

NATIONAL ASSEMBLY

OFFICIAL REPORT

Thursday, 27th December, 2012

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

PAPER LAID

(Mr. Abdikadir stood up in his place)

Mr. Speaker: Order! Hon. Abdikadir, I know you chair the Constitutional Oversight Committee (COC), but I am afraid, your business had not been drawn to my attention not until I started walking to the Chamber and, obviously, I was then not able to approve neither the paper nor the Motion. So, we cannot proceed with your business right now.

Mr. Abdikadir: I am obliged, Mr. Speaker, Sir.

Mr. Koech: Mr. Speaker, Sir, last year you directed that my committee considers the chairperson and the commissioners for the Teachers Service Commission (TSC) and table the report today. I seek your indulgence that we table that report on Tuesday, next week.

Mr. Speaker: Tuesday, next week will be on what date?

Mr. Koech: Mr. Speaker, Sir, it will be on 1st January, 2013.

Mr. Speaker: It cannot then be on Tuesday. It will have to be on Wednesday 2nd January 2013.

Mr. Ochieng': Mr. Speaker, Sir, on 24th December 2012, you directed the Committee on Administration and National Security to start looking into the list of the Public Service Commission (PSC) nominees and vet them accordingly. Unfortunately, there has been a new development that has actually arisen from the Prime Minister's office where his concurrence on this matter was not sought. Due to this fact, I request that maybe you allow the committee more time to look into this matter. Can we do it in two weeks time?

Mr. Speaker: Hon. Ochieng', two weeks may not be practical in terms of where we are. You know that the life of this Parliament will run up to the 14th of January, So, I will grant extension for one week and see where we will be at the end of it from today.

Mr. Ochieng': I am most obliged, Mr. Speaker, Sir.

Mr. Speaker: Next Order!

QUESTION BY PRIVATE NOTICE

IMMINENT EVICTION OF ADING'O OPANGA
FAMILIES BY FORESTRY DEPARTMENT

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

(a) Is the Minister aware that the Ministry is planning to evict families in Ading’o Opanga location, Nyakach on a piece of land purported to belong to the Forestry Department?

(b) Why has the Ministry failed to hold any stakeholders meeting for the last 70 years to sensitize the occupiers that the land belongs to the Forestry Department?

(c) Why has the department of Forestry failed to engage the affected families on the way forward on this matter before issuance of the 30 days notice and could the Minister confirm that the eviction notices issued are, therefore, null and void?

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

Mr. Ochieng’: Mr. Speaker, Sir, last week when this matter came up, I think the Assistant Minister agreed to set aside this matter until he exhaustively looks into it. This is because it is an issue that has been pending for the last 70 years. Could he confirm whether his last week’s position still stands as far as eviction is concerned?

The Assistant Minister for Forestry and Wildlife (Mr. Nanok): *(off record)*

Mr. Njuguna: Mr. Speaker, Sir, the Assistant Minister has admitted that these families have been living there for so long. Could the Ministry consider allocating the occupied land to the same families, so that they could be happy like other Kenyans?

The Assistant Minister for Forestry and Wildlife (Mr. Nanok): *(off record)*

Mr. Mututho: Mr. Speaker, Sir, could the Assistant Minister consider the fact that after 70 years there is ecological adaptation and these people are part of that ecosystem? He should reconfirm that they are part of the forest’s whole system. He should come to Parliament to seek how they can be enhanced, so that they do not cause any damage. Could he consider that?

The Assistant Minister for Forestry and Wildlife (Mr. Nanok): *(off record)*

Mr. Chepkitony: Mr. Speaker, Sir, could the Assistant Minister tell us how many families are involved? How many hectares is the forest land?

The Assistant Minister for Forestry and Wildlife (Mr. Nanok): *(off record)*

Mr. Gitari: Mr. Speaker, Sir, I thank the Assistant Minister for that answer. However, since these people have lived there for 70 years, is he aware that if they go to court and claim under adverse protection, they will be given part of the piece of the land?

The Assistant Minister for Forestry and Wildlife (Mr. Nanok): *(off record)*

Mr. Kiptanui: Mr. Speaker, Sir, the Assistant Minister is aware that the reestablishment of boundaries by the Kenya Forestry Service (KFS) was done in many parts of this country, including in Elgeyo Marakwet County. Many of our people were found to have encroached into forest land. Is he aware that many of these families have genuine title deeds from the Government?

Mr. Nanok: Mr. Speaker, Sir, previously, we did not have title deeds for all the Government forest land. But since 2005 when the new Act and new reforms in the forest sector were enacted by this House, we began the process of establishing these boundaries and getting the title deeds. For quite a number of forest areas, I may not have the figure now, but we have title deeds for them. We still do not have title deeds for some, but that is a process that is ongoing.

Mr. Ochieng’: Mr. Speaker, Sir, I want to believe that the dialogue that is ongoing would end up in favour of the eight families that are occupying that piece of land at this

particular time. Could the Assistant Minister confirm that because of the number of years that people have settled on this piece of land, the issue of eviction will never come up again?

Mr. Nanok: Mr. Speaker, Sir, I have taken note of Mr. Ochieng's concern. That is a matter that we are going to put into perspective and consideration as we continue with dialogue with the eight families.

ORAL ANSWERS TO QUESTIONS

Question No.1753

Mr. Koech, on behalf of **Mr. Chanzu**, asked the Minister for Local Government:-

(a) what has caused the stalling of the Fresh Produce Market under the Economic Stimulus Programme (ESP) at Majengo in Vihiga District; and,

(b) what measures he will take to ensure that the market is completed without further delay.

The Assistant Minister for Local Government (Mr. Nguyai): Mr. Speaker, Sir, I beg to reply.

(a) I wish to state the ESP Majengo Market Project has not been undertaken as per the contract terms. The M/s Star Contractors Ltd has not honoured its obligation as per the signed contract documents to complete the market on time despite the fact that they have been paid Kshs6,439,384.20 against the contract sum of Kshs10 million. The contractor's explanation for non-completion is as a result of delays in honouring interim payments.

(b) The Ministry intends to terminate the contract and re-advertise for the remaining works.

Mr. Koech: Mr. Speaker, Sir, sometimes in July, the Assistant Minister informed this House that this market was going to be completed and officially opened by 31st October. The people of Vihiga were expecting to use this market by 31st October yet he is telling the House that the Ministry intends to terminate the contract. When is he terminating the contract? When will he award the contract to another person, so that this work is completed?

Mr. Nguyai: Mr. Speaker, Sir, the termination process has began. We have not re-advertised this contract as we are waiting for the Supplementary Budget. We need sufficient funds to do so.

Mr. Ochieng': Mr. Speaker, Sir, I have a similar market, namely, the Katito Fresh Produce Market. The Ministry promised in this House sometimes in June that they were going to terminate the contract that had been issued. But up to now, nothing has taken off. Six months down the line, the market is still the way it was. How can we believe that whatever he is telling us will be put in place? It is a pity that they keep on making promises and they never act.

Mr. Nguyai: Mr. Speaker, Sir, right now, I do not have the particulars of the contract. However, each case is unique. As of now, I am addressing this particular instance. I can give hon. Ochieng' the specifics of what happened. The termination process could take two, three or four months because it might also involve issues of arbitration. As such, sometimes, as you know, when termination process starts, normally a dispute could arise. It takes a little time, but the process has started.

Mr. Letimalo: Mr. Speaker, Sir, the Assistant Minister knows that there is, at least, one fresh produce market in every constituency under the ESP. I do not think there is any which is

complete. What confirmation is he giving that these markets will be complete before the end of this Parliament's term?

Mr. Nguyai: Mr. Speaker, Sir, sometimes back, we tabled a full report of the Fresh Produce Market Projects under the ESP. At that particular point in time, more than 54 per cent of markets were complete. I certainly believe and can confirm that more than 75 per cent of the markets are now complete. For some of the 25 per cent that are still outstanding, and I beg the indulgence of the House, we are still waiting for payment from the Treasury, so that we can pay the interim certificates and empower the contractors to complete the projects. It is a continuous effort and we are in liaison with the Treasury to ensure that these projects are completed before the end of this parliamentary term.

(Mr. Keynan and Eng. Gumbo stood up in their places)

Mr. Speaker: Order, hon. Members! Hon. Keynan, could you, please, find your way and sit next to the Attorney-General? Member for Rarieda, please, go and sit next to the Member for Gem and continue that discussion.

Prof. Kaloki: Mr. Speaker, Sir. The Assistant Minister has said that 75 per cent of these fresh produce markets are completed. That is a fact, but some of them have not been paid for. When does he plan to pay the contractors who have completed the work?

Mr. Nguyai: Mr. Speaker, Sir, as I have said before, the money that was provided in the last Budget was exhausted and it was not sufficient to complete the ESP projects. We then put a figure in the Supplementary Budget. We are waiting for the release of those funds, so that we can complete the projects.

Dr. Monda: Mr. Speaker, Sir, it is true that up to 50 or 60 per cent of the fresh produce markets have been completed. What is important here is the utilization of the same. What is the Ministry doing to ensure that the completed markets are handed over by the contractors and put into use by the fresh produce farmers?

Mr. Nguyai: Mr. Speaker, Sir, we are working in liaison with the various local authorities within the jurisdiction of each ESP market. They are the ones who are responsible for issuing the final completion and occupation certificate. As soon as they do so, then we will hand them over to the local authority for management and also for the allocation of the stores. Some of the local authorities have raised a few concerns of either outstanding works or sometimes the non-provision of certain services such as fencing. With that regard, I would like to ask for the indulgence of the Members, we have had to resort to even the CDF and request that, if possible, that could be provided. Where there is failure to meet those minor requirements that were not provided for in the contract, we then liaise and request the local authorities to allow for the occupation certificate and, subsequently, we hand over the project.

Mr. Koech: Mr. Speaker, Sir, the Assistant Minister has indicated that he intends to terminate this contract having already paid the contractor Kshs6.4 million. This means that what is now available for the next contractor is Kshs3.5 million. What assurance is he giving to the people of Majengo that this market will be completed?

Mr. Nguyai: Mr. Speaker, Sir, the Kshs6.4 million translates to 64.4 per cent of the contract sum. First and foremost, no interim certificate is paid without a valuation being done. So, there has to be certification that the work is complete up to that certified level. Normally, an additional cost might be there in case of variations. We normally provide for that to enable us to

ensure that the project is complete. So, I want to assure the people of Majengo that the project will be completed.

Mr. Speaker: What is it, hon. Koech?

Mr. Koech: On a point of order, Mr. Speaker, Sir. Is the Assistant Minister in order to mislead this House that over 65 per cent of the project is complete when, on the ground, it is less than 60 per cent? In fact, they paid this contractor more money before he reached the level.

(Mr. Shakeel stood up in his place)

Mr. Speaker: Order! Hon. Shakeel, could you, please, just pass round and approach the lead Clerk at the Table?

(Mr. Shakeel approached the Clerk)

Mr. Nguyai: Mr. Speaker, Sir, I believe that all certificates that are paid are verified by certified Public Works Officers. The bills of quantities are then looked at to ensure that what is paid for is for the work done. I have no reason to believe that an interim payment has been made without work having been done. If that is the case, I would want to be given substantial evidence. The variation that the Member has given is 4 per cent. The 60 per cent and 4 per cent is really neither here nor there in terms of sums. So, let me just assure the Member, once more, that Majengo Market will be completed with the remaining sum. If there are a few variations, we will include them because of cost escalations to ensure that the project is complete.

Mr. Speaker: Hon. Members, we must move away now from Question No.1753. Next Question by the Member for Nyaribari Chache.

Question No.1875

DELAYED PAYMENT OF DUES TO MR. JEREMIAH OBWOMA

Dr. Monda asked the Minister of State for Provincial Administration and Internal Security:-

(a) whether he is aware that Mr. Jeremiah Obwoma, P/No.82108957, a Chief from Kiogoro Location in Kisii Central District, was retired in public interest and subsequently reinstated after he successfully appealed the decision;

(b) whether he is also aware that the said officer has not been paid his dues for the period the appeal was being considered; and,

(c) when he will be paid his dues and whether he could confirm that the dues will include interest for the period they remained unpaid.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Khang'ati): Mr. Speaker, Sir, I answered this Question last week. However, some information was outstanding. I was directed to liaise with the Public Service Commission (PSC) to give me an indication as to why they did not, among their decisions, agree to pay the chief and when, if possible, that will be done. That was only last week. Today, my officers were frantically trying to get this information from the PSC. Unfortunately, they did not

get it. So, I beg the indulgence of the House to give me more time, so that I can provide the specific information which is pending during the next sitting.

Mr. Speaker: Will you be able to do so by the 3rd of January, 2013?

Mr. Khang'ati: Mr. Speaker, Sir, it is difficult to give a firm assurance due to festivities. That is the problem.

Mr. Speaker: Order, Assistant Minister! You are looking for information from public servants who are under duty to give you that information. This afternoon, you are here doing business yourself. So, are the rest of us. Why should officers in your Ministry not be available to work?

Mr. Khang'ati: Mr. Speaker, Sir, this information is at the PSC.

Mr. Speaker: The PSC is part of the Government. They are civil servants. They are under duty to work, actually 24/7. I will direct that this Question appears on the 3rd of January. Please, communicate to your officers firmly that they need to make that information available to you. If they fail to do so, take disciplinary action.

Mr. Khang'ati: Yes, Mr. Speaker, Sir.

(Question deferred)

Mr. Speaker: Very well; Member for Gatundu North.

Question 1849

NON-ELECTRIFICATION OF BUCHANA COFFEE FACTORY

Mr. Waibara asked the Minister for Energy:-

(a) how many projects have been undertaken to completion by the Rural Electrification Authority (REA) in Gatundu North Constituency since its inception and how much has been utilized;

(b) whether he could provide details of all new service lines that have been installed in the constituency since 2008, and,

(c) what the capacities of all the transformers that have been installed are in the constituency and when one will be installed near Buchana Coffee Factory to serve the factory and its environs.

The Assistant Minister for Energy (Mr. M.M. Mahamud): Mr. Speaker, Sir, I answered this Question last week. The Member did not have a written answer then. It was agreed that we supply the answer to him, so that thereafter he can interrogate. Will it be in order if I repeat the answer I gave last time or----

Mr. Speaker: Have you now supplied the answer to him?

The Assistant Minister for Energy (Eng. M.M. Mahamud): Yes, we did, Mr. Speaker, Sir.

Mr. Speaker: Member for Gatundu North, you may now proceed, because the Assistant Minister gave part of it last time.

Mr. Waibara: Mr. Speaker, Sir, I will start by thanking this Assistant Minister for the good work he has done in my constituency. Nevertheless, when will he ensure that all transformer service processing, collection centre and market are upgraded to three phases to enable sufficiency in power supply to this institution?

Secondly, what measures has he taken to ensure individual groups and organizations wishing to exploit other suitable sources of green energy are not hampered? This will reduce over-dependence on hydro-power.

Eng. M.M. Mahamud: Mr. Speaker, Sir, as regards the upgrading of transformers, may I inform the Member that the capacity of a transformer to be installed is normally dictated by the potential load on the line the project is going to take at as determine at the time when assessment is done. Of course, depending on the load available, we will continue upgrading the transformers.

As regards supporting groups to use other sources of energy, this Ministry is open to anybody who has got the idea. We encourage people to develop their own small power generating plants as when the need arises and we will support them.

Mr. Njuguna: Mr. Speaker, Sir, recently there was rampant theft of transformers in the whole country. What is the Ministry doing to make sure that transformers are secure and services are constantly available to wananchi?

Eng. M.M. Mahamud: Mr. Speaker, Sir, vandalism is a big issue in the country. We appeal to Kenyans not to vandalize transformers or steal them. I think there was an amendment to our laws that criminalizes vandalizing of electrical equipment. All that we can do is to appeal to Kenyans not to vandalize utilities that are very useful for them.

Mr. Mwangi: Mr. Speaker, Sir, I appreciate the answer given by the Assistant Minister. But there is an observation that even when we apply for these transformers, we are told there is a big shortage of them. Has the Ministry considered using solar energy in areas where they cannot provide three-phased transformers?

Eng. M.M. Mahamud: Mr. Speaker, Sir, solar energy cannot replace transformers. But the Ministry has a policy to utilize solar energy where applicable, especially in areas which are far from the grid.

Mr. Kiptanui: Mr. Assistant Minister, there are quite a number of projects being done by the REA and they are doing very well in various constituencies. But it seems that there is a challenge to the Kenya Power Company (KPC). So far, there are so many projects being run by them. For the last 8 months, we have been lacking transformers. When is he sorting out the challenge of transformers in KPC and not in REA?

Eng. M.M. Mahamud: Mr. Speaker, Sir, there could be a challenge but I am really not aware that KPC has challenges in terms of supply of transformers. I would assure the Member that we undertake to ensure that KPC provides transformers where they are supposed to be supplied.

Mr. M.H. Ali: Mr. Speaker, Sir, I wish to ask the Assistant Minister what has become of the line which was pulled from Elwak to Lafey. It has been there for the last two years. The polls have been lying on the ground and service is not being provided despite the promise that this project was to be completed by the end of last year, 2011.

Eng. M.M. Mahamud: Mr. Speaker, Sir, I agree with the Member that the line from Elwak to Lafey has challenges. In fact, there was a substantive Question on this particular line. There are challenges to REA in respect of that particular line. But I assure the hon. Member that we will instruct REA to ensure that, that line is completed because it is far behind schedule. I agree with him.

Mr. Shakeel: Mr. Speaker, Sir, a number of Questions have been asked about transformers. Could the Assistant Minister kindly tell us why sub-standard Indian transformers

are being used and they break down immediately they are put up? Why are serious measures not taken to get good standard transformers?

Eng. M. M. Mahamud: Mr. Speaker, Sir, the Member is talking about shortage and substandard. I am not aware. There could be shortage of transformers, but I am not aware that Indian transformers are sub standard. We normally procure transformers through tenders and provide specification. We do not discriminate against any source or any part of the world.

Mr. Shakeel: On a point of order, Mr. Speaker, Sir. Is the Assistant Minister in order to put words in my mouth? I never said that Indian transformers are sub-standard. I just said there are transformers, which are sub-standard, which are of Indian origin. That is what I wanted to correct.

Mr. Speaker: The difference is very small. It is a thin line.

Yes, Member for Gatundu North.

Mr. Waibara: Mr. Speaker, Sir, I also want to ask the Minister which other project he is undertaking in Gatundu North in the current financial year? When will they supply electricity to shopping centres and primary schools in Gatundu North Constituency?

Eng. M.M. Mahamud: Mr. Speaker, Sir, I do not have the list of projects with me, but it would be priority projects as determined by the hon. Member himself. However, we are planning to install a transformer at a place called “Buchana Factory” early next year.

Mr. Speaker: Very well! Next Question, Member for Mutito.

Question No.1261

LACK OF CULTURAL CENTRE
IN MUTITO CONSTITUENCY

Mr. Speaker: Is the Member for Mutito still not here! The Question is dropped.

(Question dropped)

Question No.1847

DELAYED RESETTLEMENT OF MAU FOREST EVICTEES

Mr. Speaker: Hon. Members, I have communication from the Member for Chepalungu. He is caught up in circumstances that will not permit him to be here and he addressed the Clerk of the National Assembly well in time. So, the Question is deferred to Wednesday, next week.

(Question deferred)

Mr. Speaker: Next Question, Member for Kilome.

Question No.1825

APPOINTMENT OF MR. MELVINE SMITH AS
PRINCIPAL FORENSIC AUDITOR TO
INVESTIGATE CHARTERHOUSE BANK

Mr. Mwau asked the Minister for Finance:-

(a) if he could clarify whether the Central Bank of Kenya hired Mr. Melvine Smith as the Principal Forensic Auditor to investigate Charterhouse Bank;

(b) if he could provide a copy of the job application letter, curriculum vitae, letter of offer of appointment and indicate his terms of employment, job description and the salary scale;

(c) if the recruitment of Mr. Smith was done through advertisement or through single sourcing; and,

(d) if he could avail and table a copy of the report on the findings by the said investigator.

The Minister for Finance (Mr. Githae): Mr. Speaker, Sir, I beg to reply.

(a) I confirm that---

(Mr. Githae fumbled through documents)

Mr. Speaker: Carry on, Minister. You need a little time.

The Minister for Finance (Mr. Githae): Mr. Speaker, Sir, I have so many papers here.

Mr. Speaker: Yes, let us allow you time to re-organise yourself.

Next Question, Member for Kitui West.

Question No.1863

DELAYED COMPENSATION OF MR.
RAYMOND M. MUTISO BY KARI

Mr. Speaker: Is hon. Nyamai still not here! The Question is dropped.

(Question dropped)

Mr. Speaker: Next Question, Member for Ndhiwa.

Question No.1859

BUDGETARY ALLOCATION FOR CONSTRUCTION
OF NDHIWA POLICE HEADQUARTERS

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

(a) whether there are plans to construct staff houses for the police at Ndhiwa Police headquarters; and,

(b) whether there was any allocation of funds towards the construction of the same in the 2012/2013 Financial Year.

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

(a) I confirm that there are plans of constructing two blocks of flats, each comprising of 12 units at Ndhiwa Police Station.

(b) Funds are available for carrying out the works in the current financial year. The Homa Bay County Works Officer is in the process of preparing drawings and Bills of Quantities (BQs) to facilitate procurement of construction works services.

Thank you, Mr. Speaker, Sir.

Mr. Oyugi: Mr. Speaker, could the Assistant Minister confirm to the House how much money has been allocated for the particular works?

Mr. Khang'ati: Mr. Speaker, Sir, regrettably, I do not have the details for the simple reason that I did not have time to discuss the Question with my officers. This is something I noted immediately I was given this answer. I just arrived from Tana River County and proceeded to the House, where I got the answer straightaway. I noted that the specific amount has not been mentioned. Hopefully, we find it in the Development Estimates and avail it to the hon. Member.

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

Mr. Balala: Mr. Speaker, Sir, is it in order for the Assistant Minister to confirm that there will be construction of police houses in Ndhiwa without providing evidence to that statement? Is it in order for him to confirm that houses will be built in Ndhiwa when he has no evidence to prove the same?

Mr. Speaker: Mr. Assistant Minister, you should respond to the point of order by the Member for Mvita.

Mr. Khang'ati: Mr. Speaker, Sir, hon. Balala has been a Minister. He knows very well that the responses we get are quite often not adequate. When we interrogate the officials preparing the answers that enables us to come to the House with sufficient information.

Mr. Speaker: Yes, Member for Mvita.

Mr. Balala: Mr. Speaker, Sir, it is true that I was a Minister, but I was a hands-on Minister. I always knew the answers to the Questions directed at me. I also knew what was going on in the Ministry. So, as Minister, I could not just come here and read out statements. I would make sure that those statements were verified and that whatever I read out here was the truth. You come to the House to prove that you are working, as Minister. So, if his answers are half-baked, he should ask for more time, say next week, to answer the Question satisfactorily because he has just come from holiday.

Mr. Speaker: Yes, Mr. Assistant Minister.

Mr. Khang'ati: Mr. Speaker, Sir, if hon. Balala was listening properly he should have noted that I indicated to the House that the reason I was not able to interrogate my officers is that I just arrived from Tana River County. I arrived at mid-day and tried my best to ensure that I get here to transact parliamentary business. I have been very candid to the House, instead of fabricating answers. I indicated that I noticed that there was this particular detail missing. It does not mean that I am not a hands-on Assistant Minister.

Mr. Speaker: What is it, hon. Odhiambo?

Mrs. Odhiambo-Mabona: Mr. Speaker, Sir, I am, indeed, sympathetic to the Assistant Minister. First, if you noticed, I wanted to ask a further question, but I have changed it to a point of intervention due to the fact that he has indicated that he has just read the answer and that he does not have details. So, I do not know if he would be in a position to respond to the issues we want to interrogate. For instance, I would want to know whether Authority to Incur Expenditure (AIE) has been issued---

Mr. Speaker: Hon. Millie Odhiambo, you have risen on a point of order. So, just proceed and prosecute your point of order.

Mrs. Odhiambo-Mabona: Mr. Speaker, Sir, would I be in order to request that the Assistant Minister comes back when he is better prepared to answer this Question? Right now, he is not prepared to answer it. I am sympathetic that he has just come from Tana River County where he was dealing with security matters.

Mr. Speaker: Hon. Millie Odhiambo, I can see where you want to go, but you have not done it well. On that point of order, all you should have said is easy: “Mr. Speaker, will I be in order to ask that this Question be deferred?” Simple!

Mrs. Odhiambo-Mabona: Mr. Speaker, Sir, I stand guided.

Mr. Speaker, Sir, would I be in order to ask that this Question be deferred to next week, so that the Assistant Minister can come back better prepared, as I am?

Mr. Speaker: Very well. Mr. Assistant Minister, will that make a difference for you? They want the Question deferred to next week. Will you have all the information then?

Mr. Khang’ati: Mr. Speaker, Sir, the only information missing regards the provision for the projects in the Development Estimates. It is a very simple matter, which I can verify with the hon. Member. I do not know what else is missing.

Mr. Speaker: Order! Mr. Assistant Minister, you have done your part. Please, resume your seat.

(Mr. Khang’ati resumed his seat)

Mr. Speaker: Last question, Member for Ndhiwa.

Mr. Oyugi: Mr. Speaker, Sir, I would rather the Assistant Minister went in the manner that my sister was suggesting – that the Question be deferred to next week because I am wondering whether he knows when the works could possibly begin. Those are some of the details I am interesting in knowing.

Thank you.

Mr. Speaker: Very well. Mr. Assistant Minister, answer that one. When will work commence?

Mr. Khang’ati: Mr. Speaker, Sir, I indicated that at this point in time, documents are being prepared. We expect those documents to be completed by the end of January, after which procurement will start. I have been given 15th January, 2013 as the construction commencement date.

Mr. Speaker: Member for Ndhiwa, from the position of the Speaker, I am satisfied that the Assistant Minister has supplied adequate information for purposes of you knowing the status of this project. First that, yes, it is going to be carried out during this financial year.

Secondly, he has given you a possible date of commencement. The only thing that he has not given you is how much money has been allocated to the project. I think you can obtain that even without involving the rest of the House much as the House is entitled to that information as well. However, if any Member feels interested beyond the information which the Assistant Minister has supplied and what he will supply to the hon. Member for Ndhiwa, then we can revisit the Question.

So, we will leave it there and go back to Question No.1825!

Question No.1825

APPOINTMENT OF MR. MELVINE SMITH AS PRINCIPAL FORENSIC
AUDITOR TO INVESTIGATE CHARTERHOUSE BANK

Mr. Mwau asked the Minister for Finance:-

(a) if he could clarify whether the Central Bank of Kenya hired Mr. Melvine Smith as the Principal Forensic Auditor to investigate Charterhouse Bank;

(b) if he could provide a copy of the job application letter, curriculum vitae, letter of offer of appointment and indicate his terms of employment, job description and the salary scale;

(c) if the recruitment of Mr. Smith was done through advertisement or through single sourcing; and,

(d) if he could avail and table a copy of the report on the findings by the said investigator.

Mr. Speaker: Minister, are you now ready?

The Minister for Finance (Mr. Githae): Yes, Mr. Speaker, Sir.

Mr. Speaker: Proceed then.

The Minister for Finance (Mr. Githae): Mr. Speaker, Sir, I apologize I have received so many papers today.

However, I beg to reply.

(a) I wish to clarify and state that the Central Bank of Kenya (CBK) hired Mr. Melvine Smith in 2005 to assist in evaluating the non-performing loan problems and other short comings afflicting the banking industry and, I repeat, not specifically to investigate Charterhouse Bank.

(b) I hereby table a copy of the contract between Mr. Melvine Smith and the CBK signed in September 2005.

(c) The recruitment of Mr. Melvine Smith was done through single sourcing in view of the special nature of the assignment.

(d) The special investigation of Charterhouse bank was conducted by the then Kenya Anti-Corruption Commission (KACC), in collaboration with the Kenya Revenue Authority (KRA) and the Banking Fraud and Investigation Department, with the main focus being economic crimes.

In this regard, I am not able to table the experts' report of this investigation in this House as the said investigation was done by that joint committee. The report is with the Ethics and Anti-Corruption Commission (EACC) and can thus be sourced from there as the EACC is not under my docket.

Mr. Mwau: Mr. Speaker, Sir, I only wonder whether the Minister is in order to avoid answering the Question, especially part (b):-

“Could the Minister provide a copy of the job application letter, curriculum vitae, letter of offer of the appointment and indicate his terms of employment, job description and salary scale?”

He has failed to provide that particular information. I will not be able to interrogate the Question unless he brings that information.

Mr. Speaker, Sir, further on part (d), he clearly states that the investigation was done by the CBK and the KRA. These are departments which are under his docket. He must, therefore,

have received a copy of the report and should be able to table it unless he is refusing to answer the Question.

Mr. Speaker: Mr. Minister, are you able to supply information with respect to parts (b) and (d) of the Question?

Mr. Githae: Yes, Mr. Speaker, Sir, I am able to supply information to part (b). I have said this was single sourcing. Therefore, there is no job application for Mr. Smith. The curriculum vitae, letter of appointment and terms of employment are here. I was going to table this. It is only that I am using it.

Mr. Speaker: You will table it?

Mr. Githae: Yes, Mr. Speaker, Sir. It is here.

I just want to confirm that this was single sourcing in the belief that Mr. Melvine possessed certain qualifications which were suitable for this assignment. His pay was agreed as Kshs26,457 per day, to work for eight hours for six months. That was the contract and it is all there. I will table this.

Mr. Speaker: Are you able to table it now or you still need it?

Mr. Githae: Mr. Speaker, Sir, yes.

Mr. Speaker: If you can table it now, then you will let the Member for Kilome have access. How about part (d)?

Mr. Githae: Mr. Speaker, Sir, with regard to part (d), this investigation was led by the KACC at that time and they have the report. I inquired from my office and I was told we were never given a copy of the report. The CBK also said they were never given a copy of the report. The report is with the KACC.

Mr. Speaker: Are you, therefore, saying that there are no separate reports by the KRA and the CBK?

Mr. Githae: No. It was a joint investigation under the leadership of KACC.

Mr. Speaker: Fair enough! You may then table the documents with respect to part (b), so that they can be passed on to the Member for Kilome.

Member for Kilome, you may access those documents from the Table. We will take supplementary questions and finish with you. We hope that by that time, you will have acquainted yourself with these documents.

(Mr. Githae laid the documents on the Table)

Mr. Shakeel: Mr. Speaker, Sir, I sit in the Departmental Committee on Finance, Planning and Trade and we have looked at this matter a number of times. The report the Minister is speaking about was requested by the KRA, CBK and KACC jointly. Therefore, the Minister is not right when he says they have not been given a copy of the report. I would like to look at the HANSARD, especially in respect of this report. I remember we were clearly told and it is the Member of the---

Mr. Speaker: Order, Member for Kisumu Town East! It is Question Time. Quickly come to the question!

Mr. Shakeel: Mr. Speaker, Sir, is the Minister misleading the House by saying that the report was never given to the KRA or CBK? At a meeting of the Departmental Committee on Finance, Planning and Trade, we were told that they had the report. Is he misleading the House?

Mr. Speaker: That would be a point of order and not a question, but I will let it pass.

Mr. Githae: Mr. Speaker, Sir, this was a joint report of three arms of the Government. For a joint report, all of them cannot write simultaneously; one person has to write the report. Although it is conducted by three, they cannot all be writing at the same time. It can only be done by one party. The party that was agreed on was KACC at that time. They are the ones with the report. They have not said that they are not prepared to give it to us. It is only that they do not fall under my docket.

Mr. Speaker, Sir, I would suggest that the Minister for Justice, National Cohesion and Constitutional Affairs be asked to ask KACC to bring that report because that falls under their docket.

Mr. Shakeel: Mr. Speaker, Sir, is the Minister in order to mislead the House again? The report as is very clearly indicated in (d) is the Report of the findings of the investigation as written by Mr. Melvine Smith. Is he also in order to mislead the House that the report was written by any one of the three? In fact, KRA, CBK and KACC were part and parcel as three partners whereas KRA was the secretary of that joint committee. This is on HANSARD.

Mr. Speaker: Order! The manner in which that point of order is prosecuted, I am afraid, I will not even let the Minister respond.

Mr. Imanyara: Mr. Speaker, Sir, given that the right to public information is guaranteed under the Constitution and there is also collective responsibility on the part of all the Government Ministries; considering that KACC is not represented here, is it in order for the Minister to say that because the report was done by KACC, this House is not entitled to a copy which he can secure and bring to this House under the doctrine of collective responsibility?

Mr. Githae: Mr. Speaker, Sir, first of all, I think we are confusing two issues. There is the report that was prepared by Mr. Melville Smith and it was not on Charterhouse Bank. It was on all non-performing loans in all banks, including Charterhouse Bank. So, that report should only have dealt with non-performing loans. There was then the special investigation conducted by KACC, KRA and CBK. That was the one that was dealing with Charterhouse Bank. It was only concerned with economic crimes and tax evasion issues. That is the report that was with the KACC.

Mr. Speaker, Sir, as I said, I only got this answer this morning. So, I have not even called them to find out whether they are able to give us that report or not. They have not refused to give it to me because I have not asked them. I have not asked them for it because there was no time. I have not said that the House will not have that information. I think the House is entitled to that information.

So, all I was requesting was that since this is under the docket of the Minister for Justice, National Cohesion and Constitutional Affairs, I can ask him to ask the Ethics and Anti-Corruption Commission (EACC) to give us a copy of that report. As I said, I have not talked to them. So, I do not know what their attitude would be.

Mr. Njuguna: Mr. Speaker, Sir, while lauding the Minister for the answer that he has given, could he inform this House of the tangible benefits, the country realized from this contract offered to Mr. Melville Smith, and that was executed within a period of six months?

Mr. Githae: Mr. Speaker, Sir, I would say that is a very important question. From that study, we were able to know the state of loan portfolio of various banks. From that study, the CBK came up with what they are calling “prudential guidelines”, which also include onlending. For example, they came up with guidelines on lending where there is interest, lending to directors, lending to employees and giving non-secured loans. Basically, they looked at the entire portfolio. That is why since that time we have not had any bank failure. That is why even when

interest rates went up by almost 35 per cent, there was no mass default as it happened in the United States of America and other places. This is because of the guidelines that were formulated by the CBK. So, I would say if you just look at the study on non-performing loans in banks and exclude the Charterhouse Bank, you will realize that this was a very important report. This had nothing to do with Charterhouse Bank. It was for all banks generally.

Mr. Mureithi: Mr. Speaker, Sir, I have observed the Minister here trying to answer and go round the issue of Charterhouse Bank. How come that when matters are brought here regarding Charterhouse Bank, several road blocks are created such that we cannot get the information? Whereas this House has discussed issues of the National Bank of Kenya (NBK) and their loan portfolios here, how come that issues regarding Charterhouse Bank cannot be brought here and hon. Members given the information they require in order to interrogate the way it was finally closed?

Mr. Githae: Mr. Speaker, Sir, I am not aware of any information that this House has requested and has not been given. The only issue I am aware of is that there is a ruling pending from the Chair on whether the CBK can be forced to give information that has been sought by the Member for Kilome, Mr. Mwau. I think on advocates and the fees that they are entitled to from Charterhouse Bank. The Chair promised to give a ruling on whether the CBK can be forced to reveal that information.

They had said that they are independent and all their dealings are confidential. The Chair was to give a ruling on that issue. As of now, there is no information that has been hidden, or has not been revealed to this House. As I said, I got the answer on this one very late. I would actually have called the EACC and asked them to give me a copy of this report. But I am saying that since this falls under another docket, I will ask the Minister for Justice, National Cohesion and Constitutional Affairs to ask the new body to give us this information. The House is entitled to this information.

Mr. Imanyara: On a point of order, Mr. Speaker, Sir. Is it in order for the Minister to say that because a commission is independent, therefore, it cannot provide information to this House? We are talking about accountability to this House. Is it in order for him to say that an independent body cannot account to this House?

Mr. Githae: Mr. Speaker, Sir, I did not say that this House is not entitled to that information. What I said is that when we sought this information from the CBK they quoted the Constitution and said that they are not under the control or direction of any person, and that all their dealings are confidential. That is why the Chair had said that it will make a ruling on this issue. That ruling is still pending.

Mr. Speaker: Order! Member for Imenti Central, let us leave pursuit of that for the moment. I am not able to recollect that a ruling has been promised. What I do know is that on the face of it, *prima facie*, all public institutions must account to Kenyans. The only avenue to account to Kenyans is through Parliament. So, I do not see that there will be anything complex that will require a ruling in that regard.

But Minister, maybe you want to be guided. Just see if you can prod the CBK to avail all information that is being sought, particularly by Parliament. I do not see that they really have a choice.

Mr. Mwau: Mr. Speaker, Sir, would it be in order for me to ask that the Question be deferred so that the Minister can get the proper information that I have sought? This is because I have looked at the contract that he has tabled and it does not contain an annexure of the curriculum vitae of the person by the name Melville Smith. Secondly, the terms of the contract

are not as the Minister has stated, that is about non-performing loans. The terms were clearly stated as follows:-

- (a) looking at the overall size of the bank and large clientele; check internal audit report and establish any internal control weaknesses;
- (b) check account opening forms and establish rated group accounts;
- (c) check usual movement rated accounts;
- (d) check all forex movement and failure to account;
- (e) check large movement of cash either on deposits or withdrawals to establish money laundering is taking place.

So, they were actually investigating money laundering in 2005 when there was no legislation. So, there must be a report that has been made by the consultant, who was being paid Kshs26,000 per day. So, it is only fair that the Minister provides a copy of the report and the information that I seek.

Mr. Githae: Mr. Speaker, Sir, what the hon. Member is stating is correct. I just said it was on non-performing loans which included account-opening forms, know your customers status and movement of funds. All that would be involved in loans portfolio. This was for the entire banking industry. If the hon. Member now wants that report, I think he should now ask for it. What he has asked for is an investigation into Charterhouse Bank, which was led by the KACC. If he wants this report by Melville Smith then he should requests it and then we can provide it, or ask the CBK to provide it.

Mr. Speaker: Order, hon. Members. I am satisfied that the Minister has largely supplied to the House all information in his possession, except for one item, which is to table the investigation report. He has asserted that this is with the EACC. He has not yet called for that information. So, I will defer the Question for the purpose of you calling for that report and tabling it; just that alone. That then settles the matter.

(Question deferred)

I want now to move on to Order No.7.

STATEMENT

Mr. Speaker: We will first take Statements which are due for delivery. We will begin with the Vice-President and Minister for Home Affairs and the Leader of Government Business.

BUSINESS FOR WEEK COMMENCING 2ND JANUARY, 2013

The Vice-President and Minister for Home Affairs (Mr. Musyoka): Mr. Speaker, Sir, today being a Thursday, I am pleased to make the following Statement which is issued pursuant to the provisions of Standing Order No.36(4).

Mr. Speaker, Sir, first of all, let me begin by applauding those hon. Members who have cut short their end of year festivities to return to the House today to deliberate on crucial House Business. I think we need to give ourselves a big clap. This is pretty unique and it has never happened for as long as I have been in this House. This shows a commitment by hon. Members to the work that is before us.

(Applause)

Mr. Speaker, Sir, without appearing to anticipate debate, we do expect hon. Members to use today's sitting to be able to conclude all business scheduled in the Order Paper. However, when the House reconvenes early next year, priority will be given to the pending business not concluded in today's Order Paper.

Finally, the House Business Committee will meet at the rise of the House in order to schedule business for the week beginning Wednesday, 2nd January, 2013.

Thank you, Mr. Speaker, Sir.

Mr. Speaker: Do we have any other Statements which are ready and are due for delivery today? I have concerns over Statements which ought to have been delivered and have not been. First, I want to take the Member for Gichugu.

POINTS OF ORDER

NON-GAZETTEMET OF THE NATIONAL LAND COMMISSION

Ms. Karua: Mr. Speaker, Sir, on 4th December, I requested a Ministerial Statement from the Minister for Lands as to why the Land Commission has not yet been gazetted in spite of the conclusion of pending court cases that were hindering the same.

Mr. Speaker, Sir, you know that land is one of the very hot issues, and it is feared that there may be elements in the Government who do not want the Land Commission gazetted. I again rose on 6th December to ask about the same and it was communicated to the Assistant Minister for Lands but to date, the Statement has not been given.

Mr. Speaker: Fair enough! From our record, that Statement was in fact due on 11th December but so far, it has not been forthcoming. Perhaps, the Leader of Government Business, you would like to indicate when this will come.

The Vice-President and Minister for Home Affairs (Mr. Musyoka): Mr. Speaker, Sir, I attempt to give an undertaking that this matter of the National Land Commission has to be settled when the House meets first in the New Year.

Mr. Speaker: So, shall we say 2nd January?

The Vice-President and Minister for Home Affairs (Mr. Musyoka): Yes, Mr. Speaker, Sir.

Mr. Speaker: Fair enough. It is so directed!
Yes, the Member for Ol Kalou!

GRABBING OF NYANDARUA INSTITUTE OF TECHNOLOGY LAND

Mr. Mureithi: Mr. Speaker, Sir, just before we went on recess, I had requested for a Ministerial Statement from the Minister for Lands in connection with the grabbing of several pieces of land, among them the land belonging to Nyandarua Institute of Technology which measures over 100 acres. I also asked about the grabbing of the market which belonged to ladies. The land was allocated to the Constituencies Development Fund (CDF) money and several other pieces of land. Last week, the hon. Minister assured this House that if I will be around today, he will give me a proper answer just because I took the trouble to write to him and attach

documents. That Statement is still pending and yet the institute is really gearing to become a university.

Mr. Speaker: The Leader of Government Business, again, this is for the Minister for Lands.

The Vice-President and Minister for Home Affairs (Mr. Musyoka): Mr. Speaker, Sir, if the Member for Ol Kalou could bear with the Minister until 2nd January, because he is not in the House and I am not briefed on this matter of land grabbing in his constituency, I am sure that the Minister will be ready by 2nd January.

Mr. Speaker: It will be on 2nd January, the Member for Ol Kalou.
Yes, the Member for Bura!

ARREST OF MESSRS EKWE ETHURO, NANOK/SHEIKH DOR

Dr. Nuh: Mr. Speaker, Sir, on Thursday, last week, a direction was given from the Chair that a Statement which has been pending with the Ministry of State for Provincial Administration and Internal Security concerning the arrests of hon. Ekwe Ethuro, hon. Nanok and hon. Sheikh Dor be issued in the House today. I am not seeing any indication of the Ministry being ready to do so.

Mr. Speaker: Hon. Khang'ati, I think you were in the House. Indicate when that Statement will be made. The matter relates to the arrest of hon. Ekwe Ethuro and hon. Nanok.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Khang'ati): Mr. Speaker, Sir, I am aware about the Statement, but unfortunately, it is not ready. I undertake to issue the Statement on 3rd January, 2013.

Mr. Speaker: Apparently, that Statement was due this afternoon. So, could you then issue it on 3rd January?

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Khang'ati): Yes, Mr. Speaker, Sir.

Mr. Speaker: It is so directed!
Yes, the Member for Juja!

CLASHES IN BANANA/RUIRU

Mr. Kabogo: Mr. Speaker, Sir, merry Christmas belatedly. I was expecting two Statements from the Minister of State for Provincial Administration and Internal Security on the police and public clashes in Banana and Ruiru. The third one was with regard to a ruling from the Chair on a matter where I complained about a newspaper reporting. The then Chair, the Deputy Speaker, had indicated that, that ruling would be brought two or three weeks ago. I beg your indulgence.

Mr. Speaker: Fair enough! With respect to the ruling, I think we will have to revisit the HANSARD because I was not aware that, that indication had been given. We will let you know the position on Wednesday, 3rd January, 2013 in the afternoon. With respect to the Statement on the confrontation, I understand that, that is due this afternoon.

Again, the Assistant Minister of State for Provincial Administration and Internal Security, if you are ready, you can deliver it now.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Khang'ati): Mr. Speaker, Sir, I have two Statements which hon. Kabogo had requested. However, I seek to be given time to acquaint myself with the facts contained therein, because these Statements have just been sent to me in this House, and I find it very difficult to start reading Statements that I have not 100 per cent familiarized myself with the contents. I have already expressed my concerns to hon. Kabogo. I request him to be patient with me until 3th January.

Mr. Speaker: Once again, we will take that to 3rd January.

The Member for Juja, I think it is the reasonable thing to do in the prevailing circumstances.

Mr. Kabogo: Mr. Speaker, Sir, indeed, I agree with you.

Mr. Speaker: Fair enough. It is so directed!

Yes, the Member for Central Imenti!

DELAYED ASSENT TO BILLS

Mr. Imanyara: Mr. Speaker, Sir, I have two concerns. One is to the Attorney-General regarding the IDPs Bill which was enacted in this House and the Statutory Instruments Bill. With regard to the IDPs Bill, you will recall that the Attorney-General gave a very firm undertaking that His Excellency the President will definitely be signing this at a Cabinet meeting two weeks ago. However, up to now, this House has not been brought up to date with the status of those two Bills. Now that the Attorney-General is here, I hope he is prepared to tell the country what has happened to the two Bills.

DISBURSEMENT OF CDF MONEY

Mr. Speaker, Sir, the second Statement is from the Minister for Finance and the Minister for State for Planning, National Development and Vision 2030 regarding the disbursement of CDF money. Specifically, we would like to know whether circulars have gone out to CDF managers not to go on leave for purposes of ensuring that monies are disbursed so that the pending CDF projects can be completed before the current term of Parliament ends.

Secondly, it is with regard to the disbursement of the money that the Minister said he was even going to secure by means of a loan to send to various constituencies this month.

(Ms. Karua crossed the Floor without bowing to the Chair)

Mr. Speaker: Order! The Member for Gichugu, that is not the way we do it.

(Ms. Karua went to the bar and bowed to the Chair)

Let us have the Attorney-General respond first to the request with respect to the IDPs Bill.

The Attorney-General (Prof. Muigai): Mr. Speaker, Sir, may I, with your very kind permission and the indulgence of the hon. Member come back with a firm answer on Tuesday.

Mr. Speaker: Tuesday, 2nd January, 2013?

The Attorney-General (Prof. Muigai): Yes, Mr. Speaker, Sir.

Mr. Speaker: Very well. It is so directed!

Yes, the Minister for Finance. That is with respect to the disbursement of CDF money.

The Minister for Finance (Mr. Githae): Mr. Speaker, Sir, first of all, the circular to accountants, which falls under my docket, has been prepared but unfortunately, the Permanent Secretary was not in today. By 2nd January, 2013, when we resume, we will have the circular duly signed.

As far as the CDF money is concerned, there are still a few gentlemen left and I am one of them. I gave my word and I still want to make sure that by 31st December, 2012, those funds will be with the Board.

(Applause)

Mr. Speaker: Hon. Members, note that whatever is directed to come on Tuesday will come on the next day that is nearest to Tuesday. That will, therefore, be Wednesday.

Do you want to rise on a point of order, the Member for Bura?

Dr. Nuh: Mr. Speaker, Sir, I do not know whether hon. Imanyara mentioned it, but on the same note there was an indication, in fact, a promise by the Minister of State for Planning, National Development and Vision 2030 that they will issue circulars to all fund account managers that the accounts of the CDF are still operational until 4th March, 2013.

Mr. Speaker: Mr. Minister, maybe, you just want to re-emphasize that that is so.

The Minister for Finance (Mr. Githae): Indeed, Mr. Speaker, Sir, I was in this House when the Minister of State for Planning, National Development and Vision 2030 gave that assurance. In my view, that remains the position. In the meantime, as soon as I leave here, I will call him and tell him that he is required to bring this circular on Wednesday to confirm his assurance.

Mr. Speaker: Very well. Hon. Members, before we exit Order No. 7 which, indeed, has come to an end, we would like to go back to Order No.4.

(Mr. Shakeel stood up in his place)

Order! The Member for Kisumu Town East, this not a very good tendency. Do you want us to go back to Order No.7?

Mr. Shakeel: Yes, Mr. Speaker, Sir.

Mr. Speaker: Carry on.

REMOVAL OF WATER HYACINTH FROM LAKE VICTORIA

Mr. Shakeel: Mr. Speaker, Sir, I request for a Ministerial Statement from the Minister for Environment and Natural Resources. I would like him to inform the House what his Ministry has done about the hyacinth which is choking Kisumu and its environment. What does he intend to do to clear the hyacinth within a very short time. In his Statement, I would like the Minister to tell us what the parastatal called Lake Victoria Environment Management Programme (LVEMP)

It has been doing and why the LVEMP, Kenya, has failed while LVEMP, Uganda, and LVEMP, Tanzania, have been successful.

Mr. Speaker: Very well, the Member for Kisumu Town East except that, perhaps, hereafter, when you want to request for a Ministerial Statement you do not start by asking a question. This is because it then defeats the purpose of differentiating Ministerial Statements from questions. A little help would be accorded to you by our very professional officers. However, the import of what you have said is obvious. The Minister for Environment and Natural Resources, when will you give that Statement? Where is the Minister? The Leader of Government Business, could you give the necessary undertaking?

The Vice-President and Minister for Home Affairs (Mr. Musyoka): Mr. Speaker, Sir, could it be on or about 10th January, 2013, so that the Minister can have enough time to look at all the challenges the hon. Member has raised.

Mr. Speaker: Fair enough. The 10th of January, 2013 will be fine.

Hon. Odhiambo-Mabona, what is it?

Mrs. Odhiambo-Mabona: Mr. Speaker, Sir, in relation to the Statement that hon. Shakeel has sought, there is a law that we passed in this House last week which obligates the Government to clear the water hyacinth within six months. So, in the response, could the Minister indicate what the Government will do to ensure that the provisions of that law, the Agriculture, Livestock, Fisheries and Food Authority (ALFA) Bill or now the ALFA Act, if it has been assented to are complied with?

Mr. Speaker: Hon. Odhiambo-Mabona, just come again because I did not quite follow your intervention.

Mrs. Odhiambo-Mabona: Mr. Speaker, Sir, my intervention was in relation to the Statement that hon. Shakeel has sought in relation to the water hyacinth. I was just indicating that last week or two weeks ago we passed the ALFA Bill or the ALFA Act if it has been assented to that obligates the Government within six months to clear the water hyacinth. When the Minister is giving that statement he should be responding within the context of the ALFA Bill that now obligates the Government to clear the hyacinth within six months and not a Non-Governmental Organization or any other body.

Mr. Speaker: Yes, that is in order. The Minister will be asked to take note of that.

That then brings us to the end of Order No.7. Before we move to Order No.8, I want us to revisit Order No.4 so that the Minister for Finance can table some papers that he did not have as we transacted that Order.

The Minister for Finance (Mr. Githae): Thank you, Mr. Speaker, Sir, for really accommodating us. We had to work over Christmas to finalize the Supplementary Estimates.

PAPERS LAID

The following Papers were laid on the Table:-

Supplementary Estimates of Expenditure for the Financial Year 2012/2013 in respect of Recurrent Expenditure.

Supplementary Estimates of Expenditure for the Financial Year 2012/2013 in respect of Development Expenditure.

(By the Minister for Finance)

The Minister for Finance (Mr. Githae): Mr. Speaker, Sir, I request that I be allowed to give notice of Motion although belatedly because the Papers were brought after we had passed that Order.

Mr. Speaker: Very well, Minister. We will have to exit Order No. 4 and then revisit Order No.5. You may now proceed under Notices of Motion.

NOTICES OF MOTIONS

WITHDRAWAL OF FUNDS FROM THE CONSOLIDATED FUND

The Minister for Finance (Mr. Githae): Thank you, Mr. Speaker, again, for accommodating the Treasury.

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

THAT, in accordance with the provisions of Section 223 of the Constitution of Kenya, the withdrawal from the Consolidated Fund, a sum of Kshs58,848,761,483 representing the total net estimates of Recurrent and Development Expenditure made up of the following:-

(a) A sum not exceeding Kshs56,748,830,182 be granted from the Consolidated Fund to meet expenditure during the year ending 30th June, 2013 in respect of Supplementary Estimates of 2012/2013 Financial Year, Recurrent, having regard to the proposed reduction of Kshs6,005,491,759 appearing therein.

(b) A sum not exceeding Kshs16, 030,961,343 be granted from the Consolidated Fund to meet expenditure for the year ending 30th June, 2013 in respect of Supplementary Estimates of 2012/2013 Financial Year Development having regard to the proposed deduction of Kshs8, 108,423.60 therein appearing.

His Excellency the President has given consent to those Motions.

I thank you, Mr. Speaker and the House.

Mr. Speaker: Hon. Members, from now on you are guided by the Supplementary Order Paper which has been circulated.

PROCEDURAL MOTION

REDUCTION OF PUBLIC PERIOD OF:-

THE PRESIDENTIAL RETIREMENTS BENEFITS (AMENDMENTS) BILL/THE RETIREMENTS BENEFITS (DEPUTY PRESIDENT/DESIGNATED STATE OFFICERS) BILL

The Vice-President and Minister for Home Affairs (Mr. Musyoka): Mr. Speaker, Sir, I beg to move the following Motion.

THAT, pursuant to the provisions of Standing Order No.107, this House orders that the publication period of the Presidential Retirement Benefits (Amendment) Bill (Bill No.85, 2012) and the Retirement Benefits Deputy President and Designated State Officers Bill (Bill No.86, 2012) be reduced from 14 to eight days.

Mr. Speaker, Sir, it is clear that we are all running short of time and that is basically the main reason why this long standing matter should actually be brought before the House. Wide

consultations have taken place and I therefore want to suggest that this Motion be granted. I ask the Minister for Finance, who is actually chiefly the Minister responsible to second this Procedural Motion.

The Minister for Finance (Mr. Githae): Mr. Speaker, Sir, I wish to second this Procedural Motion. The reason why there has been delay is because there have been extensive and intensive consultations but everything has been agreed upon. Again, we do not have much time, therefore, I find the Motion in order that we reduce the period to enable us debate this issue sometime next week.

I second.

(Question proposed)

Mr. Shakeel: Mr. Speaker, Sir, while I stand to support the Motion, I feel that this way always causes difficulties for Parliament or this august House. *Wananchi* seem to think that we sneak in this amendment at the last minute. As I understand, the Salaries and Remuneration Commission has been raising objections and asking *wananchi* to object. I think they should be brought earlier and we would have followed the procedure of 14 days. However, I do support this but I do urge that we take into consideration the recommendations that may have been put in by the Salaries and Remuneration Commission.

Mr. Mungatana: On a point of order, Mr. Speaker, Sir. I thought that Mr. Shakeel was raising issues that should come in the main debate. This is a Procedural Motion, we support and end there.

(Question put and agreed to)

BILLS

First Readings

THE INTERNATIONAL INTEREST IN AIRCRAFT EQUIPMENT BILL

THE PRESIDENTIAL RETIREMENT BENEFITS (AMENDMENT) BILL

THE RETIREMENT BENEFITS DEPUTY PRESIDENT AND
DESIGNATED STATE OFFICERS BILL

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

PROCEDURAL MOTION

WAIVING OF REFERRAL PERIOD OF:-

THE PRESIDENTIAL RETIREMENTS BENEFITS (AMENDMENTS) BILL/
THE RETIREMENTS BENEFITS (DEPUTY PRESIDENT/DESIGNATED
STATE OFFICERS) BILL

The Vice-President and Minister for Home Affairs (Mr. Musyoka): Mr. Speaker, Sir, I beg to move:-

THAT notwithstanding the provisions of Standing Order 111, this House resolves to waive the referral period of the Presidential Retirement Benefits (Amendment) Bill (Bill No.85, 2012) and the Retirement Benefits (Deputy President and Designated State Officers Bill (Bill No.86, 2012) to the relevant Departmental Committees.

Mr. Speaker, Sir, the main reason is simply that we did not really have the luxury of time if we have to move on to the other urgent business that we must deal with before lapse of time by the 14th of January. We need to deal with these matters and, therefore, the need to ask the relevant departmental committee to be able to accept this request so that it becomes more urgent. I want to ask the Minister for Finance to second this Motion.

The Minister for Finance (Mr. Githae): Mr. Speaker, Sir, as I rise to second this Procedural Motion, this is basically to enable us to debate this issue. As I said, the reason why there has been a delay is because of the consultations that were required and, therefore, these Bills are not being sneaked in. Even for the others, because of lack of time, that is why publications period is even being reduced.

I, therefore, second.

(Question proposed)

Mr. Njuguna: Mr. Speaker, Sir, because of the life of the current Parliament that is nearly coming to an end and the urgency of these Bills, it is important that I support the reduction of the publication time.

(Question put and agreed to)

Mr. Speaker: Next Order!

COMMITTEE OF THE WHOLE HOUSE

(Order for Committee read)

[Mr. Speaker left the Chair]

[Mr. Chairman took the Chair]

THE STATUTE LAW (MISCELLANEOUS AMENDMENTS) BILL

Mr. Chairman: Hon. Members, we are starting with The Statute Law (Amendments) Bill (No.2) Bill No.82 of 2012).

Mrs. Odhiambo-Mabona: On a point of order, Mr. Chairman, Sir. I had given an amendment on Thursday in relation to this Bill and I cannot see it in the Supplementary Order Paper.

Mr. Chairman: Do you have a copy of the amendments that you brought in?

Mrs. Odhiambo-Mabona: No, I do not have, Mr. Chairman, Sir. I gave out all the copies on Thursday. I gave out about four copies.

Mr. Chairman: Yes, It is going to be done. They are being circulated now.

Mrs. Odhiambo-Mabona: In relation to the Statute Law (Miscellaneous Amendments) Bill?

Mr. Chairman: Yes.

The Attorney-General (Prof. Muigai): Mr. Chairman, Sir, I am not aware and I do not anticipate what amendment my learned colleague has but I wanted to bring it to the attention of the House that when we rose here on Thursday last week, it was agreed that I would hold consultations with the Justice and Legal Affairs Committee. We, indeed, met on Friday and had very extensive deliberations which included the hon. Odhiambo-Mabona, the Chairman of the Committee, hon. Abdikadir, and other members and arising out of that meeting, we arrived at a consensus which took into account the time available to the House to deliberate the statute. That was number one.

Number two took into account the need to have consensus on controversial provisions and number three took into account the fact that many hon. Members had independently generated their own amendments making The Statute Law (Miscellaneous Amendments) Bill (Bill No.82 of 2012) unsuitable for the purpose for which it had been originally intended. We intended it as an omnibus statute to clean up minor areas of the law in which there was a lacuna or inconsistencies. As finally proposed with the additional proposals, it became unwieldy, complicated and totally incapable of being debated intelligibly within the time available. A letter was therefore written from the Office of the Clerk to my office on 21st December confirming that we had agreed to limit this Statute Law (Miscellaneous Amendments) Bill to three areas – The Political Parties Act, The Elections Act and the Leadership and Integrity Act which is a very minor amendment.

Hon. Members, in summary, what we agreed upon was that we would confine this statute today to preparatory work necessary for a free and fair election and nothing else. So, it is on that basis that you will notice that the Supplementary Order Paper contains extensive amendments by my office to our own amendment of the Bill deleting every proposed amendment except the key ones. I would hope then against that background that the hon. Millie Odhiambo is talking about an amendment to the very few amendments we had agreed upon.

Mrs. Odhiambo-Mabona: Mr. Chairman, Sir, indeed, what the hon. Attorney-General is saying is true. We had very extensive consultations with him and the Committee on Justice and Legal Affairs and we agreed that was the way to go. So, my amendment was in relation to one area that was contentious and which if the hon. Attorney-General is agreeable to deleting, then I would not need to bring an amendment but if there was an amendment as earlier had been proposed, then I was actually going to put in a further amendment. However, if the way the hon. Attorney-General is going is to absolutely delete that clause, then my amendment does not apply. But if it is not the position, then my amendment applies.

Mr. Chairman: Was your amendment outside the three critical areas that the Attorney-General has mentioned which are The Elections Act, The Political Parties Act and The Leadership and Integrity Act?

Mrs. Odhiambo-Mabona: It was outside.

Mr. Chairman: Okay. Fair enough. I think we will proceed now.

Mr. Midiwo: On a point of order, Mr. Chairman, Sir. I am only requesting that maybe the Attorney-General, for good order, should walk us down what it is that we are accepting and

what it is that we are not accepting. I think it would only be fair since I see a lot of deletions from his amendments.

Mr. Chairman: We shall go provision by provision; one Act to the other and in every case, it is going to be crystal clear exactly what he is amending.

The Attorney-General (Prof. Muigai): Mr. Chairman, Sir, I will be more than happy to assist the Members by citing the three key areas that we still want to amend. As we go down, because we do not want to make a mistake, the Members can be alert, if I have your permission.

Mr. Chairman: You have my permission! It is basically the object and the spirit.

The Attorney-General (Prof. Muigai): Mr. Chairman, Sir, I want to drop all the amendments on pages 5971, 5972, 5973 all the way to page 5982. On page 5982, I only want to amend The Political Parties Act, No.11 of 2011. So, the only major amendment that we will have to discuss is at page 5982 and relates to The Political Parties Act (No.11 of 2011). I would like to drop everything else until the following page 5984. There, I would only want to amend The Elections Act, 2011, across that page to page 5985 and across half page of 5986. I propose to drop every other amendment there until the very end.

Finally, I hope to insert a very simple amendment to The Ethics and Anti-Corruption Act, to drop reference to Section 55, which was a transition provision which we no longer need. This is the one about taking the self-declaration form to the IEBC. So, those are the only two key areas where we need to amend.

(Clause 2 agreed to)

The Advocates Act, (Cap.16)

The Attorney-General (Prof. Muigai): Mr. Mr. Chairman, Sir, I beg to move:-

THAT, the Bill be amended by deleting the provisions relating to the Advocates Act.

(Question of the amendment proposed)

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

*(Proposed amendments to the Provisions relating to the Advocates
Act were deleted)*

(Provisions relating to the Advocates Act agreed to)

The Criminal Procedure Code (Cap.75)

The Attorney-General (Prof. Muigai): Mr. Chairman, Sir,, I beg to move:-

THAT, the Bill be amended by deleting the provisions relating to the Criminal Procedure Code.

(Question of the amendment proposed)

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

*(Proposed amendments to the provisions relating to
the Criminal Procedure Code were deleted)*

(Provisions relating to the Criminal Procedure Code agreed to)

The Air Passenger Service Charge Act (Cap.475)

The Attorney-General (Prof. Muigai): Mr. Chairman, Sir, I beg to move:-

THAT, the Bill be amended by deleting provisions relating to the Air Passenger Service Charge Act.

(Question of the amendment proposed)

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

*(Proposed amendments to the provisions relating to
the Air Passenger Service Charge
Act were deleted)*

*(Provisions relating to the Air Passenger Service
Charge Act agreed to)*

The Central Bank of Kenya Act (Cap.491)

The Attorney-General (Prof. Muigai): Mr. Chairman, Sir, I beg to move:-

THAT, the Bill be amended by deleting the provisions relating to The Central Bank of Kenya Act.

(Question of the amendment proposed)

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

*(Proposed amendments to the provisions relating to the
Central Bank of Kenya Act were y deleted)*

(Provisions relating to the Central Bank of Kenya Act as amended, agreed to)

The Anti-Corruption and Economic Crimes Act, 2003 (No.3 of 2003)

The Attorney-General (Prof. Muigai): Mr. Chairman, Sir, I beg to move:-

THAT, the Bill be amended by deleting provisions relating to the Anti-Corruption and Economic Crimes Act, 2003.

(Question of the amendment proposed)

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

*(Proposed amendments to the provisions relating to the Anti-Corruption and
Economic Crimes Act, 2003, were deleted)*

*(Provisions relating to the Anti-Corruption
Economic Crimes Act, 2003, as amended, agreed to)*

The Public Officer Ethics Act, 2003 (No.4 of 2003)

The Attorney-General (Prof. Muigai): Mr. Chairman, Sir, I beg to move:-

THAT, the Bill be amended by deleting provisions relating to the Public Officer Ethics Act, 2003.

(Question of the amendment proposed)

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

*(Proposed amendments to provisions relating to the Public
Officer Ethics Act, 2003, were deleted)*

(Provisions relating to the Public Officer Ethics Act, 2003 agreed to)

The Anti-Counterfeit Act, 2008 (No.13 of 2008)

The Attorney-General (Prof. Muigai): Mr. Chairman, Sir, I beg to move:-

THAT, the Bill be amended by deleting the provisions relating to the Anti-Counterfeit Act, 2008.

(Question of the amendment proposed)

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

*(Proposed amendments to the provisions relating to the Anti-Counterfeit
Act, 2008, were deleted)*

(Provisions relating to the Anti-Counterfeit Act, 2008, agreed to)

The Independent Offices Appointment Act, 2011 (No.8 of 2011)

The Attorney-General (Prof. Muigai): Mr. Chairman, Sir, I beg to move:-

THAT, the Bill be amended by deleting provisions relating to The Independent Offices Appointment Act, 2011.

(Question of the amendment proposed)

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

*(Proposed amendments to the provisions relating to the Independent Offices
Appointment Act, 2011, were deleted)*

*(Provisions relating to the Independent Offices Appointment
Act, 2011 agreed to)*

The Salaries and Remuneration Commission Act, 2011

The Attorney-General (Prof. Muigai): Mr. Chairman, Sir, I beg to move:-

THAT, the Bill be amended by deleting provisions relating to the Salaries and Remuneration Commission Act, 2011.

(Question of the amendment proposed)

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

*(Proposed amendments to the provisions relating to the Salaries and Remuneration
Commission Act, 2011 were deleted)*

*(Provisions relating to the Salaries and Remuneration Commission
Act, 2011 agreed to)*

The Political Parties Act, 2011

Mr. Chairman: Hon. Odhiambo-Mabona, do you have an amendment to that or you are okay with that? You have not made any request. I can only see the request of hon. Mungatana. You caught my eye because I have on record your proposed amendment to that. We have been very clear from the outset that the proposals by Prof. Muigai will only deal with matters that call for the urgency of the moment, which are The Political Parties Act, The Leadership and Integrity Act and The Elections Act.

Mrs. Odhiambo-Mabona: Mr. Chairman, Sir, I withdraw my amendment.

Mr. Chairman: The amendment stands withdrawn.

(Proposed amendment by Mrs. Odhiambo-Mabona withdrawn)

(Question of the amendment proposed)

Mr. Mungatana: Mr. Chairman, Sir, maybe we have already been overtaken by events, but that notwithstanding, just because we want to follow what the Attorney-General is doing, we have full faith that he is not going to harm us. We want to hear how The Political Parties Act will be.

Mr. Chairman: We have passed it, but I am sure you can look at it.

Mr. Mungatana: Mr. Chairman, Sir, it will be good because---

Mr. Chairman: What is that, Attorney-General, just to give an exception to the rule?

The Attorney-General (Prof. Muigai): Mr. Chairman, Sir, there are four provisions to be amended. One is Section 20, where we are inserting a new paragraph on the particulars of The Political Parties, namely, its address and physical location. The Member is aware that there are some that have no physical address and we want to cure that. In Section 30, we want to delete 90 days and create 60 days. This is to reduce the period for submission of the assets and liabilities of our political parties to the Registrar before the election. In section 41, we have had this problem before. It is about how we manage the Appeals Tribunal from political parties. We have put "Criminal Procedure Code" when we meant "Civil Procedure Code". We are reversing that. In section 45, we are saying that the registrar will have power to deregister an offending political party after proceedings. So, it is nothing very radical.

Mr. Chairman: Fair enough! It is clarified now.

(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)

(Proposed amendments to the provisions relating to the Political Parties Act, 2011, as amended, agreed to)

The National Police Service Act, 2011 (No.11A of 2011)

The Attorney-General (Prof. Muigai): Mr. Chairman, Sir, I beg to move:-

THAT, the Bill be amended by deleting the provisions relating to The National Police Service Act, 2011.

(Question of the amendment proposed)

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

(Proposed amendments to the provisions relating to the National Police Service Act, 2011, were accordingly deleted)

(Provisions relating to the National Police

Service Act, 2011 agreed to)

The Urban Areas and Cities Act, 2011 (No. 13 of 2011)

The Attorney-General (Prof. Muigai): Mr. Chairman, Sir, I beg to move:-
THAT, the Bill be amended by deleting the provisions relating to the Urban Areas and Cities Act, 2011.

(Question of the amendment proposed)

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

(Proposed amendments to the provisions relating to the Urban Areas and Cities Act, 2011, were deleted)

(Provisions relating to the Urban Areas and Cities Act, 2011 agreed to)

The Ethics and Anti-Corruption Act, 2011(No. 22 of 2011)

The Attorney-General (Prof. Muigai): Mr. Chairman, Sir, I beg to move:-
THAT, the Bill be amended by deleting the provisions relating to the Ethics and Anti-Corruption Act, 2011.

(Question of the amendment proposed)

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

(Proposed amendments to the provisions relating to the Ethics and Anti-Corruption Act, 2011, were deleted)

(Provisions relating to The Ethics and Anti-Corruption Act, 2011 agreed to)

The Elections Act, 2011 (No.24 of 2011)

The Attorney-General (Prof. Muigai): Mr. Chairman, Sir, I beg to move:-
THAT, the Bill be amended in the provisions relating to the Elections Act, 2012 by inserting the following amendments in proper sequence-

- S. 13(1) Delete the expression “forty-five” and substitute therefor the expression “thirty”.
- S.13(3) Delete the expression “forty-five” and substitute therefor the expression “thirty”.

S.28 Delete the expression “two months” and substitute therefor the expression “forty-five days”.

The amendment is set out extensively on page 5984 and on to the following page 5985. First, I wish the Members to note that the provisions relating to the management in the Elections Court of the election disputes has been given to us by the Judiciary. The Hon. Chief Justice set up a task-force that studied the timelines within the Constitution and the law, which proposed that Parliament should amend The Elections Act first to allow the Magistrates Court to hear some of the disputes especially those relating to county assemblies. Currently, our Magistrates Courts are manned by fairly senior and experienced judicial officers and there was a feeling that if we did not empower them, we would clog up the rest of the court system.

Section 6(2) relates to the compilation of the register. We wanted to reduce the time for the compilation of the register by deleting 90 days and inserting 60 days and deleting 30 days and inserting 14 days. We want to give more time for the register to be compiled. All of us are aware of why we must be as cautious as possible with the register, so that the integrity of the register is not compromised by timelines that are not necessary. We want to harmonize Sections 6(2) and 6(3). That is why we are also reducing 30 days to 14 days in Section 6(3). In Section 3(8), we are trying to provide for the holding of elections without itemizing presidential and governor elections. We are just saying holding of elections in the language of Section 3(8), so that the Statute reads in the same manner.

Again, in respect of Section 75(1), you will notice that we are trying to clarify that it is the petition concerning the election of county governor which will be heard by the High Court. For the same reason, we want to make a clear distinction between what the Resident Magistrate’s Court can hear and what the High Court can hear. Again, we have made that clarification in Section 3(8). In Section 96, we are trying to harmonize the rules that apply to referendum and the rules that apply to elections. Again, this was on the recommendation of the Judiciary.

Finally, there were two proposed amendments and I want to drop one set of the amendment, which relates to Section 13. I do not know whether the Members are looking at Section 13. There was a proposal to delete 45 days and substitute that with 30 days. This being the nomination period, we were trying to reduce it from 45 days to 30 days. We have received very serious protestations from the IEBC saying that if we do that, they may not have the time that they may require to ensure that they receive nominations and that any disputes arising out of the nominations are resolved in good time. My own advice to Parliament, because nothing is lost here, I should drop those two amendments and let the *status quo* as obtains now relating to the nomination period remain in place. The IEBC has said that it would create logistical challenges especially as regards the resolutions of disputes arising from nominations. So, I propose to drop the amendments that I had proposed to Sections 13(1) and 13(3), I believe.

Mr. Chairman, Sir, I want to retain the amendment I proposed to Section 28. This is a very important amendment; this is the amendment that reduces the period from two months to 45 days as they relate to when Members can legitimately exit the party in which they currently find themselves, and when they present themselves fresh.

If my mathematics is correct, the reduction of this period will coincide with the expiry of the life of Parliament. Therefore, it will ensure that there is no incongruence, whatsoever. That is the explanation.

Mr. Chairman: You are amending your own amendment?

The Attorney-General (Prof. Muigai): As far sections 13 and 28 are concerned; in order for me to drop section 13, I proposed that I delete my own proposed amendment to section 13(1) and 13(3). But I move that section 28 be amended as proposed.

I beg to move that the Bill be amended in the provisions related to the Elections Act by inserting the following amendment in the proper sequence:-

s.28 Delete the expression “two months and substitute therefor the expression “forty-five days”.

(Question of the amendment proposed)

(Several hon. Members sought interventions)

Mr. Chairman: He has given clarifications.

Hon. Attorney General, you feel that you have further clarifications to give on the same?

The Attorney-General (Prof. Muigai): Not at all but I would request---

Mr. Chairman: He made some proposals for amendment but has withdrawn his own proposed amendments save for amendment to section 28.

Those ones are withdrawn by the hon. Attorney General. The hon. Jakoyo Midiwo has similar amendments but we will get to that later.

(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)

(Section 28 as amended agreed to)

Mr. Chairman: There is a further amendment by hon. Dr. Nuh. Could you move your amendment?

Schedule

Dr. Nuh: Mr. Chairman, Sir, I beg to move:-

THAT, the schedule be amended, in the provisions relating to the Elections Act, 2011, by inserting the following new provisions in their proper numerical sequence –

<i>Written law</i>	<i>Provision</i>	<i>Amendment</i>
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Elections Act, 2011 (No. 24 of 2011)	s. 2	
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		In the definition of “party list”, delete the figure “29” and substitute therefor the figure “28”.
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Written law

Provision

Amendment

s. 29(1)

Delete the words “parliamentary, county governor and county assembly”.

Written law

Provision

Amendment

Elections Act, s. 109
2011 (No. 24 of
2011)

Insert the following new subsection immediately after subsection (3)—

“(4) The Commission shall publish in the Gazette, not later than sixty days prior to the date of a general election, the regulations approved by the National Assembly under subsection (3).”

Mr. Chairman, Sir, this relates to “party list” and the citation for the wrong article in the elections Act; it says that “party list” will be in congruence with s.29 when it should be s.28 of the Elections Act. So, it is just cleaning up the Elections Act.

(Question of the amendment proposed)

Mr. Chairman: Hon. Attorney-General, do you have anything to say about the proposed amendment by Dr. Nuh?

The Attorney General (Prof. Muigai): No. I think to the extent that his is editorial, I have no objection.

Mr. Chairman: Hon. Midiwo, do you still wish to move your amendments, or you think they have been taken care of by the Attorney-General?

Mr. Midiwo: Mr. Chairman, Sir, I think they have been taken care of by the Attorney-General?

(Proposed amendments by Mr. Midiwo withdrawn)

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

(Question, that the word to be inserted in place thereof,

be inserted, put and agreed to)

(Schedule as amended agreed to)

Dr. Nuh: On a point of order, Mr. Chairman, Sir. I have only proposed the amendment to Section 2. So, I expected that when you are done with Section 2, you would call out Sections 29 and 109, which are also on the Supplementary Order Paper.

Mr. Chairman: We are through with all of them. We do not have any amendments, or rather proposed amendments on those sections.

An hon. Member: You did not go through them one by one.

Mr. Chairman: In any case, we do not go through them one by one; we just call out the Act as a whole.

(Question of the amendment proposed)

Dr. Nuh: On a point of order, Mr. Chairman, Sir.

Dr. Nuh: Mr. Chairman, Sir, they are on the Supplementary Order Paper and for the record, we did not have anything on record. I have only cited Section 2 and there was a further amendment by hon. Midiwo to Section 109. The amendments I proposed are on the Supplementary Order Paper provided.

Mr. Chairman: We have gone through all of them and we have done them.

Dr. Nuh: We have not. We have only gone through my amendment to Section 2.

Mr. Chairman: Mr. Midiwo has dropped all his amendments on the presumption that, of course, they are taken care of by---

Dr. Nuh: Mr. Chairman, Sir, if I make it clear that we have only dealt with my amendments to Section 2 of the Elections Act.

I have two other amendments on the Supplementary Order Paper.

Mr. Chairman: But they have been carried because you have moved them all.

Dr. Nuh: Mr. Chairman, Sir, I have not moved them.

Mr. Chairman: You moved them as provisions relating to the Elections Act of 2011.

Dr. Nuh: I said Section 2.

Mr. Chairman: The process of the amendments is done from here by the Chairman; yours were carried, unless you have a problem with the way they were carried.

Your amendments have been carried in their entirety; do you have a problem?

Dr. Nuh: Mr. Chairman, Sir, my amendments to Section 109----

Mr. Chairman: It does not matter what Section; is that part of the Elections Act of 2011?

Dr. Nuh: Mr. Chairman, Sir, I wanted to move an amended amendment.

Mr. Chairman: Did you want to further amend your amendment.

Dr. Nuh: Yes, Mr. Chairman, Sir and that is why I wanted to---

Mr. Chairman: That is already overtaken by events. You had amendments and your amendments have been carried. You cannot move a further amendment to your own amendment, unless you give a notice of that well in advance.

Dr. Nuh: Mr. Chairman, Sir, I wanted to move an amended version of my amendment and that is allowed within the procedures.

Mr. Chairman: Which one?

Dr. Nuh: Mr. Chairman, Sir, the one to Section 109.

Mr. Chairman: Could you read it?

Dr. Nuh: What it says is that Section 109---

Mr. Midiwo: On a point of order, Mr. Chairman, Sir.

Mr. Chairman: What is your point of order, hon. Midiwo?

Mr. Midiwo: Mr. Chairman, Sir, I just wanted to plead with you but it seems you have agreed to let---- This is a very important amendment.

Mr. Chairman: Yes, proceed, Dr. Nuh.

Dr. Nuh: Mr. Chairman, Sir, if I retrace my steps, I beg to move:-

THAT, the Schedule be amended, in the provisions relating to the Elections Act, 2011, by inserting the following new provisions in their proper numerical sequence—

Written law

Provision

Amendment

s. 29(1)

Delete the words “parliamentary, county governor and county assembly”.

Written law

Provision

Amendment

Elections Act,
2011 (No. 24 of
2011)

s. 109

Insert the following new subsection immediately after subsection (3)—

“(4) The Commission shall publish in the Gazette, not later than sixty days prior to the date of a general election, the regulations approved by the National Assembly under subsection (3).”

Mr. Deputy Speaker: Can you repeat?

Dr. Nuh: Mr. Chairman, Sir, my amendment to Section 109 is insertion of a new Sub-section (4), which reads:-

“Insert the following new subsection immediately after Sub-section (3)-

(4)The Commission shall publish in the Gazette, not later than sixty days prior to the date of a general election; the regulations approved by the National Assembly under subsection (3) and shall only become effective upon gazettment.”

Mr. Chairman: Dr. Nuh, the practice we have established of giving notice of amendments in advance is for an amendment to be looked at to ensure that it is in synergy with the rest of the provisions in the Bill and that it makes sense in every sense, including legal language and the rest. You are now amending the amendment on the Floor of the House.

Yes, hon. Githu Muigai.

The Attorney-General (Prof. Muigai): Mr. Chairman, Sir, I would like to persuade the hon. Member to drop his further amendment because it does not add any value to the amendment in place. If something is required to be gazetted, it achieves legal validity and force upon gazettment. So, we do not need the extra, which does not, to mention; sound very grammatical to me as well. So, if we may leave it at that, Chair.

Mr. Chairman: Yes, Dr. Nuh.

Dr. Nuh: Mr. Chairman, Sir, I am not a lawyer. I am guided by hon. Githu Muigai. If it is on record that if anything that requires gazettment shall only become effective upon such gazettment, I drop my further amendment.

Mr. Chairman: Hon. Mungatana, we are done with this one. So, we should move to the next provision.

Mr. Mungatana: Mr. Chairman, Sir, I just want to make a point so that we may understand. Since we passed the Regulations, the Commission has not published them. They have been doing their things. We want these Regulations published in the *Kenya Gazette* after we have approved them in Parliament. We want them to be very clear to every person. That is why this amendment is critical.

Thank you, Mr. Chairman, Sir.

Mr. Chairman: Hon. Members, we shall now move to the next amendment. We are through with this one. The hon. Attorney-General, can you respond?

The Attorney-General (Prof. Muigai): Mr. Chairman, Sir, I have great sympathy for what hon. Mungatana has said. I appreciate it. That is why I made no contest of the proposal that not only must this House be transparent but the Commission itself must also be equally transparent.

Mr. Chairman: Yes, hon. Nuh.

Dr. Nuh: Mr. Chairman, Sir, I have said it on record that I am at least okay.

(Proposed further amendment by Dr. Nuh withdrawn)

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

*(Provisions relating to the Elections Act, 2011,
as amended agreed to)*

The Land Registration Act (No.30 of 2012)

Mr. Chairman: The hon. Attorney-General, proceed and move your amendment.

The Attorney-General (Prof. Muigai): Mr. Chairman, Sir, I beg to move:-

THAT, the Bill be amended by deleting the provisions relating to the Land Registration Act, 2012.

Mr. Chairman, Sir, I want to confirm that I want to delete the rest of the provisions up to the end of the memorandum.

(Question of the amendment proposed)

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

(Proposed amendments to the Provisions relating to the Land Registration Act, 2012 were deleted)

(Provisions relating to the Land Registration Act, 2012 agreed to)

The Kenya School of Government Act, 2012 (No.9 of 2012)

The Attorney-General (Prof. Muigai): Mr. Chairman, Sir, I beg to move:-

THAT, the Bill be amended by deleting the provisions relating to The Kenya School of Government Act, 2012.

(Question of the amendment proposed)

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

(Proposed amendments to the Provisions relating to the Kenya School of Government Act, 2012, were deleted)

(Provisions relating to the Kenya School of Government Act agreed to)

The County Governments Act, 2012 (No.17 of 2012)

The Attorney-General (Prof. Muigai): Mr. Chairman, Sir, I beg to move:-

THAT, the Bill be amended by deleting the provisions relating to The County Governments Act, 2012.

(Question of the amendment proposed)

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

(Proposed amendments to the Provisions relating to the County Governments Act, 2012, were deleted)

(Provisions relating to the County Governments Act agreed to)

Mr. Chairman: Hon. Members, the amendment of hon. Millie Odhiambo is similar to that of the Attorney-General. Therefore, it is overtaken by events.

The Public Financial Management Act, 2012 (No.18 of 2012)

The Attorney-General (Prof. Muigai): Mr. Chairman, Sir, I beg to move:-

THAT, the Bill be amended by deleting the provisions relating to The Public Financial Management Act, 2012.

(Question of the amendment proposed)

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

(Proposed amendments to the Provisions relating to the Public Financial Management Act, 2012, were deleted)

(Provisions relating to the Public Financial Management Act agreed to)

Mr. Chairman: Hon. Members, the amendments by hon. Millie Odhiambo and hon. Mbau have also been overtaken by events.

Mr. Mbau: Mr. Chairman, Sir, the one that we have just passed is different from the one I am proposing, so it cannot be overtaken by events.

Mr. Chairman: This is a further amendment.

Attorney-General, did you look at that one to see how much you can accommodate it?

The Attorney-General (Prof. Muigai): Mr. Chairman, Sir, I thought the ruling by the Speaker has been that if the Mover withdraws what he wished amended, there is nothing left to be amended by any other person. Therefore, in as much as I would want to accommodate Mr. Mbau, having withdrawn my amendment by deleting it, there is nothing left for another amendment by him.

Mr. Mbau: Mr. Chairman, Sir, I would put it to the Attorney-General that the section that he has deleted is a typo. You are talking about a section changing the name from “county assembly” to a different phrase. The one I specifically refer to is Section 40 (3).

Mr. Chairman: Order! Order! Mr. Mbau, the section that you wish to propose an amendment to has already been deleted. Therefore, there is nothing to amend.

Mr. Mbau: Mr. Chairman, Sir, it has not been deleted. We are talking about Section 40 and he is referring to a different one.

Mr. Chairman: Just a moment.

(Mr. Chairman consulted the Clerks-at-the-Table)

The Act as it is right now, after the moving of the deletion by the Attorney-General, there is nothing there. It is completely deleted and therefore there is nothing to amend. You amend what exists; what has already been deleted and does not exist cannot be amended. That is the position we are in now.

Let us go to the next one now.

The Leadership and Integrity Act, 2012 (No.19 of 2012)

The Attorney-General (Prof. Muigai): Mr. Chairman, Sir, I beg to move---

Mr. Chairman: Can you just wait because Mr. Baiya is seeking to delete the whole thing?

Mr. Baiya, have you dropped your amendments?

Mr. Baiya: Mr. Chairman, Sir, I am not abandoning my amendment because as far as I am concerned, it is a matter of agreement between the Committee on Justice and Legal Affairs and the Attorney-General. My amendment should carry the day.

The Attorney-General (Prof. Muigai): The Chairman's position and my position are similar. We propose to delete the provisions as set out in the Statute Law (Miscellaneous Amendments) Bill but we both propose to insert a new provision deleting Section 55 which I explained to Members earlier was the redundant provision that allows for a transition provision when we no longer have a transition. This is because both the Independent Electoral and Boundaries Commission (IEBC) and the Ethics and Anti-Corruption Commission (EACC) are in place.

I think there is the common ground that the form will go to the IEBC.

Mr. Chairman: So you have dropped your amendment?

Mr. Baiya: Yes, Mr. Chairman, Sir. I am in agreement with the proposal to the amendment to accommodate that change to allow those documents to be presented to the IEBC.

Mr. Chairman: You have withdrawn your deletions, am I right?

Mr. Baiya: Mr. Chairman, Sir, mine and his are actually the same, so, yes.

Mr. Chairman: So, you have dropped your amendments, fair enough. That is the position. We have to be crystal clear in this case.

Mrs. Odhiambo-Mabona: On a point of order, Mr. Chairman, Sir. Just to enable us move faster, I want to clarify that I was holding fort for the Chair. Before the Chair came, we agreed---

[Mr. Chairman left the Chair]

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

The Temporary Deputy Chairman (Mr. Ethuro): Just bear with us, there is change of guard at the helm.

*(The Temporary Deputy Chairman
(Mr. Ethuro) consulted the Clerks-at-the-Table)*

Order, all of you! Order, Attorney-General! Order, Mrs. Millie Odhiambo-Mabona!

The Chair was being advised and the advice is that from our understanding Section 13(1) and Section 52(1) in the Bill are being dropped by the Attorney-General and it is the same intention of the Chairman.

I am just summarizing before we proceed. The Attorney-General wants to delete Section 55 and then introduce a new provision. Is that correct? If that is the case, we want to rewind the

process by starting with Mr. Baiya and then come to Mrs. Odhiambo-Mabona. Since the Chairman has conceded, we will start with Mrs. Odhiambo-Mabona.

Mrs. Odhiambo-Mabona: Mr. Temporary Deputy Chairman, Sir, I just wanted to guide the House, so that we can move faster. I know the Chair of the committee came in when we were already proceeding. But it was a joint agreement which the Attorney-General explained at the beginning and which I concurred with, between the Attorney-General and the Committee on Justice and Legal Affairs; it was that the Attorney-General would remove all the amendments. So, all our amendments as the Committee stand withdrawn; we have given the Attorney-General the mandate to move all the deletions. So, deferring will take us long because they stand withdrawn. That is the way we have been moving.

The Temporary Deputy Chairman (Mr. Ethuro): That is fine. Let us give the Attorney-General the chance to move the amendment to Section 13(1), Section 52(1) and Section 55 first, and then we can get interventions from hon. Members.

The Attorney-General (Prof. Muigai): Mr. Temporary Deputy Chairman, Sir, the consensus is that the entire amendment to the Leadership and Integrity Act relating to Section 13(1) and Section 52(1) be deleted. In addition, Section 55 also be deleted. I think the Chair of the committee will confirm the same.

(Question of the amendment proposed)

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

*(Proposed amendments to the Provisions relating to
the Leadership and Integrity Act, 2012 were deleted)*

*(Provisions relating to the Leadership
and Integrity Act agreed to)*

The National Security Council Act, 2012 (No.23 of 2012)

The Attorney-General (Prof. Muigai): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, the Bill be amended by deleting the provisions relating to the National Security Council Act, 2012.

(Question of the amendment proposed)

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

*(Proposed amendments to the Provisions relating to
the National Security Council Act, 2012, were deleted)*

*(Provisions relating to the National
Security Council Act agreed to)*

The Temporary Deputy Chairman (Mr. Ethuro): Mrs. Odhiambo-Mabona, your amendment cannot be carried because the deletion has been sustained.

The Defence Forces Act, 2012 (No.25 of 2012)

The Attorney-General (Prof. Muigai): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, the Bill be amended by deleting the provisions relating to the Kenya Defence Forces Act, 2012.

(Question of the amendment proposed)

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

(Proposed amendments to provisions relating to the Defence Forces Act, 2012, were deleted)

(Provisions relating to the Defence Forces Act, 2012 agreed to)

The Temporary Deputy Chairman (Mr. Ethuro): Mr. Baiya and Mrs. Odhiambo-Mabona, you had similar amendments. Actually, they have not been overtaken by events but they have been satisfied.

The Kenya School of Law Act, 2012 (No.26 of 2012)

The Attorney-General (Prof. Muigai): Mr. Temporary Deputy Speaker, Sir, I beg to move:-

THAT, the Bill be amended by deleting the provisions relating to the Kenya School of Law Act, 2012.

(Question of the amendment proposed)

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

(Proposed amendments to Provisions relating to the Kenya School of Law Act, 2012, were deleted)

(Provisions relating to the Kenya School of Law were agreed to)

The National Intelligence Service Act, 2012 (No.28 of 2012)

The Attorney-General (Prof. Muigai): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, the Bill be amended by deleting the provisions relating to the National Intelligence Service Act, 2012 (No.12 of 2012).

(Question of the amendment proposed)

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

(Proposed amendments to provisions relating to the National Intelligence Service Act, 2012, were deleted)

(Provisions relating to the National Intelligence Service Act, 2012, agreed to)

The Temporary Deputy Chairman (Mr. Ethuro): Hon. Members, as a result of the proposed amendments, which are deletions, by Mr. Baiya and Mrs. Odhiambo-Mabona have been satisfied.

(Schedule as amended agreed to)

(Title agreed to)

(Clause 1 agreed to)

The Attorney-General (Prof. Muigai): Mr. Temporary Deputy Chairman, Sir, I beg to move that the Committee doth report to the House its consideration of the Statute Law (Miscellaneous Amendments) (No.2) Bill, Bill No.82 of 2012 and its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

The Temporary Deputy Chairman (Mr. Ethuro): Hon. Members, we will defer the reporting until all of the Bills are dealt with. So, we will go to the next Bill.

THE OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS BILL

Mr. Baiya: On a point of order, Mr. Temporary Deputy Chairman, Sir. This Bill has been referred to the Departmental Committee on Justice and Legal Affairs and, once again, I want to indicate that it has not had time to look at this Bill. To us, it does really raise substantive issues that even relate to its constitutionality. Since, we have not had time to look at the Bill as a Committee, I wish that the Attorney-General could consider giving this Committee time to do so.

The Attorney-General (Prof. Muigai): Mr. Temporary Deputy Chairman, Sir, I think that the Chairman has not been fully updated on matters relating to this Bill. The record will actually show that I have consented twice before for this Bill to be taken off the Order Paper for the Departmental Committee on Justice and Legal Affairs to have sometime to look at it. When I met the Committee on Friday, we discussed the Statute Law (Miscellaneous Amendments) Bill for a very long time. The remainder of the time, we came back to this Bill. In my own understanding the Committee said: "We have no amendments proposed to this Bill." That is the position as I understood it.

Mr. Temporary Deputy Speaker, Sir, you will also see that I proposed no amendments whatsoever, except two minor ones. I would like to very respectfully request the Chair of the Committee because I have not been unreasonable--- I have allowed twice that the Committee should have a look at this Bill. This is a very important Bill and we are going into a very important phase where the Director of Public Prosecutions ought to have his full autonomous powers defined by law. I persuade the Chair and the Committee and probably appeal to the other Member of the Committee, hon. Millie Odhiambo, who was very active, to make a comment about that. But that would be my plea.

The Temporary Deputy Chairman (Mr. Ethuro): Order, Mr. Attorney-General! Although I appreciate that, the Chair had already seen the interest of hon. Odhiambo-Mabona. However, you are not allowed to solicit favour.

Yes, Hon. Millie Odhiambo!

Mrs. Odhiambo-Mabona: Mr. Temporary Deputy Chairman, Sir, indeed, it is actually a very precarious situation. The Attorney-General indulged us twice and we had a very lengthy meeting with him. We have no amendments because we have not looked at the Bill as a Committee. We met again on Saturday without the Attorney-General, but we were given other pressing work for the Committee. So, what we did was to prioritize and we did not look at this Bill. The Committee said that if we were not sitting, because there was a presumption that we were not going to sit on 2nd, then it would move without the Committee's amendments. However, I would like to plead with the hon. Attorney-General, because I know that he is under immense pressure to have this Bill passed, that if we will be sitting next week, then the Committee could sit. This is because it is really not in order that we move the Bill without the Committee looking at it. We sat on Saturday but we did not have enough time, because of the amount of work. However, what the Attorney-General is saying is, indeed, true; that he has indulged us, we met with him and we do not have amendments because we have not looked at the Bill.

The Temporary Deputy Chairman (Mr. Ethuro): Order, hon. Members! Ordinarily, on this matter, of course, the Chair of the Committee is the official spokesperson. Fortunately, hon. Millie agrees with the Chair. It is the considered opinion of the Chairman of the Committee of the whole House that the Attorney-General gives them a bit of time because the input of the Committee is important. The Chair also appreciates what the Attorney-General said in terms of having discussed the Bill on Friday, which was not forthcoming from the Committee. As hon. Millie has explained, there was a desire to prioritize the other Bill which was also from the Attorney General. I think that can be understood.

I really want to proceed to others, so that we do not take this one.

Yes, Mr. Attorney-General!

The Attorney-General (Prof. Muigai): Mr. Temporary Deputy Chairman, Sir, obviously, I am bound by your ruling. I request the Chair and the Committee to try and expedite business as relates to this item, because three times is a reasonable time.

The Temporary Deputy Chairman (Mr. Ethuro): Hon. Members, we will defer this particular item to the next available Sitting. I think that you will appreciate the sense of urgency in this particular matter. So, you will expedite this process so that the Attorney-General can get his Bill through.

(Committee Stage of the Bill deferred)

Hon. Members, I also have an announcement concerning the next item, which is the Constituencies Development Fund Bill. The Speaker has advised that the Bill is deferred. Of course, as the Chairman I am more than ready to do that. The Departmental Committee on Justice and Legal Affairs, you are lucky that the Attorney-General is petitioning you on the Floor. Mine is an order to defer the Bill as there are more pending amendments from the Minister of State for Planning, National Development and Vision 2030. I will concede.

So, items (ii) and (iii) will be deferred to the next opportunity.

THE CONSTITUENCIES DEVELOPMENT FUND BILL

(Committee Stage of the Bill deferred)

THE KENYA INSTITUTE OF CURRICULUM DEVELOPMENT BILL

The Temporary Deputy Chairman (Mr. Ethuro): Is the Minister for Education not here?

Mr. Koech: On a point of order, Mr. Temporary Deputy Chairman Sir. I just wanted to bring to your attention the fact that the Minister is not in the Chamber, although we have actually looked at this Bill and it has very few proposed amendments by the Minister. I wish that any Minister could move those amendments and we agree with them.

The Temporary Deputy Chairman (Mr. Ethuro): It is only the Mover of the Bill who can move the amendments. I appreciate the undertaking by the Chair of the Departmental Committee on Education, Research and Technology that they have no problem. So, between the-

--

(Prof. Olweny entered the Chamber)

Order, Prof. Olweny! Since you are here, what are you supposed to be doing? Hon. Assistant Minister, we are at the Committee stage of your Bill, which is The Institute of Curriculum Development Bill, 2012. We had just called out Clauses 2 and 3, but we can repeat for you.

(Clauses 2 and 3 agreed to)

Clause 4(a)

The Assistant Minister for Education (Prof. Olweny): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause No. 4(a) be amended by deleting the word ‘advice’ and substituting therefor with the word ‘advise’.

(Question of the amendment proposed)

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

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

(Clause 4(a) as amended agreed to)

Clause 5(2)(e)

The Assistant Minister for Education (Prof. Olweny): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 5(2)(e) be amended by changing Sub-paragraph 2(e) to 2(f) and renumbering the others accordingly.

(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 5(2)(e) as amended agreed to)

Clause 5(2)(f)

The Assistant Minister for Education (Prof. Olweny): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 5(2)(f) be amended by deleting the word “three” and replacing it with “two”

(Question of the amendment proposed)

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

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

(Clause 5(2)(f) as amended agreed to)

Clause 5(2)(h)

The Assistant Minister for Education (Prof. Olweny): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, a new sub clause 5(2)h be inserted to read as follows “one person nominated by the national parents association”

(Question of the amendment proposed)

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

(Clause 5(2)(h) as amended agreed to)

(Clauses 6, 7, 8, 9, 10, 11, 12, and 13 agreed to)

Clause 14(2)

The Assistant Minister for Education (Prof. Olweny): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 14(2) be amended by changing the repeated second Sub-paragraph (2) into (3).

(Question of the amendment proposed)

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

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

(Clause 14(2) as amended agreed to)

(Clauses 15, 16 and 17 agreed to)

Clause 18(3)

The Assistant Minister for Education (Prof. Olweny): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 18(3) be amended by inserting a new sub clause 18(3)(m) to read as follows: “one person nominated by the national parents association”.

(Question of the amendment proposed)

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

(Clause 18(3) as amended agreed to)

(Clauses 19, 20, 21, 22, 23, 24, 25, and 26 agreed to)

Clause 27(1)

The Assistant Minister for Education (Prof. Olweny): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 27(1) be amended by inserting the words “or Curriculum Materials” immediately after the word “curriculum” in the third line.

(Question of the amendment proposed)

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

(Clause 27(1) as amended agreed to)

Sub-Clause 27(2)(b)

The Assistant Minister for Education (Prof. Olweny): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Sub-Clause 27(2)(b) be amended by inserting the words “or Curriculum support materials” immediately after the word “curriculum” in the second line.

(Question of the amendment proposed)

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

(Clause 27(2)(b) as amended agreed to)

(Clauses 28 and 29 agreed to)

First Schedule

The Assistant Minister for Education (Prof. Olweny): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, the First Schedule be amended by inserting new Sub-clauses 3, 5, 6 and 9 to read as follows:-

(3) Subject to this Act, the selection panel shall, within seven days of convening, by advertisement in the media, invite applications from persons who qualify for nomination and appointment for the position of the chairperson and members.

(5) The Cabinet Secretary shall, within fourteen days of receipt of the names forwarded under subsection (4) (g), appoint the chairperson and members of the Council from among the successful applicants.

(6) In nominating and appointing persons as chairperson and members of the Council, the selection panel and the Cabinet Secretary shall ensure that the Board reflects the regional and ethnic diversity of the people of Kenya and that not more than two-thirds of the members are of the same gender.

(9) Despite the foregoing provisions, the Cabinet Secretary may, by notice in the Gazette, extend the period specified in respect of any matter under this section by a period not exceeding twenty-one days.

(Question of the amendment proposed)

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

(First Schedule as amended agreed to)

(Second Schedule agreed to)

(Title agreed to)

(Clause 1 agreed to)

The Assistant Minister for Education (Prof. Olweny): Mr. Temporary Deputy Chairman, Sir, I beg to move that the Committee doth report to the House its consideration of The Institute of Curriculum Development Bill, Bill No.64 of 2012 and its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

(The House resumed)

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

REPORTS, CONSIDERATION OF REPORTS AND THIRD READINGS

THE STATUTE LAW (MISCELLANEOUS AMENDMENTS) BILL

Mr. Ethuro: Mr. Temporary Deputy Speaker, Sir, I beg to report that the Committee of the whole House has considered The Statute Law (Miscellaneous Amendments) (No. 2) Bill No.82 of 2012 and approved the same with amendments.

The Attorney-General (Prof. Muigai): 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 Attorney-General (Prof. Muigai): Mr. Temporary Deputy Speaker, Sir, I beg to move that The Statute Law (Miscellaneous Amendments) Bill, 2012 be now read the Third Time.

The Minister for Medical Service (Prof. Anyang'-Nyong'o) Seconded.

(Question proposed)

(Question put and agreed to)

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

THE KENYA INSTITUTE OF CURRICULUM DEVELOPMENT BILL

Mr. Ethuro: Mr. Temporary Deputy Speaker, Sir, I beg to report that the Committee of the whole House has considered The Institute of Curriculum Development Bill, 2012 and approved the same with amendments.

The Assistant Minister for Education (Prof. Olweny): 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 Assistant Minister for Education (Prof. Olweny): Mr. Temporary Deputy Speaker, Sir, I beg to move that The Institute of Curriculum Development Bill be now read the Third Time.

The Minister for Medical Services (Prof. Anyang'-Nyong'o) seconded.

(Question proposed)

(Question put and agreed to)

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

BILL

Second Reading

THE PRESIDENTIAL RETIREMENT BENEFITS (AMENDMENTS) BILL

(By leave of the House)

The Minister for Finance (Mr. Githae): Mr. Temporary Deputy Speaker, Sir, I beg to move that The Presidential Retirement Benefits (Amendment) Bill be now read a Second Time.

Mr. Temporary Deputy Speaker, Sir, I will be very brief because this amendment is also brief. What this Bill is trying to do is to cater for inflation. Since the Presidential Retirement Act was passed in 2003, there has been no increase in the allowances of a retired president. We have learnt from experience because we now have one retired president, Mr. Daniel arap Moi. It is from the experience that we have received that we saw it necessary to cater for his expenses. So, we are now proposing that instead of having fixed amounts, for example on entertainment, fuel and housing, we make it a factor of the salary so that if it goes up then automatically the allowances go up instead of having to ask a retired president to justify his increase. Basically, that is what the Presidential Retirement Benefits (Amendment) Bill is doing. It is just removing the fixed amounts and instead inserting percentages to cater for inflation.

I beg to move and request my colleague, Prof. Anyang'-Nyong'o to second.

The Minister for Medical Services (Prof. Anyang'-Nyong'o): Mr. Temporary Deputy Speaker, Sir, I would like to second this Bill being proposed by my colleague, the Minister for Finance. The only thing I would like to say is that this is a very timely amendment given, as the Minister said, I remember I was a member of the Opposition when I proposed the Presidential Retirement Benefits Bill. I was really thrashed by the media, the Non-Governmental Organizations (NGO) and everybody else that it was extravagant and it should not be done. Eventually, the Attorney-General took over my Bill and it was passed in this House in the late 1990s. The Presidential Benefits Act or law really helped in ensuring that the transition from the previous presidency to the post multiparty politics presidency in 2002 went pretty smooth. The amendments we are doing now is just to make it tidier and not to fix it to figures because figures do lose value over time but percentages stay the same. In that spirit, I would urge the House to support the Minister for Finance in this proposal because it is not just for now but for posterity, that our presidents should continue to be productive in their retirement and that they should in that way be respected internationally and as the Act originally said, put their good offices to the service of the State and not to any regime.

With those few remarks, I beg to support.

(Loud consultations)

The Temporary Deputy Speaker (Prof. Kaloki): Order, hon. Members! Order, Dr. Khalwale!

(Question proposed)

The Assistant Minister, Ministry of State for Defence (Mr. Musila): Mr. Temporary Deputy Speaker, Sir, I stand to support this Bill and in supporting it, I want to request that the Minister for Finance listens to what I am saying because it is only two years ago that I struggled on the Floor of this House---

(Loud consultations)

Mr. Temporary Deputy Speaker, Sir, could you assist us because it is out of order for hon. Members to be standing in the House when another Member is speaking?

The Temporary Deputy Speaker (Prof. Kaloki): Order, Mr. Musila! Hon. Members are listening.

The Assistant Minister, Ministry of State for Defence (Mr. Musila): Mr. Temporary Deputy Speaker, Sir, the Standing Orders bar hon. Members from standing when another hon. Member is on the Floor. I am just begging the Minister for Finance to listen to what I am saying because this is his Bill.

The Temporary Deputy Speaker (Prof. Kaloki): He is listening, so proceed.

The Assistant Minister, Ministry of State for Defence (Mr. Musila): Mr. Temporary Deputy Speaker, Sir, I was saying it is only two years ago when I struggled in this House to get the Pensions (Amendment) Act passed and also struggled to ask that pensioners of this country – the public servants be given an increase of their pensions because of inflation. You have heard the Minister for Finance come here and say that the purpose of this Bill is to take care of the president's pension because of inflation. In this country we have public servants who retired after serving this country for many years and today they earn Kshs500 per month.

Mr. Temporary Deputy Speaker, Sir, the Minister for Finance has done a good thing to bring this amendment to amend the package of the retiring president because of inflation and he has said it on the Floor of this House. I want him in the same vein to bring a Bill in this House to increase pensions of public officers who retire and do not get their pensions – leave alone getting it but getting it on time despite the many amendments that they have done.

So, I am supporting this one but I am urging the Minister for Finance even as he protests by walking out that the retired public servants of this country who have served this nation tirelessly, faithfully and loyally for decades need a raise also as the President receives his.

Thank you and I support.

The Temporary Deputy Speaker (Prof. Kaloki): Mr. Assistant Minister, hon. Githae is not walking out. He is just consulting. Hon. C. Kilonzo.

Mr. C. Kilonzo: Mr. Temporary Deputy Speaker, as I support this particular Bill, I am a little bit concerned by the reasons given by the Minister. He says the sole purpose of this Bill is for the President. Then I become very worried that the Minister for Finance only thinks about his boss. Is he aware that just the other day the Speaker instructed the Departmental Committee on Defence and Foreign Relations to look into the issues of retired military men? For example, a man like General Mulinge who is on retirement is only earning a pension of Kshs17, 000. Why did you not think about a man like that one? Many other civil servants who retired many years ago are earning peanuts and yet they served this country. Why did you not think about these ones first and then bring this one as the last one?

You are talking about taking care of inflation of somebody who is going on retirement while we have soldiers and policemen who are basically fighting for their salaries to be increased so that they can be able to deliver services. Why have you as the Minister for Finance not thought of these ones first?

Mr. Temporary Deputy Speaker, Sir, as I support this particular Bill, I want to ask him that by the time he comes for the next Committee of the whole House he should have brought another Bill for all these retirees who are languishing in poverty after having served this country for many years.

With these few remarks, I support.

Mr. Koech: Mr. Speaker, Sir, I rise to support this Bill and as I do so, let me say that I listened to the Minister for Finance very carefully. He indicated that this Bill will take care of inflation given the fact that what the President is earning today was adjusted in 2003. I want him to take note of the many retired civil servants who are suffering. If he really does care, please bring those Bills here so that as a House we can pass them and ensure that Kenyans do not continue suffering.

Mr. Temporary Deputy Speaker, Sir, secondly, looking at the structure of payments of salaries to civil servants and public officers, I take note of the serious concerns that---

(Mr. Yinda consulted loudly)

The Temporary Deputy Speaker (Prof. Kaloki): Order! That is not the way we do it. That is un-procedural. You are completely out of order.

Mr. Koech: Mr. Temporary Deputy Speaker, Sir, I was raising this serious concern that the Minister and the Government should take note of the retired civil servants. We are fully aware of inflation in the country. In most Government departments, people are paid some annual increments to take care of inflation. I get concerned that Members of this House and members of the local authorities earn exactly the same, not one penny on top, since 2003. What we are earning today, you can literally say that it is less than what our Members earned in 2003 given the reasoning that I have given that there is serious inflation in this country. I, therefore, want to support and ask the Government to also take note of the other officers who are earning exactly the same every year.

QUORUM

Mr. Yinda: On a point of order, Mr. Temporary Deputy Speaker, Sir. There is lack of quorum in the House.

Temporary Deputy Speaker (Prof. Kaloki): Hon. Members, it is true that there is no quorum in the House. Please, ring the Division Bell.

(The Division Bell was rung)

ADJOURNMENT

The Temporary Deputy Speaker (Prof. Kaloki): All right, I now order the Division Bell to be stopped.

Hon. Members, there being no quorum, the House stands adjourned until Wednesday, 2nd January, 2013 at 9.00 a.m. Hon. Members, next time we will meet will be next year; so, I wish you a prosperous 2013; I wish you all the very best.

The House rose at 6.10 p.m.