

NATIONAL ASSEMBLY

OFFICIAL REPORT

Thursday, 18th August, 2011

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

PAPERS LAID

Mr. Speaker: Chair, Committee on Energy, Communications and Information!

Eng. Rege: Mr. Speaker, Sir, Order Nos. 15, 16 and 17 are Motions touching on Sessional Papers Nos.1, 2 and 3. The Joint Committee on Finance and Energy have further requested for more information from the Ministry, and which we have not received. So, I beg your indulgence to defer these Motions until Thursday next week.

Mr. Speaker: Very well! Eng. Rege, indeed, you had given me notice of that earlier on, but I will make the last deferment. Either the report will be ready, or this business will be dropped all together! So, be on notice! Now, I have finished my part of being on notice.

(Laughter)

The following Papers were laid on the Table:-

Report of the Departmental Committee on Administration and National Security on the Demotion of Chief Inspector of Administration Police, Simon Githinji Mwai in October 2010.

Report of the Departmental Committee on Administration and National Security on a visit to Laikipia East District over Alleged Evictions of Residents of Lelan Down Farm from 15th to 17th March, 2011.

Report of the Departmental Committee on Administration and National Security on a Fact-Finding visit to Bura and Hola in Tana River North District over Alleged Killings of Residents of Cheridende and Hola from 24th to 25th, February, 2011.

(By Mr. Kapondi)

NOTICES OF MOTIONS

ADOPTION OF REPORT ON DEMOTION OF AP CHIEF
INSPECTOR SIMON GITHINJI MWAI

Mr. Kapondi: Mr. Speaker, Sir, I beg to give notices of the following Motions:-

THAT, this House adopts the Report of the Departmental Committee on Administration and National Security on the demotion of Chief Inspector of Administration Police, Simon Githinji Mwai in October 2010, compiled between 2nd and 9th June, 2011, laid on the Table of the House, Thursday, 18th August, 2011.

ADOPTION OF REPORT ON ALLEGED KILLINGS OF
CHERIDENDE/ HOLA RESIDENTS

THAT, this House adopts the Report of the Departmental Committee on Administration and National Security on its fact finding visit to Bura and Hola in Tana River North District over alleged killings of residents of Cheridende and Hola from 24th to 25th February, 2011, laid on the Table of this House, Thursday 18th, August, 2011.

ADOPTION OF REPORT ON ALLEGED EVICTIONS OF
RESIDENTS OF LELAN DOWN FARM

THAT, this House adopts the Report of the Departmental Committee on Administration and National Security on its fact finding visit to Laikipai East District over alleged evictions of residents of Lelan Down Farm from 15th to 17th March, 2011, laid on the table of this House, Thursday 18th, August, 2011.

GOVERNMENT GRANT TO AGRICULTURAL FINANCE CORPORATION

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

THAT, deeply concerned with the devastation of the prolonged drought on farming activities that has occasioned heavy losses to farmers; aware that many affected farmers have loans from the Agricultural Finance Corporation (AFC) amounting to a total of Kshs4.48 billion; concerned that the prolonged drought has adversely affected farmers' capacity to service the said loans with effect that a loan portfolio of Kshs1.81 billion has now been classified by AFC as bad loans due to widespread default; convinced that unless this loan portfolio in default is addressed urgently, the AFC and the agricultural sector face the risk of irreparable damage; acknowledging the key role played by the AFC in financing the agricultural sector and the importance of supporting farmers countrywide as the anchor for Vision 2030; this House urges the Government to urgently avail a grant of Kshs2 billion to the AFC to enable it provide appropriate relief to both crop and livestock farmers in all the 47 counties adversely affected by the prolonged drought in the country.

QUESTIONS BY PRIVATE NOTICE

ELECTROCUTION OF JOE KIMANI GIKONYO

Mr. Kabogo: Mr. Speaker, Sir, I beg to ask the Minister for Energy the following Question by Private Notice.

(a) Is the Minister aware that one Joe Kimani Gikonyo, a student at Kahawa Garrison Primary School, was electrocuted after stepping on a live wire at the gate of Kahawa Army Barracks on 28th June, 2011?

(b) Why was the live wire not covered?

(c) When will the Ministry compensate the family of the deceased?

The Assistant Minister for Energy (Mr. Magerer): Mr. Speaker, Sir, I beg to reply.

(a) I am not aware of the incident, given that Kahawa Barracks is supplied through an 11KV line from Ruaraka Sub-station and, thereafter, the supply is stepped down from 11KV to 415 volts through a pole-mounted distribution transformer. The Barracks is then metered at 415 volts with its own low voltage overhead distribution line.

(b) On 30th June, 2011, an Army officer by the name Mr. Vincent Oruko from Kahawa Barracks sought assistance from the Kenya Power and Lighting Company to check whether there was electricity leakage to the steel pole near the primary school gate. Subsequently, a KPLC team inspected the primary school gate and ascertained that there was no leakage of power from the KPLC side of supply. The import of the findings was that the power leakage was from a low voltage network owned and managed by the military.

(c) Given that the leakage was on the side of the network owned and operated by the military, the issue of compensation should be referred to the Ministry of State for Defence.

Mr. Kabogo: Mr. Speaker, Sir, you have heard a very long story in the form of an answer by the Assistant Minister! He has shifted the blame to the Ministry of State for Defence and yet, we know that there is what we call collective responsibility. Is it in order for the Assistant Minister to mislead the House that what they checked concerning the leakage of power belonged to one part of the Government and not the other? I have a postmortem report here, and which I wish to lay on the Table. It says that the cause of death is electrocution. Is he in order? Could he bring an appropriate answer to the House?

(Mr. Kabogo laid the document on the Table)

Mr. Magerer: Mr. Speaker, Sir, maybe, the hon. Member did not hear me well. I have not disputed the fact that there was a case of electrocution which resulted in death. What I said was basically that, as a Ministry, and with the utilities that we have, the part of the danger that caused the death was a line that is being operated by the military. We have said that the issue of compensation will be passed over to the Ministry of State for Defence. It is within their operations. I have not said that we are not sharing the responsibility. But I have said that our team from KPLC visited the site and assessed the situation. We are going, together with the Ministry of State for Defence, to look into how that part of the compensation is going to be done.

Mr. Njuguna: Mr. Speaker, Sir, the Assistant Minister has admitted that it is that live wire that caused the death of that innocent boy. What has the Ministry done to ensure that another boy does not lose his life on the same spot?

Mr. Magerer: Mr. Speaker, Sir, the danger posed by that naked wire is not exposed to Kahawa Barracks alone. But, as I have said, a team from the KPLC has visited the area. I believe that we have secured the place. Within the country, we are also trying to ensure that we do not have naked wires that can cause electrocution or death to any Kenyan. So, my Ministry, together with the KPLC, is taking great responsibility to ensure that we do not have wires that may cause deaths.

Mr. Linturi: Mr. Speaker, Sir, the existence of live wires in Kahawa Barracks, in my view, is a serious case of negligence on the part of the distributor of power in this country which, in my view, is the KPLC. If my memory serves me right, the KPLC is a corporation that has public liability insurance that is supposed to take care of those kinds of incidents. Since the postmortem report is very clear on what caused the death of that innocent young Kenyan, why has the Ministry not passed over the matter for consideration by the KPLC, which is insured against those kinds of losses?

Mr. Magerer: Mr. Speaker, Sir, we are not passing the responsibility to an entity that has no mandate. What I have said is that the Ministry of Energy and the Ministry of State for Defence will sit and agree on who will pay the compensation. I have said that the Ministry of Energy and the Kenya Power Company (KPC), for that matter, does not operate with a low voltage line within Kahawa Garrison which is a restricted area. That is the only difference. In other areas, I am sure we have been able to deal with such cases in a better way.

Mr. Kabogo: Mr. Speaker, Sir, I am sure you are not satisfied with what the Assistant Minister is saying. A Kenyan has lost his life---

Mr. Speaker: How do you decide for me?

Mr. Kabogo: It is my feeling, Mr. Speaker, Sir! I could be wrong! It is my good feeling!

May I seek the indulgence of the Chair for the Assistant Minister to be given--- You can see he is not prepared. He does not know the cause of this child's death!

Mr. Speaker: Order, Member for Juja! The Assistant Minister is prepared and from where I sit, I am satisfied that he has so far answered your Question and all other supplementary questions. If you have one more supplementary question, please, ask!

Mr. Kabogo: Mr. Deputy Speaker, Sir, the Assistant Minister is saying that the Ministry of State for Defence should be followed. I am not sure by who. It is the energy supplied by the Ministry---

Mr. Speaker: Member for Juja!

Mr. Kabogo: I am coming to the question, Mr. Speaker, Sir!

Mr. Speaker: Order, Member for Juja! You have to be accurate even as you recapitulate what the Assistant Minister has said. The Assistant Minister said that he will ensure that his Ministry liaises with the Ministry in charge of defence to see who will pay compensation. I think that is what I heard him say.

Is that not so, Mr. Assistant Minister?

Mr. Kabogo: Mr. Deputy Speaker, Sir, with your permission, I request him to give a timeframe within which this should happen! He would want to wish it away but it is not going to be easy!

Mr. Speaker: Yes, that now is very good! That now is excellent!

Mr. Magerer: Mr. Speaker, Sir, I think the Member for Juja is a little worried that we may not be able to take care of his fears. However, as I said, it is just a matter of time that my Ministry and the Ministry of State for Defence will definitely--- I cannot give the timeframe because we have to look at the report that he has just tabled.

Mr. Speaker: Order, Mr. Assistant Minister! You can commit yourself to a reasonable timeframe!

Mr. Magarer: I can say a month, Mr. Speaker, Sir.

Mr. Speaker: Very well! That is good! Within a month, Member for Juja you may follow up from there!

Next Question by the Member for Nyatike!

ACUTE SHORTAGE OF FOOD IN NYATIKE DISTRICT

Mr. Anyanga: Mr. Speaker, Sir, I beg to ask the Minister of State for Special Programmes the following Question by Private Notice.

(a) Is the Minister aware of the serious food shortage being experienced in Nyatike District following a major drought that has hit the country?

(b) What mechanism has the Ministry put in place to provide emergency food and other relief services to the affected people, considering that the district is an ASAL area?

(c) Could the Minister apprise the House on the services that have been offered by National Disaster Programme, including the amount of money that has been donated to Nyatike District since the beginning of the dry season and following the declaration of the drought as a national disaster?

The Assistant Minister, Ministry of State for Special Programmes (Mr. M.M. Ali): Mr. Speaker, Sir, I beg to reply.

(a) Yes I am aware of the food shortage being experienced in Nyatike District following the drought that has hit most parts of the country.

(b) My Ministry has a mechanism of determining the food security status in the districts. We receive monthly reports from the District Steering groups on the food situation with recommendations on the interventions required. In addition, the Ministry implements recommendations of the Kenya Food Security Steering Group which conducts national food security assessment twice every year or as need arises.

(c) In the case of Nyatike, my Ministry has been giving relief food to the populations affected by drought. In the months of May, June and July, the district was allocated 900 bags of maize, 400 bags of beans and 100 cartons of vegetable oil, all valued at Kshs4,630,900. In addition, the district was provided with Kshs185,000 for transportation of food.

The Ministry of Livestock purchased 370 head of cattle through the off-take programme at a cost of Kshs2, 250,000 between March and June this year. In addition, assorted livestock feeds valued at Kshs1.64 million were distributed in the district alongside 2,000 doses of drugs for treatment of livestock diseases valued at about Kshs151, 000. All this was disbursed to support the livestock programme logistics.

Thank you.

Mr. Anyanga: Mr. Speaker, Sir, let me take this opportunity to thank the Assistant Minister for an elaborate answer. However, he has indicated clearly that during

the months of May, June and July, Nyatike District received only 900 bags of maize. If you tabulate that we are talking about 300 bags; 133 bags of beans and 33 cartons of vegetable oil for Nyatike Constituency. This is the figure given by the Ministry as a monthly ration for a population of 150,000 people! It cannot be enough! Could the Assistant Minister confirm to this House when he is going to increase food rations to Nyatike people?

Mr. M.M. Ali: Mr. Speaker, Sir, I appreciate what the hon. Member has said. The figures I read are figures before the disaster was declared in the country. Since then, not only Nyatike but also all the other areas affected by drought have had food rations doubled. We have got additional support and I can assure the Member that the figure is going to be doubled for Nyatike people.

Mr. M'Mithiaru: Mr. Speaker, Sir, I would wish that the Assistant Minister tells this House, since this is a drought period, how many districts in the Republic are under this programme. What informs the amount of rations given to each district?

Mr. M.M. Ali: Mr. Speaker, Sir, as to how many districts, I am afraid it is off head. All of them are here and are tabulated. I will table this comprehensive summary of all the districts benefiting from relief food. The Member can go through it and find out the number of districts from this list. If I go through it, that will take a bit of the hon. Members' time which I do not want to waste.

On how to know the needy; as I have just said when answering the previous question, we have assessments done in the country twice in a year or additional assessments as need arises. Through that, we determine which parts of the country need how much. Even if we may not be able to cover every needy area, we try as much as possible to come as close as we can.

Mr. Pesa: Mr. Speaker, Sir, the Assistant Minister knows very well that Nyatike borders Migori. Whenever he considers Nyatike he should take Migori into consideration because we have certain areas within Migori which have the same problems Nyatike is facing. What are you doing to ensure that those areas, especially bordering Nyatike, which are very dry parts of Migori also benefit from famine relief now and in future?

Mr. M.M. Ali: Mr. Speaker, Sir, I have said that it is not only Nyatike. Indeed, we are looking at the whole country. However, I can assure you that Migori has already been looked into. It is in our data and we shall continue supporting it as the hon. Member has requested, alongside all other needy and deserving cases in the country.

Mr. Ruteere: Mr. Speaker, Sir, we have an area in Mbuuri District that is very dry and it borders Isiolo. That area used to receive relief food but later on, the Ministry said that no relief food should be taken to Meru County. What informed that decision when people in that part of the country are also suffering from famine?

Mr. M.M. Ali: Mr. Speaker, Sir, I am not very clear about what the hon. Member has asked. For sure, if any part of this country has been getting relief food, then the need must be even more now. So, there is no way we can remove that part of the country from the register of recipients. What might have happened is to consolidate relief distribution and management. Liaising at the county level might be the case, otherwise, I can guarantee him that, that part of the country will, definitely, continue getting relief food, if it has been getting relief food even before.

Mr. Njuguna: Mr. Speaker, Sir, while appreciating the good answer that has been given by the Assistant Minister, could he indicate to this House the precautionary

measures that the Ministry has taken to ensure that relief food is not stolen by those in authority, and that the food reaches the suffering and the starving in the country?

Mr. M.M. Ali: Mr. Speaker, Sir, I also thank the Member for Lari for that genuine concern. Indeed, the issue of relief food being mismanaged by some officers who are entrusted with the distribution of the same to the needy is a concern even to the Ministry. Following some reports, a secretariat has been set up to specifically monitor efficient distribution of relief food to the nation. Stern action will be taken against any person caught mishandling relief food. No mercy should be expected because it is a very sad situation if those entrusted with feeding the needy resort to stealing from the affected Kenyans. This is not something that can be taken lightly. Some of the pictures we see on the screens are very disturbing and we have formed that secretariat to effectively deal with those officers. Further, as a Ministry, you may be aware that we do not have our officers in the districts and, therefore, we rely on the Provincial Administration. However, I now want to report to this House and the nation at large, that we have got approval to recruit staff in the counties and shortly, we shall be advertizing personnel who will be handling Ministry affairs at the county levels.

(Applause)

Mr. Murgor: Mr. Speaker, Sir, it is very disheartening for officers to steal this food that will help people who are faced with starvation and are on the brink of death. I was very embarrassed two weeks ago in my constituency that a District Commissioner (DC) with some of his people stole this maize.

Mr. Speaker: Order, Member for Kapenguria! That is not allowed under the Standing Orders.

Mr. Murgor: Mr. Speaker, Sir, what stern action will the Assistant Minister take against the officers who engage in this vice and cause embarrassment to the nation and the citizens?

Mr. M.M. Ali: Mr. Speaker, Sir, if the hon. Member listened carefully, he will note that I said that we will deal with them effectively and no mercy will be expected. We will take them to court. As the hon. Member has seen, some officers have already been arraigned in court. If he has any report – he has insinuated that some people could be doing the same in his constituency – please, bring that information forward. The hon. Member should start with the police in his constituency, bring the same report to the Ministry and we shall deal with them effectively.

Mr. Anyanga: Mr. Speaker, Sir, let me take this opportunity again to thank the Assistant Minister who has confirmed that the Nyatike food ration will be doubled. His answer says that the Ministry sent food in May, June and July. However, the Assistant Minister knows that food is not consumed in arrears. Could he confirm when he will deliver the Nyatike food this August?

Mr. M.M. Ali: Mr. Speaker, Sir, food for Nyatike for this month, alongside the other affected areas, is being disbursed and logistics are being put in place to ensure that every part of the country gets food in good time. So, I can assure the hon. Member that when relief food will be disbursed to other parts of the country, so will be the one for Nyatike. Therefore, he should not worry at all.

Mr. Anyanga: On a point of order, Mr. Speaker, Sir. The Assistant Minister is trying to avoid my question. Is he in order to avoid my question? I want him to be categorical. Could the Assistant Minister confirm when he will ferry food to the Nyatike people this August?

Mr. M.M. Ali: Mr. Speaker, Sir, I thought that I was giving the hon. Member a blanket answer that involves the whole nation. However, I would like to tell him that in the course of next week, every part of the country will get relief food.

(Applause)

LEGALITY OF LEVIES IMPOSED ON PRINCIPALS/
HEADTEACHERS BY KESSHA

Ms. Chepchumba: Mr. Speaker, Sir, I beg to ask the Minister for Education the following Question by Private Notice.

(a) Is the Minister aware that the Kenya Secondary Schools Heads Association levies fees on secondary school principals and head teachers towards welfare, workshops and seminars, and if so, what is the legality of the levies? Could he also confirm whether the Government has sanctioned these levies?

(b) How is the Kshs36 million per year levied from teachers and Kshs27 million from schools utilized?

(c) What is the mandate and benefits of the organization to teachers and, could the Minister also table its audited accounts?

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

(a) I am aware that the Kenya Secondary Schools Heads Association (KESSHA), whose members are the principals of secondary schools pay a monthly voluntary contribution of Kshs500 to the association towards their welfare, workshops and seminars. These are voluntary contributions by the members through payslip deductions by the Teachers' Service Commission (TSC) towards their association. In fact, Article 36 of the new Constitution grants freedom to individuals to join or participate in activities of any association of any kind. Since the KESSHA is a duly registered organization by the Attorney-General, any contribution by its members, therefore, does not constitute an illegality.

(b) The Kshs500 deducted from the payslips of over 5,000 school principals is the monthly subscription to the KESSHA. However, I am not aware of any funds, including Kshs27 million received by the KESSHA from schools for any activity or its operations. The Free Day Secondary Education Fund and the Contingency in Local Transport and Travelling Sub-Vote of the Fund caters for travelling, seminars and workshops for teachers and principals. Any other payments from the schools to any organization, individual and activity, must be approved by the District Education Boards of which Members of Parliament are members.

(c) The mandate and benefits of the organization include promoting the rights and responsibilities of school principals, their professional organizations and the material and ethical interest of the education profession; promoting education standards by conducting capacity building for teachers and principals and facilitating examination exercises;

promoting the exchange of ideas and professional publications among members, and encouraging participation in meetings and conferences across national boundaries; fostering school academic curriculum and co-curricular activities at the national and international level and, promoting and encouraging equal opportunities for learners to develop their full potential and quality in life.

It also establishes working relations with the Ministry of Education, colleges, universities, other professional bodies and their employers; formulating and publicizing policies on administrative and educational issues with school principals; organizing regular forums for education stakeholders for exchange of opinions and experiences on all matters concerning the teaching profession nationally and internationally; and, covering the welfare of its members which include medical cover, burial and benevolence expenses, clearance of medical bills, travel and other expenses, including the cost of conferences and conventions locally and internationally.

The Ministry of Education has no mandate or authority on the management of the Kenya Secondary Schools Heads Association (KESSHA). It is a voluntary and private organization whose annual accounts and statements are audited by appointed auditors for submission at the annual general meeting and to the Attorney-General.

Ms. Chepchumba: Thank you Mr. Speaker, Sir. In the response that the Assistant Minister has given, it is, indeed, clear that Kshs500 is deducted from every principal and teacher directly from their pay slips. If that is a voluntary engagement, why were deductions done in a compulsory way directly from their pay slips?

Prof. Olweny: Mr. Speaker, Sir, the deductions are done from the pay slips of willing members. Those who do not want deductions from their salaries can pay outside the arrangement.

Dr. Khalwale: Thank you Mr. Speaker, Sir. The Assistant Minister has indicated that the annual conferences play a critical role in promoting our education and establishing strong linkages between the professionals, the universities, the Ministry of Education and other colleges. So, it is useful. Why can the Ministry not take over part or the entire cost of the annual conference since it is a one-off issue, so that we do not burden our teachers when they are trying to improve our education system?

Prof. Olweny: Mr. Speaker, Sir, that is a private society arrangement and the Ministry does not get involved. The Ministry has other fora in which it helps the teachers meet and exchange other ideas. However, that is their private arrangement or association.

Ms. Chepchumba: Mr. Speaker, Sir, I asked the Assistant Minister to table the audited accounts and he has not. Could he explain why?

Prof. Olweny: Mr. Speaker, Sir, that is a private association and it is not answerable to the Ministry of Education. The office to which it is answerable - and we can get audited accounts through that office - is the Office of the Attorney-General. That is a private association.

Mr. Chanzu: Thank you Mr. Speaker, Sir. The Assistant Minister has said that, that is a private association and a private arrangement by the principals. Is he in order to mislead the House because we see the Minister, the Permanent Secretary and everybody else from the Ministry of Education going to open and close the function all the time? Is he in order to mislead the House that the Government is not involved?

Prof. Olweny: Mr. Speaker, Sir, I am neither misleading the House nor the country. Anybody who attends those functions does so upon an invitation by members.

ORAL ANSWERS TO QUESTIONS

Question No.944

FUNDS TO OPERATIONALIZE “CENTRES OF EXCELLENCE”

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

- (a) whether he is aware that “Centres of Excellence” put up or upgraded through the *Economic Stimulus Programme* cannot be provided with the necessary infrastructure or the funds allocated;
- (b) when he will provide more funds to the schools; and,
- (c) whether he could address the shortage of teachers in the schools.

The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Finance (Dr. Oburu): Mr. Speaker, Sir, I beg to request that this Question be deferred. That is because the Question had originally been directed to the Ministry of Education, but was referred to the Office of the Deputy Prime Minister and Ministry of Finance recently. There is some information we have not been able to get. We were ready to present it any time next week, but the Member has told me that he will not be in next week. So, I request that it comes when the Member will be back after next week.

Mr. Ruteere: Mr. Speaker, Sir, I am in agreement with the Assistant Minister. So, it can come here two weeks from now.

Mr. Speaker: It is so directed!

(Question deferred)

Question No.1077

REDUCTION OF REA BUDGET

Dr. Otichilo asked the Deputy Prime Minister and Minister for Finance:-

- (a) why the budget allocation to Rural Electrification Authority (REA) reduced from Kshs 3.574 billion in 2008/09 to Kshs3.05 billion in 2009/10 and Kshs1.142 billion in 2010/11;
- (b) whether he is aware that the reduction has led to a reduction in constituency allocation by REA, from Kshs22.3 million in 2008/09 to Kshs14.4 million in 2010/11, hence stifling the Rural Electrification Programme and, consequently, impeding the implementation of *Vision 2030*; and,
- (c) whether he could confirm that there is a reduction in the 2011/2012 Budget allocation to an average amount of Kshs4 million per constituency after all expenditure consideration and, if so, what other plans the Government has to source funds for the REA.

The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Finance (Dr. Oburu): Mr. Speaker, Sir, you will recall that this Question came last week and we canvassed it here. There is a table from which I was reading the breakdown. But the Members intervened and said that they had not seen it. They wanted to have time to interrogate it before we could continue. So, perhaps, we could proceed if hon. Members have looked at the table. I hope they have seen it and they can interrogate me from there.

Mr. Speaker: Very well. Members, ask supplementary questions.

Mr. Chanzu: Thank you Mr. Speaker, Sir. The chart that the Assistant Minister has given shows that in 2008/2009, there was Kshs23.3 million and, in the following year, it was Kshs23.9 million. The next year was Kshs14.4. This year, we have Kshs6.7 million. However, when you look at the budget figures that the Assistant Minister has been reading here, you will see that the figure has been going up. So, the question is: Why has the Government found it necessary to reduce this figure and yet, the national budget has been going up? This is a very essential area if we are to develop this country and achieve *Vision 2030*?

Dr. Oburu: Mr. Speaker, Sir, the Office of the Deputy Prime Minister and Ministry of Finance does not allocate money. Money is allocated by the mother Ministries. The Ministry of Finance can only act on the prompting of the Ministries which prepare the budgets. So, we are not the ones who reduced.

Mr. Chanzu: On a point of order, Mr. Speaker, Sir. The Assistant Minister is misleading the House because---

Mr. Speaker: Order! It is not for you to determine whether or not the Assistant Minister is misleading the House. That is the prerogative of the Speaker.

Mr. Chanzu: Mr. Speaker, Sir, is the Assistant Minister in order to answer this Question, when he knows that it is not his Ministry which is charged with the responsibility of giving the figures?

Mr. Speaker: Member for Vihiga, that is not a valid point of order. But because you are my neighbour, I know that at the risk of being accused of favoritism, I will not exercise sanctions against you.

Dr. Otichilo: Mr. Speaker, Sir, I wish to table information that I have received from the REA which is at variance with what the Assistant Minister tabled. So, which are the right figures?

(Dr. Otichilo laid the document on the Table)

Mr. Speaker, Sir, based on those figures, it is clear that almost Kshs2 billion is budgeted as VAT. I want to know from him whether it is possible for that VAT to be removed, so that the REA can have that money to distribute electricity to the rest of the country.

Dr. Oburu: Mr. Speaker, Sir, actually that was the gist of the matter. This is a tax which spread over a period of three years. This is because the REA had assumed that they were not supposed to pay VAT. Finally, the Kenya Revenue Authority (KRA) decided that they pay VAT. The question, therefore, was not the allocation; the question was this element of tax which if deducted from the allocation will substantially affect the money which goes to each constituency.

We have discussed this matter with the Ministry of Energy. We are trying to find a solution. One such solution is to exempt the REA from paying taxes and bring the amendments in the Finance Bill, so that Kshs1.85 billion which will be removed from them is restituted back and they can use it to distribute electricity to *wananchi*.

(Dr. Otichilo stood up in his place)

Mr. Speaker: Member for Emuhaya, I can see that you are a bit anxious! However, the point is that your Question came for the second time. So, you had a chance to ask the first question and you have had a chance to ask the last question. So, that concludes the matter!

Next Question!

Question No.766

IMPACT OF LAWS ENACTED BY EALA

Mr. Bahari asked the Minister for East African Community:-

(a) which laws passed by the East Africa Legislative Assembly (EALA) so far directly impact on Kenya,

(b) how the Kenya National Assembly and the public have been educated on the implications of such laws; and,

(c) what progress has been on the implementation of the East African Common Market Treaty and how the treaty has benefited the Kenyan economy so far.

Mr. Speaker: Is the Minister for East African Community not here?

Minister for Tourism, are you able to account for the absence of your colleague?

The Minister for Tourism (Mr. Balala): Mr. Speaker, Sir, I am aware that the Minister of the East African Community has gone to Arusha. In fact, she was absent in the Cabinet meeting this morning. She had asked for permission to be away on official duty. So, I will look for the Assistant Minister and commit that this Question be answered on Tuesday, next week.

Mr. Speaker: Very well! That is a valid explanation! The Question is deferred to Tuesday, next week.

Member for Isiolo South, please, note that this Question will be answered on Tuesday, next week. Is that good for you?

Mr. Bahari: Thank you, Mr. Speaker, Sir.

Mr. Speaker: Very well!

(Question deferred)

Question No.1022

INSURANCE FOR PASSENGERS USING LIKONI CHANNEL FERRIES

Mr. Ochieng asked the Minister for Transport:-

(a) how many passengers and motor vehicles the ferries carry per transit across the Likoni Channel,

(b) whether the ferries and passengers are insured against any accidents and, if so, how much premium the Kenya Ferry Services (KFS) pays; and,

(c) who the underwriters are and the duration of cover and whether he could table copies of the policies for each ferry.

The Assistant Minister for Transport (Mr. Ogari): Mr. Speaker, Sir, I beg to reply.

(a) The Kenya Ferry Services (KFS) operates a fleet of seven vessels with various carrying capacities as follows: MV Nyayo, 1,200 passengers and 60 vehicles; Kilindini, 1,400 passengers and 60 vehicles; Harambee, 1,400 passengers and 60 vehicles; Kwale, 1,500 passengers and 60 vehicles; Likoni, 1,500 passengers and 60 vehicles; Mvita, 800 passengers and 30 vehicles and Pwani, 1,200 passengers and 40 vehicles.

(b) The ferry vessels and passengers are insured against any accidents and the premiums paid by KFS are: for MV Kwale and MV Likoni, US\$451,360; for MV Nyayo, MV Kilindini, MV Harambee, MV Mvita and MV Pwani, US\$307,725. The premium amount of US\$307,725, includes cover for MV Safina which KFS uses as the maintenance boat.

(c) The cover is on an annual basis. Currently, there are two underwriters: Insurance Company of East Africa covering the new ferry vessels: MV Kwale and MV Likoni, and Jubilee Insurance covering the old ferries of Nyayo, Kilindini, Harambee, Mvita, Pwani and Safina.

Mr. Ochieng: Mr. Speaker, Sir, in part “c” of the Question I requested the Assistant Minister to table copies of those policies. I want him to explain to us if there was to be an accident today whether passengers who will have suffered any injuries would be compensated on a flat rate, or the compensation will depend on person to person?

Mr. Ogari: Mr. Speaker, Sir, copies of the policies were forwarded together with the answers in the normal way. Later on, I realized the policies had actually expired. I am now tabling the renewal for the period thereafter.

(Mr. Ochieng stood up in his place)

Mr. Speaker: Order! Member for Nyakach, the renewals of those policies will be tabled because they are in existence.

Mr. Ogari: I table the same, Mr. Speaker, Sir.

(Mr. Ogari laid the documents on the Table)

Mr. Speaker: Very well!

Mr. Ogari: Mr. Speaker, Sir, since these papers were forwarded earlier, I wish to confirm that the policies covered both loss, or damage to the insured vessels. There is also a third-party liability which covers passengers and any other third parties, including ships or other vessels.

Mr. Wambugu: Mr. Speaker, Sir, from the figures given by the Assistant Minister on the capacities of various vessels, he has said that some of them are carrying 1,200 passengers and others 1,500 passengers. He has given us quite some various figures. How does he ascertain that the ferries are not overloaded? I have never seen any mechanism that is used on those ferries to ascertain that the ones that are supposed to carry 1,200 passengers carry exactly 1,200 passengers or below?

Mr. Ogari: Mr. Speaker, Sir, first, the carrying capacity of the various vessels differs according to the size and the manufacturer's specifications. They are designed in such a way that the carrying capacity is much less. The space available is much less than the weight that will be required to have this vessel tilt over.

We have gauges these days. We have controls. We have marshallers who make sure that the passengers are physically counted. The vehicles are weighed before the ferry moves. There are gauges which show the weight on board.

Mr. James Maina Kamau: On a point of order, Mr. Speaker, Sir. Is the Assistant Minister in order to tell us that there is a way they count the passengers that board the ferry? When you are there on the ferry, there is no physical counting. People just walk in and walk out until it is full. So, there is no mechanism at all to ascertain how many passengers are on board at any one time.

Mr. Ogari: Mr. Speaker, Sir, first of all, we have control at the gate as passengers go in and they are counted. They are estimated to the extent of the floor coverage. There is a gate on every vessel which shows the weight of a loaded vessel.

Mr. Ochieng: Mr. Speaker, Sir, could the Assistant Minister also inform us whether the families of those who died in the 1994 Mtongwe ferry disaster have been fully compensated now?

Mr. Ogari: Mr. Speaker, Sir, although I think that is a different Question I will answer it. The story of the Mtongwe ferry is very sad. The passengers were compensated up to the limit of the carrying capacity of the vessel. Unfortunately, we all know it was a sad event. The vessel was overloaded and, obviously, the insurance company dishonoured some of the claims; up to now, the process is going on through the courts for those who had money to go to the court and compensation is still being made.

Mr. Speaker: Next Question by Mr. Kiptanui.

Question No.1034

DELAY IN CONSTRUCTION OF KEIYO SOUTH FRESH PRODUCE MARKET

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

(a) whether he is aware that the construction of a Fresh Produce Market in Keiyo South is behind schedule, and if so, what is causing the delay; and,

(b) when the construction will be completed.

The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Local Government (Mr. Nguyai): Mr. Speaker, Sir, I beg to reply.

(a) Yes, I am aware that the construction of the Fresh Produce Market in Keiyo South is behind schedule. The project was to commence on 18th September, 2010 and be

completed on 18th March, 2011. The project experienced delays due to the following factors. One, commencement at the site had encumbrances; the relocation of traders operating in the market took over two months. Two, there has been a delay caused by the non-submission of the first interim payment certificate. This has now been done and has been processed. Work on the site started in January 2011 and is at the steel structures level, or 60 per cent completion level.

(b) Contractually, the project was expected to take six months, with effect from 1st January 2011. However, due to the delays already explained, a two-month extension has been granted for the project to be completed two months after 30th August, 2011.

Mr. Kiptanui: Mr. Speaker, Sir, I would like to thank the Assistant Minister for trying to answer this Question. He has said that so far 60 per cent of the construction is done. He is assuring us that within another two weeks, the 40 per cent will be done. Could he inform the House whether he is sure that the remaining 40 per cent will be completed in the next weeks?

Mr. Nguyai: Mr. Speaker, Sir, my apologies. I said two months. It will be completed within two months.

Mr. Kiptanui: On a point of order, Mr. Speaker, Sir. The Assistant Minister said in part “b” of his answer that an extension has been granted and the project will be completed by 30th August, which is two weeks from now.

Mr. Speaker: Order! The Assistant Minister corrected that, really.

Mr. Yinda: Mr. Speaker, Sir, it seems that fresh produce markets have problems in the whole country, including in my constituency, Alego Usonga. Could the Assistant Minister inform the House what he is doing to ensure that the construction of fresh produce markets in the whole country is sorted out, because there seems to be a big problem that he is not telling us?

Mr. Nguyai: Mr. Speaker, Sir, we undertook in this House to give a comprehensive report on all the fresh produce markets, and all the other markets. You gave us a duration of two weeks, which will end a week from now. We have actually sent officers on the ground to ensure that the report that will come will be comprehensive. We want to find out the exact problems that exist and address them comprehensively.

Eng. Maina: Mr. Speaker, Sir, the construction of these markets is something that the Ministry seems to be doing without any plan at all. Now, besides the fact that most of them are not on schedule, could the Assistant Minister inform the House what policy they have of relocating people who are in particular markets when they go to build a market? Normally the people are just relocated without any plan. They leave the local people to sort themselves out. This should be a part of their programme; you cannot relocate people to uninhabitable places.

Mr. Nguyai: Mr. Speaker, Sir, most of the land on which we are constructing these markets is acquired in conjunction with the local authorities. If there is a section of the population that needs to be relocated, it is relocated, so that they can come back and reoccupy the market when it is more modern. If anybody was relocated to an uninhabitable place, I would want to have the specific details of the council and what has not been done right, and then I can answer the question asked more comprehensively.

Dr. Khalwale: Mr. Speaker, Sir, there is one market which stands out prominently. It is in the constituency of the substantive Minister for this Ministry; this is Chavakali Market. This market has stalled. It was started by the former Minister, hon.

Akaranga. Could the Assistant Minister clarify whether they have deliberately refused to complete this market because they want to “kill” the legacy of hon. Akaranga?

Mr. Nguyai: Mr. Speaker, Sir, even though I do not want to be involved in the politics of western Kenya, I can say that the substantive Minister will not kill a project within his own area, as this will spoil his own name.

Mr. Kiptanui: Mr. Speaker, Sir, the Assistant Minister has said that one of the reasons why this project is behind schedule is because of the non-submission of the first interim payment certificate. Could he inform the House how much the contractor has been paid? Will the Kshs8 million be sufficient to complete this project?

Mr. Nguyai: Mr. Speaker, Sir, I do not have the exact amount that has been paid to the contractor so far, but there have been no variations of the contract. So, the contract amount of Kshs8 million should be sufficient to pay for the work.

Question No.1102

PROVISION OF EMBANKMENT APPROACHES AT
ATHIANI BAILEY BRIDGE

Mr. Kiilu asked the Minister for Roads:-

(a) whether he is aware that embankment approaches to Athiani Bailey Bridge on Kikuu River in Kitise Location, Kathonzwani District – which was constructed in 2008 - have never been provided;

(b) what has caused the delay in backfilling the embankments and when the same will be done; and,

(c) when the Ministry will commission the bridge for public use.

The Assistant Minister for Roads (Mr. Kinyanjui): Mr. Speaker, Sir, I beg to reply.

(a) I am aware that the embankment approaches of Athiani Bailey Bridge on Kikuu River in Kitise Location, Kathonzwani District, have not been provided.

(b) The delay in backfilling was due to non-prioritization by the Makueni Constituency Roads Committee for the balance of work in their work plan during the last financial year, 2010/2011.

(c) The bridge is already in use by pedestrians but cannot be used by motor vehicles. However, once the backfilling is completed as prioritized by the Constituency Roads Committee, it will be completed at that point.

Mr. Kiilu: Mr. Speaker, Sir, as I said, the Athiani Bailey Bridge was erected in 2008 after it was prioritized by the relevant Constituency Roads Committee (CRC). It was meant to connect Kibwezi Constituency and Kitui South Constituency. Three years down the line, this bridge has not been commissioned for use by motor vehicles. I would like to know from the Assistant Minister the outstanding works and their costs, so that this road can be commissioned for use by motor vehicles.

Mr. Kinyanjui: Mr. Speaker, Sir, the approaches are estimated to cost around Kshs10 million. They will comprise of the following works: One, backfilling of the approaches to open the road to motor vehicles; two, installation of one culvert line of a diameter of 900 mm; construction of an additional pier of approximately seven metres in height to provide necessary support for motor vehicles with a carrying capacity of ten

tonnes. There is about one kilometre of approaches to ensure that the bridge is suspended properly. This will require acquisition of land to make sure that we enhance them.

Mr. Deputy Speaker, Sir, as the hon. Member said, this bridge was launched in the 2007/2008 Financial Year. During this time, we were not sending money directly to the constituencies through the CRC. Therefore, we expect that we will be able to look for funds within the Ministry to ensure that we are able to complete the approaches and thereafter, commission this bridge.

Prof. Kaloki: Mr. Speaker, Sir, this bridge is an important link between two constituencies, that is Kibwezi and Makueni.

Mr. Speaker, Sir, the question is very specific; when will the Ministry be able to complete the works, so that it can link the two constituencies?

Mr. Kinyanjui: Mr. Speaker, Sir, ideally as I have said, this particular bridge is on a road that is unclassified. Therefore, it is generally within the D, E and other categories which is normally under the purview of the CRC where we allocate Kshs30 million every year.

Mr. Speaker, Sir, as I said, the construction of this bridge started way before we brought in this system of sending money directly. We appreciate that we may not be able to complete the construction of the approaches within the constituency road budgets. Therefore, I hope we will be able to get funds to do this in the near future. I am not able to give an exact date when that money will be availed because it is not in the current financial year.

(Prof. Kaloki stood up in his place)

Mr. Speaker: What is it, Prof. Kaloki?

Prof. Kaloki: Mr. Speaker, Sir, I am asking a question.

Mr. Speaker: No! You cannot ask a question.

Prof. Kaloki: Mr. Speaker, Sir, on a point of order. Is the Assistant Minister in order to mislead the House because he had undertaken to do this particular road and construct the bridge? Now, he is shifting that particular assignment to Makueni Constituency.

Mr. Kinyanjui: Mr. Speaker, Sir, for the belated point of order, I want to say, just for the record, that this road is under "D", "E" and "Others" in terms of the category. This House passed amendments to the Roads Act, which, in effect means that the category of roads that fall under D, E and Others will be done by the Constituency Roads Committee. For that reason, we cannot do this road unless on very clear circumstances which I have stated here. As I said, the construction of the bridge in question was started in the 2007/2008 Financial Year. Therefore, we will be able to look for funds to complete this bridge.

Mr. Kiilu: Mr. Speaker, Sir, I want to thank the Assistant Minister for the last undertaking, given the fact that this bill bridge was started when they had not started the new programme. What I would like him to confirm is that; in view of the fact that constituencies are getting very little money and we cannot complete these roads, could he, for example, find money to complete this bridge so that it is not only used by pedestrians, but also by motor vehicles?

Mr. Kinyanjui: Mr. Speaker, Sir, I undertake to look for funding within the Ministry to ensure that we take over this bridge and complete it.

Mr. Speaker: Member for Sigor! Question dropped!

Question No.1121

AREA COVERED BY TURKWEEL GORGE DAM

(Question dropped)

Question No. 1125

SHORTAGE OF MAIZE IN KENYA

Mr. Speaker: Member for Githunguri! Question dropped.

(Question dropped)

POINT OF ORDER

DELAYED MINISTERIAL STATEMENT ON THE
KILLING OF THREE BROTHERS IN RUIRU

Mr. Mwangi: On a point of order, Mr. Speaker, Sir. The Minister of State for Provincial Administration and Internal Security promised to give us a report on a Question I asked here in April. Since then, he has not been able to make a report on the killings of the three brothers in Ruiru.

Mr. Speaker, Sir, I am seeking your indulgence for him to issue the report that he was supposed to give in April.

Mr. Speaker: What is the number of the Question and when did it last come before the House?

Mr. Mwangi: Mr. Speaker, Sir, I had asked Question No.810 on the cause of death of John Kamuri, Peter Irungu and Kene Waitwika?

Mr. Speaker: When did it last come before the House?

Mr. Mwangi: Wednesday, 6th of April, 2011.

Mr. Speaker: Minister of State for Provincial Administration and Internal Security!

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Speaker, Sir, we are in a different order all together. But I want to say that---

Mr. Speaker: Order, Assistant Minister! We cannot be in a different order. My judgement is correct. We are under Order No.6, which is Questions.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Speaker, Sir, you can remember this particular Question was answered by my substantive Minister and then I had to give him the

message that he should come and give the report to the Questioner. That is what I said last time.

Mr. Speaker: The Minister gave an undertaking in April. We are in the month of August. That time the Minister wanted four weeks. It is now how many months way?

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Speaker, Sir, I had spoken to the Questioner and I told him that the Minister is willing to come and give a report. I have not been given the details. Otherwise, I would have done it for him.

Mr. Speaker: I direct that the Minister brings the report on Thursday, next week.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Next Thursday is okay.

Mr. Speaker: Member for Kiharu, please, note.
Next Order!

MINISTERIAL STATEMENTS

Mr. Speaker: Yes, Minister for Foreign Affairs, you have a statement to deliver. Proceed!

ADOPTION OF SOMALIA/ERITREA MONITORING GROUP RESOLUTION BY UN SECURITY COUNCIL.

The Assistant Minister for Foreign Affairs (Mr. Onyonka): Mr. Speaker, Sir, I would like to make a statement on the adoption of the Somalia – Eritrea Monitoring Group Report by the UN. There was need for us to confirm whether the United Nations shared with the Kenyan Government, their findings before adopting the Somalia and Eritrea Monitoring Group Resolution 1916 of 2010.

Mr. Speaker, Sir, the work of the Monitoring Group was mandated by the United Nations Security Council on Somalia and Eritrea. As such, there was no basis for the Monitoring Group to share the findings of the report with the Kenyan Government for the simple reason that this had to go to the Security Council first. Indeed, this was a confidential document, and the report could not have been released until the Security Council had sanctioned it to the Kenyan Government.

Mr. Speaker, Sir, the other issue which was raised is the Kenyan Government response on the issues raised by the Somalia and Eritrea Monitoring Group. The Kenyan Government takes special note of the fact that the report does not indict our Government. On the contrary, under the section on State co-operation with the monitoring group, the report appreciates assistance by the Kenyan Government for permitting the group to be hosted at the UN Office in Nairobi.

The other issue was whether the Kenyan Government's Permanent Representative made a statement before the adoption of the report by the UN Security Council.

Mr. Speaker, Sir, in the report, there were names and various issues which were raised. The Kenyan Permanent Representative could not have made a statement on the report as he was not aware of its contents since it was confidential in nature and had not been presented to the Security Council at that time, nor was the report released to the public. As earlier reported by us, the report did not discuss anything pertaining to the

Kenyan Government *per se*. In the report, there were names of Members of Parliament who were mentioned adversely and it was claimed that these Members donated money to support the construction of a mosque. They were hon. Amina Abdalla, hon. Najib Balala and hon. S. Abdalla. Regarding these two political officials mentioned in the report, the Monitoring Group - I will be very slow and clear so that this is clear – underlines that it has no evidence to suggest that the said officials were aware that the contributions they were making towards the Muslim Youth Centre were for the support of *Al Shabab* activities. The Monitoring Group, therefore, believes that the contributions were solicited under false pretences and, therefore, there is no evidence to suggest that there was any willful wrong doing by the politicians. It has been noted that hon. Najib Balala donated Kshs200, 000 while hon. Amina Abdalla donated Kshs500, 000.

Lastly, it is true that issues have been raised as to whether there is an impressive presence of the international agencies such as the UN, the World Food Programme (WFP) and other international agencies in Somalia to try and stabilize Somalia. Indeed, there have been questions as to whether there was a precluding of the United Nations from undertaking activities in Mogadishu because this is on the African Continent. The UN and, indeed, the international community has participated fully in making sure that Somalia becomes stable and a functional African State. It is true that the *Al Shabab* Militia who have been controlling several areas in Mogadishu are now on the run and have moved to an area known as South Central Somalia and the UN including the international community and the AMISOM Troops have successfully managed to secure Mogadishu.

The *Al Shabab* Militia, who initially had controlled several areas of Mogadishu are no longer in Mogadishu even though there are instability and security concerns which have continued to hinder the operations of the UN in Mogadishu.

Following the report of the Monitoring Group released on 28th July, 2011, the United Nations Security Council, on its efforts, has made sure that mechanisms will be put in place to stabilize Somalia. They have adopted Resolution 2002 of 2011 which was passed on 29th July, 2011, which provided an extra year for the Transitional Federal Government to continue holding the fort until they hold their elections, come August next year.

Mr. Speaker, Sir, I would like to categorically thank President Kibaki for having made sure that the Kenyan Government has not lost focus on Somalia. Kenya has played a tremendous role in making sure that on several occasions, we have intervened and we are finally seeing light at the end of the tunnel. The UN Security Council has supported the Kenyan Government and stated the same. The Kenyan Government's intention is to seek the UN to make sure that AMISOM finally, as a peace keeping mission becomes a fully fledged United Nations Mission which will then be in Mogadishu to make sure that Somalia is permanently stabilized.

Lastly, it is not true that the UN and the international community have abandoned Somalia because it is on the African Continent. The Kenyan Government with the support of the Coalition Government has on several occasions made sure that the Transitional Federal Government receives the material and financial support which they need to make sure that Somalia continues to stabilize and hopefully, soon, they will become one of the African countries that function normally.

The international community has also been very instrumental in bringing stability to Somalia through partnering with Kenya on issues such as piracy and counter terrorism. Furthermore, the international community has supported the Transitional Federal Government fully by providing them with all the necessary mechanisms to make sure that one day, Somalia becomes a peaceful and successful African country.

The Minister for Tourism (Mr. Balala): On a point of information, Mr. Speaker, Sir.

Dr. Nuh: On a point of order, Mr. Speaker, Sir. This matter is very weighty and the fact that hon. Yakub, who sought the Ministerial Statement was expecting this Statement on Tuesday, it feels like he has been ambushed because there is even a Statement he has requested me to ask on his behalf. Would I, kindly, request that the interrogation of this matter be further deferred until hon. Yakub is in this House?

Mr. Speaker: Yes, before I give direction, I will ask the Assistant Minister if he wants to take information from the Minister for Tourism. Do you want that information?

The Assistant Minister for Foreign Affairs (Mr. Onyonka): Yes, Mr. Speaker, Sir. It is fine.

The Minister for Tourism (Mr. Balala): On a point of information, Mr. Speaker, Sir. As an interested party and having been mentioned adversely by this false Monitoring Group, I want to assure you that the Pumwani Riyadhha Mosque Committee is different from the Muslim Youth Committee. I went back to the Pumwani Riyadhha Mosque Committee and they have never diverted any funds from the reconstruction of the mosque. The committee has willingly said that they are ready to be audited by the Monitoring Group and also by the Kenyan Government to prove that every penny was utilized for the Mosque. In 2009, the Mosque had two floors and now it has five floors. All this money was collected to construct the Mosque. The money has not been diverted and they are ready to be audited.

If you donate money for a good cause innocently and two years later, you are suddenly accused of funding a terror group, that is totally unfair. My conscience is very clear. This Mosque must continue to be constructed and completed. In fact, on Friday, 26th August, we are going to have a grand fund-raising for the Mosque to be completed and we are inviting all the Members to attend in solidarity against this unfairness.

Mr. Speaker: Assistant Minister, is that information useful to you?

The Assistant Minister for Foreign Affairs (Mr. Onyonka): Mr. Speaker, Sir, the information is valid. I believe that what hon. Balala has said is true. The only point that I would want him to note is that when the account was being investigated, an individual who had been listed as a member of the terror groups was found to have been a signatory to that account. That is how the link came by. The point that I raised here is very clear, that after the Kenyan Government's intervention and request to the UN, the Monitoring Group has made it clear that the Members who were initially adversely mentioned have not contributed any money which has gone into terror activities. This was basically a link which was created initially and their names appeared. The money was donated in good faith and I agree with hon. Balala that the Mosque should continue to be constructed because this matter has been brought to rest.

Mr. Speaker: Order! With that said, I will want to defer matters pertaining to this Statement until Thursday next week for further interrogation. We will take the next Statement from the Minister for Forestry and Wildlife. Do it within five minutes.

ARREST OF POLICE RESERVISTS BY
KWS PERSONNEL

The Minister for Forestry and Wildlife (Dr. Wekesa): Mr. Speaker, Sir, this is in response to a request for a Ministerial Statement from hon. David Ethuro, Member of Parliament for Turkana; about the death of one Ebenyo Ebwangiti.

On 7th July, 2011, a report reached our Kenya Wildlife Service (KWS) offices in Lodwar that one Ebenyo Ebwangiti was killed by an elephant at Namadi in Oropoi. A team of KWS security personnel was dispatched to the area from Lodwar to confirm the incident. On the way, the KWS team gathered intelligence information which indicated that on 29th June, 2011, a team of three Kenya Police Reservists (KPR), namely Daudi Epenyo, who was in possession of an FN rifle; Epuwa Losur, who was in possession of a G3 rifle, and the deceased person, Ebenyo Ebwangiti Lolaput, who was in possession of a Mark 4 rifle, had left Oropoi for Namadi area of Ngalaputui Location, which is 30 kilometres to the south of Oropoi.

Mr. Speaker, Sir, when the Security team reached Namadi area, they further established that the same team of three had proceeded westward of Namadi towards Kidebo National Reserve, which is in Uganda, and were following a herd of elephants. The security team followed the wildlife tracks and the KPR's footprints for another 30 kilometres and established that the accused were purely on a poaching expedition. On the tracks, they noted blood drops stains of the elephant that the accused persons had hit while on their poaching mission before the deceased person met his death.

This indicated that the three KPR personnel, armed with their rifles, had wounded the elephant and followed it in anticipation that it would shortly die and they would pick the tusks. The wounded elephant charged at the three men and killed Emojeo Ebwangiti. The dead elephant's carcass, with one tusk chopped off, was also found at the scene. Daudi Ebenyo Lotyang sustained injuries, while Epuwa Losur escaped and took the rifle of Emojeo Ebwangiti to Kalobei Police Station for custody.

Mr. Speaker, Sir, the two KPR personnel, with the help of the regular police, were picked up to help with investigation on what led to the killing of the elephant and help produce the missing tusk. The accused refused to co-operate and were handed over to Kakuma Police Station for arraignment in court and conviction. The KWS and police security team visited the scene and confirmed that the KPR personnel were on a poaching expedition since there were livestock tracts in the area in question. There is no sign of human habitation within the area of the incident. There were only movement of planes, game and elephant tracts. The distance was about 60 kilometres from Oropoi.

The death of the deceased person was not in self defence, nor was it in any way connected to the herding of livestock. There was only one death, caused by the elephant. In this particular incident, a man by the name Emojeo Ebwangiti was trampled to death beyond recognition by the injured and enraged elephant. The death did not occur in the process of self-defence by the deceased person.

Mr. Speaker, Sir, as per the laid down regulations and the Laws of Kenya, KPR personnel are mandated to protect the lives of common *wananchi* from attacks, protect and secure livestock from theft and ensure that national heritage is well preserved. The two KPR personnel were not supposed to kill wildlife for any trophy. The KPR

personnel, therefore, were not acting in their line of duty. The KWS is mandated by law to conserve and protect all the wildlife in Kenya. That is why they left Lodwar for Oropoi to undertake their noble task of protecting human life and wildlife.

The two accused persons, namely, Daudi Epenyo and Epua Losur were charged with hunting and killing protected animals, contrary to Section 12(1)(b), as read together with Section 56(1)(a) of the Wildlife Conservation and Management Act, Cap.376, Laws of Kenya. The accused persons pleaded guilty to the first count. They were convicted and sentenced to eight years imprisonment. They were all informed of their right to appeal against the sentence. The case on the second count is set for hearing on 27th September, 2011.

Mr. Speaker, Sir, the evidence that was submitted in court was statements from key prosecution witnesses, who included KWS arresting officers and two regular police officers; the recovered tusks from the carcass were exhibited; a photograph of the dead elephant and an intelligence report from the KWS intelligence units were provided; four eyewitnesses from the members of the public who saw and heard the first accused person pleading with the second accused person and the deceased to join him in a business, which was not known to them.

Thank you, Mr. Speaker, Sir.

Mr. Ethuro: Mr. Speaker, Sir, I want to thank the Minister for that Ministerial Statement. However, if you have heard him very correctly, his source of information is the KWS personnel and KWS intelligence sources. These are the same people who have accused those other people unfairly. He confirmed the death of an elephant and the death of a person. My submission was that these people acted in self-defence. I feel that the Minister got the information from the same people I suspect to have committed the crime and then accused others. Under those circumstances, I sympathise with him because he has acted on information he has been given.

Mr. Speaker: So, what is your request for clarification?

Mr. Ethuro: Mr. Speaker, Sir, my request for clarification is that I just feel there is miscarriage of justice in this particular case. I ask the Minister to institute an inquiry so that we can establish the true position. From what he has given, even you can be convinced that that cannot be the correct position.

Mr. Speaker: Very well. Is there anybody else interested? The Member for Turkana Central tries to think for me but I will think differently and I will let you know presently.

Minister, please, proceed!

The Minister for Forestry and Wildlife (Dr. Wekesa): Mr. Speaker, Sir, the evidence is not only from the Government officials. It is also stated that there were residents in the areas that corroborated the stories that the Kenya Wildlife Services (KWS) and the police observed. So there were also other people there who corroborated the story.

Mr. Speaker: Minister, did I hear you say that the two persons who were accused pleaded guilty?

The Minister for Forestry and Wildlife (Dr. Wekesa): Yes, they did.

Mr. Speaker: Member for Turkana Central, that is why I told you I would think differently. If they pleaded guilty, then, surely, your complaint must be different.

Mr. Ethuro: Mr. Speaker, Sir, you know how our police service is. Sometimes, especially for the kind of people I represent, they find it much easier even to plead guilty for purposes of expediency. I am really appealing to the Minister that this is a grave matter and somebody has lost his life. He can do better than what he has done now.

Mr. Speaker: Very well! Minister, that appeal is just to your humanity. So it is up to you. If you want to respond to it, you may. That must rest the matter!

Yes, Dr. Nuh!

POINTS OF ORDER

SUMMARY DISMISSAL OF 40 EMPLOYEES OF AFRICAN SAFARI CLUB

Dr. Nuh: Mr. Speaker, Sir, on Wednesday last week, Mr. Yakub requested for a Ministerial Statement on the dismissal of 40 employees of African Safari Club. The Statement was to be issued on Tuesday afternoon. By yesterday, we still did not have any response from the Minister for Labour.

The issue is so urgent. The employees are still camping at the residence and hotels of the management.

Mr. Speaker: Assistant Minister for Labour, I see you are there, Mr. Ojaamong.

The Assistant Minister for Labour (Mr. Ojaamong): Mr. Speaker, Sir, we are prepared to present the Statement on Thursday next week. Meanwhile, last Friday, the Director of the African Safari Club paid the employees Ksh12.3million.

Mr. Speaker: Can you give a substantive Statement on Tuesday afternoon at 2.30 p.m.?

The Assistant Minister for Labour (Mr. Ojaamong): Wednesday afternoon would be adequate.

Mr. Speaker: Very well! Dr. Nuh, please, note that it will be given on Wednesday afternoon at 2.30 p.m. Please, let us save time on this.

Order, hon. Members! Before we conclude this order---

(Mr. Kimunya stood up in his place)

Minister, what is it? You were absent?

Please, carry on!

The Minister for Transport (Mr. Kimunya): Mr. Speaker, Sir, I wish to make this Statement.

Pursuant to provisions of Standing Order No.36 (4) ---

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

Mr. Speaker: What is it, Member for Chepalungu?

EFFECTS OF LONDON RIOTS

Mr. Ruto: Mr. Speaker, Sir, I know that that will lead us to the next. However, I was expecting a Ministerial Statement from the Ministry for Foreign Affairs on the effects of the riots in London. I had indications that the Minister was ready and he had

given me a copy of the Statement. I thought it would have been important that he be allowed to give this Statement.

Mr. Speaker: That may be so but I had no indication myself that the Minister was ready to deliver the Statement. I have no indication whatsoever. I see the Minister.

However, Minister, did you make any such indication? I am not aware!

The Minister of State for Provincial Administration and Internal Security (Prof. Saitoti): Mr. Speaker, Sir, indeed, the Assistant Minister for Foreign Affairs had been here. I believe after he made another Ministerial Statement, he was of the view that he would come and deliver it any other time. Therefore, Tuesday, we can present that Statement.

Mr. Speaker: Member for Chepalungu, the riots in Britain have cooled off, so it is not so urgent. You will get the Statement on Tuesday afternoon.

Mr. Ruto: Much obliged, Mr. Speaker, Sir. However, they should have told us whether they have sent the retired President or Koffi Annan to go and look at the situation there. But we can wait until Tuesday.

(Laughter)

Mr. Speaker: Yes, indeed. The Minister is aware of those sentiments and he will cover them.

Proceed, Deputy Leader of Government Business!

MINISTERIAL STATEMENT

BUSINESS FOR THE WEEK COMMENCING
TUESDAY, 23RD AUGUST, 2011

The Minister for Transport (Mr. Kimunya): Mr. Speaker, Sir, I wish to take this opportunity to make the following Statement with regard to business for next week.

Let me note that this House and, indeed, all other key implementing agencies have entered the most critical stretch in the race to beat the August 26th 2011 deadline for passing the key Constitution implementation Bills.

Mr. Speaker, Sir, the National Gender and Equality Commission Bill (Bill No.23 of 2011) went through the Committee Stage yesterday and I want to thank the hon. Members who stayed behind to have it passed.

The Political Parties Bill (Bill No.20 of 2011) is expected to go through the Committee Stage on Tuesday.

Next week, the following key Bills are expected to be read for the Second Time; the National Police Service Bill (Bill No. 31 of 2011), the National Police Service Commission Bill (Bill No.32 of 2011) and the Independent Policing oversight Authority Bill (Bill No.33 of 2011).

Mr. Speaker, Sir, the Cabinet has already approved the Anti-Corruption and Ethics Commission Bill, the Elections Bill and the Prerogative of Mercy Bill which will be published by this weekend ready for the House to consider next week. Arrangements have also been put in place for the Cabinet to clear all the other Bills that are required for

conclusion with the first 12 months by this weekend, for the House to consider next week.

The House will also consider the Motions by the Minister for Justice, National Cohesion and Constitutional Affairs urging the House to extend the duration of the Truth, Justice and Reconciliation Commission to continue its work for six months beyond the prescribed period of two years.

Mr. Speaker, Sir, it is also expected that a decision will be made on the way forward on the Committee of Supply and the finalization of the Budget process.

Finally, the House Business Committee (HBC) will be meeting again on 23rd August to consider business for the rest of the week. Given the volume of the business before the House and what will be coming before the House as a result of the Bills that we will publish by this weekend, we will be requesting the House to put in extra hours and extra sessions next week so that we can all move together to clear all the required Bills that will be necessary to meet the constitutional timeline. I am sure Members, in their usual co-operation will be willing to do this national duty.

Thank you, Mr. Speaker, Sir.

COMMUNICATION FROM THE CHAIR

APPOINTMENT OF NON-CITIZENS TO JUDGES AND MAGISTRATES VETTING BOARD

Mr. Speaker: Hon. Members, before we move to the next Order, I have the following Communication to make with respect to appointment of Judges and Magistrates Vetting Board.

Hon. Members, you will recall that on 9th August 2011, I issued a Communication from the Chair to the effect that His Excellency the President had submitted to the National Assembly persons to be considered for appointment as Chairperson and members of the Judges and Magistrates Vetting Board pursuant to Section 9 (7) of the Vetting of Judges and Magistrates Act (2011) Act No.2 Of 2011. The names were forwarded to the Constitutional Implementation Oversight Committee (CIOC) for consideration prior to approval by the House.

In the same communication, I had informed the House that the National Assembly had not received three names of the nominees of non-citizens who are supposed to be appointed to be members of the Board by the His Excellency the President in consultation with the Prime Minister for approval by the House in accordance with the provisions of Section 9(13) of the Act.

Hon. Members, I wish to inform the House that via letter from the Office of the Permanent Secretary, Secretary to the Cabinet and Head of Public Service dated today, 18th August, 2011, the National Assembly has been advised that His Excellency the President has, in consultation with the Rt. Hon. Prime Minister, nominated the following eminent persons from the Commonwealth for approval by the National Assembly to be Members of the Board:-

1. Sir Stephen Sedley, former Lord Justice of Appeal, England and Wales.
2. Chief Justice Georgina Wood of Ghana.
3. Hon. Ms. Louise Otis, Rtd. Judge of Quebec Court, Canada.

Hon. Members may wish to note that in view of the fact that the National Assembly had received the other six names on 3rd August, 2011, the House was required under Section 9(8) and (9) of the Act to consider within 14 days; that is, today 18th August, 2011, all the nominations received and approve or reject any nomination and request for the names of new nominees. Indeed, the Committee has finalized its report on the six nominees, but my office could not approve its tabling as the names contained therein did not fully constitute the Board as envisaged in Section 7 of the Vetting of Judges and Magistrates Act, 2011, which provides for a vetting Board of nine members.

Hon. Members, aware that the National Assembly had discharged its mandate as per the provisions of the Vetting of Judges and Magistrates Act, 2011, and in view of the fact that the three names have now been submitted and in order to fulfill the requirements of the Act, I direct that these names and the accompanying curriculum vitae (CV) be forwarded to the Constitutional Implementation Oversight Committee (CIOC) for consideration, and that the Committee should table its Report on Tuesday 23rd August, 2011. The House should thereafter deliberate on the matter without further delay.

Perhaps, Members of the Executive present will note that the three names were not forwarded to the National Assembly until this morning at just about noon and yet, this is the last day.

Thank you.

(Applause)

Mr. Ruto: On a point of order, Mr. Speaker, Sir. I would like to know whether the provisions of the Standing Orders have been suspended. I am, indeed, looking for the requisite Standing Order, which states that matters that belong to a Committee can only be sent to another Committee by a resolution of the House. You have continued to refer matters that belong to different Committees to the wrong Committees in spite of express provisions of the Standing Orders. Standing Order No.1 does not necessarily suspend provisions of the Standing Orders.

Mr. Speaker: Order, the Member for Chepalungu! You are entitled, of course, to make your submissions on any matter. However, these Standing Orders provide, among other things, that you must be relevant to the business which is before the House.

On this matter, I am not referring business to that Committee because that was done on an earlier date. I am just giving that Committee additional information to enable it complete a task that was already referred to it. So, if you are disputing the reference, you should have done so at the time that I actually referred. However, I will be quite prepared to listen to you, the Member for Chepalungu, all the time. I have the patience and tolerance to hear you. Just live within the Standing Orders and I will have no difficulties whatsoever dealing with you and giving you directions as may be necessary. This includes, of course, challenging the powers of the Speaker under Standing Order No.1. I will take that very comfortably in my stride.

Mr. Ruto: I will live within the Standing Orders!

(Applause)

Mr. Ethuro: Mr. Speaker, Sir, I rise under Standing Order No.11; Part IV - Leader of Government Business and Government Panel.

Mr. Speaker, Sir, yesterday, I had an occasion to address the Chair that parliamentary business is being hampered by failure by the Front Bench to either determine when Statements should be coming to the House or when Questions should be answered. I searched my soul and looked at the Standing Orders and realized that part of the failure by the Government side is the fact that Standing Order No.11(2), which provides that the Government should nominate two members who shall be known respectively as the First and Second Deputy Leader of Government Business has not been fulfilled by the Government.

Mr. Speaker, Sir, Standing Order No.11 (4) compels the Government Panel to ensure that there is regard to gender. You know Dr. Sally Kosgei resigned. I also want to appreciate the work done by the Leader of Government Business and the Deputy Leader of Government Business. They are doing a good job, but I think they are overburdened and overstretched. When will they constitute the complete panel so that the business of this House can be transacted effectively and in a timely manner?

Mr. Speaker: Very well! That appears very genuine.

Mr. Deputy Leader of Government Business, do you have any response to that concern as raised?

The Minister for Transport (Mr. Kimunya): Mr. Speaker, Sir, I appreciate the concern by the Member for Turkana Central, Mr. Ethuro, that I am overstretched, but I am not complaining. Business has been going on and I am aware that Dr. Kosgei did request to resign as Deputy Leader of Government Business. There have been arrangements by her appointing party to replace her with another leader. I believe that, that communication will be made by the Leader of Government Business, in accordance with the Standing Orders at an appropriate time. But in the meantime, we are happy to continue and no Government business is suffering because of lack of that replacement.

Mr. Speaker: Very well, Mr. Minister! The Member for Turkana Central, are you satisfied?

Mr. Ethuro: Mr. Speaker, Sir, somewhat, but the Standing Orders are a requirement and it is not at the convenience of the House. The point I am really making is that we had to remind the Government to even bring some of the Ministerial Statements which I had requested for. I felt like if the Government Panel was properly constituted, then they would share those responsibilities and respond to the House in a meaningful manner, just like the way we were agitating about the constitutional Bills. I am glad that he has reported on them today.

Mr. Speaker, Sir, on the gender consideration, this country has pronounced itself on the need for gender consideration. So, when a Government Panel does not comply with the gender consideration, it means---

Mr. Speaker: Order, the Member for Turkana Central! You have already made your point. What you are now doing is just being repetitive. This is because in your first statement, you talked about matters of gender that are incorporated in Standing Order No.11. So, leave it there. The point is made.

Mr. Deputy Leader of Government Business, just indicate how soon you will take remedial action.

The Minister for Transport (Mr. Kimunya): Mr. Speaker, Sir, we will, at the next House Business Committee meeting on Tuesday, sort out that matter and report it accordingly in the House next week.

Mr. Lessonet: Mr. Speaker, Sir, I have just heard hon. Ethuro belabouring the point. I was just wondering whether this House has no mechanism to list, for example, Statements that are due in a particular day, so that the Executive is kept on its toes. I am just wondering about that.

Mr. Speaker: That is already being done, as a matter of fact. There is a constant list of outstanding or pending requests for Ministerial Statements that is updated from time to time. Perhaps, we will go further and post that list in the parliamentary website. We will do that beginning from next week. It will be posted on the parliamentary website so that the Front- Bench runs out of excuses.

Next Order!

PROCEDURAL MOTION

The Minister for Transport (Mr. Kimunya): Mr. Speaker, Sir, I beg to move:-

THAT, pursuant to the provisions of Standing Order 107, this House orders that the publication period of the National Police Service Bill (Bill No. 31 of 2011), the National Police Service Commission Bill (Bill No. 32 of 2011) and the Independent Policing Oversight Authority Bill (Bill No. 33 of 2011) be reduced from 14 to 6 days.

As Members may be aware, these Bills are required to meet the timelines that are contained in the Constitution, and need to be cleared before 26th August, next week. It has taken quite a while to have these Bills processed. They had to go through all the consultations when they were first drafted and getting the CIOC and all the stakeholders to look at them. Eventually, they were approved by the Cabinet as the last step. The only remaining bit is the House to consider and approve them.

I am also aware that even the House Committees have been involved in this process. So, by shortening this period, we would not be losing in terms of the wider exposure to the extent that, all the people they were being exposed to, have already been exposed to in the process of consultations. Therefore, we would be buying time without losing any of the intended issues in terms of having 14 days for purposes of exposure. I would like to urge that this House grants us this wish so that the First Reading can be done today and next week, we can come to shorten the time that is required at the Committee Stage. That is because the Committee has been part and parcel of the development of these Bills. We can then, hopefully, go through the Second Reading and the Third Reading and have these very critical Bills in place at the time required.

With those words, I beg to move and ask the Minister of State for Provincial Administration and Internal Security to second.

The Minister of State for Provincial Administration and Internal Security (Prof. Saitoti): Mr. Speaker, Sir, it is my pleasure to really second this procedural Motion. It seeks to reduce the publication period of the three Bills from 14 to six days. Indeed, what the Deputy Leader of Government Business has said is very true. These Bills are part of the work that needs to be finished within the period ending on 26th. But even much more important, hon. Members will recall that they have been very anxious about

having to deal with matters regarding the reforms of the police. Indeed, virtually, everyday here, there have been several areas of shortcoming on the part of the police being highlighted by Members.

These Bills have gone through a great deal of validation. First of all, they were exposed to the broad spectrum of stakeholders, so that they could give their views on how they would want to see the police being reformed. In addition to that, these Bills have also, from time to time, been validated from outside. However, the key thing here is: I do not think we can wait for too long before embarking on the police reforms. That was one of the recommendations of the Kriegler Report. Therefore, I would like to urge hon. Members to agree, so that we can reduce the publication period and get the grips of what is contained in these Bills.

Without much ado, I beg to second this Motion.

(Question proposed)

Mr. Mbadi: Thank you Mr. Speaker, Sir. These three Bills are very crucial for police reforms in this country. I have no doubt that we seriously need them to be debated upon and passed as fast as possible. We cannot realize the gains of reforming the Judiciary without having these pieces of legislation, especially the one on police reforms. However, the Motion asking us to reduce the publication period of these three Bills, to me, is completely unnecessary.

I wonder why this Government gets its priorities wrong. Why do I say so? We want to fast-track these Bills because they are important for reforms. However, they have a timeline of two years and not one year. So, if the reason being given is that we have up to the end of this month to pass them, then that is not true. We have many other Bills that have a deadline of this month; Power of Mercy; Immigration and Citizens Bill and those on electoral laws, among others. Why can we not have those being sorted out first, and we have the correct publication period for these Bills, so that we can debate them at the right time when the Kenyan public have been involved and have had time to read the Bills?

The publication period that was put in our laws was not just an idle statement. It was meant for members of the public to have time to go through the Bills and have an input. So, if we continuously reduce the publication periods of Bills in this House, even Bills that we have completely no good reason at all to reduce the period, we will be doing a lot of harm to this country.

Mr. Speaker, Sir, I beg to oppose. Let the publication period for these Bills be as stipulated in law - 14 days.

Mr. Speaker: Hon. Minister for Higher Education, Science and Technology, hon. Samoei.

Hon. Members: Suspended!

Mr. Speaker: Indeed, those of you who are quibbling on your seats, you have used the right word. He is suspended. That means that he is still the Minister.

(Applause)

Mr. Samoei: Mr. Speaker, Sir, much as I have listened very carefully to hon. Mbadi, first, I do not think that there is a Bill which is more important than the other. I think the spirit of this Motion is the need to carry out as much reforms as possible in the country. Police Reforms are a very critical pillar to our justice system. Even if we had five years to pass these Bills, I think they would still merit to be passed as soon as possible. There is a lot of merit in this Motion. I would like to persuade Members, the timetable notwithstanding, to look at the import of these Bills. What do they mean to the people of Kenya?

Mr. Speaker, Sir, last weekend, I was in Webuye to bury the Deputy Mayor of Webuye who was murdered in cold blood. These police reforms have been long in coming. Kenyans have waited for them forever. Let us not squander this opportunity. Other Bills notwithstanding, the fact that this is already seized by this House, any effort to expedite reforms, especially police reforms, should be welcomed. We should do everything possible to ensure that we implement the Constitution by way of passing legislation that operationalizes it.

Mr. Speaker, Sir, I beg to support.

Mr. Ethuro: Mr. Speaker, Sir, I stand to oppose. This House cannot be assumed to be a rubberstamp by the Executive. They delay in publication of Bills and then they rush them through, so that we do not play that critical role of oversight or doing representation on behalf of the public.

Mr. Speaker, Sir, I think the Back Bench is confusing one fundamental issue. The issue is not the desire to get the Bills moving. The issue is that publication period of 14 days was there for a purpose; a purpose of ensuring that when the Bill is First Read according to the Standing Orders, it shall be referred to the Departmental Committee without question put. The Committee has only 10 days. When you reduce from 14 days to six days, what does that mean to the departmental Committee that will be looking at it? It means it does not have enough time to do quality work. It means it cannot get representation from other interested entities in the Republic of Kenya.

The Constitution we have has made it so fundamental that participation by the public is so critical in our legislative process. It is part of the national values. This is stipulated clearly in Article No.10 of the Constitution.

With those remarks, I wish to oppose so that the Government can learn to do the job in good time to allow the 14 days for Parliament to also do its bit.

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. M. Kilonzo): Mr. Speaker, Sir, I want in addition to echoing the words of Mr. Samoei to mention a few things that, perhaps, have escaped our attention. The first one is that if you look the Constitution, next year is an election year, whether you like it or not. During that election, we are required to produce, not just national leadership, but also county governments with leadership starting from governor to senator. Those elections must be managed and monitored under the new Constitution with a police force that can do a better job than what happened in 2007. Therefore, there is an enormous amount of urgency quite apart from the deadlines to have a Police Service that the country can respect.

The second point I would like to mention is Article 245. Article 245 of our Constitution on page 157 created the new office of Inspector-General of the National Police Service. If you read that together with Section 29 of the Transition Clause,

Schedule 6, if you read that as I know you are so able in this area, it requires that the process of appointment of persons to fill vacancies arising in consequence of the coming into force of this Constitution shall begin on the effective date and be finalized within a year.

As a matter of fact, my Ministry is struggling so much to understand why my country should delay these processes. If you recall, His Excellency the President in consultation with the Right Hon. Prime Minister appointed the Justice Ransley Committee long ago---

Mr. Ethuro: On a point of order, Mr. Speaker, Sir. Is it in order for the hon. Minister for Justice, National Cohesion and Constitutional Affairs to mislead this House and this country that his Ministry is struggling to understand why his country cannot comply to the conditions of the article he has quoted in the Constitution? Only last Thursday, a week ago, he was here giving the reasons why we have failed to appreciate the timelines. One of them was that even after Cabinet had agreed, he was calling Ministers and Permanent Secretaries who could not deliver on the Bills as per the agreement within Cabinet. Is he in order? I have both on the record of the HANSARD.

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

Mr. Speaker: Is it on the same matter?

Dr. Nuh: Yes, Mr. Speaker, Sir.

Mr. Speaker: Proceed.

Dr. Nuh: Mr. Speaker, Sir, is the Minister in order to mislead the House that for those opposing this Motion, they are doing it to delay a process, when we are only saying that let us follow the Standing Orders and live within the days which are stipulated in the Standing Orders? Is he in order to mislead the House that we are delaying the passage of these Bills when in essence he is the one who is hurrying issues?

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

Mr. Speaker: Do you want to go the same line?

Mr. Mbadi: Yes, Mr. Speaker, Sir.

Mr. Speaker: Very well!

Mr. Mbadi: Mr. Speaker, Sir, is it in order for the Minister to mislead this House that he requires this law for the Inspector-General to be appointed when he knows very well that the Inspector-General can be appointed using the Constitution without having the legislation that is coming up?

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. M. Kilonzo): Mr. Speaker, Sir, allow me if I may, in concluding my remarks, answer all those questions. The people who have delayed publication in the Government Printer that I complained about last week are Kenyans. I have every right to say I am struggling to understand why they would do that. Quite honestly, they have this document. They read it. They know that we have a new vacancy of Inspector-General of Police. The Constitution requires us to appoint him by 26th August, 2011.

Mr. Speaker, Sir, I am very careful with the use of my language. If I irritate some of my colleagues, it must be understood I was saying that His Excellency the President with the Prime Minister long before the promulgation of the Constitution, appointed the Justice Ransley Committee to recommend renewal of the police. That committee went round the country and also to other centres all over the world. Those reports were ready and received. However, when the CIC was given these reports, they insisted that they

also wanted to do further consultations. So, therefore, when hon. Members say that they want 10 days to consult, I am also at a loss. That is why I am saying that, as a Minister, I am struggling to understand who they will be consulting. They have been consulted by Justice Ransley, Charles Nyachae and I have the advisories---

Mr. Ruto: On a point of order, Mr. Speaker, Sir. The Minister is a bit condescending. Hon. Members have got a constitutional responsibility to represent the people of Kenya, to pass good laws and to provide oversight role over the Government. Therefore, they cannot prescribe to us how and when to pass the laws.

They had their time. They have consulted. This is our time to scrutinize. How can we know what you have hidden up your sleeves in this particular Bill? It is our responsibility to represent Kenyans. We need time to peruse through these laws. We do not want them to be rammed through Parliament in spite of the fact that there seems to be a habit developing in Parliament for these things to be referred again to another committee of the Cabinet contrary to Standing Order No.200.

Mr. Speaker: Order! Member for Chepalungu, you know these Standing Orders that you seem to be very well conversant with ask you not to be repetitive. Sometimes when you make a point, you do not have to belabour it. We have heard you on the committee that you aspire to lead. We have heard you!

Proceed, Mr. Minister!

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. M. Kilonzo): Mr. Speaker, Sir, I would be the last person to deny this august House the opportunity to utilize the constitutional mandate of consultations. That does not mean that I do not struggle in my mind and wonder why we should take so long. Therefore, I would suggest that all records of this House show that my Ministry, through me, has said that we could have appointed the Inspector-General using the Constitution. Even on the Constitutional Implementation Oversight Committee (CIOC) itself--- The Chairman is nodding very vigorously. I was told: “Mutula, stop jumping the gun”. I have been told that many other times. Therefore, it is essential that the House understands that the Government is not asking for the reduction of time purely for cosmetics. It is that the final release of these Bills by Commission for the Implementation of the Constitution (CIC) and the hon. Attorney-General occurred, and the hon. Minister is sitting here, less than seven days to go. They had to go through the Cabinet and so on.

So, I beg to support the Motion.

Mr. Abdikadir: Mr. Speaker, Sir, I appreciate the sentiments coming from members of the Back Bench. Indeed, we, in the CIOC, have been screaming on top of our voices over the last four months on how we need to move this process faster. We have also requested that Parliament should support this process as much as possible, and it has been very forthcoming up to now. While I appreciate the sentiments coming from my colleagues in the Back Bench, I would plead with the House that these Bills are part of the Bills we, in the Committee, want sorted out by 27th August. While I agree with the Minister and my colleague, hon. Mbadi, that, indeed, appointment of the Inspector-General of the National Police Service could have been direct on the basis of the Constitution, we agreed in a consultative meeting of all the stakeholders that it would be best if we could have the law in place, so that the appointment is done on the basis of the ruling legislation. In that sense, I think it is time that we supported the Ministry the other side so as to move the process faster.

Mr. Speaker, Sir, two, the time of publication ought to be used for studying Bills and consulting with stakeholders. These are some of the Bills that have been in the process for so long – they have gone through so many stakeholding processes. Indeed, there was a task force set up which came to talk to us in the Committee. The Ransley Task Force came to see us also in the Committee. Thereafter, there was a committee headed by Mr. Naikuni, which also did its work. Thereafter, these Bills went to the CIC and they, as the Minister said, decided they wanted to start from scratch. They did not want to rely on the consultations that had been done. Indeed, we must appreciate that substantive consultations have taken place. That does not in any way reduce the anger we feel, or the feeling, that these Bills should have been here a long time ago. I know that we in the CIOC have said that many times. Now that we have the Bills, two wrongs do not make a right. I think we should not say an eye for an eye. There have been delays, but we need to also be very firm on this side. The Standing Orders allow us to shorten our time and this process. I think we should support this process, so that we move it forward.

Mr. Speaker, Sir, next week, we will have very many Bills and we will have to shorten a lot of time. We have to do that because we must beat the Constitution deadline. This House has decided that we will do everything in our power to ensure that we meet those deadlines. This request, in my opinion, is one to be accepted.

I support.

Mr. Chachu: Mr. Speaker, Sir, I support this Motion. This country has been struggling for reforms for too long, and police reform in particular is one critical reform that we have been yearning for for decades. I think we have six days. These are enough for us to have very constructive participation. I think the Standing Orders give us the power to reduce the number of days if necessary. For Kenyans to enjoy the fruits of the new Constitution, I think it is critical that we support this Bill, and allow Kenyans to have all these new laws that are required to enhance the reforms to be implemented as soon as possible.

With those few reasons, I support the Motion.

Mr. Njuguna: Mr. Speaker, Sir, I wish also to join the other hon. Members and make a very brief contribution. Kenyans are yearning for faster reforms in this country, and particularly in the police force. Kenyans do not require reforms in 2012. Kenyans require immediate benefits from the Constitution that they overwhelmingly supported. We need to bring sobriety in the police service. It is very clear in our minds that in the Traffic Department, the police officers are getting transferred because of the bribes that they demand from Kenyans.

Finally, Mr. Speaker, Sir, we lost a very dynamic teacher at Loreto Girls Secondary School, Kiambua. A Mr. Muturi Kamau was arrested and tortured by the police and he is awaiting burial. Now, that the Minister is here, he should really come out and reform the department that is really brutalizing Kenyans. It is now when we need to have reforms undertaken very quickly.

(Several hon. Members stood up in their places)

Mr. Speaker: Order! Member for Chepalungu, you know that you and the Members for Bura and Aldma Ravine were out of order. You were on your feet when

another hon. Member was on his feet making his contribution. The first person on his feet at the correct time was the Member for Migori.

Proceed, Member for Migori!

Mr. Pesa: Mr. Speaker, Sir, I rise to oppose this Motion. Did the Minister realize yesterday that Kenyans were yearning for these two Bills? The two Bills, Nos.31 and 32 of 2011, are such important Bills for this country that the Minister ought to have known that earlier. We have been in this House several times without Bills being brought here. My opposition to this Bill, as other Members have done, should be a good message to the Government that we are not happy with what is going on. Members of the public are saying that Parliament is not active and it is not there to represent them, because we are not given Bills to transact in this House. I, therefore, want to tell the Minister that in future, he should understand that hon. Members would want to do things on time.

Therefore, I oppose.

Dr. Nuh: Mr. Speaker, Sir, as I oppose this Motion, I want to put three fundamental issues across. The Government side is asking for reduction of the publication period from 14 days to six days, which means they are reducing the period by eight days. Eight days will not cause a miracle of reforms in the police service but they will do justice to the Back Bench; Members of Parliament, and the public will scrutinize these Bills, so that they may put across what they think is essential and what is missing.

Mr. Speaker, Sir, the second thing is that it seems as if the Government is putting on record how many Bills have been passed. I think the urgency here is because they want to show Kenyans that they have passed so many Bills. The Constitution is very clear on the timelines. Whether we pass this Bill today or we pass it in the next two years, we will not have added much value to the Constitution. We will have just acted within the time limit. It will not add an iota of pride in this House if we pass this Bill today, tomorrow or in the next six months.

Mr. Speaker, Sir, the third point I want to put across is the fact that when the Government is asking for the reduction of the publication period – something which is allowed by the Standing Orders for specific reasons – it has to satisfy us that the urgency exists. This is an urgency that we have to quantify and see that something like a miracle will happen within those eight days. This country is not going to war in the next 10 days. We have lived with the police for all those years. It cannot do much harm if our police stay the way they are for the next eight days when we scrutinize these Bills and do to them the justice that they deserve.

I oppose.

Mr. Speaker: Member for Bura, do you realize that you too belong to the Government?

Dr. Nuh: Yes, Mr. Speaker, Sir. I referred to the Executive.

Mr. Speaker: Very well! Yes, hon. Musikari Kombo. I almost said the Member for Webuye and I can see the Member for Webuye is there.

Mr. Kombo: Thank you, Mr. Speaker, Sir, for giving me the opportunity to support the Motion.

Mr. Speaker, Sir, we passed the Constitution that is pushing this country towards a reform programme. This House has also been seen as being reformist. So, we cannot blame the Government if they made a mistake. In the process of punishing the Government, we punish Kenyans and deny them reforms. It is for those reasons that I

would urge my colleagues in the House to support this Motion so that we move at a faster speed because Kenyans want reforms yesterday.

Mr. Ethuro: Mr. Speaker, Sir, is it in order for my senior, hon. Musikari Kombo to impute improper motive on our part, that we are punishing the Executive and in the process, punishing Kenyans when we swore to play certain roles as Members of Parliament?

From where I sit and where I should sit, the difference is that, at least, he wants to please his appointing authority which he must support. For me, I must defend the requirement of an opportunity to contribute meaningfully to this Bill. I will even give you an example. One time, this kind of Motion came here and the following day, we were in the Committee Stage of a Bill, which no Committee of the House had looked into. Do you think that is good use of Parliament?

Mr. Speaker: Hon. Kombo, I think you can deal with that point of order.

Mr. Kombo: Mr. Speaker, Sir, it is very easy to deal with that point of order. I heard arguments that this Government has been sleeping on the job or they have not brought Bills in the House and, therefore, we must teach them a lesson. I am asking the House not to teach the Government which has been slow in its feet, because Kenyans want reforms.

Mr. Speaker: Very well! We more or less know the mood of House. However, the Member for Chepalungu has been persistent. So, let us hear him.

Mr. Ruto: Mr. Speaker, Sir, I rise to oppose this Motion obviously because I would like the Members on the other side to understand that we are desirous of giving Kenyans quality laws. In fact, I picked Bill No.31 at lunch time at the reception. This is the first time, I am looking at it. For any one to tell me that within six days, I will have read all those Bills plus all other Bills and I bet---- Even the Members like my colleagues on the other side have not even read this Bill. If, indeed, we are desirous of just passing the Bills because they have just been published by hon. Mutula, we are definitely doing a very serious disservice to Kenyans. We must scrutinize and understand these Bills, so that we can actually confirm to Kenyans that the reforms that they envisage are actually reflected in the spirit and the letter of this Bill.

Mr. Samoei: On a point of order, Mr. Speaker, Sir. Is it in order for the hon. Ruto, my namesake, to impute improper motive on us that we have not read these Bills and that our argument is out of ignorance, when he has no proof that we have not read these Bills?

Mr. Speaker: That is a valid point of order!

Mr. Ruto: Mr. Speaker, Sir, I have evidence that my colleague, hon. Samoei, has not been to the Cabinet. Definitely---

(Laughter)

Mr. Speaker: Order! Member for Chepalungu, what you are being challenged to substantiate is the assertion that Members of Parliament, including the Executive, have not read various Bills. That is what you are being asked to substantiate.

Mr. Ruto: Mr. Speaker, Sir, these Bills were already available in Parliament at lunch time. Could the Assistant Ministers tell me where they had seen this Bill before lunch time? We have just seen them and we need time to look at them. The argument is

not enough that Kenyans expect us to pass them in a hurry. That is not enough. If that is the case, then bring them in heap, we pass them in guillotine. We would have passed all the Bills and they can sign them into law the next day.

Mr. Speaker, Sir, there would be definite chaos because no one would have seen these Bills. We will be fooling Kenyans. We cannot do this. We are representatives of the people. We owe it to Kenyans to pass that which we believe is correct. Please, accord us just eight days to read these Bills. In fact, maybe hidden in this Bill are circumstances that will lead to killing of another teacher. My friend, please, I like him being informed.

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

Mr. Speaker: Order! Member for Gwasssi, you may proceed.

Mr. Mbadi: Mr. Speaker, Sir, I want to inform my colleague, hon. Ruto, that, indeed, what he is saying is that chances are that it is correct that there is something being hidden. This is because when this issue came before CIOC, there was tag of war between the Ministry and CIC. The Ministry wanted to forward these Bills to the Cabinet after making amendments without passing through CIC. We took almost over one hour trying to arbitrate. So, chances are that what hon. Ruto is saying is, probably, why these Bills are being rushed.

Mr. Ruto: Mr. Speaker, Sir, you see, I am very well informed. It is rare that we agree with Gwasssi MP. On this one, we are very much in agreement that we must be very suspicious when you see, the Cabinet. When you see the Executive rushing these things, then there might be something they are hiding. It is our responsibility to be eternally watchful on behalf of the people of Kenya. We must maintain eternal vigil.

Mr. Samoei: On a point of order, Mr. Speaker, Sir. Are the two gentlemen; hon. Ruto, and hon. Mbadi, in order to introduce guess work into the debate of this House alleging that there might be, which is totally guesswork--- They should be able to have proof, or they do not have, they withdraw and apologise. This is a very serious Bill.

Mr. Abdikadir: On a point of information, Mr. Speaker, Sir.

Mr. Speaker: There is a point of information, hon. Ruto, do you want information?

Mr. Abdikadir: Indeed, the CIC has cleared with these Bills, Mr. Speaker, Sir.

Mr. Speaker: Order, hon. Abdikadir!

Hon. William Ruto, do you want information?

Mr. Samoei: Yes, Mr. Speaker, Sir.

Mr. Abdikadir: Indeed, I have communication from the CIC that they have cleared those Bills.

Mr. Ruto: Mr. Speaker, Sir, the only person who is fairly well informed is hon. Abdikadir because he has been holding these Bills for several times. He has been in that business. We have not been there and Abdikadir should give us our time to do our bit. This is not guesswork. In fact, it is guesswork that is being pushed by the other side who have not read the Bills. That is what guesswork is all about.

Mr. Speaker: Order, Member for Chepalungu! Much as you have said what you have, I am not inviting you to take the Floor again. Your contribution is actually founded on conjecture. You have said that may be Members of Parliament are supposed to contribute on matters that they are conversant with and that they can speak to substantively and not guess or suppose.

We want to take gender on board. So we would take the Member for Runyenjes and we will move on to conclude.

The Assistant Minister for Tourism (Ms. Mbarire): Mr. Speaker, Sir, I rise to support. I am supporting this as a Member of the Constitutional Implementation Oversight Committee (CIOC); the Committee that has been over-sighting the implementation of the Constitution. This Committee has the membership of hon. Mbadi and hon. Ethuro and they know very well that we have been fighting with the Executive about these Bills. We have been telling them that they are delaying and we do not have time. If I recall well, last week when we met, one of the concerns of the CIOC is how we could extend sitting hours to ensure that these Bills are done with by the time the deadline is here. We agreed on that.

The other thing that we agreed on was that we do not have to wait for one or two years for the police reforms, that, in fact, we needed them yesterday and not today.

Any person who has been elected as a Member of Parliament in this National Assembly is capable of reading Bills within six days or even a day. Hon. Ruto can do so. That is why he went to school and that is why he was elected a Member of Parliament for Chepalungu. So, the issue of time does not arise. This is something that I can do within three days. Reading and understanding, that is why you went to school!

(Mr. Lessonet stood up in his palce)

Mr. Speaker: Member for Eldama Ravine, are you on a point of order?

Mr. Lessonet: Mr. Speaker, Sir, I am not on a point of order.

Mr. Speaker: You are not on a point of order?

Mr. Lessonet: Yes, Mr. Speaker, Sir.

Mr. Speaker: Please, resume your seat!

The Assistant Minister for Tourism (Ms. Mbarire): Mr. Speaker, Sir, I know the CIOC has been able to---

Dr. Nuh: On a point of order, Mr. Speaker, Sir. Is the Assistant Minister in order to mislead the House that the six days that we are disputing and saying that it should be 14 days are only for reading the Bill? Indeed, the Members would go back to their constituencies and consult.

The Assistant Minister for Tourism (Ms. Mbarire): Mr. Speaker, Sir, let us be quite honest. You are here to represent your people. Read the Bill and look at the issues that you would like to raise. You can ask them by SMSs. Times have changed. You can use the internet. You are dot.com Members.

With those few remarks, I wish to support.

Mr. Speaker: Order, hon. Members! I am satisfied that we have gathered the views of the House adequately.

(Question put and agreed to)

COMMUNICATION FROM THE CHAIR

CIRCULATION OF ADDITIONAL SET OF AMENDMENTS

Mr. Speaker: There is a circulated set of amendments to Order No.12 (i) which you should acquaint yourselves with because I have approved those amendments.

Mr. Wetangula: On a point of order, Mr. Speaker, Sir. Procedurally, you have jumped to Order No.12.

Mr. Speaker: Order! We are not yet there.

Mr. Wetangula: Mr. Speaker, Sir, I thought you had skipped it.

Mr. Speaker: I was just informing Members that there is a set of amendments circulated which has affected Order No.12. It is not that we are now at Order No.12. Thank you, Member for Sirisia. I like your being quick-witted.

BILLS

First Readings

THE NATIONAL POLICE SERVICE BILL

THE NATIONAL POLICE SERVICE COMMISSION BILL THE INDEPENDENT POLICING OVERSIGHT AUTHORITY BILL

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

COMMITTEE OF THE WHOLE HOUSE

(Order for Committee read)

[Mr. Speaker left the Chair]

IN THE COMMITTEE

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

The Temporary Deputy Chairman (Mr. Ethuro): Order, Members! We are at Order No.12; Committee of the whole House. We have two Bills, namely, The Kenya National Human Rights Commission Bill, Bill No.22 of 2011, and The Price Control (Essential Goods) Bill, 2009. So, we will start with the first one.

THE KENYA NATIONAL HUMAN RIGHTS COMMISSION BILL

Clause 2

Mr. Abdikadir: Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 2 be amended by deleting the definition of the term “Commission” and substituting therefor the following new definition—

“Commission” means the Kenya National Commission on Human Rights established under Section 3.

(Question of the amendment proposed)

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. M. Kilonzo): Mr. Temporary Deputy Chairman, I accept and welcome this amendment.

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

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

(Clause 2 as amended agreed to)

Clause 3

Mr. Abdikadir: Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 3 of the Bill be amended—

(a) In Subclause (1), by deleting the words “Kenya National Human Rights Commission” and substituting therefor the words “Kenya National Commission on Human Rights”;

(b) by deleting Subclause (2) and substituting therefor the following new Subclause—

“(2) The Commission is established as a successor Commission pursuant to the provisions of Article 59 (4) of the Constitution.”

This is, essentially, to re-arrange the naming to be in line with the current name of the Human Rights Commission so that they do not have to print new stationery and create a new image after this.

(Question of the amendment proposed)

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. M. Kilonzo): Mr. Temporary Deputy Chairman, I accept and welcome the amendment.

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

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

(Clause 3 as amended agreed to)

Clause 4

Mr. Abdikadir: Mr. Temporary Deputy Chairman, I beg to move:-
THAT, Clause 4 of the Bill be amended by deleting the words “as a successor Commission”.

(Question of the amendment proposed)

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. M. Kilonzo): Mr. Temporary Deputy Chairman, it is acceptable and I welcome it.

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

(Clause 4 as amended agreed to)

Clause 5

Mr. Abdikadir: Mr. Temporary Deputy Chairman, I beg to move:-
THAT, Clause 5 of the Bill be amended by deleting the word “successor”.

(Question of the amendment proposed)

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. M. Kilonzo): Mr. Temporary Deputy Chairman, I accept and welcome the amendment.

*(Question, that the word to be left out be left out,
put and agreed to)*

(Clause 5 as amended agreed to)

(Clauses 6 and 7 agreed to)

Clause 8

Mr. Abdikadir: Mr. Temporary Deputy Chairman, Sir, I beg to move:-
THAT, Clause 8 of the Bill be amended—
(a) by inserting the word “the” immediately before the word “Commission”;
(b) in paragraph (h), by inserting the words “and the Commission on Administrative Justice” immediately after the word “Commission”;
(c) by deleting paragraph (i).

Mr. Temporary Deputy Chairman, Sir, part (a) of the amendment is obvious. We are adding the article “the” in front of “Commission”. Part (b) of the amendment is more substantive. The Committee is of the view that we will have a Commission on Administrative Justice. Therefore, we are amending the clause in paragraph (h) by the

insertion of the words “and the Commission on Administrative Justice” immediately after the word “Commission”.

(Question of the amendment proposed)

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. M. Kilonzo): Mr. Temporary Deputy Chairman, Sir, I want to salute the statesmanship of the Membership of this Committee for recognising the need for the Commission on Administrative Justice. I welcome this amendment.

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

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

(Clause 8 as amended agreed to)

(Clause 9 agreed to)

Clause 10

Mr. Abdikadir: Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 10 of the Bill be amended-

(a) in Subclause (2) (b), by inserting the words “or finance” immediately after the word “economics” appearing in subparagraph (iii);

(b) in Subclause (3), by deleting paragraph (b).

Mr. Temporary Deputy Chairman, Sir, in this proposal, we are proposing an additional qualification in finance instead of just economics.

(Question of the amendment proposed)

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

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

(Clause 10 as amended agreed to)

Clause 11

Mr. Abdikadir: Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 11 of the Bill be amended by deleting Subclause (2) and substituting therefor the following new Subclause-

“(2) The selection panel convened under subsection (1) shall consist of-

- (a) one person nominated by each of the following bodies-
 - (i) Office of the President;
 - (ii) Office of the Prime Minister;
 - (iii) Ministry responsible for matters relating to justice;
 - (iv) Ministry responsible for gender and social development;
 - (v) Public Service Commission;
 - (vi) Law Society of Kenya; and,
 - (vii) National Council for Persons with Disabilities;
- (b) two persons nominated by the Association of Professional Societies in East Africa.”

Mr. Temporary Deputy Chairman, Sir, in this amendment, we propose deletion of the “Kenya Private Sector Alliance”. Even though the Kenya Private Sector Alliance is a very important body, it is not a statutory body. It is a private company, and we thought it not very safe to legislate for appointment through a procedure that includes them without really a more substantive criterion. We have instead included the Law Society of Kenya and the Ministry of Gender, Children and Social Development, in the event that it will still exist as a Ministry in the next few years.

(Question of the amendment proposed)

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Clause 11 as amended agreed to)

(Clauses 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36 and 37 agreed to)

Clause 38

Mr. Abdikadir: Mr. Temporary Deputy Chairman, Sir, I beg to move:-
THAT, Clause 38 of the Bill be deleted and replaced with the following new clause-

Hearings of
Commission.

38. The hearings of the Commission during an inquiry shall be open to the public, except where the Commission otherwise decides.

Mr. Temporary Deputy Chairman, Sir, we are amending this clause where it says “The hearings of the Commission during an inquiry shall not be open to the public” to read “The hearings of the Commission during an inquiry shall be open to the public except where the Commission otherwise decides”.

(Question of the amendment proposed)

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. M. Kilonzo): Mr. Temporary Deputy Chairman, Sir, this amendment adds value to the Bill and I welcome it.

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Clause 38 as amended agreed to)

(Clauses 39, 40 and 41 agreed to)

Clause 42

Mr. Abdikadir: Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 42 of the Bill be amended by deleting Subclause (4) and substituting therefor the following new Subclause-

“(4) If there is failure or refusal to implement the recommendations of the Commission within the specified time, the Commission shall prepare and submit to the National Assembly a report detailing the failure or refusal to implement its recommendations and the National Assembly shall take an appropriate action.”

(Question of the amendment proposed)

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Clause 42 as amended agreed to)

(Clauses 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58 and 59 agreed to)

New Clause

Mr. Abdikadir: Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, the following New Clause be inserted immediately after Clause 54-

Review
of
mandate.

54A. Parliament shall, upon expiry of five years from the date of commencement of this Act, and pursuant to Article 59(4) of the Constitution, review the mandate of the Commission with a view to amalgamating the Commission with the commission responsible for administrative justice.

The Temporary Deputy Chairman (Mr. Ethuro): Hon. Members, before I propose the Question, I want to clarify that, this being a New Clause, it is not at the Third Reading of the Committee. So, I will be inviting a Second Reading before we get to the Third Reading.

(Question of the New Clause proposed)

(New Clause read the First Time)

(Question, that the New Clause be read a Second Time, proposed)

Dr. Khalwale: Mr. Temporary Deputy Chairman, Sir, this is very ingenious because those of us who follow world trends are aware that in the Republic of South Africa and in the United Kingdom, these Commissions, which have been operating separately are now being considered for merging. Initially, when we were rising on points of order under Standing Order No.59(4), it was because of that knowledge. Now that the Minister and the Chair have seen the wisdom and given a clear direction as to where we are going, I wish to support.

The Temporary Deputy Chairman (Mr. Ethuro): Order, Dr. Khalwale! You should also extend the platitudes to the rest of the Committee not just the Chair. I notice Dr. Eseli is next to the Chair.

Dr. Khalwale: Mr. Temporary Deputy Chairman, Sir, under Parliamentary practice, the honour by a Committee to give somebody an opportunity to chair is called---

The Temporary Deputy Chairman (Mr. Ethuro): Order, Dr. Khalwale! If you have nothing more to add, we can invite other people to contribute.

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. M. Kilonzo): Mr. Temporary Deputy Chairman, Sir, with your permission I want to congratulate and thank this Committee. They have risen to the occasion. As you know, my Ministry has suffered dramatically for having a dysfunctional Committee on Justice and Legal Affairs. All the Members of the Constitutional Implementation Oversight Committee (CIOC) without exception deserve to be regarded as heroes of reform for this country for the role that they have played. They have stepped into the breach and helped my Ministry beyond description. This is a dramatic method of dealing with the issues raised earlier as to whether my Ministry had the mandate to reorganize Article 59.

I support.

(Question, that the new clause be read a Second Time, put and agreed to)

(The new clause was read a Second Time)

(Question, that the new clause be added to the Bill, put and agreed to)

First Schedule

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

THAT, the First Schedule be amended by deleting the words “Kenya National Human Rights Commission” and substituting therefor the words “Kenya National Commission on Human Rights”.

(Question of the amendment proposed)

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(First Schedule as amended agreed to)

(Second Schedule agreed to)

Long Title

Mr. Abdikadir: Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, the long title of the Bill be deleted and replaced with the following new Long Title—

“An Act of Parliament to restructure the Kenya National Human Rights and Equality Commission and to establish the Kenya National Commission on Human Rights pursuant to Article 59(4) of the Constitution; to provide for the membership, powers and functions of the Kenya National Commission on Human Rights, and for connected purposes”

(Question of the amendment proposed)

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Long Title as amended agreed to)

Short Title

Mr. Abdikadir: Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 1 of the Bill be amended by deleting the words “Kenya National Human Rights Commission Act” and substituting therefor the words “Kenya National Commission on Human Rights Act”.

Mr. Temporary Deputy Chairman, Sir, this is essentially to align the new institution’s name---

The Temporary Deputy Chairman (Mr. Ethuro): Order, Chairman! You have pronounced yourself on that matter! I think the House knows what you intended. Therefore, you do not need to justify.

(Question of the amendment proposed)

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

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

(Short Title as amended agreed to)

(Clause 1 agreed to)

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. M. Kilonzo): Mr. Temporary Deputy Chairman, Sir, I beg to move that the Committee doth report to the House its consideration of The Kenya National Human Rights Commission Bill and its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

The Temporary Deputy Chairman (Mr. Ethuro): Hon. Members, as I indicated earlier, under that Order we had two Bills. We have disposed of The Kenya National Human Rights Commission Bill and now we will go to the second Bill which is The Price Control (Essential Goods) Bill which is a Presidential Memorandum.

THE PRICE CONTROL (ESSENTIAL GOODS) BILL

(Consideration of Memorandum from His Excellency the President)

The Temporary Deputy Chairman (Mr. Ethuro): Hon. Members, I would like to highlight the procedure so that we are all together. We are now in the Committee of the whole House to consider the amendments recommended by His Excellency the President on the Price Control (Essential Goods) Bill, 2009, pursuant to Section 46(4) of the former Constitution of Kenya which is saved by Section 3(2) of the Sixth Schedule of the Constitution.

We will dispose of the amendments to Clauses 2, 3, 4 and 6 sequentially, one after the other, then dispose of the proposed amendment to the Long Title. On reporting, the Bill will not be read a Third Time as this was done during the initial passage of this Bill.

Clause 2

The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Finance (Dr. Oburu): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, the Bill be amended by deleting Clause 2 and substituting therefor the following new clause-

Declaration of

essential commodities

2(1) The Minister may, from time to time, by order in the Gazette, declare any goods to be essential commodities for the purpose of this Act and determine the maximum prices of the commodities in consultation with the industry.

(2) In making declaration under subsection (1), the Minister shall take into account any relevant treaty or convention ratified by Kenya.

Mr. Temporary Deputy Chairman, Sir, this amendment has the effect of bringing the Bill in line with the international treaties. It also has the effect of making the Bill quite acceptable to the policies of the Government.

(Question of the amendment proposed)

Eng. Maina: Mr. Temporary Deputy Chairman, Sir, I would like to make one to two points. What has necessitated this Bill and the amendment thereof---

The Temporary Deputy Chairman (Mr. Ethuro): Order, Eng. Maina! Do you have an amendment?

Eng. Maina: Mr. Temporary Deputy Chairman, Sir, I would like to say that after due consultations, I wish to leave the Bill as amended by the President.

The Temporary Deputy Chairman (Mr. Ethuro): Then you withdraw the amendments!

Eng. Maina: Yes, Mr. Temporary Deputy Chairman, Sir. I withdraw all of them and if need be, I may revisit this at a later time.

(Eng. Maina's Proposed amendments withdrawn)

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Clause 2 as amended agreed to)

Clause 3

The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Finance (Dr. Oburu): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, the Bill be amended by deleting Clause 3 and substituting therefor the following new clause-

Content of order

under section 2

3. An order made under Section 2 may contain the maximum price taking into account related costs of essential commodities in any area in Kenya.

(Question of the amendment proposed)

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Clause 3 as amended agreed to)

The Temporary Deputy Chairman (Mr. Ethuro): Although I had read in terms of the procedure that we will be using in disposing of the clauses sequentially, it will necessitate the hon. Member to withdraw his amendments. However, for the sake of time, we will put it on record that he has withdrawn all his amendments.

Clause 4

The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Finance (Dr. Oburu): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, the Bill be amended by deleting Clause 4.

(Question of the amendment proposed)

(Question, that the words to be left out be left out, put and agreed to)

(Clause 4 deleted)

Clause 6

The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Finance (Dr. Oburu): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, the Bill be amended by deleting Clause 6 and substituting therefor the following new Clause-

Offences and

Penalties 6. (1) A person who sells any commodity declared under Section 2 above the maximum price, commits an offence.

(2) A person who purchases or offers to purchase any commodity declared under Section 2 above the maximum price, commits an offence.

(3) Any person who contravenes the provisions of this Act commits an offence and is liable on conviction to a fine not exceeding one million shillings or to imprisonment for a term not exceeding five years, or to both.

(Question of the amendment proposed)

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Clause 6 as amended agreed to)

Long Title

The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Finance (Dr. Oburu): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, the Bill be amended by deleting the Long Title and substituting therefor the following new Long Title-

“A Bill for an Act of Parliament to provide for the regulation of the prices of essential commodities in order to secure their availability at reasonable prices, and for connected purposes.”

(Question of the amendment proposed)

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(The Long Title as amended agreed to)

The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Finance (Dr. Oburu): Mr. Temporary Deputy Chairman, Sir, I beg to move that the Committee do report to the House its consideration of the Presidential Memorandum on The Price Control (Essential Goods) Bill and its approval thereof without amendments.

(Question proposed)

(Question put and agreed to)

(The House resumed)

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

REPORTS, CONSIDERATION OF REPORTS AND THIRD READING

THE KENYA NATIONAL HUMAN RIGHTS COMMISSION BILL

Mr. Ethuro: Mr. Temporary Deputy Speaker, Sir, I beg to report that a Committee of the whole House has considered The Kenya National Human Rights Commission Bill and approved the same with amendments.

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

The Minister for Lands (Mr. Orengo) seconded.

(Question proposed)

(Question put and agreed to)

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. M. Kilonzo): Mr. Temporary Deputy Speaker, Sir, I beg to move that the Kenya National Human Rights Commission be now read the Third Time.

The Minister for Lands (Mr. Orengo) seconded.

(Question proposed)

(Question put and agreed to)

(The Bill was accordingly read the Third Time and passed)

THE PRICE CONTROL (ESSENTIAL GOODS) BILL

Mr. Ethuro: Mr. Temporary Deputy Speaker, Sir, I beg to report that a Committee of the whole House has considered the Presidential Memorandum on The Price Control (Essential Goods) Bill and approved the same without amendments.

The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Finance (Dr. Oburu): Mr. Temporary Deputy Speaker, Sir, I beg to move that the House doth agree with the Committee in the said Report.

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. M. Kilonzo) seconded.

(Question proposed)

(Question put and agreed to)

The Temporary Deputy Speaker (Dr. Khalwale): Hon. Members, it will not be necessary to go into the Third Reading because this had already been done. We have, therefore, concluded our business on this matter.

Next Order!

MOTION

EXTENSION OF DURATION FOR TRUTH, JUSTICE AND RECONCILIATION COMMISSION

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

THAT, whereas His Excellency the President through Gazette Notice No. 8737 of 22nd July 2009 appointed the Commissioners of the Truth, Justice and Reconciliation Commission to serve for a two year period; noting that the two year period lapses on 3rd November 2011, and appreciating that the Commission has made progress in execution of its mandate and has, in its progress report to the National Assembly, requested for extension of its life as it is unable to complete its work by 3rd November 2011; this House resolves to extend the duration for the Truth, Justice and Reconciliation Commission to continue its work for six (6) months beyond the prescribed period of two years in accordance with the provisions of Section 20(3) of the Truth, Justice and Reconciliation Act, 2008.

This requires very little elaboration because the question of truth, justice and reconciliation in this county has engaged us for a long time. It was a landmark situation for the country to allow this honourable House to enact this Act in 2008. The Commission has faced challenges; starting with financial resources to lack of a secretariat for a long period. In fact, they did not have a secretariat for nine months.

Secondly, the operational units of the Commission became operation in September last year. Further, they did not have adequate and appropriate office space until January this year. Therefore, the public launch of its public hearings was delayed for a year, from April 2010 to April this year. That consequently adversely affected the Commission's hearing schedule - which is of necessity compressed - thus denying many victims and witnesses the opportunity to narrate their experiences. Similarly, if we allow those Commissioners to go out now, we will be losing institutional and personal memory, personal experience and other benefits that have developed out of the high public

awareness. Therefore, I beg to move that this House doth agree with the request that has been made, to grant an extension of six months, since it is allowed by law and because this House, between now and December, will be very busy dealing with constitutional implementation.

I beg to move and request my very good friend, hon. James Orengo, to kindly second the Motion.

The Minister for Lands (Mr. Orengo): Mr. Temporary Deputy Speaker, Sir, I think the Minister has stated very clearly, the reasons why an extension is justified. I think at the beginning there were debates and conversations relating to whether or not that mechanism of truth telling, reconciliation and justice, would work within the Kenyan context.

I want to say that in the latter part of the proceedings of that Commission, particularly the public hearings, it has shown quite clearly that the mere process of truth telling is an appropriate part of an appropriate mechanism of dealing with events and injustices of the past.

Therefore, without taking too much time and belabouring the point, this is really a technical Motion to extend the time.

I beg to second.

(Question proposed)

Mr. Ethuro: Mr. Temporary Deputy Speaker, Sir, I beg to support this Motion.

Only this morning my Committee on Resettlement of IDPs had a meeting with this Commission. They explained to us the kind of work they have done, the circumstances in which they have been operating and the amount of work that needs to be done. It was noted that they are yet to reach Rift Valley. They were quite happy with the findings they got in those other areas.

I wanted to make it very clear that we support this because the two year duration that was given to the Commission compared to the mandate that the law has given them, looking at all these issues from 1963, you cannot really expect it to be done within the two year period.

I beg to support.

Mr. Muthama: Bw. Naibu Spika wa Muda, ninasimama kuunga mkono Hoja. Tume hii tayari imefanya kazi nzuri sana. Kwa muda mfupi wameweza kufanya kazi nzuri. Wamezuru sehemu nyingi za nchi.

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

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

Ninaunga mkono tuwaongezee miezi sita ili waweze kukamilisha kazi yao. Miezi michache iliyopita Wakenya kupitia kwa Tume hii wamefahamu mambo mengi yaliyojikita katika historia yetu. Tunataka wayachunguze mambo yote ambayo yanaweza

kuleta vurumai katika nchi yetu. Wakenya wanataka kujua ukweli wa mambo mabaya yaliyotendewa watu wetu. Ni ukweli tu ambao utatuweka huru.

Kwa hayo machache, ninaunga mkono Hoja hii.

Eng. Maina: Mr. Temporary Deputy Speaker, Sir, I rise to support that the extension be granted. This Commission has quite a bit of work. I specifically wish to mention that they have not visited Central Province where historical injustices started before they started anywhere else in the country. Therefore, I wish to support the extension, so that this Commission can do a much better job.

We have a job to do to reconcile this country. I am sorry, it is something we have not been doing very well. As much as these Commissions are working, let all of us go back to our villages and say what we speak here in Nairobi. We should not speak something here and then when we go back to the village we speak different things in our vernacular.

I beg to support.

The Assistant Minister for Information and Communications (Mr. Godhana): Bw. Naibu Spika wa Muda, nataka kuunga mkono kwa dhati Hoja hii ya kuongeza muda kwa Tume hii.

Sote tunajua malengo na madhumuni ya kuunda Tume hii ni kwa sababu ya kwamba tunataka kuhakikisha ya kwamba amani imepatikana hapa nchini. Tume hii inaweza kuchangia pakubwa katika kuleta amani na umoja wa Wakenya. Bila Tume hii itakuwa vigumu kwa sisi kutekeleza mipango yetu ya maendeleo. Kwa hivyo, ni muhimu ya kwamba Wabunge wenzangu waweze kuunga mkono Hoja hii kama vile wenzangu walivyosema.

Bila kupoteza wakati mwingi, ninawasihi waheshimiwa Wabunge kuunga mkono Hoja ili Tume hii ipate muda zaidi wa kufanya kazi yake.

Mr. Chachu: Thank you, Mr. Temporary Deputy Speaker, Sir. I do support this Motion to extend the duration for the TJRC to continue to work for six more months. Justice is something very critical. Many Kenyans have been denied justice for too long. In my constituency, there was the Turbi Massacre. We want to see justice done and know what happened to my people then. I think the work of this Commission is very important; it is very critical. They have started their work. We have spent money on them. Let us give them enough time to finish the work that they have been given by the State, so that Kenyans for sure can at least have some level of justice within this country.

I beg to support the Motion.

Dr. Otichilo: Thank you, Mr. Temporary Deputy Speaker, Sir. I also rise to support this Motion. This is a very important. This Commission has done a good job and they still have a lot to do. This Commission has amassed a lot of data and information. They will need a lot of time to sit down, analyze the data and information and write a report. So, I believe the extension they are seeking is justifiable.

Therefore, I wish to support this Motion.

The Minister for Transport (Mr. Kimunya): Mr. Temporary Deputy Speaker, Sir, I rise to join my colleagues in supporting this request by the TJRC for the extension of their time recognizing that apart from the job they are doing, it was very necessary to create the TJRC. We know the history behind it. We all do not need to go that far in terms of why we needed it.

We also know that in the first one year of their operation, they were faced with lots of challenges and leadership wrangles. They could not make progress. Now that they have started making progress, we need to support them. Now that they are also getting the confidence of the people, it is important that we wind up the whole process in an organized manner so that Kenyans can get the full benefit of the work that they have done. We want also Kenyans to get value for the money that they have put into this process which is very critical for healing in this nation.

As we move into the implementation of the new Constitution and working within the new constitutional dispensation, it will be very important that we move with people not carrying baggage and the traditional excuses of historical injustices. Kenyans can be born anew with all those issues sorted out in a certain systematic manner which can only come from a neat completion of the work that the TJRC is currently doing.

I want to congratulate them for the work they have done so far and wish them well in their new extended term. I hope that they can give this country a framework for reconciliation and justice into the future.

With those words, I beg to support.

Dr. Khalwale: Mr. Temporary Deputy Speaker, Sir, I rise to support. As I support, I take this Motion as an opportunity for this House to express and pass a vote of confidence in the work done so far by this Commission.

We all know how they wasted so much time in wrangles. Therefore, if we really believe that we wanted something to come out of this process, we should ensure that it goes up to its logical conclusion.

To my mind, I hope that the product of the work will be so comprehensive and useful that when we go to the next general election, the man or woman who will have won to become the President of Kenya should read and make sure that he remembers everything in their report. We want to have a President who will ensure that Kenya starts afresh. He forgives and forgets all the bad things that this country has gone through. We want the next leadership of the country to focus on job creation, improvement of our economy, ensuring that there is enough security, ensuring that the people of Turkana, especially, are given food, not through the usual handouts of food that we are doing year in year out. We want to go down to the valleys of Turkana and ensure that we invest in that fertile soil by giving them water so that people in this country are not seen to be beggars the world over, year in, year out.

I support.

Mr. M'Mithiaru: Mr. Temporary Deputy Speaker, Sir, I rise to support this Motion. We all know the circumstances under which this Commission started their work. There was a lot of acrimony; also initially funds from the Treasury were not coming by quickly. So, we all know that they actually started their operations almost one year late. They have started and we have already seen the work they have done. They have traversed the country, but we still have a lot that this Commission has to do.

Mr. Temporary Deputy Speaker, Sir, I can just mention one or two areas where they still need to do a lot. I come from an area where we bore the brunt of the *Shifita* War, but up to now, they have not documented that. It is really an issue that the Truth, Justice and Reconciliation Commission cannot omit, if they have to give a report that is unbiased and for Kenyans to really see what historical injustices have been done previously.

Mr. Temporary Deputy Speaker, Sir, it is also a Commission that besides looking into issues of human settlement and all that, they also have to look into issues surrounding the communities like the pastoralists. I come from one of them and I know about issues of cattle rustling. That Commission needs to concentrate in order to know exactly the causes of human conflict, and also come up now with recommendations on how communities can reconcile with one another to ensure that the cattle rustling menace is eradicated once and for all.

Mr. Temporary Deputy Speaker, Sir, so, there is quite a lot that the Commission has to do. There are also the recent issues of the Internally Displaced Persons (IDPs). They may not only handle those IDPs displaced during the post-election violence; we also have IDPs dating back to the time we started multipartyism. We have IDPs even from evictions from Mau Forest and Mount Kenya. We also have IDPs even from my community who are very mobile in terms of selling *miraa* in all parts of the country. They were displaced from Eldoret, Kisumu, Mombasa and they cannot start their own businesses because they were terribly inconvenienced. Those are some of the issues for which I would say that it is really necessary for the Commission to have the extension of time. They will be able to cover all those issues. We should enable them to give a very unbiased report to Kenyans.

With those few remarks, I support.

The Temporary Deputy Speaker (Mr. Ethuro): Order, hon. Members! Since there are no other Members interested in contributing, I call upon the Mover to respond.

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. M. Kilonzo): Mr. Temporary Deputy Speaker, Sir, I want to thank all hon. Members for the wonderful statements regarding this Commission.

I beg to move.

(Question put and agreed to)

BILLS

Second Reading

THE UNCLAIMED FINANCIAL ASSETS BILL

(Mr. Lekuton on 4.8.2011)

(Resumption of the Debate interrupted on 11.8.2011)

The Temporary Deputy Speaker (Mr. Ethuro): Who was on the Floor? The last contributor was the hon. M'Mithiaru who has 20 minutes. If you are not prepared, we can always get another Member.

Mr. M'Mithiaru: Mr. Temporary Deputy Speaker, I also rise to support the Unclaimed Financial Assets Bill.

Mr. Temporary Deputy Speaker, I wish to first of all thank the hon. Lekuton who brought up this Bill which should have been there many years back. It is only when Members understand what is entailed in the unclaimed financial assets, that they can

understand why hon. Lekuton brought this Bill to Parliament. First of all, we must know what entails the unclaimed financial assets. We will get them from the commercial banks, insurance companies, pension funds, SACCOs and the companies that pay dividends. We will also get them from the courts and police stations when people pay cash bails. Those monies are just lying idle and sometimes, unclaimed.

Mr. Temporary Deputy Speaker, Sir, if I may single out the issue of the banks themselves, sometimes we find there are those dormant accounts. Those dormant accounts are sometimes there for a long time within the bank. Those assets are already unclaimed. What those banks do is that with passage of time, they will write back those unclaimed balances to their profit and lose account and then add to their meager profits. Those profits, especially for multinational banks, end up being repatriated to the shareholders abroad. So, you can see how the meager savings, because they are being unclaimed, are repatriated.

We also do not have a mechanism to ensure that the unclaimed funds are connected back to their owners. So, I am sure this Bill sets out a mechanism that will ensure that these assets are taken back to the owners themselves. It will also ensure that there is a formal mechanism of ensuring that those financial assets are taken back to their owners. It is with this that they have been able to propose the establishment of a trust fund---

Eng. Maina: On a point of order, Mr. Temporary Deputy Speaker, Sir. I am just suggesting that a lot of Members have interest in this Bill, can you rule that an hon. Member contributes for two minutes, so that other hon. Members can contribute as well.

Mr. M'Mithiaru: Mr. Temporary Deputy Speaker, Sir, the Chair told me that I have 20 minutes to contribute. So, I was really making use of my 20 minutes properly. I am not selfish so let me conclude.

The Temporary Deputy Speaker (Mr. Ethuro): You are not selfish you are entitled to your time. If you wish to be generous, that is an act of magnanimity on your part. So, the Chair cannot compel you or deny you your right to contribute to the maximum time allowable.

Mr. M'Mithiaru: Thank you, Mr. Temporary Deputy Speaker, Sir. I will give chance to my colleagues. This Bill sets out a mechanism on how these unclaimed funds will be claimed by the owners themselves.

The Bill also proposes an authority that is going to oversee those unclaimed funds.

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

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

The issue of establishing the authority and trust funds, those are issues to be aligned. I am sure with some little amendments here and there; we will ensure that we have a Bill that will give a proper procedure on how these unclaimed assets will be reunited back to their true owners.

With those few remarks, I beg to support

The Temporary Deputy Speaker (Dr. Labaso): Hon. Maina, if you are magnanimous you can always take the two minutes.

Eng. Maina: Madam Temporary Speaker, I want to thank my brother here, hon. Lekuton, for bringing this Bill. In fact, when we talk about corruption and all these things, there are issues of unclaimed assets, which is a bigger monster. We are talking here about Kshs200 billion. That is money that could be used to generate power for this country. However, these assets are with commercial banks. It is lying somewhere in a corner and they are lending it to all of us at exorbitant rates. They make money out of it. What an injustice! That is a form of corruption that we are not seeing, in the name of capitalism. I was once working with the Ministry of Agriculture and I used to contribute some money, but up to now I do not know where that money is. It is part of these unclaimed assets. At worst, it should be taken to a fund where it will help this country otherwise I request that I be refunded my money. This is the kind of clean up we need in this country. In fact, it makes me shiver when I imagine what more could be happening to ordinary Kenyans who are suffering. This Bill is a necessity.

For the sake of my other brothers, I beg to end here and beg to support this Bill.

The Minister for Medical Services (Prof. Anyang'-Nyong'o): Madam Temporary Deputy Speaker, I also rise to support this Bill for two good reasons. One, that for the first time we shall have banks disclosing the unclaimed assets that they have. I will give you a very good example. When I was in High School, I think all of you remember, Post Office and Savings Bank used to have a little box in which you dropped coins, afterwards you took it to the Post Office where they would open and save the money. I did that throughout my High School. When I went to college I forgot about it. I have never recovered my money from the Post Office and Savings Bank up to today. Therefore, that must have been used along the lines by somebody without returning it to its rightful owner.

Madam Temporary Deputy Speaker, the other thing I would like to say is that in law there is something called administration of estates. Many of our people pass on and because in our culture and tradition people are not so much aware of the law, the administration of many estates is not done properly in this country. Therefore, the offspring and children end up not really inheriting the estates of their parents, particularly shares in companies. I just discovered the other day that my late father had some shares in Brooke Bond. However, because the administration of estates took very long, we never factored those shares in the information that we gave to the administrator of the estate. So, it will require another process to recover this. Fortunately, they give annual reports and send the annual reports to the company. At least, we have documents showing that the estate is there. But much more important is the unclaimed saving and current accounts of so many who pass on without being known in banks. Once banks are compelled to publish these matters, then we can have reports that can be inspected in a place like Parliament for people to know exactly where such assets are. They can know whether they are being used in the public dormain or the kind of authority that is being talked about. This will help in capital formation of the nation.

Finally, let me also say something which is injurious to our own national development. We have multinational banking institutions which employ foreign nationals at very high levels of management to the detriment of our people. I am not saying that we should not be open. But surely, if a bank goes out of its way to recruit people in its

management sector who are not Kenyans who make policy, I do not think this is very good for us.

Secondly, when such banks go ahead to begin outsourcing a lot of their functions for no obvious reasons, because I know Kenya can perform these functions, it is bad. This way, they begin repatriating a lot of capital out of this country. I think the Central Bank of Kenya should be much more strict when requests are made by these banks to outsource some of their functions or to open up centres of excellence for managing the affairs of these banks outside Kenya, and then for such policies essentially to be made by managers who are not Kenyans. These are practices which are very dangerous to safeguarding our assets in these banks as a nation. I hope that the Central Bank will wake up to it and put its foot down as, indeed, the Ghanaians did in Ghana when some of the banks tried to do so. Let us not carry or own financial liberalism too far to the detriment of capital formation in this country.

I support the Bill.

Mr. Muthama: Madam Spika, ningetaka Mswada huu upitishwe haraka iwezekanavyo na kwa hivyo, nitachukua dakika mbili tu. Kwanza, ninamshukuru mhe. Lekuton kwa kuleta Mswada huu ambao ni wa maana sana. Bila shaka, Mswada huu utapita lakini ningetaka kuomba kuwa hela na mali hii isiundiwe tume nyingine kukaa na kuanza kuitumia. Inafaa kupatiwa Serikali ili itumiwe kupelekea wananchi maji, stima na kujenga hospitali. Hakuna haja ya kuunda chombo kingine cha kukaa na kujilipa mshahara.

Ninaunga mkono.

Dr. Otichilo: Madam Temporary Deputy Speaker, I want to support this Bill. This is a very important Bill and it is good that hon. Lekuton has brought it to the House. This Bill is going to make a lot of difference.

A lot of unclaimed money is held by our banks and insurance companies. The heirs of this money are suffering, but they have no access to it. This Bill will enable the owners of the money that is held by insurance companies and banks to access it. Lastly, this money, which I am told is in excess of Kshs200 billion will be available to the Government to use for social development projects.

I wish to strongly support this Bill.

Mr. Chachu: Madam Temporary Deputy Speaker, I want to support the Unclaimed Financial Assets Bill. I want to congratulate my friend and brother, hon. Lekuton for bringing this very timely Bill.

It is stated that the estimate of unclaimed assets in this country is over Kshs200 billion and what is known and reported is about Kshs1.9 billion. About 60 per cent of these assets are not re-united with the rightful owners or beneficiaries. This is a big gap in our legislation and policies. It is time we came up with a legislation that will enable us to provide for the reinstatement of the unclaimed assets regime which will control the banks, insurance companies and all other related companies and ensure that they give the money and the assets to the rightful owners or beneficiaries.

I support the Bill.

The Minister for Lands (Mr. Orengo): Thank you, Madam Temporary Deputy Speaker. I undertook to support this Bill and I rise up to be counted. The thing that I like about this Bill is that it places a duty upon the holders of these unclaimed assets, that they have to make an attempt or make efforts to try and trace the owners of these assets. So,

they are under duty in law, not just to sit down and wait for these assets to be claimed or handed over to the authorities, but they are also under duty to locate the owners of these assets.

There was a period in which some of these financial institutions and banks tried to establish departments to deal with estates and special divisions to deal with these unclaimed assets because they were really profitable undertakings. This Bill brings this to an end. I thank hon. Lekuton for bringing this Bill at the right time.

I beg to support.

The Temporary Deputy Speaker (Dr. Laboso): Hon. Members, the Minister has responded to this Bill. So, can we call upon the Mover to respond?

Mr. Lekuton: Madam Temporary Deputy Speaker, I would like to thank all my colleagues, especially our Cabinet Members, who have supported this Bill. I am also very appreciative that it has received enough attention in our Kenyan media. I say thanks to all my colleagues. I have noted all their concerns. I will make sure that when this Bill comes to the Committee of the whole House, we will introduce amendments on what needs to be done, without fear.

It is great that, when we pass this Bill, as a Parliament, we will have joined parliaments in the rest of the world, which have made laws to protect their poor and uninformed people. Countries like Australia, Canada, USA and UK have such laws.

Madam Temporary Deputy Speaker, just to tell a quick story for the benefit of the Ministers who were not here when I narrated the same story last time, I spoke with hon. Donde at one time. He told me that he lived in the UK for many years. While in the UK, he had a book by which he saved money in a building society. When he went back there years after returning to Kenya, he found his money in the Unclaimed Financial Assets Authority of the UK. So, the passage of this Bill will help our countrymen and our institutions. It will enable the banks to make their money fairly.

With those words, I would like to conclude and thank all the hon. Members for supporting this Bill.

I beg to move.

(Question put and agreed to)

Second Reading

THE ENGINEERS BILL

The Temporary Deputy Speaker (Dr. Laboso): Mr. Deputy Leader of Government Business, where is the Minister for Roads?

The Minister for Transport (Mr. Kimunya): Madam Temporary Deputy Speaker, the Minister for Roads will not be available within the time we have left to move this Bill. I would like to urge that we have this Bill carried forward to the next sitting of the House.

(Bill deferred)

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

MOTION

ADOPTION OF REPORT ON RECRUITMENT OF KEBS MD

The Temporary Deputy Speaker (Dr. Laboso): Deputy Leader of Government Business, again, where is the Chairman of the Select Committee?

Mr. Chachu: Madam Temporary Deputy Speaker, I am a Member of the Committee and I was asked to move this Motion by my Chairman, who is out of the country, in Saudi Arabia. However, given the little time left, I beg that I move it next time.

The Temporary Deputy Speaker (Dr. Laboso): Hon. Chachu, you can start moving the Motion now! You will have the balance of your time when Debate resumes next time!

Mr. Chachu: Madam Temporary Deputy Speaker, I beg to move the following Motion:-

THAT, this House adopts the Report of the Select Committee on Equal Opportunity on the recruitment of the Managing Director, Kenya Bureau of Standards (KEBS), laid on the Table of the House on 16th December, 2010.

Madam Temporary Deputy Speaker, this Report is very important because there were serious problems at the KEBS and, as the Equal Opportunity Committee, we had to investigate it. We had time with the Board of Directors as well as with the Management of KEBS. In our investigations, we found that most things were done unprocedurally. We also found that the advice that the Minister was given was not---

The Temporary Deputy Speaker (Dr. Laboso): Hon. Chachu, you will have 18 minutes to continue moving the Motion when this debate resumes next time.

ADJOURNMENT

The Temporary Deputy Speaker (Dr. Laboso): Hon. Members, this House stands adjourned until Tuesday, 23rd August, 2011, at 2.30 p.m.

The House rose at 6.30 p.m.