

NATIONAL ASSEMBLY

OFFICIAL REPORT

Thursday, 14th April, 2011

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

QUESTIONS BY PRIVATE NOTICE

BAN ON EXPORTATION OF MACADAMIA NUTS

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

(a) What is the justification for the ban on the exportation of raw macadamia nuts as directed by the Minister vide Gazette Notice No.16229 of 15th December, 2010?

(b) Could the Minister consider immediate withdrawal of the Gazette Notice in view of the financial losses it is causing to macadamia farmers?

(c) Could the Minister state the month-to-month payment made to macadamia farmers for their crop from January 2010 to date and also state the measures being taken to ensure the farmers are paid the best price for the crop?

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

(a) The Minister's Gazette Notice No.16229 of December, 2010 lifts the ban on exportation of raw nuts. However, the Gazette Notice has been challenged in court by High Court Case No.JR368 of 2010.

(b) In view of the above Gazette Notice, part "b" of the Question does not arise.

(c) Attached is a schedule showing month-to-month payment made to macadamia farmers for their crop from January, 2010 to date.

In January, 2010, Kirinyaga East was paid Kshs3.85 million; Embu West, Kshs288,000 and Embu North, Kshs3.7 million.

In February, Mukurweini was given Kshs350,000; Kirinyaga East, Kshs4.45 million; Embu East, Kshs3 million and Embu West, Kshs348,000.

In March, Mukurweini got Kshs1.05 million; Kirinyaga, Kshs4.78 million; Embu East, Kshs4.5 million; Embu West, Kshs432,000 and Embu North 7.488 million.

In April, Mukurweini got Kshs1.75 million; Kirinyaga, Kshs5 million; Embu East, Kshs13.5 million; Embu West, Kshs288,000 and Embu North, Kshs11 million.

In May, Mukurweini got Kshs1 million; Kirinyaga East, Kshs3.96 million; Embu East, Kshs3 million; Embu West, Kshs96,000 and Embu North Kshs4.7 million.

In June, Kirinyaga East got Kshs1.5 million and Embu North, Kshs3.94 million. In July, Kirinyaga East got Kshs1.59 million. In December, 2010, Embu West got Kshs48,000.

In January, 2011, Kirinyaga East got Kshs4.15 million; Embu West, Kshs192,000 and Embu North, Kshs2.5 million.

In February, Mukurweini was given Kshs42,000; Kirinyaga East, Kshs5.69 million; Embu East, Kshs5.5 million; Embu West, Kshs288,000 and Embu North, Kshs2.5 million.

In March, Mukurweini was given Kshs1.26 million; Kirinyaga East, Kshs6.3 million; Embu East, Kshs16.5 million; Embu West, Kshs240,000; and Embu North, Kshs7.5.

The total for Mukurweini is Kshs5.8 million; Kirinyaga East, Kshs43.7 million; Embu East, Kshs46,000; Embu West, Kshs2 million and Embu North Kshs48 million.

Mr. Kathuri: Mr. Speaker, Sir, I appreciate the answer given by the Assistant Minister because it confirms that the ban was lifted. However, it would have been prudent if they made it public. Presently, in the *Kenya Gazette* Notice, the information percolates down to the farmers. That is the reason I brought this Question on the Floor of the House. The farmers did not know that the ban had been lifted.

I notice that the payments that have been made do not indicate the prevailing prices. Could the Assistant Minister give us an indication of the prevailing prices, maybe, for the month of March? He could list the prevailing prices per kilo of quality nuts.

Mr. Ndambuki: Mr. Speaker, Sir, I would like to inform the House that there is no ban on any raw nuts. Anybody can deal in the exportation of raw nuts, including macadamia nuts. However, during the ban, the prices of these had gone up to Kshs10 a kilogramme depending on the area. After lifting the ban, we are now talking of a price between Kshs65 and Kshs85 a kilogramme.

Mr. Olago: Mr. Speaker, Sir, from the Assistant Minister's answer, during the ban, the price of nuts was much lower than when the ban has been lifted. Has the ban been lifted voluntarily by the Ministry or it is because of the Judicial Review Application No.368 of 2010?

Mr. Ndambuki: Mr. Speaker, Sir, we did it because we realized that the prices had gone too low and it was not fair for the farmers. That is why the ban was lifted.

Mr. Mbau: Mr. Speaker, Sir, I wish to note that this country is going through a crisis in terms of creation of jobs for the young people. I would like to know whether the Ministry has any policy towards ensuring that farmers of macadamia nuts, cashew nuts, ground nuts, and other nuts are facilitated and supported by the Ministry of Agriculture to ensure that we have processing plants that add value so that the Government earns revenue as well as creating employment for our young people.

Mr. Ndambuki: Mr. Speaker, Sir, first, farmers are organized into groups so that they can have bargaining power on the prices; they can determine at what price to sell their nuts. We have what we call KABAG(?) in the Ministry of Agriculture which deals with macadamia nuts, mangoes and so on, so that the farmer can get return from their produce through value addition and processing.

Mr. Mwangi: The Assistant Minister has mentioned the areas he considered when working out the prices. Macadamia nuts are grown across the country and yet his answer does not seem to cover the entire country. However, one of the observations made about the exporting of macadamia nuts and mangoes is that farmers have been harvesting raw nuts that are not ready for processing. By so doing, we lose quality market overseas. What action is the Assistant Minister taking to ensure that whatever is exported is of high

quality so that we do not lose market for those who are harvesting nuts and mangoes that are not ready?

Mr. Ndambuki: Mr. Speaker, Sir, I have said that the Ministry of Agriculture and the Ministry of Co-operative Development and Marketing are organization and doing a bit of advocacy and communication to let our farmers know that they can only achieve higher returns of their produce by coming up with high quality products. That is what is being done at the moment.

Mr. Speaker: When is the organization going to crystallize?

Mr. Ndambuki: Mr. Speaker, Sir, I have said that it is going on now.

Mr. Speaker: Mr. Ndambuki, you said that the Ministry is “organizing”. When you say “organizing” it is infinite!

Mr. Ndambuki: Mr. Speaker, Sir, I am saying that the Ministry is organizing the farmers into groups.

Mr. Mwangi: On a point of order, Mr. Speaker, Sir. You have heard the Assistant Minister say that they are “organizing”. Is that a policy or is it a matter of some farmers in self-help groups doing the job? Could he give some timeframe when we are going to start selling quality nuts and mangoes to earn this country good income?

Mr. Speaker: Mr. Ndambuki, when is your organization going to mature?

Mr. Ndambuki: Mr. Speaker, Sir, the process is ongoing with the farmers.

Mr. Wambugu: Mr. Speaker, Sir, the Assistant Minister has dealt quite a lot on value addition and also trying to organize groups that can do that. However, I would like him to tell us what action he is taking to improve the production. This is because the volumes of macadamia nuts that come from this country are quite low. What measures is he taking so that we can improve the production of macadamia nuts in this country, especially in Mathiyoa where the climate is quite good?

Mr. Ndambuki: Mr. Speaker, Sir, during that time, the Ministry brings farmers together. They are taught how to take care of their crops by applying fertilizers and other farm chemicals so that they can get good returns from their crops.

Mr. Kathuri: Mr. Speaker, Sir, I would like the Assistant Minister to tell us whether he has ever considered the auction system, where farmers can maximize on the prices of their crops. That is how coffee is sold. That would give our farmers an opportunity to fetch better prices.

Mr. Ndambuki: Mr. Speaker, Sir, the reason why we put farmers into groups is to enable them to have a better bargaining power. That way, they can determine how much they will sell their crop for.

Mr. Speaker: Member for Rangwe.

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

Mr. Speaker: Order Member for Naivasha! You have many other opportunities.

Mr. Mbadi: On a point of order, Mr. Speaker, Sir. From the look of things, the Member for Ragwe is not here. The latest information I have is that he is out of the country on parliamentary duty. He went out of the country with the Departmental Committee on Defence and Foreign Relations. I am not sure whether he is back.

Mr. Speaker: I will ascertain that before I determine the fate of the Question. Member for Siakago.

Mr. Kivuti: Mr. Speaker, Sir, I beg to ask the Minister for Forestry and Wildlife the following Question by Private Notice.

(a) Is the Minister aware that several people have been attacked, killed or maimed by crocodiles while fetching water at Kiambere Dam and, if so, could the Minister state how many people have been attacked in the past five years?

(b) What action will the Minister take to stop the crocodile menace to the residents of the area permanently?

(c) Could the Minister consider erecting barriers between the crocodiles and the community's water sources, considering that the next water source is about 30 km from Tana River?

The Assistant Minister for Forestry and Wildlife (Mr. Nanok): Mr. Speaker, Sir, I beg to reply.

(a) Yes, I am aware that members of the public have been attacked, killed or maimed by crocodiles while fetching water at Kiambere Dam. The victims that the Kenya Wildlife Service (KWS) records indicate to have been attacked by crocodiles in the last five years are as follows:-

There are a total of 14 since the beginning of 2007, with three being attacked this year.

(b) My Ministry has called for an urgent stakeholders meeting at Kiambere Dam on Wednesday, 20th April, 2011. The main aim of the stakeholders meeting will be to find immediate and long term solutions to the perennial crocodile attacks menace on residents around the dam, and other dams that form the Seven Forks Dams. The key stakeholders expected to attend the meeting are Tana and Athi River Development Authority (TARDA), Ministry of Energy through KenGen, Mbeere North County Council, Provincial Administration of Mbeere North and South, surrounding areas Members of Parliament for Siakago and Gachoka and officers of KWS.

(c) The stakeholders meeting called for by my Ministry will give sustainable options that can be put in place immediately so as to ensure that the community gets water without their lives being endangered by crocodile attacks.

Mr. Kivuti: Mr. Speaker, Sir, first, the answer that has been given by the Assistant Minister is quite shallow. The Assistant Minister is taking this matter lightly. When crocodiles attack and kill many people, it becomes a matter of national concern. When he gives a list of only 14 people--- I know, for sure, that two of them were eaten last week and another one last month. Five have been attacked within the last two weeks. This list is not acceptable. The communities living around that dam are not only from the Mbeere community. The people who have been eaten include Kambas who live across the dam. I would like to know whether the Assistant Minister is also concerned about the Kamba side.

Mr. Speaker: Order! Hon. Kivuti, I have given directions on these matters before. In this House, which is the National Assembly of Kenya, we do not refer to communities by tribes. You can refer to the communities around the dam and not to Kambas around the dam. There may as well be other tribes living around the dam.

Mr. Kivuti: Thank you, Mr. Speaker, Sir. I will refer to them as Kenyans who live around the dam.

Mr. Speaker: Much better!

Mr. Kivuti: The concern here is about the people who have been eaten. It is not about the 14 victims referred to in the list. It is very important that the Assistant Minister addresses the issue of the six dams which form the Seven Forks. Many people may have been eaten without any reports being made. In many cases, the compensation made is very little. When you pay Kshs200,000 for somebody who is dead, that does not make sense. I would like the Assistant Minister to have a very strong conviction on this matter so that we can address it once and for all. We have to separate the crocodiles from human beings. That way, we will solve the problem once and for all. I would like the Assistant Minister to tell us whether the Ministry is going to commit itself to separate, permanently, the crocodiles from the communities living around the six dams in that area.

Mr. Nanok: Thank you, Mr. Speaker, Sir. Indeed, I would like to congratulate my colleague, hon. Lenny Kivuti, for asking this particular Question. I can only tell him that this morning, a delegation led by the Chairman of the Mbeere County Council came to see me in the office. I gathered my officers to come and discuss this matter. It is not only about the Kiambere Dam, but all the Seven Forks Dams, the problems affecting the people and how we can put in place immediate long term measures to resolve the issue. Some of the issues we have agreed on and, indeed, KWS has already done, is to put up a team of five rangers with a boat to patrol the dam. They started working as from 9th this month at Kiambere Dam.

Secondly, we have also laid some traps. Some of my colleagues may have seen that in the newspapers. You may have seen some of the traps that KWS has laid in that area to capture those crocodiles. One of the things that we agreed in the meeting – and, fortunately, the Chairman of the Departmental Committee on Lands and Natural Resources and MP for Gachoka came to the meeting - was that with immediate effect, in the next few days, the fencing of the six critical water fetching points around the Kiambere Dam will be done by KWS. Since we have stakeholders in all the seven dams, including KenGen, TARDA and county council, we have scheduled on Wednesday, a stakeholders meeting which will discuss how best we can put the medium-term measures to ensure that the community is provided with water from the dam. It may be difficult right now to say that we can eliminate all the crocodiles. I think that is going to be very difficult. On a case-by-case basis, we can do that. However, the best thing we can do is to look at the option of putting walls around some parts of the dam and fencing off the area with chain link where people can access and fetch water without being disturbed.

The last thing that my colleague has raised is about compensation. I know I have said it in this House several times that we are going to bring a revised Wildlife Bill. Among the issues that will feature is increasing the compensation amount from the current level that the law allows. We had to review the Bill again after the new Constitution was put in place. Very soon, I believe in a few weeks' time, we will be engaging the Committee that oversees my Ministry and the stakeholders so that we can begin the process of taking the final Bill to the Cabinet and finally to this House for enactment.

Mr. Mwathi: Mr. Speaker, Sir, mine relates to the country-wide problem with regard to that kind of conflict. You are addressing the issue of Kiambere Dam, probably because a Question has been brought here. You have said that you will dispatch a team to look for solutions which are available for that particular area. What plans are there to

address those kind of conflicts in all the water bodies that contain crocodiles countrywide?

Mr. Nanok: Mr. Speaker, Sir, indeed, we have kept all our wildlife rangers on high alert in areas that have been reporting wildlife hotspots. That does not only concern crocodiles but elephants, snakes and other animals which attack people. We encourage members of the public and, especially, my colleagues that, as soon as they get this information--- That is because we may not be everywhere all the time. Please, do pass that information to the nearest KWS offices. If not, I am always here. I am always with you in the House here. I have always been participating in the Sessions in the House. Please, alert me and I will make my officers do the job that they are supposed to do.

Mr. Musyimi: Mr. Speaker, Sir, I want to thank the Assistant Minister for the answer. Indeed, I was to be part of the meeting this morning, where these critical issues were raised. People are not just a statistic. People come from families. Sometimes they are breadwinners and they are members of communities. So, when we have issues of death, I would hope that the Government would be seen to be acting because, if people lose faith in the Government, then you have a problem. Can I plead that the Ministries that are dealing with this issue, namely, the Ministry of Regional Development Authorities, through TARDA, the Ministry of Energy, through the KenGen Company and the Ministry of Wildlife and Forestry, through the KWS take these issues in a cross-section manner? A meeting at Ministerial level may be very helpful. From those five dams, namely, Masinga, Kamburu, Gitaru, Kindaruma and Kiambere, we get 60 per cent of our electricity – a major national resource in terms of national wealth.

Mr. Speaker: Order, Member for Gachoka! I know that you are giving useful information but bear in mind that it is Question Time. You have spent three minutes and you have not asked a question.

Mr. Musyimi: Mr. Speaker, Sir, I stand guided. Can I ask the Assistant Minister to, as a matter of urgency, ensure that an inter-Ministerial meeting takes place, to which key leaders from around those dams are invited, so that we can find a permanent and sustainable solution to this problem?

Mr. Nanok: Mr. Speaker, Sir, that will, indeed, be in the pipeline. I have instructed my Permanent Secretary to write to the other Ministries that have a stake in the Seven Forks Dams. They include the Ministry of Energy and the Ministry of Regional Development Authorities. Immediately after the stakeholders' meeting that is going to take place on the ground on Wednesday next week, we will hold a meeting of key policy makers. We will invite Members of Parliament from around those dams, whose people face this problem, so that we can re-look at the solutions that will have been suggested by the stakeholders on the ground, and see the best way to implement them.

Dr. Nuh: Mr. Speaker, Sir, this Ministry spends a lot of money on compensation. Now that we happen to be thinking of reviewing the Wildlife Act, they might even be entangled in spending more money. It is not only in those dams where we have problems. Even along River Tana in Tana River District, there are hotspots where people cannot go and get water. Can I ask the Ministry to be diverting certain amounts of money to development of the watering points, so that members of the public do not seek compensation, but are enabled to get water without crocodiles striking him?

Mr. Nanok: Mr. Speaker, Sir, the hon. Member will realise that the responsibility of provision of water is with the Ministry of Water and Irrigation. Ours is to make sure

that people are not injured or killed by wild animals. So, we have taken note of that suggestion. We know that Tana River is one of the hotspots. Already, there are measures which have begun to bear fruit. In Tana River, we have fenced off areas where communities fetch water. We want to replicate this in Kiambere Dam. As I said much earlier on, it will be better if we call the respective officers from the different Services, sit down and look for a solution together.

Mr. Letimalo: Mr. Speaker, Sir, now that we are talking about crocodiles, I hope that the Ministry is also concerned about buffaloes which are giving us hell, and elephants from Turkana South National Park and Nasolot, where the Assistant Minister comes from. What plans does the Government have to minimise human-wildlife conflict?

Mr. Nanok: Mr. Speaker, Sir, that may be a different Question, but let me attempt to answer it. I know that the KWS has been having dialogue with West Pokot County Council and Turkana County Council, because the national reserves in their areas are under the responsibility of the county councils. The KWS only manages them. One of the biggest problems that we face in those national parks is basically invasions by pastoral groups that live inside the parks. This has made elephants to look for an alternative habitat. A case in point is the last two weeks where we lost two elephants because of the people who are living inside the reserve. We will continue engaging the two county councils to ensure that there is minimum interference with the elephant ecosystem, which makes them move outside the areas they normally graze.

Mr. Kivuti: Mr. Speaker, Sir, I would like the Assistant Minister to consider one thing; in this case, we are talking of a minority community, which is protected by Article 56 of the Constitution. The use of the crocodiles in the dam has not been established. If so, I would like him to tell us how they use the crocodiles.

Finally---

Mr. Speaker: Order! Order! One question at a time! Even the last supplementary question is one.

Mr. Kivuti: Mr. Speaker, Sir, could the Assistant Minister tell us when we shall have the petitioned inter-Ministerial policy-level meeting, so that we can tell the communities that the final decision will be reached by an inter-Ministerial meeting expected to take place on a specific date? If he can tell us that, I will stick to it and be obliged.

Mr. Nanok: Mr. Speaker, Sir, we have promised to convene the inter-Ministerial meeting immediately after the stakeholders' meeting that is going to take place on the ground on Wednesday, next week.

In relation to the second question he was asking, indeed, one of the measures we have put in place along the Tana River to reduce the crocodile population is to license some of the crocodile farmers to collect eggs. We do this through the communities. This is one of the options we need to re-look into in all the other affected areas, so that we can reduce this particular problem now and in the future.

Mr. Olago: On a point of order, Mr. Speaker, Sir. Is it in order for the Assistant Minister to answer this Question without appreciating the fact that although crocodiles look stone-age and crude, they are very cunning animals and if you do not supply them with food, they will continue eating people around Kiambere?

Mr. Speaker: Order! That is not a point of order. It does not pass the test, I am afraid!

ILLEGAL DISPOSAL OF ANDERSON/ARINA ESTATES
BY KISUMU MUNICIPAL COUNCIL

Mr. Olago: Mr. Speaker, Sir, I beg to ask the Deputy Prime Minister and Minister for Local Government the following Question by Private Notice.

(a) Is the Minister aware that the Kisumu Municipal Council is in the process of disposing off Anderson and Arina Estates, contrary to the Government's directive to local authorities not to sell fixed assets pending the actualization of counties and, if so, what is the justification?

(b) Could the Minister urgently halt the process?

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

(a) I am aware that the Kisumu Municipal Council is in the process of disposing of Anderson and Arina estates in a debt swap arrangement with the statutory debtors. The Council has not been able to service the following outstanding debts:-

(i) The National Housing Corporation (NHC) – Kshs525,126,414.

(ii) The Local Authorities Pension Fund (LAPTRUST) – Kshs269,984,795.

(iii) The Local Authority Provident Fund - Kshs141,342,390.

The existence of these debts means that the Municipal Council of Kisumu cannot access the Local Authority Transfer Fund (LATF) for the Financial Year 2010/2011 before these debts are cleared as per the LATF regulations and requirements.

(b) The process cannot be halted because the Council has followed all the necessary procedures in regard to the disposal of the assets. Besides, the Cabinet has given approval for the Council to dispose of these estates in a debt swap basis with their creditors.

(c) The debts owed to the Local Authorities Provident Fund and the Local Authorities Pension Fund attract high rate of interests and penalties. Failure to clear these debts has crippling effect on the Council. For this reason, the Kisumu Municipal Council needed to find an urgent solution to these debts. In addition, the debts are actually owed to the workers of the Local Authorities who are the sponsors of the Pension Fund and as such the property remains in public hands.

Mr. Olago: Mr. Speaker, Sir, Anderson Estate in Kisumu is one of the oldest estates and houses the staff of the municipality. Arina is similarly one of the oldest and one of the biggest. If there was a real need for the Council to dispose of these two estates, why was it not necessary for the Council to consult the locals, particularly the residents, so that those who are living in these houses are given first priority to purchase them, if they can afford?

Mr. Nguyai: Mr. Speaker, Sir, the main negotiations were between the creditors of the Fund. This is not the first time we have had this arrangement and in many instances we have found that it will be a very cumbersome arrangement where every single individual would be paying money to the creditors.

Mr. Shakeel: Mr. Speaker, Sir, I am a former Mayor of Kisumu. Anderson, Arina and other estates were part of the Uhuru Deal in 1963 where the Government, which had recently attained Independence, promised housing to the poor. These estates were financed by loans from Japan and other places. The loans were written off by the

Government. However, in the mid 80s, somebody created very inventive book-keeping and brought back those loans at the recent donor rates although the Government of Kenya was absorbed from paying any of those. Could the Assistant Minister order that if the Government of Kenya was given a waiver, that waiver be extended to the Kisumu City Council in respect of those estates and we be given a clean title? Secondly, if you will allow me---

Mr. Speaker: Order, Member for Kisumu Town East! Allow the Assistant Minister---

Mr. Shakeel: Mr. Speaker, Sir---

Mr. Speaker: Order, Member for Kisumu Town East! You know the rules!

Mr. Nguyai: Mr. Speaker, Sir, I am very sure and certain that the NHC is owed Kshs525 million and I am sure there is documentary evidence to show that. More importantly, if there is something that would have gone wrong in terms of saying that this debt does not exist, I would request the Member to provide that documentary evidence.

Mr. Pesa: Mr. Speaker, Sir, the question of debts in our county councils and municipalities is rampant. Kisumu must be lucky to have these estates to sell. Could the Assistant Minister confirm that he has issued instructions to the Municipality to sell and they have actually sold these estates?

Mr. Nguyai: Mr. Speaker, Sir, I can confirm that all due process has been followed including getting the Cabinet approval for the sale of these assets. So, all the necessary procedures have been followed as should have been and as such, the Council would suffer if this sale was not to go through.

Mr. Shakeel: On a point of order, Mr. Speaker, Sir. The Assistant Minister has clearly said that he has a letter from the NHC showing the amount of debt. Is he correct to talk about that amount on the basis of a letter while we can show him evidence that the loans were written off in the 1960? Can I be given time---

Mr. Speaker: Order! Order, Member for Kisumu Town East! That is a matter of argument!

Mr. Ochieng: Mr. Speaker, Sir, it is unfortunate that the Kisumu Municipality cannot access the LATF funds. This is a very viable municipality and instead of selling these two important estates, can they not look for other properties which they can liquidate in order to settle these debts?

Mr. Nguyai: Mr. Speaker, Sir, obviously, the municipal council did a due diligence. I can certify here that, in fact, the Council is getting a deal. The valuation from the Ministry of Lands for Arina Estate was Kshs485 million and Kshs72 million for Anderson Estate. This is going to clear a debt that is more than Kshs800 million. I think the Kisumu Municipal Council is getting a deal. This is not unique in the sense that even the Nairobi City Council had such a swap arrangement with Madaraka Estate and the Members of Parliament and the residents of Kisumu should be satisfied with what is happening.

Mr. Olago: Mr. Speaker, Sir, the Ministry of Local Government is the custodian of public property held by local authorities. In these circumstances, the Assistant Minister has said that they did not want to sell the houses in these estates to the residents because it would be cumbersome. Is this not a way of denying the local people who are able, but individuals, from buying the properties? This is certainly going to the rich.

Mr. Nguyai: Mr. Speaker, Sir, such an arrangement can be further reached once the NHC has done the swop and as such be able to conclude any deal with any individuals.

ORAL ANSWERS TO QUESTIONS

Question No.706

STATUS OF NAIROBI BEAUTIFICATION PROGRAMME

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

(a) whether he could apprise the House on the status of the Nairobi Beautification Programme; and,

(b) whether he could also consider rolling out a similar programme in other towns and cities in the country.

The Assistant Minister, Office of Deputy Prime Minister and Ministry of Local Government (Mr. Nguyai): Mr. Speaker, Sir, I will reply in point form because I have a four page long answer.

(a) I wish to update the House on the status of Nairobi Beautification Programme as follows:-

1. Establishing and maintenance of gardens which will include the improvement of aesthetics of the city through a multi-disciplinary initiative with various Ministries.

2. The rehabilitation and maintenance of gardens along the expansive road networks in estates and health facilities.

3. The establishment and maintenance of gardens in roundabouts through the public sector involvement.

4. Maintenance of vast lawns along the city roads and parks.

5. The Council has also continued to reach out to property owners to undertake initiatives of improvement along the frontages. The initiative has seen numerous frontages being well landscaped and previously unkempt hedges being well manicure.

6. The Council has been enforcing by-laws.

The beautification programme is being done through the Annual Performance Contracts and Rapid Results Initiatives which has seen the planting of more than 2 million trees.

There has been effort to protect the already existing cover and promoting it by ensuring all existing unnecessary vegetation is cleared.

The Council has been promoting tree planting through partners such as the Kenya Power and Lighting Company (KPLC) and KWS.

The Council has embarked on revitalization of its plant nursery in the City Park. Additionally, establishing of other satellite nurseries is being worked on.

(b) The beautification programme is also being rolled out through all other local authorities. This is through a circular dated 23rd January, 2009 and also through the Rapid Results Initiative (RRI).

We are also working in conjunction with other Ministries; mainly the Ministry of Environment and Mineral Resources which is spearheading the rehabilitation of Nairobi River.

I would like to appeal to all leaders to come out and make their contributions in this endeavour. This programme brings together Government support and development partners which include the World Bank, United Nations Environment Programme (UNEP), Governments of Japan, Italy, France and Spain and it is funded to the tune of Kshs8 billion. It is managed under the Ministry of Environment and Mineral Resources.

The Nairobi City Council is a major player in the implementation of solid waste management component and there is also the de-commissioning of the Dandora dumpsite.

Mr. C. Kilonzo: Mr. Speaker, Sir, as the Government is doing a good job on the beautification programme, one aspect which has been left out is housing. The Government does not inspect residential dwellings, even commercial and industrial buildings. What efforts will the Government put in place to ensure that by-laws and building codes are followed to the letter and that the Government inspects properties in particular residential properties to ensure that they are in acceptable standards? There is no point of dressing and beautifying outside while inside, the state is not acceptable.

Mr. Nguyai: Mr. Speaker, Sir, as we finalize on the beautification process, we will re-energize our efforts to enhance inspection by ensuring compliance. As such, we have given that circular that also outlines the requirements of inspection.

Mr. Chanzu: Mr. Speaker, Sir, which organization was involved in removing flowers and tree plants on Uhuru Highway between Haile Selassie Avenue and Nyayo Stadium and placing there stones and then you can see that they are trying to plant again? Which organization was behind that and who met the cost of that?

Mr. Nguyai: Mr. Speaker, Sir, the Council was not responsible for that particular exercise. If it was within a Government agency, it must have been an *ad hoc* arrangement of which you saw the Council take action and correct the situation. Now we have very good vegetation on that section.

Mr. Chanzu: On a point of order, Mr. Speaker, Sir. You have just heard the Assistant Minister say that the Council was not involved. The Council is supposed to be responsible. Is he in order to mislead the House because the Council must have known that that was happening?

Mr. Nguyai: Mr. Speaker, Sir, the point here is that whichever agency undertook the exercise, the council did take action and continued and now it has been beautified.

Mr. C. Kilonzo: Mr. Speaker, Sir, the Assistant Minister says the programme has been rolled out to other authorities. In Machakos County and even in my constituency, the local authority has stopped sweeping markets. There are no cleaners in markets. The local authority does not even have latrines or toilets in the markets. So, I am just curious to know what beautification programme the Ministry has rolled out in other local authorities when the local authorities have already stopped doing what they are expected to do. A good example is a market like Kivingoni in my constituency.

Mr. Nguyai: Mr. Speaker, Sir, while I am not in a position to talk about 175 municipalities, in particular the hon. Member mentioned Machakos. We were there recently where we opened an Eco toilet. If there are any specific issues that require our

attention, they can either be brought to the Ministry or through a specific Question because I believe that is a separate Question.

Question No.576

REQUIREMENTS FOR ESTABLISHMENT OF LAND TRIBUNAL

Dr. Nuh asked the Minister for Lands:-

(a) what qualifies a district to have Land Tribunal and what the membership of such a tribunal is,

(b) why he has not constituted a District Land Tribunal in Tana River; and,

(c) when the Ministry will constitute and gazette the tribunal in the district.

The Assistant Minister for Lands (Mr. Rai): Mr. Speaker, Sir, I wish to seek the indulgence of the House for me to answer this Question on Wednesday because the answer which has been submitted to my office is incorrect and I have consulted the Questioner regarding this matter.

Mr. Speaker: Is that so, Member for Bura?

Dr. Nuh: Mr. Speaker, Sir, I would be comfortable with Tuesday. I do not know why he is pushing it to Wednesday because this is information which is available within his docket.

Mr. Speaker: Mr. Assistant Minister, are you able to answer on Tuesday?

The Assistant Minister for Lands (Mr. Rai): Tuesday afternoon is not possible because the Commissioner of Lands is currently out of the country and he is expected back on Tuesday. So, if I could just get Wednesday, Thursday or any other date after that, I will be comfortable.

Mr. Speaker: Very well. I will direct that the Question appears on the Order Paper on Wednesday afternoon.

(Question deferred)

Question No.695

FUNDS FOR MAUNGU-BUGUTA WATER PROJECT

Hon. Members, Question No.695 has appeared on the Order Paper by default because it was already disposed off.

Next Question by Mr. ole Lankas.

Mr. ole Lankas: Mr. Speaker, Sir, I wish to ask Question No.756 on behalf of the Member for Samburu East who is away accompanying the President to Emali.

Question No.756

ESTABLISHMENT OF GUM/RESIN FACTORY IN SAMBURU EAST

Mr. ole Lankas, on behalf of **Mr. Letimalo**, asked the Minister for Industrialization:-

(a) whether he could indicate the potential of “*Gum Arabic*” and “*Gum Resinis*” in northern Kenya; and,

(b) when the Government will establish a gum and resin factory at Sere Olipi in Samburu East, which has abundant *Acacia Commiphora* trees.

Mr. Speaker: I have that notice that you will ask Question No.756. Other than that, I also have a letter from the Ministry of Industrialization to the effect that there has been agreement between the Minister and the Member for Samburu East that this Question be deferred to Tuesday next week. When you did come to see me, I did not have this letter. Now I have this letter indicating that they have mutually agreed for this Question to be deferred to Tuesday next week at 2.30 p.m. So, do you agree?

Mr. ole Lankas: Mr. Speaker, Sir, I have no problem with that.

(Question deferred)

Mr. Speaker: The Deputy Prime Minister and Minister for Local Government, you could hold brief for the Government. We have given directions on this matter fairly frequently in the past that Ministries should address their letters properly written, either by the Minister to the Speaker, or by the Permanent Secretary to the Clerk. We will not accept all and sundry to address the Speaker, including very junior officers.

The Deputy Prime Minister and Minister for Local Government (Mr. Mudavadi): Thank you, Mr. Speaker, Sir. I will make sure that this message is relayed to all the ministries.

Mr. Speaker: Very well. Next Question by Mr. Bahari! He is not here? His Question is dropped.

Question No.768

SCHOOLS FOR SPECIAL NEEDS CHILDREN IN GARBA TULLA DISTRICT

(Question dropped)

Mr. Speaker: Next Question by Mr. M.H. Ali!

Question No.802

DISMISSAL OF GSU OFFICER ABDIKADIR M. HASSAN

Mr. M.H. Ali asked the Minister of State for Provincial Administration and Internal Security:-

(a) whether he is aware that Mr. Abdikadir Mohamed Hassan (P/FNo.80729), a GSU Police Officer in the Recce Company, was dismissed from the Service;

(b) what informed the decision to terminate his services considering that, at the material time, the officer was undergoing treatment as a result of a road accident that occurred while travelling in a GK vehicle No. GK A500E along the Nairobi–Magadi Road on 24th March, 2007; and,

(c) whether he could consider reinstating him and paying all his dues in full, in view of the un-procedural dismissal.

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

(a) Yes, I am aware that Adikadir Mohammed Hassan was dismissed from the Police Service with effect from 19th February, 2008.

(b) Abdikadir Mohammed Hassan was dismissed from the service following serious disciplinary proceedings after he absented himself from duty for 48 days without reasonable cause. Before the disciplinary action, he was involved in a road accident along Kiserian-Magadi Road on 24th March, 2007 while travelling in a vehicle GK A500E. He sustained a cut on the forehead and a pelvic injury. He was admitted at Kenyatta National Hospital and was discharged on 3rd April, 2007 after full recovery. Therefore, that cannot be cited as a reason for absenting himself. Previously, the officer had two other similar disciplinary cases.

(c) The Minister cannot reinstate the ex-officer because a charge of absenteeism from duty without due permission is a very serious disciplinary offence, while desertion is a criminal offence. Further, due to the aforesaid, he does not qualify to be paid any dues, unfortunately.

Mr. M.H. Ali: Mr. Speaker, Sir, you have heard the Assistant Minister say that Abdikadir sustained a cut on his forehead and a pelvic injury. When he was discharged from the hospital, he did not recover properly. He went home to recover properly. Could the Assistant Minister inform the House why it took so long for the Commandant to see that Abdikadir was not in a position to report back so that he could perform his duties? Secondly, given that he was given leave for those days to be away, when was he called to report back to his office?

Mr. Ojode: Mr. Speaker, Sir, disciplinary action was not just taken because he left to go to hospital. If you allow me, let me give my friend here the chronology of the events or the background of that particular officer. On 21st October, 2007 at about 19.15 hours at GSU Turkwell Camp in West Pokot District in Rift valley, the ex-constable absented himself without leave for a period of 10 days. He entered plea of guilt and he was convicted and sentenced to a fine of Kshs3,917. He accepted that one. Between 11th November at about 08.00 hours and 29th November 2007 at about 18.02 hours at GSU Turkwell Camp within West Pokot District in Rift Valley Province, the constable absented himself again without leave for 18 working days. He was dealt with in orderly room proceedings and was convicted on his own plea and sentenced to a fine of Kshs7,050.

Mr. Speaker, Sir, again, on 18th December, 2007, the ex-constable absented himself from duty for a period of 21 days and he was declared a deserter. He had stayed away for 21 days without us knowing where he was. So, he had to be declared a deserter. That is what the Police Force regulations stipulate. The ex-constable resurfaced on 4th February 2008 and reported on his own volition to Ruiru GSU Camp after being absent

from duty for a period of 48 days. He was dealt with in orderly room proceedings and convicted on his own plea of guilt. In mitigation, he pleaded for leniency. He literary asked the Commandant to forgive him. Owing to his previous record and seriousness of the disciplinary offence, he was convicted and sentenced to dismissal from service with effect from 8th January, 2008.

Mr. Speaker, Sir, if you look at the chronology or background of that particular officer--- You know that the Government spends a lot of money to train those fellows. We do not dismiss somebody simply because he or she has absented himself for two or three days. But a police officer cannot absent himself without permission for 48 days. He or she cannot do that without his seniors knowing his whereabouts, without sick leave and without consent. That is what warranted us to dismiss him from the Force. Thank you. I am sorry about that.

Mr. M.H. Ali: On a point of order, Mr. Speaker, Sir. Am I in order to request the Assistant Minister to table that information? That is because I do not have access to that information?

Mr. Speaker: Very well. Mr. Assistant Minister, is there any difficulty on your part to table that information?

Mr. Ojode: Yes, I can share the information with him because there is nothing I am hiding. This is the whole truth. If I would have been able to assist, I would. But my hands are tied because of the disciplinary record of the officer.

Mr. Speaker: Very well. When you finish, please table that information.

Mr. Ojode: Yes, Mr. Speaker, Sir. Thank you.

Mr. ole Lankas: Mr. Speaker, Sir, the Assistant Minister has just given the chronology of the indiscipline of the officer. But he has not given any information about the sick leave, or the days that he was sick. That is because from the answer he has given, the officer was admitted on 24th March and dismissed on 3rd April. That is just a week. Did the officer take any sick leave? Which are the dates that he was away?

Mr. Ojode: Mr. Speaker, Sir, I mentioned here that the officer was not dismissed because he was in the hospital. I said that the officer had absented himself for 48 days. I also mentioned that he was a deserter for 21 days. In a disciplined force, you are not allowed to desert even for two days. That is because we do not know whether you are a criminal or whether you have gone to carry out criminal activities. This is a disciplined force and so, we cannot allow such cases. We also go by the standing orders of the Police Force.

Mr. M.H. Ali: Mr. Speaker, Sir, could the Assistant Minister tell us whether the officer was able to walk? That is because he told us that he had a pelvic injury? From what we know, when somebody has a pelvic injury, it will take quite some time before he is able to perform his duties. Was he able to walk and perform the duties of whatever he was trained for?

Mr Ojode: Mr. Speaker, Sir, I would not say that because he deserted. I would not know whether he was able to walk or not. However, if you want me to find out now that he is an ex-constable, I can still do the same.

Mr. Speaker: Very well. Question No.2 by Private Notice is deferred to next week, Thursday at 2.30 p.m.

QUESTION BY PRIVATE NOTICE

CANCELLATION OF CONTRACT BETWEEN M/S DE LA RUE INTERNATIONAL PLC/GOK

(Mr. Ogindo) to ask the Deputy Prime Minister and Minister for Finance:-

(a) Under what circumstances did the Government cancel the three year contract with Ms De La Rue International PLC of UK signed in May, 2006 to print 1.71 billion pieces of new generation bank notes at a cost of US\$51.2 million and what economies have been made out of the cancellation up to March 30, 2011?

(b) How many pieces of bank notes were printed between May, 2006 and 30th March, 2011 and how much money has the Government spent on the contracts during that period?

(c) When will the Government conform with Article 231 (4) of the Constitution and what steps has the Government taken in order to conform?

(Question deferred)

Mr. Speaker: Next Order! Hon. Members, I think there are two Statements due for delivery, beginning with the one from the Ministry of Youth Affairs and Sports.

MINISTERIAL STATEMENTS

ELIGIBILITY OF YOUTH UNDER 35 YEARS TO MANAGE KENYA FOOTBALL AFFAIRS

The Assistant Minister for Youth Affairs and Sports (Mr. Kabando wa Kabando): Mr. Speaker, Sir, nominated Member of Parliament, hon. Shebesh, asked whether we could give the position of the Ministry in regard to the age limit which had been spelt out in the electoral code of Football Kenya elections set in Article 9(b) Clause 2(c)(d) and (e) of that criteria.

I want to state that any person contesting for any position in the federation must fulfill the following conditions as ratified by FIFA:-

(a) For the post of chairman and vice-chairman of the National Executive Committee, one must be at least 35 years of age and should be not be older than 70 years.

(b) For the National Executive Committee one must be 30 years of age.

(c) For the branch officials of the football federation relations, one must be at least 25 years of age.

Mr. Speaker, Sir, on 27th October, 2010 the FIFA Association's Committee mandated Mr. Ligala Tenga, President of Tanzania Football Federation and chairman of CECAFA to consult Kenyan football stakeholders and make recommendations for the nominations of an independent electoral board (IEB) which would be entrusted with the

organization of elections of the Kenya Football Federation. Mr. Tenga was also mandated to follow and monitor the process.

After consulting with Kenyan stakeholders, a board was constituted made of eight members chaired by advocate Kwach. The overall mandate of IEB was to deliver transparent, all-inclusive and fair elections. The board was to work with effect from the 2nd of January, 2011 and conclude the electoral process on or before 30th April, 2011. It should be noted that no person associated with the Government was in the board. This was to ensure that the board would be free from Government interference in line with FIFA statutes. The IEB conducted various stakeholders' meetings to solicit ideas for the electoral code for the elections, including eligibility. The meeting with the Ministry officials was held on 1st March, 2011 where views were shared but the issue of age limit did not feature.

The question raised in this House by the hon. Member about the age limit is indeed of great importance to us as a Ministry. The Ministry considers anybody who is above 18 years eligible for any leadership role. This is in line with the new Constitution of the Republic of Kenya as is in Article 55(b), (c) and (d) which states as follows:-

“The state shall take measures including affirmative action programmes to ensure that the youth have opportunities to associate, be represented and participate in political, social, economic and other spheres of life, and further, that the youth have unhindered access to employment and that the youth are protected from harmful cultural practices and exploitation”.

Mr. Speaker, Sir, we have in our possession the electoral code which was approved by FIFA on 7th April, 2011 and which is fully operational and will guide all issues pertaining to football elections in Kenya. In this code, Article 2, section 2 prohibits perceived Government interference without prejudice to the powers and rights of the IEB. The same is reinforced under Article 3, section 2 which states that the IEB has the authority to interpret, reinforce and when necessary and only with the approval of FIFA to amend this code.

Further, among the functions of the board as articulated under Article 6, Section 1(a) and (b) is to strictly enforce the statutes, directives and regulations of FIFA in addition to strictly enforcing the electoral code.

On the basis of the above, the Members of this august House will agree with me that the age limit given in the electoral code by the IEB for the football federation relations will indeed block out a big size of our football youth from taking part in this important exercise of the national elections for football in Kenya. It is important to emphasize that these guidelines did not come from the Ministry of Youth Affairs and Sports. As I said, Government interference was inhibited. Failure to abide by the principles, however, could lead to undesirable consequences as contained in Article 13, 14 and 55 of the FIFA statutes. Our duty will be to provide an enabling environment. These regulations barring individuals below 35 years of age from being chairman or vice-chairman and those below the age of 30 years from being members of the National Executive Committee of the federation and for the branch officials in the constituencies and the counties who are below 25 years of age from being legitimate, is disabling the opportunities for the youth of Kenya. Therefore, these regulations, in the strong opinion of the Ministry in charge of sports in this country are ill-advised, very unfair, very unjust and wholly unconstitutional.

Therefore, the Ministry of Youth Affairs and Sports will immediately front these concerns to FIFA and IEB for consideration with a view to immediately considering the Constitutional implications of this matter.

Mrs. Shebesh: Mr. Speaker, Sir, let me first thank the Assistant Minister for the quick response. Even yesterday, he was ready to give us that Statement. Therefore, I would like the Assistant Minister, given his admission that this is unconstitutional, to tell us for how long this bullying by FIFA in the running of football in our country will continue and whether or not FIFA rules can be above those that are in our Constitution.

Mr. Mbadi: Mr. Speaker, Sir, our Constitution is very clear. If you go to Article 27(4) it says that the state shall not discriminate directly or indirectly against any person on any ground and one of the grounds is age. The Assistant Minister is very much aware that the supremacy of the Constitution of Kenya is not in doubt. Whichever electoral code or FIFA rules, it does not matter because our Constitution is supreme. Therefore, is he telling us that in the meantime, before FIFA decides to co-operate, that he does not uphold the supremacy of the Constitution by telling the electoral board not to do something which is unconstitutional until FIFA decides to go ahead? Are you going to compromise on that Article of the Constitution just to please FIFA?

Mr. Ochieng: Mr. Speaker, Sir, could the Assistant Minister clarify where those electoral rules were formulated? Were they formulated within the country and then exported to FIFA or were they formulated by FIFA? If they were formulated in this country, why did they not conform to our Constitution?

Mr. Namwamba: Mr. Speaker, Sir, this is the Ministry that is responsible for affairs touching on the young people in this country. Fortunately, this Ministry has the benefit of being run by some of the most youthful Members of the Government and appropriately so. Could he give assurance and comfort to the young people of this country that the Ministry, notwithstanding this policy position, will do everything within its powers and in accordance with the Constitution of the Republic of Kenya to allow every young person in this country that desires to seek a position in this election to do so?

Mrs. Odhiambo-Mabona: Mr. Speaker, Sir, I want to thank the youthful Assistant Minister for being mindful of the youth. Could he clarify whether FIFA rules are conventions? If they are not, then the only way you can limit any right under the Constitution, especially the rights under Article 27, is by Article 24. You cannot limit them by FIFA rules. You can only limit them constitutionally. What is the Assistant Minister going to do to advise FIFA that there are laws in Kenya which apply, unless we have adopted FIFA rules as a convention which we have not?

Mr. Speaker: Assistant Minister, you may respond.

The Assistant Minister, Ministry of State for Planning, National Development and Vision 2030 (Mr. Kenneth): On a point of information, Mr. Speaker, Sir. I would like to inform the Assistant Minister.

Mr. Speaker: Order! The Assistant Minister has not even started to respond. So, let him respond. Do not underestimate his capacity! Inform him after he begins to respond.

The Assistant Minister, Ministry of State for Planning, National Development and Vision 2030 (Mr. Kenneth): Mr. Speaker, Sir, I wanted to inform him as a former chairman of---

Mr. Speaker: Order, Member for Gatanga!

The Assistant Minister for Youth Affairs and Sports (Mr. Kabando wa Kabando): Mr. Speaker, Sir, I will respond and then request to be informed thereafter by the former chairman.

Mr. Speaker: That is how it should be!

The Assistant Minister for Youth Affairs and Sports (Mr. Kabando wa Kabando): Mr. Speaker, Sir, to answer Mrs. Shebesh, it is straight forward. There is no regulation, whether FIFA or any other international code, which can be above our national Constitution. If any clause in any regulation, including these guidelines, is inconsistent with any clause of our national Constitution, it is null and void to the extent of that inconsistency.

(Applause)

Mr. Speaker, Sir, to answer Mr. Mbadi, indeed, as a Ministry, we are going to submit an immediate concern to FIFA through the Independent Electoral Board (IEB) for the football federation. We will expect that no elections will be conducted before these concerns are addressed. If that is deemed to be Government interference, indeed, it is legitimate for the youth of Kenya.

To answer the hon. Member for Nyakach, the Electoral Code was formulated by the IEB internally. Perhaps, to make an observation, it could be because none of the eight members fell within the bracket of the youthful age of between 18 years and 35 years, and we did not want to arouse unnecessary controversy. We wanted a good result. There was an oversight in that the importance of the youth was overlooked.

Mr. Speaker, Sir, it is also good to note that sports is essentially about young people aged between 18 years and 35 years. To say that they cannot contest elections for federations, whose mandate is about their sector is an insult. While we submit this concern to FIFA it is also important to notify the IEB, as Kenyans, that there was a bit of uncautious decision in that regard.

To answer Mr. Namwamba, as a very informed lawyer, I would concur with him that any regulation that does not accord with the national Constitution, and is meant for an organization or a group or citizens of Kenya amounts to a violation of the Constitution.

I would like to assure this House that as a Ministry in charge of the youth and sports, we shall not allow any decision, whether internally made or externally approved, to violate or tarnish the very historic gains that have been made. Therefore, we are giving a very strong assurance. The youth of this country, whom I have learnt this morning notified a certain police station of an intended demonstration on this matter tomorrow, should rest assured that the Ministry in charge of sports and youth affairs is conscious of their concerns. They need not to be worried. We shall not sit and allow them to be stripped of their gains.

Mr. Speaker: Very well! Assistant Minister, do you want to be informed notwithstanding that you have concluded your response?

The Assistant Minister for Youth Affairs and Sports (Mr. Kabando wa Kabando): Mr. Speaker, Sir, Mr. Peter Kenneth was the chairman of the Kenya Football Federation (KFF) and it worked very well. This world has had many young people who have delivered. I kindly invite him to inform me.

Mr. Speaker: Order, Assistant Minister! Do you want to be informed?

The Assistant Minister for Youth Affairs and Sports (Mr. Kabando wa Kabando): He should come forward and inform us.

Mr. Speaker: Do you want to be informed? Yes or No!

The Assistant Minister for Youth Affairs and Sports (Mr. Kabando wa Kabando): Mr. Speaker, Sir, yes.

(Laughter)

The Assistant Minister, Ministry of State for Planning, National Development and Vision 2030 (Mr. Kenneth): Mr. Speaker, Sir, I want to encourage the Ministry to take that issue very seriously. This is because I was the Chairman of KFF for a good four years in what has been termed as a good term. I became the Chairman and left after four years before I reached the age of 35 years. Therefore, it is also important that some of my colleagues, including the then Chairman of the Liberian Football, the famous footballer, George Weah, was also below the age of 35 years. Very many Presidents of football associations all over the world who participated in meetings of FIFA statutes were below the age of 35 years. Kenya should not be an excuse for extension of the old order.

(Applause)

Mr. Speaker: Mr. Assistant Minister, are you happy with that information?

The Assistant Minister for Youth Affairs and Sports (Mr. Kabando wa Kabando): Mr. Speaker, Sir, if you allow me to say that I am happy, I would also say this; whether you are talking about microsoft or Sessional Paper No.10 initiated by the late hon. Tom Mboya the former Minister for National Planning and Economic Development and deputized by the now President Mwai Kibaki, those were young Kenyans under the age of 30 years. At one time, we learned that the Constitution had to be changed by a mafia team to prevent the meteoric rise of Tom Mboya by requiring that a President had to be above 35 years of age.

The message that must go to the---

Mr. Speaker: Order! Order! The area you are now going into is not quite relevant.

Dr. Kones: On a point of order, Mr. Speaker, Sir. Last year I rose on a point of order and sought a Ministerial Statement from the Ministry of Agriculture on the rising cost of food. The Minister had pledged to give that Statement today.

Mr. Speaker: Minister for Forestry and Wildlife, when can this Statement be brought here?

The Minister for Forestry and Wildlife (Dr. Wekesa): Mr. Speaker, Sir, on behalf of the House, I undertake to inform the Minister for Agriculture of the urgency of this matter.

Mr. Speaker: I direct that the Statement be brought on Wednesday next week in the morning.

The Minister for Forestry and Wildlife (Dr. Wekesa): That is the information I will give to the Minister.

Mr. Speaker: Very well.

Hon. Members, you should have heard a Statement which the Minister for Forestry and Wildlife is ready to deliver this afternoon, but the Member for Molo who requested the Statement is not in the House. I do not have any explanation as to why he is not here. That notwithstanding, because he had the major interest in the matter, I will defer that Statement to be delivered on Thursday next week at 2.30 p.m.

Order, hon. Members!

(Mr. Githae stood up in his place)

Do you have a Statement? I am not on notice. You may proceed; I was just about to close that sector, but you may proceed.

BUSINESS FOR THE WEEK COMMENCING
TUESDAY, 19TH APRIL, 2011

The Minister for Nairobi Metropolitan Development (Mr. Githae): Mr. Speaker, Sir, pursuant to the provisions of Standing Order No.36(4) I take this opportunity to make the following Statement with regard to the business of the week commencing Tuesday 19th April 2011.

Mr. Speaker, Sir, the House will go into the Committee of the Whole on the Tourism Bill (Bill N0.19 of 2010) on Tuesday. Also, the House will debate the Motion on the Budget Policy Statement, and the Motion by the Departmental Committee on Lands and Natural Resources concerning the Ministry of Water and Irrigation.

Finally, the House Business Committee will convene on that day, Tuesday 19th April 2011, to consider business for the rest of the week.

Thank you.

Mr. Mututho: Mr. Speaker, Sir, I am rising for the fifth time to inquire into when they are allocating time for us to debate the report on sugar. It appeared briefly on the Order Paper, and subsequently---

Mr. Speaker: Order, the hon. Member for Naivasha! As a matter of fact, my attention has already been brought to that matter by the Member for Mumias. It is settled that this matter will be raised before the House Business Committee on Tuesday, next week to see if it can be allotted time.

(The Clerk consulted with the Speaker)

COMMUNICATION FROM THE CHAIRS

DEFERMENT OF SECOND READING: THE PUBLIC
APPOINTMENTS (PARLIAMENTARY APPROVAL) BILL

DEFERMENT OF MOTION ON ADOPTION
OF REPORT ON BUDGET POLICY STATEMENT

Order, hon. Members! Before we move to the commencement of business beginning from Order No.8, I wish to communicate as follows. With respect to Order No.9, I direct that this be deferred until a later date on the ground that consultations have become necessary to take place between the owner of this Bill and the House Committee on Rules and Procedure. For that reason, there would be need for synchronization of certain aspects of this Bill and the Standing Orders, both as they stand now and as envisaged for the Bicameral Parliament.

With respect to Order No.10, I also direct that this be deferred until Tuesday, next week because certain amendments have proved necessary so as to fully accommodate a certain estimate that needs to be carried in the budgetary estimates for the ensuing year. Hon. Members, that is critical because the Bill has not yet been concluded. So, on those grounds, Orders No.9 and No.10 are deferred to the respective timings as I have intimated.

BILL

THE NURSES (AMENDMENT) BILL

(Mr. Mututho on 12.4.2011)

(Resumption of Debate interrupted on 12.4.2011)

Mr. Mututho: Thank you, Mr. Speaker, Sir. In moving this Bill on Tuesday, this week, I did indicate that it was important to consult. I do confirm to the House that I have consulted very widely today under the able chairmanship of the Departmental Committee on Health and the following parties did attend and made their contribution, all of them agreeing on the way forward.

Mr. Speaker, Sir, the parties that I consulted were the Ministry of Medical Services, the Ministry of public Health and Sanitation, the Commission for Higher Education, the Kenya Medical Training College, the University of Nairobi, Kenyatta University, Moi University, Masinde Muliro University of Science and Technology, the National Nurses Association of Kenya and the Kenya Progressive Nurses Association. All of them agreed that this amendment is long overdue. It is long overdue because from 1991 when the then Minister for Health indicated that nurses can engage in private practice, there has not been any substantive legislative move to ensure that this is done harmoniously and in harmony with the existing statutes.

The Nursing Council of Kenya (NCK) was established under Cap.257 of 1983 with the core mandate of, among other things, regulating and licensing of nurses. Over time, and I want to emphasize, it has become necessary to make sure that we have nurses of a particular cadre that are properly enlisted, having satisfied certain requirements to avoid quacks calling themselves nurses, doctors *et cetera*. The situation in the country right now is not very friendly. The World Health Organization (WHO) estimates that we are 50 per cent--- All the nurses that we require currently, based on the registers are at 50 per cent. This means that we need to fast-track this legislation process because there are many of them from various institutions, like I have mentioned earlier, who would like to be registered but cannot be registered for that particular reason.

Mr. Speaker, Sir, the other object in this Bill is to reduce the number of members in that council. They have an unworkable figure of 22 which, more or less, looks like a public baraza and never meets. So, we are trying to harmonise that by having 13 members that can come to a meeting and reducing the quorum so that they can be able to meet on a regular basis. They have hired several professionals, and they have confirmed today, both in accounting and human resources. However, we may listen to them to increase one more member outside the 13 members who is a specialist in human resources.

When you have 22 members in this council and not representing the entire spectrum, then several problems arise. Under the current dispensation and, generally, there are two cadres of nurses. We have the Registered Nurses who are trained up and above the diploma and Enrolled Nurses who fall below that cadre. On the upper echelon, we have nurses who have up to PhD in various aspects, like ICU Nursing and so forth. Again, there were challenges in registering this cadre of registered nurses so that this register can accommodate those people with post-graduate, under-graduate and PhD qualifications while not ignoring the lower cadre. In spite of the fact that the East African Community and the treaties thereon do bring some challenges---

With due respect, Tanzania trains their nurses and are able to get some from as low as Class 8. When we have this common policy, we need to have this kind of statute so that we do not have nurses here who are registered nurses in their domain but who fall short of the mandatory training and requirements under this Act.

Mr. Speaker, Sir, since 1991 when nurses were allowed to go into private practice, there has been noticeable hostility between the nurses and the other professionals; and within and without the other professionals. All we are saying here is that a nurse who is qualified and, perhaps, holds a PhD in Nursing should be allowed to own a nursing home and carry out the services of nursing. We are not saying in any way and there is no contest between doctors and nurses here. These people are licensed to do specific jobs and in areas where they are competent.

Therefore, this amendment steers clear of any controversy with other professionals. As I said, having listened to all the 12 professionals under the chairmanship of the Departmental Committee on Health this morning, we are in harmony. The few changes that might come by way of amendments have all been agreed on at the Committee stage. That will make us, at least, for once, in the life of this Tenth Parliament, have the first statute under that health sector which is normally very dry in that aspect.

Mr. Speaker, Sir, the elections of officials holding offices has been provided for under this Bill. We want in total to conform to Chapter Six of the Constitution. Again, we were very careful in drafting this Bill, so that we do not infringe on the stringent requirement of Sections 75 and 77 of the Constitution. Overall, this Bill seeks to hasten the registration of nurses. It brings respect and sanity in the way we handle this big population of trainees. Graduates from these medical colleges are unable to practice even in our own Government institutions, because there is no register or roll that can acknowledge them.

Hon. Members, by passing this Bill, we will be able to have in the market another 20,000 to 30,000 nurses, who can be employed both in the private and public sector. This is because they would have met the statutory requirement for registration under this Act.

Mr. Speaker, Sir, the Nursing Council has made several efforts to try and do a Bill. We understand that they are still trying to reach the Attorney-General to make one. Luckily, and thanks to the Tenth Parliament, we are able, as private Members to introduce a Bill. We are also able to introduce a Bill through the Committee system, while waiting for the Attorney-General to clear his backlog. This, therefore, does not conflict with any intent or any pending Bills that are before the Attorney-General, or anybody else.

Mr. Speaker, Sir, in conclusion, I want to say that able draftsmen who work for this Parliament, have been able to scrutinize this Bill inside out, and are satisfied that it does not conflict any statute. It is in harmony with the Constitution. It is on that basis that your able hands, Chair, were able to authorise for the publishing and debate of this Bill. We look forward to a very happy population of nurses. The situation like, I said is that although they are 70,000 in the register, only 50 are registering now. God willing, by the time we do this statute, perhaps, without even incurring further cost, we will be able to have in the market, 20,000 to 25,000 nurses who are already trained, but cannot register, because of statutory impediments, particularly Cap.257 of 1983.

Mr. Speaker, Sir, with those few remarks, I want to ask a Member who is very passionate about nursing, who is very passionate about children and gender affairs, who herself is a Member of this House, and who owns several international recognized NGOs, dealing with matters to do with nursing and children---

Mr. Speaker: Order, Member for Naivasha! Some of the things you are saying are pretty obvious. We do not expect anybody who is not a Member of this House to second a Bill!

(Laughter)

Mr. Mututho: Mr. Speaker, Sir, I stand corrected, but I just thought that it is good--- Just as you have said in previous occasions, that in this House we have 60 per cent professionals. We appreciate these professionals in that aspect!

Mrs. Millie!

Mr. Speaker: It is not very easy to please. But carry on.

Mr. Mututho: Thank you, Chair and she is smiling.

Mrs. Odhiambo-Mabona: Thank you, Mr. Speaker, Sir, he got me smiling.

Mr. Speaker, Sir, I want to second this amendment. I want to thank hon. Mututho for being mindful about the welfare of nurses. As he says, I am very passionate about nurses for three reasons. One, as a woman, we ordinarily have the nurturing and caring role that is God given. As I speak as a human right activist, I know that my nurturing and caring roles are God given. Therefore, I am at heart a nurse.

Secondly, my mother before she changed profession was a nurse. She practiced for a short while, before she changed the nursing role and moved to a different professional that could enable her take care of us, still as a nurse.

Thirdly, I also uphold the nursing profession, because last year, I was privileged to be hospitalized for two weeks, when I underwent surgery. I want to say that this is a very noble profession.

I have never been in hospital for that long. The care that I got from the nurses, and I am saying from my heart was actually amazing. The nurses were from Nairobi Hospital.

I remember their names to date and sometimes, I go there to visit them. They take care of you when you are at your most vulnerable position. Therefore, I would encourage many people who go into nursing that this is actually a calling. For the sake of the many people who need their services, I would encourage that those who may be going in this field because it is merely a profession should not.

Mr. Speaker, Sir, I will be very brief. I would just want to encourage the hon. Member to also take into account the fact that we now have a new Constitution that provides for county governance. The amendment must take into account the new devolved structures. Therefore, there is need for functional County Boards that are coordinated by a National Council. We know the work that the nurses do. The Government is not able to remunerate them sufficiently; we have many nurses that go out to practice in other countries. So, I would want to encourage that we enable our nurses, especially those who are advanced nursing practitioners to be able to undertake part-time practice.

Mr. Speaker, Sir, finally, I just want to say, yet again, our nurses - and I would remember Nightingale from which the nurses came from - are the persons who take care of us at the most vulnerable. During post-election violence, they braved difficult circumstances, to take care of children, women and many who were injured. Let us respect and honour them even as we bring amendments that would better their lives.

With those few remarks, I beg to support.

(Question proposed)

Ms. Karua: Mr. Speaker, Sir, I rise in support of this Bill, which seeks to improve governance in the nursing profession.

[Mr. Speaker left the Chair]

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

I want to retrace the history of nursing started by one Florence Nightingale, and say that every woman is actually a nurse by nature ordained. Everywhere in the world, it is majority of women who care for the sick, whether in their homes or outside the home. We nurture and nurse. Those two roles go together. I would like to say that in the medical profession, the nurses interact with more patients than actually their superiors, doctors.

Mr. Temporary Deputy Speaker, Sir, it is time that we strengthened the law to improve, not just governance within this profession, but also improve their working conditions. I hope that as we go to the Committee Stage of this Bill, we will start looking at whether members of the nursing profession are receiving sufficient remuneration for the work that they do. No surgeon can operate without being assisted by nurses. No doctor can manage the sick without being assisted by a nurse. I know countries like Canada that have laws that compel payment on the basis of value of work; equal-pay for equal-work. If you look at the supportive role that nurses play in the management of patients, then we definitely need to look at the governance in the profession and also their

terms and conditions of service to ensure that we improve them and fully appreciate their work.

I want to agree with the Seconder who has said that the nursing profession should be a calling. People should not just go into nursing because they are looking for work. Unless one has a calling to care and look after those who are unwell or are invalids for whatever reasons, this ought not to be their profession. Part of the management of a patient is psychological. This gives them the will to fight whatever ailment they have. Nursing has a lot to do with the state of mind of a person who is under management, either in a hospital or by a doctor in a clinic. I, therefore, want to congratulate hon. Mututho for taking time to consult with the industry and to bring this Bill which is aimed at streamlining the nursing sector.

Mr. Temporary Deputy Speaker, Sir, the Bill will also look into disciplinary matters. It gives proposals on how the Council should go about hearing inquiries for professional misconduct. This is a key area because we do not want those who are prone to misconduct to remain in the profession. On the other hand, we do not want someone who could have otherwise been given a second chance to leave the profession. There is need for strengthening governance in all these areas. I want to say that the Bill is timely and it is up to us, hon. Members, to strengthen it by adding sections that will compel the Government, which is the main employer of nurses and private institutions, to look into conditions and terms of service.

We have heard our nurses complain that, at times, they do not have adequate protective gear even in view of very infectious diseases like HIV/AIDS, among many other instances. Those are people who devote their lives to caring for others. When there is an outbreak of an infectious disease--- Like there was with the H1N1 flu, if I can remember the name correctly, all the people who were being screened and looked after were passing through the hands of nurses. They were managed more by the nurses under the directions of the doctors. Those people are exposed to all manner of risks by the nature of their work. We, therefore, ought to look into issues of their welfare and governance in their profession. I want to end by congratulating, once again, our colleague, hon. Mututho, and support the Bill.

I beg to support.

Mr. Oyongo Nyamweya: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me a chance to support this Bill. I thank the Mover for taking his time to bring the necessary amendments to the Nursing Act. The role that nurses play in this country cannot be over-emphasized. Most of us who come from rural areas know that the dispensaries that we have at home are managed by nurses. With them around, lives are saved. It is not only that. To be a nurse is a calling. That is because unless you are prepared and your mind is set to help humanity, it is very difficult to practice as a nurse. When a person is sick and he or she is not able to talk or turn around in bed or do anything, the responsibility of taking care of him or her lies with the nurses. They take care of us when we are sick. Therefore, the new Bill will not only enable the nurses to register, but also to practice as nurses. That should not be seen as if they are competing with doctors. It is also their right to practice and earn a living just like the doctors, so long as they do not go beyond what they are supposed to do. As things stand now, it is critical that we support this Bill. At times, when someone is sick, he or she may continue to

suffer until the doctor arrives. This Bill will allow the nurses to practice. They are the ones who do a major job of taking care of the sick.

In most rural areas, the treatment of the sick is left to nurses. In most rural areas - and you may dispute that - prescription of medicine is done by nurses. People may say that they do not do it. However, in my constituency, healthcare is handled by nurses. It is the nurses who take care of the sick in various dispensaries. So, it is very critical now - and this Bill has come at the right time - that we support the nurses. We should have a strong council for the nurses. We should have an Act that will allow them to practice just like any other professional career where people are allowed to practice.

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

Mr. Ruteere: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to stand in support of the Bill. As it has been said, I would like to thank the Sponsor of the Bill, hon. Mututho, who has seen it fit at this time, to bring this Bill to this House so that nurses can have a say in this country and that, their conditions and terms of service and professionalism are recognized in an Act of Parliament. The issues that were conflicting with the present Act have been addressed. For example, there was the conflict of interest where somebody who is employed by the Government goes into private practice. Hon. Mututho has addressed the issues very well in his Bill. You will have to choose either to go into private practice or be employed by the Government. This is an important issue because it will minimize the number of people who are being taken care of by the nurses in the hospitals today. We see nurses not taking care of patients but opting to go into private practice. This Bill has addressed that issue. However, I have an issue which I think will be addressed when it comes to the Committee Stage. This is with regard to Section 12(3) (d) where it says:-

“A person shall be deemed not to engage in private practice if he is employed in other public bodies.

There should be examples of those public bodies and appointments where there are religious organisations that are offering nursing or health services. There are so many religious bodies offering health services. There should be criteria, so that there will be no conflict between the religious bodies when they try to appoint one of them. If it is not clear, it can cause misunderstanding, which might lead to people going to court to seek interpretation. People are very fond of going to court nowadays.

Mr. Temporary Deputy Speaker, Sir, I was once an accident victim. I did not know the role of nurses until that time. I was bed-ridden for 29 days. I was not allowed to sit down or turn. It was only the nurses who were taking care of me. I know that the role they play is crucial. It is, therefore, important that we pass this Bill.

With those remarks, I beg to support.

Mr. Oyongo Nyamweya: On a point of order, Mr. Temporary Deputy Speaker, Sir. Could the Mover be asked to reply?

The Temporary Deputy Speaker (Mr. Ethuro): Mr. Oyongo-Nyamweya, you are completely out of order. You have already spoken. By moving that the Mover be now called upon to reply, you are denying other hon. Members the opportunity to speak on the Motion.

Yes, Mr. Mbadi!

Mr. Mbadi: Mr. Temporary Deputy Speaker, Sir, I want to, quickly, support this Motion. I guarantee that I will not take more than three minutes.

First of all, I was a bit reluctant to support another Mututho law because the Mututho law that is in place, which was passed in this House, is causing a lot of pain to some of my constituents. However, having gone through this Bill---

Mrs. Odhiambo-Mabona: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is hon. Mbadi in order to suggest that the Mututho law that is in place is instilling fear in him, yet he does not drink?

Mr. Mbadi: Mr. Temporary Deputy Speaker, Sir, she is right, but I said that it is causing pain to some of my constituents, who drink.

Having said that, I want to thank hon. Mututho for bringing such legislation before the House. Looking at this Bill, it is clear that hon. Mututho wants to restructure the Council by reducing the Council membership from 21 to 13. To me, this is commendable because, in this country, we are used to very big councils and committees, which, in essence, are very ineffective. So, coming up with a more effective system, to me, is commendable. It is an idea we need to support.

Mr. Temporary Deputy Speaker, Sir, another thing which has come out very clearly in hon. Mututho's Bill is that he wants us to control the practice by nurses by putting in place a more defined way through which nurses can register and get practising certificates. This Bill will also go a long way in defining or helping nurses to know exactly what constitutes professional misconduct. As hon. Members are aware, in this country, we have had many cases of complaints of professionals doing things which amount to what, in our view, is professional misconduct. I am happy that we are now going to have a law which is going to define explicitly what would constitute professional misconduct on the part of nurses.

Finally, the amendment that is proposed in this Bill will go a long way in defining how the Council is going to conduct its business when they are called upon to inquire into alleged professional misconduct by nurses. We have heard of cases where people complained of professional misconduct. The relevant professional bodies conducted inquiries and exonerated those professionals. The question that comes to mind is: Is there a defined way of conducting inquiries?

Mr. Temporary Deputy Speaker, Sir, I thank hon. Mututho because this is a matter which is addressed by this Bill in the case of nurses, so that we may know how nurses will be held responsible for professional misconduct.

With those remarks, I beg to support.

The Temporary Deputy Speaker (Mr. Ethuro): Hon. Members, since there are no more contributors, I would like to call upon the Mover to reply.

Mr. Mututho: Mr. Temporary Deputy Speaker, Sir, I want to thank all the hon. Members who have contributed to this Bill, particularly for their consciousness in dealing with matters to do with unprofessional behaviour by nurses, and their registration. I have taken on board all their comments. I will study them very carefully from the HANSARD and incorporate them into the Bill during the Committee Stage, so that everybody can be taken on board.

I want to reiterate that I have consulted very widely amongst all the people in the medical field. I expect that anything they will have said will be incorporated into the Bill through amendments during the Committee Stage. I once again want to thank all those who have contributed for noting that at one point or another, one might require to be nursed. The nursing officer who will attend to you is so important.

With those few remarks, I beg to move.

(Question put and agreed to)

*(The Bill was read a second time and
Committed to a Committee of the whole
House tomorrow)*

The Temporary Deputy Speaker (Mr. Ethuro): Hon. Members, you will remember that Orders 9 and 10 were deferred by the Chair. So, we will now go to Order No.11.

MOTION

ADOPTION OF REPORT ON ALLEGED CORRUPTION IN THE MINISTRY OF WATER AND IRRIGATION

Mr. Musyimi: Mr. Temporary Deputy Speaker, Sir, I beg to move:-
THAT, this House adopts the Report of the Departmental Committee on Lands and Natural Resources on alleged corruption in the Ministry of Water and Irrigation, and its agents (the National Water Conservation and Pipeline Corporation, and the TANATHI Water Services Board), laid on the Table of the House on Wednesday, 13th April, 2011.

Mr. Temporary Deputy Speaker, Sir, the mandate of the Committee that I am honoured to Chair is clearly spelt out in the Standing Orders. The Committee oversees four Ministries, namely the Ministry of Lands, the Ministry of Water and Irrigation, the Ministry of Environment and Mineral Resources, and the Ministry of Forestry and Wildlife.

The Members of the Committee are the hon. Peris Simam, MP, Vice-Chairlady; the hon. Mureithi, MP; the hon. Washiali, MP; the hon. Silas Muriuki Ruteere, MP; the hon. Kiema Kilonzo, MP; the hon. Benedict Fondo Gunda, MP; the hon. Kizito, MP; the hon. Njuguna Gitau, MP; the hon. Mohammed Affey, MP; the hon. Mbwana Omar Zonga, MP, and the hon. Mutava Musyimi, Chairman.

Mr. Temporary Deputy Speaker, Sir, the investigations into the alleged corruption in the Ministry of Water and Irrigation, and its agents, were a result of two pieces of correspondence, which the Committee received on 2nd and 11th November, 2010. The correspondences were given to the Committee by hon. Mwangi Kiunjuri, MP; former Assistant Minister, Ministry of Water and Irrigation, and currently Assistant Minister, Ministry of Public Works and Member for Laikipia East.

In his submission on the issue of the alleged corruption in the Ministry of Water and Irrigation, hon. Kiunjuri alleged the following:-

(i) there was conspiracy to cover issues of serious accountability and integrity by the Permanent Secretary (PS) in the Ministry of Water and Irrigation;

He alleged that the Permanent Secretary (PS), Treasury, sent a letter to the PS, Ministry of Water and Irrigation regarding issues of accountability as raised by the Kenya

Water Sanitation Civil Society Organizations Network, which we shall refer to as KEWASNET. Hon. Kiunjuri claimed suspicion in that instead of responding to the PS, Treasury, the PS, Ministry of Water and Irrigation wrote to the PS, Office of the Prime Minister suggesting an audit by institutions under the docket of the Prime Minister. This letter was not copied to the KACC or indeed, the Internal Auditor, Treasury.

(ii) Hon. Kiunjuri alleged lack of independence and unbiased report by the Efficiency Monitoring Unit (EMU) and the Inspectorate of State Corporations (ISC). The EMU and ISC and the Prime Minister's Office could, therefore, not be trusted according to hon. Kiunjuri to act independently in investigating this matter.

(iii) On flawed procurement of consultants for dams, hon. Kiunjuri alleged that procurement of consultant experts was flawed. He argued that the correct procedures in accordance with the Public Procurement and Disposal Act, 2005, were not followed.

(iv) Hon. Kiunjuri continued to allege that the procurement of dam experts was not transparent; that the procurement of consultant experts was also flawed and duplicated.

(v) He alleged that procurement of goods was at inflated prices at the NWCPC and also at Tanathi.

(vi) He alleged that there was irregular award of contracts to un-prequalified suppliers at Tanathi.

(vii) He alleged that there were variations of many projects that were never reported to the Public Procurement Oversight Authority. Indeed, he alleged that the Minister did not notify authorities in these processes of procurement as required by the law.

(viii) Hon. Kiunjuri alleged that there was nepotism in the Ministry and its agents. The Minister was accused of nepotism in that she was related to some of the suppliers thereby acting in contravention of the law.

(ix) Hon. Kiunjuri alleged lack of political responsibility. The Minister was accused of not supervising or, indeed, detecting the ongoing issues of corruption in the Ministry. There was professional negligence in the Ministry.

(x) Hon. Kiunjuri alleged that, indeed, the Minister failed to supervise and detect the ongoing issue and take the necessary action.

Mr. Temporary Deputy Speaker, Sir, the Committee noted that although the former Assistant Minister in this Ministry made the above allegations, the Minister for Water and Irrigation, hon. Charity Ngilu, on Tuesday, 28th September, 2010, had made a non-solicited Ministerial Statement to Parliament outlining the actions and measures taken to combat governance challenges and corruption in the Ministry and its agents. These are highlighted here below:-

(i) Dismissal of the then Managing Director of NWCPC and other senior officers upon receipt of the first EMU report in October, 2008.

(ii) Following the second EMU report after the fire incident of 24th September, 2009, the then Managing Director, Eng. Isaboke and nine others, were dismissed from service.

(iii) The Board of the NWCPC was dissolved on 30th October, 2009.

(iv) The Minister requested the KACC, the CID and the Ministry of Public Works to investigate the cause of the fire that occurred on 24th September, 2009.

(v) The Minister stopped fraudulent payments of claims at the NWCPC worth Kshs512 million owed to one supplier, M/s Elburgon Stores Limited.

(vi) The Minister directed the management of NWCPC to stop fraudulent payments and retreat payments of Kshs26 million that were made to Elburgon Stores Limited without supporting documents. All these payments were drawn on 22nd September, two days before the fire incident.

(vii) The Minister requested the KACC, EMU and the ISC to undertake audit investigations at the NWCPC on October, 2010. Further, the Minister requested the services of a forensic auditor, KPMG, to undertake verification of all pending bills amounting to Kshs1,267,543,007.90.

(ix) The Minister queried and stopped the unsupported cost of variation of Kshs652 million on Umaa Dam

(x) The Minister dismissed the then Chief Executive Officer, Tanathi Water Services Board on 14th September, 2010.

(xi) The Minister dissolved the Board of Directors, Tanathi Water Services Board on 20th September, 2010.

(xii) The Minister, on 25th March, 2011, appointed a new Board of Directors for Tanathi Water Services Board.

The Committee embarked on these investigations in terms of the allegations and also the Statement made by the Minister and resolved as follows:-

(i) To investigate the allegations in the Ministry of Water and Irrigation and also conspiracy to cover up issues of alleged corruption in the Ministry.

(ii) Allegations in relation to irregular award of tenders and procurement of goods and services at Tanathi.

(iii) Allegations of irregular award of tenders and procurement of goods and services in NWCPC.

(iv) Allegations of lack of political responsibility and professional negligence by the Minister for Water and Irrigation on issues of alleged corruption in the Ministry.

(v) Allegations of irregular procurement of dam experts, supervising consultants and contractors by the NWCPC with specific reference to construction of dams and alleged variation of cost of construction of dams.

(vi) Allegations of nepotism in the Ministry.

The Committee embarked on these interrogations and resolved to hold meetings with Government Ministries, departments, relevant individuals, experts and other institutions. It undertook also to visit the dams. The Committee received oral and written submissions and evidence from the following:-

(i) The Minister for Water and Irrigation, hon. Charity Ngilu, MP.

(ii) The Assistant Minister for Public Works, hon. Mwangi Kiunjuri, MP.

(iii) Mr. Joseph Kinyua, PS, Treasury.

(iv) Mr. Ndungu, Internal Auditor, Treasury.

(v) Dr. Mohamed Isahakia, PS, Office of the Prime Minister.

(vi) Eng. David Stower, PS, Ministry of Water and Irrigation.

(vii) Eng. Godfrey Mang'uriu, Chairman, NWCPC.

(viii) Eng. Petronilla Ogut, Managing Director, NWCPC.

(ix) Board members, NWCPC.

(x) Mrs. Bernice Gachegu, Registrar of Companies.

- (xi) Mr. Anthony Gatumbo, Auditor-General, Kenya National Audit Office.
- (xii) Mr. Peter Ondieki, Inspector-General, Inspectorate of State Corporations.
- (xiii) Mr. Vincent Nyagilo, Director, EMU.
- (xiv) Mr. Stephen Mutoro, Chief Executive Officer, KEWASNET.
- (xv) Eng. Robert Gakumbia, Chief Executive Officer.
- (xvi) Prof. Albert Mumma, Chairperson, Water Services Regulatory Board.
- (xvii) Eng. Nicolas Muthui, Chief Executive Officer, Tanathi Water Services Board.
- (xviii) Mr. Maurice Juma, Director-General, Public Procurement Oversight Authority.
- (xix) Mr. David Mbugua, Director, Kenya Forest Service.
- (xx) Dr. Ayub Macharia, Director-General, NEMA.
- (xxi) Mr. Ndegwa Muhoro, Director, CID.
- (xxii) Eng. Peter Kibe, Contractor, Umaa Dam.
- (xxiii) Eng. Kirimania, Consultant, Umaa Dam.
- (xxiv) Eng. Z. Oonge and Eng. W. Odhiambo, dam Experts.
- (xxv) Mr. Stephen Ndungu, Managing Director, Elburgon Stores Limited.

The Committee noted that Mr. Joseph Nzesia, former Chief Executive Officer, Tanathi Water Services Board, was summoned twice. However, he is the only witness who did not appear before the Committee. I am happy to report, too, before this honourable House that the Committee visited the five large dams, namely, Kiserian, Maruba, Umaa, Badasa and Chemsusu between 8th and 12th February, 2011. It visited these dams to assess and be appraised on the progress work on the dams in terms of their construction; to meet the supervising consultants, contractors and other stakeholders involved in the construction of the dams and to assess the sustainability and viability of these dams.

Mr. Temporary Deputy Speaker, Sir, the Committee met these people whose names are available because the document has been tabled. These included the Provincial Administration and the local community leaders. I am very pleased to thank those hon. Members that led by the Vice-Chairlady of the Committee, Ms. Peris Chepchumba.

With regard to the key findings; at the Ministry of Water and Irrigation, the following findings can be rehearsed this afternoon. First, that the Minister and PS in the Ministry were aware of the corruption allegations at the National Water Conservation and Pipeline Corporation (NWCPC) and Tanathi following the WASREB report before the Assistant Minister knew of the same. This is signified by the steps taken following the launch of the report.

Secondly, the Ministry undertook restructuring of the NWCPC and Tanathi following the WASREB report and the Efficiency Monitoring Unit Reports of 2008/09 and 2010. The Minister and the PS, Ministry of Water and Irrigation took both political and administrative responsibility following the various allegations on corruption in the Ministry as we have already stated above.

The Ministry of Water and Irrigation did not award tenders or procure contractors for Umaa Dam as alleged. Moreover, the Ministry is aware of the status and progress of Umaa Dam following monthly or quarterly briefs and site meetings from the NWCPC as, indeed, was the case. These briefs have demonstrated no variation in the cost of these dams.

The Ministry initiated investigations into the issues raised by the WASREB Report with the then CEO. The board of directors was subsequently dissolved to facilitate investigations by the Kenya Anti-Corruption Commission. Moreover, all Ministries, State Corporations and parastatals do write to the Office of the Prime Minister seeking assistance of either the Efficiency Monitoring Unit (EMU) or Inspectorate of State Corporations to look at their work. Therefore, it was not unusual when the PS, Ministry of Water and Irrigation sought the same.

Mr. Temporary Deputy Speaker, Sir, based on the evidence adduced before the Committee, the Committee was unable to conclusively link the Minister, hon. Charity Ngilu, MP, with the companies contracted by Tanathi Water Services Board and the NWCPC due to the following:

(a) The then CEO Tanathi Water Services who was to shed light on the companies could not be traced although the Committee tried to summon him twice as we said earlier. As we also said, he is the only witness who failed to appear before us.

(b) There is no evidence available to the Committee to connect the names of the directors and the shareholders of the said companies with the Minister based on the evidence that was given to us by none other than the Registrar of Companies. This was very important evidence for us. We could not say that we know more than the Registrar of Companies in respect of the information that is in her custody.

(c) The procuring institutions namely Tanathi Water Services Board and National Water Conservation and Pipeline Corporation are under the Public Procurement Oversight Authority Act, 2005 and as such these are independent procuring entities.

Mr. Temporary Deputy Speaker, Sir, based on the foregoing, the Committee was unable to establish the link between these companies doing business with Tanathi, the NWCPC and the Minister. However, we are aware that other more competent Government agencies are investigating this matter, especially KACC. It is the pleas of the Committee that this investigation be brought to a speedy conclusion. We are aware of some of the concerns that the current chairman of KACC, Dr. P.L.O. Lumumba, and before him, Justice Ringera, were raising in terms of strengthening the law that makes the KACC more effective. I believe that at some point this august House will see the need to pay attention to the voices from these senior officers in the KACC with regard to investigations and prosecutions coming under one body.

Mr. Temporary Deputy Speaker, Sir, based on the evidence adduced with particular reference to issues raised by WASREB Report and KEWASNET, the PS in the Minister of Water and Irrigation may have assumed the role of Treasury by corresponding directly to the PS, Office of the Prime Minister without due regard to the role of the Treasury in utilization of public funds as anticipated by the Government Financial Management Act of 2005.

The PS, Ministry of Water and Irrigation in suggesting that the PS Office of the President undertakes investigations in this Ministry should have involved the PS, Treasury, upfront. We found that initially a little wanting.

During our investigations, we found out that the PS, Water and Irrigation was aware that the KACC and other audit institutions were informed by KEWASNET after the findings of the WASREB Report that the PS, Ministry of Water and Irrigation was aware that the Treasury was obligated under the Government financial Management Act of 2005 to investigate any public institutions without requesting the Accounting Officer if

it was necessary to undertake any audit that the PS Ministry of Water and Irrigation had not blocked or interfered with investigations. In any case, EMU and IAC are institutions that have been used by Ministries to investigate any misappropriation of public funds.

The Committee found out that consultants, contractors and the two dam experts were sourced, pre-qualified and awarded contracts as per provisions of the PPOA Act of 2005. The Committee further found that the procuring entity was NWCPC through its Corporation Tender Committee appointed by the Managing Director. The Committee found out that the procurement procedures were duly followed. The Committee was, therefore, satisfied with the process that was used.

Although there appears to be conflict of interest in the case of consultants and dam experts at Chemsusu Dam, the Committee established that the matter was sorted out by the corporation. It should be noted that Kenya has about five dam experts and the service offered by these experts is consequently not very readily available in Kenya.

With regard to the National Water Conservation and Pipeline Corporation, we found out the following from the evidence adduced: That the dams will act as storage of flood waters. We are satisfied that the five dams will be fed by seasonal streams.

Based on the parameters taken into account, the dams, to us, appear viable and sustainable. The parameters I mentioned include hydrology of the catchment area; the catchment area itself; precipitation of the catchment area; evaporation rate; and sillage rate; river regime and morphology. Only two out of the five dams namely Umaa and Badasa have experienced technical challenges thereby necessitating the corporation and respective contractors to undertake additional grouting.

Prior to the commencement of the project, detailed geotechnical investigations were carried out. The confidence limit of ground investigations is always low. This means that the actual ground conditions can only be established during actual construction. The additional grouting requirement is meant to guarantee the dam safety.

Further, the Committee found out that NWCPC produced the services of dam experts through the normal procurement law. The procurement of contractors and consultants for the construction of the four large dams was done in a procedural way. But the dams progress report as of March 13th this year is satisfactory, despite the fact that, one of the dams; namely, Umaa Dam, stalled.

We also found out that, the Board of Directors and the Chairman of National Water Services Corporation (NWSC) were not working cordially. We are aware this would affect the Corporation's performance. We established that the Chairman of the Corporation was running the affairs of the corporation without following the laid down procedures of the State Corporations statute. We found out that the current Managing Director of NWSC was denied confirmation and subsequently suspended by the Chairman of the Board without the consent of the entire Board of Directors. Further, we found out that the Managing Director of NWSC had differences with the rest of the senior management because of the conflict brought by the Chairman of the Board, where the Chairman bypasses the Managing Director and works with line managers.

Mr. Temporary Deputy Speaker, Sir, the Committee noted that KPMG forensic audit assessed the value of pending bills at NWSC as to be Kshs1,267,543,007.79 and according to KPMG, only Kshs157,656,855.45 is payable. Therefore, Elburgon Stores and associated companies who had claimed over Kshs430 million from the corporation, according to KPMG, can only really be paid Kshs197,000,000(?). The Committee

established that the disputes affecting NWSC and the contractor of Umaa Dam were not properly addressed or resolved. This is because the dispute resolution mechanisms were not adhered to. The Committee established that the fire incident at NWSC was as a result of arson. It is to be noted that the investigations by CID have taken longer than expected.

The current MD of NWSC was suspended unilaterally by the Chairman of the Board, Eng. Manguriu. He accused her of not taking his instructions to pay contractors, forging minutes and being un-professional. The Committee found this to be rather unusual and strange in that the same Chairman had been mandated by the Board of Directors to confirm the MD and give her, her terms of service. The Chairman of the Board of Director of NWSC had refused continually to implement Board decisions and conducted the affairs of the Board in a manner that contravened the laid down guidelines.

The Committee continued to observe that there was addition grouting recommended by dam experts after the design review and, although that could have raised the cost of the dams, the client had mitigated the same by reviewing the project components. Further, various management and financial audits have been conducted at NWSC since the financial year 2007/2008. It is to be noted that the current Managing Director is implementing the recommendations and taking action.

Further, the Committee found out that all suppliers to NWSC were registered at the Registrar of Companies either as normal business venture or incorporated as companies under the Companies Act. However, the Committee could not establish any links between the Minister and those contractors. The consultant of Umaa Dam indicated to the client, NWSC, that there was a possible variation of the cost of Umaa Dam following the change of layout. The client undertook measures to mitigate the variation by doing away with some project components while reducing others. Further, procurement of contractors and consultants for large dams was in accordance with the Public Procurement and Disposal Act of 2005 and the Procurement Regulations Act of 2006. Bidding documents were prepared based on standard procurement documents provided by the PPOA. The process followed in the procurement of contractors involved prequalification. Thereafter, all the prequalified contractors were invited to give their quotations.

As regards consultants, a call for expression of interest and prequalification was carried out; after which, all prequalified consultants were invited to give their quotations. The method of procurement was an open tender which was advertised in the dailies on various dates. Bids were received following evaluation criteria provided for in the bidding documents and based on the evaluation, the most responsive bidders for each project were awarded the consultancy services.

Mr. Temporary Deputy Speaker, Sir, evidence adduced before the Committee indicated that the two additional consultants, also known as dam experts, were hired alongside the regular consultants to provide quality assurance services on work done. This was based on the requirement by the international consortium of large dams that any implementation of large dams above 15 meters high should have a qualified dam consultant. The two dam consultants; Eng. Odhiambo and Eng. Oonge, did assist the corporation in the preparation of tender documents for construction works for Umaa Dam, Chemsusu, Kiserian and Badasa. Their input into those documents was meant to guarantee quality assurance. Eng. Odhiambo is a partner with Odhiambo Odongo and Partners who bid for the two supervision works for Chemsusu, Umaa, Badasa and

Kiserian dams. Messrs Otieno Odongo and Partners submitted their bid for consultancy services for all the four dams and were only successful in one namely Chemsusu Dam.

Mr. Temporary Deputy Speaker, Sir, we close now by looking at the findings with regard to Tanathi Water Services Board before I come to the issue of recommendations and conclusions. At Tanathi Water Services Board, we found out that Kshs767,716,243.05 had been disbursed to Tanathi Water Services Board for both procurement and development expenditure in three financial years; namely, 2008/2009, 2009/2010 and 2010/2011. Further, an expenditure in Tanathi Water Services Board worth Kshs610,926,326.40, approximately 80 per cent of the total disbursement, has accountability and integrity issues related to procurement of goods and services. This Report was given to us by the Inspectorate of State Corporation in the Treasury.

Further, with the exception of Nakala Ventures Limited and Taru General Engineering Limited which were contracted by Tanathi Water Services Board and were owned by the then CEO, the rest of the suppliers could not be linked with the Minister or high ranking officials at the Ministry with any conclusiveness. Further, there was inflation of prices, violation of procurement laws and irregular award of tenders. Moreover, there was conflict of interest involving the then CEO in the award of tenders at Tanathi Water Services Board. The Committee established that there is duplication or roles between Tanathi Water Services Board and the Ministry and this happens--- I beg your pardon. I need to move on.

From evidence adduced, the current CEO, Mrs. Ogut, has initiated forensic auditing of the pending bills of Kshs382 million at Tanathi Water Services Board to establish the authenticity of the pending bills. The current management is undertaking restructuring to cure challenges that existed earlier. Finally, there is urgent need to secure payment of statutory remittances to Kenya Revenue Authority (KRA).

Mr. Temporary Deputy Speaker, Sir, during the Committee meetings and visits held discuss the matter of alleged corruption in the Ministry of Water and Irrigation and its agents, the Committee recommended as follows:-

One, that, the Ministry of Water and Irrigation should fast-track the review of the Water Act, 2002 to be in line with the new Constitution with specific emphasis on the following;

(a) strengthen and enhance governance and oversight roles of the Ministry over its agents,

(b) realize the transfer planned funding mechanism, technical human capital of the water services board and national water,

(c) establish clear mandates of National Water and TANATHI Water Services Board,

(d) avoid overlap of roles between the Ministry, National Water and TANATHI Water Service Board; and,

(e) ensure that the appointments of all directors, including chairpersons, are harmonized. This is particularly important because we all know that the boards of directors are appointed by the Minister, whereas the chairperson is appointed by the President. This has created enormous problems not just in national water but in many parastatals in our country.

The second recommendations is that the Ministry of Water and Irrigation, National Water Conservation and Pipeline Corporation (NWPC) and TANATHI should

carry out extensive and comprehensive feasibility studies on all projects to ascertain their viability and sustainability before embarking on tendering, contracting out and final construction so as to avoid cost overruns during implementation.*

Thirdly, the Ministry of Water and Irrigation, NWCPC and TANATHI should adequately address land issues where dams and all other projects are to be constructed in order to avoid land acquisition disputes and claims.

Fourthly, the Ministry, NWCPC and TANATHI should ensure adherence to the provisions of the Public Procurement Oversight Authority Act, 2005 on variation of contract costs which exceed 15 per cent of the total cost of the project.

Fifth, the Ministry of Water and Irrigation should stick to its mandate of policy formulation, resource allocation and sector co-ordination, except during droughts, floods or emergencies. This will assign project development to water services boards and NWCPC and in so doing, prevent duplication. Although I personally I think it is triplication of roles which causes a lot of confusion between the Ministry and these two agencies.

Sixth, the TANATHI Water Services Board should ensure that statute repayments and remittances are paid timeously. Remittances include Value Added Tax (VAT).

Seven, the Ministry of Water and Irrigation, NWCPC and TANATHI should seek statutory approval from all Government agencies during project initiation and implementation so as to ensure that the relevant projects are not delayed. This will eliminate the possibility of paying penalties and related charges.

Eight, Treasury should streamline and harmonize the audit functions of the audit agencies so that there is cohesion. Right now there is whole plethora of actors when it comes to the audit function, which is a very confusing proposition to anybody investigating these operations.

Nine, the Public Procurement Oversight Authority should ensure that the Public Procurement and Disposal Act of 2005 and attendant procurement regulations are adhered to by the Ministry and NWCPC.

Ten, the Public Procurement Oversight Authority should undertake audit and procurement processes undertaken by the Ministry and in particular NWCPC and TANATHI Water Services Board.

Eleven, the Ministry in conjunction with the Ministry of Public Works and Ministry of Finance should establish a comprehensive inventory of all Government assets complete with authentic ownership documents held by the NWCPC and the eight water services boards.

Twelve, public officers found culpable in the transactions involving the procurement of goods and services for TANATHI and NWCPC be dealt with in accordance with the law.

Thirteen, the Committee recommends that the Ministry of Water should factor in sand for construction of new large dams, carrying out comprehensive feasibility studies for the seven proposed large dams and completing ongoing construction of three large dams namely; Umaa, Badasa and Chemsusu in the financial year 2011/2012.

The Committee recommends that the Permanent Secretary, Ministry of Water and Irrigation should surcharge and recover Kshs41,285,266 from concerned officers as established in the audit report by the internal auditor, Treasury. The Committee recommends that Eng. Godfrey Mang'ang'a Manguriu be dismissed as Chairman of

NWCPC and the appointing authority be advised that the conduct of Eng. Manguriu is not compatible with that of a chairman of a State corporation such as NWCPC as he appears to be a liability to the corporation. The Committee recommends that NWCPC should terminate the contract for Umaa Dam amicably and undertake as a matter of financial probity to complete the dam in-house. It has done that with regard to Maruba Dam in Machakos and we believe that it has the capacity to do so in Umaa Dam in Kitui. It is evident that the current contract sum plus a variation of 15 per cent allowed by the law would be adequate to complete the project.

Further, the Committee recommends that the Criminal Investigation Department (CID), Kenya Police and Office of the Attorney-General expedite the investigations into the fire incident that gutted the NWCPC headquarters on the night of 24th September, 2009. Further, the Committee recommends that the Kenya Anti-Corruption Commission (KACC) and the Kenya Police investigate Elburgon Stores Limited and associated companies with a view to establishing whether there was conspiracy to defraud the corporation.

The Committee recommends that the officers and directors found to have embezzled funds in NWCPC should be surcharged and made to pay for funds lost by the corporation. The Committee recommends that NWCPC should consult with the relevant Government Ministries and departments before embarking on projects. The Committee recommends that the KACC should investigate the loss of funds meant for afforestation at Maruba Dam and take appropriate action. I think the amount was about Kshs1.9 million.

The Committee further recommends that NWCPC should strengthen and enhance its capacity with particular emphasis on the following:-

(a) Supervision of construction of dams.

(b) Procurement organs, that is the corporation tender committee and board audit committee; and,

(c) Financial management.

Moreover, the Committee recommends that the Ministry of Water and Irrigation should put in place the necessary legal framework to properly align NWCPC to the new Constitution and thereby clarify its mandate vis-à-vis the water services board. The Committee recommends that the board of directors of NWCPC should confirm the current managing director in office and offer her the terms of service. The Committee recommends that the then Chief Executive Officer (CEO), Mr. Joseph Nzesia be charged in accordance with the Public Officer Ethics Act, 2003, Public Procurement Oversight Act, 2004, Bank Crimes and Economic Crimes Act, 2003 for irregular award of tenders, conflict of interest and irregular procurement and abuse of office. The Committee recommends that the then CEO, Mr. Nzesia, be surcharged to recover loss of public funds.

The Committee recommends that the board of directors, CEO TANATHI Water Services Board should subject the pending bills of Kshs328, 232,711.40 to forensic audit to determine their authenticity. The Committee recommends that the board of directors should put in place necessary measures and regulations to ensure surrender of imprest and other unutilized funds. The Committee recommends that officers and directors found to have embezzled funds at TANATHI Water Services Board should be surcharged and made to pay for all lost funds in accordance with the law.

Mr. Temporary Deputy Speaker, Sir, based on the evidence that I have read and the recommendations that I have brought before this honourable House on behalf of the Committee that I am honoured to chair, I wish to say that, in conclusion, we observed the following in respect of Mr. Mwangi Kiunjuri, MP: We appreciate the position taken by the Assistant Minister now in the Ministry of Public Works, hon. Member for Laikipia East, in respect of the Ministry of Water and Irrigation and its agents. The Committee encourages the hon. Member to continue making such pronouncements because they were very helpful with regard to Government Ministries, departments and also in respect of the wider society. It is because of the bold move that the following have happened:-

(a) The KACC and internal audit Treasury have launched investigations into the allegations made and these have made far-reaching findings, observations and recommendations.

We commend Mr. Kiunjuri because the Public Procurement Oversight Authority (PPOA) has launched a procurement review audit at TANATHI Board and pointed out its shortcomings and successes. They have discovered accountability and integrity issues with regard to, at least, Kshs610 million. They have also discovered that TANATHI has had its own challenges, particularly in the area of procurement and that, of course, there were accountability issues involving the District Water Officers (DWOs), with sums of money in the figure of about Kshs41 million give or take.

Mr. Temporary Deputy Speaker, Sir, because of this position the technical committee has been established comprising of the Ministry of Water and Irrigation representatives, Internal Audit, Treasury, Ministry of Finance representatives to implement the recommendations of the Internal Auditor Treasury Report, and put in place urgent remedial measures. Various managers, chief managers for that matter, have also been dismissed while Board members have also been shown the door, because of the position that he has taken.

We also are aware that the Minister did take action long before Mr. Kiunjuri had actually spoken. She did this in her unsolicited Ministerial Statement of Tuesday September 28th 2010 to this hon. House. The actions that she took have been highlighted by myself this afternoon. I do not, therefore, see any need to rehearse the same.

Mr. Temporary Deputy Speaker, Sir, based on the foregoing the Committee concluded that Mr. Mwangi Kiunjuri, MP, raised issues of corruption in the Ministry of Water and Irrigation and its agents after he was transferred. Secondly, Mr. Mwangi Kiunjuri, MP, based on his own evidence appears to lay blame of his transfer on the Minister for Water and Irrigation, Mrs. Charity Ngilu. Thirdly, Mr. Mwangi Kiunjuri, MP, on August 30th 2010 visited Umaa Dam, which is in the Minister's constituency without informing the Minister as the area MP.

The Committee noted that out of the visit of 30th August 2010, the matter of the dam became an issue and subsequently the contractor went to court seeking protection from termination of contract for the first time with the National Water Conservation and Pipeline Corporation (NWCPC). It is evident that the project had already stalled.

Fourthly, Mr. Mwangi Kiunjuri, MP, raised issues regarding corruption, emphasizing inflation of prices and nepotism. However, he evaded the matter of unsupported claims by Elburgon Stores Ltd., and associated companies, worth Kshs430 million or less at NWCPC. Fifthly and finally, the Committee is of the view that Mr.

Mwangi Kiunjuri, had he not been transferred, might not have raised these issues. His motive in making the allegations is, therefore, less than clear.

As I conclude, I take this opportunity to thank all Kenyans, individuals, institutions and international organizations who volunteered information, either orally or by writing. Their contributions to the Committee have not been in vain. We are particularly grateful for the interest that the media has shown. You cannot have democracy without a free media. We thank our journalists for fair reporting.

I also take this opportunity to thank the Members of my Committee for their patience, sacrifice, endurance and very hard work during long sitting hours and tight schedules which enabled us to complete the task.

Further, the Committee wishes to appreciate the support given by your office and that of the Clerk of the National Assembly by facilitating our work and providing human resources, as well as the Parliamentary Service Commission (PSC) for the provision of funds for this noble work in the interest of the people of Kenya.

Mr. Temporary Deputy Speaker, Sir, finally, it is now my pleasant duty to, on behalf of the Departmental Committee on Lands and Natural Resources, present and commend this Report to this hon. House pursuant to the provisions of Standing Order No.181; on behalf of the Committee, I request the House to adopt the Report.

(Applause)

Mr. Temporary Deputy Speaker, Sir, may I request Mr. Silas Muriuki Ruteere, the Member for North Imenti, and a Member of the Committee, to kindly second the Motion.

Mr. Ruteere: Mr. Temporary Deputy Speaker, Sir, thank you for giving me this opportunity to second this Motion.

My able Chairman, Mr. Mutava Musyimi, has given the background and the in depth summary of the Report, which is very detailed and has exhaustively dealt with all the allegations that were presented by Mr. Mwangi Kiunjuri, the Assistant Minister for Public Works. I am a Member of that Committee that was investigating the alleged corruption. I was privy to all the hearings, except very few. So, what has been said by my Chairman is very true. I want only to summarize the sequence of events.

Before embarking on evidence analysis, observations and recommendations, the Committee wishes to offer a chronology of events. I believe that revolves around the whole issue of alleged corruption in the Ministry and its agents. In particular, we need to establish whether the motive of the allegations by the former Assistant Minister and actions taken by the Minister do have any relevance to the inquiry.

Mr. Temporary Deputy Speaker, Sir, the hon. Charity Ngilu, EGH, MP, Minister for Water and Irrigation, was appointed in April 2008 to the Ministry of Water and Irrigation. The hon. Mwangi Kiunjuri, MGH, MP, was appointed an Assistant Minister in the same Ministry in April 2008. That is, they were appointed at the same time. He served in this capacity until 18th October 2010 when he was transferred to the Ministry in which he is currently, the Ministry of Public Works.

The WASREB Report was launched in March 2010, and was received by the Ministry in April 2010. It took almost a month for this Report to be done. The Report was used by both the Minister and Assistant Minister either to take action or to raise the allegations.

On issues of corruption in the Ministry of Water and Irrigation and its agents respectively, I want to say that following the launch of WASREB Report in March 2010, the Minister undertook to do the following.

(i) September 14th 2010 – the Minister dismissed from service the then Chief Executive Officer (CEO);

(ii) on September 24th 2010, the Minister dissolved the Board of TANATHI; the Minister directed that the pending bills be subjected to forensic audit;

(iii) on September 28th 2010, the Minister issued an unsolicited Ministerial Statement in this House on issues raised on the Ministry and its agents;

(iv) in October 2010, the Minister requested the Kenya Anti-Corruption Commission (KACC), the Efficiency Monitoring Unit (EMU) and the Kenya National Audit Office (KENAO) to investigate, audit the allegations of procurement, inflation of prices and conflict of interest.

Mr. Temporary Deputy Speaker, Sir, following the first and second Efficiency Monitoring Unit (EMU) reports issued in October, 2008 and November, 2010 respectively, the Minister undertook the following. On October, 2008, the Minister dismissed the Managing Director, Eng. Muchemi and in September, 2009, she initiated the internal audit of the National Water Conservation and Pipeline Corporation (NWCPC). On 30th October, 2009, the Minister dismissed the then Managing Director of the NWCPC, Eng. Isaboke and in October, 2009, she dismissed 16 officers from the corporation. On 30th October, 2009, the Minister dissolved the Board of Directors of the NWCPC.

On 26th November, 2009, the Minister held a meeting with suppliers of the NWCPC to unravel the issues of pending bills worth Kshs1,267,543,007.90 and on 28th September, 2010, she issued a Ministerial Statement in Parliament. In October, 2010, the Minister requested the Kenya Police, the Kenya Anti-Corruption Commission (KACC) and the Ministry of Public Works to undertake investigations on the cause of fire which occurred at the NWCPC Headquarters on 24th September, 2009. She directed the recruitment of competent officers to the Finance Department of the NWCPC. In November, 2010, the Minister received allegedly stolen assets of the NWCPC from a neighbouring country.

Mr. Temporary Deputy Speaker, Sir, following the WASREB Report in March, 2010, the then Assistant Minister, Mr. Mwangi Kiunjuri, EGH, MP, undertook the following. In July, 2010, the Assistant Minister is alleged to have raised issues of concern with the Minister and Permanent Secretary on Tana Athi Water Services Board. In August, 2010, the Assistant Minister alleged to have informed the Permanent Secretary, Secretary to the Cabinet and Head of Public Service recommending that the Kenya National Audit Office (KENAO) undertakes audit of the Ministry of Water and Irrigation, the Tana Athi Water Services Board and the NWCPC. On 26th August, 2010, Mr. Kiunjuri is alleged to have played a game of golf at Railways Golf Club with his friends namely Eng. Geoffrey Manguriu who is the Chairman of the NWCPC; Mr. Stanley Gikandi, a Director of NWCPC and Mrs. Mary Mungai, a director, owner and controller of Umaa Dam.

On 27th August, Mr. Kiunjuri is alleged to have telephoned the Managing Director, NWCPC, directing her to organize a site visit to Umaa Dam. On 30th August, 2010, he visited Umaa Dam in the company of Eng. Mangurui, Mary Mungai and the

Managing Director of the NWCP. On 19th October, 2010, Mr. Kiunjuri was transferred to the Ministry of Public Works. On 29th October, 2010, he issued a Press statement to the media on issues relating to the Ministry of Water and Irrigation, the NWCP and the Tana Athi Water Services Board. On 2nd November, 2010, Mr. Kiunjuri gave information to the KACC asking them to undertake an audit of the Ministry of Water and Irrigation, the Tana Athi Water Services Board and the NWCP. On 2nd November, 2010, he gave the same information in “h” above – the information I have read – to the Departmental Committee on Lands and Natural Resources. On 10th November, 2010, relying on copies of LPOs and LSOs from the NWCP as well as minutes of the Board of Directors, the NWCP, he allege that the procurement for consulting engineers in seven out of the 12 projects as undertaken by the NWCP was flawed and goods were procured at inflated prices.

Mr. Temporary Deputy Speaker, Sir, on the Committee’s Chairman declaration of interest on the matter, the Committee establishes that the Chairman of the Departmental Committee on Lands and Natural Resources, Mr. Mutava Musyimi, M.P., had acted procedurally in respect to allegations of conflict of interest by Mr. Kiunjuri. Based on evidence before the Committee, the Chairman had more than fulfilled the requirements of the Standing Orders and the new Constitution, Article 75 in particular.

(Applause)

Therefore, the Chairman had started the process of relinquishing the directorship of the company by selling his shares. So, the Committee found no conflict of interest between the Chairman and the role he was playing. Therefore, it was the Committee’s resolution that he continued to chair the investigations because the company in which he was a shareholder and a director was not doing business with the Ministry, the Tana Athi Water Services Board or the NWCP.

Mr. Temporary Deputy Speaker, Sir, I want to state that there are allegations and substantiations of the same. Once allegations are made, evidence must be adduced beyond reasonable doubt to substantiate those allegations. As hon. Members are aware, the Committee embarked on a fact-finding mission as a result of the allegations made by Mr. Mwangi Kiunjuri. The allegations made have been tabulated and they included procurement, fraud, irregular award of tenders and all the others narrated in this House by the Chairman.

Mr. Temporary Deputy Speaker, Sir, you will realise that the Committee did its investigations and took evidence from almost all persons alleged to have been involved. The Report is supported by the HANSARD Report on the actual proceedings. The alleged whistleblower, however, is not a whistleblower, but was just concerned with what was done. The issues that he has raised had earlier been brought before this House. Maybe, the Committee did not take the House duties seriously when the Minister spoke.

Mr. Temporary Deputy Speaker, Sir, as the Chairman has stated, the Committee interviewed Government Ministries and departmental heads relevant to the investigations, experts and other institutions. They used all institutions available. I want to emphasize that we were not on a political mission to protect or condemn anybody. But we were on a fact finding mission for the good of the taxpayer of this country. That is exactly, what we

have done. Our report is fair and unbiased, according to the evidence we received on each and every allegation.

Mr. Temporary Deputy Speaker, Sir, we beg that when officers are appointed, like the Chief Executive Officer of Water Services Board, who undergoes a lot of stress and tremor from the Chairman--- I think there should be clarity on the roles of the Chairman and the CEO. When the Chairman has interest, and takes the CEO to task by not giving an appointment letter, until certain conditions are fulfilled, it is our duty as Parliament to see that these things are brought to rest and necessary regulations and registration done.

Mr. Temporary Deputy Speaker, Sir, I beg that this Report be supported.

Hon. Members: I beg to second!

Mr. Ruteere: Mr. Temporary Deputy Speaker, Sir, I beg to second.

(Question proposed)

Mr. Chachu: Mr. Temporary Deputy Speaker, Sir, I rise to support this Report on allegations of corruption in the Ministry of Water and Irrigation and its agents.

Mr. Temporary Deputy Speaker, Sir, I want to commend this Committee for a very thorough work, and for a report that is well researched and very informative.

Mr. Temporary Deputy Speaker, Sir, from the outset, I want to thank this Committee for having gone as far as Marsabit, where Badasa Dam is being constructed at the moment. I have had an opportunity to visit it with the Minister and other Members of Parliament of the Marsabit County. Whatever is going on there, it is very impressive work.

Mr. Temporary Deputy Speaker, Sir, I know that you have been to Marsabit as a young professional in some time of your life as a Research Assistant with the Kenya Agricultural Research Institute (KARI). That is one town, where water has been a major problem. Up to now, we depend on springs which dry up, whenever the dry spell kicks in. We use tankers to get water from as far as 40 kilometres. Today, this Ministry with the leadership of hon. Ngilu, has invested over Kshs1 billion. Once and for all, the headquarters of Marsabit County will not have water problems that it has been having for the last 50 years.

Mr. Temporary Deputy Speaker, Sir, going back to the Report, it is very clear that there are issues for sure, with those State corporations. There are governance issues. However, the Minister has taken the necessary administrative action and responsibility to deal with those issues from the front. It is very clear that she dismissed two CEOs of that State corporation; National Water and Pipeline Corporation as well as Tanathi Water Service Board. She dismissed the board of directors and appointed new ones to give it a new life. She went as far as stopping fraudulent payments of over Kshs500 million. In the report, it is well stated that she even sought support of forensic audit and as a result, saving Kenya taxpayers Kshs1.1 billion, which would have gone to waste.

Mr. Temporary Deputy Speaker, Sir, she even managed to retrieve some funds that were paid to Elbourgon Stores Limited to a tune of Kshs26 million. It is very clear that these allegations that were made are baseless from this report. I have no doubt in the work of the Committee of this House, when I know they have done very thorough work and went as far as my County.

Mr. Temporary Deputy Speaker, Sir, for sure there are some issues clearly stated in the report. There are accountability and transparency issues in these State corporations. They even lack procurement plans. Sometimes, prices are highly inflated. There are even irregular award of tenders and even conflict of interest. I am sure, as she has been doing, she will work even harder and streamline those issues. These are not particular issues. It is a reality with most State corporations. I am sure she will work even harder as she has done to see to it that the issues are streamlined and dealt with, once and for all.

With those few remarks, I beg to support.

Mrs. Shebesh: Mr. Temporary Deputy Speaker, Sir, I rise to support this Report on the alleged corruption by the Ministry of Water and Irrigation.

Mr. Temporary Deputy Speaker, Sir, I will be very brief because I would like other people to be able to contribute. I just want to say that this issue has taken its toll through the media and this House. It has caused unnecessary tensions. As the Committee has rightly said, the whistleblower, hon. Kiunjuri allowed certain issues to come out before this investigation. But critically, what also has come out is that clearly, the allegations against the Minister and the turmoil that she has had to undergo through media scrutiny, were unnecessary and unfounded.

Mr. Temporary Deputy Speaker, Sir, I really want to call upon this House, that if we are going to deal with issues of corruption, let us do so, without witch-hunting and other motives. Let us work on issues of anti-corruption in a way that moves this country forward so that we put an end to this vice. However, once it is done through the kind of method and conclusion that has been drawn here, it does put a bit of doubt in Kenyans' minds, whether or not we are playing politics or really working towards eliminating corruption.

Mr. Temporary Deputy Speaker, Sir, I just want to say that the Minister has proved that she continues to be very straight forward in her work. We support her work. Most importantly, we hope that the report helps us to move forward on this issue. Therefore, we can stop the tension that has been building on this particular issue.

With those few remarks, I beg to support.

The Assistant Minister for Forestry and Wildlife (Mr. Nanok): Mr. Temporary Deputy Speaker, Sir, I rise to support the tabling of this report.

Indeed, let me congratulate the Chairman of the Departmental Committee on Lands and Natural Resources for having tabled a very comprehensive report. This report clarifies some of the issues that have been hanging without clarification that laid blames to the Minister and some of her team. We have, indeed, seen from the report, what the Chairman and the seconder have presented in this House; that, indeed, some of these allegations are unfounded---

Mrs. Odhiambo-Mabona: On a point order, Mr. Temporary Deputy Speaker, Sir. Would I be in order to move that the Mover be called upon to reply, going by the mood of the House?

(Applause)

The Temporary Deputy Speaker (Mr. Ethuro): Order, hon. Odhiambo Mabona!

All you need is to see the interest of people who want to contribute. So, that cannot be granted at this moment.

Proceed, hon. Nanok!

The Assistant Minister for Forestry and Wildlife (Mr. Nanok): Mr. Temporary Deputy Speaker, Sir, as I said, the investigation by the Committee has actually established that the Minister, hon. Ngilu has conducted herself above reproach by her actions. The actions that she took even before the investigations began proved that she had nothing to be blamed on. Equally so, I would like to tell the Assistant Minister that although his allegations have not been found to be correct, I believe that whistle-blowing is important. Each one of us has a responsibility to make sure that public funds are utilized in the best way. I can only urge the Minister, and all organs of Government that are responsible to make sure that public funds are utilized in the best way. The Government should take up the recommendations that have been put forward by the Committee and make sure that action is taken.

Lastly, we have a drought situation in the country. It is more or less a famine situation. One of the biggest problems, apart from food, is the scarcity of water. When I first heard the allegation that the Minister had pumped more water into Machakos, I thought that this was a new strategy to resolve a problem in one area of the country and then move to another area.

(Applause)

Two weeks ago, when I visited Turkana County with the Minister, we went to quite a number of places. I believe that she has also visited North Eastern and Upper Eastern. I believe the Ministry has a strategic plan to resolve water problems that Kenyans are experiencing.

With those few remarks, I support the adoption of the Report.

The Assistant Minister for Public Works (Mr. Kiunjuri): Thank you, Mr. Temporary Deputy Speaker, Sir. I also hope that I will have as much peace as those who have contributed.

I have looked at this Report. This Report is more instructive in what it does not say than in what it says. It is the kind of a Report which appears to have had an instructor's note to guide it. The sub-texts of it, is where I find the findings to be so interesting. I will request hon. Members to pay attention to the sub-texts of the findings. I shall demonstrate how, for some reasons known to the Committee, only the response that I gave is re-produced verbatim.

Mr. Temporary Deputy Speaker, Sir, let us start with the end of the bulk of the conclusions whereby we have the issues where I was supposed to be investigated; they have no room for the issues that were supposed to be investigated. With their acknowledgment that my bold position enabled certain things to happen as stated in Paragraph 1211.

My words that had raised issues of concern at the Ministry are dismissed, while those of the Minister have been taken as unquestionable or as the gospel truth. It is also indicated in Paragraph 6412. That one is brought out wholesale.

This Report opens by exonerating the Minister because she issued an unsolicited Ministerial Statement on 28th September, 2010. If that be the case, if any of you, hon. Members, looked at the HANSARD, you will see that she actually indicated herself, that it was because, and I quote:

“There had been too many issues asked both inside and outside Parliament.” That is why she had to issue the Ministerial Statement. I would also like to draw the attention of hon. Members to Recommendation No.29. If all was well in the Ministry, why then construct such voluminous number of recommendations? I would also like hon. Members to, carefully, read the evidence of Kenya National Audit Office (KNAO) and that of the Permanent Secretary, Treasury and make their own conclusions about the veracity of the issues that I had raised.

It is my hope that hon. Members have read the document because it is voluminous. Personally, with all the interest I had, I have not been able to read it conclusively. I read it between lines because of the way it was rushed before this House. I also want to remind you that it is the Parliamentary House Business Committee that ballots for Motions to come up. Although I am also aware that the Vice-President can also approve an Order Paper, the reason given for this Motion is that there was no other business. This is not the first time that we have lacked business in the Order Paper to discuss. Considering the magnitude of this debate, that is very questionable.

Mr. Ruto: On a point of order, Mr. Temporary Deputy Speaker, Sir. My good friend, hon. Kiunjuri, seems to be treading on dangerous grounds by challenging the House Business Committee. He is actually challenging the integrity of Parliament and the way it conducts its business. Is it in order for him to impute improper motive on the entire House, through the House Business Committee, without substantiating?

The Temporary Deputy Speaker (Mr. Ethuro): Hon. Ruto, you are completely out of order! The Standing Orders provide for how that business should be structured. So, any hon. Member can, on the basis of the same Standing Order, raise an issue if he feels that it is not being adhered to.

The Assistant Minister for Public Works (Mr. Kiunjuri): Mr. Temporary Deputy Speaker, Sir, Kenyans are watching, and the truth will come out.

Mr. Ruto: On a point of order, Mr. Temporary Deputy Speaker, Sir. It would, therefore, be in order for the hon. Member to quote the specific Standing Order on whose basis he is challenging the inclusion of this Report in the Order Paper. It is his right to do so, but there is a procedure to be followed.

The Assistant Minister for Public Works (Mr. Kiunjuri): Mr. Temporary Deputy Speaker, Sir, I have indicated clearly that I know the rules of the House. The Vice-President and Minister for Home Affairs, has the powers. I indicated that clearly in my submissions.

Look at the authenticity of this document, it is alleged that I played golf on 26th August, 2010 with one Mary Mungai, Director of Drafts, which is one of the contractors in the dam projects, and specifically Ummaa Dam, Mr. Gikandi, a director of the Board of the National Water Conservation and Pipeline Corporation, and Eng. Mang’oli.

Mr. Temporary Deputy Speaker, Sir, the Chairman, for whom I have a lot of regard - I have information that he is a presidential candidate in the 2012 general election, did not show any concern about it. The rules of the House demand that the authenticity of any document laid on the Table must be verified. The Committee was supposed to verify the authenticity of the document that was produced before it as evidence.

Mr. Washiali: On a point of order, Mr. Temporary Deputy Speaker, Sir. I do not know whether it is in order for a matter which was handled at the Committee level to be questioned here. When the issue of playing golf came up, we dealt with it expeditiously.

We were given evidence of the register and told that hon. Kiunjuri had been seen registering with Directors of the Board of the National Water Conservation and Pipeline Corporation.

The Temporary Deputy Speaker (Mr. Ethuro): Order, hon. Washiali! Hon. Members, please, raise proper points of order. The Committee has already deliberated on that matter. It is in the Report. Hon. Kiunjuri is mentioned and, therefore, he has the right to reply.

Proceed, hon. Kiunjuri!

The Assistant Minister for Public Works (Mr. Kiunjuri): Mr. Temporary Deputy Speaker, Sir, I request that every time an hon. Member stands on a point of order, the clock is stopped from running. This is because the intention of some hon. Members, in raising points of order, is to derail me, and not to give information. I am accused in this Report. It is, therefore, important for the Chair to consider my request, so that even if hon. Members stand on points of order, my time is not used.

Kenyans are watching. That is the only way justice will be seen to flourish. We are being watched by Kenyans, who pass judgement on Members of Parliament.

Mr. Temporary Deputy Speaker, Sir, the Chairman knows very well that the golf course---

(Loud consultations)

The Temporary Deputy Speaker (Mr. Ethuro): Order! Order, hon. Members! The hon. Member on the Floor was making a request to the Chair, and not to you. I want to grant him his wish. Every hon. Member has the right to be heard.

Hon. Kiunjuri, you have the Floor. The Chair will protect your opportunity.

The Assistant Minister for Public Works (Mr. Kiunjuri): Thank you, Mr. Temporary Deputy Speaker, Sir.

I am ready to prove to this House that the Committee did not go ahead to verify the authenticity of the document that was tabled before them. I have with me, the Black Book in which all the records of the Railway Golf Club were entered in the last one year. The Club's Chairman, Secretary and Captain are ready to appear before this House and prove that this is the true record. If you look at the record of 26th August, 2010---

Mr. Washiali: On a point of order, Mr. Temporary Deputy Speaker, Sir. I still insist that this matter was handled effectively at the Committee level. If there were any challenges that the Assistant Minister wanted to bring forward, he would have brought them forward at that level. But as it is now, this is already in the report. Is he in order to continue misleading this House?

The Temporary Deputy Speaker (Mr. Ethuro): Order, hon. Washiali and all the other Members! He is perfectly in order to prosecute the matter. Proceed, hon. Kiunjuri!

The Assistant Minister for Public Works (Mr. Kiunjuri): Mr. Temporary Deputy Speaker, Sir, you can see the interest. This is the true document and can be proved by the Club itself. The document they allege was not the product of the Railways Golf Club. It was a photocopy, but the Committee was in a rush despite the fact that the Chairman could even summon the Chairman of the Railway Golf Club or any other official from his office. You can shout from the Continental House to the Railways Golf Club and you can be heard and ask for information. The Committee did not deem it fit to

do so. This was a serious allegation. It goes on to say that during that golf game that we had, we conspired how to defraud the NWCP of Kshs652 million through Umaa Dam. That was a really serious allegation that any serious Committee could have gone deep to investigate. The Committee deemed it not fit to even summon the Club to establish whether the information given by the Club is true or false. The Chairman has indicated once again, and the Club is ready to come and give evidence if what I have given to you is not true---

On the Umaa Dam case---

The Temporary Deputy Speaker (Mr. Ethuro): Order, hon, Kiunjuri! Just in relation to that, you have provided this book, but there is no letter-head from the Club. There is no authentication. That is the same point that we are trying to raise and you did not even bother to do the same in terms of what you are bringing. So, the Chair cannot tell whether it is from the Kenya Railways Golf Club or any other club. So, this is not admissible for our purposes.

The Assistant Minister for Public Works (Mr. Kiunjuri): Mr. Temporary Deputy Speaker, Sir, that is true. I know that. That is why I have over-emphasized that we shall be issuing the letter. As I said, this report was tabled yesterday and nobody even expected it to be on the Floor today. Therefore, the Club is willing to do as such. I still have my right to table any other document even after this Motion.

On the issue of Umaa Dam, the Committee is very much aware that this matter is in court. Parliament is of the opinion that we never discuss matters of *subjudice*. The Committee went ahead to make a ruling on the suitability of the contractor despite other relevant authorities, namely, the court, already having this case going on for its determination. What is even more interesting is that the Committee did not find it necessary to inform this House that I am the one who raised the issue of escalation of prices at Umaa Dam. I tabled evidence to show that the cost of the dam had already escalated by July by Kshs313 million. That was the consultant report and nobody, no authority can challenge that. This Committee did not find it fit for come and table that document here. I even tabled a document in this Committee to show that Umaa Dam was a cash cow from the beginning. The consultants had erred to an extent that they were not supposed to tender for construction of that dam.

Mr. Temporary Deputy Speaker, Sir, I gave all this evidence. However, this Committee decided to ignore all that evidence. They went ahead to say nothing was wrong in the awarding of the contract.

I was not there when the documents for tender were being prepared. Why then did I raise the issue? Would I have done so, knowing very well if they were my friends that this issue would lead to termination of this contract? I raised the issue of all the dams and all the consultants, but nobody bothered to look at all those documents. What we have here is what suits this Committee.

Mr. Temporary Deputy Speaker, Sir, I gave the Committee further information on the issue of my investigation of this contract and the visits that I made to several other dams. This Committee did not find it fit to tell this House that I visited all other dams. I was in the process. I started with Chemususu Dam in June. I went to Kiserian the same month in June. I went to Maruba Dam in July. Umaa Dam was the fourth dam that I visited. Why have they not questioned all the other dams? But they are very much interested in this dam. That is the only question they are asking.

They have said that I had no authority to go and inspect the dams. My appointment letter as an Assistant Minister is very clear. There are also Presidential circulars that indicate that I have the power to get all the information I want from the officers. I have also the power to go and do my own investigation. I can call upon officers from my Ministry to accompany me.

In this particular visit, they have said I went there with the contractor, the chairman and managing director. They have not indicated that I was accompanied by officers from the Ministry of Water and Irrigation and that the dam experts, consultants and the District Commissioner of Makueni were there. All that has been ignored. They were concentrating on cut and paste from this document to come up with the Committee Report.

Mr. Temporary Deputy Speaker, Sir, the question of Elburgon Stores has been raised here---

(Mrs. Odhiambo-Mabona picked a Document from the Dispatch Box)

The Temporary Deputy Speaker (Mr. Ethuro): Order hon. Members. That document is inadmissible! It is not in your possession, Mrs. Odhiambo-Mabona. Do not even look at it!

Mrs. Odhiambo-Mabona: On a point of order, Mr. Temporary Deputy Speaker, Sir. I was just concerned because Mr. I. Ruto is insisting that he can identify the signatures. They are from Florida 2000 Club on Koinange Street.

The Assistant Minister for Public Works (Mr. Kiunjuri): Mr. Temporary Deputy Speaker, Sir, nothing will provoke me. You know Mrs. Odhiambo-Mabona having addressed it herself in public, therefore, she can say anything that she wants to say. She can even do it here in Parliament.

The Temporary Deputy Speaker (Mr. Ethuro): Order, hon. Members. I cannot allow Mrs. Odhiambo-Mabona for you to purport that you are representing what Mr. I. Ruto was saying and to bring it to the Floor of the House. It is unsolicited; it is unnecessary and I demand that you apologize to the House.

Mrs. Odhiambo-Mabona: On a point of order, Mr. Temporary Deputy Speaker, Sir. I was just concerned because hon. Ruto is insisting that he can identify the signatures and that they are from Florida 2000 Club on Koinange Street.

(Laughter)

The Assistant Minister for Public Works (Mr. Kiunjuri): Mr. Temporary Deputy Speaker, Sir, nothing will provoke me. You know Mrs. Millie Odhiambo-Mabona having ever undressed herself in public and, therefore, she can say anything that she wants to say. She can even do it here in Parliament.

The Temporary Deputy Speaker (Mr. Ethuro): Order, hon. Members! I cannot allow hon. Odhiambo-Mabona for you really to purport that you are representing what hon. Ruto is saying and to bring it to the Floor of the House. It is unsolicited, unnecessary and I demand you apologize to the House.

Mrs. Odhiambo-Mabona: Mr. Temporary Deputy Speaker, Sir, I apologize even though actually Mr. Ruto did. He can confirm.

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

The Assistant Minister for Public Works (Mr. Kiunjuri): Mr. Temporary Deputy Speaker, Sir, on this one, do not defend me. I am used to this. I can fight for myself.

The Temporary Deputy Speaker (Mr. Ethuro): Order! I am not defending you; I am defending the rules of the House. I do not defend anyone. I defend the dignity of this House.

The Assistant Minister for Public Works (Mr. Kiunjuri): Thank you, Mr. Temporary Deputy Speaker, Sir. If I am provoked further, I can say more about ourselves here. So, do not open a can of worms.

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

The Temporary Deputy Speaker (Mr. Ethuro): Order, Mr. Ruto.

The Assistant Minister for Public Works (Mr. Kiunjuri): Mr. Temporary Deputy Speaker, Sir, definitely, I will be calm. I will not allow myself to be--- Those diversionally tactics--- I am used to them. On the issue of Elburgon Stores, it is claimed that I did not raise a finger when that issue came up. That issue had come up five months before October. Secondly, despite the veracity of the matter, once again and despite serious allegations, the Elburgon Stores owner came to the Committee. But the Committee did not find it necessary to question the owner of Elburgon Stores on my relationship with him or even ask him whether he knows me. If really that was that serious, that is the first issue they could have asked for me either to accept or deny. But in his own wisdom, the presidential candidate did not find it suitable to call upon the owner of Elburgon Stores to do that.

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

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

The Assistant Minister for Public Works (Mr. Kiunjuri): Why? This is my time!

The Temporary Deputy Speaker (Mr. Ethuro): What is it Mr. Mbadi?

Mr. Mbadi: Mr. Temporary Deputy Speaker, Sir, for now about three times, hon. Kiunjuri has referred to a presidential candidate. Are we facing elections so that we could have a presidential candidate? Could he confirm who that presidential candidate is?

The Assistant Minister for Public Works (Mr. Kiunjuri): Mr. Temporary Deputy Speaker, Sir, he is not denying that he has interest. Why are you questioning on my behalf?

Mr. C. Kilonzo: On a point of order, Mr. Temporary Deputy Speaker, Sir. We truly need to uphold the dignity of this House. When he refers to hon. Musyimi, who is the Chairman of the Departmental Committee--- Instead of referring to him as the Chairman, he is referring to him as a presidential candidate. That is trying to degrade the roles of that Committee and the dignity of the House. Is the hon. Member in order to flout the rules of this House which he knows very well? He should refer to the hon. Member as the Chairman of the Committee or by his name.

The Assistant Minister for Public Works (Mr. Kiunjuri): Mr. Temporary Deputy Speaker, Sir, I withdraw.

The Temporary Deputy Speaker (Mr. Ethuro): Order! Hon. Kiunjuri, restrict yourself to the Report and refer to the Member in his capacity as the Chairman of the Committee.

The Assistant Minister for Public Works (Mr. Kiunjuri): Thank you, Mr. Temporary Deputy Speaker, Sir. I will refer to him as the Chairman, Rev. Mutava Musyimi.

On the question that I raised – and it was so serious - on the issue of nepotism, the Committee went ahead and called the Registrar, Gachengo, to give evidence on whether she knew some of those suppliers. Suppliers like Timetrax, G.L. Williams, Cart Michaels and others. The names that were given - and that was the most serious allegation that I had raised--- Despite Gachengo giving the names of the owners of those companies - Broad Vision and the others - this Committee's conclusion was that it could not go further to investigate because the addresses were not given by the Registrar. An issue so serious like this one; on which the Committee had a lead on where to get the information, it did not bother to go ahead, now that it knew the companies, to verify the names. That is because already, those companies were awarded contracts to supply. Those companies were issued with Local Purchase Orders (LPOs). The companies were paid either through cheques or banks. This Committee did not have time to just rush to Kitui, where Tanathi Water Services Board is situated, to get information on those people. That is because there was an indicator of the owners of those companies.

Mr. Musyimi: On a point of order, Mr. Temporary Deputy Speaker, Sir. While I thank hon. Kiunjuri for what he is saying, I did indicate, as I was moving the Motion, that the Registrar-General appeared before us. Indeed, she had sent a junior officer and the Committee took exception. We demanded that she comes. When she came, we asked her the question very directly.

The Temporary Deputy Speaker (Mr. Ethuro): Order, Mr. Musyimi! You are on a point of order!

Mr. Musyimi: Mr. Temporary Deputy Speaker, Sir, is the Assistant Minister in order to indicate that there was a relationship that was known to us and not to the Registrar-General, that those people were related to the Minister? The Registrar-General herself said that there was no legal link and there was nothing she could do about it. Is the Assistant Minister in order to speak the way he is speaking?

The Assistant Minister for Public Works (Mr. Kiunjuri): Mr. Temporary Deputy Speaker, Sir, I have gone through these documents. This Committee avoided to ask the Minister about her relationship with those individuals and companies. It is very clear and it is in this document that they avoided to ask her so that she could either deny or accept and also, they did not have enough money or time to go to Kitui and verify the information. You can know who are the owners of these companies by getting information on who was paid, when he was paid and the identity card. That is the easiest thing that they could ever do.

Mr. Musyimi: On a point of order, Mr. Temporary Deputy Speaker, Sir. We asked the Minister whether there was any relationship between her and those individuals. Is the Assistant Minister in order to give this House information that is not correct?

The Assistant Minister for Public Works (Mr. Kiunjuri): Mr. Temporary Deputy Speaker, Sir, as I said from the beginning, what I said was reported verbatim and what the Minister and others said was not reported. It is not in this document.

The Temporary Deputy Speaker (Mr. Ethuro): Order, Mr. Kiunjuri! You have been challenged by the Chairman of the Committee where you said that they did not put the question to the Minister.

The Assistant Minister for Public Works (Mr. Kiunjuri): Mr. Temporary Deputy Speaker, Sir, so that my time is not wasted, I withdraw on that one. The question on those companies was not addressed, despite the magnitude and the way it is stated clearly in the Public Ethics Act and also in the Constitution about the question of integrity. Regarding the question of conflict of interest, this Committee did not also find it necessary to go to the roots of this matter and that all the allegations that I made had a motive.

Mr. Temporary Deputy Speaker, Sir, I want to say the following. You can run but you can never hide. Parliament in itself will do its duty but there are also other institutions that are also interested. It is true that it is not until Jesus Christ went to the Temple, upset the tables, whipped the traders inside there that the Pharisees and the High Priests were ready to take him on.

I indicated clearly during my presentation to this Committee that the Chairman had interest, an allegation to which he said yes, he had interest but he had already withdrawn from the company that is purported to have interest with Mrs. Ngilu. Secondly, I raised the issue of corruption that money had changed hands in that Committee but I was forced to withdraw; so, I do not want to trade in that. I do not want to trade on that one because of my time.

Mr. Affey: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the Assistant Minister in order to cast aspersions on Members of Parliament who serve in this Committee? We have never seen, known or taken anything. If anything, what is contained in this report is also contained in the HANSARD. There is a verbatim report on what happened in the Committee.

The Temporary Deputy Speaker (Mr. Ethuro): Order, you have made your point.

Mr. Affey: So, could he withdraw that Members of Parliament were actually compromised and he should also apologize? Please, it is important because we serve in this Committee.

The Temporary Deputy Speaker (Mr. Ethuro): Order, hon. Members! We can only take one point of order at a time.

Mr. Kiunjuri, you have made serious allegations on the hon. Members and one Member of the Committee has challenged you. So, you either adduce evidence or you withdraw and apologize.

The Assistant Minister for Public Works (Mr. Kiunjuri): Mr. Temporary Deputy Speaker, Sir, I was very careful. I have said that I will look at the HANSARD. That I had alleged during my interaction with the Committee but I was forced to withdraw, which I did. I even now withdraw if I said it.

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

The Temporary Deputy Speaker (Ethuro): Order, Mr. Ruto! You seem to be very desirous of assisting the Chair. The Chair does not need your assistance.

Mr. Kiunjuri, if you apologized at the Committee level, then why are you bringing the issue here. Proceed, but withdraw and apologize.

The Assistant Minister for Public Works (Mr. Kiunjuri): Mr. Temporary Deputy Speaker, Sir, again, I withdraw and apologize.

What I was trying to say is that this Parliament should make a decision knowing that the pharaoh in this case is not the final judge.

Lastly, Kenyans are watching to see how Members vote and lobbying is properly done.

I oppose the Report.

Mr. Mbadi: Mr. Temporary Deputy Speaker, Sir, I want to support this Report.

First of all, let me thank the Chairman and the Committee for bringing a united Report. In the past few months, we have had cases where Committees bring reports and then on the Floor of the House, we see division. I congratulate this Committee.

Secondly, we know we should fight corruption in this country, but it is very important for us to be very careful not to bring in politics, vendetta and extraneous issues. If you look at the Report of this Committee, it is very detailed. The Assistant Minister, having been in that Ministry for well over three years, did not see it fit to whistle blow early enough until the time he was removed from that Ministry. That is when he came up and started smearing the name of the Minister; as if that was not enough, he went ahead - because he was failing in his schemes - to smear the name of the Chairman of the Committee. These are things we cannot tolerate in this country.

Mr. Temporary Deputy Speaker, Sir, I urge my friend and colleague; “please, respect other Members”.

I support.

Mr. Midiwo: Mr. Temporary Deputy Speaker, Sir, I will take only one minute.

I want to encourage us, as Members of Parliament, not to use the Floor of this House frivolously. There is nothing in law which would stop any Minister or any Member of Parliament from employing anybody who is related to them. What we are saying is that one should not engage in excessive favouritism.

Mr. Temporary Deputy Speaker, Sir, I have been accused here and I have spoken like this before. I have been accused just because my sister happens to be a wife of a member of the diplomatic community; it looked--

The Assistant Minister for Youth Affairs and Sports (Ms. Wavinya): On a point of order, Mr. Temporary Deputy Speaker, Sir. There seems to be a consensus; may we call upon the Mover to reply?

The Temporary Deputy Speaker (Mr. Ethuro): Order!

Proceed, Mr. Midiwo!

Mr. Midiwo: Mr. Temporary Deputy Speaker, Sir, I was just saying that the fact that somebody is related to another who may be working in another company is not unlawful. That trend must stop. I want us to slow down on politics for the future of our country.

I wish to support this Report.

Mr. Lessonet: Mr. Temporary Deputy Speaker, Sir, I will take just 30 seconds.

I also want to support this Report.

Secondly, I want to thank the Minister for building large dams. *Waziri*, please, make sure by the time we go to elections next year, we have another ten large dams.

With those few remarks, I support.

The Temporary Deputy Speaker (Mr. Ethuro): Yes, Mr. Kivuti. Sorry---

Mr. Kivuti: Mr. Temporary Deputy Speaker, Sir, my name is Lenny Kivuti, the Member for Siakago.

I have very little to say. May I move that you call upon the Mover to reply?

(Applause)

(Question, that the Mover be now called upon to reply, put and agreed to)

Mr. Musyimi: Mr. Temporary Deputy Speaker, Sir, I would like to donate a minute to Mr. Affey and another minute to Mr. C. Kilonzo.

The Temporary Deputy Speaker (Mr. Ethuro): Order! Mr. Chairman, the House has just passed a resolution for the Mover to be called upon to reply. Therefore, you cannot donate some of your time. You either reply or we conclude the matter.

Hon. Members: Sema ahsante!

Mr. Musyimi: Mr. Temporary Deputy Speaker, Sir, I thank you for your correction. Again, I wish to thank the Committee and this honorable House for listening to us very patiently. I think facts speak for themselves.

Mr. Temporary Deputy Speaker, Sir, I beg to move.

(Applause)

The Temporary Deputy Speaker (Mr. Ethuro): Order, hon. Members!

(Question put and agreed to)

(Applause)

ADJOURNMENT

The Temporary Deputy Speaker (Mr. Ethuro): Hon. Members, that concludes the business on the Order Paper. Therefore, the House stands adjourned until Tuesday, 19th April, 2011, at 2.30 p.m.

The House rose at 6.22 p.m.