

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Tuesday, 25<sup>th</sup> September, 2012

The House met at 2.30 p.m.

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

### PRAYERS

### PAPER LAID

The following Paper was laid on the Table:-

Report of the Departmental Committee on Administration and National Security on the Prevention of Terrorism Bill (2012).

*(By Mr. Kapondi)*

**The Temporary Deputy Speaker** (Mr. Imanyara): Next Order!

### QUESTIONS BY PRIVATE NOTICE

#### MEASURES TO RESOLVE BOUNDARY DISPUTES IN WAJIR/GARISSA

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

(a) Could the Minister confirm that the current conflict being experienced in Wajir South Constituency emanates from the disputed boundary with Lagdera Constituency?

(b) Where does the boundary between Wajir and Garissa counties fall and could the Minister table a map of those areas and the relevant *Kenya Gazette* Notice?

(c) What steps is the Minister taking to ensure that the conflict over the boundary between the two constituencies is resolved expeditiously to avert recurrence of attacks?

**The Temporary Deputy Speaker** (Mr. Imanyara): Mr. Sirat, the Member for Lagdera has requested that because this Question touches on his constituency, he be present when it is being asked. He would like to prosecute some aspects of the Question. What do you have to say to that?

**Mr. Sirat:** Mr. Temporary Deputy Speaker, Sir, I asked this Question about three weeks ago. The Deputy Speaker who comes from Lagdera Constituency was on the Chair. He requested the same and we agreed. This is the second time the Question is coming and he is away. He should have been here. Due to the violence and insecurity in the country, this Question is very

important. The Minister is here. We spoke in the morning and I am prepared to ask my Question. We cannot wait any longer.

**The Temporary Deputy Speaker** (Mr. Imanyara): Except that the Deputy Speaker is actually away on official duties that he had not foreseen. In those circumstances, would you not like to give him a further opportunity?

**Mr. Sirat:** No, No, Mr. Temporary Deputy Speaker, Sir. This is very unfair to my constituency. It is very unfair to his constituency. This is a border dispute and it should be resolved.

**The Temporary Deputy Speaker** (Mr. Imanyara): Mr. Affey, you are also bordering this and I think you have an interest. What do you have to say?

**Mr. Affey:** Mr. Temporary Deputy Speaker, Sir, you might very well understand that this Question was preceded by a Ministerial Statement. It is true that there is an apparent dispute between Garissa County and Wajir County, and between Lagdera and Wajir South, which has led to the death of an old man and displacement of several people---

**The Temporary Deputy Speaker** (Mr. Imanyara): Order, Mr. Affey! I would like your comment on the Member for Lagdera's request because it borders the three of you.

**Mr. Affey:** Mr. Temporary Deputy Speaker, Sir, this is a deliberate attempt by the Member for Lagdera to delay this matter and, therefore, it is important that since the Minister has the answer, he should instruct the Provincial Commissioner of North Eastern Province to direct his District Commissioners and we shall get peace there.

As long as the Deputy Speaker is interested, this Question will never see the light of day. It is a deliberate attempt to create chaos between the communities in Wajir and Garissa. We already have the answer. I request the Minister to direct the Provincial Commissioner, North Eastern, to sort out the dispute between the two constituencies. It is an administrative boundary.

**The Temporary Deputy Speaker** (Mr. Imanyara): Order, Mr. Affey! On many occasions, while sitting on this Chair, I have heard Members plead for you because you are away on official parliamentary business. Why do you not want to do the same for another Member who is away on official parliamentary business?

**Mr. Affey:** Mr. Temporary Deputy Speaker, Sir, I agree with you. When Members ask for this, we must be generous. However, this is a determination to delay on the part of the Deputy Speaker. We do not trust that---

**The Temporary Deputy Speaker** (Mr. Imanyara): You know you are making a very serious imputation on the Deputy Speaker of Parliament---

**Mr. Affey:** The Deputy Speaker of Parliament is an involved party and that is why he wants to delay. Otherwise, let us allow the Minister to proceed because this is the property of the House. It is our property.

**The Temporary Deputy Speaker** (Mr. Imanyara): Order, Mr. Affey! You know very well that making such serious allegations that a Member is delaying when I have told you that he has travelled on official business is quite out of order. It is out of order! Therefore, I request that you withdraw the allegation that the Deputy Speaker is deliberately delaying the asking of this Question.

**Mr. Affey:** Mr. Temporary Deputy Speaker, Sir, if you ask me to be honest, transparency is important---

**The Temporary Deputy Speaker** (Mr. Imanyara): Order! I have directed that you withdraw because you are out of order in making such a serious allegation. You know it is against the Standing Orders.

**Mr. Affey:** Mr. Temporary Deputy Speaker, Sir, I withdraw that he is delaying. However, the answer will save communities---

**The Temporary Deputy Speaker** (Mr. Imanyara): Very well. Order, now!

**Mr. Affey:** Mr. Temporary Deputy Speaker, Sir, allow the Minister to give us the answer.

**The Temporary Deputy Speaker** (Mr. Imanyara): Order! You see, fortunately, you are not the one determining that issue. Mr. C. Kilonzo, what is your point of order?

**Mr. C. Kilonzo:** Mr. Temporary Deputy Speaker, Sir, in as much as it is a right for Members to ask Questions, the last time we had debate, the issue of boundaries came up. An issue came up between one Member and another. That was in Coast Province and North Eastern Province. What came next as a result of that Question on the Floor of the House were the Tana River clashes and the deaths which followed. I would really plead with the Chair that in as much as we want to settle our problems as a constituency through the Floor of the House, if we who are elected can use the board rooms---- The hon. Member, the Minister and the Deputy Speaker can square those things in a board room. The minute those things appear here, they will translate into clashes as it happened in the Coast.

I really plead with the Chair---

**The Temporary Deputy Speaker** (Mr. Imanyara): Mr. C. Kilonzo, I see a point of order from Mr. Balala. What is it, Mr. Balala?

**Mr. Balala:** Mr. Temporary Deputy Speaker, Sir, this is a national issue. It is a security issue. We left Tana River to “boil” until it erupted and claimed over 100 people. We are seeing the same thing in North Eastern. These things cannot be left to the two interested individuals. This is a national issue; it needs to be addressed and the House needs to address it.

**Mr. Linturi:** On a point of order, Temporary Deputy Speaker, Sir. I just want to support what Mr. C. Kilonzo has said. Our conduct and behaviour in this House, considering that these proceedings are televised live, impact negatively on the people we represent in this House. I am pleading with you to find that the issue of the boundary dispute before the Floor of the House cannot be sorted out here. I am of the opinion that the two leaders, together with other stakeholders, sit to discuss and agree on the matter.

Mr. Temporary Deputy Speaker, Sir, if it comes to play here and the whole country is watching, we may not be able to bring down the tension that this might easily create. I am pleading that those people should retreat to a board room, sort out their issues and if they are not able to agree, they can call arbitrators.

**The Temporary Deputy Speaker** (Mr. Imanyara): Before I go back to Mr. Sirat to consider what he has heard from Members, I have three points of order that I want to allow; that is from Mr. Ekwee Ethuro and two others. That is if it is on the same issue.

**Mr. Ethuro:** On a point of order, Mr. Temporary Deputy Speaker, Sir. It is on the same issue. When Members ask Questions, they are directed to Ministers. The request by the hon. Deputy Speaker, while we would wish to grant, strictly speaking, he would be prosecuting the Question as another Backbencher. When he deferred the Question, he was on the Chair. He made it very clear that he would like it asked when he is not on the Chair, which was very good. That means any other Chair can proceed with the Question. That is because northern Kenya is burning---

**The Temporary Deputy Speaker** (Mr. Imanyara): Mr. Ethuro, the Deputy Speaker may very well have been on the Chair, but he sought to defer this Question because he is a Member of

Parliament for the neighbouring constituency; it not because he was on the Chair. That is the issue that you should address.

**Mr. Ethuro:** Mr. Temporary Deputy Speaker, Sir, that is correct. I am also reminding the Chair that when he did it himself – and it is in the HANSARD - he said that it was because he was on the Chair. But that is not the request he has put.

**The Temporary Deputy Speaker** (Mr. Imanyara): Yes! Therefore, he could not participate in it.

**Mr. Ethuro:** Mr. Temporary Deputy Speaker, Sir, that is correct. But more fundamental, when we ask Questions, we want answers from Ministers. The Deputy Speaker is not the Minister that we are asking the answer from. So, more fundamentally, if you look at today's Order Paper, under Ordinary Questions, the Member for Gichugu is asking ---

**The Temporary Deputy Speaker** (Mr. Imanyara): You are now anticipating. You know the rules. You apply these rules every day from the Chair here.

**Mr. Ethuro:** I am trying to put my point. The Member for Gichugu has a similar matter affecting my constituency and I am not complaining. That is because I want a resolution to the matter. That is what is more important.

**Mr. Njuguna;** Mr. Temporary Deputy Speaker, Sir, it is clear, as stated by Mr. Sirat, that a death has already occurred in that place and tension is rising in that area. Delaying this Question is denying justice to that area. Again, even we as a country will condone further escalation of violence in that area. I suggest that we address the issue.

**Mr. Duale:** On a point of order, Mr. Temporary Deputy Speaker, Sir. As a neighbour to where the conflict was, a lot of peace effort has taken place between the two communities, as stated here by hon. Members.

We should agree to the postponement of this Question, so that the Deputy Speaker and our colleagues from the other side and us, as the North Eastern Parliamentary Group, can sit down and solve it. The hon. Deputy Speaker is only asking for a postponement. To me, that is in order because this Question might even create more flare ups.

Mr. Temporary Deputy Speaker, Sir, we need your guidance on this.

**The Temporary Deputy Speaker** (Mr. Imanyara): Hon. Sirat, you have heard the sentiments expressed by hon. Members. What do you have to say?

**Mr. Sirat:** Mr. Temporary Deputy Speaker, Sir, if I may correct my colleague, Mr. Aden Barre Duale, we got a letter from the Provincial Commissioner, North Eastern Province, on 10<sup>th</sup> June, 2011, to resolve this issue as hon. Members from North Eastern Province. We are 12 hon. Members. Since then, the Deputy Speaker has been avoiding these meetings to resolve the dispute. We had six meetings and he did not turn up. This prompted us to request for a Ministerial Statement. It also prompted us to bring this Question. This is the second time he requests this Question be postponed.

Mr. Temporary Deputy Speaker, Sir, there is a dispute and it should be resolved. It is very unfair to me and my constituents knowing that we may go for recess on Thursday, for this issue to be postponed again for another one month.

**The Temporary Deputy Speaker** (Mr. Imanyara): Again, Mr. Sirat, you are anticipating debate. How do you know we will be going for recess on Thursday?

**Mr. Sirat:** Mr. Temporary Deputy Speaker, Sir, I am privy to what is happening in Parliament.

Mr. Temporary Deputy Speaker, Sir, I beg you to allow us to continue with this Question. If Mr. Adan Barre Duale wants to contribute on behalf of the Deputy Speaker or if any other hon.

Member wishes to contribute on behalf of him, they can do so, because we wish to finally resolve this dispute immediately.

**The Temporary Deputy Speaker** (Mr. Imanyara): Mr. Assistant Minister, Ministry of State for Provincial Administration and Internal Security, I am not asking you to answer the Question. I would like you to respond to the issues and the point I have made. A special request has been made by the hon. Member for Lagdera who is not able to be in the House today due to official parliamentary Business, whether you would want to indulge him so that he can be present when you give the answer to this Question. Could you limit your comment to that issue without answering the Question, Mr. Assistant Minister?

**The Assistant Minister, Ministry of State Provincial Administration and Internal Security** (Mr. Khang'ati): Thank you very much, Mr. Temporary Deputy Speaker, Sir. Indeed, I am ready to respond to this Question. In the morning, I had an opportunity to go through the facts. But I also realized the wisdom that is coming through the Floor, especially what hon. C. Kilonzo has said that we are having a conflict in that area. It might be prudent on our part to have both parties involved, so that as I present the answer, both of them could be in a position to prosecute it.

**The Temporary Deputy Speaker** (Mr. Imanyara): Hon. Members, this Question is validly on the Order Paper; there is no question about that. But our fairly well established tradition is that when an hon. Member is away on official Government or parliamentary Business and makes a request, we always allow it. But more importantly with regard to this matter, it is an issue that concerns the security of three neighbouring constituencies. After hearing all the contributions made by hon. Members, I direct that this Question be postponed to Tuesday, next week. This is a definite date. Between now and Tuesday, if the three hon. Members together with the Assistant Minister could, please, get together, it will help a lot. When you answer the Question on Tuesday, you can let hon. Members know the results of your discussions with the hon. Members.

Therefore, hon. Members, this Question will be deferred and will be on the Order Paper on Tuesday, next week.

*(Question deferred)*

Next Question by hon. Aden Duale.

ARREST/DISAPPEARANCE OF MR. ADAN B. ABDI  
BY KWS WARDENS IN MAUA TOWN

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

(a) Why was Mr. Adan Billa Abdi (ID No. 126139101) arrested by Kenya Wildlife Service (KWS) wardens in Maua town in Meru on 30<sup>th</sup> June, 2012?

(b) Could the Minister confirm or deny that the said person was arraigned in a court of law after his arrest and, if so, where?

(c) Could the Minister apprise the House on the whereabouts of Mr. Abdi since efforts by his family members to trace him have not borne fruit?

**The Assistant Minister, Ministry of State for Provincial Administration and Internal Security** (Mr. Khang'ati): Thank you, Mr. Temporary Deputy Speaker, Sir. This

Question has been on this Floor twice; I am now attempting to answer it for the third time. It was first answered by the then Acting Minister, Ministry of State for Provincial Administration and Internal Security, hon. Yusuf Haji, on 11<sup>th</sup> September, 2012. The second attempt was made on 13<sup>th</sup> September, by hon. Lesrima. It was felt that sufficient information was not provided at that point. My task here is to provide some supplementary information which at that point was not available.

Mr. Temporary Deputy Speaker, Sir, after hon. Aden Duale made a report at the Criminal Investigation Department (CID) Headquarters on the mysterious disappearance of Adan Billa Abdi on 30<sup>th</sup> June, 2012, and alleged that some officers from the KWS were involved in the disappearance the case file was taken over by the homicide section of the CID Headquarters. During investigations, the following has been established:-

(i) That Mr. Adan Billa was a businessman operating a camel butchery in Maua Town since 2004, in partnership with one Mohammed Burash and Katuma Sheikh.

(ii) That while operating his business in Maua, Mr. Adan Billa was residing at Ainamush Lodge adjacent to Kinna Lodge, Room B3, which he was paying daily rates of Kshs250 for his accommodation.

(iii) That whenever he was within Maua, he used to frequent a nearby mosque for Islamic teachings, reading the Quran or for daily prayers. He was often accompanied to the mosque by a friend, Sheikh Bashir Muhammed Yusuf.

(iv) On 25<sup>th</sup> June, 2012, Mr. Adan Billa collected Kshs250,000 from their butchery cashier, Nassir Abdi Hussein and on the following day, proceeded to Kinna Market in Garbatulla District to buy camels for their butchery. He bought six camels, which were escorted to Maua by Soman Abdi and Gabbow Korot on foot at a cost of Kshs4,000, while he boarded a *matatu* back to Maua.

(v) On 29<sup>th</sup> June, 2012, the camels arrived at Maua and he paid the escort their dues. That evening at around 8.30 p.m., Mr. Billa attended evening prayers with his partner, Mohammed Burash Hussein and Bashir Muhammed Yusuf at the nearby mosque, which is only 400 metres away from Ainamush Lodge.

(vi) After the prayers, they proceeded to Ayaan Hotel, where their cashier, Nasra, was staying and they took Kshs3,000 from her for upkeep and Billa proceeded to his room accompanied by Bashir Muhammed Yusuf. On arrival, they ordered food at a small restaurant within the lodge. They found several customers who were chewing *miraa* and asked the lady to serve them their food at Billa's room.

(vii) After supper, both went to sleep in their different rooms at about 11.00 p.m. According to a statement provided by Shimai, a restaurant owner, immediately after 11.00 p.m., two men, one of Somali origin, walked into the hotel while carrying a small travelling bag, ordered for tea and started chewing *miraa*. At about midnight, Shimai informed the two men that she wanted to proceed to sleep, but the Somali man requested her to leave the padlock with him, stating that he would lock the hotel for her as they were waiting for their boss. The Somali man also requested the lady to give him her mobile number, so that he could alert her after locking the hotel. Later that night, Shimai received a call from the Somali man informing her that they had left. When she went to open the hotel on 30<sup>th</sup> June, 2012, she found it properly locked.

(viii) On 30<sup>th</sup> June, 2012, one Ismail Maalim Mohammed, a friend to Billa, woke up at 4.15 a.m. to prepare for morning prayers and found Billa already in the bathroom. He proceeded to the mosque and when he came back to the room, he noticed that there were lights in Billa's room. Since Ismail Maalim Mohammed had not seen Billa in the mosque, something which was

unusual, he decided to make inquiries and was informed by one Abdul Rahman that calls to Billa's phone were not being answered. However, they learned from one Soman Abdi Sirat that at about 4.33 a.m., as he was walking to the mosque with Aden Billa while crossing the road, two men armed with pistols, speaking in Kiswahili confronted Aden Billa, forced him into a waiting motor vehicle and drove away towards Meru.

(ix) Currently, the investigations are following crucial leads to establish the people behind the disappearance and whereabouts of Mr. Aden Billa. Appropriate action will be taken against anybody found culpable once the investigations have been completed.

Hon. Duale, that is the information that we have collected, so far.

Thank you, Mr. Temporary Deputy Speaker, Sir.

**Mr. Duale:** Thank you, Mr. Temporary Deputy Speaker, Sir. This Question came three times when the Deputy Speaker was here. The Assistant Minister has specifically read the statement I wrote with the people who were last seen with Aden Billa at CID Headquarters. That is exactly the narrative of that.

Mr. Temporary Deputy Speaker, Sir, the people who picked Mr. Aden Billa on 30<sup>th</sup> June, 2012, were KWS Rangers. I provided the number of the vehicle, KBN 418F; I provided the names of the officers and I can still do it in the House.

Mr. Temporary Deputy Speaker, Sir, this is the third time we are given the same answer. I need your guidance because the last time, the Deputy Speaker directed the Minister to give an undertaking on what action he has taken on these officers. One is Peter Lokitole, who is the warden in charge of operations at Meru National Park; two, Lucas Nerisha, who is the warden in charge of intelligence at Meru National Park; and three, Hussein Muruma, who is a sergeant and the driver of KBN 418F. These are officers who last picked Mr. Aden Billa.

Mr. Temporary Deputy Speaker, Sir, I need your direction. The Assistant Minister only read the statement I provided with the people who were last seen by the CID officers.

**The Temporary Deputy Speaker** (Mr. Imanyara): Mr. Assistant Minister, what was the reason for the deferment of the Question? Why was the Question deferred because you gave that answer you have given this afternoon and you gave an undertaking to follow up on the leads provided by hon. Duale? Would you be able to give him further information on that?

**Mr. Khang'ati:** Mr. Temporary Deputy Speaker, Sir, I am not aware that this statement that I am reading was provided by hon. Duale. This statement was provided by the CID Office. The names that he has mentioned are some of the names that, indeed, we are following up for further investigations.

Secondly, Mr. Temporary Deputy Speaker, Sir, there is the mention of KWS here and the people who are alleged to have kidnapped Billa are said to be employees of KWS. The initial indications are that if, indeed, these people worked for KWS, they were not acting on behalf of KWS. These are just individuals who were working on their own. I am not in a position to go beyond what I have just stated at this point.

**Ms. Karua:** On a point of order, Mr. Temporary Deputy Speaker, Sir. In view of the Assistant Minister's reluctance to answer the Question or inability to improve upon the unsatisfactory answer, would it be in order to request that the matter be referred to the Departmental Committee on Administration and National Security to enable the many Members with similar incidences by the Kenya Wildlife Service (KWS) to come forward so that this matter may be investigated further?

**The Temporary Deputy Speaker** (Mr. Imanyara): Yes, indeed, it has just been pointed out to me by the Clerk-at-the-Table that, in fact, the Deputy Speaker did order that the matter be referred to the relevant Committee. I now have the HANSARD.

So, Assistant Minister, perhaps, you are not aware. Hon. Duale, I do not know whether you are aware that the matter has been referred to the Committee for further investigation. If that is so, then, perhaps the Question should not have been restored to the Order Paper before we get the report of the Committee.

In fact, let me read you what the HANSARD says:-

“I have directed that the relevant Committee moves with speed to investigate this matter and comes back to the House. Where is the Chairman of the relevant Committee and his Members? Mr. Lesrima, give an undertaking on the official Government investigation and when you can report back to the House”.

So, that is in fact, what we should be getting now from the Minister. The matter is actually alive before the Committee.

Hon. Duale!

**Mr. Duale:** Mr. Temporary Deputy Speaker, Sir, yes, the Deputy Speaker gave a two pronged direction that the Minister comes to the House and gives an undertaking. But again, I want to bring to your attention that these officers, as we speak today have been transferred from Meru National Park, this vehicle has been transferred from the---

**The Temporary Deputy Speaker** (Mr. Imanyara): Order! Order! I just want your comments on that issue; that the matter is actually alive before the Committee as we speak now.

**Mr. Duale:** Yes, Mr. Temporary Deputy Speaker, Sir. Directions were given, but there is additional information I want to provide to the Assistant Minister; this weekend, these officers have been transferred from Meru---

**The Temporary Deputy Speaker** (Mr. Imanyara): Order, hon. Duale! If the matter is before the Committee, it is open to any Member of this House to appear before it to provide all information and seek the summoning of any witnesses for the Committee to compile its report and table it before this House.

To facilitate that, I now direct - because the Deputy Speaker did not give timelines - that the Committee investigates and files its report within the next four weeks. So, the Question can be restored to the Order Paper four weeks hence, when the report will have been filed within the House.

*(Question deferred)*

Next Question, Member for Keiyo North.

MURDER OF MR. PATRICK K. KIPRONO BY  
KFS WARDEN AT KAPCHEMUTWA

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

(a) Under what circumstances was Mr. Patrick Kibet Kiprono (ID No.9865647) killed by a Kenya Forest Service warden while harvesting dry firewood at Kapchemutwa Forest near Chebiemit in Keiyo District on 12th August, 2012?



(b) Why has the responsible warden been released by the police without being taken to court?

(c) What compensation will the Government give to the deceased's next of kin?

**The Minister for Forestry and Wildlife (Dr. Wekesa):** Mr. Temporary Deputy Speaker, Sir, I beg to reply.

(a) On 12<sup>th</sup> of August this year, two rangers were conducting routine patrol duties at 7.00 a.m. in Chebiemit Forest when they came across two people, who had illegally cut tree logs and were preparing a kiln to convert the logs into charcoal. When they were challenged to stop what they were doing and surrender themselves to the rangers, one of the two persons ran away while the second one proceeded menacingly towards one of the rangers and attacked and injured him by cutting his right arm, which was holding a rifle. The ranger in pure self defence released a bullet from his gun which unfortunately resulted in the death of the aggressive attacker. The second accompanying forest ranger immediately reported the incident to the police station and the District Criminal Investigation Officer, Keiyo, Officer Commanding Station and the local District Officer.

The local Kenya Forest Officer Inspector based at Kaptagat Forest Station, Chepkorio Division in Keiyo South District also promptly visited the scene. The body of the late Patrick Kiprono Kibet was subsequently taken to the Iten District Hospital mortuary.

(b) The forest ranger concerned, James Bore, was arrested by the police from Iten Police Station and booked under OB.No.21 of 12<sup>th</sup> August, 2012. He was placed under custody and was subsequently charged with murder vide Eldoret High Court Case No.67 of 2012. The case was mentioned on 19<sup>th</sup> September, 2012 whereby the ranger pleaded not guilty. He is now under police custody as the case continues.

(c) The Kenya Forest Service does not pay compensation in respect to persons who are injured or killed by forest rangers who act in self defence in the course of their duties.

**Mr. Chepkitony:** Mr. Temporary Deputy Speaker, Sir, I want to mention that that answer is still not satisfactory because the Minister has repeated what was stated. He is even stating the wrong forest. This person was fetching firewood and was shot with six bullets from behind.

I would like the Minister to explain why he was shot and whether that is the policy of guarding the forest. You do not need community participation to guard the forest because this has raised a lot of concern with the community which has in the past been very co-operative. Because of what happened, they are very hostile to the Forest Department.

**Dr. Wekesa:** Mr. Temporary Deputy Speaker, Sir, I am not aware that the deceased was shot six times although it sounds terrible. The facts that I have is that this forest ranger was being attacked and he was actually cut on the hand and has been treated---

**The Temporary Deputy Speaker (Mr. Imanyara):** Order, Minister! Did you say the matter is now pending in court under the case number that you mentioned? If, indeed, that is so then you may not be going into the details of the proceedings that are before the court. You can answer questions that relate to the arrest but not the details of the court case, because you will be prejudicing the hearing.

**Dr. Wekesa:** Thank you, Mr. Temporary Deputy Speaker, Sir. The fact before me is that this officer was attacked and cut. That is how he responded to the threat.

**Mr. Mwangi:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the Minister in order not to respond to what was raised last time? He was asked to table evidence that this warden or *askari* was cut. That was the point of contention.

**The Temporary Deputy Speaker** (Mr. Imanyara): Indeed, that is a valid point of order, Minister, if that is the reason that the Question is coming back.

**Mr. Mwangi:** Is he in order not to table that report?

**The Temporary Deputy Speaker** (Mr. Imanyara): You need to address that issue as you undertook,

**Dr. Wekesa:** Mr. Temporary Deputy Speaker, Sir, I understand that immediately after this officer was injured, he was rushed to hospital for treatment and from hospital he was apprehended by the police. The formalities for a P3 Form were not followed because he was in hospital. The facts are that we are still following this matter to get evidence from a doctor that, indeed, this officer was attacked in that manner.

**Dr. Nuh:** On a point of order, Mr. Temporary Deputy Speaker, Sir. The Minister, although he has said that the matter is in court and the Chair having ruled that he cannot answer questions pertaining to the details because it would be *sub judice*, I thought it would be prudent for him to table the documents, first, for us and you as the Chair to ascertain before you rule on whether he can go to the depth of the matter.

**The Temporary Deputy Speaker** (Mr. Imanyara): There was no contestation from the honourable Member that the matter is in court. So, there was no necessity to substantiate the details where the two sides agreed that the matter is in court.

Hon. Koech, you may continue.

**Mr. Koech:** Mr. Temporary Deputy Speaker, Sir, the forest rangers are supposed to protect trees and at the same time work with people from that area. In many instances, they always give excuses after killing a Kenyan. The Minister has already confirmed that he is not sure that this officer went to---

**The Temporary Deputy Speaker** (Mr. Imanyara): Hon. Koech, there is no contestation that the matter is pending in court. So, your supplementary question must be couched in a way that does not prejudice that case. The details you are now alleging go to the root of the proceedings in court. Please, ask your question in a way that does not breach the Standing Orders.

**Mr. Koech:** Mr. Temporary Deputy Speaker, Sir, I was coming to that. The Minister has said that he cannot pay compensation because he thinks that that officer acted in self defense. Now that he is not very sure about that, could he consider compensating for the life that was lost?

**Dr. Wekesa:** Mr. Temporary Deputy Speaker, Sir, I cannot do that because the matter is before court. Once the court has finished with this matter, we will be in a position to consider whether or not to pay compensation.

**Mr. Gaichuhie:** Mr. Temporary Deputy Speaker, Sir, can the Minister confirm whether this officer has been interdicted because last year there was a case like this in my constituency and what the KFS did was only to transfer the officer and not interdict him?

**Dr. Wekesa:** Mr. Temporary Deputy Speaker, Sir, I am not sure whether the KWS Headquarters has interdicted the officer but I can get that information later on.

**Mr. Olago:** On a point of order, Mr. Temporary Deputy Speaker, Sir. From the Question that arose from this House about the violence meted out by forest guards and wildlife rangers, it is clear that something is wrong with these two departments. The Minister has avoided answering the questions because he is claiming the *sub judice* rule. Is it not right that if he will avoid answering this question because of the *sub judice* rule, then he must comply with Standing

Order No.80 by producing the documents that show that the matter is active in court? This is because the Minister has not done that.

**The Temporary Deputy Speaker** (Mr. Imanyara): I had already made a ruling on that when Dr. Nuh brought it up.

**The Assistant Minister for Co-operative Development and Marketing** (Mrs. Kilimo): On a point of order, Mr. Temporary Deputy Speaker, Sir. I heard the Minister mention the KWS. We are talking about a KFS warder who falls under his docket. Is he trying to mislead us and yet we have lost one voter from Elgeyo Marakwet County? This is serious.

**Dr. Wekesa:** Mr. Temporary Deputy Speaker, Sir, I am sorry. I meant the KFS.

**Mr. Kapondi:** On a point of order, Mr. Temporary Deputy Speaker, Sir. I do not know whether it is in order for a Member of the Executive to interrogate a fellow Member of the Executive.

**The Temporary Deputy Speaker** (Mr. Imanyara): I am sorry, hon. Kapondi. I did not get you.

**Mr. Kapondi:** On a point of order, Mr. Temporary Deputy Speaker, Sir. I am not sure whether it is in order for a Member of the Executive to interrogate a fellow Member of the Executive.

**The Temporary Deputy Speaker** (Mr. Imanyara): That is a valid point that you have raised. It escaped my attention but now that it has passed, we shall let it pass!

*(Laughter)*

**Mr. Shakeel:** On a point of order, Mr. Temporary Deputy Speaker, Sir. The issue of injury was brought up earlier and the Speaker at the time ruled that the proof of injury must be provided and that would not jeopardize the case at all. However, I can see up to now the proof of that injury has not been provided.

**The Temporary Deputy Speaker** (Mr. Imanyara): Mr. John Pesa, you may proceed because Mr. Shakeel's is not a valid point of order.

**Mr. Pesa:** Thank you, Mr. Temporary Deputy Speaker, Sir. While the Minister was answering part "b" of the Question, he rightly stated that this warder is under police custody. However, the issue here is that the warder has been released. Could the Minister tell us the truth about the warder? Is he under police custody or has he been released?

**Mr. Kiuna:** On a point of order Mr. Temporary Deputy Speaker, Sir. Is Assistant Minister, Chebii Kilimo in order---

**The Temporary Deputy Speaker** (Mr. Imanyara): Order! You are completely overtaken by events hon. Kiuna. She is not even on her feet.

Continue hon. John Pesa.

**Mr. Pesa:** Mr. Temporary Deputy Speaker, part "b" of the Question is asking whether this officer has been released and the Minister has said that he is still under police custody. Can he clarify that point?

**Dr. Wekesa:** He is still under police custody, Mr. Temporary Deputy Speaker, Sir.

**Mrs. Odhiambo-Mabona:** Thank you, Mr. Temporary Deputy Speaker, Sir. Given the fact that human-wildlife conflict is very common because we have a case that comes to this House almost every week, and every time we ask the Minister he says that he will bring a Bill that will regularize how compensation is made; having heard this story since we came to this Parliament, when will this Bill be brought before this House?

**Dr. Wekesa:** Mr. Temporary Deputy Speaker, Sir, that is a good question. This matter has been debated in the sub-committee today. The sub-committee of the Cabinet has approved that it goes forward to the main Cabinet. I am almost sure that this matter will be discussed in the next Cabinet meeting and, therefore, Members of Parliament will have an opportunity to debate this draft Bill here pretty shortly.

**Mr. Chepkitony:** Mr. Temporary Deputy Speaker, Sir, I would like the Minister to tell this House whether the Ministry or the Government will assist the family of the deceased who had children notwithstanding the case which is before the court.

**The Temporary Deputy Speaker** (Mr. Imanyara): You are very clear in your question. Minister can you answer that? You do not have to explain your question because it is very clear what you are asking.

**Dr. Wekesa:** Mr. Temporary Deputy Speaker, Sir, I have already covered this part of the question that the Government does not compensate in a matter that is of confrontational nature such as this. But the court will decide. If the court decides that we are guilty, definitely, we will compensate the family.

IMMINENT EVICTION OF MPEKETONI FARMERS  
BY EGERTON UNIVERSITY

(**Ms. Shakila Abdalla**) to ask the Minister for Lands:-

(a) Is the Minister aware that about 50 farmers and their families are about to be evicted from land they have occupied for close to 15 years by Egerton University in Mpeketoni, Lamu?

(b) How did the university acquire the land and from who?

(c) Could the Minister provide copies of ownership documents by the university?

**The Temporary Deputy Speaker** (Mr. Imanyara): Is Ms. S. Abdalla here?

**Mr. Twaha:** Mhe. S. Abdalla ameenda sehemu ya Witu, Lamu ambapo jana askari wa GSU waliingia kwa mji wakaanza kupiga watu. Ameenda kushughulikia wale waliopigwa. Hawajui kwa nini watu wanapigwa katika Wilaya ya Lamu na vita viko Tana River. Aliomba Swali hili liahirishwe.

**The Temporary Deputy Speaker** (Mr. Imanyara): Mpaka lini?

**Mr. Twaha:** Wiki ijayo.

**The Temporary Deputy Speaker** (Mr. Imanyara): Is there any Minister here? I will defer the Question to Wednesday next week, morning session.

*(Question deferred)*

REHABILITATION OF BANGALE DAM

**Dr. Nuh:** Bw. Naibu Spika wa Muda naomba kumuuliza Waziri wa Maji na Unyunyizaji:-

(a) Je, Waziri ana habari ya kwamba maji ya Bwawa la Bangale ambayo ndio njia pekee ya maji kwa wakaazi wa Bangale imeharibika?

(b) Je, Waziri ana habari zaidi kuwa kuna uwezekano wa kuzuka maradhi kutokana na matumizi ya maji haya?

(c) Ni hatua gani Waziri amechukua ili kuepusha wenyeji kwa hatari hiyo?

**The Assistant Minister for Water and Irrigation** (Mr. Waititu): Bw. Naibu Spika wa Muda naomba msamaha. Lile jibu niko nalo haliniridhishi. Ninaomba liahirishwe hadi Alhamisi.

**Dr. Nuh:** Bw. Naibu Spika wa Muda, hili ni Swali la dharura na lilikuwa katika ratiba wiki tatu zilizopita. Hii ni mara ya tatu kwa Swali hili kuahirishwa. Waziri Msaidizi akisema kwamba atajibu Swali hili siku ya Alhamisi, anajua ya kwamba Wizara yake inafaa kujibu Swali lingine la dharura Alhamisi hiyo? Ningeuliza Waziri Msaidizi - sidhani kama yuko mafichoni - ajaribu kutafuta jibu kama inawezekana kabla ya Maswali ya siku ya leo kujibiwa yote.

**The Temporary Deputy Speaker** (Mr. Imanyara): Nitakupa nafasi ya mwisho ya kujibu Swali hili Alhamisi.

**The Assistant Minister for Water and Irrigation** (Mr. Waititu): Bw. Naibu Spika wa Muda, nitakubali kulijibu Swali hili siku ya Alhamisi.

*(Question deferred)*

#### ILLEGAL ALLOCATION OF MUTHURWA SOCIAL HALL TO PRIVATE DEVELOPER

**(Mr. Hassan)** to ask the Minister for Local Government:-

(a) Is the Minister aware that the Muthurwa Social Hall also known as the Muthurwa Community Centre has been irregularly allocated to private developer(s) by the Nairobi City Council?

(b) What action will the Minister take to ensure that this historic public building reverts to the public?

**The Temporary Deputy Speaker** (Mr. Imanyara): Is Mr. Hassan not here! The Question is dropped.

*(Question dropped)*

#### ORAL ANSWERS TO QUESTIONS

*Question No.1758*

#### BEEFING UP SECURITY BETWEEN POKOT/TURKANA BORDER AREAS

**Ms. Karua** asked the Minister of State for Provincial Administration and Internal Security what measures he is taking to improve security in the country and especially on the borders between communities that have a history of recurrent hostilities such as the Pokot/Turkana border and in other areas with similar challenges.

*(Hon. Members applauded as Mr. ole  
Metito stood up in his place)*

**The Minister of State for Provincial Administration and Internal Security** (Mr. ole Metito): Mr. Temporary Deputy Speaker, Sir, I appreciate the applause from my colleagues.

I beg to reply.

The following measures have been put in place in areas with a history of recurrent hostilities to improve security and ensure peaceful co-existence:-

- (i) Enhanced security presence through establishment of more police stations and police divisions;
- (ii) Enhanced vehicle and foot patrols;
- (iii) Improved collection of intelligence to forestall recurrence of such hostilities;
- (iv) Establishment of peace committees through the Provincial Administration, elders, religious groups and other stakeholders. The peace committees are chaired by respected community leaders;
- (v) Re-activation of community policing initiatives to improve community-Government participation in policing;
- (vi) Partnering with National Cohesion and Integration Commission (NCIC) to monitor political utterances which may incite communities against one another and ensure appropriate action is taken. In this regard, several political leaders and supporters are under investigation and action has been taken against others.
- (vii) The independent and Electoral Boundaries Commission which has a mandate over the delimitation of constituencies and wards, is addressing the boundary disputes;
- (viii) Deployment of more security personnel and resources in areas identified as hot spots for such hostilities;
- (ix) Development of inter-tribal cultural activities to encourage co-existence, promote harmony and good neighbourliness.

**Ms. Karua:** Mr. Temporary Deputy Speaker, Sir, I appreciate that the Minister must have found this answer already written and awaiting signature when he took over the docket a few hours ago. Is he satisfied about these strategies and which are those hot spots?

**Mr. ole Metito:** Mr. Temporary Deputy Speaker, Sir, I am satisfied that these strategies put in place will mitigate the hostilities in these areas. I am very sure that they will minimize these recurrent hostilities.

This is the general policy for the whole country. Some of the hot spots are the ones the hon. Member has indicated, that is the Pokot/Turkana conflict. It is in the public knowledge what is happening in Tana Delta which is another hot spot. The first Question this afternoon in this House was about those hostilities arising from disputes on boundaries. So, this is prevalent all over the country especially now that we are going into the general election and new constituencies have been created. This is a common cause for the occurrence of these hostilities. Areas prone to cattle rustling are also among some of the hot spots and these strategies will help us attain peace all over the country.

**Mr. Twaha:** Bw. Naibu Spika wa Muda, jana usiku askari wa GSU waliingia kijiji cha Witu ndani ya Lamu County wakaanza kuwapiga watu, kuvunja nyumba na kukosea wamama heshima na huku vita viko Tana River. Hawa askari wameenda Lamu kufanya nini? Unaweza kuwapatia amri watoke kule waende kule vita viko ili waache kuwapiga *peace loving people*?

**Mr. ole Metito:** Mr. Temporary Deputy Speaker Sir, my colleague had told me the same this afternoon and I will be visiting Tana Delta on Monday. In fact, I had talked to him and invited him and other hon. Members from areas bordering Tana Delta to join us in that mission of bringing peace to the entire region. That will be sorted out.

**Mr. M’Mithiaru:** Mr. Temporary Deputy Speaker, Sir, the Minister has just said that one of the measures the Ministry is taking to improve security is to enhance patrol within the hot spot areas. The areas that are prone to cattle rustling are hot spots like in my constituency which is Igembe North Constituency. One of the problems we face is that there is no transport for the police or Administration Police at all.

Could the Minister investigate and find out what has happened to the vehicles that were supposed to be distributed to the hot spot areas because all those vehicles have been taken to areas that normally have no security problems? The areas that have insecurity have actually been totally ignored. Could the Minister confirm that these areas that need police patrol will actually get vehicles?

**Mr. ole Metito:** Mr. Temporary Deputy Speaker, Sir, I fully agree with my colleague that one of the challenges of the National Police Service is lack of vehicles from transport. In its own wisdom, this House allocated my Ministry some funds---

**The Temporary Deputy Speaker** (Mr. Imanyara): What is your point of order, hon. Twaha?

**Mr. Twaha:** Bw. Naibu Spika wa Muda, ninataka Waziri awaondoe hao GSU wake majambazi wanaovalia sare ya polisi; awapeleke kule wanakohitajika. Ameniambia tutaenda kule Jumatatu. Je, wiki hii nzima watu wangu watakuwa wakipigwa ovyo ovyo?

**Mr. ole Metito:** Mr. Temporary Deputy Speaker, Sir, what I have told my colleague, hon. Twaha, is that I will be visiting Tana Delta District on Monday. I know that before Monday, we will also have found out what is happening in Lamu since the county borders Tana Delta District. He is most welcome to join us. However, it does not mean that nothing is going to be done about the issue he has raised until Monday. We are on top of it.

In response to what hon. M’Mithiaru has said, the problem is about resources, and especially transport for police officers. I was saying that in the current financial year, this House allocated my Ministry some funds for purchase of police vehicles. We are now at the procurement stage. Once that is done, we will consider the hot spot areas. The vehicles we are buying are not enough for the whole country. So, we will give priority to areas where the issue of hostility is very common.

**The Temporary Deputy Speaker** (Mr. Imanyara): Yes, hon. Ekwe Ethuro.

**Mr. Ethuro:** Mr. Temporary Deputy Speaker, Sir, I want to thank the Member for Gichugu for her aspiration to higher office, because it has enabled her to travel across the country and realise that there are areas of this country which are perpetually at war. As we speak today, residents at a village known as “Lorokon” cannot access water or firewood because they are basically surrounded by hostile people. This affects the entire borderline between the Pokot and the Turkana people.

Some of the measures that the Minister has enumerated do not measure to what is expected on the ground, in terms of stopping the hostilities between communities. Therefore, knowing that these are areas which are permanently at war, is he going to consider placing a permanent security unit along the borderline after every five or ten kilometres, from Lorokon all the way to Kapedo?

**Mr. ole Metito:** Mr. Temporary Deputy Speaker, Sir, my first point was that we are going to enhance the security presence through the establishment of more police stations and police divisions. These are not meant to be temporary, but permanent.

**The Temporary Deputy Speaker** (Mr. Imanyara): Yes, hon. Letimalo.

**Mr. Letimalo:** Mr. Temporary Deputy Speaker, Sir, among the strategies that the Minister has enumerated is the enhancement of District Peace Committees (DPCs)---

**The Temporary Deputy Speaker** (Mr. Imanyara): What is your point of order, hon. Ekwe Ethuro?

**Mr. Ethuro:** Mr. Temporary Deputy Speaker, Sir, is it in order for the Minister, who is my very good friend – I wish him well in the new Ministry – to remain evasive and vague? I asked for enhancement of security on a specific borderline but he has just said that he is going to establish more police stations. Can he tell me at which place he is going to establish a police station?

**The Temporary Deputy Speaker** (Mr. Imanyara): Order, hon. Ethuro! Let us give indulgence to the Minister. He is only giving his maiden answer. Do not be so harsh on him when he is answering his very first Question since he took over the Ministry.

**Mr. Ethuro:** Mr. Temporary Deputy Speaker, Sir, I am not harsh on him. The environment in which I live is harsher than his position.

**The Temporary Deputy Speaker** (Mr. Imanyara): Yes, hon. Agostino Neto.

**Mr. Neto:** Mr. Temporary Deputy Speaker, Sir, listening carefully to the Minister, I think the proposals he has given are fairly very omnibus. He has given solutions to the country in generalities. I share the sentiments of hon. Ekwe Ethuro that areas like Turkana and northern Kenya need specific solutions to their security problems. So, is it possible for him to enumerate specific solutions he has for the problem in the Northern Frontier District as well as for other regions across the country, like Ndhiwa, where I come from and where there are perennial security problems, so that he does not just give an omnibus solution to various scenarios that require different solutions?

**Mr. ole Metito:** Mr. Temporary Deputy Speaker, Sir, the Questioner has asked for general strategies. As we move to specific areas, there are going to be specific solutions for each of them. So, the answer I am giving is a general statement for all the hotspot areas in the country. You may find that strategy number one is not applicable in Pokot, but it is applicable in, say, Tana Delta District. So, these are just guidelines. As we move to specific areas, we will get specific solutions for those areas. In bullet four of my answer, I said that we are going to involve all the stakeholders, comprising of the Provincial Administration, elders, religious groups and others. In those meetings, specific solutions that will be tailor-made for those areas will be arrived at.

**The Temporary Deputy Speaker** (Mr. Imanyara): Yes, hon. Kiuna.

**Mr. Kiuna:** Mr. Temporary Deputy Speaker, Sir, of the vehicles that the Minister has said he has provided to security personnel, considering the fact that Lamu County is next to the hotspot area of Tana Delta District, has he provided the District Officer (DO), Mpeketoni, with a vehicle, so that in case of any security threat, he can counter the aggressors?

**The Temporary Deputy Speaker** (Mr. Imanyara): Hon. Letimalo, what is your point of order?

**Mr. Letimalo:** Mr. Temporary Deputy Speaker, Sir, you had given me an opportunity to raise a supplementary question, but it was interfered with by a point of point.

**The Temporary Deputy Speaker** (Mr. Imanyara): Go ahead.

**Mr. Letimalo:** Mr. Temporary Deputy Speaker, Sir, the Minister has enumerated a number of strategies he can use to improve security in hotspot areas in the country. One of them is the enhancement of the DPCs and deployment of Kenya Police Reservists (KPRs) to supplement the work of the regular security personnel. What arrangements does he have to



facilitate the KPRs and the DPCs, so that they can assist the regular security personnel to improve security in those areas?

**Mr. ole Metito:** Mr. Temporary Deputy Speaker, Sir, that is a very good question. Without proper facilitation, all these strategies cannot work. So, we will make all efforts, as a Ministry, to ensure that there is proper facilitation for the implementation of these strategies. If need be, we will come to this House to ask for more funds to ensure that there is proper facilitation for these strategies to be implemented.

**The Temporary Deputy Speaker** (Mr. Imanyara): Last question, hon. Martha Karua.

**Ms. Karua:** Mr. Temporary Deputy Speaker, Sir, while thanking the Minister for the answer, I wish to remind him that the flair-up in Tana River County occurred and escalated when the same strategies were in place. There were also similar situations in Wajir, Mandera, Moyale; on the Isiolo/Samburu border and the Isiolo/Meru border, as well as on the Pokot/Turkana border. I want to give special mention to Kaptir Ward in Turkana, where every other day, we lose a person due to skirmishes between the Turkana and the Pokot communities. Could he, therefore, consider reviewing his strategies since they are not working and accelerate police reforms to enable the police to be properly equipped for surveillance and swift action?

**Mr. ole Metito:** Mr. Temporary Deputy Speaker, Sir, I fully agree with the fast-tracking of police reforms. I really elaborated on that yesterday when I was taking the office. I concur with my colleague and I really appeal for the support of this House for that to be achieved. On the issue of strategies not working, it is that everyone---

**The Temporary Deputy Speaker** (Mr. Imanyara): Order, Minister. I see hon. John Olago Aluoch on a point of order.

**Mr. Olago:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Following up on what hon. Martha Karua has asked now, the hon. Minister is fully aware that the strategies he has set up before the House have failed. Is it not in order for him now to tell the House that the old ones which he has not mentioned and which he must now act on, is to come down with a hammer upon those who are inciting communities, even if they are Members of this House?

*(Applause)*

**Mr. ole Metito:** Mr. Temporary Deputy Speaker, Sir, on the issue of strategies not working, everybody will agree that at face value those are very good strategies. What matters mostly is the methodology used to implement them. Maybe, that is what we want to review and ensure that they are working. On what hon. Olago has said, I agree with him.

**The Temporary Deputy Speaker** (Mr. Imanyara): Next Question by the Member for Wajir West, Mr. Keynan. I understand that he is out of the country on official parliamentary business. This Question will be deferred indefinitely and be restored upon the return of the hon. Member on his own request with the Clerk's Office.

*Question No.1768*

IMPLEMENTATION OF SESSIONAL PAPER NO.1 OF 1996

*(Question deferred)*

**The Temporary Deputy Speaker** (Mr. Imanyara): Next Question by Mr. Ethuro.

*Question No. 1657*

POOR RECEPTION OF TELEVISION SIGNALS IN LODWAR

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

(a) whether he is aware that Kenya Broadcasting Corporation (KBC) Television signal has been poor to the extent that people in Turkana County have not been able to watch television for the last two months;

(b) what the causes of the poor KBC TV signals in Lodwar are; and,

(c) when the Ministry will ensure that Turkana region has good KBC TV, NTV, KTN and Citizen TV reception.

**The Minister for Information and Communications** (Mr. Poghio): Mr. Temporary Deputy Speaker, Sir, as I am about to respond, I take this opportunity to congratulate my colleague, hon. ole Katoole Metito and other colleagues who have just recently been appointed and wish them well in the Cabinet.

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

(a) I am aware that the KBC television signal has been poor for viewers located five kilometres away from the transmitting site at Kanamkemer which is two kilometers from Lodwar Town.

(b) The 500 Watts UHF transmitter serving Turkana County is located near Lodwar Town at Kanamkemer. The transmitter developed a technical problem in April this year. The problem was diagnosed to be a burnt component of the combiner which is part of the transmitter. The transmitter's combiner combines three power amplifiers of the transmitter to give out the rated power of 500 Watts. The spare part was delivered on September 19<sup>th</sup> this year and was installed in the transmitter on 20<sup>th</sup> September this year. The transmitter is now doing 580 Watts. That is 80 Watts over and above rated 500 Watts. The spare combiner had to be imported and due to manufacturing logistics in Europe coupled with the August holidays, KBC tried to repair the combiner locally so as to remain on air as they wait for the delivery of the spare parts. After that repair, the combiner could only give an output power of 380 Watts against the rated 500 Watts.

(c) KBC intends to replace the current analogue transmitter with a digital DVB-T2 transmitter in the ongoing---

**Mr. Ethuro:** On a point of order, Mr. Temporary Deputy Speaker, Sir. While I am really waiting for the answer, is it in order for the Minister to read a different answer from the copy that he has given me?

**The Temporary Deputy Speaker** (Mr. Imanyara): Mr. Minister, have you given a different answer to the hon. Member? Have you supplied an answer that is different from the one---

**The Minister for Information and Communications** (Mr. Poghio): Mr. Temporary Deputy Speaker, Sir, I was hoping that it was the same copy. If it is not the same copy, this is the latest and I think I can read it aloud for him.

**The Temporary Deputy Speaker** (Mr. Imanyara): You see, it is his right to demand it. Hon. Ethuro, do you demand a written answer?

**Mr. Ethuro:** Mr. Temporary Deputy Speaker, Sir, of course, it is my right to demand a written answer so that I can be able to interrogate the Question effectively. But all I need is just to look at this proper answer.

**The Temporary Deputy Speaker** (Mr. Imanyara): So, he will circulate it to you after he has finished reading it. If he has a copy, he can provide. If not, he will give it to you after he finishes answering the Question. Minister, you are on part “c”. So, you can answer and then give it to him.

**The Minister for Information and Communications** (Mr. Poghiso): Mr. Temporary Deputy Speaker, Sir, I could have finished reading.

(c) KBC intends to replace the current analogue transmitter with DVB-T2 Transmitter in the ongoing digital terrestrial television migration in the course of the year 2012/2013. But before that, we aim to beef up transmission by the end of January next year by installing a transmitter of three kilowatts to cover a radius of 50 kilometres. The DVB-T2 Transmitter will be of high ratings and will realize a bigger coverage area. We shall also have the “free to air” contents of others including NTV, KTN and Citizen TV available to the viewers in that region on KBC digital terrestrial TV platform once it is rolled out.

Thank you.

**Mr. Ethuro:** Mr. Temporary Deputy Speaker, Sir, I want to raise an objection. When the Minister was reading, he did not give me the part of the answer he was reading.

**The Temporary Deputy Speaker** (Mr. Imanyara): I direct that when he finishes answering the Question, he then gives you a copy because he has only one copy.

**Mr. Ethuro:** Mr. Temporary Deputy Speaker, Sir, that is true. I think he did better because he had another copy. But what he has even finished reading is not the same as the one he had given me.

**The Temporary Deputy Speaker** (Mr. Imanyara); Hon. Ethuro, you and I know that in those circumstances then, what I would do is simply to defer this Question until you have had an occasion to look at the answer that the Minister has given. Then on Tuesday, you can ask supplementary questions along with any hon. Member who would wish to do so.

**Mr. Ethuro:** Thank you, Mr. Temporary Deputy Speaker, Sir. But Tuesday is too far. Since he seems to have the answer, let us defer it to tomorrow.

**The Temporary Deputy Speaker** (Mr. Imanyara): Okay. Tomorrow morning. Let me find out from the Clerks-at-the-Table whether it can be done tomorrow morning. I understand it can be done. So, tomorrow morning, hon. Ethuro; you will get a copy of that answer now. So, you can ask those questions tomorrow.

*(Question deferred)*

Next Question by Mr. Letimalo.

*Question No.1707*

DELAYED DEPLOYMENT OF APS TO NDONYO-WASIN

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

(a) why the Ministry has not posted security personnel to Ndonyo-Wasin AP Line in Uaso Division of Samburu East District one year after its construction was completed by CDF and when they will be posted; and,

(b) whether he is aware that both CDF and the local community mobilized resources to establish a patrol base unit at Losesia on the border of Samburu East and Isiolo North districts and, if so, what support he will offer to the community.

**The Minister of State for Provincial Administration and Internal Security** (Mr. ole Metito): Mr. Temporary Deputy Speaker, Sir, I beg to reply.

(a) It is true that CDF has constructed a total of four rooms for the Administration Police officers' accommodation at Ndonyo Wasin. However, owing to the security consideration, since the area is prone to frequent cattle rustling and banditry activities, it would not be prudent to deploy less than one section (10 officers) in such an area. Further, the facility also lacks sanitation, bathrooms and water supply as well as communication facilities and transport. In this regard, officers will be posted to the area once adequate accommodation is made available for the required number of officer as the available houses can only accommodate four officers.

(b) I am aware that a camp comprising of four uni-huts was established at Losesia which can only accommodate four officers. Whilst the area is currently uninhabited, the area is used as a grazing zone during extreme dry periods. The area is also prone to cattle rustling and clashes between locals and communities from neighbouring districts over pasture and water.

Owing to those factors, a minimum of two sections (20 officers) is required to be deployed in the camp, which cannot accommodate such a number currently. However, once those accommodation and other requisite logistical challenges are addressed, appropriate deployment will be done.

**Mr. Letimalo:** Mr. Temporary Deputy Speaker, Sir, he has touched on insecurity arising from cattle rustling. It is for that reason that the community, through the Constituencies Development Fund (CDF) constructed them. I would like to inform the Minister, because he must have been misled by his officers, that in this particular unit there are sanitation facilities. I want to assure you, because we had monitoring evaluation facilities in the area, that there are sanitation facilities, including bathrooms. In this area there are Kenya Police Reservists who supplement the work of the security personnel. The nearest police station, which is Olipi, is 100 kilometres away. If the community is actually interested to improve security, I think it is also the responsibility of the Government to support the community. We have gone ahead to construct houses with all the facilities, including schools and health facilities; they cannot say that there is no water in that area. There is water because it is a trading centre. Could the Minister at least post five security officers, so that they can bring down cattle rustling? That is the problem we are facing.

**Mr. ole Metito:** Mr. Temporary Deputy Speaker, Sir, I had discussed with the hon. Member over this issue and he had informed me that the current situation is lack of communication facilities and transport. I want to assure him that, taking into account the distance between the station that he is proposing and the nearest station, which is over 100 kilometres away, it is logical that four or five officers be taken there as we make arrangements for the place to be able to accommodate more staff. We are going to consider that.

**Mr. Bahari:** Mr. Speaker, Sir, I do agree with the hon. Member that this area is prone to insecurity; instead of the Ministry spending a lot of money chasing cattle rustlers, it is prudent that they take a preventive action. Could the Minister consider, now that it is just the beginning of the spending of the finances for 2012/2013, re-allocating some funds from Development

Expenditure, so that we can have at least 20 officers in this place? In my view, it is too risky to have only four or five officers.

**Mr. ole Metito:** Mr. Speaker, Sir, taking into account what the two hon. Members are saying, whether five officers are enough or not, I think it is good that we sit down and consider all the security threats in the area, harmonize the proposals and see what is going to be adequate for fast-tracking the deployment of officers.

**Mr. James Maina Kamau:** Mr. Speaker, Sir, the problem of lack of police officers is not only confined to Samburu East. We have the same problem in Kandara Constituency, where I come from. We put up structures using CDF money, but officers were not deployed. What is the Ministry doing to make sure that this problem is sorted out?

**Mr. ole Metito:** Mr. Speaker, Sir, the position Mr. James Kamau Maina has mentioned is very correct, but I would like to appeal to hon. Members of this House that as they put up these facilities in the constituencies, they need to liaise with the Ministry because sometimes the capacity is not available to equip every police station or police post that is built using CDF money. It is true that there is that challenge---

**Mr. Mwangi:** On a point of order, Mr. Speaker, Sir. Is the Minister in order, after he has taken office and we have congratulated him, to mislead us so easily? In my own constituency, we put up a facility with CDF money on the recommendation of the District Commissioner (DC). Is he in order to tell us that when we have used public funds? We have evidence that we consulted the DC. So, he should provide us with *askaris*.

**Mr. ole Metito:** Mr. Speaker, Sir. I am also a Member of Parliament for one constituency and I understand what is happening with CDF. Most of the capital projects that are going on are schools, health centres, dispensaries and police posts. If you look at the national level, there is a shortage of personnel in those three areas. There are not enough teachers, health personnel and police officers. So, to say that we do not have the capacity to equip every police post that is put up using CDF is not misleading this House.

**Mr. Letimalo:** Mr. Speaker, Sir, I really appreciate the position that the Minister has given, but look at part "b" of the Question. Losesia is actually on the boarder of Samburu East and Isiolo North. These are areas that are prone to cattle rustling, as Mr. Bahari has said. We are now experiencing drought and it is at this time that herdsmen move their livestock to inhabited areas. The intention of setting up a camp there is to ensure that security will be available, so that the two communities do not clash over resources. Already the CDF---

**The Temporary Deputy Speaker** (Mr. Imanyara): Please, ask your question.

**Mr. Letimalo:** Because we are getting support from other bodies like Equity Bank, which gives water tanks, what support can the Ministry give to ensure that the camp will be put in place to improve security in that area?

**Mr. ole Metito:** Mr. Speaker, Sir, I invite the hon. Member to my office, so that we can sit down and see what has been provided by other stakeholders and what is available from our side; we can have a partnership and ensure that the area is protected.

*Question No.1742*

DISBURSEMENT OF FUEL LEVY FUNDS  
TO KENYA ROADS BOARD

**Mr. Lessonet** asked the Minister for Finance:-

(a) how much money was collected from the fuel levy during the period ended 30th June 2011 and 30th June 2012 and for what quantities of fuel; and,

(b) how much of this amount has been submitted to the Kenya Roads Board (KRB).

**The Temporary Deputy Speaker** (Mr. Imanyara): I am sorry, Mrs. Noor. We shall come back to your Question because I have already called out this one.

Is the Minister for Finance here? As the Minister prepares, I will ask Mrs. Noor to ask her Question.

*Question No.1772*

ISSUANCE OF IDENTITY CARDS TO YOUTHS  
IN GARISSA COUNTY

**Mrs. Noor** asked the Minister of State for Immigration and Registration of Persons:-

(a) why it is so difficult for youths in Garissa County to be registered and issued with National Identity Cards;

(b) whether he could provide a per constituency list of people issued with National Identity Cards in Garissa County since 2010; and,

(c) how many people have applied for the document and are yet to be issued with it and what measures he is taking to reach the youth who have attained 18 years in the county.

Mr. Temporary Deputy Speaker, Sir, I want to bring to your attention that this Question was on the Order Paper on Thursday last week, and you gave instructions that, since we were lacking the breakdown per constituency of the people who had been issued with identity cards, the Minister should provide the list to me by Monday, which was yesterday, but up to now I have not been given the list.

**The Temporary Deputy Speaker** (Mr. Imanyara): Mr. Minister, why has there been no compliance with the Chair's ruling on this issue?

**The Minister for Local Government** (Mr. Otuoma): Mr. Speaker, Sir, I want to stand in for my colleague and apologize. He had some problems. He had provided me with the list of all the persons within Garissa County who were issued with identity cards. I also want to bring to your attention that having consulted the hon. Member, we agreed that I can table the list and she be given an opportunity to interrogate it. If you rule, we can have this Question listed for Thursday after she has interrogated it.

**The Temporary Deputy Speaker** (Mr. Imanyara): I so direct; the list will be given to the hon. Member. She can scrutinize it and the Question will be re-listed on the Order Paper on Thursday next week for her to prosecute it.

*(Dr. Otuoma laid the documents on the Table)*

*(Question deferred)*

Hon. Member for Eldama Ravine, the Minister is now ready; could you ask your Question?

*Question No.1742*

DISBURSEMENT OF FUEL LEVY FUNDS TO KENYA ROADS BOARD

**Mr. Lessonet** asked the Minister for Finance:-

- (a) how much money was collected in fuel levy during the period ended 30th June, 2011 and 30th June, 2012 and for what quantities of fuel; and,
- (b) how much of this amount has been submitted to the Kenya Roads Board (KRB).

**The Minister for Finance** (Mr. Githae): Mr. Speaker, Sir, I had answered this Question 90 per cent. The only issue that was left was to explain under what authority the Kenya Revenue Authority (KRA) is collecting the agency fee of 2 per cent.

I wish to confirm that the authority that the KRA is using to pay themselves the agency fee of 2 per cent is found in Section 16(1) of KRA Act and it says as follows:-

“The funds of the Authority shall consist of:-

- (a) One and one-half per cent of the revenue estimated in the financial estimates for each financial year to be collected by the Authority under this Act.”

Subsequently, the Minister for Finance increased the fee from one and one- half per cent to two per cent.

Mr. Temporary Deputy Speaker, Sir, on the other issue, and this was agreed by the Fuel Levy Board and the Kenya Revenue Authority vide a letter dated 24<sup>th</sup> May, 2006, before remitting the amounts due to the Fuel Levy Board, the KRA will deduct their commission and pay themselves for the work done. That has been agreed and the Kenya Fuel Levy Board is very happy with the arrangement and there has been no complaint.

Let me also add that the Minister is empowered to assign more duties to the KRA to collect levies. In fact, I have the full list of all the levies that the KRA is collecting at the moment. It is collecting Income Tax, Customs and Excise Duty, Value Added Tax, Roads Maintenance Levy Fund, Air Passenger Services Charge, Entertainment Tax, money under the East African Community Customs Management Act, money under the Traffic Act, money under Transport Licensing Act, second-hand Motor vehicle purchase---

**The Temporary Deputy Speaker** (Mr. Imanyara): Order, Mr. Githae! You may table that for the benefit of the hon. Members, because it is not part of what was requested.

**The Minister for Finance** (Mr. Githae): Mr. Temporary Deputy Speaker, Sir, I will table that.

The last one was on whether there has been any under-collection. I wish to confirm that there was no under-collection. What was not apparent is that there are some fuels that are exempt from payment of duty. This is fuel for the Kenya Defence Forces, Diplomatic Missions, United Nations, jet fuel, exported fuel products and any other products ordinarily exempted by this Act. If you add the exempted fuel levy, then the amounts actually add up and there is no under-collection. I have the figures here. For example---

**The Temporary Deputy Speaker** (Mr. Imanyara): Mr. Githae, just provide the answers to the Question and then table the rest because the nature of the business ahead of us does not allow us to give more time to Question Time.

**The Minister for Finance** (Mr. Githae): Mr. Temporary Deputy Speaker, Sir, I confirm that there is no under-collection, if you remove the two per cent agency fee and exempted fuels.

*Question No.1529*

IRREGULAR ALLOCATION OF LAND LR.NO.INOI/KIMONDO/  
139 BY KIRINYAGA COUNTY COUNCIL

**The Temporary Deputy Speaker** (Mr. Imanyara): Question No.1529, at the request of the Member for Kirinyaga Central and the Minister is deferred and will be restored to the Order Paper two weeks hence.

*(Question deferred)*

Yes, the Member for Isiolo South!

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

Hon. Lessonet, the Question had been fully answered and prosecuted. What was remaining was the provision by the Minister about the information that he has now given. If you are not satisfied, you know what to do if you want to raise further questions on it.

Yes, the Member for Isiolo South!

*Question No.1714*

STALLING OF WORKS ON  
GOTU DRIFT

**Mr. Bahari** asked the Minister for Roads:-

(a) how many people have died while crossing the Gotu Drift on the Auso Ngiro North River in the last five years; and,

(b) why construction works on the bridge have not commenced after it was prioritized for construction over the last ten years.

**The Assistant Minister for Roads** (Dr. Machage): Mr. Temporary Deputy Speaker, Sir, I beg to reply.

(a) Unfortunately, one person died when the vehicle they were travelling in was swept away by flood waters while crossing the Gotu Bridge. Six others are still missing.

(b) Construction of this bridge has not commenced due to budgetary constraints.

Thank you, Mr. Temporary Deputy Speaker, Sir.

**Mr. Bahari:** Mr. Temporary Deputy Speaker, Sir, I am very much surprised by this answer. We have lost over 30 people on this bridge. In 2001, the former Minister for Roads, Hon. William Morogo went to the site, saw this situation and instructed that the works commence. His Excellency President Mwai Kibaki was in this area and he promised and directed that this bridge be done while the other day, the Rt. Hon. Prime Minister took up this matter again. Could the Assistant Minister confirm that all that I have said is true and he has contradicted none other than the President who is the appointing authority?

**Dr. Machage:** Mr. Temporary Deputy Speaker, Sir, I have made no contradictions. Actually, the hon. Member has stated the truth. What I have done towards this end is to ensure



that a design consultancy has been awarded to M/s Maltiscope Consulting Engineers. This was done on 27<sup>th</sup> August, this year at a cost of Kshs8.1 million and I expect the design to be over very soon. The construction of this bridge will cost about Kshs1.2 billion and I will only be able to allocate funds once the consultant has produced his report. I am also made to understand that the Constituencies Development Fund has allocated Kshs80 million towards this end and I appreciate the gesture by the Member of Parliament and his Committee.

On the issue of loss of lives, the only information that I was able to gather was on an incident that happened on 8<sup>th</sup> September, where a Mitsubishi lorry which had 29 passengers had an accident in this place where one person died and six were still missing. Maybe the hon. Member has more information and I appreciate that he has shared it with this House.

**Mr. Njuguna:** Mr. Temporary Deputy Speaker, Sir, the Assistant Minister has very ably confirmed to this House that one person perished as a result of the floods in this area. Could he confirm or indicate to this House the level of compensation that was made to the aggrieved family?

**Dr. Machage:** Mr. Temporary Deputy Speaker, Sir, I am not aware of any compensation that was made to the families of the deceased. The Ministry has no department or plans to compensate those families because that does not fall under our prerogative.

**Mr. Bahari:** Mr. Temporary Deputy Speaker, Sir, I want to thank the Assistant Minister for the answer to the extent that the design work is on course. But I remember seeing an advertisement sometimes last year for the procurement of the construction of this bridge. Be that as it may, could he indicate when this design work will be completed and when this bridge will be constructed?

**Dr. Machage:** Mr. Temporary Deputy Speaker, Sir, it will take six months to complete design work. I will very soon be receiving a report on this. I have allocated Kshs1 million now for building only marker posts because it is a dangerous bridge. So I want to put marker posts temporarily to show where the bridge is, so that we do not have more loss of lives.

## PERSONAL STATEMENTS

**The Temporary Deputy Speaker** (Mr. Imanyara): Hon. Members, let me give some direction on this because there is a quite a bit of business under this Order. We have the Minister for Heritage, Mr. ole Ntimama, followed by Mr. Waititu and Mr. David Musila. We will take those three Statements first and then I will go to the schedule on the Statements that were due today.

### KILLING OF THREE MAASAI YOUNG MEN IN KAYOLE

**The Minister of State for National Heritage** (Mr. ole Ntimama): Mr. Temporary Deputy Speaker, Sir, I want to make a Personal Statement under Standing Order No.76.

This weekend, two ugly incidences happened in Kayole within the Embakasi Constituency. What happened on Sunday is that some violent robbers invaded premises in Kayole to try and rob but the owners of the premises and the watchmen came together and kicked away the robbers. During the struggle, one of the robbers was killed. The following incident then took place on Sunday morning when Mr. Waititu collected a group of hooligans, addressed them and told them that the person who killed the robber was a Maasai. It was clear that he was not mincing his words; he did not even say a hooligan, a Kenyan or whatever. He

said it was “a Maasai”. He ordered them actually to go into the Kayole area and the whole constituency to hunt and kill every Maasai. It was covered by the media and what he really said came out very clearly. These rowdy crowds of hooligans started moving because they were given an order by the hon. Member. They moved around Kayole and the whole constituency harassed, kicked and, in the end, they killed three young innocent Maasai.

**An hon. Member:** Pole!

**The Minister of State for National Heritage** (Mr. ole Ntimama): Mr. Temporary Deputy Speaker, Sir, this is an ugly incident. I am stating here that those young men were innocent. They were guarding the property of their employers, but they were killed. It is true that I am told and, probably, some of the videos will show that behind Mr. Waititu was a high ranking police officer who was actually listening to Mr. Waititu as he was giving orders for the people to go and kill.

**The Temporary Deputy Speaker** (Mr. Imanyara): Order, Mr. ole Ntimama! As you give your Personal Statement, you must be very careful about the Standing Orders in relation to making allegations against your colleague. I am very much on guard on that.

**The Minister of State for National Heritage** (Mr. ole Ntimama): Mr. Temporary Deputy Speaker, Sir, this thing was portrayed in the media. In fact, many people in Kenya saw and heard what he said. I also did through *the Nation Television* and many other media houses. So, I am not particularly always a notorious man to make allegations against my colleagues but I think this is important and it must be known.

These three young men were killed in cold blood when they were looking after the property on which their employers had assigned them to protect.

As I have said, if you look at that video--- I am not making allegations, but it shows very clearly a very high ranking police officer standing behind Mr. Waititu when he was making this statement. Even when the marauding attackers were moving through Kayole to look for Maasai watchmen and guards to kill, the police never stopped them. They never arrested anybody. There was no teargas thrown to try and stop situations like this. You would say that they were part of the whole conspiracy.

In this particular incident, we are worried because the Maasai are asking why. This thing has spread all over Kenya; it is no longer a small thing. There are many statements being made by many people. They are asking: Why? What did those young men do? We know that many of our people because of the historical injustices that have taken place in this country, we never actually even got any liberal education because we were discriminated against by the white men and even the successive African governments. They still discriminate against us.

*(Applause)*

So we are at the bottom of the economic ladder. Many of our people who work in Kayole and in other parts of Nairobi work as watchmen. They have a right to do so to feed their own families. They are asking why it happened.

I am not making allegations against the hon. Member, but naturall, we read news in this country. There have been many problems in Kayole and Embakasi. The police have been stoned, violent demonstrations have been carried out, some people have been hurt in the melee, but the police have never done anything. We have not even heard that they have warned Mr. Waititu leave alone arresting him. This situation must be controlled because if it is not, then this country could go back to chaos.

**The Temporary Deputy Speaker** (Mr. Imanyara): Wind up no!

**The Minister of State for National Heritage** (Mr. ole Ntimama): Mr. Temporary Deputy Speaker, Sir, I am not anticipating debate, but in this Order Paper, there is the Commission on---

**The Temporary Deputy Speaker** (Mr. Imanyara): Minister, you are going way out of what the Standing Orders allow.

**The Minister of State for National Heritage and Culture** (Mr. ole Ntimama): Mr. Temporary Deputy Speaker, Sir, I was finishing. Mr. Mzalendo Kibunjia's Commission should be congratulated and extended so that it can help in situations like this one. It is important that they help.

Lastly, I want to clearly say that we, as the Maasai Community, have tolerated all other groups in Kenya. We have lived and worked together with them without any problem. I am talking about the Maa Community, all the way from Loitokitok to Kilgoris. It is very dangerous to have a situation where we can accommodate other people who do not accommodate us. They do not even live with us. We have agreed to live and work together with other Kenyans. They must stop disturbing us.

The most important thing is to get the police to arrest these people. They should arrest these murderers and charge them in court. The police should arrest anybody who incited this incident. If it does not happen, then we will go back with a lot of questions as to why it happened.

Thank you, Mr. Temporary Deputy Speaker.

**The Assistant Minister for Water and Irrigation** (Mr. Waititu): Mr. Temporary Deputy Speaker, by the indulgence of the House, I rise under Standing Order No.76 to explain certain remarks that were attributed to me by a section of the Press.

*(Loud consultations)*

**The Temporary Deputy Speaker** (Mr. Imanyara): Order, hon. Members! Let us hear him in silence as we normally do when a Member stands up to make a Statement.

**The Assistant Minister for Water and Irrigation** (Mr. Waititu): Mr. Temporary Deputy Speaker, Sir, with all due respect to the Minister, I want to clarify---

**The Temporary Deputy Speaker** (Mr. Imanyara): Mr. Waititu, we are not debating. Please, make your Statement.

**The Assistant Minister for Water and Irrigation** (Mr. Waititu): Mr. Temporary Deputy Speaker, Sir, very early in the morning yesterday when garbage collectors at Kayole Market were collecting garbage, before the market opened at 5.00 a.m., they were attacked by a group of night guards who originate from a foreign country.

**Hon. Members:** What? What?

**The Assistant Minister for Water and Irrigation** (Mr. Waititu): Mr. Temporary Deputy Speaker, Sir, yes, they are not Kenyans and they have been doing the work of night guards---

**The Temporary Deputy Speaker** (Mr. Imanyara): Order, Members! Mr. Waititu, I want to remind that you requested this and I allowed you to deliver the Statement that you provided the Chair with. If you depart from it, then I will be regretful.

**The Assistant Minister for Water and Irrigation** (Mr. Waititu): Mr. Temporary Deputy Speaker, Sir, yesterday, 24<sup>th</sup> September, 2012 at Kayole in my Constituency, I made

some remarks aimed at criminals who have been terrorizing and killing my people in the area. My remarks were only aimed at criminals who are alleged to be foreigners, and who have been committing crime and escaping out of the country without trace. This has been happening for a long time and it has created a state of anxiety in my constituency, thereby threatening law and order.

Mr. Temporary Deputy Speaker, Sir, I realize that my remarks may have created the impression that I was condemning a particular community resident in my constituency. This is not the case. Embakasi Constituency is home to all communities of Kenya, and, in accordance with the Constitution, everyone is free to live and work in the constituency and other parts of the country. I had no intention of causing any tension or disharmony. I am actively engaged in making sure that this peace continues to prevail.

Mr. Temporary Deputy Speaker, Sir, I wish to end my Statement by apologizing unreservedly for the unfortunate impression caused by my remarks. I wish to apologize to all Kenyans and to the Maasai Community, in particular for the impression which my remarks may have created; I state that I harbour no ill against them and any other person from any community. I also promise that I will do all I can to ensure that all the people of Embakasi in general and, Kayole in particular, live together in peace and harmony as law abiding citizens.

Thank you, Mr. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Mr. Imanyara): Leader of Government Business, the matters that have been addressed by the two statements--- The first one was not strictly a personal statement, but the issues that have been addressed are significant and serious enough to require a Ministerial Statement from the hon. Attorney-General. I direct that tomorrow afternoon, the hon. Attorney-General issues a Ministerial Statement with regard to matters that have been raised by both hon. ole Ntimama and hon. Waititu.

#### INSECURITY THREATS TO HON. MEMBERS BY DEMONSTRATORS AT PARLIAMENT GATES

**The Assistant Minister, Ministry of State for Defence** (Mr. Musila): Mr. Temporary Deputy Speaker, Sir, I rise on a matter that concerns the security of hon. Members of Parliament. As you are aware, in the recent past, it has become the practice of demonstrators to demonstrate outside Parliament. It has been very serious because they block the gates and make it difficult, if not impossible, for hon. Members to access Parliament. While demonstrating, they even hurl abuses at hon. Members as they enter. They even hit their vehicles.

I personally have no problem with people demonstrating, but we are living in very difficult security times, and I see a very serious danger arising from the actions of demonstrators at the gates of Parliament. These hon. Members have been elected to come and represent their constituents in this House and, therefore, they must be afforded free access to Parliament.

Therefore, Mr. Temporary Deputy Speaker, Sir, I do not see anything that will prevent a terrorist from hurling a device at hon. Members as they enter Parliament because of the confusion at the gates. So, I want to invite the Chair to look into this matter seriously. If demonstrators have to demonstrate in front of Parliament, there must be a line beyond which they cannot go, and the police must be able to protect Members of Parliament. I think this is a

very important matter and I want to go on record because it is a potential security problem, if it is not addressed.

**The Temporary Deputy Speaker** (Mr. Imanyara): Minister of State for Provincial Administration and Internal Security, you have heard what the hon. Member has raised. It is a valid and serious issue which falls squarely on your docket. When would you like to issue a Statement on the security situation at the entrance of the National Assembly?

**The Minister of State for Provincial Administration and Internal Security** (Mr. ole Metito): Mr. Temporary Deputy Speaker, Sir, I really thank hon. David Musila for raising that issue, particularly the statement he made regarding Order No.9 on the Order Paper. I do not want to talk much about it, but Order No.9 is crucial to what hon. Musila has alluded to. However, I will issue a comprehensive Statement on Thursday in the afternoon.

**The Temporary Deputy Speaker** (Mr. Imanyara): Right, Thursday next week. Hon. C. Kilonzo, what is your point of order?

**Mr. C. Kilonzo:** On a point of order, Mr. Temporary Deputy Speaker, Sir. I brought the issue that hon. Musila has raised to the Speaker but not on the Floor. As this could be a security issue, I suggested that a particular area be reserved, just as in the UK, where demonstrators can come to. The Government has totally failed and that is why everybody is coming to Parliament – they recognize the role of Parliament. As much as we want the issue of security to be addressed, we do not want to leave it to the Government because they will make sure that nobody comes to demonstrate at Parliament. I would like to appeal to the Chair that, taking into account the issues of security and convenience, please, provide a particular area within the precincts of Parliament where people can present petitions and come to demonstrate just as it is done in the UK Parliament.

**Dr. Khalwale:** On a point of order, Mr. Temporary Deputy Speaker, Sir. I have two small points of order.

**The Temporary Deputy Speaker** (Mr. Imanyara): They are just points of order. There is nothing like “small points of order.”

**Dr. Khalwale:** Yes, Mr. Temporary Deputy Speaker, Sir. With your permission, I want to concur with your ruling that the Attorney-General comes and makes a comprehensive Statement tomorrow. But because of the grave implications of what we have just heard this afternoon, I want to beg that you also enjoin the Minister of State for Provincial Administration and Internal Security to come and tell the Republic what he is doing about Ministers of the Government who have severally accused each other---

**The Temporary Deputy Speaker** (Mr. Imanyara): Order, Dr. Khalwale! Please, you can raise those issues validly when the Ministerial Statement is given tomorrow by the Attorney-General. But right now, what you are doing very cleverly is re-introducing debate upon which the Chair has made a ruling. Could you move on to your second point of order?

#### APPOINTMENT OF TWO CHIEFS FOR KIMINDA LOCATION

**Dr. Khalwale:** Most obliged, Mr. Temporary Deputy Speaker, Sir. My second point of order is that now that we have a substantive Minister of State for Provincial Administration and Internal Security and his able deputy, before hon. Ojode died, the people of Nandi were waiting for clarification because in that place, there is a location called Kiminda, which has two chiefs. Both of them---

**The Temporary Deputy Speaker** (Mr. Imanyara): Just say that there was a request for a Ministerial Statement.

**Dr. Khalwale:** Mr. Temporary Deputy Speaker, Sir, I would like the Minister to come and complete hon. Ojode's answer, which was meant to clarify who is the chief for Kiminda, since the Government has given two letters of appointment to two personalities, both of them as chiefs. Who is the chief?

**The Temporary Deputy Speaker** (Mr. Imanyara): Minister, when will you respond to the second point of order regarding the location with two chiefs?

**The Minister of State for Provincial Administration and Internal Security** (Mr. ole Metito): Mr. Temporary Deputy Speaker, Sir, I will issue the two Statements on the same day.

#### INSECURITY IN GATUNDU AND RUIRU

**Mr. Kabogo:** Mr. Temporary Deputy Speaker, Sir, I wish to seek the indulgence of the Chair. On Wednesday 19<sup>th</sup> September, I asked the Chair, yourself, as you were then, to help me get a Ministerial Statement from the Minister of State for Provincial Administration and Internal Security regarding insecurity in Gatundu and the disappearance of a matatu operator. You ordered that that Ministerial Statement be given on Thursday afternoon and it was not given. Now that the Minister is here, could we get that Statement today?

**The Temporary Deputy Speaker** (Mr. Imanyara): Minister, do you have anything to say to that?

**The Minister of State for Provincial Administration and Internal Security** (Mr. ole Metito): Mr. Temporary Deputy Speaker, Sir, I do not have that Statement today. I have another one, but I can look for it and issue it on Tuesday next week.

**The Temporary Deputy Speaker** (Mr. Imanyara): To be fair to the Minister, he has just taken office. Perhaps, you could indulge him to issue the Statement on Tuesday next week.

**Mr. Kabogo:** Mr. Temporary Deputy Speaker, Sir, I do not think I have any stress, but if you remember, you had asked the Minister for Public Health and Sanitation, hon. Mugo, to communicate to the Government because it has many Ministers. But really, do I have a choice?

**The Temporary Deputy Speaker** (Mr. Imanyara): Okay. It will be issued on Tuesday next week.

#### *Question No.1531*

#### PROVISION OF DETAILS OF COCAINE SEIZED IN 2004

**Mr. Mwau:** On a point of order, Mr. Temporary Deputy Speaker, Sir. In May this year, I asked Question No.1531 to the Attorney-General.

**The Temporary Deputy Speaker** (Mr. Imanyara): Leader of Government Business, are you listening to the point of order?

**Mr. Mwau:** Mr. Temporary Deputy Speaker, Sir, the Question was answered. However, during the interrogation, there were documents and reports which the Attorney-General was supposed to provide on the following Thursday. Four months have passed and I request the Chair to order that the Question be placed on the Order Paper on Thursday. A letter reminding the Attorney-General about this has been dispatched to him explaining to him the points to be clarified. They are only clarifications and we dispose of the Question.

**The Temporary Deputy Speaker** (Mr. Imanyara): The Attorney-General is here.

**The Attorney-General** (Prof. Muigai): Mr. Temporary Deputy Speaker, Sir, I am happy to confirm that Thursday next week would be convenient.

**The Temporary Deputy Speaker** (Mr. Imanyara): Mr. Mwau, are you comfortable with Thursday next week?

**The Attorney-General** (Prof. Muigai): Next week as you have directed.

**The Temporary Deputy Speaker** (Mr. Imanyara): Mr. Mwau, is it okay Thursday next week?

**Mr. Mwau:** Mr. Temporary Deputy Speaker, Sir, the Question is four months old. Why would we not deal with it on Thursday this week? Why would the Attorney-General want to deal with it on Thursday next week?

**The Temporary Deputy Speaker** (Mr. Imanyara): It was not his refusal. It is the Chair who has directed because we have deferred a lot of business to Thursday this week.

**Mr. Mwau:** Mr. Temporary Deputy Speaker, Sir, I have a Question on Thursday. Could we drop the one for Thursday and slot this one for this Thursday?

**The Temporary Deputy Speaker** (Mr. Imanyara): No, in addition to your Question, he will give the Statement.

**Mr. Mwau:** Thank you, Mr. Temporary Deputy Speaker, Sir.

**The Temporary Deputy Speaker** (Mr. Imanyara): Hon. Tirus Ngahu! Hon. Members, the Member is making his Maiden Speech. You better give him your attention in silence as our tradition demands.

**The Member for Kangema** (Mr. Ngahu): Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me an opportunity to make my Maiden Speech. My name is Tirus Nyingi Ngahu *alias* TNA 1 from Kangema.

First and foremost, I thank the Almighty God for making this possible. I also wish to strongly thank the people of Kangema for overwhelmingly supporting me and voting for me during the last by-election and making a statement of intent as to the way forward.

I would also wish to thank my family, friends and all those Kenyans of good will who stood with me during that time.

I cannot forget to thank the Deputy Prime Minister, hon. Uhuru Muigai Kenyatta, who gave us a lot of support. I would also wish to thank our party. As you know, it is a new party, born only in 20 days, for supporting me and for having conducted very democratic nominations, which have been unprecedented in this nation. They were free and fair. I have never witnessed such nominations in a particular party and such a peaceful by-election. There is an old adage which says that the world stand aside to let go who he knows where he is going. You saw it in Kajiado because they knew where they were going. You saw it in Kangema and you will see it in March, 2013, when we will start the march to State House. This is a party for the masses. It is a party which belongs to every Kenyan. I stand here as one of the only two Members of TNA.

As you are aware, I am assuming office after the late Minister and Member for Kangema, hon. John Njoroge Michuki, who was not just a colossus in Kangema, but also in this august House and in the entire nation. I am equal to the task. I will strive to spearhead the interests of the people of Kangema and those of Kenyans in general to the best of my ability and in the best manner that I can.

I am aware that I am assuming office three months to the dissolution of this Parliament and six months to the next general election. But this will not deter me from discharging my responsibility to the people of Kangema and the entire nation. My work started in earnest when I

was sworn in last week and I have already disbursed and signed out over Kshs100 million towards the completion of the projects that were started by my predecessor. I am appealing to the people of Kangema to spend that money wisely. Hon. Ngahu will be very vigilant because that money should reach the intended purpose. I hope they will use that money wisely.

I want to call upon my worthy opponents to take it as normal competition and join me towards the development of Kangema Constituency. It is important that we held this election but thereafter, we must serve this nation. So, I call upon all of them to come and rebuild Kangema.

Mr. Temporary Deputy Speaker, Sir, I also wish to ask Kangema people, business community and business leaders that Kangema is now a new district and we need to focus to develop that place. There are so many resources so that we can create employment in that place. As a district, we need housing. We also need investors to come and invest so that we can actually ease the problem that is bedevilling the youth because the Government cannot employ each and every youth. I must sincerely say there is a very serious challenge as concerns the youth. There is a serious problem. Education is a key issue that we need to address as the people of Kangema and also Murang'a. I am aware that education standards in Murang'a and Kangema have gone down for the past few years and every Murang'a person is crying. I appeal that we join hands and develop that place.

Mr. Temporary Deputy Speaker, Sir, last but not least, I am aware that there is too much money going to Kangema. There is this money we are dispensing. Again, I am aware Kenya Tea Development Agency (KTDA) through the bonus is going to pump about Kshs700 million into Kangema Constituency. I am appealing to my fellow Kangema people to spend that money wisely. They will see so many visitors visiting Kangema. They must be wary of them because they do not live in Kangema. That kind of money is too much and I wish to request my fellow colleagues back home that they invest it properly. It has never been like this before.

Mr. Temporary Deputy Speaker, Sir, I wish to stop there and wish Kangema well and Kenya well.

Asante sana.

**The Temporary Deputy Speaker** (Mr. Imanyara): Thank you very much, Member for Kangema. Strictly speaking, you were out of order because you are not canvassing any issue. You are not making a request. Maiden statements are allowed in the conduct of the normal business of the House. But I have allowed you because it is your maiden speech.

Welcome and congratulations in joining us.

**Mr. Ngaru:** Thank you.

#### STATUS OF LAND IN TURKANA AFTER OIL DISCOVERY

**Mr. Ethuro:** Mr. Temporary Deputy Speaker, Sir, mine are just reminders. First is to the Minister for Energy. We brought a petition here on behalf the people of Turkana County on the circumstances surrounding oil exploration but up to now, the Minister is yet to respond even after the expiry of 21 days. It is now 21 times three.

The second one was---

**The Temporary Deputy Speaker** (Mr. Imanyara): Order! Minister for Energy, when will that be done before he goes to the next one?

Minister for Energy before hon. Ethuro points out the next reminder, when will that statement be ready?

You know the rules, Minister. Use the Front Bench or Dispatch Box.



**The Assistant Minister for Energy** (Eng. M.M. Mahamud): Inaudible.

**The Temporary Deputy Speaker** (Mr. Imanyara): I did not get you. Mr. Ethuro, next week.

You may seek your next one. Very well, the Statement will be issued on Thursday next week.

**The Assistant Minister for Energy** (Eng. M.M. Mahamud): On Thursday, much obliged.

#### NOISE POLLUTION FROM LIONS EYE HOSPITAL

**Mr. Ethuro:** Mr. Temporary Deputy Speaker, Sir, we will wait for Thursday but we will need to account for the time lost.

Mr. Temporary Deputy Speaker, Sir, the other one is to the Minister for Environment and Mineral Resources, where I sought a Statement on the circumstances under which the Lions Sightfirst Eye Hospital plays loud music and it continues to play even when we visited with him, as he promised the House.

Mr. Temporary Deputy Speaker, Sir, initially, I thought it was the issue of the hate speech, where he disappeared but he is fortunate unlike hon. Waititu, at least, now he that has been let off the hook. So, why can he not come to the House and conclude the matter?

**The Temporary Deputy Speaker** (Mr. Imanyara): Minister for Environment and Mineral Resources! The Leader of Government business, when can this statement come? It is a reminder.

**The Minister for Transport** (Mr. Kimunya): Thank you, Mr. Temporary Deputy Speaker, Sir. The last time I knew there was actually a visit that I organized and the two Members visited the place. I do not know what they then agreed after but we will ensure the Statement comes by Tuesday next week.

**Mr. Ethuro:** Mr. Temporary Deputy Speaker, Sir, the Deputy Leader of Government Business has agreed that the Minister for Environment and Mineral Resources will issue the Statement on Tuesday. The Assistant Minister for Energy talks of Thursday but my question to him is to ensure compliance because these promises have been made and they are on record. I do not want next week to be another opportunity of empty promises by the Government.

**The Temporary Deputy Speaker** (Mr. Imanyara): Mr. Ethuro, you know those are undertakings by the Government. In the event of failure, they will be referred to the Committee on Implementation for action. I think we need to start taking steps when Ministers are giving commitments and undertakings that they do plan to act upon.

The next request is by hon. Mohamed Dor.

#### NON-PAYMENT OF SALARIES TO STAFF OF AFRICA SAFARI CLUB

**Mr. Yakub:** Mr. Temporary Deputy Speaker, Sir, I rise on a point of order to say that on Wednesday 8<sup>th</sup> August, 2012, after the Minister for Labour could not satisfactorily answer my Question, the Chair directed that the same issue be referred to the Departmental Committee on Labour and Social Welfare and they should make recommendations and table their report to the House four weeks from 8<sup>th</sup> August, 2012.

Mr. Temporary Deputy Speaker, Sir, today is 25<sup>th</sup> September, 2012. It is almost seven weeks. The staff of Africa Safari Club are still suffering, and some of them are still dying.

**The Temporary Deputy Speaker** (Mr. Imanyara): Order, Sheikh Dor ! You ought to be aware whether the Committee has sat because you are a key player in the proceedings of the Committee. Has the Committee had any sessions with regard to this issue?

**Mr. Yakub:** Yes, Mr. Temporary Deputy Speaker, Sir.

**The Temporary Deputy Speaker** (Mr. Imanyara): So, the Chair of the Committee is the one who should be actually reporting, however, I will give the necessary direction after you finish.

**Mr. Yakub:** Mr. Temporary Deputy Speaker, Sir, the staff of African Safari Club are still suffering and camping at the director's residence. When will the Chairperson of the Departmental Committee on Labour and Social Welfare table this report?

**The Temporary Deputy Speaker** (Mr. Imanyara): Hon. Members, when the Chair gives timelines for the filing of the report, if the time lapses, obviously, they will have to come to the House and seek extensions, as is the practice. So, the Chair of the Committee, tomorrow afternoon, will you give a report on where you have reached on the investigation of this matter? If it is a question of seeking extension of time, do so tomorrow. Otherwise, this matter will lapse.

So, the Chair of the Committee of Labour and Social Welfare provide a progress report tomorrow and if necessary seek extension of time within which the report will be filed.

#### SECURITY SITUATION IN TANA DELTA

**Mr. Mungatana:** Mr. Temporary Deputy Speaker, Sir, I was expecting a Statement from the Minister of State for Provincial Administration and Internal Security on the Tana Delta

**The Temporary Deputy Speaker** (Mr. Imanyara): Yes, indeed, the Minister of State for Provincial Administration and Internal Security, there was a statement expected from you. Are you ready with it?

**The Minister of State for Provincial Administration and Internal Security** (Mr. Ole Metito): Yes, Mr. Temporary Deputy Speaker, Sir, with your permission, I am ready.

*(Loud consultations)*

**The Temporary Deputy Speaker** (Mr. Imanyara): Very well, continue. Hon. Members, this is an important statement. Will you lend the Minister your ears? This is an important statement the Minister is making, please, pay attention to what he has to say.

**The Minister of State for Provincial Administration and Internal Security** (Mr. ole Metito): Mr. Temporary Deputy Speaker, Sir, on 18<sup>th</sup> September, 2012, hon. Danson Mungatana, Member of Parliament for Garsen Constituency rose on a point of order requesting for a Ministerial Statement on the security situation in Tana Delta District.

Mr. Temporary Deputy Speaker, Sir, in his Statement, the hon. Member sought a number of clarifications including:-

1. Whether the General Service Unit (GSU) officers attacked Ozi Village on 17<sup>th</sup> September, 2012 and razed 67 houses apparently in search of weapons.
2. Who gave the orders for the houses to be burnt down and whether there was no other way to search for the weapons.
3. The disciplinary action to be taken against the officers, who ordered the burning down of the houses.
4. Whether the security officers were infiltrated and if so, by whom.

5. He wanted to know investigations to be conducted to determine what transpired.
6. Why the GSU officers stopped the Kenya Red Cross from accessing Ozi village.
7. The plan the Government has taken to replace the houses and compensate the locals.

Finally, he sought confirmation that the General Service Unit (GSU) officers hailing from Cushitic Communities and coastal region will be removed from the operations.

Mr. Temporary Deputy Speaker, Sir, I wish to state as follows. On Monday, 17<sup>th</sup> September, 2012, a security operation team comprising of officers drawn from the Kenya Police, General Service Unit (GSU) and the Administration Police (AP) conducted an operation in Ozi Village aimed at recovering assorted arms suspected to be held illegally by the locals. As the security team was approaching the village, two local community members who were strategically keeping watch on the village set fire on two *makuti* houses and started fleeing from the scene. Police officers gave chase and managed to arrest one of the suspects namely Said Ngoka while his accomplice managed to escape. The fire spread quickly to other adjacent houses due to strong winds prevailing at the time.

The officers cordoned the area, searched all the houses and managed to recover assorted crude weapons and military equipment before arresting 19 suspects. The security personnel did not attack the villagers and their conduct was very professional throughout the operation. It appears, from the onset, that there are concerted efforts by some criminal elements within the locals to discredit the effort by the police to bring peace and security in the area and to conceal evidence for weapons being sought. Under the circumstances, no action will be taken against any of the operation commanders as none of them gave an order to set the houses on fire and no police officer was involved.

A judicial commission has been appointed and is expected that among other issues, it will inquire into what happened during the incident. Further, I wish to confirm that all teams undertaking humanitarian work in the villages targeted by the operation have been screened and their identities authenticated including the Red Cross team. Therefore, the question of infiltration by criminal elements should not arise.

On the issue of compensation, the Ministry is not in a position to compensate or reconstruct the houses so far burnt in the Tana Delta Region as there is no budgetary allocation for the same. However, we are appealing to other Government Ministries and agencies including the Ministry of State for Special Programmes and, indeed, other humanitarian agencies to move in and help the communities who are in dire need of basic food and non-food items including re-settlement.

Finally, the Government does not intend to remove any of the officers serving in the operation as they are by law required to serve anywhere in the country without fear or favour as they operate beyond their ethnic inclination.

**Mr. Mungatana:** Mr. Temporary Deputy Speaker, Sir, today, you heard hon. Fahim Twaha raise an issue about the GSU operations in the nearby Witu. Is it really tenable or acceptable that the people, according to the Minister, can set their own houses on fire? Does the Minister really believe that this could be true? That is the first clarification.

Secondly, and that could be an arguable point, people in that village are displaced together with people in Kau and Kilelengwani villages. The Prime Minister, after the massacre that took place in that area, visited the place and promised that reconstruction will take place. When will this work begin?

**Dr. Khalwale:** Thank you, Mr. Temporary Deputy Speaker, Sir. The Minister has told us that his officers recovered several crude weapons including military equipment. What exactly

does he mean by “military equipment”? Could he tell us the particular weapons that he found in the village?

Secondly---

**The Temporary Deputy Speaker** (Mr. Imanyara): Hon. Khalwale, it is only hon. Mungatana who requested the Statement that is entitled to more than one clarification. But perhaps because you have forgotten, I will allow you that extra one now.

**Dr. Khalwale:** Mr. Temporary Deputy Speaker, Sir, I have been away from the House for ten days. I had forgotten.

The Minister’s colleagues in the Cabinet; that is two Ministers have been trading accusations over the issue of Tana River. We saw the Minister act on the case of Assistant Minister, hon. Godhana. Could he also tell us what he intends to do with the other Minister, hon. Haji, who had accused hon. Godhana and the Government acted? However, the Government has not acted after Mr. Godhana accused Mr. Haji.

**Mr. Duale:** Thank you, Mr. Temporary Deputy Speaker, Sir. I want the Minister to confirm that it is not the first time that the Government has compensated and airlifted Kenyans in distress. Why is he discriminating against the people of Tana River? This is the same way this Government has done for the pastoralists until they are being killed in the City Centre of Nairobi because of hate speech. Could the Minister tell us why he plays double standards and why he is discriminating against the people of Tana River? The Government has built houses for the Mau evictees and the post-election violence victims but it does not want to build houses for the poor people of Tana River.

**Mr. Kapondi:** Mr. Temporary Deputy Speaker, Sir, I would like the Minister to clarify this. It is obvious, under these circumstances, that when operations are going on, the militia responsible for the mayhem must have fled the area. Could the Minister confirm to this House how many of the suspected militia have been arrested outside the epic-centre of the conflict because those who are currently within the area must be innocent people? Those who suspected themselves must have fled the area. So, could the Minister tell us how many suspects he has arrested outside the area?

**Mr. Ethuro:** Mr. Temporary Deputy Speaker, Sir, I thought this is an opportunity for the new Minister and the former acting Minister to demonstrate to this country that they took on board the recommendations of the IDP Select Committee which this House passed. One such recommendation was that for any forced displacement, the Government must come to the immediate rescue of the people in terms of offering humanitarian assistance as well as compensation and provision of shelter and other basic services. What will the Minister do to ensure that the people who were displaced by the Tana River clashes are immediately settled?

**Mr. C. Kilonzo:** Thank you, Mr. Temporary Deputy Speaker, Sir. I am curious to know what the Minister or the Government has done because the biggest problem we have is Ministers inciting people and, of course, running to Parliament to make personal statements. It has happened before and it has happened today. So, what will the Minister do with his rogue Ministers who serve in the Government? Before these Ministers come to make personal statements after inciting people, this Minister should make sure that they have gone through the courts so that we can know that he is serious.

**Mr. Njuguna:** Mr. Temporary Deputy Speaker, Sir, while I do sympathize with the people of Tana Delta, the GSU are being accused currently of harassing, mistreating and beating people in that area. What is the Government doing to stop these brutal acts?

**Dr. Nuh:** Mr. Temporary Deputy Speaker, Sir, when we were moving a Motion here asking for the deployment of the Kenya Defence Forces to the Tana Delta, we made very clear the fears that we had back in our minds that there could be atrocities committed. That is why the Government, despite our plea, deployed the GSU and the regular police in large numbers. It is unfortunate that the police and the GSU are not pursuing the real culprits and that they are now mistreating the elders, women and the innocent are suffering.

We have given the Government enough intelligence as to the whereabouts of the militias we were talking about; we have informed the Government of the specific locations in which they are hiding, why has it taken the officers on the ground so long and now instead of pursuing the militias, they are turning against the innocent members of public?

**Ms. Karua:** On a point of order, Mr. Temporary Deputy Speaker, Sir. It is apparent that hon. Members are making a general condemnation against police officers and the GSU merely because maybe one or two may not have behaved well. Would it be in order for the Minister to clarify that he will take action against the culprits to stop this blanket condemnation of our security officers?

**The Minister of State for Provincial Administration and Internal Security** (Mr. ole Metito): Mr. Temporary Deputy Speaker, Sir, most of the clarifications sought by hon. Members are in a way inter-linked. First of all, I want to start with the clarification sought by Mr. Mungatana where he asked whether people can set their own houses on fire. I would like to say that these were people killing their own people in Tana Delta. If at all, they can kill their own people, what about setting on fire their own houses? Nobody came from outside to set those houses on fire. Actually, it was some locals who were---

**The Temporary Deputy Speaker** (Mr. Imanyara): Just a moment, Minister. You said there is a judicial commission of inquiry to look into these issues and now you are making conclusive findings on a matter that has not even been subjected to investigations.

**The Minister of State for Provincial Administration and Internal Security** (Mr. ole Metito): Mr. Temporary Deputy Speaker, Sir, I am talking of the gentleman who was arrested while setting those houses on fire. His accomplice managed to escape but he is under investigation as we speak now. The Judicial Commission of Inquiry will find more on the same.

On the issue of reconstruction and resettlement, I want to combine that clarification sought by Mr. Mungatana, the one by Mr. Duale who was also asking about compensation and the one by Mr. Ethuro on humanitarian aid and resettlement.

The priority at the moment is for normalcy to return completely in the area. Right now, there is registration of the displaced persons mostly by other agencies of the Government like the Ministry of State for Special Programmes. The issue of resettlement and reconstruction will follow once registration of the displaced persons has been done.

**The Temporary Deputy Speaker** (Mr. Imanyara): Order, Minister! Mr. Mungatana was very specific that the Prime Minister visited this area and gave a Government undertaking. What is your response to that aspect?

**The Minister of State for Provincial Administration and Internal Security** (Mr. ole Metito): Mr. Temporary Deputy Speaker, Sir, the Government undertaking that has been given by the right hon. Prime Minister will be implemented. I am just talking of the process that will be used to achieve that, and that is registration of those displaced and then resettlement and reconstruction of---

**The Temporary Deputy Speaker** (Mr. Imanyara): Order! Let us get this clear so that we do not contradict each other. The clarification sought by Mr. Mungatana and a number of others

is that there was a definite policy statement by the right hon. Prime Minister that there will be Government intervention in the form of the construction. Are you confirming that that will be done or it will not be done? You have to be specific.

**The Minister of State for Provincial Administration and Internal Security** (Mr. ole Metito): Mr. Temporary Deputy Speaker, Sir, I am confirming.

Dr. Khalwale asked what kind of military equipment was found. I just want to say that even military uniforms can be military equipment that was found from these people when the search was done. So, military equipment could be referring to uniforms and these illegal groups could be using them.

Mr. Duale talked about compensation, and I think that is what I said that the undertaking by the Prime Minister will be implemented.

Mr. Kapondi talked about the arrests that have been made from outside the epicentre of the whole fracas. So far, no arrests have been made from outside the epicentre. It is only those who have been arrested and arraigned in court and they are from the area where the clashes were happening.

Mr. Ethuro talked about humanitarian and resettlement issues. I said in my Statement that all Government agencies and other humanitarian agencies like Red Cross---

**The Temporary Deputy Speaker** (Mr. Imanyara): Minister, what Mr. Ethuro told you is that a Select Committee of this House prepared a report making certain recommendations. That report was adopted by this House. He asked you whether you are acting on the recommendations that this House adopted with the Government's support in relation to these people. I think that is what Mr. Ethuro asked.

**The Minister of State for Provincial Administration and Internal Security** (Mr. ole Metito): It is true. He was asking whether we are doing this concurrently; as much as you do the operation whether you are also undertaking humanitarian functions like giving people food and non-food items.

I said in my Statement that there are those Government and non-governmental agencies that are doing humanitarian functions. They are being vetted and screened. They have been allowed to access the area. So, I confirm it is going on.

Regarding Mr. C. Kilonzo's question, I think the Chair has ruled that the Attorney-General---

*(Eng. Rege crossed the Floor of the House without bowing to the Chair)*

**The Temporary Deputy Speaker** (Mr. Imanyara): Eng. Rege, could you, please, stand up and walk out of the House and follow the rules regarding crossing the Floor?

*(Eng. Rege withdrew from the Chamber, came back and bowed before the Bbar)*

**The Minister of State for Provincial Administration and Internal Security** (Mr. ole Metito): Mr. Temporary Deputy Speaker, Sir, the clarification sought by Mr. C. Kilonzo is what the Chair has just ruled on that the Attorney-General will issue a Statement tomorrow.

Mr. Njuguna talked about force and I think that is also what Dr. Nuh talked about and to some extent what Ms. Karua also suggested; the issue of those GSU officers using force on

innocent Kenyans while doing their operations. I want to confirm that I said in my Statement that those officers on the ground are doing their work professionally. That is not enough. I want to undertake that we will really follow up to ensure that every operation is done within the Constitution without violating human rights. That will really be done.

Thank you.

**The Temporary Deputy Speaker** (Mr. Imanyara): Order, hon. Members! I would like to invite your attention to today's Order Paper. If you look at Order No.13, you will notice that this is business which has actually been dealt with by this House with the exception of just one name; the very first name. My proposal is to re-arrange the Orders to enable the completion of this exercise by debating that one member and disposing of this Order before going to the other business of the House.

Therefore, that is what I am proposing at this stage. Due to the nature of the business under that Order and the pending work that is dependent on the Commission being formed, I propose that we actually move to that Order and introduce debate only in relation to the only member who has not been subjected to debate in this House, so that we can dispose of this business.

If hon. Members are agreeable to my proposal, I would order the re-arrangement of the business of the House, so that we go straight to Order No.13 before we determine how to proceed further. I will listen to you after that, Dr. Khalwale, because this is a very short business. Hon. Kimunya, is that agreeable?

**The Minister for Transport** (Mr. Kimunya): Mr. Temporary Deputy Speaker, Sir, traditionally, we do not go to Motions before Bills but, in the circumstances, I believe that we would be happy to go your route and limit debate to the name that you have referred to. Hopefully, we will clear the matter within the next five minutes or so.

**The Temporary Deputy Speaker** (Mr. Imanyara): So, if the Chairperson is ready, we can dispose of this business within a few minutes' time. What is your point of order, Dr. Nuh?

**Dr. Nuh:** Mr. Temporary Deputy Speaker, Sir, although you denied me a chance to raise a point of order on the Statement sought but now, even the Order has not been called out. So, even though you have asked whether the Chairman of the Departmental Committee is ready so that we can dispose of this matter shortly, we should have the Order called out first before we can proceed.

**The Temporary Deputy Speaker** (Mr. Imanyara): Dr. Nuh, if only you had been a little bit more patient, you would have seen the Clerk-at-the-Table rising to call out the next Order, which is Order No.13.

Next Order!

## MOTION

### ADOPTION OF REPORT ON VETTING OF NOMINEES TO THE NATIONAL POLICE SERVICE COMMISSION

**Mr. Kapondi:** Mr. Temporary Deputy Speaker, Sir, I beg to move the following Motion:-

THAT, this House adopts the Report of the Departmental Committee on Administration and National Security on the vetting of the following Nominees to

the National Police Service Commission laid on the Table of the House on Thursday 20th September, 2012:-

- (i) Johnston Kavuludi.
- (ii) Ronald L. Musengi.
- (iii) Esther Chui-Colombini.
- (iv) Murshid A. Mohamed.
- (v) Dr. Major Muiu Shadrack Mutia.
- (vi) Mary Auma Owuor.

Mr. Temporary Deputy Speaker, Sir, Parliament debated and rejected the list of nominees---

**The Temporary Deputy Speaker** (Mr. Imanyara): Mr. Kapondi, just as a matter of procedure, you must also indicate that the first person is the proposed Chairperson of the Commission, so that hon. Members can be clear. So, indicate that Johnson Kavuludi is the recommended Chairperson of the Commission.

**Mr. Kapondi:** Mr. Temporary Deputy Speaker, Sir, I thank you for that guidance. So, I proceed to move again the Motion as follows:-

THAT, this House adopts The Report of the Departmental Committee on Administration and National Security on the vetting of the following Nominees to the National Police Service Commission laid on the Table of the House on Thursday 20th September, 2012:-

- (i) Johnston Kavuludi – Chairman.
- (ii) Ronald L. Musengi.
- (iii) Esther Chui-Colombini.
- (iv) Murshid A. Mohamed.
- (v) Dr. Major Muiu Shadrack Mutia.
- (vi) Mary Auma Owuor.

Mr. Temporary Deputy Speaker, Sir, Parliament debated and rejected the list of the nominees on 17<sup>th</sup> May, 2012 and His Excellency the President and The Rt. hon. Prime Minister were called upon to submit a fresh list of names to this House for approval. On 11<sup>th</sup> September, 2012, the Acting Head of Civil Service and Secretary to the Cabinet wrote a letter, Ref. No.OP/CAB/3/77A, and informed the National Assembly that His Excellency the President, in consultation with the Rt. hon. Prime Minister, had made the following nominations for the positions stated there under:-

- (i) Johnston Kavuludi – Chairman.
- (ii) Ronald L. Musengi - Member.
- (iii) Esther Chui-Colombini - Member.
- (iv) Murshid A. Mohamed - Member.
- (v) Dr. Major Muiu Shadrack Mutia - Member.
- (vi) Mary Auma Owuor - Member.

We undertook the vetting. We had done it for previously for the rest of the members. In this case, for the Chair, it is important for this House to note that Mr. Johnston Kavuludi is a Kenyan citizen who has served this country in different capacities. He was born in 1952. He is a university graduate with a Bachelors Degree in Education, Literature and English, Geography and Education.

He is a lead partner in Frokombe Initiative, working as a lead consultant in charge of human resource management and corporate services, tasked with training for excellence,



management enhanced skills, leadership and team building dynamics and organisational development. He has been a principal educationist and training consultant at Frokombe Initiative, tasked with designing training programmes for corporate clients and learning institutions.

Mr. Temporary Deputy Speaker, Sir, Mr. Kavuludi has been a Commissioner for Labour in the Ministry of Labour and Human Resources Development where he served as the Head Department of Labour and advised the Government on labour and employment matters. He has also been a Director, Manpower Development and Employment in the Ministry of Labour and Human Resources Development.

For the rest of the nominees, since we had gone through them and debated, it is our recommendation as a Committee that having conducted the vetting exercise of the six nominees to the National Police Service Commission, the Committee made the following recommendations:-

(i) That this House approves the nomination of Mr. Johnston Kavuludi as the Chairperson of the National Police Service Commission.

(ii) That this House approves the following nominees as Members of the National Police Service Commission:-

(i) Ronald L. Musengi – Member.

(ii) Esther Chui-Colombini - Member.

(iii) Murshid A. Mohamed - Member.

(iv) Dr. Major Muiu Shadrack Mutia – Member.

(v) Mary Auma Owuor - Member.

Mr. Temporary Deputy Speaker, Sir, with those remarks, I beg to move and request hon. Cyprian Omollo to second the Motion.

**Mr. Omollo** seconded.

*(Question proposed)*

**Ms. Karua:** Mr. Temporary Deputy Speaker, Sir, I rise to support the Motion and also note that this matter has been attended by unnecessary controversy. There have been even undertones of negative ethnicity but, nevertheless, I congratulate the Committee of the House for finally bringing this matter to the Floor and also to the two principals who delayed this matter. I would like to remind the principals that following the constitutional court rejection of their nominee to the Ethics and Anti-Corruption Commission (EACC), that is a wake-up call that the Constitution is a leading document. It is not just a document that you can ignore.

I also want to very briefly say that those who now are slated to go through as members of the Police Service Commission, they must look at the Act carefully to see what their duties are. They include fair procedures for discipline of the force. The Salaries and Remuneration Commission should offer fair remuneration to those serving in the force. They have the duty to ensure that the curricula of the police are adjusted to reflect what the Constitution stipulates. The curriculum should comply with constitutional standards of human rights and training should go to the highest standards of competency. The Board should also know that we will be watching to see how speedily they can start the police reforms which are long overdue. We want to see our police force responding like our Judiciary.

Mr. Temporary Deputy Speaker, Sir, finally, I want to state that there are two ladies in this Board. Now that the chairperson is a man, it is time the gender rule in the Constitution is followed and the vice-chairperson becomes a woman.

I beg to support.

**The Temporary Deputy Speaker** (Mr. Imanyara): Very well. I did not realize that there will be so much interest but I have more than ten of you. I will only allow a maximum of two minutes starting with hon. Adan Duale.

**Mr. Duale:** Mr. Temporary Deputy Speaker, Sir, I stand to support this Motion. This is the beginning of police reforms.

**Mr. Balala:** On a point of order, Mr. Temporary Deputy Speaker, Sir. I am very concerned that you are reducing the time that we want to contribute. This is an important institution within the Constitution. We cannot just rush things just because somebody is in a hurry. It is very important for us to be given enough time to discuss. We support these appointments, but the security of the country is paramount. We cannot just go dilly-dallying in the name of “we are rushing”. No way. I think you should give us time to interrogate this issue.

*(Laughter)*

**The Temporary Deputy Speaker** (Mr. Imanyara): Order! Hon. Balala, no one is being rushed. What the Chair brought to your attention is that we are doing this debate for the second round. We have fully debated these names before and there was also one name that was not approved. That is the reason I rearranged the business of the House because I could not foresee. But there is nobody being prevented from contributing. It is only that in the event of a repetition – and you know the Standing Orders--- If repetition becomes common place, then that is out of order. That is why I suggested that because this is a debate that we are doing the second time, we need really not to spend so much time. But no one - and I repeat - no one is being prevented from making a contribution.

Continue, hon. Duale!

**Mr. Duale:** Thank you, Mr. Temporary Deputy Speaker, Sir. With your indulgence, hon. Balala is new to the Back bench and so, you will understand him.

*(Laughter)*

Mr. Temporary Deputy Speaker, Sir, this is the beginning of the roadmap to police reforms in this country. Nothing took place by this House debating the Police Service Commission nominees who, in my opinion, are men and women of high intellect. They have impressive curriculum vitae and police reforms have begun. However, this should not be the end. We should scrutinize the Police Service Commission; we should scrutinize the Independent Police Oversight Authority. They must be scrutinized under the Constitution. The selection and interviewing of the Inspector-General and his two deputies must be scrutinized. The country should scrutinize the Police Force itself. The reasons or the genesis why we came up with this in the Constitution is because the Police Force has been a big let-down.

Mr. Temporary Deputy Speaker, Sir, today, 30 minutes ago, we have been talking about what has been happening in Witu. The police and General Service Unit (GSU) were sent there to Witu to go and bring normalcy in the Tana Delta. But now, we are being told that they are raping women. They are interfering with the normalcy of the people of Witu. We expect that the reform process that we have started today--- Mr. Kavuludi and his team--- The new Inspector-General will reform the Police Force.

**Mr. Yinda:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Could hon. Duale substantiate his claims that the police and GSU who have been sent to Witu are raping women?

**The Temporary Deputy Speaker** (Mr. Imanyara): Hon. Duale, did you actually say that?

**Mr. Duale:** Mr. Temporary Deputy Speaker, Sir, I can substantiate that last night, the Member of Parliament for Lamu West, hon. Fahim Twaha, said that women were raped last night in Witu. The Minister promised to investigate.

**The Temporary Deputy Speaker** (Mr. Imanyara): Order! You do not substantiate through another hon. Member. You made an allegation of raping and you said that you are prepared to substantiate. I am giving you the opportunity to do so.

**Mr. Duale:** Mr. Temporary Deputy Speaker, Sir, if you give me time, in the next two days, I am going to substantiate.

**The Temporary Deputy Speaker** (Mr. Imanyara): You know the rules.

**Mr. Duale:** Mr. Temporary Deputy Speaker, Sir, because there are people around me, I actually withdraw. But by Thursday, we are going to tell the nation that women were raped and people were harassed in Witu. That is the truth and we have represent people in this House. We should not shy away from the truth. We are not part of the Police Service Commission. I am not the Inspector-General of Police. I am not a police officer. I am a Member of Parliament and I stand for the people of Dujis.

**The Temporary Deputy Speaker** (Mr. Imanyara) Order! Your time is up. Hon. Njuguna and it is two minutes henceforth.

**Mr. Njuguna:** Mr. Temporary Deputy Speaker, Sir, the establishment of the Police Service Commission has been long overdue. In my view, those already considered are competent and suitable to serve in the Commission.

Finally, this is as per the desire of this House and that of the Kenyans to have the Commission start its work to address critical concerns in this country.

With those few remarks, I support.

**Mrs. Odhiambo-Mabona:** Mr. Temporary Deputy Speaker, Sir, the reason why we are actually looking at this matter the second time is because the Executive failed to follow the Constitution. So, we would want to encourage the Executive to stop embarrassing us and follow the Constitution. That is because if it will not be dropped here, it will be stopped outside by the Judiciary.

Mr. Temporary Deputy Speaker, Sir, I also want to indicate that even though hon. Duale has been forced to withdraw, but we have heard of allegations of human rights violation even in the cases as the police are trying to restore peace and order. The police must follow human rights as provided for by the Constitution even where they are seeking to restore peace and order and, therefore, the Commission is coming at a right time.

Finally, I just want to indicate that there are very able persons that have been brought into the Commission. For instance, I know Ms. Esther Chui Colombini. We went to school with her in Limuru Girls. There is Mr. John Kavuludi who was a District Officer (DO) in Homa Bay when I and my young brother were there. We are both alumni of Homa Bay Primary School. So, they are persons of great repute and standing. I am very happy and that is why we are friends, as hon. Martha Karua says.

I support.

**Dr. Khalwale:** Mr. Temporary Deputy Speaker, Sir, I support and congratulate the Committee for bringing the report without any dissenting view. I know Mr. Johnston Kavuludi;

as I supported the other names I want to extend my support to Mr. Kavuludi. He is a pleasant person to listen to. He is not controversial. This is a very sharp and focused man. I have no doubt that through Kavuludi, this Board will ensure that we bring an end to corruption within the police force during recruitment, end tribalism and lack of balance within Kenyan regions when we are giving promotions to police officers. I want to inform hon. Members that police reforms mean that the police has to reform how it relates to the public. As the public, we should also reform how we relate to the police. We say in sweeping statements that police officers are rapists, but some of these officers are decent people, and some of them are born again Christians.

My last point is that I wanted to appeal to the President and the Prime Minister that going by the ruling of the High Court on the fight against corruption, it is important that they treat it as a wake-up call and immediately commence the process of appointing a new chief for the Ethics and Anti-Corruption Commission (EACC).

I thank you and support.

**Mr. Midiwo:** Mr. Temporary Deputy Speaker, Sir, I stand to support. Let me say this as a way of warning people who are charged with the implementation of this Constitution. Last week, there were organized people with T-shirts, who carried placards and said that police reforms are not necessary until after elections. They were standing at the gate of Parliament. It seems to me that somebody wants us to go to the general election with the same fears we had in 2007. I want to plead with the President and the Prime Minister that let this people take an oath tomorrow and let them begin the process of recruiting an Inspector-General of Police. This is important and Kenyans expect it. We cannot afford to go to an election with a police force which is not reformed. There is a problem. All these complaints that hon. Members are raising are real. We must face this as Kenyans. We realize that we need an Inspector-General of Police and an independent police commission before we go to the next elections.

**Eng. Rege:** Mr. Temporary Deputy Speaker, Sir, I would like to join my colleague in supporting the Motion. I want to thank the Committee for a splendid work done and for choosing able Kenyan men and women. Mr. Johnston Kavuludi is coming in with vast experience in administration. It is my belief that this man will bring proper police reforms, so that the police help Kenyans rather than command and beat them up. That is what is happening right now. We believe that after proper police reforms, Kenyans will start liking the police force.

With those few remarks, I beg to support.

**The Minister of State for Defence (Mr. Haji):** Mr. Temporary Deputy Speaker, Sir, I beg to support. I have known most of these people who have been recommended. If they are not the best Kenyans, then I will say that they are excellent Kenyans. I am saying this because the proposed chairman worked with me when I was the Provincial Commissioner (PC), Western Province, and I know how we turned round the education system in that province.

It is unfortunate that in Kenya, we have developed an attitude of mob justice. We think there is no good Kenyan at all. Every Kenyan is branded as somebody who is worthless. I want to say that these officers, who are being tasked with police reforms, are going to do their job if given the necessary support. Kenyans themselves need to reform. We need to reform ourselves before we ask other organizations to reform, because of the behaviour that I have mentioned.

With those few remarks, I beg to support.

**Mr. Balala:** Mr. Temporary Deputy Speaker, Sir, I rise to support the appointment of these distinguished Kenyans. I have experience in working with Mr. Kavuludi. He was my Commissioner of Labour during the most difficult time when there were wild strikes after NARC took over the Government. I worked with him and we were able to address issues. In terms of

integrity and capability, Mr. Kavuludi is excellent. Mr. Murshid was also my chairman of CDF in Mvita and he did a great job in Mvita.

Mr. Temporary Deputy Speaker, Sir, I also think we need to reform the police force in totality. Giving it equipment and recruiting more policemen is not enough. We need to give it technology. I will give an example. I lost my iphone on the beach. I went back to my ipad and searched for i-finder. I tracked the thief to his house. I picked a police officer and took him to the house and he found the thief dismantling the phone. Such technology is lacking in the police force. The thief thought I was a witch, and had used some juju to catch him. The policeman also wondered how I had done it. So, technology is key in training our police force even on holding the gun. Recently during the teachers' strike, we also saw a policeman running behind a teacher and suddenly the gun fell and blew up.

**Mrs. Noor:** Mr. Temporary Deputy Speaker, Sir, with due respect to the Committee, I want to be the first one to oppose the list. I am not opposing because the people who have been nominated are not qualified. I respect them and I want to put it on record that they deserve to serve in this particular Commission. Why am I opposing? I am opposing because there was an opportunity to give a woman a chance to chair a commission in the history of Kenya and we are losing it. When it came here, people rejected it. Due to that, I want to oppose this list.

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

**The Temporary Deputy Speaker** (Mr. Imanyara): Who do you want to inform?

**Mr. Kapondi:** The hon. Member on the Floor.

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

**Mrs. Noor:** Yes, Mr. Temporary Deputy Speaker, Sir.

**Mr. Kapondi:** I wish to inform my colleague that this was not the first opportunity for a woman to head a commission, because we have the Salaries and Remuneration Commission headed by a woman.

**Mrs. Noor:** Thank you for that information, but how many commissions do we have in this country? They are almost 21. This is a very important commission because in reforming the police Kenyans must take responsibility. Kenyans must know that this is our country and we must protect ourselves. We must respect the rule of law. We should not fight with the police or take the law into our hands and say that we want to reform the police. It is common logic to say that we want to reform the force, yet we do not respect the law. I want to appreciate Tanzania because they have their own system. With us, if we do not take responsibility and become watchdogs ourselves, then we will not reform the police service. It is important to note that when we throw stones and even beat the police during demonstrations, then we are not taking that responsibility seriously as a country and leaders. It is important that we all take responsibility as Kenyans and that is the only way in which we can reform this country

Thank you, Mr. Temporary Deputy Speaker, Sir.

**Mr. Shakeel:** Mr. Temporary Deputy Speaker, Sir, I rise to support this Motion.

Mr. Temporary Deputy Speaker, Sir, I want to thank the Committee. I would like to say at this moment in time that it is urgent that the two principals approve these names. The police force is the most misused service in this country. The police officers are waiting for the pay review that was promised to them and there is nothing that is being heard right now. If the police start a go-slow strike, you will tell them that they have not been doing their job. They need the reforms and I think that the National Police Service Commission (NPSC) must come in very quickly to attend to the terms and conditions of service of the police, including accommodation. I

also hope that the NPSC will look in-depth into the issue of irregular promotions within the police force.

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

**The Minister for Justice, National Cohesion and Constitutional Affairs** (Mr. Wamalwa): Mr. Temporary Deputy Speaker, Sir, I also rise to support the Report.

Mr. Temporary Deputy Speaker, Sir, indeed, this will mark yet another milestone in the road to reforms. We have done very well in judicial reforms, but we are lagging behind in the police reforms. With the adoption of these names, we will be able to move forward. Even the Prevention of Terrorism Bill that is before the House is talking about an Inspector-General. We need to have had an Inspector-General by now. Even as we move forward with this Commission, we should have the Inspector-General to co-ordinate and provide leadership in this very important sector.

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

**The Minister of State for Provincial Administration and Internal Security** (Mr. ole Metito): Mr. Temporary Deputy Speaker, Sir, I will be brief. Mine is really to register by appreciation and thanks to the Committee and the whole House for giving these names. If this House approves these names, this Commission will really fast-track the much needed police reforms that we have been talking about in the Ministry of State for Provincial Administration and Internal Security. I have no doubt in my mind that with the leadership of this team, the much talked about police reforms--- As elaborated by one of my colleagues who talked about the curriculum, change of attitude and welfare of the police, I am sure that we will get a reformed police force, just as we have got a reformed Judiciary.

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

**Dr. Otichilo:** Mr. Temporary Deputy Speaker, Sir, I rise to support this Motion.

Mr. Temporary Deputy Speaker, Sir, I also want to thank the Committee for the good work that it has done. These are eminent and qualified Kenyans. It is important that the principals, once this House passes these names, move with speed and approve these appointments. The Commission should also move with speed and start working, particularly, to appoint the Inspector-General and commence on the police reform process. I am particularly very thankful to the Committee and the principals for proposing Johnston Kavuludi to be the Chairman. He is a polished man, a good administrator and a Kenyan who has demonstrated that he can do his work without bias.

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

**The Assistant Minister, Ministry of State for Defence** (Mr. Musila): Mr. Temporary Deputy Speaker, Sir, I too want to associate myself with the sentiments expressed by the majority of hon. Members in supporting this Motion.

Mr. Temporary Deputy Speaker, Sir, if you look at the names proposed, you will realize that they clearly reflect the face of Kenya, and I am very impressed. People have talked about individuals they know. I want to confirm that I know the majority of these men and women. They are people of integrity and there is no doubt that they will perform very well, particularly, Dr. Major Muiu. He used to be the Commandant of the Administration Police and, therefore, has a lot of experience. I am sure that we will have a good Commission if he is joined with people like Kavuludi.

Mr. Temporary Deputy Speaker, Sir, this Commission should move with speed to address the many issues facing the Kenya Police. Many have been enumerated most of which are the

morale, discipline and even the ability to investigate and prosecute effectively all cases that come before them.

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

**Mr. Odhiambo:** Mr. Temporary Deputy Speaker, Sir, I also wish to support this Motion because the police reforms in this country is something that Kenyans have longed for, for a long time. This is the opportunity for us to make sure that what we have longed for, as Kenyans, is achieved within the shortest time possible. This is to be done before the general elections, because it is very important that the policemen who will guard us are trained differently. I had an opportunity to attend the passing out parade of the last recruits and we were told that the training that they were given is different from the traditional training that the policemen have been receiving. So, this is the right time for them to put this training into practice, particularly if they are going to have the reforms.

Mr. Temporary Deputy Speaker, Sir, I have had a chance to work under the Chairman, Johnston Kavuludi. He is a polished administrator. The provincial education system improved tremendously while he was in Western Province, as the Provincial Director of Education. I have no doubt whatsoever that Johnston Kavuludi will lead this team into a better Kenya that we want today.

Mr. Temporary Deputy Speaker, Sir, I support.

**The Assistant Minister for Finance** (Dr. Oburu): Mr. Temporary Deputy Speaker, Sir, I also rise to support this Motion.

Mr. Temporary Deputy Speaker, Sir, hon. Haji expressed his support for Mr. Johnston Kavuludi because he was the Provincial Director of Education when hon. Haji was the Provincial Commissioner in Western Province. I was the Provincial Planning Officer for the same province and Johnston Kavuludi did a very wonderful job in reforming education in Western Province. I also hope that he will transfer his skills to this very important Commission.

One of my friends spoke about technology; that police reforms need to include technology. More importantly, I think that police reforms require the reform of the attitudes of the police towards people. This is because up to now, some policemen still have the colonial attitude and *wananchi* fear them. There is fear in giving them reports and co-operating with the police. I am sure that the change of mentality is not only from the police side, but our people will have to trust the police so that they can be effective in performing their duties.

Mr. Temporary Deputy Speaker, Sir, as long as people still regard the police as a fearful and forceful force, which is not meant to serve the civil society, but to threaten them and extort money from them, the police reforms shall not be completed. Even if you give them equipment, their mentality much change and be friendly to people.

**Mr. Kathuri:** Mr. Temporary Deputy Speaker, Sir, I also rise to support this Motion.

Mr. Temporary Deputy Speaker, Sir, from the outset, I would like to say that I would expect a smooth transition when the new team gets into office. This is because some of the officers who are there may have a lot of information, which will be very vital, more so when we are headed to the elections.

Mr. Temporary Deputy Speaker, Sir, while pleading with the in-coming officials to handle the transitional matters very carefully, it is also important for me to send this message very strongly; that the police force requires modernization of equipment. There is no reason why this new team should not target that area. An example is the fingerprints section. Why should we wait for a certificate of good conduct to be processed for a week or two, and yet one is required

to attend an interview? We need modernization. Why should the various police divisions have no fuel for the vehicles to be used in patrolling the areas?

We need this team to get in and ensure that all items meant for specific purposes like housing are clear. We do not want to mix up and deny funds specifically meant for support of various police departments.

Mr. Temporary Deputy Speaker, Sir, I also want to make it very clear that any police officer can serve in any department of police force within this country. Currently, we find some officers working in specific departments within police force for a long time. Let them be circulated in every other section of the force so that they can give each other some complimentary support and ensure that---

**The Temporary Deputy Speaker** (M. Imanyara): Your time is up!

**Mr. Chanzu:** Mr. Temporary Deputy Speaker, Sir, thank you for giving me the opportunity to support very quickly. First of all, I would like to say the process of sourcing or recruiting police officers is one of the best because it cuts across the whole country. We have been able to maintain professionalism and competence in our force. I just want to add that Mr. Kavuludi apart from being a distinguished Provincial Director of Education, he has also worked as the Commissioner of Labour in the Ministry of Labour. With his appointment to this Commission, we will raise the level and standards of the performance in the police force. His team will make sure that we get the most qualified and highly talented people to serve in police force. If they are able to look into the welfare of the police, I think the police force will improve in their service delivery to the people of Kenya.

Therefore, I would like just like my colleagues did, urge the two principals to move with speed and ensure these names are gazetted so that they can start working with immediate effect.

With those few remarks, I beg to support.

**Mr. Yinda:** Mr. Temporary Deputy Speaker, Sir, I would like to also lend my voice to support the list of the commissioners. I think the names were long overdue. The police are an unfairly condemned lot and yet, they work under very difficult conditions. It is my hope that this Commission will move with speed to give us commendable police force that we can depend on in this country. The fear in the police is more of a misconception because people in Kenya have been brought in a situation where even following authority is a problem, so anybody who has authority has to be disobeyed. If we allow the police after these reforms to do their job and we also do ours, this country will move in the right direction. The police also need to be looked in terms of their welfare, salaries, housing---

**The Assistant Minister, Ministry of State for Provincial Administration and Internal Security** (Mr. Khang'ati): On a point of order, Mr. Temporary Deputy Speaker, Sir.

**The Temporary Deputy Speaker** (M. Imanyara): What is it, Mr. Khang'ati?

**The Assistant Minister, Ministry of State for Provincial Administration and Internal Security** (Mr. Khang'ati): Mr. Temporary Deputy Speaker, Sir, I was not on a point of order. I was just timing so that I could make my contributions because I can sense---

**The Temporary Deputy Speaker** (M. Imanyara): Order! You have pressed the wrong button.

**Mr. Yinda:** Mr. Temporary Deputy Speaker, Sir, as I was saying, besides just reforming the police and getting men and women who will serve this country, it is also our duty to ensure that the police are well paid and well looked after in the terms of proper housing.

With those few remarks, I beg to support.



**Mr. Yakub:** Mr. Temporary Deputy Speaker, Sir, I rise to support the list that has just been tabled before us. We hope that through this National Police Service Commission (NPSC), the police will change their style of working. Right now in Mombasa County, particularly in Mvita, Kisauni, Likoni and Changamwe constituencies, we have been having daylight robberies. Thugs are stealing from our homes and business premises. It is high time we initiated the police reforms. This is the only way we can deal with incidents of insecurity in these constituencies.

We should strive to increase the number of police officers and provide them with means of transport. We do not want to hear that they are unable to fuel their vehicles.

With those few remarks, I beg to support.

**Mr. C. Kilonzo:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Judging by the contributions by hon. Members which are basically repetitive, could I ask the Chair to call upon the Mover to respond?

**The Temporary Deputy Speaker** (Mr. Imanyara): Indeed, but let me allow Mr. Elmi to make his contribution. We are really repeating ourselves now.

**The Minister of State for Development of Northern Kenya and other Arid Lands** (Mr. Elmi): Mr. Temporary Deputy Speaker, Sir, thank you for giving me an opportunity. I thank the Committee for bringing these names. I think the judicial reforms will not be complete without the reforms of the police. Recently, we have had major security problems in this country. I am happy that today, we will pass the NPSC, so that we will have an Inspector-General in due course. We want to stop this amorphous thing of blaming the Government for failing to do this and that. We hope to have a reformed police force that can serve the people of Kenya without discrimination.

Thank you.

**The Minister for Gender, Children and Social Development** (Dr. Shaban): Asante sana, Bw. Naibu Spika wa Muda. Nasimama hapa kuunga mkono Hoja hii shingo upande. Ukiangalia orodha hii ya majina, utaona ya kwamba Bw. Murshid aliomba kuwa mwenyekiti, lakini hakupendekezwa kama mwenyekiti bali kama komishina. Je, ni kwa nini jina la Jean Kamau ambaye pia ni mwanasheria halikuteuliwa kama mojawapo wa makomishina katika orodha hii? Ni kwa nini mhe. Rais na mhe. Waziri Mkuu hawakuona haja ya kulijumuisha jina lake katika orodha hii? Haya ni makosa na maonevu kwa akina mama. Halikuwa jambo la busara kufungia nje la Jean Kamau kwa sababu yeye angefanya kazi kama wanaume ambao wamependekezwa katika orodha hii. Angalipatiwa nafasi ya kuhudumu kama komishina. Je, aliachwa nje kwa sababu gani?

Haya ni baadhi ya maswali yanayonifanya niunge mkono Hoja hii shingo upande na nikiwa na roho nzito.

**The Temporary Deputy Speaker** (Mr. Imanyara): Hon. Members, I will do what Mr. C. Kilonzo requested. I will put the Question that the Mover be now called upon to reply.

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

**Mr. Kapondi:** Mr. Temporary Deputy Speaker, Sir, I want to take this opportunity to thank hon. Members for giving overwhelming support to this Motion. I would also like to urge hon. Members that it is not enough to just give verbal support. Reforms need money. This House needs to give adequate funds to the police for the reform process. I say so, because as of now, what has been allocated to the Independent Policing Oversight Authority (IOPA) and the NPSC

to put in place structures is a mere Kshs300 million. This is completely inadequate for the reform process to start at a pace we are all agitating for. So, it is critical because just like hon. Members, what the police do in this country is hardly appreciated. We have to understand from that perspective that this one institution that does not require only lip service, but requires serious and thorough support.

With that, once again, I want to thank hon. Members for the support for this Motion. It is now in the court of His Excellency the President to do the necessary so that the reform process proceeds.

*(Question put and agreed to)*

**The Temporary Deputy Speaker** (Mr. Imanyara): Before I request the next Order to be read, I just want to get your concurrence that the business falling under Order No.8, if we start it now, we will have to go beyond 6.30 p.m. to complete it. So, if we go to that Order then I will exercise my discretion under the Standing Orders and rule that business under that Order will continue until it is completed. This may go slightly beyond 6.30 p.m. If not that we can reorganize the Order Paper and do other business.

So, Leader of Government Business, what would you propose?

**The Minister for Transport** (Mr. Kimunya): Mr. Temporary Deputy Speaker, Sir, I think your ruling is wise. I would agree that we finish business under Order No.8. In fact, I would wish that we go all the way to 9.00 a.m.; given the time we have we can do Order No.8.

**The Temporary Deputy Speaker** (Mr. Imanyara): I will now direct that the next Order will continue until it is finished, even if it goes beyond 6.30 p.m.

Call the next Order.

## COMMITTEE OF THE WHOLE HOUSE

*(Order for Committee read)*

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

### IN THE COMMITTEE

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

## THE NATIONAL TRANSPORT & SAFETY (AUTHORITY) BILL

**The Temporary Deputy Chairman** (Mr. Ethuro): Hon. Members, we are in the Committee of the Whole House. We will consider three Bills. The first one is the National Transport and Safety (Authority) Bill, Bill No.37 of 2012.

### *Clause 2*

**Mr. Were:** Mr. Temporary Deputy Chairman, Sir, I beg to move:

THAT, clause 2 be amended in the definition of the term “levy” by deleting the expression “section 45” and substituting therefor the expression “section 46”.

Mr. Temporary Deputy Chairman, Sir, this is basically to indicate the right Section dealing with levies.

*(Question of the amendment proposed)*

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

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

*(Clause 2 as amended agreed to)*

*(Clauses 3, 4, and 5 agreed to)*

#### *Clause 6*

**Mr. Were:** Mr. Temporary Deputy Chairman, Sir, I beg to move:

THAT, clause 6(1) be amended—

(a) in paragraph (f), by deleting the word “six” and substituting therefor the word “four”;

(b) by inserting the following new paragraph immediately after paragraph (f)—

“(fa) two persons appointed by the Cabinet Secretary to represent groups with special interests in the transportation industry”.

Mr. Temporary Deputy Chairman, Sir, this is to split the six Board members who are to be appointed by the Cabinet Secretary, so that we have two who must come from the transport sector.

*(Question of the amendment proposed)*

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

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

*(Clause 6 as amended agreed to)*

*(Clauses 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19  
20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32,  
33, 34, 35, 36, 37, 38, and 39 agreed to)*

Clause 40

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

THAT, clause 40 be amended by—

(a) in subclause (1), by—

(i) deleting the words “three hundred” appearing immediately after the words “not exceeding” and substituting therefor the words “one hundred”;

(ii) deleting the words “or to both”;

(b) in subclause (2), by deleting the words “or to both”.

Mr. Temporary Deputy Chairman, Sir, this is just to change the penalty of Kshs300,000 to Kshs100,000 with regard to forgeries.

*(Question of the amendment proposed)*

**Mr. Shakeel:** Mr. Temporary Deputy Chairman, Sir, I wish to oppose the amendment because it seeks to reduce the maximum penalty. In effect, you are now encouraging people to make fraudulent licences because the maximum they can ever be fined is Kshs100,000. We are talking about forgery of licences and I see no reason why they should not be not exceeding Kshs300,000, and not exceeding three years as stated in the Bill.

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

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

*(Clause 40 as amended agreed to)*

Clause 41

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

THAT, clause 41 be amended by—

(a) deleting the words “five hundred” and substituting therefor the words “one hundred”;

(b) by deleting the words “or to both”.

*(Question of the amendment proposed)*

**Mr. Shakeel:** Mr. Temporary Deputy Chairman, Sir, I oppose on the basis that impunity is being encouraged. I think the fine should be prohibitive to stop people from committing those crimes. I am sorry to say that the House is allowing this to happen. We are actually encouraging impunity.

**The Minister for Transport** (Mr. Kimunya): Mr. Temporary Deputy Chairman, Sir, I actually support the Committee. We negotiated all these things. We took guidance on this from the contributions that the Members made on the Floor of this House to ask us that fines, much as they should be punitive, should also be affordable to the millions of Kenyans who have vehicles

and who get caught up in this situation. So, Kshs100,000 was agreed to harmonize with all the other penalties within the other various Acts. Let us just agree that a penalty of Kshs100,000 is as painful as a penalty of Kshs300,000. It is not about whether the people can afford or not and whether it is little or not, but it is a punishment.

**The Temporary Deputy Chairman** (Mr. Ethuro): Hon. Kimunya, this is five hundred versus one hundred.

**Mr. C. Onyancha:** Mr. Temporary Deputy Chairman, Sir, I rise to oppose the amendment. I propose that we go by the original proposal because as much as five hundred may not be a lot for some people, it is a lot for others and it will be a deterrent.

I oppose.

**Mrs. Odhiambo-Mabona:** Mr. Temporary Deputy Chairman, Sir, based on the argument that the Minister has given, I am not persuaded. Fines are not meant to be a shopping spree where you go to a supermarket and say that you can afford or you cannot afford. It is meant to be punitive. If you want to discourage the culture of impunity in this country, we cannot impose fines which you can borrow from neighbours and tell them to conduct a harambee to help you.

I oppose.

**The Assistant Minister, Ministry of State for Defence** (Mr. Musila): Mr. Temporary Deputy Chairman, Sir, I want to persuade my colleagues to appreciate that a fine of Kshs100,000 is sufficient for most of the road users, for example, the drivers. If you insist on the Kshs300,000, you will fill the jails with people simply because they are unable to raise the fines.

**Mr. Shakeel:** Mr. Temporary Deputy Chairman, Sir, the Assistant Minister does not understand. The provision is that it is not exceeding a figure and the court can decide less. So, please, do not say that it is a maximum of Kshs500,000. It is not exceeding and it could be Kshs1.

**The Assistant Minister, Ministry of State for Defence** (Mr. Musila): Mr. Temporary Deputy Chairman, Sir, I appreciate the information given, but I still maintain that Kshs100,000 is punitive enough. If it exceeds, we will have a lot of people who will be unable to pay this fine and the option will be a jail term. Therefore, there will be too many people in our jails.

So, I support the amendment.

**The Minister for Finance** (Mr. Githae): Mr. Temporary Deputy Chairman, Sir, I stand to support this amendment. The Kshs100,000 to 90 per cent of our drivers in Kenya is a lot of money. This is for merely contravening the conditions of the license. The Kshs100,000 may appear to be little to my friend here, hon. Shakeel, but to the ordinary driver, it is a lot of money. In fact, in terms of the argument hon. Shakeel has used, if we wanted to penalize, then we should copy the Norway example, where it is based on your pay slip for the same offence. If you are a millionaire, you are fined according to that.

**The Temporary Deputy Chairman** (Mr. Ethuro): Order, hon. Githae! Speak to the amendment and it is between Kshs500,000 and Kshs100,000 and not a Norwegian example.

**The Minister for Finance** (Mr. Githae): Mr. Temporary Deputy Chairman, Sir, I am just trying to educate and give more information. The Kshs100,000 is painful. It is punitive enough and there is no impunity here. We do not want to crowd our jails with people who cannot afford the fine.

**The Temporary Deputy Chairman** (Mr. Ethuro): You have made your point. You are now being repetitive like hon. Musila.

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

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

*(Clause 41 as amended agreed to)*

*Clause 42*

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

THAT, Clause 42(2) be amended by—

(a) deleting the words “two thousand” and “five thousand” and substituting therefor the words “five thousand” and “twenty thousand” respectively;

(b) by deleting the words “or to both”.

You will realize that we have increased the payment from what was proposed in the Bill.

*(Question of the amendment proposed)*

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

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

*(Clause 42 as amended agreed to)*

*(Clause 43 agreed to)*

*Clause 44*

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

THAT, Clause 44(4) be amended by—

(a) deleting the words “three hundred” and substituting therefor the words “one hundred”;

(b) by deleting the words “or to both such fine and imprisonment”.

*(Question of the amendment proposed)*

**Mr. Shakeel:** Mr. Temporary Deputy Chairman, Sir, I oppose the amendment for the same reason that the fine must be punitive. It must be a deterrent.

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

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

*(Clause 44 as amended agreed to)*

*(Clauses 45, 46, 47, 48, 49, 50 and 51 agreed to)*

*Clause 52*

**Mr. Were:** Mr. Temporary Deputy Chairman, Sir, I beg to move:-  
THAT, Clause 52 be amended in Sub-clause (1), by deleting the word “Commission” and substituting therefor the word “Authority”.

This is just a slight amendment from Commission to Authority.

*(Question of the amendment proposed)*

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

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

*(Clause 52 as amended agreed to)*

*Clause 53*

**Mr. Were:** Mr. Temporary Deputy Chairman, Sir, I beg to move:-  
THAT, Clause 53(1) be amended by deleting the words “or to both”.

*(Question of the amendment proposed)*

**Mr. Shakeel:** Mr. Temporary Deputy Chairman, Sir, I wish to oppose. Once again, it is a deterrent. It is meant to be punitive. We are not here to serve the pockets of the guys who are breaking the law. So, I oppose.

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

*(Clause 53 as amended agreed to)*

*(Clause 54 agreed to)*

**The Temporary Deputy Chairman** (Mr. Ethuro): Minister you need to confirm. According to the Bill, you do not have clause 55. It is from clause 54 to 56. I am advised then it means clause 56 becomes 55 and the rest follows. Alternatively, we will just forget clause 55 and just proceed to clause 56.

**The Minister for Transport** (Mr. Kimunya): Mr. Temporary Deputy Chairman, Sir, we can confirm that the Bill does not have Clause 55 for the record.

*(Clauses 56, 57, 58, 59, 60, 61,  
62 and 63 agreed to)*

*First Schedule*

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

THAT, the First Schedule be amended by deleting the expression “Cap. 406” and substituting therefor the expression “Cap. 403”

That is just because in the Bill, it is Traffic Act, Cap.406 instead of 403.

*(Question of the amendment proposed)*

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

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

*(First Schedule as amended agreed to)*

*Second Schedule*

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

THAT, the Second Schedule be amended in paragraph 1—

(a) by deleting subparagraph (1) and substituting therefor the following new subparagraph—

“(1) The Board shall meet at most twelve times in every financial year and not more than three months shall elapse between the date of one meeting and the date of the next meeting.”

(b) by deleting the word “Commission” in subparagraph (7) and substituting therefor the word “Board”.

This one is limiting the maximum number of Board meetings.

*Question of the amendment proposed)*

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

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

*(Second Schedule as amended agreed to)*

*(Third Schedule agreed to)*



*(Title agreed to)*

*(Clause 1 agreed to)*

**The Minister for Transport** (Mr. Kimunya): Mr. Temporary Deputy Chairman, Sir, I beg to move that the Committee doth report to the House its consideration of the National Transport and Safety (Authority) Bill, Bill No.37 of 2012 and its approval thereof with amendments.

**The Minister for Finance** (Mr. Githae): Seconded.

*(Question proposed)*

*(Question put and agreed to)*

**The Temporary Deputy Chairman** (Mr. Ethuro): Hon. Members, you know we have more Bills to consider. We will move to the next one, which is the Traffic (Amendment) Bill (Bill No.8 of 2012).

THE TRAFFIC (AMENDMENT) BILL,  
BILL NO.8 OF 2012

*Clause 2*

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

THAT clause 2 be deleted.

This one is after consultation with the Minister and the Member who brought in the Bill.

*(Question of the amendment proposed)*

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

*(Clause 2 deleted)*

*(Clause 3 agreed to)*

*Clause 4*

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

THAT, Clause 4 be deleted.

This is because it is covered in the next Bill.

*(Question of the amendment proposed)*

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

*(Clause 4 deleted)*

*Clause 5*

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

THAT, Clause 5 be deleted.

This is also because it is covered in the next Bill.

*(Question of the amendment proposed)*

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

*(Clause 5 deleted)*

*Clause 6*

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

THAT, Clause 6 be deleted.

This is because this provision is covered in the next Bill.

*(Question of the amendment proposed)*

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

*(Clause 6 deleted)*

*Clause 7*

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

THAT, Clause 7 be deleted.

Mr. Temporary Deputy Chairman, Sir, this is covered in the next Bill. However, what was appearing in hon. Jakoyo's Bill was that if you cause death by dangerous driving, you will be sentenced to life imprisonment. We said that is too harsh.

*(Question of the amendment proposed)*

**Mr. Shakeel:** Mr. Temporary Deputy Chairman, Sir, I need to be on record. I wish to oppose that because if somebody kills somebody else, he should pay. I have noted that every single clause in this Bill is being deleted. So, why are we wasting our time on this thing? There is no clause that you are not deleting except clause 11. So, you will have a two-clause Bill.

**The Temporary Deputy Chairman (Mr. Ethuro):** Order, hon. Shakeel. Clause 3 was not deleted.

**Mr. Shakeel:** And which other one? That is it.

**The Temporary Deputy Chairman (Mr. Ethuro):** But you said every clause. I have just proved to you that there is one. So, I rest my case.

**Mrs. Odhiambo-Mabona:** Mr. Temporary Deputy Chairman, Sir, I also want to go on record. If you look at the offence that is being caused---

**The Temporary Deputy Chairman (Mr. Ethuro):** Hon. Jakoyo, you are on a point of order.

**Mr. Midiwo:** Mr. Temporary Deputy Chairman, Sir, I just want to clarify to Members that everything being presented here has been negotiated. Hon. Shakeel's worries are taken care of in the Government Bill. So, do not be too harsh on the Minister because he actually left it to us to negotiate.

**The Temporary Deputy Chairman (Mr. Ethuro):** Order, hon. Jakoyo! Hon. Shakeel has a right to be harsh on the Minister until such an explanation is given.

Proceed, hon. Mrs. Millie Odhiambo because, apparently, hon. Shakeel Shabbir was not part of the negotiating team.

**Mrs. Odhiambo-Mabona:** Mr. Temporary Deputy Chairman, Sir, even if I had been part of that negotiating team, I would still have opposed that. I do not mind being a lone voice. If you look at the offence, you will find that it is causing death by "dangerous driving" and not just "driving."

"Dangerous driving" means that you find a person driving like a mad person on our roads. You cause death by dangerous driving and we become sympathetic? Really, if we had allowed the death sentence, that is what you should get although I do not support it. The life sentence would be the most lenient.

So, I oppose.

**Mr. Mututho:** Mr. Temporary Deputy Chairman, Sir, I think it will be good we go by the negotiated position because truly, most of us have driven for millions of kilometers. It may be a freak of a moment and then it ends up being dangerous driving because your car swerved and caused death on the side. I think it is important that we look at the circumstances plus the penalties imposed in the Penal Code for people who kill. That one is already there. If somebody wanted to kill Mututho on the highway and God forbid, that can be dealt with as such if it is assassination or whatever it is. I think we should go by the Minister's proposal.

**Mr. Onyancha:** Mr. Temporary Deputy Chairman, Sir, I would like to agree with the committee's recommendation for the simple reason that even Kenya is soon moving away from the death penalty. Since we are moving away from the death penalty, the next best thing will be life imprisonment. If one is being charged in a case of pre-meditated murder, you cannot equate that to an accident, whether it is dangerous driving or not.

So, I support the committee's amendment.

**The Minister for Transport (Mr. Kimunya):** Mr. Temporary Deputy Chairman, Sir, I was going to say exactly what Mr. Onyancha has said and basically to explain here that murder is already a crime and there is pre-meditation. But this is an accident. If somebody drives towards

Mrs. Odhiambo intending to kill her, that is murder. But that is not what we are anticipating with the Traffic Act. So, for clarity, we did discuss all these things, agreed and took guidance from the contributions that were made on the Floor of this House by hon. Members who actually said let us do it in this way. I want to just confirm that all this is something that we sat down and agreed upon with the stakeholders. What we are proposing is not lenient. Remember we are talking of accidents. Each one of you could well find themselves in this situation.

Let us not just look at it as we are legislating for Kenyans out there; it includes ourselves, everyone who gets behind a vehicle to drive. Nobody drives to cause an accident. Accidents occur because somebody has jumped on the road, because something has happened. I think those are the things we want to distinguish between, people who deliberately want to---

**Mrs. Odhiambo-Mabona:** On a point of order, Mr. Temporary Deputy Chairman, Sir. Is the hon. Minister in order to mislead this House? In law, every word has value. The moment you say “dangerous driving”--- If you just say “accidental driving” that is a different thing. But is he in order to mislead the House by misquoting the law and trying to teach me the law when I am the lawyer? Is he in order?

**The Minister for Transport** (Mr. Kimunya): Mr. Temporary Deputy Speaker, Sir, at least I know *mens rea*. We did enough law in our business to appreciate what is good and what is not good for the public out there. Remember we are legislating for the benefit of society. I think the guidance we have taken at the time we spent with the Committee and with the mover of this Bill was that this is the best way to go.

**The Temporary Deputy Chairman** (Mr. Ethuro): Hon. Members, I want to bring to your attention the earlier ruling by the Speaker according to Standing Order No.20(2). I just want to read it out for avoidance of doubt since it is past 6.30 p.m. it states as follows:-

“Unless for the convenience of the House, the Speaker or the chairperson as the case may be, directs earlier or later interruption of business at 6.30 p.m. or if it is an Allotted Day at 7.00 p.m. on the occasion of an afternoon sitting and at 12.30 p.m. on the occasion of morning sitting, the Speaker or the Chairperson of committee’s shall interrupt the business then under consideration. If the House is in committee, the chairperson shall leave the Chair and report progress and ask leave to sit again.”

What we did was basically to suspend that until we finish this business.

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

*(Clause 7 as amended agreed to)*

*(Clause 8 agreed to)*

*Clause 9*

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

THAT, Clause 9 be amended—

(a) in the proposed new subsection (5A)(a), by deleting the words “up to ten” and substituting therefor the words “more than twenty”;

(b) in the proposed new subsection (5B), by deleting the words “up to” appearing immediately before the words “twenty kilometres” and substituting therefor the words “more than”.

This one is regarding punishment when you exceed the speed limit and you are just trying to maybe improve the languages. Rather than saying if you are going to go beyond let us say a speed limit of 50 kilometres per hour, we do not say up to 10 kilometres; we say more than 10 kilometres. It was just a change of wording.

*(Question of the amendment proposed)*

**Mr. Shakeel:** Mr. Temporary Deputy Chairman, Sir, before I oppose this amendment I want to be absolutely sure that the reason given by the mover has the right aim. I want to just have a clarification on this one. I do not know whether the Chair can help me on this one. They are saying up to 10,000, substituting the word more than 20. So, is he suggesting that it is going to be not more than 10 or is he saying it will not be more than 20? What is he trying to say?

**Mr. Were:** Mr. Temporary Deputy Chairman, Sir, for instance, (a) says “if the violation of the limit is up to 10 KPH hour”. So, what we are saying is that if the speed limit is 50 KPH, for example, if the violation is by more than 20 KPH, then that is a crime. So, by “more than”, we mean speed above the recommended speed limit.

**The Temporary Deputy Chairman** (Mr. Ethuro): Hon. Shakeel, if you had started looking before the “punishment” you should have seen that Section 5A(a) talks about violation of speed limits. So, (a) specifies it and (b) qualifies it more, in terms of being repeated. So, this amendment is basically changing the speed violation limit from 10 KPH to 20 KPH and just making the language neater by using the words “more than”, instead of “up to”. So, it is just a matter of grammar, hon. Shakeel.

**Mr. Shakeel:** Mr. Temporary Deputy Speaker, Sir, in that case, could we then go to proposed Section 5A(b)? Is that one not going to be amended? The fine is remaining. In the same terms, I object because, in this case, it is the other way round. It says “a fine not less than Kshs20,000 or both”. I would suggest a fine not exceeding a certain figure. So, we are clearly putting “not less than Kshs20,000”.

I would like the Chair of the Committee to help me. If we amend Clauses 9(a) and (b), we are leaving Sub Section (5B) as it stands; if that is the case, then I do not object.

**The Temporary Deputy Chairman** (Mr. Ethuro): Hon. Shakeel, that is the case. Sub Section 5B remains as it is. It is also referring to (1A), the initial one.

Hon. Members, I will, therefore, put the Question.

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

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

*(Clause 9 as amended agreed to)*

Clause 10

**Mr. Were:** Mr. Temporary Deputy Chairman, I beg to move:-

THAT, Clause 10 of the Bill be amended in the proposed new subsection (1A) by inserting the words “and in at least two newspapers with national circulation” immediately after the word “Gazette”.

This was basically that when a road is to be closed, hon. Midiwo’s Bill was proposing that the Inspector-General gives a notice of seven days in a gazette notice. But we have added there “at last in two newspapers with national circulation” so that it is not only the *Kenya Gazette*.

*(Question of the amendment proposed)*

**Mr. Njuguna:** Mr. Temporary Deputy Chairman, I think that the Government Paper – the *Kenya Gazette* is adequate . There would be no reason for spending money on other publications. I oppose.

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

*(Clause 10 as amended agreed to)*

*(Clause 11 agreed to)*

#### *Clause 12*

**Mr. Midiwo:** Mr. Temporary Deputy Chairman, Sir, I wish to add immediately after (5) a new Clause 5(a) and it is simple. All we are trying to do is to make sure that people who rent out those motorcycles have the responsibility to buy insurance. They cannot lease them out to drivers without insurance.

**The Temporary Deputy Chairman** (Mr. Ethuro): Did you read the amendment?

**Mr. Midiwo:** No, Mr. Temporary Deputy Chairman, Sir.

**The Temporary Deputy Chairman** (Mr. Ethuro): I think you need to read it because it is not on the Order Paper.

**Mr. Midiwo:** Okay. Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, a new Sub-clause 5(a) to come immediately after Sub-clause 5 and it says: “A registered owner of a motorcycle shall ensure that any person who rides the motorcycle has a valid driving licence issued in accordance with the provisions of the Act.”

*(Question of the amendment proposed)*

**Mr. Shakeel:** Mr. Temporary Deputy Chairman, I have a further proposed amendment. I do not think it should only be limited just to the motorcycles. I think it should be motorcycles and any other public vehicle. Hon. Midiwo’s amendment restricts it to motorcycles.

**The Temporary Deputy Chairman** (Mr. Ethuro): So, you are opposing it?

**Mr. Shakeel:** No, Mr. Temporary Deputy Chairman, Sir. I am seeking to add to it and saying that not only motorcycles, but any other public vehicle including motor vehicles, buses, lorries and anything that is public.

**The Temporary Deputy Chairman** (Mr. Ethuro): Order, Mr. Shakeel. That is a contribution. If you wanted to amend, you know what to do and you have not done it.

**Mr. Shakeel:** Mr. Temporary Deputy Chairman, Sir, this amendment has only come now. If we did not have the opportunity of reading it earlier, you must give us the opportunity to present another view.

**The Temporary Deputy Chairman** (Mr. Ethuro): Rules of natural justice dictate that you treat people fairly; even after that you do not just put in a notice. You should do something beyond that. So, I will allow you to express your intention in the format that is desirable as I allow Mr. Were to proceed with his amendment.

**Mr. Were:** Mr. Temporary Deputy Speaker, Sir, I just wanted to inform Mr. Shakeel that the new section that is being introduced is only talking about motor cycles. So, within that section you cannot again introduce Public Service Vehicles (PSV) and the rest.

**The Minister for Transport** (Mr. Kimunya): Mr. Temporary Deputy Chairman, Sir, I just wanted to confirm to Mr. Shakeel that, indeed, the requirement for licensing to ride motor vehicles is already in the Act. So, we do not need to put it together with motor cycles. It is already there. Insurance is already there, and that is why people take insurance as mandatory and you have to display it on the screen. I need to check whether Mr. Shakeel has actually displayed it on the screen of his car. That is what the law requires. That is already covered and we do not need to add it here.

**The Temporary Deputy Chairman** (Mr. Ethuro): I hope the issue is now clear to Mr. Shakeel.

**Mr. Shakeel:** Mr. Temporary Deputy Chairman, Sir, the more this issue is clarified the more I seem to be a little bit confused; it is our duty to try and clarify these things. My question is; does that mean that in the same spirit as is in the motor cycles if somebody rents out a *matatu* to another person to run it, the responsibility of insuring that *matatu* must be by the owner and not the person who has rented it? Could you show me where that is covered?

**The Temporary Deputy Chairman** (Mr. Ethuro): Mr. Shakeel, an amendment is specific. So, stick to the amendment. Mr. Were clarified that the section deals with motor cycles; the Minister for Transport has also emphasized the same point. It is not dealing with lorries, *matatus* or tractors.

**Mr. Shakeel:** This is for the interest of the public. If the vehicle is insured by the owner, and it is driven by another person, the insurance company can disown the insurance because it was not--- I think we need to clarify that. If that has been clarified then I rest my case.

**The Temporary Deputy Speaker** (Mr. Ethuro): Mr. Githae, can you clarify the issue in one minute without introducing extraneous matters?

**The Minister for Finance** (Mr. Githae): Mr. Temporary Deputy Speaker, Sir. I will not. I just want to confirm to my friend, Mr. Shakeel, that under the third party compulsory insurance, the owner of the vehicle is required by the law to ensure the vehicle. If it is a PSV, then any other authorized driver is also covered. So, that takes care of his worry.

**Mr. C. Onyancha:** Mr. Temporary Deputy Chairman, Sir, I want to add on the issue of insurance. Even if the driver is not authorized, the insurance is still in force for the simple reason that if you are not authorized, or if you steal it, the vehicle is still covered. So, Mr. Shakeel is covered in all cases.

**The Temporary Deputy Chairman** (Mr. Ethuro): Therefore, I wish to put the Question, having satisfied myself that Mr. Shakeel is equally satisfied.

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

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

**Mr. Were:** Mr. Temporary Deputy Chairman, Sir, I beg to move:-  
THAT, Clause 12 be amended in the proposed new section 103C(3) by—  
(a) deleting the words “ten years” and “five hundred thousand” and substituting therefor the words “three years” and one hundred thousand” respectively;  
(b) deleting the words “or to both”.

Mr. Temporary Deputy Chairman, Sir, this is regarding penalties. We wanted to standardize it with what we have done previously.

*(Question of the further amendment proposed)*

**Mr. Shakeel:** Mr. Temporary Deputy Chairman, Sir, I want to be on record as objecting. This is---

**The Temporary Deputy Chairman** (Mr. Ethuro): Order, hon. Shakeel! Just register “as previously” because the arguments are the same.

**Mr. Shakeel:** As previously, Mr. Temporary Deputy Chairman, Sir.

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

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

*(Clause 12 as amended agreed to)*

### *Clause 13*

**Mr. Were:** Mr. Temporary Deputy Speaker, Sir, I beg to move:-  
THAT, Clause 13 be deleted.

Mr. Temporary Deputy Speaker, Sir, this is already covered in the coming Bill.

*(Question of the amendment proposed)*

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



*(Clause 13 deleted)*

*Clause 14*

**Mr. Were:** Mr. Temporary Deputy Chairman, Sir, I beg to move:-  
THAT, Clause 14 be amended by deleting the proposed new section 117B.

*(Question of the amendment proposed)*

**Mr. Midiwo:** On a point of order, Mr. Temporary Deputy Chairman, Sir. What the Committee is proposing is a complete deletion and I am proposing a further amendment to the Clause. I am wondering what will be there for me to amend if it is deleted.

**The Temporary Deputy Chairman** (Mr. Ethuro): Hon. Midiwo, you are a veteran of the House. By virtue of longevity you appreciate certain rules, and I know you do. The practice and procedure is that whenever there is an amendment to delete, we start with it. Why improve and then it is deleted? So, if it is deleted, let it be deleted and if it is retained, then you will improve. That is the argument and that has been the practice. I will not change it today because this House has been “around”. So, let us dispose of hon. Were’s amendment.

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

At least, you got it right. You should defeat it so that it is retained.  
Yes, Hon. Midiwo!

**Mr. Midiwo:** Mr. Temporary Deputy Chairman, Sir, I beg to move:-  
THAT, Clause 14 be amended by inserting the following words-

(2) in each division, the Officer Commanding Police Division shall be responsible for traffic matters within the division.

Mr. Temporary Deputy Chairman, Sir, I want to plead with the House, because this was a fairly controversial matter during the debate, and that is why I sought to clarify it. In order to transform the Traffic Department of the Police, this amendment is the most important we would have done this evening.

My intention is that the biggest problem is now the issue of motor cycles and we have no way of policing them in the villages. Where I come from, every division has a hospital for people who have been maimed by motorbikes. All we are trying to do is to give the issue of traffic policing to be an issue that it taken care of by every police officer. We would want the incoming police Commission to embed it in their training.

Secondly, Mr. Temporary Deputy Chairman, Sir, just so that I am brief, the top brass of the police all concurred with me because they say the OCPD whom we are trying to help take responsibility for traffic matters, right now, has no role in traffic issues even under their jurisdiction. That is a big anomaly. The traffic commandant in a police base reports to the provincial traffic commandant who in turn reports to the National Traffic Commandant who only reports to the Commissioner of Police. So, if you walked into Siaya Police Station today and got the OCPD about a traffic matter, they will tell you: “I will talk to the base commander.” So, it is a big thing. When Maj. Ali became the Commissioner of Police, he did that. He made the OCPDs responsible for traffic. For a while, we almost curbed the menace of traffic accidents. We

are not abolishing it like that, but we are saying that it creates room for all policemen to be in charge of traffic matters.

Another thing which they have said is that if you are a female and you want to go to traffic, somebody must abuse you; somebody must sleep with you. It is a big menace that we must face. If you are a male and you want to stay in that traffic department, you must pay. But if you leave it, it works everywhere around the world.

We sat with the Committee and officers from the Minister's Office and they saw the point.

**The Temporary Deputy Chairman** (Mr. Ethuro): You have made your point.

**The Minister for Transport** (Mr. Kimunya): Mr. Temporary Deputy Chairman, Sir, have you proposed? If the matter has been proposed, I would beg to oppose this amendment and, perhaps, to also explain to hon. Members of the Committee that---

**The Temporary Deputy Chairman** (Mr. Ethuro): Order, Mr. Kimunya, you have said the right thing. Let us just propose, I think Mr. Midiwo took longer than normal.

*(Question of the amendment proposed)*

**The Minister for Transport** (Mr. Kimunya): Mr. Temporary Deputy Chairman, Sir, I beg to oppose this amendment and explain why. What is done and I believe the negotiated position was, first of all, we were to remove what was already provided in the Bill which read, for the benefit of hon. Members in the House that:

“For avoidance of doubt, the administrative unit of the Kenya Police known as the Traffic Department is hereby abolished. We have retained that through what we did earlier”.

What this amendment is doing is not amending that: It is saying that we basically say that we abolish the traffic department as we know it, and then move to the second level which is to say in each police division, the OCPD shall be responsible for traffic matters within the division.

So, I have two problems with this. One, having agreed in principle that the traffic department is already established and does some work and will be reorganized within the police reforms. The second level where we are now going and say let us abolish it and say who will be responsible for traffic matters in each division, we are now attempting to reform the police through the Traffic Act which is a constitutional responsibility that we are giving to the National Police Service Commission (NPSC).

I believe Kenyans said that we give police matters to an independent Police Service Commission through the Constitution. It was for them to reform themselves. So, for us to come here in the House and then tell them that this is how they will do their things, we will be actually interfering with the constitutional mandate that we gave them. That is where my worry is. On the one hand we want to reform the police, but on the other hand we want to do it ourselves. If there is a problem in terms of the OCPD whom we now give the responsibilities, who do we hold responsible? Is it the Inspector-General, the National Police Service or ourselves for having said that this is the person to do it? I can see the spirit and agree totally with the argument.

**The Temporary Deputy Chairman** (Mr. Ethuro): Except that this House has the final say on all matters, either through individual hon. Members, Committees, or line Ministries.

**The Minister for Transport** (Mr. Kimunya): Mr. Temporary Deputy Chairman, Sir, I have no problem with that. What I want to plead is that there are some things that we can do administratively. In fact, hon. Midiwo gave an example of what Major Ali had done. Let us not

put it in law and then it shall be challenged later or we will be told, “You are the ones who told us to do this; so, do not hold us responsible for failure of traffic”. It will be because we shall have said that it is the OCPD to do it rather than the OCS or somebody else. All we want to say is that there should be order on the roads. The police should sort out whatever they need to. For us, all we want is order. We should not be prescribing to them who should be responsible. That is my only concern.

I appreciate where we are coming from, but whether the prescription is what will solve the problem is what I am not sure of. I would really urge that we look at this matter in exactly the same way, and let us not prescribe in this Traffic Act who does what. This is because if they do not do it, what do we do?

**Mr. Kathuri:** Mr. Temporary Deputy Chairman, Sir, I stand to support these amendments with a number of facts. I have always stated here that I have an interest in this sector, having been a matatu operator and a national secretary-general. The Traffic Department is within the police force and it has a lot of problems. First and foremost, I would want to encourage the Minister for Transport, Mr. Kimunya, to plead with the Office of the President to transfer the traffic enforcement to his Ministry. That way, he will have a traffic department within the Ministry of Transport. As of now, there is total confusion when they do not report to anybody. The traffic police officers are autonomous. They are on their own. The base commander does not report to the OCPD. They do things arbitrarily. The officers under him are only loyal to him. They are not loyal to the OCPD.

**The Temporary Deputy Chairman (Mr. Ethuro):** Hon. Emilio Kathuri, remember we are in the Committee of the Whole House. Be brief!

**Mr. Kathuri:** Mr. Temporary Deputy Chairman, Sir, for that reason, it is only fair that we streamline the activities of the division and also move a step forward and ensure that the OCPD, while he may be having the prerogative of even transferring those who have overstayed, there is a specific section within the Police Force. Even in the rural areas where there is only the OCS and there is no traffic, the OCPD can make enforcements when it is in line with what is expected from the division.

I support.

**Mr. Yinda:** Mr. Temporary Deputy Chairman, Sir, I also wish to support the amendment for the reasons articulated by my colleague, hon. Kathuri. My point is very simple. Let the OCPD be responsible for crimes and also traffic offences within his division. At the moment, he is not. This is where we are coming from.

**Mr. Njuguna:** Mr. Temporary Deputy Chairman, Sir, a few minutes ago, we approved the formation of the Police Service Commission with a lot of confidence. Some of the fears that have been raised here like the sexual favours that have been demanded by some bad elements in the police force will be addressed by this Commission.

Therefore, I oppose and say that the amendment is not necessary. This is an issue that will be addressed satisfactory by the reformed service.

**Mr. Ogindo:** Mr. Temporary Deputy Chairman, Sir, I rise to support this amendment. The reform process is iterative. It is never a one task and we are on that reform path.

Secondly, you appreciate that in the spirit of devolution, we have said that State organs shall be devolved. We want devolved decision-making. In the rural areas, we do not have decision making in traffic matters. You also appreciate how this section of the police has become very lucrative to the advantage of a few privileged. So, it is on that account that I support this amendment. It will go a long way in reforming the police force.

I support.

**Mr. C. Onyancha:** Mr. Temporary Deputy Chairman, Sir, I also rise to support this amendment. I support what hon. Ogindo has just said. I also want to add that we want to close the loopholes rather than leave it to the whims of the Inspector General or whoever will be in charge of the police. This Traffic Department was the hierarchy, right from the village level up to the national level where they were collecting money and promoting corruption.

I support this amendment.

**Mr. Shakeel:** Mr. Temporary Deputy Chairman, Sir, I also support the amendment. It is within the rationale of seeing the Traffic Police differently. If you go to Britain, if you commit a traffic offence, a corporal on the street can still charge you. So, I feel that this special niche that was taken by the Traffic Police must be stopped. In Kisumu, many people block the main highway with trucks. They double or triple park, which cause accidents. Every time I have gone to---

**The Temporary Deputy Chairman** (Mr. Ethuro): Order, hon. Shakeel! You have made your point. We obviously know that you are the only who can come from Kisumu. There could be others, but yours is obvious.

The Minister for Transport raised the issue that if you abolish the department, then you create this other one under what. But that is not for the Chairman. Mine is to put the question. That is what I felt was the only major issue there.

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

*(Clause 14 as amended agreed to)*

*(Title agreed to)*

*(Clause 1 agreed to)*

**Mr. Midiwo:** Mr. Temporary Deputy Chairman, Sir, I beg to move that the Committee doth report to the House its consideration of The Traffic (Amendment) Bill, Bill No.8 of 2012 and its approval thereof with amendments.

*(Question proposed)*

*(Question put and agreed to)*

THE TRAFFIC AMENDMENT BILL,  
BILL NO.29 OF 2012

**The Temporary Deputy Speaker** (Mr. Ethuro): Hon. Members, we are still proceeding and the final one is the Traffic (Amendment) Bill, Bill No.29 of 2012. Minister for Transport!

*Clause 2*

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

THAT, Clause 2 be amended in the proposed new subsection (11) (b) by deleting the words “Commissioner of Police” and substituting therefor the words “Inspector-General of the Police”

That is just substituting Commissioner of Police with the Inspector-General of Police according to the new Constitution.

*(Question of the amendment proposed)*

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

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

*(Clause 2 as amended agreed to)*

*(Clauses 3, 4, 5, 6 and 7 agreed to)*

#### *Clause 8*

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

THAT, Clause 8(b) be amended by inserting the words “every three years” immediately after the word “undergo” in the proposed new subsection (6).

This one is the requirement that public service vehicle and commercial vehicle drivers undergo driving tests at every renewal of their driving license. We thought that if it is done annually, it will be cumbersome and we have amended so that it is done after every three years.

*(Question of the amendment proposed)*

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

*(Clause 8 as amended agreed to)*

*(Clauses 9, 10 and 11 agreed to)*

#### *Clause 12*

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

THAT, Clause 12 be amended by deleting the words “five hundred thousand” and “ten years” and substituting therefor the words “one hundred thousand” and “two years” respectively.

This one is relating to drunken driving and the proposal by the Minister is that the penalties be increased from ten thousand shillings to half a million and imprisonment from 18 months to ten years, which we thought is excessive because a mere fact that somebody is drunk

does not mean that he is going to cause an accident and, actually, if you were to punish them to the extent that the Minister has proposed, we thought it will be very excessive.

*(Question of the amendment proposed)*

**Mr. Shakeel:** Mr. Temporary Deputy Speaker, Sir, I object. The reason is that it is not very clear. You are saying ten thousand and eighteen months and five hundred thousand and ten years respectively. Now it is not more than those figures. It is not that that is the minimum. If we go to the amendment of Section 44 of Cap.403, it says not more than” So, when you are saying “not more than” I object to the amendment. Let the Government amendment as has been put in stay.

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

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

*(Clause 12 as amended agreed to)*

#### *Clause 13*

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

THAT, Clause 13 be amended by deleting the words “five hundred thousand” and “ten years” and substituting therefor the words “one hundred thousand” and “two years” respectively.

*(Question of the amendment proposed)*

**Mr. Shakeel:** Mr. Temporary Deputy Chairman, Sir, I oppose for the same reasons.

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

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

*(Clause 13 as amended agreed to)*

#### *Clause 14*

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

THAT, Clause 14 be amended be amended by deleting subsection (2) of the proposed new section 45A and substituting therefor the following new subsection—

“(2) A person who contravenes subsection (1) commits an offence and shall be liable—

(a) for a first conviction, to imprisonment for a term not exceeding three months, or to a fine not exceeding thirty thousand shillings; and

(b) for a second or subsequent conviction, to imprisonment for a term not exceeding six months.”

This one relates to driving on pavements. I think we have enhanced the penalties more than what had been proposed in the Minister’s Bill. This is a nuisance especially from *matatus*.

*(Question of the amendment proposed)*

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

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

*(Clause 14 as amended agreed to)*

#### *Clause 15*

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

THAT, Clause 15 be amended in the proposed new subsection (1) by—

(a) deleting the words “or both” appearing in paragraph (a);

(b) deleting the words “or to both” appearing in paragraph (b).

The only thing we have removed there are the words “or both” so that if a magistrate decides to fine you, let it be a fine and if he decides to imprison you, let it be imprisonment so that we do not have double punishment of paying a fine and serving prison term.

*(Question of the amendment proposed)*

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

*(Clause 15 as amended agreed to)*

*(Clauses 16 and 17 agreed to)*

#### *Clause 18*

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

THAT, Clause 18 be amended in the proposed new subsection (2) by—

(a) deleting the words “or to both” appearing in paragraph (a);

(a) deleting the words “or to both” appearing in paragraph (b).

This one relates to signals and signs to be obeyed. We are proposing to remove the words “or to both” so that if you have to receive a punishment, it should be one and not both.

*(Question of the amendment proposed)*

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

*(Clause 18 as amended agreed to)*

*(Clauses 19 and 20 agreed to)*

*Clause 21*

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

THAT, Clause 21 be amended by deleting the words “twenty thousand” and substituting therefor the words “ten thousand”.

This one will bring restriction to pillion riding. We have tried to reduce the fine which had been proposed to be Kshs20,000 from Kshs200 which is appearing in the Act as it is now. So, increasing the fine from Kshs200 to Kshs20,000 we thought was excessive especially for pillion drivers.

*(Question of the amendment proposed)*

**Mr. Shakeel:** Mr. Temporary Deputy Chairman, Sir, I object. There is a reason we do this. In many countries, normally, people go round with guns and attack others. In Kisumu this is being done. So, I oppose. I would suggest it remains 20,000 and not 10,000.

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

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

*(Clause 21 as amended agreed to)*

*(Clause 22 agreed to)*

*Clause 23*

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

THAT, Clause 23 be amended by deleting the words “thirty thousand” and substituting therefor the words “fifty thousand”.

This one is just regarding penalty on taking a motor vehicle without consent. The Bill proposes a fine of Kshs30, 000 but we have increased it to Kshs50, 000.

*(Question of the amendment proposed)*



**Mr. Shakeel:** Mr. Temporary Deputy Chairman, Sir, I commend it.

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

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

*(Clause 23 as amended agreed to)*

*Clause 24*

**Mr. Were:** Mr. Temporary Deputy Chairman, Sir, I beg to move:-  
THAT, Clause 24 be amended by—

- (a) renumbering the existing provision as subclause (2);
- (b) inserting the following new subclause immediately before the renumbered subclause (2)—
  - “(1) Section 66A of the principal Act is amended in subsection (1) by deleting the words “eight hours” and substituting therefor the words “twelve hours”.
- (c) in the renumbered subclause (2), by—
  - (i) deleting the words “or to both” appearing in paragraph (a);
  - (ii) deleting the words “or to both” appearing in paragraph (b).

This one is regarding the driving hours. As per the current Act it limits it to eight hours and we were proposing that we increase it to 12 hours considering that normally there is only one driver in a bus. Even if we were to have two, even in a lorry, most of the time you will find that the other one who is not driving also gets exhausted. So, we thought maybe we move from eight hours to 12 hours.

*(Question of the amendment proposed)*

**Mr. Midiwo:** Mr. Temporary Deputy Chairman, Sir, I wish to disagree with the committee. I wish to oppose. The issue of driving hours is so important that if a bus driver leaves with people from here to Migori, they will get there before eight hours. If you give them too much time there is this constant attempt especially during holidays that a driver tries to go to Kakamega, back and forth, and they are killing too many of our people, given that it is only one driver. I want to plead with the committee to withdraw that particular one please.

**Dr. Khalwale:** Mr. Temporary Deputy Chairman, Sir, I want to oppose that amendment. Human error is one of the major causes of accidents in this country. If we allow these people to drive for 12 hours we are complicating it further by adding fatigue. It is important that people do clean driving for reasonable periods of time even shorter than eight hours. They reach there and allow other people to work.

I oppose.

**Mr. Kathuri:** Mr. Temporary Deputy Chairman, Sir, I want to support this amendment and give a number of reasons. One, let us remember that technology has also changed. The machines are more maneuverable. Two, the roads are better. Three, the distances they are talking

about, if we limit the vehicle to a speed of 80 kilometres per hour, even to go to Mombasa it will take eight hours. Even if you would want a driver to drive for a maximum of eight hours, it is not practical.

You can imagine that from Nairobi to Kakamega- I do not know the number of kilometers - but a bus which leaves Busia at 8.00 in the morning it reaches Nairobi by 6.00 p.m. Why do we want to imagine that we are going to have vehicles that are over speeding? Let us be realistic.

I am pleading with my colleagues. I have been in this industry and a maximum of 12 hours is sufficient. Supposing there is a traffic jam? Suppose the road is rough? Suppose there is a diversion? We will find ourselves in a big crisis. I am talking from a point of authority. I wish they could understand the predicament these drivers go through so that at least we limit it to 12 hours. With this new technology and machines that are new, 12 hours will not be too much time. In any case, from 6.00 a.m. to 6.00 p.m. somebody is always awake. Even if that driver has a co-driver and that co-driver is also awake this will not solve the problem. I am pleading that we allow---

Take me as an authority. I am interested in keeping safe the lives of Kenyans. In any case, they are my voters. We should allow 12 hours maximum and it will cure the problem.

**The Minister for Transport** (Mr. Kimunya): Mr. Temporary Deputy Chairman, Sir, listening to hon. Members, I would also want to persuade the Chair of the Committee that we put the lives of Kenyans ahead of other considerations. Even driving for eight hours is exhaustive. If we amend this clause to provide for 12 hours, we will be encouraging people to even sack some of the drivers they have. They will be saying that they only need one driver, instead of two. I would rather we retain the eight hours. I would even have gone further to say “not so-many continuous hours”. That is the standard in other countries. If you drive a Public Service Vehicle (PSV), you are told that you cannot drive for more than so-many hours without taking a mandatory break.

So, I would like to persuade the Committee Chairman that on this particular one, that we delete the proposal of 12 hours. The amendment has several parts. The issue is mainly on parts (a) and (b) of the amendment. Part (c) of the amendment is okay. So, if he can withdraw parts (a) and (b), so that we can just vote on part (c), which would be removing double jeopardy, it will be fine. Let us not change the eight hours to 12 hours at this point. We can change it later, when Kenyans have conformed to driving norms. As of now, the number of deaths arising from road accidents is still too high.

**The Temporary Deputy Chairman** (Mr. Ethuro): Yes, hon. Ogindo.

**Mr. Ogindo:** Mr. Temporary Deputy Chairman, Sir, I want to borrow from the language of my seniors and persuade the Chairman of the Committee to withdraw this bit of the amendment. The big question here is concentration. I remember driving while I was seeing things, but I still rolled. You can remain awake while the brain is sleeping. Driving requires concentration. Doing the same thing for eight hours is, in itself, overstretching. Putting it to 12 hours is jeopardising the lives of Kenyans. Of course, this will create employment and, slightly, undermine the profits of my friend, hon. Emilio Kathuri.

Therefore, I oppose this particular bit of the amendment.

**The Temporary Deputy Chairman** (Mr. Ethuro): Yes, hon. Njuguna.

**Mr. Njuguna:** Mr. Temporary Deputy Chairman, Sir, I also rise to support the sentiments expressed by hon. Jakoyo Midiwo; that, we need to even improve the health of our drivers. All the major accidents that have occurred along the Mombasa-Nairobi Highway have

been caused by long distance trucks. If you look at the drivers, you will see that they look unhealthy, fatigued and bored. So, in order to give these drivers freedom to rest, so that they can drive with vigour and energy, limiting the number of hours to eight per day is paramount.

Therefore, I oppose this particular part of the amendment.

**The Temporary Deputy Chairman** (Mr. Ethuro): Yes, hon. Onyancha.

**Mr. C. Onyancha:** Mr. Temporary Deputy Chairman, Sir, I rise to partially support the amendment. I want to agree with the Minister regarding the number of hours, to be a maximum of eight hours. There are many reasons for this. As you said, we do not have to debate the Bill now but during the Second Reading, I came out very strongly and said that eight hours should actually be the maximum. It looks like all the accountants in this House are speaking the same language. Therefore, I want to go with them.

I oppose this particular part of the amendment.

**The Temporary Deputy Speaker** (Mr. Ethuro): We will have hon. Shakeel and then I will ask the Chair to give his final position.

**Mr. Shakeel:** Mr. Temporary Deputy Chairman, Sir, I wish to oppose the 12-hour proposal and support the eight hour proposal. The 12 hour proposal is even against the labour laws. A person cannot work for more than eight hours in a day.

Therefore, I oppose it vigorously.

**The Temporary Deputy Chairman** (Mr. Ethuro): Yes, hon. Were.

**Mr. Were:** Mr. Temporary Deputy Chairman, Sir, having listened to the sentiments of hon. Members, I would like to withdraw part (b) and retain parts (a) and (c) of the amendment.

**The Temporary Deputy Chairman** (Mr. Ethuro): Hon. Were, in part (a), you have proposed a re-numbering of the sub-clause because in part (b), you are inserting a sub-clause before the re-numbered sub-clause. So, if you are deleting part (b), which has caused the re-numbering, then part (a) of the amendment does not arise.

**Mr. Were:** Mr. Temporary Deputy Chairman, Sir, I thank you. Then I withdraw parts (a) and (b). So, we will only deal with part (c), subject to proper re-numbering.

*(Sections (a) and (b) of the proposed amendment  
were withdrawn)*

**The Temporary Deputy Chairman** (Mr. Ethuro): I will put the question on part (c) of the amendment only.

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

*(Clause 24 as amended agreed to)*

*(Clauses 25, 26, 27, 28, 29, 30 and 31 agreed to)*

*Clause 32*

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

THAT, Clause 32 be deleted and replaced with the following new clause—  
Amendment

of section 85  
of Cap. 403.

32. Section 85 of the principal Act is amended by deleting the words “one thousand” and “three months” and substituting therefore the words “one hundred thousand” and “two years” respectively.

This is Part 9 which deals with offences by drivers of machines other than motor vehicles. If you look at Section 85, it also deals with driving while drunk. So, we were proposing that the penalties that appear under this section be the same as the earlier sections that we had amended. I think those were Sections 47 and 49. So, we were saying that drunk driving whether in a vehicle other than a motor vehicle, should attract the same penalty. That is why we have standardized it. So, we are increasing them from the proposals that were in the current Bill to enhance them to the same level as we have proposed in Sections 47 and 49.

*(Question of the amendment proposed)*

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

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

*(Clause 32 as amended agreed to)*

*Clause 33*

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

THAT, Clause 33 be deleted and replaced with the following new clause—

Amendment  
of section 86 of Cap. 403.

33. Section 86 of the principal Act is amended by deleting the words “one thousand” and “three months” and substituting therefore the words “one hundred thousand” and “two years” respectively.

On this one, the reasoning is the same. It is to enhance the punishment or penalties to conform with reckless driving as it appears under Section 47.

*(Question of the amendment proposed)*

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

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

*(Clause 33 as amended agreed to)*

Clause 34

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

THAT, Clause 34 be amended by deleting the words “ten thousand” and substituting therefor the words “one hundred thousand”.

Mr. Temporary Deputy Chairman, Sir, this is the same argument that we had, that we enhance the penalties to be commensurate with what is appearing in the earlier sections.

*(Question of the amendment proposed)*

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

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

*(Clause 34 as amended agreed to)*

*(Clause 35 agreed to)*

Clause 36

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

THAT, clause 36 be amended by deleting the words “ten thousand” and substituting therefor the words “five thousand”.

Actually we are reducing the fine on riding bicycles. We thought a fine on a bicycle rider, even if it is the owner, of Kshs10,000 would be a bit higher. So, we thought the cost of the bicycle would be as good as the fine.

*(Question of the amendment proposed)*

**Mr. Shakeel:** Mr. Temporary Deputy Chairman, Sir, I would have wanted to even plead with the Chair to reduce it to Kshs1,000, because this one concerns *wananchi*. I would like it to be reduced from Kshs5,000 to Kshs1,000. You surely cannot take whatever *wananchi use*. This is like killing them because they will not be able to work. I think the local authorities have been excessive in this thing. Bicycles were banned by the colonialists, and we are now going back to what the colonialists were doing. So, I am pleading that this be reduced to Kshs1,000.

**Dr. Khalwale:** Mr. Temporary Deputy Chairman, Sir, this is the backbone of the youths in this country. Very many of them are using bicycles. So, if we make it too punitive, it means they lose their investment. I want to support Mr. Shakeel that Kshs5,000 is too much. Ideally, it should be Kshs1,000, but since it has gone down to Kshs5,000 I will support it.

**The Temporary Deputy Chairman** (Mr. Ethuro): Mr. Shakeel, you are at liberty to bring an amendment but just to make a contribution; we cannot help you. Learn from today for the future.

**Mr. Shakeel:** On a point of order, Mr. Temporary Deputy Chairman, Sir.

**The Temporary Deputy Chairman** (Mr. Ethuro): Order, hon. Members! I do not have discretion in these matters.

**Mr. Shakeel:** Mr. Temporary Deputy Chairman, Sir. There is no quorum.

**The Temporary Deputy Chairman** (Mr. Ethuro): Order, Mr. Shakeel! You will go out.

**Mr. Shakeel:** Mr. Temporary Deputy Chairman, Sir, there is no quorum. You have no option!

**Mr. Temporary Deputy Chairman** (Mr. Ethuro): Order, Mr. Shakeel! You stood on a different point of order and not on quorum. I have persistently said that you cannot do so. You have to go out of the House, Mr. Shakeel. You cannot use quorum, because you did not have your way. Serjeant-at-Arms, please escort him out.

*(Mr. Shakeel withdrew from the Chamber)*

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

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

*(Clause 36 as amended agreed to)*

**Mr. Ogindo:** On a point of order, Mr. Temporary Deputy Chairman, Sir. I propose that this amendment that we have just passed be recommitted at the end.

**The Temporary Deputy Chairman** (Mr. Ethuro): That is perfectly in order. It should come at the very end. Mr. Ogindo, approach the Clerks so that they can help you.

*(Mr. Ogindo consulted with the Clerk-at-the-Table)*

*(Clause 37 agreed to)*

*Clause 38*

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

THAT, clause 38 be amended by—

(a) deleting the words “twenty thousand” and substituting therefor the words “ten thousand” in paragraph (a);

(b) deleting the words “twenty thousand” and substituting therefor the words “ten thousand” in paragraph (b).

Mr. Temporary Deputy Chairman, Sir, this one is with regard to non-payment of fare; that is, Section 101. The penalties that were proposed were Kshs20,000 on recovery of fare in the event of breakdown and Kshs20,000 penalty on non-payment. However, we are proposing that these amounts be reduced to Kshs10,000 because we feel that if somebody fails to pay fare of, say, Kshs500, how would he be able to pay a fine of Kshs20,000? We thought that maybe this amount should be lower. That is why we proposed Kshs10,000 instead of Kshs20,000.

**The Temporary Deputy Chairman** (Mr. Ethuro): Order, hon. Members! Regarding my orders to remove hon. Shakeel, he will remain away from Parliament precincts for the rest of the Sitting today.

*(Question of the amendment proposed)*

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

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

*(Clause 38 as amended agreed to)*

#### *Clause 39*

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

THAT, clause 39 be amended in the proposed new subsection (2) by deleting the words “or to both”.

Mr. Temporary Deputy Chairman, Sir, this is on touting. We agreed with the penalties that have been imposed, except that we remove the words “or to both,” so that punishment is meted once and not double punishment.

*(Question of the amendment proposed)*

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

*(Clause 39 as amended agreed to)*

*(Clause 40 agreed to)*

#### *Clause 41*

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

THAT, clause 41 be amended by deleting the words “or both” appearing immediately after the words “one year”.

Mr. Temporary Deputy Chairman, Sir, this one is regarding the inspection of motor vehicles as per Section 105, which indicates that if the police are entitled to inspect vehicles, and there is failure or the owners or drivers of the vehicles fail to comply, then a certain penalty will be meted on them. What we are only trying to remove is that issue of double punishment, so that it is either a fine or imprisonment.

*(Question of the amendment proposed)*

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

*(Clause 41 as amended agreed to)*

Clause 42

**Mr. Were:** Mr. Temporary Deputy Chairman, Sir, I beg to move:-  
THAT, Clause 42 be deleted and replaced with the following new clause—

**Insertion of  
new section  
105A in  
Cap. 403.**                    **42.** The principal Act is amended by inserting the following  
immediately after section 105—

**105A.** (1) A driver of a public service vehicle or a commercial vehicle shall, after every three years from the date of issue of a driving licence pursuant to section 30, or renewal of such licence, whichever is case, undergo a physical fitness test, including an eye fitness test and hearing test, by a qualified medical practitioner.

(2) A driving licence shall not be renewed under this Act unless the person seeking the renewal produces to a licensing officer a report prepared by the medical practitioner certifying the condition of the applicant's physical fitness, including the condition of the person's eye sight and hearing ability, and whether or not that condition or ability makes the applicant fit to drive a motor vehicle.

According to the Bill, drivers of public service vehicles to undergo eye test. We have tried to expand it and say that drivers of public service vehicles to undergo fitness test. So, apart from eye test, we have added a hearing test because you could have good eyesight, but might not hear so it will also be dangerous for drivers. That is the addition that we have made.

*(Question of the amendment proposed)*

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

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

*(Clause 42 as amended agreed to)*

Clause 43

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



THAT, Clause 43 be amended—

(a) in paragraph (a), by deleting the words “or to both” appearing in the proposed new provision;

(b) deleting the words “or both” appearing in paragraph (b).

This one regards removal of vehicles from the road. This concerns obstruction or leaving vehicles in such a way that they could cause accidents. So we have agreed with the fines as they are proposed but we are also just removing the words “or both”.

*(Question of the amendment proposed)*

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

*(Clause 43 as amended agreed to)*

*(Clauses 44, 45, 46 and 47 agreed to)*

#### *Clause 48*

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

THAT, Clause 48 be amended by deleting the words “fifty thousand” and “seventy-five thousand” and substituting therefor the words “ten thousand” and “twenty thousand” respectively.

This one is on general penalties and we felt that these ones might be minor offences which have not been envisaged in the Act. We have proposed that we reduce the fines from Kshs50,00 and a maximum of kshs75,000 to Kshs10,000 and Kshs20,000, respectively.

*(Question of the amendment proposed)*

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

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

*(Clause 48 as amended agreed to)*

*(Clause 49 agreed to)*

*(Schedule agreed to)*

*(Title agreed to)*

*(Clause 1 agreed to)*

**The Minister for Transport** (Mr. Kimunya): Mr. Temporary Deputy Chairman, Sir, I beg to move that the Committee doth report to the House its consideration of the Traffic (Amendment) Bill, Bill No.29 of 2012, and its approval thereof with amendments subject to the recommittal of Clause 36 of the Bill.

*(Question proposed)*

*(Question put and agreed to)*

*(The House resumed)*

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

## **REPORT**

### **THE TRAFFIC (AMENDMENT) BILL BILL NO. 29 OF 2012**

**Mr. Ethuro:** Mr. Temporary Deputy Speaker, Sir, I am directed to report that a Committee of the Whole House has considered the Traffic (Amendment) Bill, Bill No.29 of 2012, and approved the same with amendments, subject to recommittal of Clause 36.

**The Minister for Transport** (Mr. Kimunya): Mr. Temporary Deputy Speaker, Sir, I beg to move that the House doth agree with the Committee in the said Report.

**Mr. Midiwo:** seconded.

*(Question proposed)*

*(Question put and agreed to)*

## **COMMITTEE OF THE WHOLE HOUSE**

*(Order for Committee read)*

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

## **IN THE COMMITTEE**

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

### **THE TRAFFIC (AMENDMENT) BILL, BILL NO.29 OF 2012**

*(Consideration of Recommitted Clause 36)*

**The Temporary Deputy Chairman** (Mr. Ethuro): Order, Members. We have recommitted Clause 36 of The Traffic (Amendment) Bill, Bill No.29, as requested by hon. Ogindo. I, therefore, call upon hon. Ogindo to move the amendment.

*Clause 36*

**Mr. Ogindo:** Mr. Temporary Deputy Chairman, Sir, I beg to move:-  
THAT, Clause 36 of the Bill be amended by deleting the words “five thousand” and substituting therefor the words “two thousand”.

We know that these are people who are struggling and much as we want to discourage them from being reckless, we also want to be mindful of their capacities.

*(Question of the amendment proposed)*

**Mr. C. Onyancha:** Mr. Temporary Deputy Chairman, Sir, I wish to support the amendment. I wonder what we did about the carts on the roads which do not have any licenses.

**Mr. Njuguna:** Mr. Temporary Deputy Chairman, Sir, in supporting this amendment, I wish to support the effort of the youth of this country to create their own employment thus increasing security in the country.

Therefore, I support the amendment.

**Dr. Khalwale:** Mr. Temporary Deputy Chairman, Sir, I want to persuade my colleagues to appreciate that a fine of Kshs100,000 is sufficient for most of the road users, for example, the drivers. If you insist on the Kshs300,000, you will fill the jails with people simply because they are unable to raise the fines.

**Mr. Shakeel:** Mr. Temporary Deputy Chairman, Sir, I also want to support the amendment. I commend hon. Ogindo for moving so quickly because this touches the very fabric of the youth in personal enterprise. I also hope that the Police Force is listening because they usually harass the *boda boda* boys to the extent that half of the time, they are not in business because of harassment.

I support the amendment.

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

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

*(Clause 36 as amended agreed to)*

**The Minister for Transport** (Mr. Kimunya): Mr. Temporary Deputy Chairman, Sir, I beg to move that the Committee doth report to the House its consideration of The Traffic (Amendment) Bill, Bill No.29 of 2012 and its approval thereof with amendments.

*(Question proposed)*

*(Question put and agreed to)*

*(The House resumed)*

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

## **REPORTS**

The TRAFFIC (AMENDMENT) BILL,  
BILL NO.29 OF 2012

**Mr. Ethuro:** Mr. Temporary Deputy Speaker, Sir, I beg to report that a Committee of the whole House has considered the Traffic (Amendment) Bill, Bill No.29 of 2012 and approved the same with amendments.

**The Minister for Transport** (Mr. Kimunya): Mr. Temporary Deputy Speaker, Sir, I beg to move that the House doth agree with the Committee in the said Report.

*(Question proposed)*

*(Question put and agreed to)*

**The Minister for Transport** (Mr. Kimunya): Mr. Temporary Deputy Speaker, Sir, that the Traffic (Amendment) Bill---

**The Temporary Deputy Speaker** (Dr. Khalwale): Order, Minister, one minute. Okay, Chairman, could you, please start by reporting on the Traffic (Amendment) Bill, Bill No.8 of 2012 listed as (ii).

THE TRAFFIC (AMENDMENT) BILL,  
BILL NO.8 OF 2012

**Mr. Ethuro:** Mr. Temporary Deputy Speaker, Sir, I beg to report that a Committee of the whole of the House has considered the Traffic (Amendment) Bill, Bill No.8 of 2012 and approved the same with amendments.

**Mr. Midiwo:** Mr. Temporary Deputy Speaker, Sir, I beg to move that the House doth agree with the Committee in the said report subject to the recommitment of clause 14.

**The Temporary Deputy Speaker** (Dr. Khalwale): Hon. Midiwo, in respect of which clause?

**Mr. Midiwo:** Clause No.14, Sir.

*(Question proposed)*

*(Question put and agreed to)*

## **COMMITTEE OF THE WHOLE HOUSE**

*(Order for Committee read)*

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

IN THE COMMITTEE

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

THE TRAFFIC (AMENDMENT) BILL  
BILL NO. 8 OF 2012

*(Consideration of Recommitted Clause 14)*

*Clause 14*

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

THAT, Clause 14 be further amended on 117(b)(1) by deleting the words “for avoidance of doubt the administrative unit of the Kenya Police Service known as the Traffic Department is hereby abolished”.

I also seek a further amendment to my earlier amendment by adding, after the word “division,” and inserting the words “and that all police officers shall be responsible for all traffic matters.”

That leaves us with the following clause at 117(b) to read:-

“In each Police Division, the Officer Commanding Police Division shall be responsible for all traffic matters within the division, and all police officers shall be responsible for all traffic matters in the division.”

**The Temporary Deputy Chairman** (Mr. Ethuro): Just a moment, hon. Midiwo. You are saying that 117(b) should read:-

“In each Police Division, the Officer Commanding Police Division shall be responsible for traffic matters within the division, and all police officers shall be responsible for all traffic matters in the division.”

Are we deleting 117(b) as per the Bill and replacing it with this?

**Mr. Midiwo:** That is correct, Mr. Temporary Deputy Chairman, Sir. Just to explain to my colleagues what we are trying to cure is the scenario where there is a traffic policeman who takes care of traffic matters and the rest are left not doing it. I thought that statement would be good.

**The Temporary Deputy Chairman** (Mr. Ethuro): Hon. Midiwo, you have canvassed the argument quite well. We are just trying to get the proper “physiology”.

Hon. Midiwo and the hon. Members, we are just trying to reconcile our understanding so that we read from the same page. We want to believe that your amendment on the Order Paper on Clause 14 by the Committee initially which is on page 4132 was that Clause 14 be amended by deleting the proposed new Section 117B and substituting with your earlier amendment which was carried. The problem was that now with the old section is that it had remained intact. So,

what we are doing now is that we are deleting that and substituting in its entirety the new one to your further amendment to the amendment you had brought.

*(Question of the amendment proposed)*

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

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

**Mr. Njuguna:** Mr. Temporary Deputy Chairman, Sir, I wanted only to support that amendment by the Government Chief Whip and say that this will facilitate the removal of the myth that the Traffic Department is a specialized unique department. *Wananchi* want to be given services.

I support.

**The Temporary Deputy Chairman** (Mr. Ethuro): Order, hon. Members! We had actually debated on it. We were just trying to put the appropriate formulation.

*(Clause 14 as amended agreed to)*

**Mr. Midiwo:** Mr. Temporary Deputy Chairman, Sir, I beg to move that the Committee do report to the House its consideration of The Traffic Amendment Bill (Bill No.8 of 2012) and its approval thereof with amendments.

*(Question proposed)*

*(Question put and agreed to)*

*(The House resumed)*

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

## **REPORTS, CONSIDERATION OF REPORTS AND THIRD READINGS**

### **THE NATIONAL TRANSPORT AND SAFETY (AUTHORITY) BILL**

**Mr. Ethuro:** Mr. Temporary Deputy Speaker, Sir, I beg to report that a Committee of the whole House has considered The National Transport and Safety (Authority) Bill and approved the same with amendments.

**The Minister for Transport** (Mr. Kimunya): Mr. Temporary Deputy Speaker, Sir, I beg to move that the House doth agree with the Committee in the said Report.

**The Minister for Finance** (Mr. Githae) seconded.

*(Question proposed)*

*(Question put and agreed to)*

**The Minister for Transport** (Mr. Kimunya): Mr. Temporary Deputy Speaker, Sir, I beg to move that The National Transport and Safety (Authority) Bill, Bill No.37 of 2012, be now read the Third Time.

**The Minister for Finance** (Mr. Githae) seconded.

*(Question proposed)*

**The Temporary Deputy Speaker** (Dr. Khalwale): I want to give chance to Charles.

**Mr. C. Onyancha:** Mr. Temporary Deputy Speaker, Sir, before you put the Question, I would like to highlight a few issues.

The Bill we are passing today is very important. The most important thing that we must stress, which I alluded to previously, is enforcement. Without enforcement, we will have wasted our time here doing nothing.

My second concern is that, if you look around the House, you will see that it is only the Minister for Transport who is here from the Government side. We do not understand why the Government is not interested even in its own Bills and in matters of Parliament generally. This is a serious issue, which should be taken up by the relevant authorities to ensure that there is good attendance by Ministers.

Lastly, let me congratulate the Minister and hon. Midiwo for bringing these very important Bills to the House and say how much I look forward to the improvement of driving on our roads, especially with regard to *matatu* drivers, who overtake from the sideways; and, as I keep repeating, to making driving an enjoyable exercise.

With those remarks, I beg to support.

**The Temporary Deputy Speaker** (Dr. Khalwale): Hon. Minister, you are also the Deputy Leader of Government Business. Could you tell us why you do not have your colleagues here?

**The Minister for Transport** (Mr. Kimunya): Mr. Temporary Deputy Speaker, Sir, as you know, Ministers work under the doctrine of collective responsibility. When you see one Minister here, you have seen them all and when you see them all here, you have seen one. So, I suppose hon. Members can see me here. My colleagues are covered.

**The Temporary Deputy Speaker** (Dr. Khalwale): Yes, hon. David Njuguna.

**Mr. Njuguna:** Mr. Temporary Deputy Speaker, Sir, let me say very briefly that the Authority being created through this law will rein on the many unnecessary deaths that occur through accidents and bring sanity on our roads. It is the first time in the history of this country that drivers will be tested after every three years. It is mandatory. This is necessary to ensure the safety of passengers in this country.

With those remarks, I beg to support.

**The Temporary Deputy Speaker** (Dr. Khalwale): Yes, hon. Martin Ogindo.

**Mr. Ogindo:** Mr. Temporary Deputy Speaker, Sir, I want to thank the Minister for bringing the Bill to the House, taking cognizant of the fact that our road infrastructure is

improving fast. With the measures proposed in this Bill, we want to see a very safe country and a fast-growing economy.

Thank you.

**The Temporary Deputy Speaker** (Dr. Khalwale): Hon. Members, I do not see any further requests. I will, therefore, put the Question.

*(Question put and agreed to)*

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

THE TRAFFIC (AMENDMENT) BILL  
BILL NO.8 OF 2012

**Mr. Ethuro:** Mr. Temporary Deputy Speaker, Sir, I beg to report that a Committee of the whole House has considered the Traffic (Amendment) Bill, Bill No. 8 of 2012, and approved the same with amendments.

**Mr. Midiwo:** Mr. Temporary Deputy Speaker, Sir, I beg to move that the House doth agree with the Committee in the said Report.

**The Minister for Transport** (Mr. Kimunya) seconded.

*(Question proposed)*

*(Question put and agreed to)*

**Mr. Midiwo:** Mr. Temporary Deputy Speaker, Sir, I beg to move that the Traffic (Amendment) Bill be now read the Third Time.

**The Minister for Transport** (Mr. Kimunya): seconded.

*(Question proposed)*

*(Question put and agreed to)*

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

THE TRAFFIC AMENDMENT BILL,  
BILL NO.29 OF 2012

**Mr. Ethuro:** Mr. Temporary Deputy Speaker, Sir, I am directed to report that the Committee of the Whole House has considered The Traffic (Amendment) Bill, Bill No. 29 of 2012, and approved the same with amendments.

**The Minister for Transport** (Mr. Kimunya): Mr. Temporary Deputy Speaker, Sir, I beg to move that the House doth agree with the Committee in the said Report.

**Mr. Njuguna** seconded.

*(Question proposed)*



*(Question put and agreed to)*

**The Minister for Transport** (Mr. Kimunya): Mr. Temporary Deputy Speaker, Sir, I beg to move that The Traffic (Amendment) Bill, Bill No. 29 of 2012, be now read the Third Time.

As I move, I would like to take this opportunity to thank the hon. Members who have stayed behind to do this Bill. These three Bills are critical for the management of our traffic affairs. I also thank the Committee for the support that it gave in harmonizing all these three Bills. Indeed, we do hope that with the implementation of this, we are going to see the gradual decline in the number of accidents happening on our roads, which do not need to be happening.

I beg to move.

**Mr. Njuguna** seconded.

*(Question proposed)*

**Mr. Njuguna:** Mr. Temporary Deputy Speaker, Sir, let me briefly thank the Minister for Transport and his entire staff for a sterling job that they have done on this Bill. I extend the same to Mr. Midiwo for his participation in drafting and presenting The Traffic (Amendment) Bill.

**Mr. Ogindo:** Mr. Temporary Deputy Speaker, Sir, I also want to thank the Minister and Mr. Midiwo for their efforts to streamline the traffic industry. I want to say that we have tried very much to be lenient to motor cyclists, who are a very strong emerging industry in this country. I still feel we were a little harsh. Maybe six months down the line we could consider their fines, because these are struggling youths of this country who are prone to mistakes. In future, we could consider reducing the fines from Kshs10,000 to Kshs5,000.

**Mr. Were:** Mr. Temporary Deputy Speaker, Sir, I also want to take this opportunity to thank the Minister and Mr. Midiwo. I also want to thank my Committee Members who scrutinized the Bills and came up with amendments. I also thank hon. Members who have stayed behind to help us in passing all these Bills.

I want to say that with the enactment of these Bill, and with the setting up of the proposed National Transport Safety Authority, I am sure that the problems that we have been having--- Most of the services provided in the transport field fall under different Ministries; now this is going to be a thing of the past. I believe that under one roof, we will get very organized, and we will be able to handle the issue of transport in this country. Within the next few years, I believe that we will see the fruits of our labour and will be proud even if some Members will not be in this House.

**Mr. Mututho:** I want to join many hon. Members who are congratulating the Minister. Although this law creates an authority that will be autonomous in the sense that it will be able to control the menace in traffic and traffic related matters, the matter will ultimately depend on the Cabinet Secretary in charge of transport. In the history of mankind, only one man causes action and not committees, authorities or special task forces. It took Moses to liberate the children of Israel. It took Mahatma Gandhi to do what he did in India. It took Martin Luther King Jnr to do what he did. We hope that the Minister will show commitment; I hope he is listening. We will be able to make things happen as the late Michuki, God rest his soul in eternal peace, did. I will be calling on the Minister to take this as a personal project and bring sanity to our roads. I call on the Minister to take this as a personal project to have sanity on our roads, because ultimately he, his family and we owe it to ourselves if the roads still become unsafe.

Mr. Temporary Deputy Speaker, Sir, I support.

**Mr. Lagat:** Mr. Temporary Deputy Speaker, Sir, I also want to take this opportunity to congratulate the Minister, the Committee, hon. Midiwo and all my colleagues for the wonderful work that we have done.

Kenyans are always known to have the best ideas and laws, but we are poor implementers. I urge the Minister to make sure that the laws that we have passed today are followed, so that we can see the difference and changes.

Thank you, Mr. Temporary Deputy Speaker, Sir.

*(Question put and agreed to)*

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

### **ADJOURNMENT**

**The Temporary Deputy Speaker** (Dr. Khalwale): Hon. Members, there being no further business, this House now stands adjourned until tomorrow, Wednesday, 26<sup>th</sup> September, 2012, at 9.00 a.m.

The House rose at 8.32 p.m.