

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

**Tuesday, 19th July, 2011**

The House met at 2.30 p.m.

*[Mr. Speaker in the Chair]*

### PRAYERS

### COMMUNICATIONS FROM THE CHAIR

#### RETURNS ON BILLS RECEIVED FROM THE ATTORNEY-GENERAL

**Mr. Speaker:** Order, hon. Members! I have the following Communications to make first, regarding returns on two Bills received from the Attorney-General pursuant to the Standing Orders. Standing Order No.125 requires the Attorney-General to present to the President, within 14 days of receipt from the Clerk, every Bill passed by this House. Thereafter, at the expiry of 14 days, the Attorney-General is required to file a return to the Speaker indicating the time and the date that the Bill was presented to the President. The returns received indicate as follows:-

1. The Independent Offices Appointment Bill, 2011 which was passed by the National Assembly on 17<sup>th</sup> June, 2011 was presented by the Attorney-General to His Excellency the President for assent and was duly assented to on 29<sup>th</sup> June, 2011 at 11.00 a.m.
2. The Supreme Court Bill, 2011 which was passed by the National Assembly on 7<sup>th</sup> June, 2011 was presented by the Attorney-General to His Excellency, the President for assent and was duly assented to on 22<sup>nd</sup> June, 2011 at 11.40 a.m.
3. The Interim Electoral and Boundaries Commission Bill, 2011 which was passed by the National Assembly on 31<sup>st</sup> May, 2011 was presented by the Attorney-General to His Excellency the President for assent and was duly assented to on 5<sup>th</sup> July, 2011 at 10.00 a.m.

#### CONSIDERATION OF PRESIDENTIAL MEMORANDUM ON SALARIES AND REMUNERATION COMMISSION BILL

Hon. Members, secondly, you will recall that the House passed the Salaries and Remuneration Commission Bill, 2011 on 31<sup>st</sup> May, 2011. However, His Excellency the President has returned and submitted a Memorandum on the Bill indicating that the House reconsiders amendments proposed under Clause 4 of the Bill. The procedure for consideration of a Presidential Memorandum on a Bill is set out in Section 46, Subsections 4 and 5 of the former Constitution which section is in operation on account of having been saved by Section 3, Subsection 2 of the Sixth Schedule to the Constitution.

Hon. Members, in view of the urgency of this matter, I direct that the House considers the Memorandum tomorrow, Wednesday, 20<sup>th</sup> July, 2011 during the afternoon sitting. I further direct the Clerk to circulate the Memorandum to all hon. Members.

*(Mr. Speaker consulted the Clerk)*

#### RETURNS ON BILLS RECEIVED FROM THE ATTORNEY-GENERAL

Order, hon. Members! On the first Communication, and I want to repeat it so that there is no doubt as to what I have actually said. Please, pay your attention and hear me so that everybody is on the same page.

Regarding returns on the two Bills received from the Attorney-General, pursuant to the Standing Orders, Standing Order No.125 requires the Attorney-General to present to the President, within 14 days of receipt from the Clerk, every Bill passed by this House. Thereafter, at the expiry of 14 days, the Attorney-General is required to file a return to the Speaker indicating the time and the date that the Bill was presented to the President.

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Hon. Members, you are all welcome to continue with the Fourth Session of the Tenth Parliament.

*(Applause)*

#### **PAPERS LAID**

The following Papers were laid on the Table:-

Audit Report by the Controller and Auditor-General on the Appropriation Accounts, other public accounts and the accounts of the funds for the year 2009/2010 Appendix (i) to (iv) and a summary therein.

*(By the Deputy Prime Minister and Minister for Finance)*

Regulation and Wages that is, Agricultural, Industry, General and the Amendments Order, 2011.

*(By the Minister for Labour)*

Report of the Departmental Committee on Defence and Foreign Relations

*(By Mr. Nyamweya on behalf of the Chairman  
of the Departmental Committee on  
Defence and Foreign Relations)*

**Mr. Speaker:** Order, Mr. Nyamweya! You have not laid any Paper on the Table!

*(Mr. Nyamweya laid the Paper on the Table)*

**Mr. Speaker:** Order, hon. Members! Before we move to the next Order; Order. No.5, I wish to revisit Order No.2, Communication from the Chair with respect to the first Communication which I have, in fact, read twice. I will want to correct that Communication with regard to the return on No.1, the Independent Offices Appointment Bill, 2011. I am now informed that that Bill, from institutional memory, was passed by the National Assembly on 7<sup>th</sup> June, 2011 and not 17<sup>th</sup> June, 2011. So, please take note and have that corrected either on your documents or in your minds.

Next Order!

**Mr. George Nyamweya:** On a point of order, Mr. Speaker, Sir. I have a Notice of Motion.

**Mr. Speaker:** We cannot go back! We are not permitted to go back! You can still do it tomorrow.

**Mr. George Nyamweya:** Very well, Mr. Speaker, Sir.

**Mr. Speaker:** Very well!

## QUESTIONS BY PRIVATE NOTICE

### DEPORTATION OF CLARA GUTTERIDGE

**(Mr. Imanyara)** to ask the Minister of State for Immigration and Registration of Persons:-

Could the Minister explain circumstances under which Ms. Clara Gutteridge, a human rights investigator, was deported from Kenya?

**Mr. Speaker:** Hon. Members, we have information that the hon. Member for Central Imenti is away in his constituency because there is a security matter that requires his presence. So, we will defer Question No.1 by Private Notice to next week.

*(Question deferred)*

### INVASION OF MUCHIRI WA GITHAIGA FARM BY WARRIORS

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

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

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

**Mr. Speaker:** Hon. Member for Molo, we have received notification from the Minister of State for Provincial Administration and Internal Security that there have been too many emergencies in the country that have called for their presence in different parts of the country and so both the Minister and the Assistant Minister are engaged elsewhere on matters pertaining to security which must take priority over everything else because the security of all Kenyans is paramount. So, we will defer this Question to Thursday afternoon and hope that either the Minister or one of the Assistant Ministers will be present to provide an answer to this Question.

**Mr. Kiuna:** Mr. Speaker, Sir, I do concur with your request.

**Mr. Speaker:** Thank you for your understanding.

#### DETENTION OF MSF WORKERS BY UGANDA SECURITY AGENCIES

**(Mr. Affey)** to ask the Minister for Foreign Affairs:-

(a) Is the Minister aware that two Kenyans; Messrs Mussa Hassan Bulle and John Lodong, employees of MSF Switzerland, were detained by Ugandan security agencies on June 5, 2011?

(b) What reasons led to their detention?

(c) What measures has the Minister taken to secure their release?

**Mr. Speaker:** Hon. Members, Mr. Affey is reported to be away on official Parliamentary business in the United States of America (USA) where he is leading a delegation under the auspices of the Equal Opportunities Committee.

*(Question deferred)*

#### REPAIR OF LORENGIPPI PRIMARY SCHOOL

**(Mr. Ethuro)** to ask the Minister for Education:-

(a) Is the Minister aware that the roof of the entire block of Lorengippi Primary School in Loima District was blown away by wind thereby forcing pupils to learn in the open under the scorching sun?

(b) When will the Government allocate adequate money to repair the school?

**Mr. Speaker:** Hon. Members, the hon. Member for Turkana Central is also caught up in a matter in his constituency. Unfortunately, there is a constituent of his who lost his life and the hon. Member has had to attend the funeral.

*(Question deferred)*

#### ORAL ANSWERS TO QUESTIONS

*Question No.936*

FATE OF TEACHERS EMPLOYED BY TSC ON CONTRACT

**Mr. Namwamba** asked the Minister for Education:

(a) if he could explain the status and terms of service for teachers employed by TSC on contract basis in the 2009/2010 Financial Year;

(b) when and how the Government plans to absorb the contract teachers on permanent and pensionable terms; and

(c) what the success rate of the contract teacher initiative is and what the fate of this initiative is.

**Mr. Namwamba:** Mr. Speaker, Sir, the Minister had the courtesy to call me and inform me that the information that is required for this Question which had previously been deferred for purposes of additional information--- I am reliably informed that that information is not available. I seek your guidance on the same.

**Mr. Speaker:** Mr. Namwamba, could you say that again because I was attending to the Deputy Prime Minister?

**Mr. Namwamba:** Mr. Speaker, Sir, I was saying that the Minister had the courtesy to call me earlier in the day to indicate that the information that was required for this Question, which was deferred from an earlier date, is not available to him yet. I oblige the Minister the opportunity to have the Question deferred. I just needed your guidance on the same.

**Mr. Speaker:** Any indication as to when you agreed the Question to be deferred to?

**Mr. Namwamba:** Mr. Speaker, Sir, we agreed that it be deferred until Thursday, next week.

**Mr. Speaker:** Very well. It is so ordered!

*(Question deferred)*

*Question No.719*

CHARGES OF TRESPASS/MALICIOUS  
DAMAGE AGAINST CLAN

**Mr. Olago** asked the Attorney General:-

(a) whether he is aware that Maseno Senior Resident Magistrate's Criminal Court File Nos.135 of 2007; 434 of 2007; 901 of 2008; 902 of 2008; 978 of 2008; 1502 of 2008 and 167 of 2009 are all based on allegations of trespass and malicious damage to property against members of one clan by one complainant;

(b) whether he is also aware that the said charges affect the whole of Kanyawegi Sub-Location of South West Kisumu Location in Kisumu East District and are based on the insistence of the accused persons to access the 100-metre "no-man's land" on the shores of Lake Victoria that the complainant wants to unlawfully annex to his land; and,

(c) what measures he is taking to address and resolve the matter.

**The Attorney-General** (Mr. Wako): Mr. Speaker, Sir, I beg to reply.

(a) The hon. Attorney-General is only aware as to part “a” of the Question that; it is only in cases 902 and 978 of 2008 that the accused persons were charged with the offence of malicious damage to property contrary to Section 339(1) of the Penal Code. The case has been heard and the accused persons committed to Community Service Order for two months by Maseno Law Courts. In case 167 of 2009, the accused person was charged with creating disturbance in a manner likely to cause a breach of peace contrary to Section 95(1)(b) of the Penal Code. The case was heard and the accused person acquitted.

In all the remaining cases, 434 and 135 of 2007 and 1502 and 242 of 2008, the accused persons have been charged with creating disturbance in a manner likely to cause a breach of peace. The cases are still pending before the court. In all other material allegations in paragraph one, the Attorney-General is not aware.

(b) I am not aware.

(c) If it is true that the complainant wants to unlawfully annex the land, the Ministry of Lands should not permit an unlawful registration.

**Mr. Olago:** Mr. Speaker, Sir, I am surprised with the superficiality of the answer by the Attorney-General because it does not go to the depth of the Question about the clan, the complainant and the issue in dispute.

Mr. Speaker, Sir, to demonstrate to the Attorney-General about the superficiality of his answer, I wish to table here documents to show the number of cases pending, the charges together with the outcome of the cases. I have with me a list of the cases pending at Maseno Law Court. They are seven in total. The charges in all these cases are either creating disturbance or related to that. They all stem from one clan which the Attorney-General has not mentioned at all, that is, the Kanyawegi Clan on the shores of Lake Victoria. I am talking about 2,000 people.

The first case I want to table is Maseno Case No.434 of 2007. The accused persons are Joseph Agum Agum and seven others. I would also like to table Case No. 434 of 2008; 901 of 2008 involving Messrs. Joseph Agum Agum, Ouko Aono, George Otieno, Hesborn Otieno, Aumu Ndalo, Agnes Amoke and many others.

Mr. Speaker, Sir, the second document I wish to table is that of Criminal Case No.631 of 2002 where Joseph Agum Agum is charged with robbery again arising from the same facts. I wish to table this charge sheet.

The third document is a copy of the charge sheet, and this is for Case No.791 of 2011 relating to Leonard Olang’o Agum and John Auko Aono. The charge is again robbery. All these charges stem from complaints by the people of Kanyawegi on the shores of Lake Victoria.

*(Mr. Olago laid the documents on the Table)*

Because of the superficiality of the answer by the hon. Attorney-General, I wish to request the House that the Attorney-General be given chance to go back and investigate these charges more thoroughly so that he can back with a full answer. What he has given us totally superficial in my view.

Mr. Speaker, Sir, if Prof. Olweny could give you a chance to listen to what I am saying I will be grateful.

**Mr. Speaker:** Mr. Wako, do you agree with that suggestion by Mr. Olago?

**Mr. Wako:** Mr. Speaker, Sir, I do not agree because some of the cases he has just mentioned are not part of the Question that was asked. The only ones that fall within the Question are cases No.434 and 901. The information I have received is per my answer. The other cases he has laid on the Table are not part of the Question. So, I stand to be directed on that.

For the cases that are part of the Question and they are two--- Case No.434 is still pending before the court and you cannot legitimately discuss details of that case. We also have Case No.701 which is not part of the Question. We have Case No.901 which is part of the Question and which I have answered as per the details given. However, all the other cases are not part of the Question. Therefore, I cannot be asked to answer on cases which are not part of the Question.

On the issue as to whether these people are members of the same clan, unfortunately, our court records do not say; "So and So, a member of this clan or a member of this tribe." So, I would not know.

**Mr. Olago:** Mr. Speaker, Sir, the reason why I said that the answer by the Attorney-General was superficial was because his answer to part "b" of my Question is in four words which are "I am not aware". The Question is very relevant because it asks: "Is the Attorney-General aware that the charges affect the whole of Kanywawegi Sub-Location of South West Kisumu, and are based on insistence of the accused persons to access the 100-metre no man's land on the shores of Lake Victoria that the complainant wants to unlawfully annex to his land?" He simply says: "I am not aware"; that is why I have given him copies of the charge sheet and other documents which I have tabled before the House. If he was willing to look at these, then he would ask for police files which would show exactly what the complainant is saying. This information is now available.

**Mr. Speaker:** Order, hon. Member for Kisumu Town West. Your Question No.719, part "b" asks this: "Is the Attorney-General aware that the said charges affect", and it goes on. If the Attorney-General answers you by saying that he is not aware, then, in my assessment, it is a proper answer, because you have asked him whether or not he is aware, and he has told you he is not aware. That is a good answer.

*(Mr. Olago stood up in his place)*

Order, hon. Member for Kisumu Town West! If you have any supplementary questions you may proceed! So, bring him to where you wish him to be!

**Mr. Olago:** Mr. Speaker, Sir, I stand guided.

In the circumstances, is the Attorney-General willing to confess to the House that this Question can be more particularly answered by the Ministry of Lands and not his office?

**Mr. Wako:** Mr. Speaker, Sir, actually I think so. How can the Attorney-General know that it is a no man's land? How can the Attorney-General know the members of a clan who own some piece of property somewhere and so forth? So, really this is a Question that is best answered by the Ministry of Lands. Also, there could be some aspects of it which could be answered by the Ministry of Environment and Mineral Resources; if there is a no man's land and it qualifies to be a riparian land, then the

Ministry of Environment and Mineral Resources does come in; but, maybe, the starting point is the Ministry of Lands. So, I agree with him.

**Mr. Speaker:** Very well! In that case, then in so far as the Attorney-General is concerned, hon. Olago, this Question is fully answered. So, if you want to revisit it, then maybe you will have to put it again and it will be directed to the appropriate Ministry as you will be seeking information from. Okay?

**Mr. Olago:** Mr. Speaker, Sir, I am most obliged.

**Mr. Speaker:** Thank you, hon. Olago. Next Question by Ms. Chepchumba!

*Question No.878*

ENVIRONMENTAL CONSERVATION IN KENYA

**Ms. Chepchumba** asked the Minister for Environment and Mineral Resources:-

(a) what plans the Government has to ensure promotion of environmental conservation through community development initiatives in the country, given the serious global climate change; and,

(b) how much money the Ministry has set aside for the initiative, particularly in Eldoret South Constituency, and whether any donor funding has been sought.

**Mr. Speaker:** Is the Minister for Environment and Mineral Resources here? Hon. Otieno-Kajwang, where is your colleague?

**The Minister of State for Immigration and Registration of Persons** (Mr. Kajwang): Mr. Speaker, Sir, can we answer this Question early next week?

**Mr. Speaker:** Where is the Minister?

**The Minister of State for Immigration and Registration of Persons** (Mr. Kajwang): Mr. Speaker, Sir, I am not sure that I am aware where the Minister is, but I can send the necessary information to him, so that he gets ready to answer this Question at the earliest opportunity next week.

**Mr. Speaker:** Very well. I will defer the Question to Tuesday next week. Is that fine with you, Ms. Chepchumba?

**Ms. Chepchumba:** Mr. Speaker, Sir, this is the second time this Question is being deferred and I hope that it will be answered this Thursday.

**Mr. Speaker:** We will try. The question is deferred to Thursday this week. Hon. Kajwang, let your colleague know about this.

*(Question deferred)*

**Mr. Speaker:** Next Question by hon. Kaino!

*Question No. 887*

LACK OF MOBILE PHONE COVERAGE IN MARAKWET WEST

**Mr. Kaino** asked the Minister for Information and Communications:-

(a) whether he is aware that there is no mobile phone network within Kapsowar, Cheptongei, Nerkwo and Chebara towns, which host several social amenities; and,

(b) what steps he is taking to ensure that communication is enhanced in the area.

**The Assistant Minister for Information and Communications (Mr. Godhana):**  
Mr. Speaker, Sir, I beg to reply.

(a) Yes, I am aware that mobile phone coverage is not ubiquitous across the country considering the mobile phone penetration of 63 per cent, and land coverage of 36 per cent. This is a reflection of the fact there are some areas of the country where mobile services are not available. Equally, there are citizens who do not have access to the service. The Government has in the recent past focused its efforts on opening up the mobile market to allow for more players in order to create a competitive environment that is conducive for growth and service penetration. This has, indeed, yielded positive results as evidenced by the current number of mobile subscribers totaling 24.9 million from a total of 15,000 subscribers prior to liberalization of the telecommunications sector.

While competition has played a significant role in advancing the roll out of mobile services, the decision by operators to invest in various parts of the country is determined by the commercial viability of such investment. Subsequently, areas deemed to be high cost such as Kapsowar, Cheptongei, Nerkwo and Chebara towns, including my own area and many other areas in the country, have remained poorly covered by the mobile services providers.

(b) Recognizing the limitation of market forces in availing communications services to all parts of the country, my Ministry, through the recently enacted Kenya Information and Communications Universal Access and Service Regulations of 2010, has established the Universal Service Fund, whose objective is to support widespread access to communication services, and complement private sector initiatives by subsidizing the cost of ICT infrastructure rollout and expansion to unserved and under-served areas. Ultimately, this should meet the universal access targets which aim to ensure that all citizens, including those living in Kapsowar, Cheptongei, Nerkwo and Chebara towns, have access to ICT services, including mobile phone services.

To address the above challenges, the Government, through the Communications Commission of Kenya (CCK), has undertaken a study on ICT access gaps to determine areas in Kenya without communication services and the associated interventions required. The findings of this study have already been received, and will soon be shared with all stakeholders. We shall put in place appropriate communication strategies and mechanisms of delivering ICT services to unserved and under-served parts of the country.

In implementing and operationalizing this policy, the CCK is expected to levy 0.5 per cent of the gross annual revenue or income of all licencees generating about Kshs0.5 billion with effect from the end of last month, that means this month. In addition to its commitment of Kshs1 billion to the Fund in the financial year 2011/2012, the funds generated shall be used to leverage the requisite communication infrastructure to serve

populations such as those in Kapsowar, Cheptongei, Nerkwo and Chebara towns that are currently underserved.

Thank you, Mr. Speaker, Sir.

**Mr. Kaino:** Thank you, Mr. Speaker, Sir. The Assistant Minister has answered the Question. While I am satisfied with that answer, I just want to bring to the attention of the Assistant Minister that insecurity prone areas of this country are poorly accessible by the mobile phones. Let me also bring to the attention of the Assistant Minister that Kenyans want them to open up mobile markets so that insecurity in this country can be brought to an end.

Thank you, Mr. Speaker, Sir.

**Mr. Godhana:** Mr. Speaker, Sir, the concerns of the hon. Member for Marakwet are exactly the concerns of the Government and this Ministry. It is for that reason that this Government has undertaken the measures that I have mentioned to address all those issues. It is my hope that once all these measures are put in place, we can be able to access mobile telephone services countrywide.

Thank you, Mr. Speaker, Sir.

**Mr. Letimalo:** Thank you, Mr. Speaker, Sir. Indeed, poor or lack of mobile network services coverage is not only confined to Kapsowar because Samburu East is equally affected. As Mr. Kaino has said Samburu East is one of the insecurity prone areas that, indeed, require this kind of communication.

Now that ICT Studies have been undertaken and findings submitted to the Ministry, when will the Assistant Minister roll out these services so that the areas that do not have them will benefit?

**Mr. Godhana:** Mr. Speaker, Sir, the report was supposed to inform the Minister on the measures that can be taken to be able to lay the necessary infrastructure for those services to be acquired in those areas. Of course, it is not only in the constituency that I have just mentioned. I have said that it is my hope that after operationalisation of the fund, with the report which will inform an implementation program, we can be able to say when we are to start. At the moment, we have not sat with the stakeholders to deliberate and look at the report so that we can come up with a work program for the laying of the infrastructure. Until infrastructure is done or until it is laid down, we cannot have services in those areas. It is not just Samburu East. We have issues similar to the ones raised by the Member for Samburu East in Bura in Tana River County, Mandera, Wajir and the entire country. However, it is out of this report that will now come up with an implementation programme for the laying of the infrastructure.

Thank you, Mr. Speaker, Sir.

**Mr. Speaker:** Yes, the Member for Lari!

**Mr. Njuguna:** Thank you, Mr. Speaker, Sir. While we are happy with the good answer that was given by the Assistant Minister, he should tell us the steps the Ministry has taken to improve the quality of service of the mobile providers particularly in the rural areas where the reception is poor.

**Mr. Godhana:** Mr. Speaker, Sir, the issues of reception and quality of service are some of the issues that are supposed to be informed by the same report. So, unless we sit down with the service providers and the stakeholders, we will not, at this point, be able to confirm to the hon. Member when this kind of service will be on. However, I believe that once we sit with the stakeholders, all those issues will be addressed.

Thank you, Mr. Speaker, Sir.

**Mr. Speaker:** Mr. Kaino, ask the last question!

**Mr. Kaino:** Mr. Speaker, Sir, I would like to thank the Assistant Minister for the answer that he has given. However, could he also give us the list of the districts that are poorly covered by mobile communication?

**Mr. Dhadho:** Mr. Speaker, Sir, I cannot say exactly how many districts are covered by mobile telephone services. Of course, in the provision of these services, you may find services overlapping from one district to another. Probably, one district is served halfway while others are served fully. I can confirm that we have 65 per cent mobile telephone coverage in the entire country and the balance of 35 per cent is what we are talking about and that will be addressed once we lay the infrastructure.

Thank you, Mr. Speaker, Sir.

**Mr. Speaker:** Yes, the Member for Mumias!

*Question No. 900*

VALUE OF INTERCEPTED CANE  
FROM INDIVIDUAL FARMERS

**Mr. Washiali** asked the Minister for Agriculture:-

(a) what control sugar companies have over private sugar cane farmers;

(b) what the value of cane that has been intercepted from individual farmers by Mumias Sugar Company without documentation is; and,

(c) who the beneficiaries of such intercepted cane have been.

**The Assistant Minister for Agriculture** (Mr. Ndambuki): Mr. Speaker, Sir, I beg to reply.

(a) Sugar companies have no control over private sugarcane farmers.

(b) The value of intercepted cane from individual farmers by Mumias Sugar Company due to lack of appropriate documentation from July, 2010 to March, 2011 is Kshs4,049,807.56.

(c) The proceeds from intercepted cane are paid to contracted farming accounts and the accruing benefits goes to both the farmer and the miller. However, in circumstances where private cane is intercepted due to lack of documentation from the administration, the farmer is given time within which to prove his or her status and if ascertained, the proceeds are paid to the farmer.

Thank you, Mr. Speaker, Sir. .

**Mr. Washiali:** Thank you, Mr. Speaker, Sir. I also want to thank the Assistant Minister for the answer, but I do not know whether he looked at the answer before he read it out to the House. This is because he has contradicted himself. In his answer to part "a" of the Question, he says that companies do not control private cane farmers while in his answer to part "b" of the Question he says that sugar companies intercept cane. Why do they intercept cane if they do not control the farmers? To make matters worse, in his answer to part "c" of the Question he says that proceeds from the intercepted cane are

paid to contracted farmers' accounts. Who are these farmers if the sugar cane you intercept does not belong to the contracted farmers?

**Mr. Speaker:** Proceed, Mr. Assistant Minister. You have two questions to answer!

**Mr. Ndambuki:** Mr. Speaker, Sir, I answered the Question. I would like the hon. Member, if he has any cases of cane which has been intercepted and the farmers have not been paid to give me the names and I will deal those cases.

**Mr. Washiali:** On a point of order, Mr. Speaker, Sir. Maybe I have asked so many questions that the Assistant Minister got confused. My first question was on whether the sugar companies control private sugarcane farmers and he has said that they do not control them. However, in the second question, the Assistant Minister has said that they intercept cane. Why do they intercept cane if they do not control private sugarcane farmers? That is the question.

**Mr. Ndambuki:** Mr. Speaker, Sir, the farmers have contracts with millers and if cane is found within the area of the millers, it is taken and if the farmer is not contracted by the miller, he is expected to prove that the cane is his.

This is because if you look at the losses, you will find that up to now about Kshs48 million worth of cane has been lost through the stealing of cane. That is why we are saying that, even if it is a private farmer, one has to have documentation to prove that it is his cane, because if we do not do that, the cane-growing area will be invaded by thieves. This is because everybody will claim to be a cane farmer when he or she is not.

**Dr. Khalwale:** Mr. Speaker, Sir, could the Assistant Minister tell us how the Provincial Administration comes in?

**Mr. Ndambuki:** Mr. Speaker, Sir, I am made to understand by the millers that they are the ones who really involve the administration police to patrol and make sure that the cane is not moved from one area to the other.

**Mr. Yakub:** Mr. Speaker, Sir, Kenyans have realized there is hoarding and price increase of Mumias sugar of almost 50 per cent. What is the Ministry doing to save the situation?

**Mr. Ndambuki:** Mr. Speaker, Sir, it is true there is a Bill waiting to come to this House to authorize the Government to privatize the other companies, so that they can compete effectively with Mumias. Until we do so, Mumias Sugar Company will remain the only one controlling the market.

**Mr. Odhiambo:** Mr. Speaker, Sir, the Assistant Minister is not aware that we have private and contracted farmers. In the case of a private farmer, the company has no legal right to confiscate or intercept cane from the private farmer. In case the company intercepts that cane, it is taken to the yard and kept there. He has said that if the farmer proves that this cane is not contracted cane, then he should be given back the cane. When the cane is kept in the yard it loses weight. What compensation is given to such a farmer because of that loss?

**Mr. Ndambuki:** Mr. Speaker, Sir, I agree with him that if it stays for a long period, it loses weight. However, according to the information I have from the millers, once cane is intercepted, it is followed and cleared. It does not take that long.

**Mr. Odhiambo:** On a point of order, Mr. Speaker, Sir. We are asserting the facts as they are on the ground. However, the Assistant Minister is speaking from what he has been informed. So, please, is he in order to mislead this House?

**Mr. Speaker:** Order, Member for Butula. Please, retain your seat. You know you do not have that authority to determine what is in order and what is not in order. Other than that, you have been given an answer which says that the Assistant Minister is not aware. According to his information, there are situations where there is delay such that the sugarcane loses weight. So, if that is so, the only way you can challenge him is, perhaps by providing specific cases where there has been delay. If you are unable to do so, then you cannot get a better answer from him.

At any rate, he must give you information. There is nothing else that he can do in answering Questions. He gives you information which he has. Do you understand? I hope you are clear because we want to be fair to you.

**Mr. Odhiambo:** Mr. Speaker, Sir, you want to be fair to me, but I think in the next Question we shall be able to provide specific cases where such occurrences have happened.

**Mr. Speaker:** Very well. You now understand what you are supposed to do.

**Mr. Ochieng:** Mr. Speaker, Sir, could the Assistant Minister tell us why these millers use goons while intercepting the cane who end up beating the farmers seriously and injuring them? Why are they using goons and not police officers?

**Mr. Ndambuki:** Mr. Speaker, Sir, I am not aware that they use goons. However, I will investigate. If they do so, we will stop them immediately and tell them to use the police.

**Mr. Shakeel:** Mr. Speaker, Sir, is the Assistant Minister aware that private sugar companies are paying much more for the cane than the public companies like Mumias who pay after 18 to 24 months? As such, by contracting these farmers, Mumias have taken them back to the time of slavery where they were actually controlling the farmers, contracting them at low rates and not paying them? Will he do something to ensure that farmers are paid on time and paid the right prices? If that is the case, they will never go and sell the cane to somebody else.

**Mr. Ndambuki:** Mr. Speaker, Sir, on the issue of the pricing, there is a formula which is supposed to be used by all the millers. If you have one who is underpaying farmers, I would like you to tell us. We will follow up the case and make sure they follow the stipulated formula.

On the other issue of payment at the moment most of the sugarcane millers are up to date. In case the hon. Member has doubt about a miller who has not paid farmers within the stipulated 30 days, please, pass that information to me and we will make sure they pay them.

**Mr. Washiali:** Mr. Speaker, Sir, this country has moved forward such that you need a warrant to access someone's property or even detain a cart, pick up or lorry that would be carrying the cane that belongs to a private farmer. Does the Assistant Minister ensure that these private companies and more specifically Mumias Sugar Company gets warrants from courts to arrest and detain private cane and the trucks that are carrying them? Given that this money is there, could we ask the farmers to come and share out this money because the Kshs4 million belonged to some people?

**Mr. Ndambuki:** Mr. Speaker, Sir, the Kshs4 million has already been shared between the farmers and the millers. I can assure Mr. Washiali that if there is a case like that of cane being confiscated and it does not belong to a certain contracted farmer; it

belongs to a private one and he has all the documentation, that should be passed to the Ministry and we will take appropriate action.

**Mr. Washiali:** On a point of order, Mr. Speaker, Sir. As a private farmer, where would you get documentation? This is your farm, this is your cane and this is your truck. Where would you get documentation? Is the Assistant Minister in order to mislead this House?

**Mr. Speaker:** Order, Member for Mumias! You are a Deputy Chief Whip. I am sure you know that, that is not a point of order! You have asked three questions in quick succession. It cannot pass for a point of order, I am afraid.

Hon. Members, Question No. 910 is deferred to Tuesday, next week because the Member for Kitui South Constituency is away on official duty accompanying His Excellency the Vice-President and Minister for Home Affairs.

*Question No.910*

UPGRADING OF POLICE STATIONS IN  
MUTOMO/IKUTHA DISTRICTS

*(Question deferred)*

**Mr. Speaker:** Member for Kirinyaga Central!

*Question No.933*

LACK OF SEWERAGE SYSTEM IN KERUGOYA TOWN

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

(a) what criteria he uses to identify towns that qualify for a sewerage system,

(b) whether he is aware that Kerugoya Town, the headquarters of Kirinyaga District, has no sewerage system and many businesses in the town drain sewage into Kathigaini and Gacii Streams; and,

(c) when the Ministry will construct a sewerage system for the town.

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

Before I give the criteria that are normally taken into account when the issue of the sewerages is done, I would like to state that my Ministry used to handle sewerage systems a long time ago, but the service was transferred in 2002 to the Ministry of Water and Irrigation in line with water reforms in the country as provided for in the Water Act, 2002.

However, I beg to give the criteria.

(a) When considering what criteria should be put in place the critical one is the element of population in any given area before a decision is made on sewerage.

Secondly, the texture of the soil and the terrain is also taken into account because there are certain areas where septic tanks would suffice and there are certain areas where it would be very difficult to be able to have septic tanks and, therefore, maybe one needs to invest in a sewerage process.

So, population, growth of the urban area in question and issues of the terrain and texture of the soil are very critical in determining the aspect of the sewerage in a given area.

(b) I acknowledge that Kerugoya Town, which is the headquarters of Kirinyaga District, has no sewerage circulation system. My Ministry through our letter dated 10<sup>th</sup> December, 2008, advised the Municipal Council of Kerugoya Kutus to initiate the necessary process in consultation with the Kirinyaga Water and Sanitation Company to have the situation rectified. The Council was further directed to take the necessary action to ensure that the business in the area does not continue polluting River Thiba by draining waste and foul water into river streams.

(c) I wish to state that since this matter is no longer in the domain of the Ministry of Local Government, we do not have the budgetary provision to install sewerage system in the town since this function was transferred to the Ministry of Water and Irrigation under the provisions of the Water Act.

**Mr. Gitari:** Mr. Speaker, Sir, I appreciate the good answer given by the Minister. However in part (a) of the answer, he has said that this function was transferred to the Ministry of Water and Irrigation in 2002. I have a letter from his office which was written in 2008 stating that they would privatize the sewer in Kerugoya Town in the next financial year, which was supposed to be 2009/2010.

Was it a contradiction or is it that the Minister was not aware that the function had been transferred when the Ministry was doing this letter to the county and the municipal councils in 2008?

**Mr. Mudavadi:** Mr. Speaker, Sir, indeed, I am aware of the letter that was written by my then Permanent Secretary dated 10<sup>th</sup> December, 2008, but I wish to state that he had not familiarized himself with the aspects of the Water Act. So, this letter was misleading in that context. As it stands now, once we have water companies which now fall within the domain of the Ministry of Water and Irrigation in accordance with the Act, the provision and any funding has to be channeled through there.

However, I am aware that the Kirinyaga Water and Sanitation Company contracted Wanjohi Consulting Engineers to carry out a feasibility study and design on the sewerage system installation for Kerugoya Town. This is then supposed to be submitted to the Ministry of Water and Irrigation.

**Dr. Khalwale:** Mr. Speaker, Sir, this Question is on a matter of grave national concern in the sense that when new districts were created, most of the towns that serve as district headquarters have this problem. Could the Minister tell us how much money he has set aside to ensure that all the towns that are today the seats of district headquarters are provided with this facility especially Malinya Town, Lumakanda, Butere, Malaba and Shinyalu, all in Kakamega County?

**Mr. Mudavadi:** Mr. Speaker, Sir, I know my friend is targeting the Senatorship of the Kakamega County and he is, therefore, perfectly in order to ask that question. However, at this point in time, the Ministry has not made any provision for sewerage installations in those areas. But as we move to the next dispensation which is the element

of the county governments, the Constitution has again reverted these functions to the domain of the county governments. As we move to the next dispensation, it will be necessary that the resources that will go to the county governments are then allocated to deal with the lack of sewerage systems.

**Mr. Gitari:** Mr. Speaker, Sir, I am a bit concerned about the way things are handled in the Ministry. The people of Kirinyaga know that they received a letter from the Ministry regardless of whether the Permanent Secretary was new or had not familiarized himself with the processes. The Minister is aware of the existence of such a letter and he should have written another one to counter it. We are holding onto this letter. In part of the answer, the Minister has said that he instructed both the county council and the municipal council to mitigate on the issue of draining waste into Thiba River. The letter that I have does not have such information. Could we be speaking from different letters? Could I be holding a letter that the Ministry did not write? I wish to lay this letter on the Table.

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

**Mr. Mudavadi:** Mr. Speaker, Sir, I undertake to instruct the Permanent Secretary to communicate yet again so that this matter can be clarified once and for all to the residents of Kirinyaga County Council. When the initial communication went, there was misinformation on the part of that letter. The correct information will go so that they do not rely on a letter which clearly is not valid.

**Mr. Speaker:** Member for Kirinyaga Central, you should pursue this matter regardless of what Ministry this letter came from. It is the same Government. So, pursue it on that basis.

**Mr. Gitari:** Most obliged, Mr. Speaker, Sir.

*Question No.959*

DUMPING OF EXCAVATION MATERIALS NEAR HOHWE DAM

**Eng. Maina** asked the Minister for Water and Irrigation:-

(a) whether she is aware that the contractor at Hohwe Dam in Kirimukuyu Location, Mathira West District, dumped excavation material at a site upstream of the dam after completing the project, hence endangering the dam and damaging the environment; and,

(b) what steps she will take to ensure that the excavation material is disposed of appropriately.

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

(a) Yes, I am aware that the excavated material from the Hohwe Dam was placed and compacted on the left hand side of the reservoir as it was intended at the design stage.

My Ministry has already taken steps to ensure that the excavated material is safely placed and does not pose any danger to the people and the environment. Alternative sites for disposal were found to be too far away and would have cost an extra Kshs100 million to transport.

(b) The steps taken include mobilization and sensitization of the local community on dam management and educating farmers on the upstream side of the dam on proper farming methods to avoid erosion. Farmers were also advised not to interfere with the excavated material. Further, a cut off drain was constructed between the reservoir and the compacted material to safeguard the dam.

**Eng. Maina:** Mr. Speaker, Sir, whereas I appreciate the Minister's concern in her reply, I regret to say that there are various incorrectness in the answer. First of all, it is not true that the only place that the materials would have been placed is too far away and would have cost Kshs100 million. Secondly, we cannot leave the responsibility of taking care of the dam to the local community. It cannot work. I am aware that no such educational seminars took place. Even if they did, they would be ineffective. Finally, there is no Kikuyu grass planted on this material. The only solution is to remove this material from the upstream of the dam. Otherwise, the dam risks siltation.

**Mr. Speaker:** I am not sure you have a question to answer, Minister, but proceed! Proceed, if you have a question to answer. From where I am, I did not hear any.

**Mrs. Ngilu:** Mr. Speaker, Sir, I can only inform the Member that we could not get a site near the dam. The only site that we got was 15 kilometres away from the dam near a place called Kiganjo and it would have cost us an extra Kshs100 million which we needed to construct this dam. So, we opted to dump the excavated material near the dam and got equipment to compact the soil to ensure that it does not fall into the dam. We also educated the community. When we construct a community water project, we ensure the participation of the stakeholders for sustainability purposes. That is what was done.

**Eng. Gumbo:** Mr. Speaker, Sir, in her answer, the Minister has said that the steps taken during construction included mobilization and sensitization of the local community on dam management and educating the farmers. Could she tell us when this education was given, where it was given and how many farmers were involved?

**Mrs. Ngilu:** Mr. Speaker, Sir, I want to say that this hon. Member was the first person to come and tell me about Hohwe Dam and what it means for the people around it. We are supposed to take care of more than 8,000 people and 1,000 livestock. That was how the Ministry came to know about the people we are dealing with, including their own elected counsellors. So, when we go there, we do not just go there with equipment and start scooping soil. We must ensure that the people are involved. The people are informed of the amount of money that we put in the construction of a dam, so that they can also feel part of it.

Mr. Speaker, Sir, you know that with the new Constitution we have in place, we are talking about participation of the leaders, so that they know what the Government is doing, to the extent that they can also say "This is not what we want." Although we did not have the new Constitution in place then, that was done.

Thank you, Mr. Speaker, Sir.

**Eng. Gumbo:** On a point of order, Mr. Speaker, Sir. Is the Minister in order to avoid answering a specific question? My question was---

**Mr. Speaker:** Order, Member for Rarieda! I followed the Minister's answer.

Minister, I am satisfied from where I sit that you did not answer the Question. Do you want it repeated?

**Mrs. Ngilu:** No, Mr. Speaker, Sir. It was done within the dam site. I do not have the number of sessions, but I know that those people were actually part and parcel of the decision, and were also involved when we were constructing the dam.

Mr. Speaker, Sir, many times, engineers are not so much involved in educating people. They want to do their work and leave, but the hon. Member and other leaders must do their work. We did educate the people.

**Mr. Speaker:** Last question, Member for Mathira.

**Eng. Maina:** Mr. Speaker, Sir, I can see the eagerness of the Minister, and I appreciate it. Since on most of the things she has said I am saying--- For example, on the area where the materials can be excavated, do we agree that she allows a visit by one of our engineers to the site with me? I would wish to discuss this matter on site, if she is eager that a solution is found.

Mr. Minister, what guarantee do we have, as things stand, that this dam will not be silted up and lead to loss of public money? This has been happening all over the Republic. I am talking from both practical experience and my knowledge of the site.

**Mr. Speaker:** Minister, there is a specific question.

**Mrs. Ngilu:** Mr. Speaker, Sir, it is true that we were desilting this dam, which was constructed during the colonial time. We desilted it recently. I will be willing to get one of our engineers, as per the request of the hon. Member, to visit the site and check whether we have done it correctly, so that we do not have to do desilting of the dam once again.

Mr. Speaker, Sir, having said that, I would like to ask the hon. Member not to call me "Mr. Minister".

Thank you, Mr. Speaker, Sir.

**Mr. Speaker:** Very well. Hon. Members, before we come to the end of this Order, you will notice that the way we have conducted the session under Order No.6 has not been quite satisfactory. A lot of hon. Members have used their time to narrate stories. Some have used their time to debate. Some have used their time to engage in arguments. I want to ask all hon. Members, including Ministers, to endeavour to acquaint themselves with contents of the whole of Part XII of the Standing Orders.

Please, get time to go and read it because we intend, during the sitting this time round, to strictly apply Part XII. All of us who sit on the Chair and preside over business will apply this part very strictly, so that Question Time is for Questions. We want to live within the timelines provided, which is one hour for every Question Time session.

So, hon. Members must ensure that they ask questions precisely, avoid telling stories and avoid debate. Similarly, Ministers must answer Questions. They must provide answers which are concise, precise and in summary form. We will not allow a Minister to take 10 minutes to just supply an answer. So, please, bear that in mind because that is where we will go; we have a heavy programme. We have many Bills which must be deliberated on in this House before 27<sup>th</sup> August, 2011. All hon. Members know what that means. It is actually a matter of life and death. So, all of us will have to co-operate.

Thank you.

## **POINTS OF ORDER**

### **SAFETY OF GENETICALLY MODIFIED FOODSTUFFS**

**Eng. Gumbo:** Mr. Speaker, Sir, I would like to request a Ministerial Statement from the Minister for Agriculture on the safety of genetically modified foodstuffs. In his Statement, I want him to clarify the following:-

(i) whether it is, indeed, true that the Government is in the process of importing genetically modified maize from other countries, and whether the correct procedures regarding importation and handling of GMOs and GEOs have been strictly adhered to;

(ii) which countries of the world are currently using GMO food to feed their people in a bid to eradicate hunger, and what steps have been taken by the Government to ensure safety of genetically engineered crops;

(iii) outline the level of preparedness of statutory bodies in the country such as the National Biotechnology Authority (NBA) and the Kenya Agricultural Research Institute (KARI) and other research bodies for reviewing and making decisions on importation, transfer, handling and use of GMOs and GEOs and other related products, and also outline the capacity of the NBA for assessment of risks associated with such products, considering that currently the onus is on the importers and handlers of GMOs and GEOs to prove their safety;

(iv) how the Ministry plans to educate Kenyans, so that they can make informed choices on GMOs and GEOs, particularly as it relates to basic foodstuffs such as maize and their health;

(v) outline to the people of Kenya how the Ministry will ensure the interests of giant international agro-businesses that developed GMOs and GEOs such as Monsanto are subordinated to the interests of the Kenyan farmers and consumers; and,

(vi) whether she could confirm unambiguously if Kenya is truly ready for GMOs and GEOs, outlining what domestic capacity is available to handle and ensure absolute safety of these products.

Thank you, Mr. Speaker, Sir.

**The Deputy Prime Minister and Minister for Local Government** (Mr. Mudavadi): Mr. Speaker, Sir, I undertake that the Minister will issue the Ministerial Statement on Tuesday next week.

**Mr. Speaker:** Order, Deputy Prime Minister and Minister for Local Government! This is a very urgent matter. You know that it is topical. It is also worrisome to this nation. The matters pertaining thereto must be addressed urgently. Businesses are affected if the matter is not explained to the satisfaction of Kenyans. So, it has to be Thursday.

**The Deputy Prime Minister and Minister for Local Government** (Mr. Mudavadi): Mr. Speaker, Sir, I will convey the message that the Ministerial Statement should be delivered on Thursday.

**Mr. Speaker:** Yes, let the Minister treat it as urgent and of national importance. Next Statement!

SEVERE POWER OUTAGES AT JOMO KENYATTA  
INTERNATIONAL AIRPORT

**Eng. Gumbo:** Mr. Speaker, Sir, I wish to seek a Ministerial Statement from the Minister for Transport on the power outages at the Jomo Kenyatta International Airport (JKIA). In the Statement, the Minister should clarify the following:

(a) Explain in detail what caused severe outages at the JKIA in the early morning of Sunday 17<sup>th</sup> July 2011 and the afternoon of Monday 18<sup>th</sup> July 2011.

(b) Provide a detailed log of all power outages at the airport in the past one year indicating dates and durations of such outages and the subsequent interventions that restored normalcy.

(c) How much did the country lose in terms of financial, economic and social investment as a result of these outages?

(d) What steps is the Minister taking to ensure that such outages do not recur in future?

Thank you.

**Mr. Speaker:** The Minister for Transport!

Deputy Prime Minister and Minister for Local Government, please, proceed!

**The Deputy Prime Minister and Minister for Local Government** (Mr. Mudavadi): Mr. Speaker, Sir, can I also seek the indulgence of the House to have this Statement issued by Thursday this week?

**Mr. Speaker:** Fair enough. It is good for you---

**The Deputy Prime Minister and Minister for Local Government** (Mr. Mudavadi): It is equally urgent.

**Mr. Speaker:** Yes, Deputy Prime Minister, I thought that now that you acknowledge and appreciate the urgency in this one, you would have suggested that it comes tomorrow afternoon.

**The Deputy Prime Minister and Minister for Local Government** (Mr. Mudavadi): Mr. Speaker, Sir, I agree. However, I would like to plead that it be brought on Thursday because it will be important for the Ministry to get very precise details from the Kenya Airports Authority. I think they may need one extra day to get the correct information.

**Mr. Speaker:** Deputy Prime Minister, I want you to resume your seat for a moment.

*(Mr. Mudavadi resumed his seat)*

Please, bear with me to ask you one question. Are you and is the Government aware that Kenya is under threat to lose its status as a regional hub?

**The Deputy Prime Minister and Minister for Local Government** (Mr. Mudavadi): Mr. Speaker, Sir, I am aware that the on goings at the JKIA are very serious indeed. This has happened twice in the last 36 hours. I am pleading, on behalf of the Ministry of Transport, so that it gives a very comprehensive Statement. One extra day in between will enable the Minister to bring out a very accurate Statement so that this threat can be dealt with. He can also provide a very clear roadmap on how he intends to deal with this situation.

Mr. Speaker, Sir, I seek your indulgence in this matter.

**Mr. Speaker:** Very well. I will direct that it is delivered on Thursday afternoon at 2.30 p.m.

Deputy Prime Minister, please, convey the sentiments that I have expressed on behalf of the House; indeed the country, to the Minister concerned. It is not just about power outages. It is also about the size of our runways, for example. All these matters are so critical that if the Executive does not wake up to it, then I do not think you will blame the Legislature. At least, I am doing my part to exonerate the Legislature, so, please, note.

Any other requests for Statements? If we have none, we will take Statements then.

PROTECTION OF CHERENGANY  
FOREST ECOSYSTEM

**The Minister for Forestry and Wildlife** (Dr. Wekesa): Mr. Speaker, Sir, the Committee on Implementation that draws its mandate from the Standing Order No.196 made the following resolution on 23<sup>rd</sup> July 2008.

THAT, in view of the fact that Cherengany Hills, a Government gazetted forest is under serious threat from human activities such as logging; aware that the forest is an important natural resource, which is the source of a number of rivers and streams; further aware that it is the Government stated objective to conserve forests in order to mitigate the effects of climate change, this House urges the Government to protect Cherengany Hills from adverse human activities.

Mr. Speaker, Sir, I beg to submit this Report in line with Standing Order No.196.

Hon. Members, Cherengany Hills Ecosystem covers an area of 120,000 hectares and consists of 13 forest blocks that straddles West Pokot, Trans Nzoia, Elgeyo and Marakwet counties. These forest blocks include Kapolet, Kapkanyar, Cheboyit, Chemgoyi, Embobut, Koisigur, Kapchemutwa, Keralelan, Kipkonur, Kiptaber, Sogotia, Toroket and Kamitra which is a trust land community forest.

Cherengany Hills---

**Mr. Olago:** On a point of order, Mr. Speaker, Sir. The Minister is giving a report pursuant to Standing Order No.196, according to him. My reading of Standing Order No.196 does not give the Minister such powers. I seek your direction.

**Mr. Speaker:** Order! Member for Kisumu Town West, obviously if the Minister cited Standing Order No.196, then it does not apply.

Minister, is that the position? Are you giving a report under Standing Order No.196? This Standing Order will not apply. So maybe you will want to go and think about it again.

Minister, maybe if you approach the clerks-at-the-Table, you will be assisted depending on what you want to achieve.

*(Dr. Wekesa consulted the  
clerks-at-the-Table)*

**The Minister for Forestry and Wildlife** (Dr. Wekesa): Mr. Speaker, Sir, I think I will consult the Office of the Clerk of the National Assembly and possibly tomorrow, I can lay this report.

**Mr. Speaker:** Very well.

## ERRORS IN GOK REVENUE ACCOUNTS

**Mr. Mbadi:** Mr. Speaker, Sir, you will recall that around 21<sup>st</sup> of April 2011, I had sought a Ministerial Statement from the Office of the Deputy Prime Minister and Ministry of Finance regarding certain mistakes in the revenue accounts of the Government of Kenya. The Ministry contested that the issue was before a Committee of the House. You did promise to make a ruling. I am requesting that the ruling be made because we are proceeding to approve Government Estimates again. If that issue is not clarified, it may be difficult for this House to be sure that whatever we are approving is accurate.

**Mr. Speaker:** Very well, Member for Gwasi. I am properly prompted but, kindly, approach the Clerk's desk as well, even as we proceed with business this afternoon, so that you put us in the clear picture as to what exactly you are expecting. We would like to revisit the HANSARD and give directions properly.

Next Order!

## BILLS

### *First Readings*

THE FINANCE BILL  
THE CAPITAL MARKETS (AMENDMENT) BILL  
THE CENTRAL DEPOSITORIES (AMENDMENT) BILL

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

### *Second Reading*

THE INDUSTRIAL TRAINING (AMENDMENT) BILL

**The Minister for Labour** (Mr. Munyes): Mr. Speaker, Sir, I beg to move that the Industrial Training (Amendment) Bill be now read a Second Time.

Mr. Speaker, Sir, I am delighted to stand before this august House today to move the Industrial Training (Amendment) Bill, 2009. The Bill is intended to amend the Industrial Training Act, Cap.237, of the Laws of Kenya. The history of the Act is as follows. The first legislation governing industrial training, the Industrial Training Ordinance, commenced in May 1960 and provided the regulation of the training of persons engaged in the industry. The Act was amended in 1971 to establish the National Industrial Training Council and create the Office of Director of Industrial Training as the Secretary of the Council. The National Industrial Training Council is a tripartite body consisting of a chairman, representatives of employers, employees and other interested parties. The Act provides the collection of industrial training levy and establishes the fund from which employers claim reimbursements of costs of training under the Act.

Mr. Speaker, Sir, many changes have occurred at the global, regional and national level. These have had far-reaching implications on industrial training in Kenya. Our

country, like many other countries, is striving to strengthen development of skills to secure the greatest possible improvement in the quality and efficiency of industrial training to ensure adequate supply of proper manpower at all levels in the industry. The purpose of this Bill is to transform the Directorate of Industrial Training, which is currently in the Ministry of Labour as a department, into a semi-autonomous Government parastatal to be known as the National Industrial Training Authority. The Authority is expected to be a self-sustaining body spearheading integrated training at all levels of the economy in order to produce skills necessary to accelerate economic development and employment creation in Kenya and more effective and efficient service delivery.

Mr. Speaker, Sir, currently, the Directorate of Industrial Training is responsible for administration and management of Industrial Training Levy Fund, trade testing, certification, development and harmonization of industrial training curricula and the administration and management of five industrial training centres located in Mombasa, Athi River, Kisumu and two in Nairobi. As a Government Department, the Directorate has been experiencing various constraints and challenges which include insufficient financial resources, inadequate human resource, obsolete training equipment, outdated curricula, dilapidated infrastructure, inadequate training capacity in the Directorate of Industrial Training Centres and inability to attract and retain qualified staff. This has resulted in the Directorate of Industrial Training being unable to effectively respond to the rapidly changing demand of the industry.

Mr. Speaker, Sir, due to the changing demand of the industry, training programmes and technology, which was considered appropriate in the past, are becoming irrelevant and obsolete. New materials and more efficient methods of production have emerged and many functions in the industry have been automated. The employees are required to be adaptable and flexible in the skills they possess in order to respond to new methods of production and materials used in the industry.

Mr. Speaker, Sir, to address the weaknesses and challenges that I have referred to, there is need to amend the Industrial Training Act. The objective of this Bill is to amend the Act in order to establish a semi-autonomous body to spearhead integrated industrial training at all levels of the industry, strengthen the financial base of the Directorate of Industrial Training by improving the levy collection system and diversifying sources of funding to complement Government grants, improve reimbursement systems to employers for training course, attract and retain adequate qualified personnel and formulate policies and implement systems that ensure the greatest possible improvement in the quality and efficiency of training of the personnel engaged in industry.

Mr. Speaker, Sir, the Government recognizes the types of skills development system in this country. In order to improve quality and capability of future training programmes, the Ministry of Labour proposes the transformation of the Directorate of Industrial Training into an authority. The functions of this Authority should include simplifying administrative procedures for skills development, support skills training programmes as best for employment creation to improve productivity, acquire the capacity to generate its own finances, hire adequate human resource and install relevant technology, establish an independent skills development testing and certification systems, develop the necessary infrastructure to service the industry training programmes, devise an industrial training system for transition from school to employment, design industrial training schemes and determine the institution necessary to implement them and refocus

industrial training towards a demand-driven system that is responsive to changing training requirements of the industry.

Mr. Speaker, Sir, our national development roadmap, Vision 2030, the section on human resource development states that Kenya intends to create a globally competitive and adaptive human resource base to meet the requirements of a rapidly industrializing economy.

Industrial training has a crucial role to play in this effort and the proposed Authority will play a vital role in establishing a mechanism to promote closer collaboration between training institutions and industry in order to offer demand-driven curricula that targets not only Kenya, but the whole of East Africa.

Further, on education and training in the social pillar, Vision 2030 provides for strengthening of the partnership between the Government and the private sector – a role that the proposed Authority will spearhead.

Mr. Speaker, Sir, the Directorate of Industrial Training is financed by the Training Levy established under the Act and receives additional financial support from the Exchequer for development under the Recurrent Budget. The bulk of the expenditure of the Directorate of Industrial Training is in respect of reimbursement of training costs of employers, industrial attachments and trade testing expenses.

The Authority progressively generates funds to sustain its operations, but will initially require financial support from the Government at the current level. In order to respond to the global challenges, I appeal to this House to debate and enact the Industrial Training (Amendment) Bill, 2009 to pave way for the creation of a National Industrial Training Authority which will improve industrial training in Kenya.

Mr. Speaker, Sir, I beg to move.

**Mrs. Noor:** Mr. Speaker, Sir, I want to second the Industrial Training (Amendment) Bill, 2009. While doing that, with your permission, I would like to lay on the Table the Report of the Departmental Committee on Labour and Social Welfare on the Industrial Training (Amendment) Bill, 2009.

*(Mrs. Noor laid the Report on the Table)*

Industrial training contributes to effective human resource development for employment and wealth creation. It is important that adequate and appropriate training infrastructure and equipment be put in place. The sector will bring about economical growth and decent employment. This is something that this Bill is trying to address.

Mr. Speaker, Sir, the Authority will be able to empower the youth and facilitate skilled development which is current, relevant and important to the growth of this country. It is important because it empowers individuals to develop their learning pathways and recognise various types of learning at various stages. The guidance that will be given by the Industrial Training Authority throughout life is very important to the development of the human resource base in our country.

Kenya must relook at how it addresses issues. This Bill will address adoption of more important, technical, vocational, educational and curriculum that will address our problems thereby achieving Vision 2030. This will also help us develop various competencies needed in our specific trade areas. That is very important to the society.

Technology has changed all over the world and new innovations are always put in place. It is important that this Bill will be able to address those crucial issues on technology and the technological changes that are happening in the world. We will be able to network with the international community, our neighborhood and everybody else because we will have the capacity which is adequate, relevant and very important in addressing the issues of manpower in this country.

The National Industrial Training Authority will look at issues of industrial training, access and collect information, set up a databank, regulate training and register all sectors. It will also develop a curriculum that will be relevant and harmonize all the institutions that exist in our country. These institutions will issue certificates that are relevant and accepted in that they will give a national recognition to our youth who learn in various institutions that are not recognized now. We will have a standardized way of doing things and certification that will take care of all trainings in the country.

*[Mr. Speaker left the Chair]*

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

After a long deliberation between the Departmental Committee on Labour and Social Welfare and the Ministry of Labour and Human Resource Development, we agreed on further amendments that we would like to move at a later stage.

We looked at the Bill and realized that there are gaps that exist in the amendments themselves. One of the gaps that exist in the amendments is that we did not consider our Constitution the way it is. We did not look at the devolved systems that we have given ourselves. We also did not look at our counties. We propose to establish an operational body that will create other branches that will address issues at the county level. That is not in the amendments yet, but we will move that at a later stage.

We also intend to move that the Authority should be given powers that will enable it overlook all institutions that do vocational training in this country so that we do not have piecemeal vocational trainings all over which do not address issues critically. We have vocational training and industrial training haphazardly all over the country. However, this Bill will address that and harmonise all of that.

Mr. Temporary Deputy Speaker, Sir we are also looking at regulation of the composition of the body that will be created. In this Bill, there are people who will be appointed by employees, employers and other interested groups. When we provided for that, we did not look at their qualifications. The qualifications are missing. What is also missing is the kind of experience that is required of the people who will sit in the Authority. They are supposed to be creative enough so as to come up with innovations that will address issues of human resource, capacity building and skilled development in this country so that we can have a country that is productive.

We need a country that will look at industrial issues seriously and give the capacity to our youth who we cry, now and then, that they do not have the proper skills and are unemployed. If we have industries that can absorb all these, we will have an able human resource and a good curriculum that will be able to address the gaps that exist today.

We have five Government industrial training institutions in this country. We have one in Athi River on a 30-acre piece of land. There is an additional 12 acres from the EPZ and the Ministry is sorting out this matter. In Mombasa, we have an industrial training centre on a 26 acre piece of land, but 13 acres of that very important institution have been grabbed by a private developer and the case is with the KACC.

Mr. Temporary Deputy Speaker, Sir, we also have Kisumu Industrial Training Centre which is doing well and it has 15 acres. We also have the National Industrial and Vocational Training Institute in Nairobi, which has five acres. We are saying that there are various issues which we think--- After we deliberate on this Bill, we will adopt this it as a House. I know it is going to make a difference. I is going to transform industrial training in our country.

Mr. Temporary Deputy Speaker, Sir, this is a very important sector in our society; but it has been under-funded for many years since people neglected it. We always cry here and say that our youth do not have anything. We look at things which are not very innovative like *Kazi Kwa Vijana* (KKV), and we say let our youth go and sweep, cut trees and dig trenches all over, while we know that if we give them an opportunity like this one, the capacity and resources needed, they will be able to transform our country. We will then have a working nation and not a walking or talking nation.

I beg to second the Bill.

*(Question proposed)*

**Mr. Wetangula:** Mr. Temporary Deputy Speaker, Sir, thank you for an opportunity to contribute to this amendment Bill. I support the views aired by the Mover and Seconder. In our Vision 2030, and our desire for industrialization, skills development is key and critical. We know that countries that have made major strides in industrial development like Singapore, Malaysia, India and the so-called Asian Tigers have deliberately invested heavily in skills development, training, mechanics, fitters, welders and those that make the wheel of the economic innovations turn.

Mr. Temporary Deputy Speaker, Sir, in this country, very little attention is often given to this sector. I am happy that an Authority is being created that will pay attention to this sector. If you look at Kenya ten years back, you will see the hunger, desire and, sometimes, even the recklessness that we have exhibited in converting our middle level and tertiary colleges into fully-fledged universities without caring about how those colleges can be replaced or replicated elsewhere, to the extent that we now possibly have more universities in Kenya than technical training institutes, yet we know that the bulk of our school leavers do not access university education at the first entry. They need to go to such colleges for training, skills and be trained in relevance to join the production sector of the economy.

Mr. Temporary Deputy Speaker, Sir, recently, I was talking to a friend from South Africa, and he was lamenting that South Africa was importing skilled technicians from Sri Lanka, Malaysia, Indonesia and Asia generally. Kenya has done reasonably well in the human resource development but not good enough. We need to pay attention to this. You know that for every engineer, if you have to run efficiently, you need up to 200 technicians, just as for every doctor, you need so many nurses and so on and so forth.

Mr. Temporary Deputy Speaker, Sir, what this Bill is lacking, and I want to urge the Minister to look at it before it comes to the Committee Stage, is that in setting out the powers of the Board, the designers have completely omitted to give the Board the authority to design, continuously improve and manage the curriculum for skills development in the country. If the Authority is going to make any sense and be meaningful to the economy, it must be vested with the authority to develop the curriculum, co-ordinate the teaching of technical skills in our polytechnics, technical training institutes and any other institutes that offer similar training. You have seen that we have a lot of backstreet training colleges fleecing the public. You find that there is an aviation college that has no plane to teach young people how to fly, or even handle a plane. You find a driving school that does not even have a moving vehicle and many others like that. This Board should be vested with the authority, which is lacking in this Bill, to ensure that those who set up training institutes, be they public or private, are controlled, regulated and properly managed, so that we have standardized training in the country and in dealing with skills training in the country.

Mr. Temporary Deputy Speaker, Sir, all Members of Parliament in their constituencies have been building a lot of village polytechnics that fall under the Ministry of Youth Affairs and Sports. Then you have technical institutes that fall under the Ministry of Higher Education, Science and Technology. You then have those backstreet colleges that fall nowhere. Some even give certificates that are not approved by any State authority. I would want to see that good intentions as there may be, we make sure that all institutions have a curriculum to follow, and that when institutions apply for licences to start operations, they are given guidelines, standards and required to teach subjects that will shape our young and older people, who want to improve their skills in what this economy requires. If that is done, then we will be able to benefit fully from this amendment Bill.

Mr. Temporary Deputy Speaker, Sir, I want harmony between the authority that we are proposing - I do not know whether this should be found in this Bill, or another piece of legislation - the Ministry of Higher Education, Science and Technology, particularly in relation to university, polytechnics and technical institutes education. The authority should not just manage assets and funds and the usual things that we give parastatals, but should be a parastatal that will be intellectually driven to provide meaningful change in the development of skills that will turn round the economy of this country.

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

*[The Temporary Deputy Speaker  
(Mrs. Shebesh) took the Chair]*

Madam Temporary Deputy Speaker, if this country is to achieve its Vision 2030, indeed, the other day we had a workshop in which there was unanimous agreement that Vision 2030 can actually be achieved in 2015 if we have proper skills, manpower and drivers. It requires us, as a nation, to invest heavily in skills development. I would want to

see a situation where this authority is not just set up. We appoint people into positions and we do not fund the organizations. If it will work and work properly, it will have to be properly funded, so that it can achieve meaningful goals to help this economy grow.

Madam Temporary Deputy Speaker, the idea is good. I hope the Mover of the Bill, who is the able Chairman of my party, will take into account the point about standardization and how to harmonise training in various institutions.

Madam Temporary Deputy Speaker, I fully support the Bill. Thank you.

**Mr. Mungatana:** Madam Temporary Deputy Speaker, I also want to take this opportunity to thank the Minister for bringing this Bill to this House at this important time within the dispensation of our Constitution making. I also want to join myself with the Minister, the Secunder and Mr. Wetangula and the sentiments which they have expressed as regards this Bill.

Madam Temporary Deputy Speaker, there is a joke that is told about a university graduate who went to look for a job in a supermarket and he was told: “Your job is, first, to sweep outside this place as we look for what you are going to be doing inside the main core business.” He complained and asked: “How can you give me a job to sweep outside and I have a degree?” The owner of the supermarket told him: “Oh, I forgot; you are a university graduate!” This means that there is a misconception or some truism that we were told that we must learn, go to university and graduate, and yet when we come out, sincerely, if we are given something technical or something practical to do, we are unable to perform it. It cannot be emphasized more that there is definitely need for us to create an even bigger bulk of the technical skills within our population that comes to the working field.

In countries like Japan, there is a very clear and dedicated plan to churn our certain skills so that a nation targets to be known as a critical supplier of manufactured goods like cars. They are developing a critical mass of employed technicians for a certain technical character so that this nation will produce this kind of machine for other people to buy.

Madam Temporary Deputy Speaker, on the same, you have countries that produce aeroplanes and they will develop a certain critical skill that will be used specifically to manufacture certain small parts of the plane so that, that country earns foreign exchange when it sells its goods outside. Therefore, this Bill will also help this country in terms of bringing income for the nation as a whole.

Having said the good things about this Bill, I wanted the Minister to note, first of all, a minor point that I noticed with great concern – and I hope it has not been repeated elsewhere – that even in the introductory bits of this law, there is reference to “Minister” on page 6 right here at the top. As minor as it may seem, to me, it means that the Minister has really picked up something from under the desk and the people in his Ministry may be did not even look at the new Constitution because they have forgotten that we do not have Ministers in the new Constitution. He has gone on to refer to this title that we have basically done away with in the new Constitution. I request the Minister – because may be inside here there is that same mentality – to look again because we do not want to come here after one or two months to seek amendments. It will be very sad, because we want this to go on and perform.

The second thing which is related to that is that there is, in the draft Bill, a complete disregard of the fact that these industrial skills need to be developed at the

county level. The Board which is being established by this Bill does not seem to have been given that compulsion under law to go to the county. As a representative of the people of Garsen and many other hon. Members of Parliament here who come from outside Nairobi, the one thing that we have celebrated about the new Constitution is that it breaks the monotony of being “Nairobi centric.” Kenya is not Nairobi!

Madam Temporary Deputy Speaker, the Minister knows this because he also represents the people from outside Nairobi. There must be a clause inside the Bill that makes it mandatory for this body to devolve its work down to the county level. We need this more there than here in Nairobi. Here in Nairobi, there are many colleges, whether they are fake or not, they are colleges where students can get this training. But out there in the far-flung counties amongst the 47 counties, many of them do not have these institutions. Even the village polytechnics are not properly equipped. We need the Minister to really go back and ask his officers: “What is it that we can put so that the Board that comes will be able to help our people in the villages to access this?”

I want to underline this again, Madam Temporary Deputy Speaker. In another 12 months or so after the General Election – I believe in the second week of the second Tuesday of August, 2012 – the Minister will not be seated there. The people who will come here might be a complete different breed and the county governments will be the centre of everything for all of us. If we do not do it right now and do it right, we will never have that opportunity to get the benefit of what we need to do now. So, I am asking the Minister and underline; please, go back and look at the clauses that need to be adjusted so that after we leave this House, we can say to the 47 governors that we made proper provisions and the skeleton is there in the law. So, if the national Government is not doing it, we must demand, as of right, that there is this and that that needs to be implemented in terms of developing the industrial potential for the 47 counties equally.

Madam Temporary Deputy Speaker, I also want to ask and finalize that the Minister will look, may be through the Committee or through his officers, how else we can adapt, because I have a feeling--- You know when you see an Act of Parliament talking about a Minister, it means that the drafting of this Bill was delayed somewhere and this Bill was just taken off the shelf and brought before this House. It means that the drafting is not in consonant with the thinking of the new Constitution. It also means that this Bill was done by people who are “Nairobi centric” and are not thinking “county centric.” So, I will request that before we come to the Committee Stage that the Minister will go and look at it because this is one Bill we want to pass because it will give us advantage in the counties. Could he look at it because he will never have this opportunity again to come from Turkana and make these things? Probably, the dot.com guys who will be here might be thinking very differently. They might be people who will tell you that there are computers across the country; we are internet-connected, so we can even have these on virtual sets; we can teach people here in Nairobi and you, people, in Garsen look at that, and yet there are no virtual sets in Garsen. They will be theorizing right here in Nairobi.

So, I plead with the Minister to go and look at this law again and make it “county-centric”.

With those few remarks, Madam Temporary Deputy Speaker, I beg to support the Bill.

**The Assistant Minister for Higher Education, Science and Technology (Dr. Mwiria):** Thank you, Madam Temporary Deputy Speaker, for giving me this opportunity to support the Bill that came up in 2009. I hope that we did it then because it is a very important one for national development.

The point has been made about how we are investing a lot more in universities and forgetting technical institutions, and yet it is quite clear worldwide that the countries that have made major strides in areas of industry and even in terms of achieving the visions that they set themselves have relied greatly on middle level men and women resources. So, it is extremely important that as much as we develop universities, which we must, we do consider and appreciate the fact that we have to put much more in middle level colleges because it is mainly this large pool of our youth and those with those skills that will contribute in terms of numbers to the kinds of targets that we have set for ourselves.

Madam Temporary Deputy Speaker, I would like to correct the feeling that has been going around that universities are completely taking over institutions of higher learning. We have said this before that, if any institution of higher learning is upgraded into a university, they retain their original mandate. Again, we appreciate that certificate and diploma courses are critical in terms of supporting what has been taken up by those who have degrees and postgraduate training. This kind of training is critical not just in terms of our local market. As a matter of fact, there is a big market for our young people out there in Europe, United States of America and, especially in the western world. This is because what has happened in those countries is that birth rates have been going down. Secondly, young people in those countries do not want to work with their hands. They do not want to be involved in any tasks that require them to work with their hands, which is also becoming a problem in this country. In other words, if we have quality institutions and people that are well trained, there is already a market out there in the Middle East and Europe if we can plan to take advantage of that market. All it takes is an arrangement between the Government and across countries to ensure that we take advantage of those opportunities.

We aware that even locally, the market is big, as long as we have people with the right qualifications. That market includes outside of this Kenya. If you go to the countries that are surrounding us, Somalia, Sudan, Uganda, Burundi, Rwanda, Tanzania, among others, the demand for very well trained, practical human resources is very high.

So, even outside our own market and outside of the international market, there is a big market regionally. For that to be successful, we have to pay particular attention to quality. There is no need of having industrial training or even any form of technical training if it is not of very high quality. This is because the competition of the future is not just about those that do not have skills, but those who have skills that have very high quality; that will almost do the job as well as a machine.

It is not enough to have an ordinary carpenter these days. We need to have one who is a joiner of very high quality to the point that the product that they finish is so good that sometimes you cannot tell the difference between a machine-made and a human-made product. We do not have those kind of people. Nor do we have people who are very highly advanced in the area of electricity, plumbing or masonry. You will be surprised. So there is such a big demand if we can ensure that we have these kind of people that

have those requisite qualities that are lacking in many of the skilled people that we are using.

Therefore, that will call for not just institutions, but very high quality institutions that have all the facilities that we require in addition to the human resources of persons that are not what we would see as rejects, but people who also have very advanced training to be able to cope with the demands of the modern world in terms of the skills that are relevant for the kind of infrastructure, both domestic and international that is required.

Madam Temporary Deputy Speaker, we also need to have a system where we improve remuneration; the salaries that go to people with those kind of skills. If you recall, technical vocation education and industrial training was introduced by the colonial authorities when they introduced formal education. But up to now, this kind of practical training and those institutions have not been able to attract the best of minds; the most qualified academically. This is not only because these skills are looked down upon, but more importantly because if you go to an institution and you are a carpenter, a mason or an electrician, you are unlikely to make the same amount of money as a university-trained person. So, academic education still continues to be most well rewarded. That is one reason why we have young people who score very highly, but they will not be tempted to go to these institutions because they can see like very everybody else that if you want to make money, the line to follow is the academic line. This is despite the fact that if you go to countries in Europe and America, many people with practical skills are making much more money than people who are trained in university education. This is because those countries have re-oriented. They have reward structures in a way that if you have that kind of education, you will be recognized and you will be paid better or at least minimally as well as those people with academic qualifications. So, it goes beyond just training to what kind of rewards we make available to those that have that kind of training.

Madam Temporary Deputy Speaker, I agree with those who have spoken before that we have to pay attention to the curriculum. In doing this, it must not only be left to the industrial schools and the Ministry of Labour. It is important to bring other people who have a stake in this, bring business, industry, educational institutions to be able to sit together and come up with a curriculum that reflects the current status in the world in terms of the kinds of demands and skills that are needed. This is because sometimes, we do curriculum as just educational institutions and leave out the consumers of that curriculum. So, it is important as this is being done that this industrial training curriculum incorporates persons out there in industry who are much more familiar with what they need and to also begin to ask them to make opportunities possible for internships and practical training. So, that collaboration between the consumers of the skills and those who train and produce these skills is particularly important if we are to make progress.

Madam Temporary Deputy Speaker, in this regard, it is also important to pay particular attention or think in terms of potential partnership. How is it not just going to be the business of the Government, not only in terms of this curriculum, but in terms of supporting institutions in terms of putting money in these institutions? Most of the consumers of the products of these institutions will be the private sector. What will we be asking of the private sector, not only in terms of giving us opportunities for internship, but also in terms of putting money in those institutions in terms of supporting research

and paying for certain chairs of departments? More importantly, in terms of being part of supporting the development of infrastructure because this is only one way they can give back. It is not only left to the Government because the Government can train, but the main consumer should also have a role in terms of supporting these developments.

We should, therefore, as we talk about quality and these partnerships, involve key stakeholders, the private sector and others in keeping out a watch on kinds of institutions that are coming up to ensure that they not only reflect the relevance, but also the quality of the kinds of institutions that we would like to generate that kind of human resource. In this regard, it is important also to see how various Government Departments can collaborate.

The Ministry for Higher Education, Science and Technology is responsible for technical vocation education. There is the Ministry of Labour, Ministry of Trade, and virtually every Ministry in this Government has opportunities for skilled training in the area of practical skills. What is lacking is co-ordination; coming together of these institutions to be able to work together, so that they do not go in different directions in terms of what is quality of the person that must enter that training institution. Is there duplication? Is there repetition in terms of what is offered? Do we have the same regulatory mechanisms for all these institutions because they are all about training? What we lack is that clearing house from the various Ministries to be able to have one body that will be able to follow what is happening across all Ministries, not just specific Ministries like the Ministry of Labour because a lot of this training is taking place outside the Ministry of Labour and Ministries of education. But that co-ordination is not there. It is important for both quality and the avoidance of duplication and to ensure that we market the same product and have the same controls for these institutions. We need that clearing house; that co-ordination.

I agree with those who say that this must also relate to the new Constitution. It must relate to the new Constitution, not only in ensuring that there is presentation across counties, but also in terms of the management of these institutions. I think one positive development in terms of skills training and professional development in this country is that Ministries will not just be run by Ministers, but they will be run by more often than not, by professionals. These should be people who have the competencies who have been in the profession and not politicians. We, therefore, have much more faith and believe that training of the future just like the running of other departments and Ministries will be much more professional. Some of these issues that we are talking about related to standards, collaboration and being market-driven will receive much more attention than is currently the case with the implementation of this new Constitution.

I beg to support.

**The Temporary Deputy Speaker** (Mrs. Shebesh): If there is no other interest in this matter, I will ask the Minister to respond.

**The Minister for Labour** (Mr. Munyes): Madam Temporary Deputy Speaker, I want to thank those who have contributed. I have taken those comments seriously and we will incorporate them in the coming amendments at the Committee Stage.

Let me clarify one thing about industrial training. Industrial training has been confused and in many cases, people call it vocational training. I want to give an example of a graduate coming from the University of Nairobi with a degree in mechanical engineering. The person gets a job, but does not have the skills. So, we need a centre of

excellence to improve those skills and the know-how of that student who has just got a job. This is the kind of thing we want to do in this country. What we have now is obsolete. Our mechanics are being trained on the carburetor systems and yet the technology is now fuel injection, for instance. Those are the kind of centres of excellence. It is not vocational training, but industrial training to improve skills.

Madam Temporary Deputy Speaker, I agree with county devolution and the fact that we should have centres of excellence at every county. Those are some of the amendments which will come and I take that seriously. With regard to curriculum design, the role of the Authority is primarily designed to curriculum, implement and co-ordinate policy.

With regard to the qualifications of the Authority members, while it is a tripartite body that draws from workers, employers and the Government, in the amendments we have said that we will increase the level of qualification to ensure that we get the best from the workers, the employers and those interested parties who would want to serve in that Authority. So, whether it is COTU sending its representatives or the FKE, we will put the higher speck and, therefore, we expect to get the most qualified Kenyans in this Authority.

Madam Temporary Deputy Speaker, we need to hire quality personnel training. That is why we have said that we need to make this an Authority from a department in the Ministry of Labour because resources have lacked in the Ministry. We thought that this will make it a parastatal that will attract the best brains in this country and investments. Therefore, I agree with those who are saying that for us to make it competitive, the way to go is to create this Authority. We will correct the small technical issues like the Minister and make it Cabinet Secretary and the others. Those are typographical errors. The most important one was the one on devolution which I agree with the Members that we need to have it in every county. Every county should have a centre of excellence on industrial training. Many of the Ministries have a department on training, for instance, the Ministry of Higher Education, Science and Technology, the Ministry of Local Government, Ministry of Youth Affairs and Sports and, of course, the Ministry of Labour. We need somebody to co-ordinate, but I do not want to say that this Authority should be in charge of that. Surely, industrial training is not vocational training and, therefore, the Industrial Training Authority cannot co-ordinate and direct vocational training because they are two different training approaches.

I want to persuade Members today to pass this Bill and allow us to get more capacity and blood into this Authority. Let Kenyans enjoy this and as we look into the Vision 2030, we have a body that will push us forward and ensure that Kenyans have the best skills and personnel to take us into the years to come.

*(Question put and agreed to)*

*(The Bill was read a Second Time and committed to a  
Committee of the whole House tomorrow)*

THE PUBLIC APPOINTMENTS (PARLIAMENTARY)  
APPROVAL) BILL

**Mr. Mungatana:** Madam Temporary Deputy Speaker, I want to thank you for giving me this opportunity to move this Bill for the Second Reading.

In the not so long time ago, public appointments in Kenya were not required to be vetted by Parliament or any other branch of Government. The Executive consequently enjoyed unfettered powers of appointing people into the Public Service, the Judiciary and very many other State organs. On this basis alone, there was a lot of patronage of political nature, tribalism and nepotism.

*[The Temporary Deputy Speaker  
(Mrs. Shebesh) left the Chair]*

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

There was, therefore, the culture of corruption.

**The Temporary Deputy Speaker** (Dr. Laboso): Hon. Mungatana, just for the record, please, could you indicate that you are moving that the Bill be now read a Second Time? Then you can continue.

**Mr. Mungatana:** Madam Temporary Deputy Speaker, I thought I did that, but I will do that. I wish to move that The Public Appointments (Parliamentary Approval) Bill, Bill No.3 of 2011, be now read a Second Time.

I was saying that the old culture of direct appointments by the Executive made these people not only to be corrupt, but to lack any form of independence. Many of us who have experienced this know that in the past, if you needed anything in some quarters, all you needed to do was to get a politician or a “higher authority” to order something to be done for you. Because the people who were holding those public positions owed it to those politicians, it was impossible to get fairness in some instances. In fact, therefore, there was this attitude that we must get the presidency or a certain Cabinet post because if we get that position, it would be our turn to eat.

Mr. Temporary Deputy Speaker, it is because of this attitude that we have a highly ethnicised Public Service. In fact, the Commission that is chaired by Kibunja came out very clearly in terms of public appointments – that, certain communities have got more than their fair share of public appointments. The current Constitution has come with the requirements that there must be fairness and openness, and that there must be public confidence in public office holders. This Bill seeks to be the law that will make provision for the procedures of all Parliamentary vetting that is required by the Constitution.

I now want to, quickly, look at some the provisions contained in this Bill and highlight them as I seek the support of this House to approve this Bill. First of all, there is protection for people who may wish to go for public appointments. If you seek to take a position that requires Parliamentary vetting, you will be notified that you will be vetted. In fact, you will be told clearly in a notification, through an advertisement, that you will be required to be vetted in public. So, if you have skeletons that you wish to hide, you may not wish to be one of those people who will be applying for Public Service positions.

Madam Temporary Deputy Speaker, this requirement will automatically cut out a huge chunk of people who may not be otherwise suitable for such a position. The candidates applying for a public service position will also be given an opportunity to back

out, under this law. Such candidates will also be told, roughly in the Schedule of this Bill, the things that will be required of them to explain. For example, one will be required to disclose information relating to one's deferred income, future benefits, tax compliance status, statement of net worth, one's potential conflict of interest, and one's outside commitment during service in an office.

So, one will be required to disclose information pertaining to all these aspects. For instance, if you are a billionaire in Kenya – you have got so much money – and you do not want anyone to know about it, you will not wish to apply for this kind of position. If you are someone who has hidden wealth in many ways, including receiving income from trusts, and if you live in a way you would not want to be known, you may not wish to apply for these positions. If you acquired your wealth in a manner that you may not be willing to explain to the public, and sometimes even to members of your family – you may be polygamous and may not want some of your family members, whom you do not like so much, to know what you have – you may not wish to apply for these positions.

Madam Temporary Deputy Speaker, what you are expected to disclose, under this law, is clear. This cuts out some of the weaknesses we witnessed during the recently conducted vetting exercises. Some of the Judges and people who came for vetting were not expecting some of the questions that were put to them. Some of them were clearly offended when they were asked some of the questions. What we want in this law, is to cut off that kind of situation. We want you to know in advance the kind of questions you will be asked when you appear before the Parliamentary Committee that will be conducting vetting. If you do not like those questions, then you may not want to apply for some of the positions.

I am requesting Parliament to approve this Bill because this is one way of institutionalising the process of vetting within Parliament. Countries such as the United States of America (USA), which have a long history of vetting processes, have perfected the exercise, so that people expect to be asked questions on certain issues. So, before you apply for such positions you will have known, for example, that your tax returns must be in order; you are not underpaying your house maid, and your *shamba* boy has his NHIF premiums paid up, and that he is properly remunerated, in keeping with the new requirement that Francis Atwoli has introduced in the country, in accordance with international labour laws; that you pay your house servants Kshs7,000 and above.

Madam Temporary Deputy Speaker, if you know that you have not complied with these requirements, and that you do not keep within the law, you may not want to apply for some of these positions. This raises the question of predictability. As an aspiring civil servant, you will know that this process is institutionalised, and that you will not be going to find Parliamentarians who may have an agenda. It removes the suspicion “maybe, they want me to fail, so that their own political crony can get the position”.

We have heard some people who have gone through the vetting process complain. I can quote the Director of Public Prosecutions, who complained: “I feel that the process was politicised”. If we have this kind of law, it will not matter how many Members of Parliament, or members of your community hold Press conferences for or against you, because you will already have known the requirements.

The law stipulates clearly what is expected of you and if you have failed, you have failed. It will not matter how members of your community come out in the streets in support of you. It will not matter how many of them will be here in Parliament or outside

Parliament, doing whatever. If you have failed, you have failed. If you have passed, you have passed. That is what this Bill says. We are creating an institutionalised system which will help this country move towards the achievement of Vision 2030.

Madam Temporary Deputy Speaker, this law institutionalises the vetting process not only in Parliament but also outside Parliament. In the nomination process, for example, if it is required that the President will be nominating a candidate for Parliamentary approval, it will not be a capricious nomination. The reason as to why we need to pass this law is that it will make it mandatory for nominating authorities, such as the President, to give reasons as to why they think that the person should be nominated for a particular appointment.

So, a practical situation would be; “I, the President of the Republic of Kenya do hereby nominate XYZ to the post of Attorney-General and the reasons I give for the nomination of this person to this Committee of Parliament are as follows:- We have picked the nominee for the post having regard to his or her abilities, experience and qualities that meet the needs required for that post.”

He is required to quote the Constitutional requirement relating to that office in question. In this law, he is also required to give the procedure he or she used to arrive at that nominee. This means that if I was the President recommending a nominee for the post of the Attorney-General, I cannot pick any one. I cannot just say that he qualifies. I also have to attach to the relevant Committee of Parliament the procedure under which I arrived at “X” to be my nominee. It should be something that is predictable and I can explain to that Committee.

Madam Temporary Deputy Speaker, I am very happy and recommend this law to Parliament because it will set us free. Even as Mr. Mungatana, God help me, holds the office of the President and I am appointing someone who is from the Coast or better still someone from my village, I will have to give the procedure under which I reached that process and why I eliminated all the others and remained with that person. This country will have confidence in this process because then the public will know that this country has institutionalized everything that needs to be done for the benefit of all of us.

I request Parliament to help me pass this law in the Second Reading because it invites public participation. There is a clear procedure and involvement of any person in the country, who would like to give his or her opinion as to the suitability of that candidate. For example, if the President, in 2012, will nominate Public Secretaries to be considered for appointment, any person in this country under this law will be able to come before a Parliamentary Committee and say: “This person has done this and that and therefore, is not suitable”. These things will be in the public domain, every person in the country will be given an opportunity to give his or her opinion.

Madam Temporary Deputy Speaker, it cannot be good for this nation and all of us that the people who are going to be sitting in the Cabinet, Principal Secretaries, Heads of Independent Commissions and all other public posts that require Parliamentary approval-- As a person from Garsen even if nobody knows me in Kenya, I have a right to go to Parliament and give them information about somebody. We have shifted this country to another level. I am so proud that when we adopt this law, this nation will be different.

In Rwanda, for example, His Excellency the President does not wait. At the end of every year, there is a reporting mechanism for Cabinet Secretaries. If there is a whiff of corruption, he does not wait to be told. Once you are mentioned you have to go. By

this law, we are saying that at the time of nomination, we shall have people of high integrity. We have also, in this law, protected those people. The candidates are protected because it is not everyone who stands to say, “this man is corrupt or did this and that against me.” You must come and swear under oath so that if you tell lies about a candidate who is being considered for a post, automatically you *perjure* yourself. If you *perjure* yourself, you are of course subject to the criminal procedure code and that means you could be charged in a court of law.

Madam Temporary Deputy Speaker, this means that only relevant and very important information will be allowed in the Committee. Within this law, there is a provision to protect the candidates further. Where a candidate feels very strongly that the information he is going to divulge might be too personal or of a private nature, he can request the Committee that: “Please, let us now remove the cameras because I want to disclose this and this information and it is a bit too private”. It is allowed! This is a good law that can help us get this country to a very good start when selecting the new people into positions of responsibility.

Finally, I want to recommend to this House this law because it is definite. It is not subject to the manipulations and politics of Parliament. Why do I say so? The entire process will have to take 14 days. If, for example, our new President in 2012 has just been elected and he needs his Cabinet approved, it will have to be done within 14 days from the day he submits that list to the 11<sup>th</sup> Parliament. This law is very clear. The process must take exactly 14 days. If Parliament is dillydallying, for example, we had an experience with one Committee in the House where there were issues and there were divisions, this law ensures that the country does not come to a halt. It makes it very clear that if Committees do not agree and there is no verdict of either yes or no, that nominee that the appointing authority has brought to Parliament will stand passed. This means that within 14 days, the new President will have his Cabinet approved. If it is not approved, he will also be told so within seven days of rejection. He or she will need to nominate another person.

Madam Temporary Deputy Speaker, there has been a lot of effort with many Members of Parliament involved. I want to give credit to all those hon. Members who attended meetings that we organized in and outside this House to try and think through a proper institutionalized way in which we can hasten Parliamentary approval for appointments. I want to thank Mr. Musikari Kombo. I want to thank him and the team of Members of Parliament and the team of Parliamentary Caucus for Reforms that we have been meeting. This is not solo work. I must make it clear that it is work that has been done by many of us whom I have not mentioned. I am pleading with this House that we must pass this law as soon as possible. We must go through this Second Reading then Third Reading. For example, I would be very happy if the pending appointment of the Attorney-General will go through this process. Then Parliament will be given the reasons, for example, why certain candidates should qualify. Parliament will then debate and pass or reject those people, and everything will be timeously within a period of 14 days. It would be nice for all other appointments--- We have now to think about the new Commissioners of the Independent Electoral and Boundaries Commission. It would be wonderful to go through this process in a law that is institutionalized and someone is predictable, so that we get the very best in Kenya. But at the same time, it will be a

process that is devoid of so much pressure on the candidates so that we get the quality of people that we require.

Madam Temporary Deputy Speaker, we have tried to balance this work. You will notice that I keep saying “we” because it was an effort of many of us to see that this Bill will take care of both sides, that is, the people who are being vetted and those who were vetting. Also, it will be fair to the nominating authority. I highly recommend this law to all of us who are here and hon. Members who are not here. We should make our contributions as fast as we can, pass this law in its Second Reading and bring the necessary amendments that we ought to in the Third Reading, so that we can have this law in place to institutionalize and also bring confidence into the process of selecting our public officers who need to be vetted by Parliament.

Madam Temporary Deputy Speaker, I, therefore, wish to move and call upon hon. Mbadi to second this Bill.

**Mr. Mbadi:** Madam Temporary Deputy Speaker, I rise to second this Bill. I want to start by saying that, as a country, we have gone through a transformation. I think my colleagues will remember that in this country, if you were expecting any public appointment, then what you needed to do was to always have a radio and listen to 1.00 p.m. news to hear whether or not your name is mentioned. If you were occupying a public office, chances were that always at 1.00 p.m. every day, you were to rush to where there was a radio or television to listen to news and hear whether or not you were still going to occupy that position.

Madam Temporary Deputy Speaker, the people of this country made a move last year and decided to transform the system of governance. We decided and said as a country: “Enough is enough. We want to see change.” We realized that change through constitutional review and, now, we have a new Constitution in place. This Constitution calls upon those who are making public appointments to do it in a systematic and procedural manner. It calls upon those who are privileged to make any public appointment to do it in a way that is transparent and that would follow some system of vetting. You will agree with me that, in the recent past, we have just but seen a test of what Kenyans really wanted. I am sure Kenyans are very happy to see, for the first time in the history of this country, people being vetted. The way it was done, probably, has not met some threshold or benchmarks, but it is a good start. Therefore, I want to congratulate my brother, hon. Mungatana, for bringing this particular Bill. This Bill is timely.

Madam Temporary Deputy Speaker, I remember when we went through the vetting process of the judicial officers; the Chief Justice (CJ), Deputy Chief Justice (DCJ) and the Director of Public Prosecutions (DPP). People were asking: “Fine, we like the vetting, but where is the benchmark? Is it methodological? Was it done objectively?” This Bill is going to address many, if not all of those concerns. I like this Bill because, first, it has given us a procedure of vetting public appointees. This particular Bill is not only addressing those officers or offices which the Constitution requires Parliament to approve, but also goes a step further to even include those offices where Parliamentary approval is required through other legislation. Any appointing authority who is required by law to appoint an officer who will require Parliamentary approval, will be expected, through this legislation, to notify in writing the Clerk of the relevant House, whether Senate or Kenya National Assembly, of the intended nomination. This notification will be

accompanied by information concerning that particular nominee. I remember when we were going through the vetting process for the position of the DPP. We kept on asking: “Where is the information? How would we know whether the process that was followed was credible?” We had nowhere to confirm that. As opposed to the appointment of CJ and the DCJ, in this other case, we had no reference point. This Bill is going to make it mandatory for anybody who is forwarding any name of any nominee to Parliament for approval to accompany that proposal with information about that nominee. That information will be received by Parliament through the Clerk. The Clerk will be required then to invite the relevant Committee of the House, which will then fix a date and get a place for what we would call an approval hearing. This will be made known to the members of public seven days before the actual date. Nothing could be clearer than this and that is why I congratulate hon. Mungatana. At least, now Kenyans will know the process. As hon. Mungatana gave an example, if we want to appoint the person to occupy the Office of the Attorney General, Kenyans will know that the moment there is a proposal or nominee by the appointing authority, there is a clear procedure of how that person will be vetted until the time he finally occupies that position.

Madam Temporary Deputy Speaker, this Bill makes the approval hearing open and transparent, unless there is a clear reason provided in law as to why that cannot be done. So, we will not be asking the relevant Committees of the House to allow for public participation. We will not ask them to open it to public. It is now going to be a legal requirement. It is going to be embedded in the Statutes that wherever you are required to do approval hearings, you must do it in the open. Kenyans must see it and it must be transparent.

Madam Temporary Deputy Speaker, I am also happy with the way this Bill has covered the particular areas like what issues the relevant Committee of the House that is going to carry out approval hearings is supposed to look into. Are you going to ask any other question? No! You are supposed to confine yourself to academic qualifications and credentials, professional training and experience of that particular nominee and personal integrity and background. This is in line with Chapter Six of the Constitution. On leadership and integrity, you must demonstrate that your integrity is beyond reproach. You must demonstrate that once put in that office you will not bring shame and ridicule to that particular office.

The Committee will now be bound by law to ensure that they carry out due diligence to ensure that the person they approve for appointment meets the minimum threshold of integrity. I think that is one of the reasons that this country has been yearning and craving for the involvement of Parliament in vetting the appointments that are made by the Executive. I urge that in future we come up with laws of vetting those appointments that Ministers make, or in the next dispensation, Cabinet Secretaries.

We have been wondering how appointments are made. Sometimes you will find that immediately a Minister assumes office, he makes an appointment that takes ethnic and regional considerations rather than competence and professionalism. This must come to an end. One of us, one of these days, will come up with some legislation along this line to make sure that even those appointments of State corporations, the Chief Executive Officers of parastatals must also somehow go through a vetting procedure.

Madam Temporary Deputy Speaker what are some of the issues that this Bill wants the relevant Committee of the House that will do the approval hearing to follow?

First, as Mr. Mungatana said, any appointing authority will have to demonstrate the procedure they used to come up with a nominee. What is the procedure? What were the considerations? One will not just wake up and tell the country, "this is the person to occupy this position." Before Parliament finishes or even starts the vetting process, that appointing authority must tell us the procedure used. Was it an interview? This is because that would be in line with Article 10 which requires public participation, openness and non-discrimination. Kenyans are supposed to be given equal and fair chance to participate in the recruitment process. We will, therefore, be requiring any appointing authority to demonstrate the procedure used to arrive at a particular nominee.

We will also require the appointing authority to tell Parliament the statutory requirements relating to the office in question and whether they have been complied with. Have you followed to the letter what the Constitution dictates? The suitability of the candidate for appointment will also have to be looked into.

What happens in case the appointing authority has notified the Clerk of the National Assembly of the nomination? Will Parliament just sit and take forever to vet? No! This Bill has addressed that. The Bill is very clear that Parliament will have 14 days to carry out the vetting process. In case Parliament is unable to vet the nominee, then the appointment will be concluded. It will be assumed that already the person has been vetted and approved by Parliament.

Madam Temporary Deputy Speaker, the Parliamentary Committees, through this legislation, will be treated like High Courts because they will have powers like those of the High Court. They will also have powers to listen to evidence under oath such that those with mischief must know that in the end if they give misleading information, there is a penalty which is up to a maximum of Kshs200,000 or one year imprisonment or both. This will deter the mischievous individuals who want to tarnish the names of others.

I want to conclude by saying that this law is very good. I urge and I am sure that this House will approve this Bill in the Second Reading. However, good as it is, as a country and as the people who will be tasked with the responsibility of vetting various public appointments, we still have an obligation. It will not serve any purpose to listen to the views as presented by Kenyans and then by the end of the day instead of taking them into consideration, especially the views touching on integrity, we rubbish them and condemn the Kenyans who have appeared before us and we call them names. Kenyans will be discouraged and many will not be willing to appear before Committees of the House to make presentations.

I, therefore, would urge that in future as we progress and advance and mature in this exercise of vetting which is new to this House--- This House has not been involved a lot in the vetting process. As we carry out this function and especially in the next dispensation in the 11<sup>th</sup> Parliament when we will have the powers to vet even the appointments made by the President who will be elected then, we should show responsibility and listen to the views presented by Kenyans and consider them as we make recommendations. If we cannot do that, then, as Parliament, we will be failing the people of Kenya. The people of Kenya had faith in their elected representatives. They felt that if their elected representatives are involved in the vetting process, then, indirectly, they are also involved.

Therefore, if public opinion points to some direction, this House should not move in the opposite direction. If it does so, then it not only fails this House, but also the people

of Kenya. It discourages them and they will ask: “Was it really worth it going through the constitutional review process? Was it really worth it to wait and fight for a new constitutional dispensation for those decades? Was it really worth it for Kenyans to lose their lives? Was it really worth it for Kenyans to suffer; some tortured while others were detained for years so that we could have the kind of environment that we have today?”

Madam Temporary Deputy Speaker, with those very many remarks, I beg to second.

*(Question proposed)*

**Dr. Nuh:** Thank you, Madam Temporary Deputy Speaker for giving me this opportunity to support this Bill. I would like to say that this Bill comes at a good time. We have even delayed. Currently, persons who are appointed to positions in Government have undergone rigorous vetting which is sometimes contested whether it is anchored anywhere in law. If any State officer would ask which statute guided the process, we would only have to state that the Constitution says so, but the framework within which the vetting was supposed to be guided has never been put in place. That is why Mr. Mungatana cited instances where persons who were being vetted, questioned and interviewed took it personal and were very aggrieved as to the nature of the questions they were being asked.

If the process and the procedure were already anchored in law, then most of the officers appearing for vetting would have been prepared for the exercise. Without belabouring the point, I would like it carried in the form of amendments, when the time comes. This has to do with the time frame within which the vetting is supposed to be conducted.

Madam Temporary Deputy Speaker, Parliament is very busy; it is a place where many pieces of law compete for time and attention. It could only take the mischief of the appointing authority to find time when the parliamentary calendar is very crowded. He or she will know that 14 days are the time within which it is stipulated that someone must be vetted and a report made to the House, and that due to the heavy load in the House this task will not be accomplished. He or she will then want to float nominations at that time. I think it is of essence that we try to provide a window through which, if this 14-day timeframe is not complied with because of the busy schedule that a certain committee of Parliament has, time can be extended; the timeframe should not be cast in stone.

Madam Temporary Deputy Speaker, Sir, the second thing I want to bring forward here is that we are saying that this law discourages State officers or those who are up for appointments from canvassing; but we know that apart from those groups which have points of aggravation and say that a certain candidate is not suitable for appointment, we can have another group trying to canvass. In fact, in terms of stating the reason as to why a certain officer should be appointed, they should come before a committee and give the reasons as to why they think a certain candidate is suitable. Where in this law are we catering for such groups? This is because even if there were certain groups or individuals who would want to come with evidence to show to a particular committee that a certain candidate is not suitable for a specific job because of his past record, because of the strict timeline within which we want that evidence to be heard, you would have so many groups coming and crowding the arena in such a way that another person with dissenting

views would not have time to be listened to. So, because of these competing interests, something should be done. Although we stated that canvassing is not allowed, are we saying such groups, which want to come and say that a candidate is suitable for a position are coming to canvass? I think that is one area I would want addressed and, at least, made clear.

Madam Temporary Deputy Speaker, the third issue I want to front here has to do with the issue of the rights of the nominees who are supposed to be vetted. I think we should not injure nominees for a particular position, because they are also Kenyans. The law has to treat us fairly. We know that at times personal vendetta can get to the floor of a committee, because maybe someone within the public has a bone to pick with the individual who has been nominated. It has to be a delicate issue of balancing. Where a member of the public would want to come and provide information to a committee on the suitability of a candidate, what is the threshold of evidence that is supposed to be provided by this individual to the committee? What is the threshold of evidence whether incriminating or trying to give credit to a person? What is the threshold of evidence that we are establishing? Is it merely hearsay? Should it be in terms of documentary evidence? Should it be in terms of video recording? Should it be in terms of opinion? So, I think it has to be a bit clear within this public appointments law as to the threshold of information that we would want to seek from the public for a committee to make a sound judgement.

Madam Temporary Deputy Speaker, the fourth issue has to do with what punishment we are providing for those people who are driven by personal vendetta to come and soil the names of Kenyans. We have put the punishment here that someone who refuses to provide evidence, or who refuses to appear before a committee, and who tries to hinder views from another person in a way that is against the law--- I think we have to go further than that so that any Kenyan who would want to come and contest the suitability of a candidate has to give something that is anchored on truth and is not driven by malice. So, we have to put in the law the punishment that should be meted out to such people.

Madam Temporary Deputy Speaker, I have gone through the schedule of a questionnaire that is supposed to be filled by nominees for a specific position. I was just wondering--- Kenya now seems to be headed towards a polygamous status for all individuals, whether male or female. But I do not know whether somebody, like hon. Khalwale, is supposed to clarify whether he has nine wives or only one.

*(Laughter)*

Madam Temporary Deputy Speaker, finally I think the issue of religion is also crucial. It is not that the committee which will conduct a vetting exercise will want to dislike or like a particular religion, but for purposes of eliminating doubt, and so that we do not have ambiguity, even for the person who has no religion, I think a candidate has to state in the questionnaire which religion he belongs to and if he does not have it, then he has to state that he has no religion.

With those few remarks, I support the Bill.

**Dr. Khalwale:** Thank you, Madam Temporary Deputy Speaker, for this chance. I would also like to thank the hon. Mungatana for this timely Bill. I, therefore, want to

strongly support it. I am doing this because I believe that this law will form the fulcrum for the headhunting of public servants. Without it, we will continue witnessing what we witnessed in the recent past. I believe that with this law, we will have an opportunity to very quickly move away from the bad old days when incompetent and unqualified people, simply by virtue of being close to the appointing authority either through kinship or friendship, found themselves in high office. The net result of that unfortunately was that it contributed to the running down of our economy. This was not just in Kenya alone but in most African countries after Independence.

Madam Temporary Deputy Speaker, it is a pity that the two principals do not seem to have come to terms with the new law, which requires greater participation by the public. I hope that once we pass this Bill, then they will wake up to the reality that on top of the Constitution itself, we also have this particular piece of legislation. I am saying this because while we were on recess, I was personally saddened by the appointments that were made by our two principals in respect of our military officers. It was so unfortunate; sitting there and looking at the names, there was total disregard to regional balance and matters of gender. It left me wondering whether we have any women in the top ranks of the military.

Madam Temporary Deputy Speaker, I would like to specifically comment on a few issues. Clause 6(6) suggests that a time should come when a public officer should hide himself or herself from public scrutiny. I want to request that when this Bill goes to the Committee Stage, we should not allow any clauses that give anybody an opportunity to hide away from the eye of the public what their character is.

Madam Temporary Deputy Speaker, I would like Clause 7 to be strictly adhered to so as to avoid issues of witch-hunt. I would like to encourage, at the Committee Stage that the Committee reads wide and borrows from some of the best practices in Europe and North America.

When I say this, I am reminded of what took place when we were vetting the Chief Justice, the Deputy Chief Justice and the Director of Public Prosecutions. Watching it, I realized that if I had been subjected to the same standards when they were asking them whether they were homosexuals or not, I would absolutely have had no chance at all because, probably, another person would have looked at me straight in the eyes and started asking me about polygamy, the way the unmarried hon. Member has been talking.

*(Laughter)*

Madam Temporary Deputy Speaker, we must, therefore, subject this to a very professional eye in line with Clause 7, which provides that this must be done in keeping with interrogating one's academic credentials, professional training, experience, personal integrity and background.

On the issue of the shaping of the criteria, I believe that we will add value if we included a requirement that a candidate should declare whether, before going into office, he maintains a bank account outside Kenya. This is important because we can match it with what he does in Kenya to see whether it can be reason for him to have those kind of savings abroad. If he declares that he has such an account, we should go further and ask him how he made the money that he is stashing out there away from the local economy.

Finally but not the least, as I support this Bill, I would like to ask my colleagues that if we are setting these high standards against public officers, we must make a decision and remember that we, as leaders of political parties under this new Constitution, have been given power to nominate youth, women and disabled people to the Senate, the National Assembly and county governments. We should, therefore, start thinking on how we can help leaders of political parties so that when they nominate those people to public office, they nominate them using the same standards, lest again we shift to a situation whereby, yes, we have checked what is done by the President, but then leave the Leader of the Majority Party in the House and the Leader of the Opposition to have a field day in appointing people who are just friends and cronies or people who will not add value to public governance.

Madam Temporary Deputy Speaker, if the standards that we are setting here will succeed, then as soon as the county assemblies are constituted after the elections, we must quickly take it down to them so that all the appointments that will be done in the county governments can, again, be done using the same standards by using the county representatives who will sit in the county governments.

Madam Temporary Deputy Speaker, with those few remarks, I support.

**Mr. Njuguna:** Thank you, Madam Temporary Deputy Speaker, for the opportunity to also contribute to this very important Bill. Let me, first of all, thank the Mover, Mr. Mungatana, for this very critical Bill. The public office appointments have been done in this country and yet well qualified Kenyans did not have them.

Madam Temporary Deputy Speaker, that era has already caused havoc in terms of destroying the fabric that should have continued in this country. I wish to recall appointments made in the past through tribal inclination, favoritism and, at times, very inexperienced Chief Executive Officers were given these appointments. The consequences have been disastrous.

I recall performance in various parastatals like Uplands Bacon Factory in my constituency, which employed 1,000 people. I also recall the Kenya Meat Commission, where employees had not been given their wages, profits had not been realized and, eventually, these entities were closed and job losses experienced. This non-development has caused insecurity in the country because the young people of this country have continued not to have any employment.

Madam Temporary Deputy Speaker, this has also caused economic stagnation because economic growth has not been realized. Impunity has continued to thrive in our country, corruption has been the order of the day and we have created unnecessary millionaires in this country.

Some areas in this country have continued to be marginalized meaning that well qualified Kenyans have been denied employment opportunities and even appointments in the public service. It is important to recognise that where qualified Kenyans have been given opportunities to perform, this country has continued to realise better performance and living. Look at the pride of Africa - Kenya Airways - where dynamic leadership provided by Mr. Naikuni has enabled them to continue buying new jets and the image of this country has been raised. Employment opportunities have continued to thrive.

Madam Temporary Deputy Speaker, look at what has been happening in the lifeline of this country at the Kenya Revenue Authority (KRA). The leadership has

continued to collect revenue, not forgetting that some western countries have of late not been very keen in funding our big projects and we have relied on our domestic income.

I wish to recognise where competent leadership has been noted, like in the National Bank of Kenya. Mr. Marambii has done very well for the last 15 years and the bank is now giving out dividends. Look at what is happening at the Kenya Commercial Bank (KCB). It is expanding its branch network in the country as well as in South Sudan, Rwanda and other areas. Therefore, these parastatals have provided vetting and proper appointment in their key positions.

Madam Temporary Deputy Speaker, it is also important to look at our education sector. Proper appointments have been made in schools that do well. For example, Alliance Girls High School and Precious Blood Riruta have continued to excel. Therefore, this Bill will bring very drastic and rapid reforms and make our country very enterprising. Therefore, it is important that well educated Kenyans be given an environment where they can compete. If they are given that environment, they will participate in this country as real patriots. The demonstrations that we have seen in certain areas where incompetent, aged and people who are not qualified have been given these opportunities without meritorious performance will be a thing of the past.

Madam Temporary Deputy Speaker, this Bill will rekindle and revive the collapsed institutions in this country. It will also create a rebirth of productivity in the public service.

With those few remarks, I fully support this Bill.

**Mr. C. Onyancha:** Thank you, Madam Temporary Deputy Speaker, for giving me the opportunity to contribute to this very important Bill. From the outset I want to thank Mr. Mungatana for introducing it in the House.

I have gone through the Bill. I am quite happy with the provisions that it brings along. However, I have a few comments to make. One of them is about the relevant Vetting Committee of Parliament. We have noted recently when some of our citizens are being vetted by Committees of Parliament, the aggressiveness with which the committees have asked their questions.

Madam Temporary Deputy Speaker, I have no problem with facts being brought out, but I have got a great objection to certain attitudes or display of aggression in posing some questions. I would like any relevant Parliamentary Committee to be, probably, taken through a course on how to extract facts without necessarily appearing to be belligerent to the person being interviewed or being vetted. They should be treated with decorum and respect as provided for in our Constitution.

I want to echo the sentiments of Dr. Khalwale that this Bill actually should be hopefully soon enough, extended to the county assemblies, so that the vetting process can also take place at that level.

Madam Temporary Deputy Speaker, Clause 2 on definitions, “committee” means the relevant committee of Parliament. Our recent experience has given us some insight into possible incapacity of a Committee of Parliament to actually act in this capacity. So, I would urge that it may not just be a relevant committee of Parliament, but it may also include a select committee or a joint sitting of two Committees of Parliament or any other Committee of Parliament which may not even be relevant, but may be delegated that responsibility.

Madam Temporary Deputy Speaker, moving on to the conclusion of the Bill, I do not see a provision for dereliction of responsibility in office in terms of these vetting requirements. I have in mind a situation where I am appointed to a position in which I have been vetted, but I get into office and I start behaving in such a manner that actually I would not pass the vetting process.

I would wish that a provision or a clause be introduced in amendment to provide that any officer who has been vetted will also maintain the integrity that is required of him throughout his period in office. Failure to which, he may be returned for vetting should such an unfortunate opportunity arise.

Relating to foreign bank accounts and the whole of such accounts, Dr. Khalwale ably contributed regarding disclosure of any foreign account with regard to the applicant under vetting. I wish that this would be extended to include relatives or members of his immediate family, including his wife and children, or to nominees because foreign accounts have been known to be held by nominees.

Coming to Schedule “F”, the nominee must answer all the questions. Assuming that I was the nominee and I am there answering questions, I would not like to be asked: “What is your sex?” This is because certain facts are quite obvious. It might actually appear to be even offensive if I am asked what my sex is.

Coming to Schedule 13, Town and City, maybe it might be an improvement if we also put the county of origin in view of the fact that the constitutional requirement is talking about balance in terms of origin.

Madam Temporary Deputy Speaker, coming to Schedule 24, it is on tax status. On the issue about tax obligation to the State to date, I would like that “to date” to mean the prior year. That is the year which might have just passed or within the last 12 months to 18 months. This is because at times tax matters take a long time to be cleared. There are cases where negotiations take more than that date. There are also situations where you might be doing the vetting in January or February by which time the taxes for the prior year may not be due. It might attract certain questions from KRA or any relevant authority to be forced to pay taxes which are not due or which you are contesting when actually all you want is the appointment. Maybe that can be looked into.

Then there is the issue which has been disturbing me that is on Schedules 28 and 29. There are people who have been imprisoned, some wrongfully, some correctly and they have served their term. They have, probably, repented or they were never guilty in the first place.

Madam Temporary Deputy Speaker, in many countries, including the United Kingdom, there is a relevant period after which you can declare that you have not been charged in a court of law – I think it is five or so years – so that if you were charged maybe ten years ago and you do not declare that you have been charged, that will be in order constitutionally speaking. Otherwise, we will be shutting out certain reformed people who maybe could have contributed to society and who might be rehabilitated.

I have just one more correction to make. On Schedule 27, there is “pro bono work or charity work to be reported”. This refers to listing specific instances and the amount of time devoted to each. I would like to add on to that “the amount of time”, “effort” or “funding” because there are many situations where you contribute to charity work, not by actually providing time, but by providing funding.

With those few remarks, I beg to support.

**Mr. Midiwo:** Thank you, Madam Temporary Deputy Speaker. I stand to support this Bill. I want to begin by thanking hon. Mungatana for living to his promise of trying to make us have an orderly way of vetting. This is a new thing for our people. It is very important to understand that the power has gone to the people of Kenya and from now on, all of us, public officers, will have to be vetted in totality. Many of us get in Public Service as ordinary people and a couple of years later, we are so different that we cannot even be deformed to our original form. The public needs to know that process. The members of the public need to know the people they want to trust and entrust their affairs with.

The biggest thing that this Bill will do is to right the current mess. What is happening today in the vetting process, like what happened during our last vetting, is that there is a team chosen to vet officers other than the Judicial Service Commission. Even in the Judicial Service Commission, the ranking system which has been introduced is corrupted. If you see the actual documents, you find that if a Luo is there and an applicant is a Luo, they rank him the highest. If a Kisii is there and there is a Kisii applicant, the person sitting in the vetting panel ranks him the highest. In other words, we have imported tribalism into our boardrooms. What needs therefore to happen is that the questions need to be asked in public so that Kenyans can see what is so special about that Luo applicant that is not in the Kikuyu applicant. We have to face this mess that we are in. This is what Kenyans have been trying to face. In the end, the result shall be that all Kenyans, regardless of their majorities in terms of tribe, shall have a fair chance because there are Kenyans who are minorities, but definitely are qualified to do jobs like the majorities. Conversely, there are Kenyans who are the majorities and qualified, but even amongst them, you find very many crooks. We are faced with a scenario where we need a Bill that forces compliance to the Articles of the Constitution that require public vetting. We need to do these things in public.

Madam Temporary Deputy Speaker, I am of the view that the Parliamentary Committee which has been doing the vetting, be it the Namwamba Committee or the Abdikadir Committee, that have some experience away from our country, should conduct vetting in public and those Committees have to be commended. They have done an excellent job. They have brought the things which Kenyans want to hear about nominees because nomination should not be a rubber stamp. There is something else that this Bill also needs to cure and I want to plead with hon. Mungatana. A committee is a committee of Parliament and there is no way a Committee can go and write a negative recommendation on a nominee and Parliament overrules it for the sake of it without proper investigation. There needs to be a way of ensuring that if there is anything negative about a nominee, the investigative authorities are given time to investigate. We have nothing to fear as a country since we have chosen to go this route. In the end, we shall have a good country if we are led by good and honest public servants.

Madam Temporary Deputy Speaker, there is fear that when people are subjected to public hearing, so much comes out that is negative about them. I have seen that the police do not want the things that came out about the Chief Justice and the Deputy Public Prosecutor to come. I am sorry; they will have to go through public vetting. This is the path that we have chosen unless we change our Constitution. We have to do that. In future, this Bill will take away all the other political Committees which are corrupting this process. We have now taken away the power of the President to perform his duty.

This Bill will then once and for all give the President power to nominate. In nominating, the President shall inform the nominee that: “I wish to make you the Secretary of Health”, for example, “do you wish to take up the job and will you be able to withstand public hearing?” That is a personal decision, but immediately a nominee jumps into the ring, I do not think that we should worry what to say. It is through public pronouncements of what we have heard and what we know about the nominees that we will be able, as a country, to know, unearth or uncover the rot amongst some of our public servants.

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

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

I read a small article yesterday in the newspaper which said that as a people, maybe we need to accept that we are so corrupt and that through that admission, we then look for ways of correcting our corrupt practices. Right now, there is too much pretence and this Parliament must not be that institution that protects people just because we are of the same tribe, cronies or just because we have criminal records and so we want to hide them. The time to change is now and we shall not escape it.

Lastly, with regard to all the vetting that may take place before this Bill takes effect, I want to plead with all the Commissions which are to be set up and the vetting authorities that they must comply with the Articles of the Constitution that require public vetting. The vetting that we have done so far, I want to say and I stand to be corrected, have been corrupted by a few people who sit in executive offices and pick their cronies and then come to lobby the Members of Parliament in a way that we are beginning to implement this Constitution on a wrong footing.

With those remarks, I beg to support.

**The Minister for Transport** (Mr. Kimunya): Mr. Temporary Deputy Speaker, Sir, I rise to support this Bill and, by extension, attempt to give formal Government response on it.

I want to start by thanking hon. Mungatana for being brave enough to come up with a criterion on how we move into the new constitutional dispensation, under which Parliament is seized with the matter of vetting all senior public appointments; as of now we do not have very clear criteria as to how this should be done. This is the first attempt that has been made in terms of defining criteria, and it is a very good beginning. There might be a few changes required to fine tune the Bill but, at least, we have a solid start. I really want to congratulate him.

Mr. Temporary Deputy Speaker, Sir, we have seen discrepancies in the past. We have even had conflicting information on the Floor of this House in terms of how candidates should have been vetted *vis-a-vis* how they were actually vetted. This arose from the fact that the persons contributing to debate in the past would have wished that Parliament used criteria which would ensure that their candidates won. We now have something that is formal. I will be coming to that towards the end, in terms of the criteria that has been suggested in the schedule.

I have heard people say quite often that since we have moved into a new constitutional dispensation, we need public participation in public matters. I believe that when we worked on the new Constitution, one of the things which seemed to be very clear was that people's participation through their elected representatives had been muzzled. The first step towards addressing this issue was the creation of the Parliamentary Service Commission (PSC) to start exerting the independence of Parliament.

Mr. Temporary Deputy Speaker, Sir, the whole idea of getting people to go to the Bomas of Kenya and work on a new Constitution was for the people to be involved in the drafting of the new Constitution and feel that they also participated in making it through their elected representatives. However, we seem to have forgotten that route. We are still agitating for public participation through the civil society and through calling everyone to come and make a decision, almost forgetting that the people have elected their own representatives, whom they pay, to agitate for them and also represent them in decision making in the country.

This is something we need to work on as we go forward; we need to decide where public participation should end because there are different levels of public participation. Our Constitution is very clear on what issues the people should participate in. The people shall give powers to their elected representatives in Parliament to make legislation and vet appointees to public office. We should not then deny hon. Members, who have been elected, that power by calling other people to come and help in the vetting process. That power has been specifically given to Members of Parliament.

Mr. Temporary Deputy Speaker, Sir, when we say that at the end of every five years, the people will go for a general election and elect people to represent them in Parliament, it specifically means that the people will give mandate, or delegate their responsibility and power, to their elected representatives to make decisions on their behalf for a period of five years. We should not treat that delegated authority as temporary. It should not be the case that when hon. Members are given a task by Parliament, we need to call people to come and tell us who we should pick between one candidate and another. This is because hon. Members have been elected to represent the people.

Judgements have been given the world over, and it has been made very clear that once you are elected, you need not go back to the people to ask them how you should vote on a certain matter, because by virtue of the fact that they have elected you, they have given you full power to make decisions on their behalf. That is something we need to figure out as we go forward because we could as well lose the power that has been given to Parliament to the civil society. As we go forward, it is important that we look into this issue.

**Mr. Mbadi:** On a point of order, Mr. Temporary Deputy Speaker, Sir. I really want to accommodate the Minister but he has gone on and on until I now feel I should raise this point of order. Is it in order for him to imply that once members of the public have elected their representatives, those members of the public have no direct say on matters affecting them? The Constitution is very clear. It says that sovereign authority belongs to the people of Kenya, and that they can exercise it either directly or through their elected representatives. So, the people can exercise their sovereign authority directly. They can withdraw the delegation and exercise their sovereign authority

directly. Is it in order for the Minister to imply that, having delegated that authority to Parliament, the people of Kenya have lost their sovereign authority?

**The Minister for Transport** (Mr. Kimunya): Mr. Temporary Deputy Speaker, Sir, we are talking the same thing. Once the people have delegated the authority to Parliament they have not lost it. They have given it to Parliament to exercise it on their behalf. They still have other powers that they will need to exercise directly like electing people, going to referenda and making other decisions. When Parliament has been given certain powers, it should not then be going back to the people and telling them, “you gave us powers to do this thing but we also want you to come and participate as we make decisions.” Once you have been delegated authority, you should exercise it to the satisfaction of the people who gave you that power. That is the point I am making. I want to take it from the very fact that I understand that the people of Kenya, including ourselves; the fact that we are Members of Parliament does not stop us from being citizens of this country. We exercise our authority inside and even outside Parliament.

You have seen increasingly of late even those who have been elected are moving towards being part of the civil society. This is again going against the whole essence of serving the civil society. The civil society is meant to fill a gap that is left by the Government and the private sector and the media. We cannot mix the roles of different people.

Mr. Temporary Deputy Speaker, Sir, the point I was making is that I am very happy that obviously we now have a criteria but let us not dilute it by inviting so many other people coming in without defining for them what their role is. How does the civil society participate in vetting? Their criteria is totally different from that of Members of Parliament. That is the point I am making. Much as we want the people to have the power to participate, let us not dilute this or any future Parliament by bringing people who have not been delegated that authority by the people to come and share in it.

The other thing I want to mention is that let vetting not be another sugar-coated disguise for affirmative action. I am happy the criterion does not include that. You have heard affirmative action for marginalized communities and affirmative action against the majority of communities. I would like to see that when we do vetting, we do not create a situation where people who come from some of the larger communities will continuously feel marginalized through the procedures we have put in place because that could be potential disaster in the future. We cannot afford to say that the five big ethnic communities; the Luos, Luhyas, Kikuyu, Kalenjin and Kamba, have taken their space because each has one person appointed and hence they need not apply. What are those people going to do? People will start getting back into tribal politics because they will be saying: “The only way we can survive is starting our own Government based on our tribes to protect ourselves from the smaller tribes”. This is something we must avoid at all costs and make sure that Kenyans will be vetted without even reference to their tribes. This can be done by getting ten applicants and classifying them as we do in the commercial sector or in private practice do. You number the candidates as number one to ten and vet them. You vet all of them and pick number six. That is when you look at the details of number six and see who he or she is. If number six and eight have been selected and they come from the same region, so be it. What justification would you have for telling somebody that: “Yes, you are good but you come from this community so we deny you the job?” What future are we telling him is available for him in this country

except to take up arms to start fighting for their rights from a different perspective? I think that is something we should be very careful about.

I hope that within vetting we can improve on the criteria to say that people will not be based on their names but will be vetted based on some blind numbering initially. Only those who appear at the top will then be physically vetted.

Mr. Temporary Deputy Speaker, Sir, there should be a choice of adding more questions to the questionnaire, rather than being straight-jacketed by a criteria which everyone will cram and pass. That could become the minimum criteria, but there might be a few things that he said. Although somebody said sex is obvious, it may not be quite obvious. Just because somebody is wearing a trouser does not mean that he is a man. But in terms of stating it very clearly that this is the minimum criteria, that is something that could well be changed within the first sentence. I will support that amendment should it come on the Floor.

Mr. Temporary Deputy Speaker, Sir, I could go on and on but, since I am conscious that one or two may also want to speak before we break, I want to, once again, thank hon. Mungatana for bringing this Bill that will bring sanity into the vetting process. Once again, let us take this probe the best way, let us take it forward and never use it to discriminate, especially among the bigger communities, because we really do not want to move our country to where people feel marginalized by the fact that they are bigger than the others, as we protect the smaller communities who we also need to bring on board.

Mr. Temporary Deputy Speaker, Sir, with those remarks, I beg to support.

**Eng. Gumbo:** Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me the opportunity to contribute to this important Bill. I will try to make it very quick.

Mr. Temporary Deputy Speaker, Sir, while I want to thank hon. Mungatana for bringing the Bill to the Floor of the House, there are one or two areas that I feel probably could have been done to enrich the Bill. I agree with the sentiments that have been made by hon. Kimunya; that much as we want to cure the social ills that have been there in the country, I think it is also not good to do it in reverse, so that we come to a situation where big is bad. I think all Kenyans who are willing to serve their country should be given a chance to do so.

Mr. Temporary Deputy Speaker, Sir, I just have a few comments. For example, in Clause 5(2)A, when you say “in writing”, I think in the context of the modern world, you have to really clarify what “in writing” is, when we have social media, electronic mail, facsimile and all that. It would be good to clarify what you mean by “writing”, especially now that we have Bills that recognize electronic communication; “in writing” no longer means what it meant in the 1980s and 1990s.

Mr. Temporary Deputy Speaker, Sir, again, Clause 5(4) says:-

“A Committee shall notify the public of the time and place for holding an approval hearing, at least, seven day---”

I think that should be “days” and not “day”. It is just a typographical error.

Mr. Temporary Deputy Speaker, Sir, number seven is what I have spoken about. While it may be good to try to work out some kind of affirmative action, I think we should guard against this business of reverse discrimination. What we have seen in the last appointments that have come through is that certain communities in Kenya are now being discriminated against in reverse. We should consider this, but let us not marginalize

other communities on account of the fact that they are perceived to be more than the others.

Mr. Temporary Deputy Speaker, Sir, as I rush to conclude, let me say that, in my view, we need public hearings or approvals of people who want to hold certain positions. But I am concerned because from what we have seen, we should make every attempt not to make those public hearings to be humiliating trials that we have seen. For example, let us not turn them into public lynching.

**The Temporary Deputy Speaker** (Prof. Kaloki): Order! Hon. Gumbo, you will have 17 minutes to continue with your contribution.

### **ADJOURNMENT**

**The Temporary Deputy Speaker** (Prof. Kaloki): Hon. Members, it is now time to interrupt the business of the House. The House is, therefore, adjourned until tomorrow, Wednesday, 20<sup>th</sup> July, 2011, at 9.00 a.m.

The House rose at 6.30 p.m.