to declare my interest under Standing Order No. 81; that I am a sugarcane farmer under Sony and when I talk here, I am talking on behalf of other farmers as well.

Mr. Temporary Deputy Speaker, Sir, we have a lot of problems in this sector. It is not only this sector, that we have a problem in this country, but in the entire agriculture sector. For example, when we talk about maize, which is what is feeding Kenyans, we have had a lot of problems and even now, we have problems. Come to other crops that we grow and we have problems every other year. I think it is only in the dairy sector where, occasionally because of rain, we have had to produce excess milk. But in all others, we have not been able to produce what Kenyans actually deserve for feeding Kenyans, who actually depend on this.

Mr. Temporary Deputy Speaker, Sir, what problems did we get when we travelled around this country which we are asking this House to help us change, if possible? We have, in the case of Sony, where in 1978, land was bought at Kshs90. If you look at the cost of land in that place at the moment, it is almost Kshs50,000 to Kshs100,000 per acre. The farmers gave their land to the factory at Kshs90 at that time. We are now talking about selling the factories. Are we going to consider those farmers who gave out their farms more or less for free when we sell the sugar mills? This is one area that we must look into when we sell our mills in the future.

We have what the Chairman has talked about here; taxation, in the sugar industry. Our farmers are taxed very highly. They are taxed 27 per cent, which is really

unacceptable. This is one area that we want hon. Members to assist us. We should reduce it as has been proposed in the Act. We want it not to be more than 10 per cent of what is charged throughout the Republic.

There is also another element where we are losing a lot of money as farmers. If you go to areas where sugarcane is grown, you will find that most of the sugarcane is dropped during transportation. That is one area we are asking this Parliament to help us change so that, weighing can be done at the gates where the farmers are producing the sugar-cane. In so doing, we will make sure that factories take charge of the transportation and farmers will not lose the way they are losing at the moment. We want weighing to be at the farm yards so that farmers do not lose the way they have been losing.

As a farmer, one time, before I came here, I tried to venture in the transport business. This is very frustrating to our people. When you transport sugarcane, the factories do not pay you. They do not also give you the right incentives that can make you buy more tractors that can make you transport more sugar-cane. This is another area where we want the Ministry to look into, and ensure that we have enough tractors in the sugar-cane growing areas, so that farmers can have their cane transported in good time.

With regard to the idea of late harvesting, normally, farmers sign contracts with factories. We expect sugarcane to be harvested between 18 and 24 months. However, if you go to Sony today, you will find a lot of sugarcane that has matured and is now about 30 to 40 months in the fields. Students who could have benefitted from money coming from the sugarcane are chased out of school because it is not delivered on time. This is one area that we must do something to assist our farmers, so that harvesting is done in time. If that is not done, then we have to get some explanations.

In the case of Sony, I remember Government officials went there, as the Chairman has said, and promised that our mill will be overhauled. Up to today, that mill cannot crush what we grow in that area. That also applies to many other sugar factories that we have in this country. We want the Government to assist our factories, so that we can get more money to ensure that the machines that we have in those areas can mill the sugar-cane that has been grown by farmers in those areas.

The Bill will come to Parliament any time now. We will be using the new Constitution. Under the new Constitution, we will be using the county governments. We are talking about the sale of our mills and factories. We must be very careful here because, if we do not protect the local growers in our sugarcane belts, then we will have “outsiders” coming to take over. That will deprive the counties of the right revenue that they can use to develop themselves. Therefore, we feel that in the new Act, at least, 51 per cent of what we will sell should be owned by the local people, including the farmers. That is why I am saying that since farmers gave out their farms for Kshs90 in 1978, we should quantify that and allow him or her to be part and parcel of that factory. That is because without that land, the factory cannot exist, especially in the nuclear areas in the belt.

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

The Temporary Deputy Speaker (Mr. Imanyara): Do you want to be informed?

Mr. Pesa: Yes, he is from that belt.

Mr. Washiali: Mr. Temporary Deputy Speaker, sir, on the issue of giving away land to the nuclear estate of Mumias, I want to inform my colleagues that when farmers were giving out the land, they were not selling it. They were leasing it out and, up to

today, they have lease agreements. The land was not for sale. That is the information I wanted to give.

Mr. Pesa: Mr. Temporary Deputy Speaker, Sir that is very relevant and adds a lot of flesh to what I was talking about. In the case of Mumias, of course, the farms still belong to the farmers. So, there is no problem in that area. However, in areas where farms were sold, we will make sure that farmers who gave their farms for free are considered as part and parcel of the factories.

In so doing, we will invite other developers or investors to come to the belts and own 49 per cent of what we have. It should not be more than 50 per cent. For you to have any voice, you must have the number of shares that can give you a voice. That is why we are saying that we should facilitate farmers by considering the land laws. Hon. Members should assist them to get funds or loans to ensure that they own 51 per cent of the factories that are going to be sold in the near future.

When we come to the cost of sugarcane, as the Chairman has very eloquently said, we are considering the actual weight of the sugarcane. However, there are other by-products that the farmers should be paid for. For example, if SONY takes sugarcane from farmers, that factory produces other by-products. In the case of SONY, we have molasses. That is sold out secretly without the farmers benefiting from that by-product. In other areas, the factories have even produced electricity. Why can the farmer not benefit from that by-product? We are saying that in future, when we talk about the sugarcane price, we must also consider the by-products that go with it.

The 2001 Sugar Act is now obsolete and we will be introducing the new Act. We want the Minister to speed up the process, so that the Act can come and complement what we are talking about today. The old Act is what has made farmers to remain poor. It has made them to be the way they are today. I am requesting the Minister to speed up and bring that Bill, so that we can make the relevant changes.

Still on sugarcane, if you go to SONY, we have a lot of money that is lying idle in the field. It is about Kshs2.8 billion worth of sugar that has not been harvested. If the sugarcane was harvested, the poor farmer down there would take his children to school. The poor farmer down there will cloth himself and, probably, buy himself a car as the Chairman was saying earlier on.

So, we want the Government to ensure that the sugarcane, which is over-grown and over-mature at the moment, is harvested, so that it can benefit farmers. We have had what you would call “middlemen” in the sugar industry.

These people buy sugarcane from farmers, who are very poor and have nothing to use to take their children to school. What we are saying is that if a factory signs a contract with farmers and then it turns out that it is not able to crush all the sugarcane that has been produced, such a factory should have a contract with the next factory, so that the factory that signed the contract with the farmer can sell the sugarcane to that other factory, so that the farmer can benefit. Sugarcane should not be sold to middlemen, who actually exploit farmers. That is what we want included in the Bill.

Mr. Temporary Deputy Speaker, Sir, lastly, we are asking for more research to be done in the sugar industry. We need to have sugarcane types that mature quickly introduced, so that the farmer can recoup his investment within a shorter time. We need

to introduce sugarcane types which have more sucrose content. That is why we are asking for more research to be done in the sugarcane industry.

With those many remarks, I beg to second the Motion.

(Question proposed)

The Prime Minister (Mr. Raila): Mr. Temporary Deputy Speaker, Sir, this Motion is timely because, as the Mover has rightly said, it affects very many of our farmers. As a Government, we are very concerned about the plight of the people who derive their livelihood from this commodity. As the seconder did, I want to declare my interest in this sector. I am also a sugarcane farmer.

A lot of the materials that are contained in this Report are already in the public knowledge. It is also material which has previously been discussed on the Floor of this House. For a long time, we have been talking about revamping the sugar industry and making the sugarcane farmer happier, so that we can continue to expand the production of sugarcane.

Mr. Temporary Deputy Speaker, Sir, we know that our annual sugar consumption is now just over 600,000 tonnes, and our production capacity is just about 400,000 tonnes. Therefore, we have to import, on an annual basis, 200,000 tonnes of sugar in order to meet the demand of our people. We have been talking about making this country self-sufficient in sugar production, and have a surplus for export. Little has happened in those other years but now, steps have been taken to see that we expand our sugar production capacity, so that we can meet our demand. The revival of Ramisi Sugar Factory is one case in point.

I have been saying, time and again, that we must move away from controls, which have pushed us to where we are, and open up this economy, so that we can invite more investment not only in the sugar sector, but also in other sectors as well. There were times when we did not have the capacity, locally, to venture into some of these areas. Particularly, we did not have a strong private sector at that time. That is the reason as to why the Government moved into some areas such as sugarcane production. Sometimes, the Government moved in directly or through joint venture arrangements with some foreigners.

Mr. Temporary Deputy Speaker, Sir, our economy has come of age. I must admit that we now have a sizeable private sector in our country, and our people are willing to invest. So, when we talk about divesting from this, we must be very open about it. There are no two ways about it. Let us agree that we are going to pull the Government out of this sector. We have the Privatisation Commission, which has already come up with clear modalities on how to privatise.

I want to inform the House that the Government cannot move, because the Parliamentary Committee that is supposed to clear this, in accordance with the Privatisation Act, has not convened a meeting, so that this document can be discussed. There are so many private sector companies which are knocking on our doors, because they want to invest in the sugar factories. They want to revamp them, but the Government is being held hostage by a Committee of this House, which has refused to convene meetings, so that they can give permission for the Government to move and have these

factories privatised. Therefore, I urge the particular House Committee to do this as soon as possible.

Mr. Temporary Deputy Speaker, Sir, talking about the Common Market for Eastern and Southern Africa (COMESA), we know that the window is going to close very soon. We know that by the year 2012---

Mr. Okemo: On a point of information, **Mr. Temporary Deputy Speaker, Sir.**

The Temporary Deputy Speaker (Mr. Imanyara): The Rt. Hon. Prime Minister, do you accept to be informed?

The Prime Minister (Mr. Raila): I will accept the information from the honourable Chairman.

Mr. Okemo: **Mr. Temporary Deputy Speaker, Sir,** I would like the Rt. Hon. Prime Minister to have the facts as they stand today. We had two meetings with the Ministry of Finance, which is the parent Ministry that is in charge of privatisation. After that meeting, we agreed to have another meeting with them. We actually fixed dates for meetings with them, but they have failed on two or three occasions. So, the Committee has not failed. The Government has failed. The Ministry of Finance has failed. So, please, let us get the facts right.

The Prime Minister (Mr. Raila): **Mr. Temporary Deputy Speaker, Sir,** that is not the information I have on this matter. In fact, I called the hon. Member yesterday over this same issue. I called him because the Privatisation Committee has actually complained to me that they could not move because the Departmental Committee of this House has not convened a meeting. They even showed me correspondence from the Privatisation Committee to the Departmental Committee of this House.

So, we really need to find a way of reconciling our positions, because I have been told by the Privatisation Committee that they cannot move because the Departmental Committee of Parliament has not convened a meeting, and that they have even written and asked the Committee of this House to convene a meeting, so that this matter can be discussed and resolved. Therefore, I will go back and invite the hon. Member to cooperate, so that this matter can be resolved as quickly as possible.

(Applause)

Mr. Temporary Deputy Speaker, Sir, the Mover talked about those who are involved in Ramisi Sugar Factory as being people whose names and addresses are not known. I invite the hon. Member to seek information from the Government. The Government cannot allow fictitious people to come and invest in this country. Those are people whose addresses and names are well known. Even the terms and conditions of their engagement were clearly discussed with the Ministry of Agriculture, and then the project was launched.

In the Tana Delta, we also want to set up another scheme. This matter is being discussed with Mumias Sugar Company. There has been resistance by some communities. As you know, all the time, there are competing interests between the pastoralist communities and the sedentary communities, but we must be able to explore the full potential of this country. Areas which are suitable for large-scale agriculture production need to be used for those purposes.

Mr. Temporary Deputy Speaker, Sir, I agree with some of the recommendations that are contained in this report, for example, with regard to the cheating of the cane farmers through the weighing scales and so on. But those are details which the Ministry of Agriculture is going to competently respond to. Let me conclude by saying that this is just one area, but we have several other areas which require liberalization, if we really have to move forward. This sector is not going to be competitive enough to compete when the COMESA safeguards are removed. These factories will collapse basically because of the inefficiencies that have been identified. We cannot run sugar factories as parastatals. Public management has been found to be wanting and inefficient. We also do not do this when they are being micro-managed. You find that the Board itself is being micro-managed by the bureaucracy. That is why it is necessary to let go, so that these companies can be run efficiently as private companies. That way, the farmers will get value for their money. If there is proper competition, farmers will be paid more promptly because you will have the large-scale factories and the mini-factories side by side.

We know that there are other value additions which have not been taking place like coal generation. The generation of electricity and the production of ethanol from molasses can be added, but if it is added and the factory is, therefore, making more money from the original cane, that benefit needs to be shared with the farmer. You will find that the cane prices remain constant when, for example, the companies have introduced other fields and are now generating electricity which they are selling to the grid. They are producing ethanol, which they are also selling, but the farmers continue to be paid the original price that they were paid before all these were added. The company, therefore, posts bigger profits and is able to pay more dividends to people who are not engaged in farming. I also agree that a certain percentage be reserved when we are privatizing for the farmers and another percentage be sold through the IPOs, so that the public can then participate and allow the strategic investor to own the rest of it.

Mr. Temporary Deputy Speaker, Sir, the investor will not come if we are saying that he is going to be a minority shareholder in the business. No private person comes to bring his money in order to benefit other people. But farmers must have a share so that they are shielded and can benefit from the profits which are made by the company.

With those few remarks, I beg to support.

Mr. Okemo: Mr. Temporary Deputy Speaker, Sir, this report is very important. I have read it page to page and I think the Committee should be commended for a job well done. The only challenge is whether what is in that report is going to be translated into action. I think that is the big question. A lot of these issues are issues that have been talked about as the Prime Minister has stated. They are all in the public domain and there is nothing new. It is just that they have now been nicely coordinated and put into a report which can be used as a reference point.

If you look at the sugar industry today, the statistics are very clear that the consumption is over 600,000 metric tonnes and the production is just about 400,000 tonnes. I think the consumption patterns are increasing and so, the gap is going to increase between production and consumption. Therefore, there is a lot of scope for increased production of sugar. If you look at the world scenario now, there is a huge shortage of sugar because a lot of the big sugar producers, instead of producing sugar, are now going in for bio-fuel and, therefore, what is available as sugar is getting less and less. This means that investing in sugar is going to be a very attractive proposition.

Therefore, I would like to suggest that we look actively for private investors to come and invest in the sugar sector. The privatization as proposed by the Government is a good idea, but again, it must be done in a very careful manner in order to make sure that the farmers get some shareholding in these private sugar factories. If you merely leave it to outside forces or to investors just to come and own 100 per cent, the farmer will not get the full benefit of his sweat.

Mr. Temporary Deputy Speaker, Sir, before I proceed, I want to correct the position that the Prime Minister stated here very briefly. The fact of the matter is that the Privatization Commission as it is today has expired. It is illegal and should not be there. When the Deputy Prime Minister and Minister for Finance came to our Committee with the names and said that they wanted us to approve the automatic renewal of the contracts, we said that, that is against the spirit of the Constitution. These are public officers and they must go through vetting and a process of accountability as we are seeing it happening today. They are stuck with a Commission that expired and so, they cannot be complaining about the Committee on Finance, Planning and Trade not being able to meet them. Because we raised those issues when we last met with them, the Ministry of Finance has been afraid to come and appear before our Committee. So, the problem is not with the Committee on Finance, Planning and Trade, but with the Ministry of Finance which is stuck with a Commission that has expired its term. That should be known for the record, so that the blame goes where it belongs.

Having said that, I think the Sugar Act is long overdue for amendment. The Ministry of Agriculture has given us undertakings, even in the past, and said that it is ready, but it has been ready for so long. Why can we not have a specific timeframe? Are we going to have the amendments next week, the following week or after 2012? When are we going to have them? We need to get a timeframe. I can see the Assistant Minister for Agriculture wants to inform me about something.

The Assistant Minister for Agriculture (Mr. Ndambuki): On a point of information, Mr. Temporary Deputy Speaker, Sir. I just want to inform the Member that, in fact, we have been waiting for the report of the Committee, which they have given us. They have given us a draft Bill and we are now merging it with ours and the final Bill will be brought to the House in the next 30 days.

Mr. Okemo: Mr. Temporary Deputy Speaker, Sir, you can see that that the thing is elastic. It is moving and moving, but I hope that before the end of June, we should really have looked at the recommendations. This is because every day that passes, the farmer continues to suffer. Particularly the sugarcane farmer, is the most unfortunate farmer in Kenya. All the taxes are lumped on him. Spillage from his farm to the weighbridge is also lumped onto him. Delays in payments also go to him. When he gets fertilizer, interest is charged and yet, when he gets paid late, he does not get interest paid on his late payment. This is a very lopsided scenario and the farmer needs to be given incentives to continue to grow cane. I hope that all these things that we have talked about will be captured in the amendments to the Sugar Act, because that is the only avenue that we have.

Mr. Temporary Deputy Speaker, Sir, the question of weighing of the cane is an issue that we have raised in the past. The Act as it stands today says that cane will be weighed at the farm gate. They also say that payment is on the basis of sucrose content and both things are not happening. So, neither does the farmer's cane get weighed at the

farm gate nor does this sugar-cane get paid on the basis of the sucrose content. So, the farmer is left completely at the mercy of the miller.

The question of manipulation of the weights at the weighbridges is a big issue. It is an issue that should not be understated. Either they manipulate the weighing equipment or they merely steal and put weights there that favour the milling company. To me, the temporary solution that should be put in place is that there must be a farmers' representative who should physically be at the weighbridge wherever that weighbridge might be, so that he can actually confirm that what is shown on the weight is exactly what is going to be invoiced in the milling company. This is because without doing that the farmer continues to lose a lot of money.

Mr. Speaker, Sir, secondly, the price formula is completely inadequate. This is because it merely looks at changes in the price of sugar, yet we have heard even from the Prime Minister here that you need to consider co-generation because that is income, production of ethanol and the sucrose content. All these things should be factored into the price formula, so that whenever there is extra income, part of that income should go to the farmer. Sometimes it is very annoying when I see the results of Mumias Sugar Company, at the end when they are televising it and they show that the company has made a profit of Kshs3 billion and yet, half of the farmers in that region are getting debits. Why can they not do something? I would be happy even if they got Kshs1 billion and, the Kshs2 billion, they find a way of making sure that the farmer also benefits from it. The worst part is that even the shareholders of Mumias Sugar Company are not farmers. Not a single farmer owns shares in Mumias Sugar Company. It is owned by rich people who are not even from the region. Now, how can you be farming cane and you get nothing out of it? You see all the money just going away, yet you are told that you should continue farming cane. I think it is the high time that the sugar-cane farmer is also treated like other farmers. If in the coffee sector, about Kshs3 billion was written off, and in the sugar sector today there are a lot of debts which are owed and the farmer is the one bearing these debts, why can the Kenya Sugar Board not be authorized by the Government to write-off these debts, so that the sugar-cane farmer can also benefit?

Mr. Temporary Deputy Speaker, Sir, we hear that the Kenya Sugar Board has got now a scheme where they can loan money to farmers. We do not want this money---

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

Mr. Okemo: Yes, I accept.

Mr. Ochieng: Mr. Temporary Deputy Speaker, Sir, I brought a Question to this House when coffee farmers actually were getting the same benefit of their loans being written off and the Minister for Agriculture by then, promised that come April this year, they will also consider the sugar-cane farmers' loans that could be written off. So, I would want the Minister for Agriculture to fast-track that and make sure that, that is brought to this House for approval, so that the waiver can also go to benefit the sugarcane farmers.

Mr. Okemo: Thank you very much.

Mr. Temporary Deputy Speaker, Sir, regarding the loans that are available to sugarcane farmers by the Kenya Sugar Board, we do not see why these loans should go through an intermediary. We would like these loans to come directly from the Kenya Sugar Board to the farmers and at concessionary interest rates. This is because when they go through another intermediary, then the rates that they charge for the loans are very

high. But if they went directly, then the farmer will enjoy those concessional interest rates.

Mr. Washiali: On a point of information, Mr. Temporary Deputy Speaker, Sir. I just wanted to give additional information on the reason the intermediaries have been a problem. Before, the Kenya Sugar Board used to channel these loans through the Agricultural Finance Corporation (AFC), but AFC chose to advance this money to maize farmers as opposed to sugar-cane farmers, when actually it was meant for sugar-cane farmers. So, I want to just let the hon. Member be informed that it was actually unfair. I agree with him that this money should go directly to the farmers from the Kenya Sugar Board.

Mr. Okemo: Mr. Temporary Deputy Speaker, Sir, I think the Minister for Agriculture is here. Please, take note because we are very bitter people.

Mr. Temporary Deputy Speaker, Sir, I am from the Busia sugar growing region and the question of a factory for refining of sugar has been on the drawing board since 1970s. The Government and the Ministry of Agriculture frankly have not been supportive. This is because Mumias Sugar Company wants to continue enjoying sugar from Busia sugar region, instead of growing their own sugar-cane. They, therefore, say “if we put up a factory in Busia, Mumias Sugar Factory will not be viable.” Busia people also would like to have an industry which creates employment for our people and other economic benefits that are around the region. So, why should we be held hostage to Mumias Sugar Company? Mumias Sugar Company has succeeded in frustrating our efforts because the Government has played a role in encouraging them to do so. The Ministry of Agriculture is in the centre of this problem. There have been so many investors who have come and shown interest and are ready with the money to come and invest in Busia, but what they meet in the Ministry of Agriculture are nothing but roadblocks. At this point, I must say that one of the Ministers who was there, hon. Ruto, had really done a very good job. I am not ashamed to say it here that he had actually gone as far as to encourage certain investors and we had just begun discussions on how to set up a factory in Busia. The rest is history and public knowledge. So, we feel very bitter that the Government has not supported our efforts to have a factory in Busia. I would have liked to get a definite statement from--- I am glad the Prime Minister is here. Actually, I had not seen you.

The Prime Minister (Mr. Raila): On a point of information, Mr. Temporary Deputy Speaker, Sir. The hon. Member was a Minister for Finance in the Government and he promised this factory and it never came. I want to inform him that, in fact, he we have now found an investor to invest and develop the Busia Sugar Company.

Mr. Okemo: Mr. Temporary Deputy Speaker, Sir, it would have been very nice to inform the sitting Member of Parliament for the area of such an important discovery. But it is good news. Let me tell you that for that to happen, you do not need a Minister or Member of Parliament. You must have the support of the Head of State or the position of Prime Minister, because this is a very complicated matter. So, I am glad, Mr. Prime Minister, that this is news that is going to be very sweet to the people of Busia, and particularly the people of Nambale Constituency and the entire Busia County. Now, you need to give us formal information with further details, so that we can comprehend. This is because we have heard these promises before. President Moi came to our constituency and said “you will have a factory,” and it passed.

President Kibaki came to Busia when hon. Moody Awori was the Vice-President and Minister for Home Affairs and he promised our people that the factory will be built. The Prime Minister is now saying the same thing here. It is good because now this is being televised. I hope that this time round, it will be established because it has been a big issue and we all know it. The Prime Minister knows---

The Temporary Deputy Speaker (Mr. Imanyara): The Prime Minister did also indicate to you that you also promised when you were a Minister.

Mr. Okemo: Mr. Temporary Deputy Speaker, Sir, after the President had promised, who was I not to promise? You take the President's promise in good faith. I could not have contradicted him. So, I was just following his footsteps. Now I will also follow the footsteps of the Prime Minister and tell the people of Busia that the factory is coming because he will make sure that it comes. I hope it happens because 2012 is very close.

Mr. Temporary Deputy Speaker, Sir, to me, I think the idea of zoning does not make sense because if you get proper and quick-maturing cane varieties, then a small area can produce a lot of cane. We do not need to zone. So, I think we should spend a lot of our efforts worrying about getting quick maturing varieties. We should make sure we can do a little bit of irrigation, so that instead of waiting for 18 months, we can actually get cane harvested between eight and 10 months. That is really the formula and not zoning and saying that within a distance of 40 kilometres, we cannot have another factory. That is outdated and it does not help anybody.

Mr. Temporary Deputy Speaker, Sir, in conclusion, I really want to urge the Minister to make sure that the Sugar Act (Amendment) Bill comes to the House as soon as possible.

I would also like to take this opportunity to thank the Prime Minister in advance - although we have not seen the factory; it is still a promise, we hope it will come sooner rather than later.

With those few remarks, I support.

The Assistant Minister for Education (Prof. Olweny): Thank you, Mr. Temporary Deputy Speaker, Sir. I want to support the Motion on the Floor. I congratulate the Committee for such a good report that they have done. It is a huge report, but I have read it.

This report confirms one thing; that the sugar cane farmers in this country are among the poorest among farmers. We have talked about it; the farmers have talked about it; everybody in the sugar industry has talked about it. The House today reconfirms, because it has come on the Floor of this House severally. This is not the first time we are discussing ills in the sub-sector. I hope the Government this time round will do something about it.

Farmers lose a lot. When they grow the cane, all the inputs; fertilizers, land preparation, weeding - at the end of the day, when harvesting comes what they get out of it does not pay off. It comes 18 months later after all the work has been done on the farm. If the farmer had put that money in the bank, I think he would have been better off because his money would earn him some interest. This crop takes at least 18 months for the farmer to harvest.

Unfortunately, after harvesting, my colleagues have talked about farm gate weighing of sugar cane. According to the Sugar Act, cane should be weighed at the farm

and not at the factory. However, this does not happen. Sugar-cane is collected from the farm, transported to wherever the weighbridge is. Most of them are in the factories, except for Kibos which has one a distance from the factory. They are also putting up another one.

During the transportation, a lot of cane is lost. So, a large fraction of what was taken from farmers' farms remains on the road in transit, thanks to the poor road conditions that we have with several huge and deep potholes and the fact that cane is transported in trailers that are simply fitted with pillars. They are not containers, so, the cane drops. The farmer then loses again before he gets the poor price.

Usually the price for sugar cane is very low. Recently, one of the millers in my constituency raised the cane price to Kshs3,500. The other millers are now crying foul. They are asking: Why has that miller raised his price to Kshs3,500? They say he is making them lose. So, if one miller can buy cane at the rate of Kshs3,500 and the other one is complaining, where are we heading to? I asked that other miller: Are these farmers making losses or gaining at that rate? You should also try to find out because now most of the farmers are selling their cane to that miller who is buying at a higher price.

Mr. Temporary Deputy Speaker, Sir, my colleagues have talked of farmers' arrears. It is true that so many millers in this country owe farmers money. They do not pay them on time. The Act says that they should be paid within one month of delivery. Anything outside that, the farmer should be paid with interest. Which miller in this country has paid sugar cane farmers with interest? None! They give the farmers money for several months. At the end of it, it is paid piecemeal without interest. This is done despite the fact that the farmer needs the money immediately after harvesting.

The farmer needs money to weed the farm, so that a good crop comes up again to be sold to the same miller who has kept their money.

In my constituency, farmers have not been paid by Chemelil Sugar Company since May last year. Up to today, one year down the line, they have not paid farmers. Why is the management not paying the farmers their dues? The poor farmer loses in many ways; the money is kept by the miller and low returns on what he invests.

Mr. Temporary Deputy Speaker, Sir, the sugar industry suffers seriously with regard to importation of sugar. I know Kenya does not produce enough sugar, but there are rules and regulations that are supposed to be followed for sugar importation, so that the local sugar industry is not hurt. However, we have these other irregular millers.

Recently, there was a case of irregular importers. There was a case of some people who imported sugar from outside COMESA and yet, the papers indicated that it was COMESA sugar. Who suffers at the end of it? They bring in cheap sugar which affects our local industry and who suffers? Both the farmers and the miller suffer.

(Loud consultations)

I think I am getting some interference from colleagues across here.

Mr. Temporary Deputy Speaker, Sir, about sugar-cane production; this is one crop which is being produced without extension services. I want the Minister for Agriculture to listen; why did extension services die in this country? We want sugar-cane farmers to produce their cane using appropriate technology.

Mr. Temporary Deputy Speaker, Sir, they can only get that information on appropriate technology, if they get the services of extension workers. They do not even have the right varieties. They do not use the inputs the way they should be used because they do not get appropriate technology. So, I beg the Ministry of Agriculture to look into this issue and assist where the farmers are not getting the right services. I can see my colleagues, Members of Parliament, are impatient.

(An hon. Member interjected)

I have 20 minutes! You are not the one to tell me to leave! Let me just say one point and then leave it for you because I can see you are impatient.

Mr. Temporary Deputy Speaker, Sir, there is the issue of delayed privatization and today, we have been treated to a drama here because the committee that is supposed to help in handling the matter with the Ministry of Finance, claimed the problem is lying with the Ministry of Finance and yet, the Prime Minister has informed us here that it is the committee that is delaying the process. In the original report, it was the Ministry of Finance. But today, I have come to know that the relevant committee that is supposed to help in this is actually sitting on the process.

Mr. Shakeel: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the hon. Member in order to say that it is the committee that is sitting on this particular matter, when the Chairman of the Committee has clearly told us that we cannot meet a board until it is properly constituted within the laws of Kenya? Is he asking us to meet an illegal committee?

The Assistant Minister for Education (Prof. Olweny): Mr. Temporary Deputy Speaker, Sir, I do not know where the hon. Member was when the Prime Minister was giving us the information here. So, it is the words of the Chairman of that Committee against those of the Prime Minister. So, which ones do you want me to take; the Prime Minister's or the Chairman of the Committee?

Mr. Temporary Deputy Speaker, Sir, lastly, the economy of this country is liberalized. I do not understand when some millers want to create sugar kingdoms, where they say that there are zones or regions where nobody else should buy sugar-cane from. If that was done, then those millers controlling certain zones could mistreat farmers without anybody helping them. Let the issue of zoning be done away with so that anybody can buy sugar-cane from any part of the country.

Thank you and I support.

Mr. Washiali: Thank you, Mr. Temporary Deputy Speaker, Sir. I also rise to support this Report. I want to start by thanking the Mover, who is the Chairman of the Departmental Committee on Agriculture, for coming up with a Report of this nature. I also want to add that I am one of the Members of Parliament who received the Committee. By that time, I was not a member of this Committee but, later on in the year, I joined it.

Mr. Temporary Deputy Speaker, Sir, sugar-cane has been planted or grown in Mumias Constituency – a constituency which I represent in this Parliament - for the last 40 years. You will be surprised that with those 40 years of growing cane, it has never changed the livelihood of the people of Mumias. You will tell even from the poverty index. The people of Mumias are still 73 per cent poor and that goes a long way to prove

to this House that sugar-cane growing has never improved the economic status of the people of Mumias.

Mr. Temporary Deputy Speaker, Sir, I want to declare my interest under Standing Order No.81 that I am also a sugar-cane farmer, besides being a Member of Parliament of that area. I have had an opportunity to move around that region and the constituency that I represent. You will see people living in abject poverty. It really touches one's sympathy. When you go round, you will find a family with two acres of land under cane and has a child or a relative who has passed away from a simple disease like Malaria. They cannot raise Kshs200 to take that patient or relative to a health centre for that disease to be treated. Yet, that person has two or more acres under cane.

Therefore, I want to support this Report and congratulate the Committee again for what they have done. You will see that on page 47 of the Report, they have touched on issues of transport. Transport has been a problem to sugar-cane farmers, especially those ones from Mumias - the constituency I represent. You will find transporters, who are mostly Indians, discussing and negotiating the rates of transport with Mumias Sugar Company and yet, the people who eventually come out to pay for the transport costs are the farmers. When they are negotiating in those committees, they never---

Mr. Mwachugu: On a point of order, Mr. Temporary Deputy Speaker, Sir. In view of the fact that the points being raised are repetitive, would I be in order to ask that each Member be given at least three minutes to contribute, so that we may finalise?

The Temporary Deputy Speaker (Mr. Imanyara): Hon. Washiali, had you finished?

Mr. Washiali: Mr. Temporary Deputy Speaker, Sir, no and while I appreciate the---

The Temporary Deputy Speaker (Mr. Imanyara): Order. You heard the sentiments. It is true that there is a lot of repetition. So, please, unless you have completely new ground, shorten the period so that we can give the Mover an opportunity to reply today.

Mr. Washiali: Thank you, Mr. Temporary Deputy Speaker, Sir. I will move directly to the new grounds.

Mr. Temporary Deputy Speaker, Sir, one of the by-products of sugar is ethanol. This country has, under the Energy Act, allowed blending. In view of the current economic status of this country and, especially, the cost of fuel, we should allow our sugar factories and, especially, Mumias Sugar Company, to produce ethanol so that we can blend it with the fuel that we import. That will lower the cost of production and, at the same time, allow sugar-cane farmers to earn from the cost of producing ethanol.

Mr. Temporary Deputy Speaker, Sir, last but not least, the issue of land owners has been raised by the Chairman of the Committee. The land was not sold to Mumias. It was leased to the Government of Kenya in the early years of Independence – 1969 to 1970. It was leased for a total of 33 years. The terms were that on engagement, they were to be compensated with Kshs90. Sometimes, it moved to Kshs150. The maximum was Kshs200 per acre and the Government was to pay Kshs1,430 per year for the 33 years they were supposed to hold that lease. But, unfortunately, we learnt later that the Government went ahead and did compulsory acquisition, which is unfair. It is against human rights. The only amendment I would wish to see included in this is that it is not upon Mumias Sugar Factory to compensate farmers. It should be the Government to

compensate farmers. This is because, eventually, that land forms part of the shares of the Government that they eventually sold to Mumias, which were then later sold to the public. Therefore, I would request that the recommendation by the Committee that land owners should be compensated should be adopted.

Mr. Temporary Deputy Speaker, Sir, I ask the Minister for Lands, I hope he will read the HANSARD when he gets it, to go ahead and find a way of compensating these land owners, so that they can also enjoy their lives like the other people.

I beg to support.

The Temporary Deputy Speaker (Mr. Imanyara): I think we are in agreement that whoever I give the opportunity will not speak for more than three minutes, so that I can allow everybody who is on their feet an opportunity.

I will start with Dr. Otichilo.

Dr. Otichilo: Mr. Temporary Deputy Speaker, Sir, I will not spend a lot of time. I want to thank the Committee for an excellent work. I want to thank the Chairman for presenting this Report in a very clear way.

Secondly, I want to thank all those who have contributed to this Motion. I think they have said everything, and there is no need for us to keep repeating it.

Thirdly, I want to say, in a nutshell, that anybody who has tried to go into sugar-cane farming is a very poor person. It is no wonder that people in western Kenya and Nyanza are very poor despite having plenty of rain and good land. The sugar-cane industry is an industry that has made these communities very poor. All the reasons why these communities are poor have been given. So, we need to revive this industry. What is the way forward? I think a lot has been given on the way forward.

I want to say one thing, which none of the contributors has said. Without investing in research, we are not going to improve the sugar-cane production. We have put so much money in all other activities, and forgotten that if we have to improve sugar-cane production we have to invest in research. The Sugar Research Institute in Kibos has no funding. It has no credible scientists. It has no scientists who can stay there. Most scientists leave because they are not paid well. They do not have facilities to carry out research. If we are going to improve the sugar-cane industry in this country, we must put a lot of money into research, so that we can come up with varieties of sugar-cane that can mature in less than a year. This is being done, for example, in Sudan; this is very important in sugar production. They put so much money in research. That is one area on which I would like to see the Ministry putting more emphasis.

Mr. Temporary Deputy Speaker, Sir, there is the issue of privatization and I do not think I want to belabor it. It has been clearly said that this industry must be privatized, if people are to gain from it.

Lastly, is about a new Act; we need a new Sugar Act. I am happy that the Minister has said that they are in the process and in the next 30 days we shall have a draft which we can discuss and approve, so that this industry can be revived.

With those few remarks, I want to support this Motion.

The Assistant Minister for Co-operative Development and Marketing (Mrs. Kilimo): Mr. Temporary Deputy Speaker, Sir, I want to thank this Committee for being very active for Kenyans. From where I sit, the Ministry of Co-operative Development and Marketing and the co-operative movement have so much money, a lot of resources. I would beg this House on the issue of privatization to consider the co-operators of this

country. The co-operators can actually be the investors. You do not need to go out. We need to believe in ourselves. We need to believe that we are the ones to bring change in this country. Therefore, the co-operative movement will be more than ready to buy the shares or to be the other arm of private investors.

Finally, I would call on the communities in the sugar belt area to grow sugar-cane in co-operatives, and sell it as co-operatives, so that they are not exploited. They can do away with the issue of being out-growers to multinationals. Let them grow it for themselves.

With those, I support.

Mr. Shakeel: Mr. Temporary Deputy Speaker, Sir, I want to strictly stick to three minutes.

Since Independence to date, there are less than seven or eight sugar factories in this Kenya of ours. Even those in existence are totally inefficient; they include Mumias Sugar Company. The sugar-cane is quite hopeless. It takes 18 months to mature and we have that little thing. In other countries like Libya, I am told, cane matures every nine months. The sucrose content of that cane is three times more than our sugarcane. One of the things we have to do is to dig out all the old cane. I do not know why in the Report this has not been covered.

The other thing is the question of zoning. Zoning is anti-competition. We are talking about a liberalised economy yet we are zoning. Zoning is definitely out. We have been supporting inefficient industries like Webuye, Miwani, Muhoron Sugar factories and others

Mr. Temporary Deputy Speaker, Sir, the other matter of great concern is that in Muhoroni, the receiver, out of an income of Kshs4 million, takes Kshs2.5 million every month. I urge the Minister to just close that factory down, because we are not getting anything, especially the farmers.

Finally, 18 months before the farmers are paid, the sugar factories have sold the sugar nearly four times. There is one factory on the boundary of my constituency which pays Kshs3,500 cash on the spot for a tonne of cane. Others are complaining; they have formed a cartel and come to the Minister to stop that person from paying Kshs3,500 cash. This factory, Kibos, is prepared and is bringing in sugarcane from even as far as Migori. Why are they being stopped from doing this when they are paying people a good amount of cash?

Finally is the issue of weighing sugarcane at the gate; there have always been complaints that weighing it at the gate is very expensive. It is totally wrong and misleading. You can weigh it at the gate; it is not a very expensive exercise to get that weighing machine. I think that is one thing the Report should have covered.

Finally, the Report has not covered the trailers. Those trailers have killed many people on the main roads and on the side roads. I do not understand why they do not have lights. There is totally no compliance with the Traffic Act. Even if it is on a murrum road, or a farming area, it must have lights on, and it must be driven with caution. The trailers must not be overloaded so much that they carry one and a half times their capacity.

With those few remarks, I support.

Mr. Konchella: Thank you, Mr. Temporary Deputy Speaker, Sir. I also want to congratulate the Committee for coming up with an amendment to the law to ensure that our people benefit out of their sweat.

Mr. Temporary Deputy Speaker, Sir, there is no need for us, as leaders and legislators, to mourn just like farmers. We must make a difference and we must ensure that our farmers do not mourn because of the law that is not providing for their needs. In one particular issue, if we are talking about the issue of the Government divesting from industries like Mumias Sugar and other Government-owned parastatals, the ownerships of these institutions should be 50 per cent Kenyans. We do not want people to come from other parts of the world and own our wealth while we remain poor. This is the only way we can eradicate poverty in our country.

Mr. Temporary Deputy Speaker, Sir, I want to echo what hon. Kilimo said on the issue of co-operatives. In my constituency, we are now growing sugar-cane. We expect to have a private sugar factory by the end of this year. We want to ensure that both investors and farmers benefit. So, one of the areas that I want the Minister to seriously look into is the issue of bonuses for farmers. It is not just about getting money and waiting for another one year; when a company produces power, surely, a certain percentage of the income out of that process should go to the farmer. So, we want the law to indicate how much the farmer will get in terms of bonuses at the end of the year from sugar-cane.

Mr. Temporary Deputy Speaker, Sir, with regard to the Kenya Sugar Board (KSB), I would like them to, not only embrace directly giving money to farmers, but they should also help in terms of facilitating farmers to get subsidized fertilizer and giving equipment. This can only be done economically if these things are done through a co-operative. So, I would encourage the Ministry to actually set up co-operatives all over sugar-cane growing areas in terms of viable entities which will help farmers access loans or facilities from the KSB, so that they can buy subsidized fertilizers and other inputs. This is the only way they can control the cost of production. We want our farmers to benefit so that we eradicate poverty in this country.

With those few remarks, I beg to support.

Mr. Njuguna: Mr. Temporary Deputy Speaker, Sir, thank you for the opportunity to contribute very quickly to this very important report. Let me start by thanking the Chairman of this Committee together with the hon. Members for the very commendable report that they have tabled in this House.

Mr. Temporary Deputy Speaker, Sir, we note that the Committee was able to visit all the sugar-cane growing areas; Nyanza, Western and Coast regions. Difficulties and challenges have been identified through this report. I would urge the Government to address some of those concerns.

Mr. Temporary Deputy Speaker, Sir, I want to address myself to the issue of the sugar-cane sector privatization. It is important that we bring in partners to this sector in the way it has been done to the Kenya Commercial Bank (KCB) and the National Bank of Kenya (NBK). The Government withdrew from these two banks and shares were floated to the public to buy. We can now see the huge profits being declared by these institutions. Therefore, it is important we privatize this sub-sector, so that it is professionally managed in order to realize profit.

Mr. Temporary Deputy Speaker, Sir, Kenya needs to be a sugar exporting country. We should not be importing sugar from Sudan, Egypt and other countries. By privatizing this sub-sector, we will be guaranteed job opportunities for our youth in this country. It is, therefore, important that the KSB should also play its role critically by

making sure that the seeds and even fertilizers are made available in the market in good time.

Mr. Temporary Deputy Speaker, Sir, this is a critical time for the Grand Coalition Government to rescue this industry. It is the only industry in this region that the people can look up to.

With those few remarks, Mr. Temporary Deputy Speaker, Sir, I beg to fully support.

The Assistant Minister for Agriculture (Mr. Ndambuki): Thank you, Mr. Temporary Deputy Speaker, Sir. I will not take a lot of time.

I would like to---

Mr. Temporary Deputy Speaker (Mr. Imanyara): I am sorry, Mr. Assistant Minister; but you will have to apologize. I was under the impression that it is the Prime Minister to respond on behalf of the Government.

The Assistant Minister for Agriculture (Mr. Ndambuki): Okay.

Mr. Temporary Deputy Speaker, Sir, I would like, from the outset to support this Motion.

(Applause)

Mr. Temporary Deputy Speaker, Sir, the Ministry has looked at the Report. We have agreed with everything in it. As you heard, we have been waiting for it. It was laid on the Table last year, but because of time, it is now that we are discussing it. The Bill is drawn and we are now marrying the report to the Bill. It contains most of the things which have been raised here. For example, late payment; we are insisting on 30 days. For those who will not adhere to this period, action will be taken against them.

On the weighing, Mr. Temporary Deputy Speaker, Sir, we know famers have been suffering because we have visited them. We know that there is a problem. We are recommending that weighing be done in the farms. We are doing that for the sake of transparency and to help our farmers.

(Applause)

Mr. Temporary Deputy Speaker, Sir, on the over-matured cane; we will come up with regulations in the new Act whereby if one mill cannot crush cane, to be able to pass it to another miller to crush it and pay farmers promptly.

Mr. Temporary Deputy Speaker, Sir, on the mismanagement, we have looked at that. On inefficient and obsolete factory machinery; all these problems we have in the sugar-cane subsector, it is purely on machinery. Most of the factories are running on obsolete equipment. That is why we are saying that we need to privatize them, so that we can have new money injected in, so that we can buy or improve what we have. Because without doing that, we will still continue talking of shortages and high prices. But with new investors in mind, we will deal with that problem. We are looking at that option.

Mr. Temporary Deputy Speaker, Sir, the other thing I want to talk about is privatization. Mumias Sugar Company was privatized, but within a very short time, farmers sold their shares. Why? I want to address the hon. Members from sugar-cane growing region---

Mr. Washiali: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the Assistant Minister in order to say that the shares of Mumias were sold when actually it was their mistake, because the Sugar Act, 2001, clearly spelt out that 51 per cent of the shares of the company should be sold to farmers? They went ahead and sold to farmers individually. How would they know those shares were sold by farmers and traders? Is he in order?

The Assistant Minister for Agriculture (Mr. Ndambuki): Mr. Temporary Deputy Speaker, Sir, it is true. If we do not watch out, the same trend will follow with all these other factories we want to privatize. The Government has already given a go-ahead to write off all the debts with the factories, so that we can allow privatization to move on.

But, Mr. Temporary Deputy Speaker, Sir, you have heard the argument here. We cannot move as fast as we would have liked to move with the Bill because we have been waiting for the report of the Committee on Agriculture. We cannot even move before we get the report from the Privatization Commission. We are being thrown up and down, here and there. If there is something which can be done, let it be done as quickly as possible, so that we can move ahead with privatization.

(Applause)

Mr. Temporary Deputy Speaker, Sir, I am also asking the hon. Members to start sensitizing their people not to sell their shares to anybody and keep them for themselves. Because even if we say that 51 per cent will be owned by the farmers, we cannot prevent the farmers from selling their shares. But if they sell such shares and they are bought by a group of people, that means that mill will be privately owned by that group. So, we need to sensitize our people not to sell those shares to foreigners. I would like to support the suggestion by the Assistant Minister for Co-operative Development and Marketing; that farmers should go the co-operative way. Farmers should form co-operatives, instead of signing on as out-grower farmers for a factory. Signing on as farmers is not the same as being in a co-operative society, where they will move together and have an office. They can negotiate with those factories. We need to go the co-operatives way, if we want to get out of this situation.

We have spent a lot of money in the sugar-cane industry. Already, from 2008/2009, 2009/2010 up to now, we have given out more than Kshs800 million for cane development. That is through the Agricultural Finance Co-operation (AFC) and Equity Bank. We cannot see where that money ends up. That is why many sugar factories have huge many debts. Some of them are not making anything. We have invested a lot of money in cane research. New high yield, early maturing seeds will be released in the market. Those are some of the things we are doing. They have been giving us a lot of problems. We did not have seeds but now, we can say that we have high quality seeds.

On co-generation, it is true that most factories have not been considering the by-products when they pay farmers. They have not been doing that. In this new Act, that will be considered.

I would like to say that the Ministry is supporting this Report. We will incorporate everything in the Bill. The Bill will come to this House and I would like hon. Members to participate and push the Finance, Trade and Planning Committee plus the Treasury to deal with the privatization issue, so that we can move on.

With those few remarks, I support.

Mr. Mututho: Thank you Mr. Temporary Deputy Speaker, Sir. I would like to thank all hon. Members who have contributed like hon. John Pesa, the Right Hon. Prime Minister and Mr. Chris Okemo, among others and without going through the whole list. I would like to capture the spirit that we must do something on sugar-cane now. We look forward to the Ministry of Agriculture, now that they are fully co-operating and supporting this Report, to bring that Bill and have it tabled in this House next week, so that we can all see a flourishing sugar industry.

With those few remarks, I beg to move.

(Question put and agreed to)

ADOPTION OF REPORT ON PURCHASE OF CEMETERY
LAND BY NAIROBI CITY COUNCIL

Mr. Mwachugu: Mr. Temporary Deputy Speaker, Sir, I beg to move:-

THAT, this House adopts the joint recommendations of the Reports of the Local Authorities and Funds Accounts Committee and the Departmental Committee on Local Authorities on the purchase of land for cemetery by the City Council of Nairobi laid on the Table of the House on Tuesday, 2nd November, 2010.

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Deputy Prime Minister, you can now raise your point of order.

The Deputy Prime Minister and Minister for Local Government (Mr. Mudavadi): I stand on a point of order in pursuance of Standing Order No. 80 to state that this Motion is clearly *sub judice* and any discussion on the contents of this report will impinge directly on the matters that are before court.

These cases are alive in court. I have also annexed the charge sheets and the pleadings of the various personalities who have been accused in this matter of the cemetery land, who are now in court. If you look at the contents of the Report, you will see that the details---

The Temporary Deputy Speaker (Mr. Imanyara): You need to table the documents.

The Deputy Prime Minister and Minister for Local Government (Mr. Mudavadi): Mr. Temporary Deputy Speaker, Sir, I will table them, in accordance with Standing Order No.80, so that they can be looked at. We seek your guidance on this matter because, clearly, if it is debated, this will be prejudicial. There will not be a fair hearing for those who have been accused in the matter.

The Temporary Deputy Speaker (Mr. Imanyara): Just point out what you are tabling.

The Deputy Prime Minister and Minister for Local Government (Mr. Mudavadi): Mr. Temporary Deputy Speaker, Sir, I am tabling documents that indicate the case numbers---

The Temporary Deputy Speaker (Mr. Imanyara): Just mention the case numbers.

The Deputy Prime Minister and Minister for Local Government (Mr. Mudavadi): Mr. Temporary Deputy Speaker, Sir, the document contains Anti-Corruption Case No.19 of 2010, Anti-Corruption Case No.20 of 2010, Anti-Corruption Case No.44 of 2010 and High Court Petition No.156 of 2011. The document also lists the accused persons and the charges that have been levelled against each particular individual. It also gives the status of the cases. Some cases are ongoing while others, of course, are being challenged through various legal technicalities. The document is in a summary form. I want you to look at it and give guidance.

(Mr. Mudavadi laid the documents on the Table)

The Temporary Deputy Speaker (Mr. Imanyara): I would like the Chairman of the Joint Committee to see them first.

(Mr. Mwadeghu perused the documents)

The Temporary Deputy Speaker (Mr. Imanyara): Hon. Mwadeghu, have you had occasion to look at those documents and discuss them with the Deputy Prime Minister and Minister for Local Government?

Mr. Mwadeghu: Mr. Temporary Deputy Speaker, Sir, I have had occasion to look at these documents. I realise that all the cases that have been mentioned in this document relate to the same persons we have in our Report.

As the Joint Committee, we are prepared to proceed with this debate but, given what has been tabled here by the Deputy Prime Minister and Minister for Local Government, I stand to be guided by the Chair.

Mr. Konchella: On a point of order, Mr. Temporary Deputy Speaker, Sir. This is a matter which this House mandated the Joint Committee to address because it is a matter of great concern to the people. Kenyans today are suffering as a result of these acts. Since Parliament has a duty to investigate and deal with matters of national concern, I see no conflict, whatsoever, with the law. So, this Motion has to be debated, so that the House can either adopt the Report or refuse to adopt it.

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Konchella, are you not usurping the role of the Chair?

Mr. Konchella: I apologise, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Imanyara): Hon. Members, given what the Deputy Prime Minister and Minister for Local Government has informed the House, and the fact that he had also approached the Chair beforehand with the information, and considering what the Chairman of the Joint Committee has said, it is my view that this is a matter which is alive in court. The case numbers have been confirmed to be the same ones that the Deputy Prime Minister and Minister for Local Government has referred to. In the circumstances, it is only fair, given the fact that the matter is alive in court, that we defer this matter.

Given my own knowledge, as a practitioner, of the time the court might take on this matter, I order that this matter be deferred for a period of four months to enable a report on the status of the cases in court to come to the House. So, the Chairman of the Joint Committee will re-introduce

the Report to Parliament in four months' time, so that we can get the status of the cases. In the event that the cases are completed before the end of four months, you will be at liberty to come back to the House and table the Report.

Next Order!

BILL

Second Reading

THE COMPANIES BILL

The Temporary Deputy Speaker (Mr. Imanyara): The Minister for Justice, National Cohesion and Constitutional Affairs had indicated that he was going to be moving this Bill on behalf of the Attorney-General. For the convenience of the House and given the time left, subject to your thinking, I am tempted to end the proceedings here to enable you to table the Bill when you have sufficient time to complete your presentation.

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. M. Kilonzo): Mr. Temporary Deputy Speaker, Sir, I am very grateful for your guidance and I accept it.

ADJOURNMENT

The Temporary Deputy Speaker (Mr. Imanyara): On that basis, hon. Members, we interrupt the proceedings of the House to tomorrow, Thursday, 19th May, at 2.30 p.m.

The House rose at 6.25 p.m.