

NATIONAL ASSEMBLY

OFFICIAL REPORT

Tuesday, 28th August, 2012

The House met at 2.30 p.m.

[Mr. Deputy Speaker in the Chair]

PRAYERS

PAPERS LAID

The following Papers were laid on the Table:-

Financial Statements of the County Council of Malindi for the year ended 30th June, 2010 and the certificate thereon by the Auditor-General.

Financial Statements of the County Council of Tana River for the year ended 30th June, 2010 and the certificate thereon by the Auditor-General.

Financial Statements of the Town Council of Kilifi for the year ended 30th June, 2011 and the certificate thereon by the Auditor-General.

Financial Statements of the County Council of Garissa for the year ended 30th June, 2011 and the certificate thereon by the Auditor-General.

Financial Statements of the Town Council of Mariakani for the year ended 30th June, 2010 and the certificate thereon by the Auditor-General.

Financial Statements of the Municipal Council of Mavoko for the year ended 30th June, 2010 and the certificate thereon by the Auditor-General.

Financial Statements of the Municipal Council of Voi for the year ended 30th June, 2010 and the certificate thereon by the Auditor-General.

Financial Statements of the Municipal Council of Mombasa for the year ended 30th June, 2010 and the certificate thereon by the Auditor-General.

Financial Statements of the County Council of Taveta for the year ended 30th June, 2011 and the certificate thereon by the Auditor-General.

Financial Statements of the Town Council of Burnt Forest for the year ended 30th June, 2011 and the certificate thereon by the Auditor-General.

Financial Statements of the Town Council of Iten for the year ended 30th June, 2011 and the certificate thereon by the Auditor-General.

Financial Statements of the Municipal Council of Eldoret for the year ended 30th June, 2010 and the certificate thereon by the Auditor-General.

Financial Statements of the Municipal Council of Kericho for the year ended 30th June, 2010 and the certificate thereon by the Auditor-General.

*(By the Minister for Finance on behalf of
the Minister for Local Government)*

The Budget Implementation Review Report for the Fourth Quarter 2011/2012.

(By the Minister for Finance)

Report of the Departmental Committee on Local Authorities on the pre-paid smart card system agreement between Equity Bank Limited and the County Council of Narok.

(By Mr. Ngugi)

Mr. Deputy Speaker: Next Order!

NOTICE OF MOTION

ADOPTION OF REPORT ON PRE-PAID CARD SYSTEM AGREEMENT BETWEEN EQUITY BANK AND COUNTY COUNCIL OF NAROK

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

THAT, this House adopts the Report of the Departmental Committee on Local Authorities on the pre-paid smart card system agreement between Equity Bank Limited and the County Council of Narok laid on the Table of the House today, Tuesday 28th August 2012.

Mr. Deputy Speaker: Next Order!

QUESTIONS BY PRIVATE NOTICE

RECRUITMENT OF APs WITHOUT FOLLOWING LAID DOWN CRITERIA

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

(a) Under what circumstances were Administration Police constables recruited and enrolled at Administration Police Training College (APTC) without basic academic qualifications certificates and without being given services numbers that resulted in 600 of them being given three days off on 28th May 2012 to present the documents to enable them proceed with training?

(b) How many of these officers have so far returned to the college with genuine documents and could the Minister provide a list of the 600 officers who were affected?

(c) Why were the officers exempted from normal courses offered at the college and instead only taught "Field Craft" (Science of War)?

Mr. Deputy Speaker: I have a communication from the Minister that he is not in a position--- He is in Mombasa for what most of us are going to assume is fairly obvious, and his Assistant Minister is out of the country. Under the circumstances, I direct that this Question be listed on the Order Paper on 4th September, which is exactly, I believe, one week from today.

Is that okay with you, Mr. Olago Aluoch or you are likely to have other engagement?

Mr. Olago: Mr. Deputy Speaker, Sir, that is alright because you have ruled on it. However, I wish to draw your attention to the fact that one month ago the Minister of State for Defence and Acting Minister of State for Provincial Administration and Internal Security came

with an answer which was not satisfactory. Two weeks ago, the Assistant Minister also came with an answer which was also not satisfactory. That is why it was deferred to today. All I can do is urge the Chair to ensure that they comply with the last directive.

Mr. Deputy Speaker: The Chair hopes that this time round the Minister will come with a fairly satisfactory answer.

(Question deferred)

Next Question by Dr. Otichilo!

DISREGARD OF NEMA RECOMMENDATION ON
CONSTRUCTION OF SOUTHERN BY-PASS

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

(a) Could the Minister confirm that the Government has approved the de-gazettement of parts of Nairobi National Park for the construction of Nairobi Southern By-Pass road against the recommendation of NEMA?

(b) Is the Minister aware that the de-gazettement of any National Park in the country is prohibited by law without the approval of Parliament?

(c) Is the Minister further aware that implementation of the proposed de-gazettement of various parts of the National Parks in the country by the local communities and could the Minister assure the House that the proposed de-gazettement will not be implemented and instead the earlier planned road reserve will be repossessed from illegal allottee(s) and developer(s) who may have encroached on the same?

Mr. Deputy Speaker, Sir, I have not received a comprehensive report on this Question. This Question was deferred by the Chair so that the Minister could have ample time and he has had more than a month to give the answer but so far, I have not received the answer yet.

The Minister for Forestry and Wildlife (Dr. Wekesa): Mr. Deputy Speaker, Sir, indeed, that is true. This is a very weighty matter and following your advice to consult my colleagues, we went ahead and formed an inter-ministerial committee involving the Ministry of Roads, the Ministry of Lands, Ministry of Transport and my own Ministry. As Ministers, we met but it was apparent that in order for us to give a comprehensive answer to the House, it was necessary that our technical committee involving these Ministries should really go into the details of these issues. Indeed, we formed that and we have been meeting.

Mr. Deputy Speaker, Sir, I want to report that the matter is being discussed between these Ministries and I beg that you give us another two weeks. We will then come out with a comprehensive resolution to this matter.

Mr. Deputy Speaker: You already had a month. This is a Question by Private Notice. Ideally, a Question by Private Notice should be answered within 48 hours; that is two days. I know you have approached me in my office and expressed your frustrations in that you have to coordinate this through three different Ministries and there is a technical team that has been meeting to come up with a comprehensive answer to this.

I also realize that what the Member questions is the validity or legality of the whole process. He is saying the Government has acted illegally; the Government has broken the law. Are you sure you are not just skirting around the problem because you have realized you have a

serious issue of the institution that is supposed to uphold the law breaking the law and consequently you are taking a very long time? Minister, we need some guarantee from you that come two weeks from now the answer will be there.

The Minister for Forestry and Wildlife (Dr. Wekesa): Mr. Deputy Speaker, Sir, I agree with you but I want to say that the Government has not broken the law. The Ministry of Roads is not constructing the road through the national park. There was intention to do so but as I say, we realize and as the Questioner realizes too, this is a matter that involves the transport system within our city. As I said, it is a weighty matter and we need this technical report. I will do all I can to make sure that within the next two weeks, I have the report to the House.

Mr. Deputy Speaker: You are assuring this House that actually the de-gazettement of national park has not been done?

The Minister for Forestry and Wildlife (Dr. Wekesa): (Off record).

Mr. Deputy Speaker: Fair enough. Dr. Otichilo, I think two weeks is a fair time. What is your point of order, Mrs. Shebesh?

Mr. Shebesh: On a point of order, Mr. Deputy Speaker, Sir. Could the Minister and his team which is consulting with on this issue come out clearly on the reasons why this particular by-pass has to go through the national park knowing very well that Nairobi County will be a county like any other and has the right to participate in any degazettement or otherwise of the national park.

Secondly, can they also be clear why they were unable to bring down the buildings on the side of the road that were supposed to be demolished? Is it because they belonged to the high and mighty and yet they could bring down any houses that belonged to any Kenyan in the name of taking this road through the national park? Let them be clear because Kenyans know the details and we do not want to be taken in cycles.

Mr. Deputy Speaker: Fair enough. The Minister has heard that. In any case, I would not want you to answer that now because that is prosecuting the Question before the House is validly seized of it. Two weeks from now, you can ask those questions, Mrs. Shebesh.

(Question deferred)

Next Question!

DISABLING OF SYSTEM OF TRACKING STATUS OF NATIONAL IDENTITY CARDS

Dr. Nuh: Mr. Deputy Speaker, Sir, I beg to ask the Minister of State for Immigration and Registration of Persons the following Question by Private Notice.

(a) Is the Minister aware that the system used to track the status of National Identity Cards on the Ministry's website has been disabled and, if so, why?

(b) Is the Minister further aware of the closure of the customer care desk at the department of registration headquarters?

(c) How does the Minister expect Kenyans to track the status of their applications for identity cards and when will the Ministry re-activate the system and open the customer care desk?

Mr. Deputy Speaker, Sir, I also want to bring it to your attention that the temperature in this House is not regulated and it is not regionally sensitive. For some of those who come from

northern Kenya, the temperatures are chilling and sometimes are below 20 degrees Celsius. I can see some old men shivering and they can collapse any moment. They cannot complain for fear of stigmatization. So, in a bid to champion their rights, I urge that the temperature be regulated to normal temperature.

(Applause)

Mr. Deputy Speaker: I think the Serjeant-at-Arms has heard that. We will act accordingly. I just hope that some will not say that they are frying because they come from very cold areas. This House is not just composed of people of northern Kenya but also people who come from the mountains. Anyway, find a middle ground between the two, Serjeant-at-Arms.

The Assistant Minister, Ministry of State for Immigration and Registration of Persons (Mr. Baya): Mr. Deputy Speaker, Sir, I beg to reply.

(a) I am aware that the system used to track the status of National Identity Cards (IDs) on the Ministry's website has not been functioning. The system had been temporarily disabled as it was undergoing maintenance and upgrade. It is now functioning.

(b) I am also aware of the closure of the customer care desk at the Department of National Registration Headquarters. This was done because the proximate location of the customer centre to the production centre posed a security threat to the production centre.

(c) The tracking service is currently functional with new upgrades. The Ministry is currently looking for a suitable place to establish a modern contact centre that will address customer queries relating to all the services provided by the Ministry.

Dr. Nuh: Thank you, Mr. Deputy Speaker, Sir. At a time when Kenyan youth are yearning to have identity cards for them to ably participate in choosing their leaders in the next dispensation, it is unfortunate that even for those who have been issued with NPR, they cannot track the status of their application and yet we expect them to vote come March, 2013.

I have checked the computer system this morning and I want to confirm that they are functional. My only fear is that the Assistant Minister should confirm to this House that they have not reactivated the tracking system just to appease the Questioner and the nation now that we have a Question on the Order Paper and that it will remain functional for the remainder of the period until and even after the elections and that Kenyans who apply for identity cards will be able to track the status of their applications henceforth.

Mr. Baya: Mr. Deputy Speaker, Sir, I want to assure the hon. Member that the website was not re-activated because of the Questioner. It will remain functional as long as we are in this Parliament.

Mr. Deputy Speaker: Dr. Nuh, ask your last supplementary question! There does not seem to be a lot of interest in the Question.

Proceed.

Hon. Members: On a point of order.

(Several hon. Members raised their hands)

Mr. Deputy Speaker: I cannot see any pending requests. I can now see Mr. K. Kilonzo. Do not raise your hands or shout "points of order". Use the IT system!

Yes, Mr. K. Kilonzo!

Mr. K. Kilonzo: Mr. Deputy Speaker, Sir, while the Assistant Minister has said that the website will continue functioning even after the elections, could he tell the nation how long Kenyans have to wait to get ID cards after they have registered because there are people who have been waiting for over two years? What is the mandatory period after which Kenyans should start agitating for the IDs, if they do not receive the documents after they have registered?

Mr. Baya: Mr. Deputy Speaker, Sir, while I agree that there are some places where there are delays, I do not agree that it takes as long as two years. The maximum that it can take is two months and not two years.

Mr. Deputy Speaker: Order, Mr. Assistant Minister! The Chair cannot participate in the debate but that does not seem to be the case!

An hon. Member: On a point of order.

Mr. Deputy Speaker: I cannot see! You people are not using the IT system unless there is something wrong or this system has become faulty.

Mr. K. Kilonzo, what is your point of order for the second time?

Mr. K. Kilonzo: Thank you, Mr. Deputy Speaker, Sir. Is it in order for the hon. Assistant Minister to defer answering my question which was very clear? What is the duration in which Kenyans should wait with the waiting documents before they start following up with the Ministry so that every time people register, they know that they have to wait for 14 days, one month or 20 months? Could the Assistant Minister tell the nation how long they should wait?

Mr. Deputy Speaker: Could the IT people come and rectify my system?

Mr. Baya: Mr. Deputy Speaker, Sir, immediately the process of registration starts, there is a serial number that is given and the applicant is supposed to use that number to make a follow up. For them to start enquiring about their IDs, a period of two weeks is necessary because the processing of IDs is not done at the registration centre but it is done here at the headquarters. So, we need, at least, two weeks for us to start processing the same in Nairobi.

Mrs. Noor: On a point of order, Mr. Deputy Speaker, Sir. As much as I appreciate what the Assistant Minister has said that the website is functional, I would like to seek a clarification. The Assistant Minister has said that it takes only two months to get a new ID. I have children and youth who applied for the national ID cards seven years ago and I have their waiting cards with me in my car even now. Is the Assistant Minister in order to mislead this House by saying that it takes only two months to be issued with an identity card when we know that it takes over seven years? I have evidence which I will bring to this House.

Mr. Baya: Mr. Deputy Speaker, Sir, there are special cases. There are cases where the photograph gets defaced when it gets to Nairobi and, therefore, we have to return it to be rectified. For example, there is a case that was brought to the Questioner where two people who were supposed to be brothers appear to have been born the same year and yet they were not twins. So, these are cases that need further investigations. It is true that there are some delays but only in cases where some investigations, correction of photographs or even fingerprints are required.

Mr. Wambugu: Mr. Deputy Speaker, Sir, when the Assistant Minister was replying to the Question he said that delays normally come in because by the time they get the photographs from the constituencies, they could be deformed or that some people give wrong information or information which is conflicting. When will the Assistant Minister make sure that we start having electronic registration of persons so that, that information can be captured directly from the source and it can also be matched with what we have in the voter registers? When will we go into electronic registration of persons?

Mr. Baya: Mr. Deputy Speaker, Sir, I cannot give a timeframe because all this requires money. However, we are in the process of connecting all those registration offices to the headquarters like we have done with passports.

Mr. Hassan: Mr. Deputy Speaker, Sir, our Constitution guarantees the right of every Kenyan to study, work, live and enjoy life in any part of our country. To my surprise, in my constituency those who are waiting are lucky because the wait is very long, but there are people who have not registered and we have many young people who need to go on to the electoral system. These youngsters are asked by the Ministry to go back to their districts or counties of origin. Is this the right policy? Is this not a form of discrimination? Are they continuing with this colonial policy of asking young girls and boys from our community here in Nairobi to go back to where their grandfathers or fathers came from? Is this the policy of the Ministry?

Mr. Baya: Mr. Deputy Speaker, Sir, this happens in areas where there are some doubts as to the origin of the applicant. This is mainly in border districts and it has been going on for quite some time. You will find a situation, for instance, where the vetting committee cannot comment on somebody because he or she was not born and brought up in that area. Therefore, for us to get proper information so that we make sure that all Kenyans get these very important documents, we do sometimes instruct those people to go to their home districts.

Mr. Litole: On a point of order, Mr. Deputy Speaker, Sir. Is the Assistant Minister in order to talk about border districts? I come from a district that does not border any country but for the last eight months no person has received an identity card in Pokot Central. What is happening in that district? Is the Assistant Minister therefore, in order to mislead the House?

Mr. Baya: Mr. Deputy Speaker, Sir, there are some areas that are not necessarily border areas, for instance, the cities of Nairobi and Mombasa. These are places where you find several nationalities. This is the reason why we have vetting committees even though these areas are not border towns. The reason is not to frustrate anybody or discriminate anybody but to make sure that all Kenyans or those who want to become Kenyans can follow another route to become Kenyans.

Mr. Chachu: Mr. Deputy Speaker, Sir, the Ministry for sometime has been stating in public that they will do mobile registration this financial year in some of the vast constituencies like North Horr. For most part of this year, it is only once that such an exercise has been done in my constituency and only in one division. I want the Assistant Minister to tell the country and especially the people of northern Kenya who live in these very vast constituencies, like North Horr which covers more than four provinces of Kenya whether he will initiate mobile registration, as he has said and commit the necessary resources to enable his officers to register Kenyans in those parts of the country where in some areas like Ileret in North Horr Constituency people have not been registered for the last two and a half years?

Dr. Nuh: Shame! Shame! Those are Kenyans!

Mr. Baya: Mr. Deputy Speaker, Sir, it is true the area is very large and we will do mobile registration if it has not been done yet. I know in most constituencies, let alone North Horr there has been mobile registration. But in case there is a problem in North Horr I am ready to go there with the hon. Member - because I worked there - and we spend a whole week if possible doing mobile registration.

Mr. Mureithi: Mr. Deputy Speaker, Sir, I would like the Assistant Minister to explain a situation which has happened in my constituency for a young man I helped. He is a Borana and a half-cast whose father deserted the mother and left for America. In that situation, why would the registration office ask the young man to go and look for the identity cards of the father and the

mother when the father has left for America? As a result, the young man is now 24 years old without an identity card. What will the Assistant Minister do in such a case? We know most of those cases that have happened in Samburu and North Eastern Province where we have young men and girls whose fathers are no longer here; it is only the mothers who are here. What will the Assistant Minister say about that situation?

Mr. Baya: Mr. Deputy Speaker, Sir, it is possible for such cases to occur. But where there are specific cases like his, I will request that they be brought to the office.

Mr. Njuguna: Mr. Deputy Speaker, Sir, originating from the answer that was given by the Assistant Minister, could he inform the House what precautions the Ministry has taken to alert Kenyans on the upgrading of this vital system?

Mr. Baya: Mr. Deputy Speaker, Sir, I must admit that I did not get the question clearly. However, I believe it is something to do with, how do we inform Kenyans? We will use our officers to make sure that they are aware that we are now functional.

Mr. Deputy Speaker: Hon. Olago Aluoch, you are on a point of order. What is it?

Mr. Olago: Mr. Deputy Speaker, Sir, you have heard the Assistant Minister say more than twice that the delay is partly caused by the vetting process. He knows that an identity card is an entitlement of a Kenyan. In my constituency, the people who live in Kendwa, Kaloleni, Manyata, Usoma and Bandani are predominantly Muslim communities, who have to go through the vetting process. Is it in order for him to insist that the vetting process must be applied when he knows that within the Act, there is no provision for vetting at all?

Mr. Baya: Mr. Deputy Speaker, Sir, we are supposed to register Kenyans. So, whether the provision for vetting is in the Act or not, we must make sure that only Kenyans are registered.

Mr. Deputy Speaker: Yes, hon. Olago. You are on a point of order again.

Mr. Olago: Mr. Deputy Speaker, Sir, I am concerned. Did you hear the Assistant Minister say that whether what they are doing is in law or not, they are going to continue doing it? Is it in order?

Mr. Baya: Mr. Deputy Speaker, Sir, what I said is that we are registering Kenyans. In border areas, and in areas where there is doubt, we are forced to form vetting committees. As I said earlier, the idea is to be as fairer as possible. We are not discriminating anybody. So, in our view, as a Ministry, vetting is necessary to protect Kenyans from non-Kenyans.

Mr. Deputy Speaker: What is your point of order, hon. Shebesh?

Mrs. Shebesh: Mr. Deputy Speaker, Sir, there are words which the Assistant Minister keeps using, "areas where there is doubt". Can he clarify what he means by that? This is the kind of profiling that we do not appreciate in this House. Just to be clear, does he mean areas that are close to the borders?

Mr. Deputy Speaker: Why do you doubt, in any case, Assistant Minister?

Mr. Baya: Mr. Deputy Speaker, Sir, I am sorry; I might have used the wrong words. These are areas where Kenyans are mixed with other nationals. They could be border areas or cities like Nairobi, Mombasa and Kisumu, and other urban centres.

Mr. Deputy Speaker: Dr. Nuh, could you ask the last supplementary question?

Dr. Nuh: Mr. Deputy Speaker, Sir, earlier this year, I brought to the attention of the House and the Minister in charge, the discrepancy between the online tracking process and the information we used to get from their customer care desk. Following that questioning, the Ministry disabled its website and closed the customer care desk. So, the reason as to why I doubt the genuineness of them opening the website is that, after closing the website and the customer

care desk for the last five to six months, they re-opened the same barely four days after I put the Question on the Order Paper. Given that this cannot be mere coincidence, I want the Assistant Minister to tell Kenyans that for those who cannot use computers to track the processing of their identity card online, they can call the Ministry's customer care desk for them to get the necessary information. Now that he is talking about security as being one of the reasons for the closure of the customer care desk, can he assure Kenyans on a possible date when they will re-locate the customer care desk for Kenyans to be able to access services?

Mr. Baya: Mr. Deputy Speaker, Sir, we are busy looking for a location. We tried *Maendeleo* House but it could not work. So, we are in the process of identifying a suitable location. In the meantime, I want to assure the hon. Member that the website will continue operating. It was not revitalised because of the Question. So, we are going to do it.

Secondly, within a period of three months, we should be able to not only find a suitable location for the customer care desk, but also do the necessary wiring and have the technological gadgets fixed, so that we can continue with customer care desk services.

Mr. Deputy Speaker: Hon. Nuh, what is your point of order?

Dr. Nuh: Mr. Deputy Speaker, Sir, we are at a critical moment, being barely a few months to the elections. So, I would want to request the Assistant Minister that the Ministry at least, re-activates some basic services. They can fix the high tech gadgets later on. We have only a few months to the elections, and they have promised Kenyans that they will register anybody who is above the age of 18 years in order for people to be able to participate in the general elections. Let them make that a possibility by having a functional system in the form of a call centre, through which Kenyans can track the status of their identity card applications, even if it means providing someone to be seated on a desk within the NSSF Buildings, where they can have computer services, so that they can track applications and tell Kenyans the status of their applications.

Mr. Baya: Mr. Deputy Speaker, Sir, we will try and do what the hon. Member has suggested at some registration centre within Nairobi. We will look into the possibility of having such services, say, in Westlands or at any of the eight registration centres that we have in Nairobi.

Mr. Deputy Speaker: Hon. Members, on the next Question by Private Notice, I have received communication to the effect that hon. Shakila Abdalla is not in a position to prosecute it today. The Question, is therefore, deferred until further notice.

IMMINENT EVICTION OF MPEKETONI
FARMERS BY EGERTON UNIVERSITY

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

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

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

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

(Question deferred)

Mr. Deputy Speaker: Next Question by Private Notice, hon. Linturi.

NON-IMPLEMENTATION OF CIRCULAR ON
INCREASE OF SALARIES/ALLOWANCES
OF POLICE OFFICERS

Mr. Linturi: Mr. Deputy Speaker, Sir, I beg to ask the Minister of State for Public Service the following Question by Private Notice.

(a) Is the Minister aware of the circular issued by the Government, dated September 2009, regarding increase of salaries and allowances of police officers, and if so, what were its terms and conditions?

(b) Why has the Government not implemented the provisions of the circular, and when will they be implemented?

(c) Could the Minister confirm that failure by the Government to implement the provisions of the circular has led to the low morale in the police force, hence compromising security in the country?

The Minister of State for Public Service (Mr. Otieno): Mr. Deputy Speaker, Sir, I beg to reply.

(a) I am not aware of a circular dated September, 2009, issued by the Government regarding increase of salaries and allowances for police officers. The Government, however, in the last four years, issued the following circulars to review the salaries for officers serving in the disciplined services, namely, the Kenya Police, the Administration Police and the Prison Services:-

- (i) Circular DPM VOL III NO.15 of 24th June, 2008;
- (ii) Circular DPM VOL III NO.89 of 1st July, 2010; and,
- (iii) Circular DPM VOL IV NO.17 of 25th July, 2011.

Mr. Deputy Speaker, Sir, the second circular which was issued on 1st July, 2010, on new salary scales for the Kenya Police, the Administration Police and the Prison Services is the one in which it is indicated that the new salary structure would be implemented in two equal phases, with effect from 1st July, 2010.

(b) Phase Two of the new salary scales was not implemented in full due to budgetary under-provisions as the Ministry of Finance provided only Kshs3.2 billion, instead of the Kshs5.1 billion that we had requested. Consequently, the Government released Circular VOL. IV, No.17 of 25th July, 2011, on the new salary scales for Kenya Police, Administration Police and the Prison Services, Phase Two. The new salaries were implemented with effect from 1st July, 2011.

(c) The Government has not really failed to implement the provisions of the above circulars as 81.4 per cent of the revised salary has been implemented. This shows that the Government is committed to implementing the remaining portion of Phase Two of the revised salaries once the funds are available. Despite the above shortfall, the police force, I know, continues to perform their duties with utmost dedication. My Ministry, together with the Cabinet and the Ministry of State for Provincial Administration and Internal Security are continuing with consultations with Treasury with a view to implementing the remaining Kshs1.9 billion balance towards the salary and Kshs.9.4 billion towards the allowances.

Mr. Deputy Speaker, Sir, hon. Members may wish to know that I was able to draw the attention of the relevant departmental committee of the House on all these shortfalls. Out of the

remuneration packages we had requested which should have been implemented from 1st July 2012, I requested for a total of Kshs38.7 billion. Out of this, Kshs6.8 billion was for harmonisation of the Civil Service salaries; Kshs11.3 billion was for the regular police, Administration Police and the Prisons; Kshs5.6 billion was for hardship allowance and Kshs15 billion for the Public Service Superannuation Pension Scheme. I was only able to get Kshs6.8 billion for the harmonisation of civil servants' salaries. I am still waiting for the rest and the relevant departmental committees are aware of these shortfalls and will be part of the process of trying to get this implemented as soon as possible.

Mr. Linturi: Mr. Deputy Speaker, Sir, let me, first, thank the Minister for this answer and more specifically due to the fact that he has brought to the attention of this House that it is not only one circular that has been issued to this department with regard to the increase of their salaries and allowance, but actually three circulars. It is very surprising to find that the Grand Coalition Government, whose agenda is to protect the lives and property of the citizens of this country, can toy around with this serious issue of trying to remunerate the police or disciplined forces. Could the Minister inform the House why a Government would, and considering that the police reforms are as a result of the Phillip Ransley Report, constitute an inter-ministerial committee to work out a budget of these allowances which amounts to Kshs10 billion, promise the police or disciplined forces that the money would be paid - that in itself creates legitimate expectation on the part of the police officers - and then later on renege on that position? Mr. Minister, will you expect any Kenyan to take you seriously when you backtrack on a promise that you had given to a police force that is committed to taking care of the citizens of this country?

Mr. Otieno: Mr. Deputy Speaker, Sir, I think I indicated to the hon. Member that I made a total request of Kshs38.7 billion and these are all expectations of all public servants. All our officers have been waiting for the hardship allowance for the last two years or more. They have been waiting for the pension for a whole year, which is Kshs5 billion. The police are similarly waiting for this pension. The only request we make to the public servants is that there should not be a go-slow because if you affect service delivery, you are not contributing to the growth of the economy from where the tax revenue will be generated to be able to pay you.

Mr. Deputy Speaker, Sir, lastly, the budgetary process includes this House and I drew the attention of the relevant committees to the shortfalls. So, it is not the Government renege but all of us are aware of what can be accommodated now and what cannot be accommodated. So, it is not one part of the Government. It now includes the Legislature – this House itself. They have tried their best to try to accommodate the request I had put for the remuneration packages for our different officers and it just could not fit. So, we have to wait until it can be done. So, no leader should encourage any of our officers to perform below the most effective efficient standards that would grow this economy so that tax revenues can be enough to meet the compensation requirements necessary in all the circumstances.

Thank you, Mr. Deputy Speaker, Sir.

Mr. Mwangi: Mr. Deputy Speaker, Sir, while listening to the Minister lamenting how he did not get enough funds, when you move to the police posts and stations in the constituencies and see the conditions under which our police officers are living, you will be shocked. I will invite the Minister to Kahuro Police Station which is in my constituency. We are told by the Minister for Finance that funds have been returned to Treasury. What is the collective responsibility of the Cabinet? Funds have been returned to the Treasury and yet our officers are living in very poor conditions and these are the same officers. Mr. Minister, you expect them to

guard and take the security of our nation seriously. Could the Minister inform the House what immediate action he is taking to correct this situation in our police stations?

Mr. Otieno: Mr. Deputy Speaker, Sir, given a chance, I would be compensating all our officers appropriately but I am sure the hon. Members are aware that we must allocate resources both for Recurrent Expenditure and Development Expenditure. You cannot just go recurrent alone without growing the economy that would help bring sustainable income to the Government in future. As to funds that are being returned, the absorption rate which the relevant departmental committee can confirm as far as my Ministry is concerned is 98 per cent. So, all funds allocated to us are utilized both development and recurrent expenditure. For the other Ministries that may have returned money, it will be capital expenditure where the procurement system did not make it possible for some Ministries to absorb a high rate. My Ministry is really substantially recurrent. So, you have to analyse which funds are returned. You just cannot blanket it that funds are returned.

Mr. Linturi: Mr. Deputy Speaker, Sir, I think with your indulgence, this Question deserves a lot of interest from the hon. Members---

Mr. Deputy Speaker: Order! Ask your question! That is a discretion of the Chair and there are ten or 15 Questions. Proceed!

Mr. Linturi: Yes, Mr. Deputy Speaker, Sir. I am imagining of what would happen if these important Kenyans who are providing security for you down their tools. I think the Minister is trying to play a public relations exercise on the part of the Government on this matter. A circular dated 25th July, 2012 reads: "The Government is committed to the full implementation of the salary award and the shortfall will be addressed in due course." This circular is for 2012. So, if the Government is committed to paying these allowances and implementing this circular, then there should have been provisions in the 2011/2012 or 2011/2012 Budget, but you find that there has not been any allocation for these police officers. You are aware that the police are on a go-slow and the police radios are not working. Unless we all get into a situation whereby you require the rescue of police officers, we do not understand what it means not to have security. I was a victim yesterday in Mombasa in the melee that took place and I also witnessed the shooting of Aboud and I was with my children.

If I did not call the Provincial Police Officer (PPO) who took me from a hotel in Mombasa to where I was going, things would have been very bad. What is the Ministry going to do to make sure that these brothers and sisters are properly remunerated and the Government complies with the promise that it gave to the police officers?

Mr. Deputy Speaker: Are you tabling that letter? Are you tabling that document that you have sited?

Mr. Linturi: Yes, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Can you table it?

(Mr. Linturi tabled the document)

Mr. Otieno: Mr. Deputy Speaker, Sir, I do have the document. It is me who gave it to him. I indicated in my answer the shortfall of Kshs1.9 billion to complete the salary component for the remuneration package for the police officers, Administration Police officers and prison officers; we are already negotiating with Treasury. During the Revised Estimates of this financial year I will be seeking the support of the relevant departmental committees to be accommodated;

if revenue generation will be sufficient I will do so. I think I had already indicated that in my answer.

Mr. Deputy Speaker: Mr. Minister, you determine the sufficiency or insufficiency of the revenue before you write a letter as a Government; for you to pass the buck and say that my Ministry did this or that. You are just one Government and there is an element of collective responsibility. This is a letter from your own Ministry addressed to the Permanent Secretary, Ministry of State for Provincial Administration and Internal Security, in which you say:-

“Attention is invited to this office circular No.DPM--- of 7th July, 2010 in which phase one salary review of Kenya Police, Administration Police and the Prisons Officers was announced.”

You go further and say:-

“The circular contains partial implementation of phase two of the salaries increase based on the resources available in 2011/2012 Financial Year. The Government is, however, committed to the full implementation of the salary award and the shortfall will be addressed in due course.”

You said “the government” and not “my Ministry” and there is just one Government. So, why do you make a commitment as a Government then you come and tell us that you are asking for this, you missed that or got that? Those are stories that the Government should not tell its people. You determine these things before you make this kind of pronouncement.

What is your point of order, Mr. Mbadi?

Mr. Mbadi: On a point of order, Mr. Deputy Speaker, Sir. In addition to that, is it in order for the Minister to claim that the reason why they cannot pay police officers now is because they do not have money, yet the Minister is aware of the provisions of the Constitution? You do not have to wait for the Revised Estimates. The current Constitution allows him to request Parliament at any time to approve any overspending. If he is in doubt, please read Article 223 of the Constitution, so that you can pay these police officers because they serve Kenyans well. We need security and you have provision in law to spend that money and seek for Parliament’s approval.

Mr. C. Kilonzo: On a point of order, Mr. Deputy Speaker, Sir. In view of the fact that the Minister is taking the House round in circles, the way he has been taking police officers round in circles, can I request, through the Chair that this matter be deferred until the Government comes with an answer which this House can accept?

Mr. Keynan: Mr. Deputy Speaker, Sir, the security sector is a critical component of the Republic of Kenya. Taking into account the recent spate of insecurity in different parts of the country, there is no other institution better qualified for better terms than the police. I want to remind the Minister of the recent National Intelligence Service (NIS) Bill, which is now an Act because His Excellency the President has assented to it. If the Ministry of State for Public Service plays politics with the terms and remuneration of police officers and that affects our national security, then it will be culpable and will be charged for having jeopardized national security. Therefore, it is not an issue that you can play with. This Government does not lack resources. We do not want, because of other issues, our police officers, who play a critical role in protecting Kenyans, not to be paid simply because you have your coalition politics, or due to other issues. We want these people to be paid, so that they can continue serving ordinary Kenyans. When are you going to implement this? It is not an issue about the Supplementary Estimates. As Mr. C. Kilonzo has said, July is already gone and you can ask for a supplementary budget? When are you going to implement this?

Mr. Deputy Speaker: You have made your point, Mr. Keynan.

Dr. Eseli: Mr. Deputy Speaker, Sir, there is just one key thing here. The Minister says he wrote the circular promising the money, but did not get it; but he has failed to tell us whether when he prepared that circular he had the money. Does it mean that he made false promises? Could he come clear and tell us whether when he wrote that circular, he was in agreement with Treasury that the money was available, or whether there was no such agreement? Did he write the circular on his own and without agreement of the Treasury?

Mr. Deputy Speaker: Mr. Minister, this country is now in a state of insecurity and the security machinery is blamed everyday by Kenyans. So, can you give your answer? You can be forgiven for having problems of the coalition politics, but not for representing the Government as an individual.

Mr. Otieno: Mr. Deputy Speaker, Sir, first of all, there is no coalition politics in the remuneration of public servants. Second, I am in total agreement with the sentiments of hon. Members in this House. If I had my way this would have all been paid from 1st July, 2012 as was promised, but the Treasury has the last word when they are balancing the final Budget. The consultations going on are in recognition of what Mr. Mbadi is saying, that at any time the Minister can change the Budget and report to Parliament. That is the promise I have. That is why I said that Kshs1.9 billion is actively being negotiated now and can be implemented at any time as soon as the Treasury gives me the go ahead to do so.

Mr. James Maina Kamau: On a point of order, Mr. Deputy Speaker, Sir. We have not had issues here concerning the armed forces like the Kenya Defence Forces, but we have always had issues with the police, the prison officers and the rest. Why can they not be treated the same because they are all armed forces of this country?

Mr. Otieno: Mr. Deputy Speaker, Sir, we have a cycle of remuneration reviews spanning every four years. When the cycle for the military or the defence forces came we implemented it in full. The police shortfall is as a result of the commission that recommended in the middle of all these cycles an upward revision of the police remuneration. So, the military have continued following the normal routine and we have not defaulted; the subject of this circular was the extra enhancement for the police services only. That is why there is that shortfall and we are looking for funds.

Mr. Deputy Speaker: Minister, you can go ahead and give this very definitive undertaking that this process is on course; you can even go further and give the job groups and what every officer is supposed to earn under the new scheme. Are you saying you missed the money as a Government?

Mr. Ochieng: Mr. Deputy Speaker, Sir, I just wanted to ask a supplementary question. Could the Minister tell us why they went ahead and announced these salary increases if they were still going to take police officers round in circles, the way they are doing right now?

Mr. Deputy Speaker: That question has been asked many times.

Mr. Ochieng: Yes, but it is not coming out very clearly. Why did they announce the salary increases if they knew they were not going to implement them immediately?

Mr. Keynan: On a point of order, Mr. Deputy Speaker, Sir. Will I be in order, taking into account the inability of the Minister to give a comprehensive response to this particular issue, to have this issue referred to the supervisor and co-ordinator of Government activities, who is none other than the Prime Minister, to come and give a firm and authoritative answer to the House, taking into account that it is not only the police? You recall that the Forest Service employees were promised the allowances; I am glad the assistant Minister is here, but they have

been taken round in circles for the last three years, yet they are supposed to project, promote and protect the image of this country abroad. We keep on increasing the list of disenchanted Kenyans.

An hon. Member: Even the doctors!

Mr. Keynan: Yes, even the doctors. Could this issue be referred to the Prime Minister, so that he brings a comprehensive answer that will address all the salient issues raised in this House?

Mr. Deputy Speaker: What is your point of order, Mr. Linturi? This has been your Question. Let us listen to this last point of order and then we wrap up the Question.

Mr. Linturi: Mr. Deputy Speaker, Sir, I really want to add to whatever my colleague, hon. Keynan has said because the nature, magnitude and what this issue portends for this country is so grave. When you look at the environment that we, as a country are in, it is so unpredictable. Right now, there is war in Somalia. We will have an election next year and the police service is not comfortable. Some of them will be laid off when we implement the Police Service Act. This is because the Act does not recognize those officers that are above the rank of a superintendent. These officers are likely to go home. With an estimated 6,000 police officers out there and the fact that this country is at war and elections will be held next year, there is a lot of danger that needs to be addressed.

Mr. Deputy Speaker, Sir, I want to support that this matter be addressed by the Prime Minister who is the co-ordinator of Government affairs. He should issue a comprehensive statement to this House on how we move forward with this matter.

Mr. Deputy Speaker: That is fair enough! Hon. Members, the Chair is clearly not satisfied, as a matter of fact, it is shocked. We have a Government which says "I have done this but we cannot do this because of this and that." Ordinarily in a democracy, when you have a situation like this, it resigns because they cannot come here to the people's representatives---

(Loud consultations)

Order! They cannot come here to the people's representatives and say "we have given out a scheme---" Actually, the scheme says:-

"The Republic of Kenya, the Office of the Prime Minister, Minister of State for Public Service; new salary scales for Kenya Police, Administration Police and the Prisons Services, Phase Two". They have also given the effective date of the scheme as 1st of July, 2011. All the scales are mentioned here and he says they cannot implement it. As you rightly put it, we are going for the general elections next year and the country is gripped in insecurity. We are all frankly scared of where our country is headed in terms of the many conflicts and bloodsheds that are all over the country.

Because of the fact that this is something to do with the co-ordination and supervision of the Government and it involves the Minister of State for Provincial Administration and Internal Security and the Treasury, the Chair directs that the Prime Minister deals with this as a matter of urgency. I do not know if he is in the country or not. If he is in the country, I am directing that this matter be disposed of at the earliest time possible. He can do it tomorrow, if he chooses to do so in the form of a Ministerial Statement. He can still do it the day after tomorrow, if he is not in the country. But the Chair directs that this matter be dealt with by him as a matter of urgency, the very latest on Thursday afternoon.

(Question deferred)

ORAL ANSWERS TO QUESTIONS

Question No.1617

STATUS OF INVESTIGATION OF MONEY LAUNDERING AT CHARTERHOUSE BANK BY KACC

Mr. Mwau asked the Minister for Justice, National Cohesion and Constitutional Affairs if he could clarify whether the then Kenya Anti Corruption Commission (KACC) in 2004 and 2005 investigated the offence of money laundering at Charterhouse Bank Ltd and, if it is true, to provide a list of the offences established.

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. Wamalwa): Thank you, Mr. Deputy Speaker, Sir. I had talked to the hon. Member and we had agreed that this matter be answered comprehensively on Thursday at 2.30 p.m.

Thank you, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Mr. Mwau, are you comfortable with Thursday afternoon?

Mr. Mwau: Yes, Mr. Deputy Speaker, Sir, I am comfortable that he brings a comprehensive answer on Thursday. The last time the Minister for Finance was here, he said that Henry Mwithya of Kenya Anti-corruption Commission (KACC) investigated money laundering at Charterhouse Bank between 2004 and 2009. I would want him to confirm whether Henry Mwithya or any other officer of the KACC had any authority to investigate money laundering at Charterhouse Bank in 2004 to 2009. If at all this happened, to bring the report and the account numbers of those particular persons who were involved in money laundering. He should also confirm whether if a customer of a bank is involved in money laundering, whether it is the bank that is frozen or the customer's account?

Mr. Deputy Speaker: Hon. Eugene Wamalwa, do you have anything to say?

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. Wamalwa): Yes, Mr. Deputy Speaker, Sir. I will consult the Minister for Finance and we will be able to include it in our answer.

Mr. Deputy Speaker: That is fair enough! The Chair directs that this Question be listed on the Order Paper on Thursday afternoon.

(Question deferred)

Next Question by hon. Isaac Ruto.

Question No.1688

CONSTRUCTION OF X-RAY MACHINE ROOM IN SIGOR DISTRICT HOSPITAL

Mr. Deputy Speaker: Where is Mr. Isaac Ruto? Is he out of the Chambers today or out of the country on official parliamentary Business?

This Question is dropped.

(Question dropped)

Next Question, hon. Najib Balala.

Question No.1709

LIST OF PEOPLE ISSUED WITH ALLOTMENT/
TITLE DEEDS IN LAMU COUNTY

Mr. Deputy Speaker: Where is hon. Najib Balala?

An hon. Member: There is a crisis in Mombasa!

Mr. Deputy Speaker: An hon. Member says that there is a crisis in Mombasa and he is attending to it. Hon. Members, are you confident about that?

Hon. Members: Yes, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: That is fair enough! In the circumstances, the Chair directs that hon. Najib Balala's Question be deferred to a day when he can prosecute it.

(Question deferred)

Next Question, hon. D. Muoki.

Question No.1424

UPGRADING OF MAKUTANO-KITHIMANI ROAD

Mr. D.M. Muoki asked the Minister for Roads:-

(a) whether he is aware that tender bids for the upgrading of Makutano-Kithimani Road (C100) to bitumen standard were invited in 2007 and, if so, who won the tender and what was the cost; and,

(b) when the works on the road will commence.

Mr. Deputy Speaker, Sir, this is the third time this Question has come back to Parliament and the answer the Minister has brought is exactly the same that was in the House two weeks ago.

Mr. Deputy Speaker: I am making a presumption that this Question is appearing on the Order Paper the second time because you gave an undertaking that you are bringing additional information. Do you have that additional information?

The Minister for Roads (Mr. Bett): Yes, Mr. Deputy Speaker, Sir; you are correct. This Question is coming back because the hon. Member asked for additional information. So, ostensibly, the original answer remains. We have Kshs55 million for routine maintenance of Makutano-Kithimani Road, Road C100.

Mr. Deputy Speaker, Sir, the additional information which the hon. Member requested was about who won the tender. I want to indicate that when the advertisement was made, 11 companies responded, including Nyoro Construction Company. When the second phase of that tender process was followed; that is the pre-tender site visit, Nyoro Construction Company did not visit the site. It is mandatory for those who have responded to a tender bid to go on the day

when there is a pre-tender site visit.

Mr. Deputy Speaker, Sir, when the response was made, nine companies bought the tender documents, but only four responded. The companies were Nyoro Construction Company, Don Hood, Victory Construction and Spencon Limited. Those four companies responded to the tender. On evaluation, Nyoro Construction Company was disqualified because it did not comply with the mandatory site visit which was undertaken on 31st of October, 2007.

On evaluation, it was found that the other contractor had also not qualified, except the company known as M/s. Victory Construction Company. But the matter stopped there; it was not taken to the Ministerial Tender Committee for adjudication and award. So, in effect, the tender was not awarded to Nyoro Construction Company as was stated by the Member.

Mr. D. M. Muoki: Mr. Deputy Speaker, Sir, what is worrying the House is why the Ministry advertised for this tender when there was no budgetary provision. This was against Government procurement regulations. Why did the Minister invite tenders when knowing very well they did not have budgetary provision for the construction of this road?

Mr. Bett: Mr. Deputy Speaker, Sir, the tender was advertised because there was money available at that time. However, we were approaching December and other emergency situations arose. The money was redirected to address those other emergency situations.

Mr. C. Kilonzo: On a point of order, Mr. Deputy Speaker, Sir. Is the Minister in order to mislead the House when we know there was money to do the road from all the way from Makutano in Mwala Constituency to Kithimani? The fact of the matter was very simple. After the Referendum, when that region voted “No” for the Constitution, the Government was determined to punish that area by ensuring any funds allocated for development were diverted to the “Yes” areas. That is a reality. So, is he in order to mislead the House that there was no money? When the tender was being done, there was money and contract awarded to M/s Victory Construction Company who recruited casual workers.

Mr. Deputy Speaker: Ordinarily, Mr. Minister, you come with that kind of urgent other need if there is an earthquake, floods and other natural disasters. So, you say you re-allocated this money because of such and such natural disaster. Where did you relocate this money to?

Mr. Bett: Mr. Deputy Speaker, Sir, I want to firmly state that the tender was not awarded.

Mr. Deputy Speaker: Why?

Mr. Bett: Mr. Deputy Speaker, Sir, it was not awarded because there were no adequate funds. The little money that was there must have been used to enhance other works, or there was an emergency. If you want I can still go back and look for that emergency.

Mr. Deputy Speaker: Ordinarily, a Government shifts funds from place to place when it is allocated for a project or a programme. You can come back and say because of an earthquake, because the Government is in a state of war, because of this and that--- But you cannot just say that the money was shifted to another project without justification. That in itself is there, it appears on the Printed Estimates. You have to have a better reason than just saying that we found a better place to take it. Otherwise, you do not look very good in the eyes of Kenyans.

Could you undertake now to come with a comprehensive answer on the same? The Chair directs that this Question be listed on the Order Paper on another day. But this day, it has to be the last time we will have this Question on the Order Paper. When do you want to bring that comprehensive answer that essentially will put to rest the concerns of the Members of Parliament here, including the Questioner?

Mr. Bett: Mr. Deputy Speaker, Sir, on Thursday, this week.

Mr. Deputy Speaker: Mr. D. Muoki, are you comfortable with Thursday, this week?

Mr. D.M. Muoki: Mr. Deputy Speaker, Sir, I will wait until Thursday, this week.

Mr. Deputy Speaker: The Chair directs that this Question be listed on the Order Paper on Thursday, this week.

Next Question, hon. K. Kilonzo.

Question No.1329

1

DEPLOYMENT OF HODS TO
MUTITO/NZAMBANI DISTRICTS

Mr. K. Kilonzo asked the Minister of State for Public Service:-

(a) whether he is aware that some Ministries such as Trade, Industrialization and Energy in Mutito and Nzambani districts do not have departmental heads,

(b) what measures he is taking to ensure that departmental heads for all Ministries are posted to the districts.

The Minister of State for Public Service (Mr. Otieno): Mr. Deputy Speaker, Sir, I beg to reply.

(a) Yes, I am aware that the Ministries of Trade, Industrialization and Energy do not at the moment have departmental heads in Mutito and Nzambani districts.

(b) There are some Ministries whose functions do not warrant decentralization to the district level. In such cases, it is more economical to offer the services at regional level. Having departmental heads in all districts for such Ministries will render some of the officers idle or under-employed. Currently, all Ministries with the assistance of my Ministry are in the process of working out the county structures and staff requirements.

Once this is ascertained, staff will be deployed to all the counties accordingly. The Ministries must satisfy us, out of workload analysis, for each of the posting stations that an officer will be productively employed down the line to the district level.

The Member is aware that the new districts were created at a much faster rate than the workload analysis, decentralization and deployment of staff could cope with. We are doing that right now so that we are ready under the new county structures with this deployment expected.

Mr. K. Kilonzo: Mr. Deputy Speaker, Sir, this is yet another example of how Government is insensitive to its citizenry.

Mr. Deputy Speaker, Sir, just like the Minister has said, the only officer of trade they have is not even in the county, he is in the regional office in Machakos. From Katundi area of Malani location of Mutitu District to Machakos, it is over 350 kilometres. Does he consider that reasonably enough for a trader to move all the way from Katundi for 350 kilometres to Machakos just to go and ask for these services or is the Government's motto not to bring services closer to the people? What is he doing before the rationalization of the counties to ensure that, at least, he has an officer in Kitui District to serve the 16 divisions of Kitui County?

Mr. Otieno: Mr. Deputy Speaker, Sir, as I said, as soon as this is ascertained, we will be able to undertake the deployment of the staff to the level necessary to render public service to the people. I totally agree with the Member that those distances are large. But the officers have been operating on that basis. It is the Ministry to justify the deployment to closer level. That has to be given to the Ministry of State for Public Service for confirmation of the positions required by the

Ministry. They are working on that right now, concurrently with the necessary future deployments to the county level. The process is ongoing as I am talking.

Mr. Pesa: Mr. Deputy Speaker, Sir, I quite agree with the Minister, when he says that some departments may not warrant having the head of department posted, But here we are talking about the Government and public service. Migori District has three divisions with only one Acting District Commissioner. He is manning the three divisions headquarters and even the District Officer's (DO1) position. How does he expect the Government to function without important officers in the offices?

Mr. Deputy Speaker: Order, hon. Pesa!

Mr. Pesa: Mr. Deputy Speaker, Sir, I know this is not relevant to him---

Mr. Deputy Speaker: Exactly, it is relevant in a sense, but this matter now concerns the issues of the Ministry of Trade, Industrialization; do not use the opportunity like this to hijack his Question. Go and file your own Question and it will be answered.

Yes, hon. C. Kilonzo, you are on a point of order? Sorry, hon. Letimalo.

Mr. Letimalo: Mr. Deputy Speaker, Sir, the Minister says in his answer that not all districts require these departmental heads, because they can either be idle or under-employed. But what will he say in regard to Civil Registrars? Registration of births and deaths is required, yet in some districts we do not have Civil Registrars.

Mr. Otieno: Mr. Deputy Speaker, Sir, I think I did make it clear that it is some Ministries and not all. Definitely, the example you are giving--- They even need representation to the village level, so that we are sure that every birth is registered and data posted to the national level.

Mr. Deputy Speaker: This has nothing to do with civil registration.

Last question, hon. K. Kilonzo!

Mr. K. Kilonzo: Mr. Deputy Speaker, Sir, the Minister should actually empathize with the people of the region that I am talking about because to get a driving licence, even for the *boda boda*, our people have to travel all the way to Machakos. To say that the people of Kitui County must wait until the rationalization of the county governments is in place is making them spend more money and time. To cut all that, could the Minister, in the prevailing period, ensure that we have a temporary officer at the Kitui County Headquarters, who can serve both Mwingi and Kitui, other than just say that we have to wait, yet we know that when the Government says that we need to wait, it might be infinite?

Mr. Otieno: Mr. Deputy Speaker, Sir, I wish the hon. Member was more specific as to which Ministries need that level of the officers' deployment. As to Ministries of Energy, Industry and Trade which were the subject of this Question, I think I have given the answer. As to the other Ministries, if you do not raise it here, please, take it up with the relevant Ministers. It is the analysis and service delivery that is our key objective. Where it is deficient, we will post staff to render that service. So, let the questions be relevant to each and every Ministry and we will respond.

Question No.1506

STALLING OF REHABILITATION OF ROAD FROM
ST. JAMES HOSPITAL TO AMBOSELI ESTATE, NAIROBI

Dr. Khalwale asked the Minister for Local Government:-

(a) whether he could inform the House why Rapido Construction Company Ltd., the contractor rehabilitating the road from St. James Hospital on Mombasa Road to Amboseli Estate in Nairobi South C has abandoned the site before completion;

(b) when the contractor will resume rehabilitation work and save taxpayers the agony of walking through mud in the rains and dust in the hot season; and,

(c) what the value of the contract CCN/CE/TO41/CE/2009-10 is and how much money has been paid and what the balance is.

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

(a) The reasons that made Rapido Construction Company Limited abandon the works before completion were:

(i) delay in disbursement of funds by the Kenya Urban Roads Authority (KURA);

(ii) escalation of prices for most of the road building materials;

(iii) failure to consider contractor's request for review of prices upwards; and,

(iv) delay in relocation of services by Kenya Power and Lighting Company Limited and Nairobi Water and Sewerage Company Limited.

(b) Due to the abandonment, the contractor has been given notice of contract termination by the Council vide letter No.CE041/2008/2009 dated 17th July, 2012. The financier, the KURA, will take over the works after the termination of the contract.

(c) The value of the contract was Kshs111,241,297. The amount paid so far is Kshs36,029,625 for the works executed. The contractor is not owed anything by the Council since he has been paid for all the executed works.

Dr. Khalwale: Mr. Deputy Speaker, Sir, what action are you going to take against the contractor for violating the contract?

Mr. Nguyai: Mr. Deputy Speaker, Sir, the main action will be the termination of the contract. In accordance with the contract, if there is a performance bond – and I am sure there is – we will enforce it.

Mr. Chanzu: Mr. Deputy Speaker, Sir, the Assistant Minister has indicated that the financier will take over the project, but he has not said what he will do with the project. What do you intend to do after taking over the project?

Mr. Nguyai: Mr. Deputy Speaker, Sir, the financier is the KURA who have the capacity to carry out the works through re-tendering. As such, I am sure that they will carry out their capacity and they are empowered to do so by the law.

Mr. Njuguna: Mr. Deputy Speaker, Sir, I want to thank the Assistant Minister for that very responsible answer. However, could he indicate to the House when the KURA will embark on these works, because the road is critically important?

Mr. Nguyai: Mr. Deputy Speaker, Sir, after the notice period has expired, which already started rolling from 17th July, since the urban authority responsible has the funds to complete the project, they will undergo the due procurement process which normally takes about three months and as such, the work will re-commence.

Mr. Deputy Speaker: Last question, Dr. Khalwale!

Dr. Khalwale: Mr. Deputy Speaker, Sir, just like in this road, in many other roads the Kenya Power Company usually frustrates contractors by not relocating services. What tools of enforcement do you have to ensure that Kenya Power, when it is paid to relocate, does so timeously?

Mr. Nguyai: Mr. Deputy Speaker, Sir, it is, indeed, true that Kenya Power, when they started outsourcing contractors, do have major issues, particularly in encroaching onto roads that do belong to the Minister for Roads. I know that even the Minister for Roads – and I have heard him say that in particular – has said that he will be using his own resources to relocate and charge them expenses.

Question No.1412

DELAY TO HAND OVER LASDAP
PROJECTS TO LOCAL MANAGEMENT

Mr. Shakeel asked the Minister for Local Government:-

(a) why the Kisumu City Council has not handed over the community village hall, which was constructed under the LASDAP Programme in Ragumu village in Central Kolwa two years ago;

(b) why the Council has also not handed over the project undertaken by the Ministry of Housing at Mama Ngina Children's Home to the facility's management; and,

(c) when the projects will be handed over for use and what measures he will take to ensure that all such projects are not left disused after completion in future.

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

(a) The Ragumu Community Hall constructed by the City Council of Kisumu was officially handed over on Wednesday 23rd June, 2010. The council further purchased 100 plastic chairs which were to be used in the said hall by the community.

(b) The project (dining hall/hostel at Mama Ngina Children's Home) were undertaken by the Ministry of Housing, under Kenya Slum Upgrading Programme (KENSUP), and implemented by the Municipal Council of Kisumu. The project was successfully completed in the year 2010 and handed over and commissioned on 11th January, 2011 by the Minister for Housing, hon. Soita Shitanda, EGH, MP.

(c) The project is currently being utilized and managed by the Department of Social Services and Gender of the City Council of Kisumu. Consequently, the issue of handing over the facility as the council single-handedly runs the home for destitute children does not arise.

Mr. Shakeel: Mr. Deputy Speaker, Sir, this Question was asked a long time ago, hence it has been overtaken by events. However, the Assistant Minister says that the Ragumu Community Hall was handed over on 23rd June 2010. I was there last week but it is not available to the community of Ragumu. It has been locked and to date, the keys are held by the City Council of Kisumu, which is 12 kilometers away. This is a community hall which is meant to be used by the community of Ragumu Village, yet they are not allowed to enter it, unless they pay Kshs1,000 and they have to travel 15 kilometers away. I thought that was not the purpose of the community hall.

Mr. Nguyai: Mr. Deputy Speaker, Sir, I will not dispute what the hon. Member has said because he is honourable. What I will request him to do is to come to my office and we undertake liaison between my office, the Permanent Secretary and the Town Clerk for Kisumu

City to ensure that this Question has been sufficiently answered. We will make sure it is correctly done.

Mr. Shakeel: Mr. Deputy Speaker, Sir, as my final part, as I said this matter has been overtaken by events. Part (a) and (b) have been answered well. But I would like the Assistant Minister to know, together with the Acting Minister for Local Government, that despite the children home being run by the city hall, the building was handed over, but half of it is not being used by the city hall social services, because they say they have no money for partitioning it. So, the children are still in part of the old building. Could the Assistant Minister confirm that?

Mr. Nguyai: Mr. Deputy Speaker, Sir, the council that the hon. Member is talking about is the same council that is questioning me about wards. Partitioning is not a major expense. It is an expense that can and should be budgeted for by the council themselves as I deal with the authenticity of the answer in part (a), I will also deal with part (b). This is something that can be quickly resolved by my office.

Mr. Deputy Speaker: Fair enough. Mr. Shakeel, you clearly look satisfied with the answer from the Assistant Minister.

Question No.1375

IMPLEMENTATION OF SESSIONAL PAPER NO.3 OF 1985
ON PENSION FOR RETIREES

Mr. Warugongo asked the Minister of State for Public Service whether he could clarify to the House whether Sessional Paper No. 3 of 1985 on pension for retirees is still in operation and, if so, why it has not been implemented consistently since 1997.

The Minister of State for Public Service (Mr. Otieno): Mr. Deputy Speaker, Sir, I beg to reply.

Sessional Paper No.3 of 1985 on pension for retirees is not operational. It was replaced by the Pensions Increase Act, Cap.190, as amended in 2006 to replace the new Government pensions policy at the time. The Pension Increase Act, Cap.190, 2006 as amended, also raised the minimum pension from Ksh500 per month to Kshs2,000 for every pensioner. Since then, there have been three other pension increases effected on 1st July, 2007, 1st July, 2009 and 1st July, 2011. The next pension increase will be implemented with effect from 1st July, 2013. The rates provided for under the Act were a percentage increase of 3 per cent every two years.

Mr. Warugongo: Mr. Deputy Speaker, Sir, I was not aware that Sessional Paper No.3 of 1985 has been replaced. I still have a question to the Minister. Considering that civil servants worked for very long and most of them retired, and considering that they have families - I am talking about the minimum pension of Kshs2,000 - could the Minister tell us whether the Ksh2,000 minimum is fair?

Mr. Otieno: Mr. Deputy Speaker, Sir, the case of our public servants retirement benefits is pathetic. I could even say ridiculous, because most of them are getting pensions not even sufficient to pay for one week's medical prescription. But as a professional in this area, when I arrived at the Ministry, I said we had to address this matter on a long-term basis and totally change the pension programme from a benefits defined programme to a contributory defined programme, which Parliament has already approved and I am waiting for its implementation, so that we detach the pensions from the annual budgetary processes where the Government has

found it difficult to keep pace with reasonable pension payments to our officers. So, on a long-term basis, as soon as the new Public Service Superannuation Scheme comes into force, we will start addressing the matter. Then the Government can turn back and look at the existing pensioners, about 200,000 of them, and be able to award something reasonable, something sensible. As it is now, it is totally unacceptable, yet the reason I keep getting is budgetary constraints.

Mr. Yakub: Mr. Deputy Speaker, Sir, I agree with the Minister in terms of the amount the retirees are receiving. It is very low but there is another problem. Could the Minister inform us how the family of the deceased gets the pension? What is the procedure? There are many problems with the families of the deceased in getting pension.

Mr. Otieno: Mr. Deputy Speaker, Sir, not all retirees were contributing to the widows and orphans scheme, which came later. For those who were contributing, their widows continue to get pension after their death. For those who did not belong to the widows and orphans scheme, everything stops on the death of the retiree.

Mr. Ruteere: Mr. Deputy Speaker, Sir, the Minister agrees that the pensioners are getting very little and they live in pathetic conditions. He says that he is looking for a long-term solution for the people who are now contributing. For those who are pensioners currently, a 3 per cent increase, if one is earning a pension of Kshs2,000, he will only get only Kshs60; is that a reasonable figure that the Minister says is an increase? An increase of only Kshs60 on Kshs2,000! Does the Minister think that this can help the pensioners?

Mr. Otieno: Mr. Deputy Speaker, Sir, we have put long-term solutions in place. What remains are annual allocations to improve the pension income to the existing retirees. One of the solutions would be to increase the minimum every year if the Budget can allow it. We would keep increasing the minimum or generally give a proportionate rise, but this will be subject to the annual budgetary allocations. Now that the future is addressed, the past can be handled as resources can accommodate.

Mr. Warugongo: Mr. Deputy Speaker, Sir, is there a minimum that the Minister intends to implement when the funds are available, over and above the Kshs2,000? In fact, for us, Kshs2,000 is for a two days meal and it may not even be enough for anything. He should tell us, so that the retirees out there can have some hope.

Mr. Otieno: Mr. Deputy Speaker, Sir, first, pensions are administered by the Minister for Finance. But if it is left for my proposal, there should be a Kshs2,000 increase every two years in addition to the 3 per cent, subject to funds being available.

Mr. Deputy Speaker: Fair enough. Next Order!

MINISTERIAL STATEMENTS

The Assistant Minister for Foreign Affairs (Mr. Onyonka): Mr. Deputy Speaker, Sir, in the last two weeks, two requests have been made and I thought I could clear with them.

Mr. Deputy Speaker: Who requested them?

The Assistant Minister for Foreign Affairs (Mr. Onyonka): Mr. Deputy Speaker, Sir, the first request was made by hon. Shebesh and the second request was made by hon. Linturi, who has just walked out. Maybe I could deal with the one by hon. Shebesh.

Mr. Deputy Speaker: The Chair directs that that Ministerial Statement be delivered tomorrow morning.

The Assistant Minister for Foreign Affairs (Mr. Onyonka): Much obliged, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Are you okay with that, hon. Shebesh?

Mrs. Shebesh: Yes, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Fair enough.

Dr. Eseli: Thank you, Mr. Deputy Speaker, Sir, for indulging me, but I wish to seek your guidance. Since we moved into this Chamber, it has been difficult to keep track of the time that has been eaten up in the course of one's contribution. The other chamber had an hour glass which has light to show us whether we are running out of time or not. We had a clock that we could easily see---

Mr. Deputy Speaker: You are asking for something that is available to you.

Dr. Eseli: Mr. Deputy Speaker, Sir, in this chamber, the clock up there is very hidden and we cannot see it.

Mr. Deputy Speaker: For the purpose of the clerks-at-the Table and the Chair or the Speaker for that matter, we have even a better one. We have an electronic one that goes to the circuit. But for Members who would want to see, your point is well taken. It is well appreciated. I direct that the Office of the Clerk finds a way of putting clocks on all the four corners, so that Members can be to look at them from wherever they are without having to restrain their necks. We do not have that many doctors who can help us with those of us who will end up with a little bit of pain in their necks. That direction has been given now.

The Assistant Minister for Roads (Mr. Kinyanjui): Mr. Deputy Speaker, Sir, I have with me a Statement that was requested by hon. Langat, the Member for Ainamoi, but I realize that he is not here.

Mr. Deputy Speaker: Where is he? Where is hon. Langat? The Chair directs that this Ministerial Statement also be delivered tomorrow morning after Question time.

Eng. Gumbo: On a point of order, Mr. Deputy Speaker, Sir. I was just following up on the issue raised by hon. Eseli. I wanted to point out that now we are electronic, it is actually possible to build in the time into our console, so that we are able to see without having to put clocks on our walls. As the Chairman of the House Broadcasting Committee, filing the place with clocks, again, is like walking backwards. We should pursue the technology.

Mr. Deputy Speaker: Order, hon. Member! The Chair has given a direction on this. It looks like the Members are really missing the clocks because it is easier to look up than. You can also be contributing from the Dispatch Box and when there, it is just fair to look up and see how many more minutes you have. A direction has been given on the same. That has been disposed of.

Hon. Hassan, what is your point of order? Or did you inadvertently, press the button?

Mr. Hassan: On a point of order, Mr. Deputy Speaker, Sir. I agree with hon. Gumbo---

Mr. Deputy Speaker: Order! It is not a matter for debate.

Mr. Hassan: Mr. Deputy Speaker, Sir, I was just wondering whether hon. Eseli is a clock

Mr. Deputy Speaker: Order! Much as you have been here for probably a year or less, you do not debate with the Chair. That is rule number one unless you have a very relevant issue which is drawing the attention of the Chair to the Standing Orders. To the best of the understanding of the Chair, the Standing Orders do not cover the clocks.

POINTS OF ORDER

Mr. Washiali: Mr. Deputy Speaker, Sir, I rise to seek a Ministerial Statement that despite the constant assurance by the Government---

Mr. Deputy Speaker: Order! Did you get the approval of the Chair on that Ministerial Statement?

Mr. Washiali: Yes, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Are you sure?

Mr. Washiali: Yes, I did.

Mr. Deputy Speaker: I do not seem to have seen that request. You have it signed?

Mr. Washiali: Yes, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Okay. Proceed.

VIOLENCE DURING NOMINATION EXERCISE IN NDHIWA CONSTITUENCY

Mr. Washiali: Mr. Deputy Speaker, Sir, despite constant assurance by the Government that we will have peaceful elections, what we see on the ground does not support this. That is why I am rising to seek a Ministerial Statement from the Minister for Justice, National Cohesion and Constitutional Affairs on the violence experienced in the nomination exercise in Ndhiwa Constituency.

In the Statement, the Minister should:-

(i) confirm that the violence experienced in the nomination exercise is a manifestation of lack of internal democracy---

Mr. Deputy Speaker: Order! Order! When you are seeking a Ministerial Statement, you seek clarifications and not confirmations. When you want confirmation, you put in a Question.

Mr. Washiali: Mr. Deputy Speaker, Sir, I wanted to give the highlights of the areas that I wish to seek clarification.

Mr. Deputy Speaker: Yes, the highlights, but then you seek clarification in the process. You do not seek confirmation. Read your Standing Orders and acquaint yourself very much with the rules of a Ministerial Statement. Proceed.

Mr. Washiali: Mr. Deputy Speaker, Sir, thank you for the advice.

I wish to ask the Minister to:-

(i) clarify whether the violence experienced in the nomination exercise is a manifestation of lack of internal democracy in most of the political parties in this country,

(ii) indicate the measures that he has taken to ensure that there is internal democracy in each political party to avoid the occurrence of such violence during nomination of candidates by political parties; and,

(iii) he should state the measures that he has put in place to guarantee that Kenyans will have peaceful general elections.

Mr. Deputy Speaker: Minister, how soon can you have that Ministerial Statement in place?

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. Wamalwa): Tuesday afternoon, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Tuesday afternoon. It is so directed.

Dr. Khalwale: On a point of order, Mr. Deputy Speaker, Sir. I wish to request for a Ministerial Statement, but before I do that, allow me to remind the Office of the Prime Minister that we were expecting a response tomorrow about what action the Government was going to

take to pre-empt the doctors' strike. The strike has now begun. So, probably just to re-emphasize that he comes with the Statement tomorrow.

VIOLENCE IN MOMBASA AFTER SHOOTING OF SHEIKH ABOUD ROGO

However, I wish to request for a Ministerial Statement from the Minister of State for Provincial Administration and Internal Security. This is in respect of the violence that has been raging on in Mombasa from the time of the shooting of the Muslim cleric, Sheikh Aboud Rogo. I would like the Minister to clarify whether this is not an extra judicial killing in view of the fact that before the cleric was shot, he was shown on a television footage complaining that his life was under threat.

Mr. Deputy Speaker, Sir, I would like the Minister to clarify whether this was not, indeed, an execution by some elite squad, probably from the US, in their global pursuit of terror suspects. What action has the Minister taken to arrest the violence that has been raging in our City of Mombasa for the last 24 hours? I would like him to explain why the violence is, amongst other things, being directed at churches, several of which have been torched. Could he also disclose the names of any other Kenyans who have received travel bans imposed on them as terror suspects by the UN Security Council? Could he further tell us what he has done to ensure that such Kenyans face justice and not extra judicial killings?

Ms. Karua: Mr. Deputy Speaker, Sir, in support of that point of order, I just want to ask the Minister as he brings the Statement, to clarify how many arrests, if any, have been made of the thugs who have taken advantage of the situation to burn down churches and made it appear as if there is a religious war in Mombasa and how long it will take the Government to bring the situation under control.

Mr. Yakub: On a point of order, Mr. Deputy Speaker, Sir. In getting extra clarification from the same Statement, the report we have just received says that police have arrested 12 youth in the protests that have been going on for the past two days. It is very unfortunate that the late Sheikh Abdi Rogo was killed using 22 bullets in broad daylight in very heavy traffic road in Bamburi. The Police Department has not disclosed whether they have arrested anyone in connection with the killing. However, they have arrested 12 youths so far. Could the Minister also inform the House how many people have been arrested after 48 hours and what action they will take against those who committed the extra judicial killing? As you know, this is not the first Sheikh to be killed in Mombasa. Sheikh Samir was also killed in broad daylight and we never received a proper report on what happened after the killing.

Lastly, I would like the Minister to inform us what action they are taking to control the tension which should not be seen as Muslims against Christian at all.

Mr. Mututho: Mr. Deputy Speaker, Sir, I further request that the Minister calls for an urgent reconciliation between Christians and Muslims. Let us not pretend that tension is not there because I arrived at the scene about five minutes after the incident. This was in a bright sunny day. It was one of those mornings you want to drive peacefully when everything is very calm. It was a place where a car could not speed. The fact that those people have not been arrested is, first of all, shocking.

Secondly, the people who witnessed that because there were many people there--- Twenty two gunshots in a public place like that puts us in a very awkward position as a tourist city.

Thirdly, looking at the family which was in the car and the people who were travelling around the place, because I have said I was a few cars behind from North Coast, puts Kenya in a place that you are not sure. If you can be shot around that time at such a place--- Could the Minister, in his clarification, re-assure Kenyans that there will be a creation of a new police force, an efficient police force, the appointment of an Inspector General or whatever that can be done so that the security of Kenyans can be guaranteed?

Ms. Karua: On a point of order, Mr. Deputy Speaker, Sir. Reports reaching us indicate that two police officers may also have been killed. Could the Minister also confirm and elaborate on that and tell us how he will stop the loss of lives of innocent civilians and also the police?

Mr. Chanzu: On a point of order, Mr. Deputy Speaker, Sir. As the Minister prepares to address the various issues that have been raised, I think it would have been appropriate for him to issue a Statement now on what action he has taken to solve what is going on. The news that we heard over lunch time was that many more people have been killed. So, the Minister should issue a Statement now on what he has done to stop the chaos.

Mr. Deputy Speaker: Given the fact that the Minister is not the Minister for the line Ministry, I doubt that he can be expected to give a Statement instantaneously.

Mr. Chanzu: Mr. Deputy Speaker, Sir, he should consult or pass on information to the relevant Minister.

Mr. Deputy Speaker: It is not fair!

Yes, Mr. Keynan!

Mr. Keynan: Thank you, Mr. Deputy Speaker, Sir. I would also like the Minister to address this issue because this is an unfortunate incident that took place at time when the whole country was congregating at the Bomas of Kenya on the second anniversary of the Promulgation of the Constitution. On one hand, we were saying that Kenya is a peaceful country and that we were preparing for the next General Election and yet the sad incident happened. It is high time that we addressed this and found out what is happening in different parts of the Republic of Kenya. You have seen what has happened in Turkana, Wajir, Mandera, Tana River and now in Mombasa.

Certainly, there must be something that is missing. Either our officers are on a go-slow or some institutional structures have completely collapsed to an extent that we do not know what is happening in our midst. I want to inform the Minister as he responds to this that this is not an isolated incident. The security of every Kenyan is the responsibility of the State regardless of their religious, social, ethnic or any other affiliation. Therefore, I want to appeal to the Minister, as he prepares his Statement, to find out what is really happening and more so to treat this issue as urgent and address the issue of police reforms so that our officers are motivated and have legal mechanism to work.

Mr. Cheruiyot: On a point of order, Mr. Deputy Speaker, Sir. I want to also request the Minister, when bringing his Statement, to really tell us what is happening to very many unresolved murders being experienced in this country, and this is one of them. Could the Minister tell us what he will do to the CID so that they do their work professionally? This is because the CID officers do not seem to be doing their work.

Mr. Midiwo: On a point of order, Mr. Deputy Speaker, Sir. All I want to ask the Minister is to tell Kenyans--- The issues we are seeing in the media; issues of insecurity are happening two years after a new Constitution which guarantees every Kenyan security including Miguna Miguna.

(Applause)

When you see somebody's human rights being violated openly, and the violators are seen and caught on camera and the police do not arrest them--- I want the Minister to tell us why those boys who were seen in Ndhiwa harassing a man, who was just a Returning Officer, are not in jail. You see the President keeps on telling Kenyans that he is guaranteeing a peaceful election and transition. How is it that the same police are not arresting the culprits so that Kenyans can know that things have changed? Could the Minister tell us whether things have changed for the better or are things changing for the worse or should we prepare for a worse post-election violence?

Mr. Deputy Speaker: Mr. Minister, can you give an undertaking of when the Ministerial Statement will be issued?

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. Wamalwa): Mr. Deputy Speaker, Sir, because of the urgency of the matter and the tension that is still building at the Coast, I would like to advise my colleague to avail this Statement as early as Thursday so that he can work on it tomorrow.

Hon. Members: It should be issued tomorrow!

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. Wamalwa): Mr. Deputy Speaker, Sir, I say so because this matter happened when the nation; indeed the entire national leadership of this country was gathered at Bomas of Kenya yesterday talking about peace and looking at ways of preventing violence in our society. As we speak this afternoon, the right hon. Prime Minister and I were supposed to be at Bomas of Kenya to close the conference but the Prime Minister had to leave for Mombasa.

The Government is taking this matter very seriously because it is a situation that could spiral out of control. I believe that the Prime Minister will be back tomorrow. We just want to ask for tomorrow so that a comprehensive Statement is prepared by the Government to be delivered to this House and the nation on Thursday. However, we want to condemn the killing. We also want to send our condolences to those who have lost their dear ones including the officers and the families that have been affected. We also want to assure the nation that this Government believes in the rule of law and that the era of extra-judicial killings is over. This matter will be addressed comprehensively by the Government on Thursday.

Mr. Deputy Speaker: Mr. Minister, you have avoided to add into your condolences the man who was killed.

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. Wamalwa): Mr. Deputy Speaker, Sir, I have said the family of those who have lost their lives. We are very saddened to hear that the wife of the Sheikh was also shot and she might have been fatally wounded. We are very disturbed by this and our condolences go to the families that have lost their dear ones and also those who have been injured in the violence. We undertake to give a comprehensive Statement on Thursday.

Thank you.

Mr. Chanzu: Mr. Deputy Speaker, Sir, because tomorrow is on Wednesday, I am wondering why the Minister cannot undertake for this Statement to be issued in the afternoon.

Mr. Deputy Speaker: He claims the substantive Minister is already on the hot spot or he is on the ground. I think it is only fair that we give him one day to prepare the Statement. Fair enough.

Dr. Khalwale: On a point of order, Mr. Deputy Speaker, Sir. I notice that we have come to the end of Statements and, therefore, we are about to embark on business. I, therefore, rise on Standing Order No.1(2) and Standing Order No.36 on behalf of the Committee that I chair; the Public Accounts Committee.

It is the practice in Commonwealth parliaments that debate on reports of the Public Accounts Committee take precedence. They only give way to constitutional Bills. I happen to be a representative of the Back Benchers in the House Business Committee together with my colleagues, Ms. Karua and Mr. Onyancha. We recall that in our last sitting in the House Business Committee, we actually indicated that our only problem to this Report were the constitutional Bills. Therefore, the whole of last week we could not tackle it. It has occurred as a matter of surprise to the Committee that this business is on today's Order Paper but it has been relegated to Order No.14---

Mr. Deputy Speaker: Which business?

Dr. Khalwale: The business of the Report of the Public Accounts Committee where we are asking this House to adopt the Report of the Public Accounts Committee on the matter of the currency printing contract between the Central Bank of Kenya (CBK) and De La Rue Company which was laid on the Table of this House on 1st August, 2012. That is an overwhelming 27 days.

Mr. Deputy Speaker, Sir, the urgency of this matter and the contradiction is that whereas under Standing Order No.1(2) matters are supposed to be dealt with in this House according to tradition, I have already drawn your mind to the fact that it is the parliamentary practice within Commonwealth parliaments that matters like these are given precedence.

As if that is not enough, I have a letter written to the Clerk of the National Assembly, copied to the Speaker of the National Assembly and forwarded to the Chairman of the Public Accounts Committee. The letter is from the Treasury and the Treasury is asking us to expedite the issue of De La Rue because the currency which is currently in circulation is dirty and is a threat to the health of consumers of currency.

Mr. Deputy Speaker, Sir, given this grave matter of national importance whereby if this is delayed further, you have the challenge of the public that handles this currency, and two, you have the challenge that the CBK cannot go ahead and make any other interim order because the issue of loss of public funds through interim orders is the reason why the Chair directed that our committee deals with this matter--- We have concluded our job and all that we are saying is, give us a chance to be heard by the House, so that the House can decide one way or the other.

I, therefore, invite you under Standing Order No.36 which gives you the discretion to vary the Order of business to consider firmly directing that this matter comes as a priority so that the Government side of the House prepares. Our side, the Public Accounts Committee, together with our colleagues, I believe have read the Report and are prepared. We would like to firmly face them tomorrow at 2.30 p.m.

Mr. Deputy Speaker: Do you have anything to show the urgency for that? Public Accounts Committee reports are basically post audit reports. Do you have a reason to show the urgency for that?

Dr. Khalwale: Yes, Mr. Deputy Speaker, Sir. I have two reasons for the urgency. One, is the letter from the Treasury. The letter from Permanent Secretary, Kinyua says:

“RE: DIRTY AND MUTILATED KENYA
CURRENCY NOTES IN CIRCULATION.

Attached herewith, please find a self-explanatory letter addressed to the CBK; the Permanent Secretary, Treasury and the Speaker of the National Assembly by Mr. Nderu, Managing Director, Lotus Hotel. As you are aware, the issue of proposed Government investment in De La Rue is currently with yourselves. We are unable to proceed before the Committee finalizes its work.”

Mr. Deputy Speaker, Sir, this document has been marked to the Clerk by the Speaker, and the Speaker has commented: “Kindly, advise as to where we are on this.”

The Clerk has then marked it to my Committee where he says: “This matter relates to the De La Rue issues being---“

Mr. Deputy Speaker: Could you table it?

Dr. Khalwale: Yes, Mr. Deputy Speaker, Sir. I now table a copy of the letter.

The second aspect of the urgency before I allow my colleague to add is that the long and short of our report is that Kshs1.8 billion has been lost through a clever system that has been running over the years through interim orders. So, if we do not conclude this matter, and the Treasury proceeds to procure, it may again be under the same interim order and Kenyans will lose a further Kshs0.4 billion. That is how grave it is. I table the letter.

Mr. Deputy Speaker: Could that letter be brought to the Chair? Dr. Khalwale, you do not table the letter by keeping it on your desk. You bring it to the Table, which is basically the Dispatch Box or the Clerks-at-the-Table.

(Dr. Khalwale laid the document on the Table)

Mr. Mbadi: Mr. Deputy Speaker, Sir, I would like to support hon. Bony Khalwale’s request. This House directed the Committee of Parliament to go and investigate the matter and report back. The Committee has done a good job. It completed its work and reported back to the House. It would only be prudent for this House to dispose of that Report, so that it does not become a pending Report in the House.

Further, the Government is in the process of negotiating to go into a joint venture with this particular company. That decision needs to be made, but it cannot be made unless this House makes a decision as to whether that is the right way to go. I do not want to anticipate debate on the Report, but it covers very well the issue of whether we should go into the joint venture or not. So, I would request that, if the Chair finds it fit, this matter is debated by tomorrow, given that this House has also been deliberating on many other issues. We are a bit tired. Probably, we may want to go and rest, beginning next week.

Mr. Deputy Speaker, Sir, could it; therefore, find favour with you this debate becomes Order No.8 tomorrow?

Mr. Deputy Speaker: Yes, hon. Shakeel.

Mr. Shakeel: Mr. Deputy Speaker, Sir, I also recommend that this Report be attended to as soon as possible. I also want to remind you that the Committee on Finance, Planning and Trade has already done a Report on *De La Rue*, which I am not very sure whether it was tabled or not. However, as a Committee, we worked on the current affairs, whereas the Public Accounts Committee (PAC) worked on the audit of past events. I think this would be an opportune time for both Committees to get together and have a joint Report tabled.

Mr. Deputy Speaker: Order, hon. Shakeel! By now you should be well versed with the practices of Committees. There is no way you can combine the PAC Report, which is a post-

audit Report, with Reports of other Committees like the Committee on Finance, Planning and Trade.

Dr. Khalwale: On a point of information, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Who do you want to inform, the Chair?

Dr. Khalwale: Mr. Deputy Speaker, Sir, it would be useful for the Chair to know that while we were in session on this very important matter, hon. Shakeel Shabir requested to sit in one of the sessions. He is on record having said that after they had gone somewhere in the process of collecting evidence, the process was abandoned, and that when he went back to the Clerk's Office to consult before appearing before us, he was told, to use his own words, that "the Report of the Finance Committee was shredded". Unless the hon. Member---

Mr. Deputy Speaker: Order, hon. Khalwale! We are not discussing the Report of the Finance Committee. This kind of divergence ---

Dr. Khalwale: It is directed to your attention, Mr. Deputy Speaker, Sir.

Deputy Speaker: Order! Order!

Yes, Dr. Kones.

Dr. Kones: Mr. Deputy Speaker, Sir, I just want to support my Chairman in that---

Mr. Deputy Speaker: Who is your Chairman?

Dr. Kones: It is Dr. Bony Khalwale, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Proceed.

Dr. Kones: Mr. Deputy Speaker, Sir, I am the Vice-Chairman of the PAC. As much as you have said that the Report is a post-audit one, the correct position is that it was an investigation Report on the matter, which was referred to the Committee by the House. A decision has to be made by this House on certain aspects, particularly as to whether the Government needs to proceed with the joint venture arrangement in the manner it is currently or as recommended by the Committee through the Report.

Therefore, I support that the Report needs to be disposed of as soon as possible

Mr. Deputy Speaker: You have made your point, Dr. Kones.

Mr. Keynan: Mr. Deputy Speaker, Sir, as a Member of the House Business Committee, I can also confirm the sentiments of hon. Khalwale. This particular Report was slated for debate two weeks ago but, because of the pending constitutional Bills, we had agreed that it would be the first item after disposal of those Bills. Although I did not attend the last House Business Committee, I want to plead with the Chair that because this is a critical Report, which names some economic saboteurs or corrupt individuals who continue to mess up our economy; the sooner it is debated, the better for taxpayers.

Mr. Deputy Speaker: You have made your point, hon. Keynan. I will finally have Charles Kilonzo and go to Minister Robinson Githae.

Mr. C. Kilonzo: Mr. Deputy Speaker, Sir, what I find amazing is the fact that the Government is now writing to your office to ask for assistance yet the same Government is in charge of the House Business Committee. Apart from Wednesday mornings, when we deal with Private Members' Business, and when we ask Questions, the rest of this House's time is dedicated to Government Business. So, when the Government writes to you, asking for permission---

There is an issue where the Government itself is failing. The Government seems to be divided on this matter, with part of it wanting the Report to come up for debate and another part not wanting it to be debated. That is why the Minister, through the Permanent Secretary (PS), has

written to your office. I am also of the opinion that this matter should be brought to the House as soon as tomorrow.

Mr. Deputy Speaker: Robinson Githae, do you have a problem with this proposal?

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

Mr. Deputy Speaker: What is your problem with the Report being deliberated on the Floor of the House?

The Minister for Finance (Mr. Githae): Mr. Deputy Speaker, Sir, I really have no problem. What I am saying is that the House Business Committee, in its wisdom, chose to put it last. This issue was actually discussed by the House Business Committee. Members deliberated on it, debated it, argued and agreed that we give priority to the two Bills, in addition to the Committee. So, this was a negotiated position. I do not see why the Chairman of the PAC is in a hurry to crucify the people mentioned therein. Their time will come.

Mr. Deputy Speaker, Sir, in addition, there are other Reports on the queue. Why give priority to this one? There are other Reports which have been queuing for the last eight months. Why fast-track this particular one?

Mr. Deputy Speaker: You have made your point, hon. Githae.

Yes, hon. Martha Karua, before I give direction on the matter!

Ms. Karua: Mr. Deputy Speaker, Sir, as a Member of the House Business Committee, I just wanted to rise on a point of order and wonder whether the Minister is in order to mislead the House. I was in the House Business Committee meeting last Tuesday. We did not order that this Report be put last on the Order Paper. It was going to receive priority today after the constitutional Bills. So, I do not know how it came to be last. We prioritised it.

Mr. Deputy Speaker: Order! Order, hon. Members!

Hon. Members, the Chair would like to, now, give direction on this matter. Indeed, the Chair accepts the authenticity of the letter from the PS, Ministry of Finance, which was addressed to the Clerk of the National Assembly, which, indeed, wants this Report to be disposed of as soon as possible. It is also clearly surprising in that the Government is supposed to act as one when this matter was being determined in the House Business Committee. However, we have seen the Government with a lot of cross purposes lately.

Having said so, I also appreciate the urgency of this matter. My own recollection of my terms in the House was that PAC Reports are very important. That is the practice in Kenya and in all Commonwealth Legislatures. Standing Order No.36(2) also says:-

“36(2) Business shall be disposed of in the sequence in which it appears in the Order Paper or in such other sequence as the Speaker may, for the convenience of the House, direct.”

Hon. Members, we cannot expect the Government to govern and, at the same time, hold itself accountable. You cannot be the judge, the jury and the executioner. This is a cardinal role for Parliament. Therefore, it is in the interest of the country, the practice and conformity with our own Standard Orders; that the Chair rules that this business be listed on the Order Paper tomorrow, and that it be the only business, because we cannot have a Report of a Parliamentary Committee coming in and have a listing of Government Bills on the same Order Paper. So, under the circumstances, unless there are other Bills which are only going to come through the First Reading which means there is no debate on them, the Chair wants this matter to be debated tomorrow afternoon. I direct that the House Business Committee (HBC) acts accordingly and the Chair draws his or her authority on this case from Standing Order No.36 (2).

Next Order, hon. Members!

BILLS

First Readings

THE PREVENTION OF TERRORISM BILL

THE NATIONAL TRANSPORT AND SAFETY AUTHORITY BILL

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

COMMITTEE OF THE WHOLE HOUSE

(Order for Committee read)

[Mr. Deputy Speaker left the Chair]

IN THE COMMITTEE

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

THE LEGAL EDUCATION BILL

The Temporary Deputy Chairman (Mr. Chanzu): Hon. Members, we are now in the Committee of the Whole House and we are dealing with two Bills. We will start with The Legal Education Bill, Bill No.63 of 2011, Ministry of Justice, National Cohesion and Constitutional Affairs.

(Clauses 2 and 3 agreed to)

Clause 4

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

THAT, clause 4 be amended-

(a) in sub-clause (5)-

(i) by deleting the words “appointed by the Cabinet Secretary” appearing at the end of the paragraph (a) and substituting therefor the words “upon whom the rank of Senior Counsel has been conferred by the President under section 17 of the Advocates Act and who shall be appointed by the Attorney-General”;

(ii) by deleting paragraph (f);

(iii) by deleting the words “one advocate” appearing at the beginning of paragraph (g) and substituting therefor the words “four advocates”; and

(iv) by deleting paragraph (i).

- (b) by deleting sub-clause (8); and
- (c) by deleting sub-clause (10).

Mr. Temporary Deputy Chairman, Sir, in part (a)(i), this is basically to ensure that the persons appointed is done by the Attorney-General and upon a person who has the rank of a senior counsel. It is self-explanatory.

The other paragraph (f) is among those who will be part of the council. It is requiring the Secretary and Commissioner of Higher Education. We are proposing which relates to the advocates and the Council of Higher Education be deleted. This is not really relevant.

The last one is paragraph (i) where we are proposing that we delete (i); that is, a person nominated by the Kenya Private Sector Alliance (KEPSA) basically because KEPSA is not really relevant if the Law Society of Kenya (LSK) represents their interests.

Those are the amendments we are proposing to Clause 4.

(Question of the amendment proposed)

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. Wamalwa): Mr. Temporary Deputy Chairman, Sir, we have no problem with the proposed amendments except the one proposing deletion of paragraph (i) and also the one adding the number of advocates. We need diversity and it is important that in this constitution, we have various other professional bodies involved and apart from the other proposed amendments, we were proposing that that should be left as it is.

The Temporary Deputy Chairman (Mr. Chanzu): So, are you proposing to amend the amendment by hon. Baiya?

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. Wamalwa): Mr. Temporary Deputy Chairman, Sir, we are accepting the proposed amendment but we are opposing that. We are asking that it should be left as it is.

Ms. Karua: Mr. Temporary Deputy Chairman, Sir, I will rise to support the amendment by the Committee led by hon. Baiya. This is the Council for Legal Education. You got to put people with the relevant education of lawyers and I think that the amendment by the Committee is strengthening this instead of putting people for the sake of it and not having value added to the education of legal practitioners.

I beg to support the amendment as it is.

*(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 4 as amended agreed to)

(Clauses 5, 6, 7, 8 and 9 agreed to)

Clause 10

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

THAT clause 10 be amended by deleting the words “Cabinet Secretary responsible for finance” appearing after the words “in consultation with the” and substituting therefor the words “Salaries and Remuneration Commission”.

Mr. Temporary Deputy Chairman, Sir, this relates to remuneration of council members. We are proposing the amendment, so that rather than have the Cabinet Secretary responsible for finance, the remuneration be as recommended by the Salaries and Remuneration Commission. That is the relevant body in charge of salaries and allowances recommendations, to ensure that there is harmonized and coordinated payment of salaries in the country.

(Question of the amendment proposed)

Mr. Njuguna: Mr. Temporary Deputy Chairman, Sir, I support the proposed amendment by the Chair of the Departmental Committee on Justice and Legal Affairs because the Salaries and Remuneration Commission is the body, as per the Constitution, established to look into the issue of salaries and wages.

(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 10 as amended agreed to)

(Clauses 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22 and 23 agreed to)

Clause 24

Mr. Baiya: Mr. Temporary Deputy Chairman, Sir, I beg to move:-
THAT clause 24 be deleted.

I am proposing that Clause 24 be deleted. The reason is that Clause 24 seeks to impose a levy on services rendered by advocates or legal education providers. This is double taxation because the State is the one educating the legal profession as a whole, and imposing that burden on a category of such profession of advocates is unfair, unprecedented and will result in the distortion of legal services.

(Question of the amendment proposed)

Mr. Njuguna: Mr. Temporary Deputy Chairman, Sir, I support the amendment because, in my view, the current mechanism is punitive and very discouraging; to some extent, this can also demoralise those willing to engage in the legal profession. Therefore, I support the amendment as presented by the Chair of the Departmental Committee on Justice and Legal Affairs.

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. Wamalwa): Mr. Temporary Deputy Chairman, Sir, we have no opposition to the proposal and we had agreed that the clause be deleted.

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

(Clause 24 deleted)

Clause 25

Mr. Baiya: Mr. Temporary Deputy Chairman, Sir, I beg to move:-
THAT clause 25 be amended by deleting paragraph (a).

This follows immediately after the deleted Clause 24, which was talking about the proceeds of legal education and we have just deleted it. Therefore, this is just to harmonize the clause after the deletion of Clause 24.

(Question of the amendment proposed)

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. Wamalwa): Mr. Temporary Deputy Chairman, Sir, after deletion of Clause 24 then Clause 25 (a) is inconsequential and we support the proposal by the Committee that it be deleted.

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

(Clause 25 as amended agreed to)

(Clauses 26, 27, 28 and 29 agreed to)

Clause 30

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

(a) THAT Clause 30 be amended by deleting sub-clause (2) and substituting therefor the following-

“The Judicial Service Commission shall appoint the members of the Tribunal through an open, competitive and transparent process”.

This amendment is to ensure that the appointment of the tribunal, which will have quasi-judicial powers, will be done through the Judicial Service Commission, which meets the threshold of the Constitutional requirement and ensures uniformity, so that the tribunal’s decisions can win the confidence of the profession.

(Question of the amendment proposed)

Dr. Otichillo: Mr. Temporary Deputy Chairman, Sir, I want to congratulate the Chairman for bringing this amendment. This amendment is very good and it will make the appointment of members of the tribunal to be open, competitive and transparent.

I support.

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. Wamalwa): Mr. Temporary Deputy Chairman, Sir, we also support the amendment by the Committee. We are now in an era of transparency and accountability. So, the more transparent the process, the better.

Therefore, we do support.

(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 agree to)

(Clause 30 as amended agreed to)

(Clauses 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50 and 51 agreed to)

(First Schedule agreed to)

(Second Schedule agreed to)

(Title agreed to)

(Clause 1 agreed to)

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

(Question proposed)

(Question put and agreed to)

THE KENYA SCHOOL OF LAW BILL

The Temporary Deputy Chairman (Mr. Chanzu): We are now moving on to the second Bill; the Kenya School of Law Bill, Bill No. 61 of 2011 by the Minister for Justice, National Cohesion and Constitutional Affairs.

Clause 2

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

THAT clause 2 be amended-

(a) by re-numbering the existing clause as sub-clause (1);

(b) in the definition of “Director” by deleting the words “section 13” and substituting therefor the words “section 14”.

Mr. Temporary Deputy Chairman, Sir, the reason for my proposed amendment is that the existing Clause 2 has a sub-clause 2 without a sub-clause 1. So, that is a typographical error, so that the opening part of it can be sub-clause 1. Also, in the definition of “Director,” it is in section 14 and not section 13. So, that is the reason we want that amendment done.

(Question of the amendment proposed)

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. Wamalwa): Thank you, Mr. Temporary Deputy Chairman, Sir. We wish to support the proposed amendment and thank the Committee for having a very keen eye in noting what we had overlooked.

Thank you, Mr. Temporary Deputy Chairman, Sir.

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

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

(Clause 2 as amended agreed to)

(Clause 3 agreed to)

Clause 4

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

THAT, Clause 4 be amended in paragraph (e) of sub-clause (2) by inserting the words “training manuals” immediately after the words “develop curricular”.

Mr. Temporary Deputy Chairman, Sir, that is only an additional function that we want the school to do. We want them to develop training manuals. We want to ensure that there is standardized legal education.

(Question of the amendment proposed)

Mr. Njuguna: Thank you, Mr. Temporary Deputy Chairman, Sir. The proposed amendment will enrich the training. I, therefore, support it.

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. Wamalwa): Thank you, Mr. Temporary Deputy Chairman, Sir. We support the proposed amendment. We want to ensure that there are set standards and clear training manuals to ensure uniformity of standards.

Thank you, Mr. Temporary Deputy Chairman, Sir.

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

(Question 4 as amended agreed to)

Clause 5

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

THAT clause 5 be amended by-

(a) deleting paragraph (a) and substituting therefor the following-

“(a) establish and manage a centre for research and training in legal education for the furtherance of the objects of the School;”

(b) deleting paragraph (b) and substituting therefor the following-

“(b) charge reasonable fees and other charges for services rendered and liaise with appropriate bodies to extend loans and other assistance to enable and assist needy students meet their fees obligations.

The reasons for this amendment are two. One, the School proposes to set up and manage campuses or centres for research and training. We feel this is a threat to duplicate many institutions across the country purporting to offer legal education, the way we have seen university campuses mushrooming all over the country. This is being driven principally by commercial reasons in complete disregard of standards. We should not allow the school of law to go this direction. Let us have one centralized standard campus and one research centre. That is what we are proposing.

Secondly, we are proposing to be allowed to prescribe fees and other charges. The amendment seeks to impose that such charges be reasonable. We are proposing that they be required to liaise with appropriate bodies with a view to extend loans and other assistances to enable needy students to meet their fees obligation.

The reason we are doing this is to publicly address the current problem. The school of law is right now charging the fees of about Kshs190,000. Some university students from public universities who have actually been picked from all the way down in the system cannot access the school of law because they cannot afford the school fees. So, we want to obligate the school to levy reasonable fees and also to liaise with other institutions, specifically, the Higher Education Loans Board (HELB) and other such like institutions to ensure that they can support public university students to complete their legal studies.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Mr. Chanzu): Yes, Mr. Minister.

Dr. Otichilo: Mr. Temporary Deputy Chairman, Sir, I wish to support this amendment. This amendment is extremely important particularly as regards research. We need this school to carry on research in legal education. This is extremely important for the rest of the country.

Mr. Mbadia: On a point of order, Mr, Temporary Deputy Chairman, Sir. You gave the chance to the Minister, and what I have seen is that hon. Dr. Otichilo has addressed the House.

So, I am not sure when he was appointed to the Cabinet. If so, he addressed the House from the wrong side. He should have addressed the House from the other side.

The Temporary Deputy Chairman (Mr. Chanzu): I think that is taking too much because I gave the chance to Dr. Otichilo.

Mr. Njuguna: Mr. Temporary Deputy Chairman, Sir, in support of the amendment, I would like to indicate that this will enable the vulnerable population of students to access this learning.

With those few remarks, I beg to support.

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. Wamalwa): Mr. Temporary Deputy Chairman, Sir, we are supporting the proposed amendment. We have been discussing this matter. We have students who are at the university because of the Higher Education Loans Board facilitation. Once these students leave and have qualified to go to the law school, they are unable to raise the fees. If they are needy when they are at the university, they would still be needy even as they go to law school.

Therefore, I believe this amendment is reasonable. It is something we need to work on to ensure that we do not have education being too expensive and out of reach because of the inability of some students in raising the fees. So, we do support.

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

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

(Clause 5 as amended agreed to)

Clause 6 (1)

The Temporary Deputy Chairman (Mr. Chanzu): We are going to deal with the amendments on Clause 6 separately, clause 6(1) by hon. Baiya. So, hon. Baiya just move the amendment on Clause 6(1) only.

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

THAT clause 6 be amended-

(a) in sub-clause (1) by deleting all the words appearing after the words “of the School”.

This seeks to delete the sentence. It simply provides that there shall be a Board of Directors of the School; the reason being that the same provision to that effect is contained in Clause 7 (1). This actually does repeat the same provision. Therefore, we do not have to provide for it twice. So, having done that, it polishes and edits the provision of 6(1) and it is more appropriate that way.

(Question of the amendment proposed)

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

(Clause 6(1) as amended agreed to)

The Temporary Deputy Chairman (Mr. Chanzu): Hon. Mbadi is to move amendment on clause 6(2)(a). Hon. Mbadi, you have to read to us because your amendments are not in the Order Paper.

Clause 6 (2) (a)

Mr. Mbadi: Mr. Temporary Deputy Chairman, Sir, I beg to move t to Clause 6 (2) (a) be amended as follows:-

(i) By deleting paragraphs (a), (b), (c) and (d) and substituting therefor the following new paragraphs

(a) A Vice-Chancellor of a public university appointed by the Cabinet Secretary.

(b) A vice-Chancellor of a private university appointed by the Cabinet Secretary

(c) A member of the Chartered Institute of Arbitrators

(d) A judge of the High Court who shall be nominated by the Chief Justice.

(ii) By Inserting the words “provided that the person nominated is not a Member of the Council of Legal Education” at the end of paragraph F.

Mr. Temporary Deputy Chairman, Sir, the reason I would prefer this amendment is we have just concluded debate on the Legal Education Bill. In that Bill, there is the Legal Education Council. If you look at the membership that is proposed on the Kenya School of Law Board, it is the same offices that are also in the Legal Council Bill. The Legal Education Council is supposed to regulate this other Board. So, this will be conflict because it is the same people sitting in the board, which is managing the Kenya School of Law. When you go to the legal education Council, you find the same individuals sitting there. Therefore, I was proposing that for this Board, we have different people sitting on it. If we pass the Bill as it is, it will bring about a conflict of interest.

I hope I have made my defence of my proposal to move this amendment. Therefore, I move on to amend it.

(Question of the further amendment proposed)

Mr. Nyammo: Mr. Temporary Deputy Chairman, Sir, I beg to support the amendment.

Mr. Temporary Deputy Chairman, Sir, as the Mover has suggested, there will be a conflict of interest. The Kenya School of Law will probably take advantage of having the two sets of council members, especially at the expense of other competing private institutions.

Mr. Temporary Deputy Chairman, Sir, I beg to support the amendment.

Mr. Njuguna: Mr. Temporary Deputy Chairman, Sir, the board will be more representative and create the necessary diversity in terms of contribution of ideas.

Thank you.

Ms. Karua: Mr. Temporary Deputy Chairman, Sir, I rise to oppose the amendment.

Mr. Temporary Deputy Chairman, Sir, this will create a worse conflict of interest. If two sets of lawyers are appointed in the two bodies, no conflict of interest arises, but if you say that it is Vice-Chancellors of both private and public universities, whose students are the very ones being admitted to the Kenya School of Law, it means that those who are in the board can have their students having priority over other students. It is totally wrong. It is like saying that headteachers of primary schools will be the ones admitting to secondary schools or principals of secondary schools will admit to universities. Then it will be self-interest.

Mr. Temporary Deputy Chairman, Sir, I want to plead with my good friend, hon. Mbadi, that the amendment is actually misplaced. It ought to have been at the earliest stage of legal education - there they could have fitted – but not in the Law School where they have a direct interest in who gets admitted.

Mr. Temporary Deputy Chairman, Sir, I beg to oppose.

Mr. Baiya: Mr. Temporary Deputy Chairman, Sir, I also stand to oppose that proposed amendment.

Mr. Temporary Deputy Chairman, Sir, I would want to request my colleague, hon. Mbadi, to actually retreat. He happens to be an accountant and may not really understand quite well why we are saying that there is no conflict of interest. Even if they are appointments by the same offices, these are offices that are functioning on behalf of the public. The one set of appointments that will run the Law School will not necessarily conflict with the one doing the regulatory responsibilities. So, there is really no conflict of interest. Secondly, the proposed appointees under his amendment have no direct interest as such. They are not even in the line of legal education. So, the profession of legal education would really require expertise still in the main line of Legal Education and not other Vice Chancellors or private university Vice-Chancellors whose background is not really to train. But even more important is the fact that---

Mr. Mbadi: On a point of order, Mr. Temporary Deputy Chairman, Sir. Even though I have heard hon. Baiya claim that being an Accountant I may not appreciate, but this is lawmaking. If he is saying that the Vice-Chancellors' training is not on legal background, who says that lawyers will be the Principal Secretaries? So, I think hon. Baiya is contradicting himself when he says that, because Vice-Chancellors may not be lawyers. The same reasoning would go to the Principal Secretaries. No one conditions the President to appoint a lawyer as a Principal Secretary. So, my reasoning was – even though hon. Karua made an argument that I think sounded convincing – that the two Vice-Chancellors will be appointed by the Cabinet Secretary. So, they can pick from any university. Then, they are just two individuals sitting in this Board. So, to me, having the same Board---

The Temporary Deputy Chairman (Mr. Chanzu): What is out of order?

Mr. Mbadi: Mr. Temporary Deputy Chairman, Sir, hon. Baiya was contradicting himself by saying that since the Vice-Chancellors are not lawyers, then it makes their position in the Board not tenable, yet he is proposing to return the Principal Secretaries, who may also not be lawyers. So, that argument is contradicting. Is hon. Baiya in order?

Mr. Baiya: Mr. Temporary Deputy Chairman, Sir, what I would really want to say is that the main stakeholders in the School of Law are possibly the ones who should be appointed. Even if I grant the argument by hon. Mbadi, that not being lawyers is not an issue, but, at least, we would expect the Board members of the School of Law, at least, be key stakeholders within the legal training framework. I believe that even some of the people we are proposing in our amendment, perhaps encompass more of the stakeholders than the ones being proposed by hon.

Mbadi. That is why I am, therefore, pleading with him, that if he still thinks that we are going to improve the management of the schools, it is good that we pull in the stakeholders who have more direct interest and whose role has a more direct bearing on the positive running of the school.

Mr. Temporary Deputy Chairman, Sir, I, therefore, oppose hon. Mbadi's amendment.

Mr. Mwau: Mr. Temporary Deputy Chairman, Sir, I stand to support the amendment proposed by hon. Mbadi.

Mr. Temporary Deputy Chairman, Sir, I have looked at both Bills and come to the realization that in The Legal Education Bill, the people who are proposed to be members of the Board as the same people who are proposed to be members at the Kenya School of Law. In my view, the persons appointed under The Legal Education Bill are supposed to be regulators and the people who would be appointed in The Kenya School of Law Bill will be regulated. So, the regulator cannot also move to the position of being regulated. Therefore, I think that hon. Mbadi is right that, that would bring a serious conflict of interest.

Mr. Temporary Deputy Chairman, Sir, secondly, I have also noticed that hon. Mbadi has introduced a new component that is very important; that one of the members at the Kenya School of Law will be a member of the Chartered Institute of Arbitrators. This is fantastic because this is in total line with Article 159C of the Constitution, which has embraced and allowed the alternative dispute resolution mechanisms. In future, it will be necessary that before you approach the court, you must have attempted to sort out the matter through other alternative dispute resolution mechanisms, and this is a type of training which is necessary. So, the inclusion of the Chartered Institute of Arbitrators is a step forward, to enhance the training and this new mediation, arbitration and adjudication. This will be necessary tools that we need to use in future.

Mr. Temporary Deputy Chairman, Sir, with those few remarks, I also find that it is improper to say that a Vice-Chancellor of a university might end up being biased or supporting his children. No! That cannot be true because the Vice Chancellor of a university is expected to be a person of good moral standing. Self-interest must be able to succumb to good governance. In that regard, I support and I think it is a very good amendment.

The Minister for Finance (Mr. Githae): Mr. Temporary Deputy Chairman, Sir, I stand to strongly oppose the proposed amendment for four reasons. One, the members proposed to be on the board--- Some of them represent the Government and this is normal in every board that you find. There is the principal secretary, the Ministry of Education, representing the Ministry. That is normal in all the boards. Again, the Principal Secretary, will represent the Minister for the time being responsible for finance; it is normal if you look at the boards that this Parliament has approved. The Attorney-General is the head of the legal education in Kenya. Again, that has been the practice from time immemorial, and even during colonial times. The secretary to the Commission for Higher Education is one of the new organizations, and already they are well represented. We have a representative from the Law Society of Kenya (LSK) appointed by the council. He is already there, and so other persons appointed by the Cabinet who teach law at the university. So the universities are already provided for. Why do we need to bring public and private universities to be represented? First of all, there is no union; there is no association of public universities. There is no union or association of private universities. So, how are they going to do all these?

Mr. Mbadi: On a point of order, Mr. Temporary Deputy Chairman, Sir. Is it in order for the Minister to discuss my Motion without understanding it? I have said that the vice-chancellors are supposed to be appointed by the Cabinet Secretary. There is no need for unions. These

appointments will come from the Principal Secretary; it happens in so many boards where the Ministry appoints representatives. So, the Minister is addressing himself to this Motion without understanding what my amendment seeks to do. My amendment is asking the Cabinet Secretary responsible for the Ministry to appoint, yet the Minister is talking of unions to appoint. I am not asking the unions to come together to appoint.

Mr. Baiya: That is not a point of order.

Mr. Mbadi: That is a perfect point of order, Mr. Baiya. If you are in doubt, please read again your Standing Orders.

The Minister for Finance (Mr. Githae): Mr. Temporary Deputy Chairman, Sir, as I said, it is not enough just to empower the Cabinet Secretary to appoint a vice-chancellor. The purpose for these appointments is for the Ministries to know what will be happening at the Kenya School of Law (KSL). If the Cabinet Secretary is not able, then he appoints somebody to represent him from the same Ministry. So at the end of a board meeting, then he receives a report. That way, the Cabinet Secretary is aware of what is happening in the institution. I strongly oppose this and it should remain the way it is.

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. Wamalwa): Mr. Temporary Deputy Chairman, Sir, I also beg to oppose and to plead with my good friend, Mr. Mbadi, that a lot of thought had gone---

Mr. Mwau: On a point of order, Mr. Temporary Deputy Chairman, Sir. The point of order that I want to raise is that you heard the Minister for Finance saying that it is important and it has been practised. The Permanent Secretary in the Ministry of Finance is appointed to every board, but we are aware that more than half of the corporations have collapsed. They have collapsed when particular permanent secretaries were sitting on them. They added no value and it is important that we shift from that tradition and go to modern good governance and best practices, which do not allow people to hold positions where there is conflict of interest.

The Minister for Finance (Mr. Githae): On a point of order, Mr. Temporary Deputy Chairman, Sir. Is it in order for Mr. Mwau to mislead this House that all the institutions have collapsed when permanent secretaries were on those boards without elaborating? Maybe they could have collapsed earlier if the permanent secretaries were not on them.

Hon. Members: Aah!

The Minister for Finance (Mr. Githae): On a point of order, Mr. Temporary Deputy Chairman, Sir. They have done a good job; but the point I was making was that it is important for the Government to know what is happening in institutions. A Permanent Secretary, Treasury, is an institution; it is not an individual. There is an Act of Parliament for the Permanent Secretary to the Treasury. It is an institution; it is not an individual.

The Temporary Deputy Chairman (Mr. Chanzu): Let us go back to Mr. Wamalwa.

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. Wamalwa): Mr. Temporary Deputy Chairman, Sir, I think it is not just a practice, because it is a requirement under the State Corporations Act for the Permanent Secretary for Finance to be on the boards of all State corporations. But for the purpose of the composition of both the council and the board, what we are looking at are the institutions, the offices, and not the individuals. They have no interest in the KSL or in the council. By virtue of their offices, they are supposed to hold these positions; also looking at the manner in which we are now going to be vetting and appointing public officers, there are levels of vetting that a Chief Justice, the Attorney-General or the Cabinet Secretaries will go through; they will need the approval of these House; these are

going to be people of integrity, and people who can be trusted by the public to hold offices, and they will not have any conflict of interest.

When you look at the specific provisions under Clause 7 of the Kenya School of Law Bill, the functions are very clearly set out. Also when you look at the Legal Education Bill, the functions of the council are set out. They are different; one is a regulator and the other one is a service provider. These are very specific functions for those who will be holding these Offices. Being people of integrity, and who will have gone through a proper vetting process, when they are given responsibilities, they will be able, I have no doubt, to discharge them effectively, and I do not foresee any conflict of interest. Therefore, we want to disabuse the Member of the fear that if they are the same people, there could be a conflict of interest arising. As Mr. Githae has said, they serve on numerous boards by virtue of their offices. So, we want to plead with hon. Members that a lot of thought has gone into this; we wish that that particular clause remains as it is and we proceed.

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

Clause 6(2)(b),(f) and (g)

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

THAT, Clause 6 be amended-

(b) in sub-clause (2)-

- (i) by deleting paragraph (b);
- (ii) in paragraph (f) by deleting the words “a representative” appearing at the beginning of the paragraph and substituting therefor the words “three representatives”;
- (iii) in paragraph (g) by deleting the words “Cabinet Secretary” appearing immediately after the words “appointed by the” and substituting therefor the words “Universities Academic Staff Union”.

This amendment provides that the Principal Secretary in the Ministry for the time being responsible for Finance. As has been said, this is not a very direct and clear stakeholder as such. We have identified other stakeholders who we think are more relevant than the Cabinet Secretary responsible for Finance within the new dispensation. It should be clear that the other stakeholders will take care of issues that the Ministry of Finance is supposed to take care of.

(Question of the amendment proposed)

The Minister for Finance (Mr. Githae): Mr. Temporary Deputy Chairman, Sir, I do not see the purpose of this amendment. The Cabinet Secretary in charge of Finance is not there because he likes it or he has nothing else to do but to be there. He is there by virtue of his position; by virtue of the fact that he is the trustee of all Government properties and assets. For example, you will even find that if it is tied to this Parliament, the title is the name of the Permanent Secretary, Treasury. He is not holding it on his behalf but on behalf of the people of Kenya. Therefore, he is there by virtue of his office, and not that he has nothing else to do. So, I

really do not see the point. Again, he is in all the Bills and this is what the State Corporations Act requires.

Mr. Mbadi: On a point of order, Mr. Temporary Deputy Chairman, Sir. There is lack of quorum.

(Mr. Mbadi walked out)

The Minister for Finance (Mr. Githae): On a point of order, Mr. Temporary Deputy Chairman, Sir. I am just wondering whether it is in good faith that if you oppose something, then the Member goes out. Is the point of order by hon. Mbadi actually genuine because the person who has raised it has walked out? Secondly, if the only reason he has raised the quorum issue is because we are opposing the amendment, then it is in bad faith.

(The quorum bell was rung)

The Temporary Deputy Chairman (Mr. Chanzu): I order that the bell be stopped.

(The quorum bell was stopped)

Continue, hon. Githae!

The Minister for Finance (Mr. Githae): Mr. Temporary Deputy Chairman, Sir, the Permanent Secretary is not in these Boards because he likes it. It is what the law requires as a trustee of all Government properties and assets; that he be there. That is the reason why he is there. He is in all of them. The State Corporations Act requires that the Permanent Secretary, Treasury, be on the Board and the Cabinet Secretary in charge of that Ministry also be there. It is by virtue of their offices. It is not that they like it.

Therefore, I oppose this amendment.

The Minister for Medical Services (Prof. Anyang-Nyong'o): Mr. Temporary Deputy Chairman, Sir, I want to support my colleague and appeal to my dear friend, hon. Baiya, that the presence of the Permanent Secretary for the time being responsible for Finance is useful to the board. This is a training institution and, as you know, our training institutions will continue expanding. Given the demand in the production of a lot of human resource, they may even go into post graduate training of lawyers. This will require advice from the Permanent Secretary for the time being in charge of Finance for the financial implications of this. So, rather than wait until you finish a board meeting and go and talk to the Permanent Secretary, it is better if he is there or his representative is there, so that you are duly advised, so that time is not wasted. It will be good for the efficiency of the board's functions to have the Permanent Secretary there.

Ms. Karua: Mr. Temporary Deputy Chairman, Sir, I want to support the amendment and ask my two colleagues on the other side to be flexible and to also think outside the box. The normal is to include the Permanent Secretary, Finance, everywhere, but look at this list, there is the Attorney-General, the Chief Justice and the Secretary of the Commission on Higher Education. There are so many other people that you actually do not need the Permanent Secretary, Finance, to be in this Board for the Government property to be looked after. It is possible, especially wherever the Attorney-General is. He too, is the Government Legal Advisor.

There is enough representation of the Government and bringing in other representatives and the words “Universities Academic Staff Union”, that is a better combination.

I beg to stop. It is diversity.

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. Wamalwa): Mr. Temporary Deputy Chairman, Sir, I also wish to oppose the amendment for the same reasons that were submitted earlier. I particularly want to say that it is really about the necessity of this office. I believe that it will add value. I have not been convinced by the reasons given by my good friend, hon. Baiya, as to why we should exclude the Permanent Secretary, Finance. When you look at some of the functions of the Board under Section 7(2)(g), some of the functions will be to approve and submit through the Cabinet Secretary the Financial Estimates in respect of the school for consideration by the Treasury. If you have the fellow in charge of the Treasury with you as a member of that Board, it will really add value. It will be in the interest of the institution if we had him on this Board.

I beg to oppose.

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

The Temporary Deputy Chairman (Mr. Chanzu): Hon. Members, remember we had earlier passed an amendment to Clause 6 (1) by Mr. Baiya. Therefore, only that sub-clause has been amended. I will therefore, put the Question that Clause 6 as earlier amended in Sub-clause (1) be part of the Bill

(Clause 6 as amended agreed to)

Clause 7

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

THAT, clause 7 be amended-

(a) by deleting sub-section (1) and substituting therefor the following new sub-section-

(1) The Board of Directors shall, subject to this Act, have general control and management of the School”;

(2) in paragraph (f) of sub-clause (2) by deleting the word “such” appearing immediately after the words “the School in” and substituting therefor the words “a transparent and accountable”

This is with regard to the functions of the Board. We want to include, among the requirements on “f” that they do so in a transparent and accountable way. We basically want to improve the requirements that the Board of Directors shall, subject to this Act, have general control of the management of the school. That is a re-wording of the opening phrase of Section 7. That is better wording than what is contained in the Bill.

(Question of the amendment proposed)

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

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

(Clause 7 as amended agreed to)

(Clause 8 agreed to)

Clause 9

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

THAT, Clause 9 be amended by inserting the following new paragraph immediately after paragraph (e)–

(ea) is adjudged bankrupt;

The amendment seeks to add an additional reason on why one may vacate office; that is when one is declared bankrupt.

(Question of the amendment proposed)

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

(Clause 9 as amended agreed to)

Clause 10

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

THAT, Clause 10 be amended in sub-clause (3) by inserting the words “and subcommittees” immediately after the words “such committees”.

This is a very minor amendment to include the word “subcommittees” as among the institutions that can be delegating responsibilities.

(Question of the amendment proposed)

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

(Clause 10 as amended agreed to)

Clause 11

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

THAT, Clause 11 be amended by deleting the words “Cabinet Secretary responsible for finance” appearing after the words “in consultation with” and substituting therefor the words “Salaries and Remuneration Commission”.

Mr. Temporary Deputy Chairman, Sir, this amendment is again another standard amendment. It states that the remuneration of board members should follow recommendation of the Salaries and Remuneration Commission rather than the Minister responsible for Finance.

(Question of the amendment proposed)

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

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

(Clause 11 as amended, agreed to)

*(Clauses 12, 13, 14, 15, 16, 17, 18, 19, 20, 21,
22, 23, 24, 25, 26 and 27 agreed to)*

Clause 28

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

THAT, sub-clause (2) of clause 28 be amended-

(a) in paragraph (c) by deleting the words “such campuses or centres for research as may be necessary” and substituting therefor the words “a centre for research and training in legal education”;

(b) by inserting the following paragraph immediately after paragraph (d)-

(da) payment of fees and other charges for services rendered by School by installments;

(c) in paragraph (f) by deleting the words “outside Kenya with objects similar to those of the School” and substituting therefor the words “both within and outside Kenya that have objects similar to those of the School, including the Higher Education Loans Board,”

Mr. Temporary Deputy Chairman, Sir, the first amendment is merely to accord with Section 5 which provides for the Centre for Research and Training and not campuses and centres for research and training.

The other one is about a new clause to allow for fees to be paid by instalments to make it friendly to students. The last one is to ensure that the school will liaise with other institutions with similar objects including the Higher Education Loans Board with a view to realizing its objective.

(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)*

(Question, that the words to be inserted

be inserted, put and agreed to)

(Clause 28 as amended, agreed to)

(Clause 29 agreed to)

(First Schedule agreed to)

Second Schedule

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

THAT, Section (a) of the Second Schedule be amended-

- (a) in paragraph (1)(b)(ii) by inserting the words “or Kiswahili” immediately after the words “English language”; and
- (b) by deleting paragraph (2).

Mr. Temporary Deputy Chairman, Sir, the first amendment seeks to incorporate Kiswahili as one of the languages to assist proficiency of qualifications. The second one is mainly repetitive and seems to provide for a confused qualification requirement which has already been taken care of by the previous Sub-Clause 1(a) and (b). This is really duplication and could be a basis for even more confusion.

(Question of the amendment proposed)

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

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

(Second Schedule as amended, agreed to)

(Title agreed to)

Clause 1

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

THAT, Clause 1 be amended by deleting the word “Minister” appearing after the words “on such date as the” and substituting therefor the words “Cabinet Secretary”.

The import of this amendment is to ensure consistency with the rest of the Bill.

(Question of the amendment proposed)

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

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

(Clause 1 as amended agreed to)

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. Wamalwa): Mr. Temporary Deputy Chairman, Sir, I beg to move that the Committee doth report to the House its consideration of The Legal Education Bill, Bill No.63 of 2011, and its approval thereof with amendments.

(Question proposed)

(Question put and agreed)

(The House resumed)

[Mr. Deputy Speaker in the Chair]

REPORTS, CONSIDERATION OF REPORTS AND THIRD READINGS

THE LEGAL EDUCATION BILL

Mr. Chanzu: Mr. Deputy Speaker, Sir, I beg to report that a Committee of the whole House has considered The Legal Education Bill, Bill No.63 of 2011, and approved the same with amendments.

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

The Minister for Finance (Mr. Githae) seconded.

(Question proposed)

(Question put and agreed to)

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. Wamalwa): Mr. Deputy Speaker, Sir, I beg to move that The Legal Education Bill, Bill No.63 of 2011, be now read the Third Time.

The Minister for Finance (Mr. Githae) seconded.

(Question proposed)

(Question put and agreed to)

(The Bill was accordingly read)

the Third Time and passed)

THE KENYA SCHOOL OF LAW BILL

Mr. Chanzu: Mr. Deputy Speaker, Sir, I beg to report that a Committee of the whole House has considered The Kenya School of Law Bill, Bill No.61 of 2011 and approved the same with amendments.

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

The Minister for Finance (Mr. Githae) seconded.

(Question proposed)

(Question put and agreed to)

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. Wamalwa): Mr. Deputy Speaker, Sir, I beg to move that The Kenya School of Law Bill, Bill No.61 of 2011, be now read the Third Time.

The Minister for Finance (Mr. Githae) seconded.

(Question proposed)

Mr. Deputy Speaker: My screen is not working. It has got a problem. I do not know what happened to the Information and Communications Technology (ICT) people. Hon. Njuguna, do you want to speak on this Bill before I put the Question?

Mr. Njuguna: Mr. Deputy Speaker, Sir, I just want to thank the Chair of the Departmental Committee on Justice and Legal Affairs for a job well done, and the Minister for being very compliant.

Mr. Konchellah: Mr. Deputy Speaker, Sir, I want to speak to my legal friends here because this is their Bill. They need to look at the curriculum to teach new lawyers about human rights. Many poor people lose their property because lawyers collude with others to deny them their rights to property. There is also the issue of corruption. Many lawyers today are barred from practice because they connive to take property from people. So, we want the curriculum at the Kenya School of Law to address these issues, so that future lawyers will consider human rights and the interest of the people of Kenya.

I support.

Mr. Baiya: Mr. Deputy Speaker, Sir, I also want to take this opportunity to thank the Minister for Justice, National Cohesion and Constitutional Affairs for presenting this Bill and also assisting us. We also want to thank all those who have contributed, including other stakeholders. It is important for me to highlight to the Minister, and the Government in general, that whereas we have tried to use this statute to open a window for the students who are not accessing the Kenya School of Law, it is still not done. We hope that he is going to persuade the Higher Education Loans Board (HELB) to support the students from public universities, particularly those who come from the system. These are among the brightest students; right now

are told that they are not accessing the KSL because of the fees of Kshs190,000. This has made it impossible for them and it is going to contribute to the degradation of the standard of the profession in general, if we lock out that particular section of the society from public universities.

Mr. C. Onyancha: Mr. Deputy Speaker, Sir, I want to briefly commend the Minister for this Bill, and also the Departmental Committee on Justice and Legal Affairs for the hard work they have put in bringing up amendments. I am very proud of the introduction of Kiswahili as one of the languages in the legal profession.

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. Wamalwa): Mr. Deputy Speaker, Sir, I want to say thanks to the Chairman, the Committee and hon. Members for passing this Bill. We want to insist that education should not be out of reach of any Kenyan.

(Question put and agreed to)

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

ADJOURNMENT

Mr. Deputy Speaker: Hon. Members, it is now time for us to adjourn the House, and the House is, therefore, adjourned until tomorrow, Wednesday, 29th August, 2012 at 9.00 a.m.

The House rose at 6.30 p.m.