

NATIONAL ASSEMBLY

OFFICIAL REPORT

Tuesday, 29th May, 2012

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

COMMUNICATION FROM THE CHAIR

Mr. Speaker: Hon. Members, I have two Communications to make.

NOMINATION OF CHAIRPERSON AND MEMBERS OF THE TRANSITION AUTHORITY

Pursuant to Section 5(1) (a) of the Transition to Devolved Government Act, 2012, the President shall, in consultation with the Prime Minister, and with the approval of the National Assembly, appoint a Chairperson and eight other members to the Transition Authority, as provided for in the First Schedule to the Act.

By a letter Ref. OP/CAB - 3/77A, dated 24th May 2012, from the Permanent Secretary, Secretary to the Cabinet and Acting Head of the Public Service, the National Assembly has been advised that His Excellency the President, in consultation with the Rt. Hon. Prime Minister, has nominated the following persons for the positions stated hereunder:-

Chairperson: Kinuthia Wamwangi;

Members:-

1. Hongo Angeline Awino
2. Safia Abdi
3. Mary M. Ndeto
4. Jacqueline A. Mogeni
5. Erastus I.B.N. Rweria
6. Simeon P. Pkiyach
7. Garise Bakari Omara
8. Dr. Dabar A. Maalim

Under Section 9 of the First Schedule to the Transition to Devolved Government Act, 2012 the National Assembly is required, within twenty one days of the day it next sits after receipt of the names of the nominees, to consider all the nominations and approve or reject any nomination.

Hon. Members, I direct that these names, and the accompanying curriculum vitae of the nominees together with the Report of the Selection Panel, including the score sheet, be forwarded to the Departmental Committee on Local Authorities for consideration prior to approval by the House. The Committee is subsequently hereby directed to table its Report on or before Tuesday, 19th June 2012.

I thank you.

We will pause for a minute to allow hon. Members at the entrance to come in.

(Hon. Members at the entrance walked into the Chamber)

INQUIRY INTO AFFAIRS OF MOMBASA REPUBLICAN COUNCIL

Hon. Members, on Monday 21st May, 2012 the Office of the Clerk received a copy of a proposed Motion relating to the outlawed Mombasa Republican Council from the Member for Budalang'i, hon. Ababu Namwamba, MP. The following day, Tuesday 22nd May, 2012, the office of the Clerk received another copy of a proposed Motion on the same matter from the Member for Ndaragwa, hon. Jeremiah Kioni.

Standing Order 47(1) and (2) provide that:

47 “(1) Except as otherwise provided by these Standing Orders, notice shall be given by a Member of any Motion which the Member proposes to move”;

“(2) Before giving notice of Motion, the Member shall deliver to the Clerk a copy of the proposed Motion in writing and signed by the member, and the Clerk shall submit the proposed Motion to the Speaker.”

The two Motions have since been submitted to my office for my consideration and approval. Perusal of the two proposed Motions has revealed that the matters being raised are similar in substance, if not virtually the same. In addition, the Motions seek to inquire into grievances raised by the group, the underlying causes for its proliferation in the Coastal region and to recommend concrete measures to redress those issues. Both proposed Motions are calling for formation of an *ad hoc* Committee.

Hon. Members, *ad hoc* Committees are formed to inquire into emerging matters that are not provided for in rules of procedure, and for which existing Committees of the House have no direct mandate. In addition, *ad hoc* Committees are appointed for a specific purpose and they cease to exist when they finish the task assigned to them and submit a report to the House.

Considering that the mandate of the Committee on Equal Opportunity as provided for in Standing Order 192 (2)(b) is to investigate, inquire into and report on all matters relating to discrimination or marginalization of groups on the basis of gender, age, disability, health status, ethnic, racial, cultural or religious background or affiliation, and the mandate of the Departmental Committee on Administration and National Security, which among others issues is charged with investigating, inquiring into and reporting on all matters of national and internal security, it is my view that the issues touching on the outlawed Mombasa Republican Council (MRC) and which form the substance of the two proposed Motions filed by hon. Namwamba and hon. Kioni should be addressed by the two existing Committees of the House, rather than by an *ad hoc* Committee.

Further, an *ad hoc* Committee has financial implications, and in view of the fact that we are coming to the close of the financial year, the required expenses to meet the activities of such a Committee are not sustainable under the current resources and budget.

From the foregoing, I rule that the two Committees, the Standing Committee on Equal Opportunity and the Departmental Committee on Administration and National Security, should jointly inquire into and report to the House on all matters relating to the outlawed Mombasa

Republican Council within 60 days from the date hereof, taking into account the issues canvassed by the two proposed Motions.

(Applause)

Thank you, hon. Members!

Pursuant to the provisions of Standing Order 178, other Members will be at liberty to attend and participate in the meetings of the Joint Committee, but will neither be entitled to vote nor constitute a quorum.

The Joint Committee should identify the grievances of the group, the root causes of those complaints and make appropriate recommendations urging specific policy action on the issues identified within the ambit of the Constitution and the law. I want to repeat that, within the ambit of the Constitution and the law. Please, all Members, note that.

I thank you.

PAPERS LAID

The following Papers were laid on the Table:

Annual Report of the Parliament of Kenya as prepared by the Parliamentary Service Commission.

(By Mr. Olago)

Mr. Speaker: I thought there was another Member on his feet. Member for Kuresoi! Fair enough. I am made to understand that you had a common interest.

Minister for Education, proceed.

Annual Report and Financial Statements of the Lands Limited for the year ended 31st March, 2011 and the certificate thereon by the Auditor-General.

*(By the Assistant Minister for Education (Prof. Olweny)
on behalf of the Minister for Lands)*

Financial Statements of the National Cohesion and Integration Commission for the year ended 30th June, 2011 and the certificate thereon by the Auditor-General.

*(By the Assistant Minister for Education (Prof. Olweny) on behalf
of the Minister for Justice, National Cohesion and Constitutional Affairs)*

Financial Statements of the Kenya Film Classification Board for the six-month period ended 30th June, 2010 and the certificate thereon by the Auditor-General.

*(By the Assistant Minister for Education (Prof. Olweny) on behalf
of the Minister for Information and Communications)*

Annual Report and Financial Statements of the Agricultural Development Corporation, Garissa Irrigation Project for the year ended 31st March , 2011 and the certificate thereon by the Auditor-General.

(By the Assistant Minister for Education (Prof. Olweny) on behalf of the Minister for Agriculture)

Annual Report and Financial Statements of the Privatization Commission for the year ended 30th June, 2011 and the certificate thereon by the Auditor-General.

(By the Assistant Minister for Education (Prof. Olweny) on behalf of the Minister for Finance)

Financial Statements of Ewaso Ngiro South Development Authority for the year ended 30th June, 2009 and the certificate thereon by the Auditor-General.

(By the Assistant Minister for Education (Prof. Olweny) on behalf of the Minister for Regional Development Authorities)

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

(By the Assistant Minister for Education (Prof. Olweny) on behalf of the Minister for Education)

Financial Statements of the Truth, Justice, and Reconciliation Commission for the year ended 30th June, 2011 and the certificate thereon by the Auditor-General.

(By the Assistant Minister for Education (Prof. Olweny) on behalf of the Minister for Justice, National Cohesion and Constitutional Affairs)

Annual Report and Financial Statements of the Kenya Pipeline Company for the year ended 30th June, 2011 and the certificate thereon by the Auditor-General.

(By the Assistant Minister for Education (Prof. Olweny) on behalf of the Minister for Energy)

Financial Statements of the Municipal Council of Nyeri for the year ended 30th June, 2008 and the certificate thereon by the Auditor-General.

Financial Statements of the County Council of Mwingi for the year ended 30th June, 2009 and the certificate thereon by the Auditor-General.

Financial Statements of the Town Council of Ugunja for the two year-period ended 30th June, 2009 and the certificate thereon by the Auditor-General.

*(By the Assistant Minister for Education (Prof. Olweny) on behalf
of the Minister for Local Government)*

COMMUNICATION FROM THE CHAIR

LIFTING OF SANCTIONS AGAINST HON. KINGI

Mr. Speaker: Order! Order, hon. Members! Before we proceed to the next order, in the House there is the hon. Member for Magarini who is also the Minister for Fisheries Development and Acting Minister for Industrialization. Up until this point, he is a stranger and he ought not to be in the House according to sanctions which I imposed last Thursday, but allow me to say the following.

As soon as I rose from the Chair, the Minister actually showed up in my office and indicated to me that he had struggled and made every effort to be in the House that afternoon, but unfortunately, he was not able due to circumstances wholly beyond his control. I understood those circumstances and I directed that the Minister puts that in writing, which he has done this afternoon. I have received a letter from him which I am looking at as I speak to the House.

Hon. Members, I am satisfied that he has given a reasonable account for his failure to be in the House that afternoon. In any event, which is a major factor that goes to the benefit of him, he tried everything possible to be in the House and, in fact, showed up hardly 30 minutes after I had imposed the sanctions. In the circumstances, therefore, I lift the sanctions and allow him to be in the House to continue to be in the precincts of Parliament and to use his office because he has adequately acquitted himself of the antecedent that he was guilty of.

Please, other Ministers, note that we will continue to treat both sides of the House equally. When we impose those sanctions, that is, when you are ordered to stay away from the House, you will stay away from the House and all other amenities that you have access to by virtue of being a Member of Parliament. So, when you are excluded, you cannot even come to the House to claim payment for mileage. You will stay away until those sanctions are lifted.

QUESTIONS BY PRIVATE NOTICE

EXPIRY OF CONTRACTS OF KACC EMPLOYEES

Mr. Gitari: Mr. Speaker, Sir, I beg to ask the Minister for Justice, National Cohesion and Constitutional Affairs the following Question by Private Notice.

(a) Is the Minister aware that contracts of over 60 employees of the then Kenya Anti-Corruption Commission (KACC) expired on 30th April, 2012?

(b) Is the Minister further aware that the said employees are still in office despite their contracts having expired?

(c) What urgent steps is the Minister taking to address the matter?

The Assistant Minister for Justice, National Cohesion and Constitutional Affairs (Mr. Cheptumo): Mr. Speaker, Sir, I beg to reply.

(a) Yes, I am aware that the contracts of 63 employees of the former Kenya Anti-Corruption Commission expired on 30th April, 2012.

(b) Yes, I am also aware that we retained these officers in the office. Their contracts have been renewed by the Public Service Commission (PSC) for a period of one year to ensure that the Commission does not lose its institutional memory pending the appointment of the commissioners who will vet and hire new staff or retain them after vetting.

(c) Having received communication from the Ethics and Anti-Corruption Commission (EACC) indicating the contracts of 63 employees said were to expire, my Ministry undertook appropriate consultations with the relevant Government department with a view to addressing the matter. After due consultations, the PSC renewed the contracts of the said employees for 12 months pending the assumption of office of the Ethics and Anti-Corruption Board which would be expected to vet these employees as required by Section 34(3) of the Ethics And Anti-Corruption Act, 2011.

Thank you, Mr. Speaker, Sir.

Mr. Gitari: Mr. Speaker, Sir, while thanking the Assistant Minister for the short answer, you have heard him say that these people were given a contract for one year. Before they were employed by the former KACC, they were told to resign from wherever they were working. Now that their contracts have been renewed through the PSC and seconded to the EACC, what happens at the expiry of one year? Will they go back to the Ministries or the first precedence takes place?

Mr. Cheptumo: Mr. Speaker, Sir, the provisions of the Ethics and Anti-Corruption Commission Act requires that the board do vet the staff of the Commission. Therefore, once we have the board in place, it would then be able to receive applications from those members of staff and vet them. If they will be found to be fit to serve in the Commission, then they will serve as per the provisions of the Act.

Mr. Kabogo: Mr. Speaker, Sir, could the Assistant Minister tell the House under what law these contracts were renewed and whether he is satisfied that they are serving legally?

Mr. Cheptumo: Mr. Speaker, Sir, the PSC invoked the provisions of Section 234 of the Constitution in appointing those officers.

Mr. Njuguna: Mr. Speaker, Sir, emanating from the answer given by the Assistant Minister, could he inform the House whether the 60 officers were paid their benefits at the expiry of the first contract and how much were they paid?

Mr. Cheptumo: Mr. Speaker, Sir, at this point, I cannot confirm whether they were paid their dues and how much it was. All I know is that they are still serving in the Commission. I could confirm that to my colleague because I just need to inquire from the Commission. However, I cannot now specifically state whether they were paid their dues. I believe that since they were serving under contract, their dues were paid, but I cannot confirm the amount right now.

Mr. Gitari: Mr. Speaker, Sir, now that we do not know how long it will take to constitute the board to vet these officers, what happens if at the expiry of one year there is no board to vet them?

Mr. Cheptumo: Mr. Speaker, Sir, I want to believe that within a span of 12 months, we will surely be able to have a board in place. That fear is genuine, but I believe we will have a board in place before one year. It is my honest believe that within a very short time, we will have a board which will then vet these officers.

Mr. Olago: Mr. Speaker, Sir, I beg to ask the Vice-President and Minister for Home Affairs the following Question by Private Notice.

(a) What is the legal basis for the current Prisoners Earning Scheme setting the daily rate at Kshs.30 and when will this be amended to take into account the current state of economy?

(b) What steps is the Ministry taking to operationalize Article 51 of the Constitution to facilitate enjoyment of conjugal rights by prisoners?

The Assistant Minister, Office of the Vice-President and Minister for Home Affairs (Mrs. Kones): Mr. Speaker, Sir, I beg to reply.

(Mr. Olago stood up in his place)

Mr. Speaker: Order! I can see your predicament. Could the Clerks-at-the-Table, please, assist the hon. Member to access that answer?

(The Clerk handed over the answer to Mr. Olago)

The Assistant Minister, Office of the Vice-President and Minister for Home Affairs (Mrs. Kones): Mr. Speaker, Sir, I beg to reply.

First of all, I would like to clarify that the prisoners' earning scheme is at Kshs30 per day. The earning scheme is provided for in the Prisons Act, Cap.90, Laws of Kenya, and in Chapter 68 of the Kenya Prisons Standing Orders. The Standing Orders provides as follows:-

“The participation of prisoners in the earning scheme is a privilege for good conduct and behaviour. The earnings received under this scheme do not constitute a salary or wage. It is a token for appreciation for hard work output, good conduct and behaviour by prisoners.”

It should be noted that prisoners are not workmen within the meaning of Workmen Compensation Act. The earning scheme is designed to be an incentive in the training and employment of prisoners so far as to cultivate and maintain a sense of hard work, social responsibility, good conduct and behaviour, so that they become self-reliant, law abiding and useful members of the society in future.

(b) My Ministry has appointed a task force vide Gazette Notice No.3582 dated 8th April, 2011 to draft a Bill on the rights of persons detained, held in custody or imprisoned as required in Article 51 of the new Constitution. The task force has already tabled a report in our Ministry and the Ministry officials are working on it. The report will later on go to the Attorney-General, the Committee on Implementation of the Constitution (CIC), the Cabinet and eventually to the Floor of the House.

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

Mr. Speaker: Order, Mr. Olago. The Assistant Minister has completed her answer unless you find her to be in breach of some rule or code.

Mr. Olago: Mr. Speaker, Sir, the answer that has been provided to me by the Assistant Minister is not signed and does not attempt to answer the second part of my Question at all.

Mr. Speaker: With respect to the signature, that is just a formality. The Assistant Minister is here. Do you want her to append her signature? Please, hand over the document to her. She would sign it now and I would permit it.

Mrs. Kones: Mr. Speaker, Sir, my presence is more than a signature.

Mr. Speaker: Order, Assistant Minister! Hon. Member for Kisumu Town West, will you, please, pass on the answer to her so that she appends her signature to it? Your presence and signature are not the same thing.

(Mr. Olago passed over the document to Mrs. Kones)

Please, append your signature on it.

(Mrs. Kones signed the document)

Mr. Olago: Mr. Speaker, Sir, the earning scheme for prisoners is set under prison regulations, and as far as I know the regulations were passed in 1963 setting the rate for most prisoners at 30 cents per day. That is the concern that is raised in this Question. But most importantly, what the Assistant Minister has not addressed is constitutional, and that is the right to conjugal rights as the Bill of Rights for the prisoners. I am dismayed that the hon. Assistant Minister has not made any reference at all to the Constitution. I am referring to Article 51(1) which clearly says:-

“A person who is detained, held in custody or imprisoned under the law, retains all the rights and fundamental freedoms in the Bill of Rights except to the extent that any particular right or a fundamental freedom is clearly incompatible with the fact that the person is detained---”

Mr. Speaker, Sir, I also want to quickly make reference to Article 45 of the Constitution which protects the family. Article 45(1) states:-

“The family is the natural and fundamental unit of society and the necessary basis for social order, and shall enjoy the recognition and protection of the State.”

Under these circumstances, what has the Ministry done to ensure that legislation is prepared so that prisoners can enjoy conjugal rights while in prison?

Mrs. Kones: Mr. Speaker, Sir, as I pointed out, there is a task force which was formed last year to work on the issue of the conjugal rights. It is part of the report which I said my officials are working on. Later on, it will go to the Attorney-General, the Cabinet and eventually the Bill will come to the House.

Mr. Njuguna: Mr. Speaker, Sir, the Assistant Minister has just informed the House that 30 cents is an incentive. In my view, this is too low. What efforts are being made by the Ministry to enhance this incentive because currently it is demotivating?

Mrs. Kones: Mr. Speaker, Sir, nowadays, there is no money given to prisoners nowadays. What is being done is that the convicts are being trained. They are being given a range of educational skills in development programmes. Some of them are being taken through grade tests and the Ministry pays for them. So, almost all of them are not given any money nowadays. Instead they are being taken through courses which will eventually help them when they complete their prison terms. So, nowadays no money is given to prisoners because it was too little and it could not help them in anything. The Prison Service also provides them with transport when they finish their prison term.

Mr. Mungatana: Mr. Speaker, Sir, I wanted to bring to the attention of the Assistant Minister that in various countries which actually practice prison reforms, the conjugal rights are given because they tend not only to preserve the family unit of the prisoner but they also encourage good behaviour. In countries like France and Canada, prisoners who have been

qualified to a certain level are allowed elongated family visits. Does the Assistant Minister require a law to be passed by Parliament for that to be effected and yet the Ministry can gazette certain rules to effect Article 51 of the Constitution? Must she wait for all that process when it is within her powers under Article 51 to gazette rules that will enable immediate enjoyment of this constitutional right? Remember the prisoners voted for this Constitution.

Mrs. Kones: Mr. Speaker, Sir, since the task force has been established, they have come up with a report which is now at the Ministry level and it will go to Parliament, I know very soon that the Bill will go through because we cannot cut short what we had given the task force.

Mr. Olago: Mr. Speaker, Sir, the issue of the rights of a prisoner should be taken very seriously. There was a time in the history of this country when the Minister for Home Affairs when asked about providing basic sleeping materials in prison told this House that prisons are not hotels. Within a few months he was a guest in prison. That is when he realized that the problem is serious and that these matters should be listened to. I do not wish to say that the hon. Assistant Minister will one day find herself in prison, but it is important that the Ministry takes urgent steps to ensure that the Constitution is actually implemented. So, instead of going through the process of writing regulations and papers in the Ministry, why not just publish rules so that she can implement them?

Mrs. Kones: Mr. Speaker, Sir, there is nowhere where I have mentioned that, as an Assistant Minister, we will never end up in such a place. Prison is not meant for anybody. Anybody can end up in such a place because it is not planned for anybody. However, what we are doing as a Ministry is to make sure that we do something concrete for this country. We know this will be effected and it will really take care of the conjugal rights of the convicts.

INSECURITY IN BARINGO NORTH

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

(a) Is the Minister aware of the attacks at Chemoe, Yatia, Chepkesin and Kapturoin Baringo North in Baringo County where three people were shot dead in early May, 2012?

(b) Could the Minister provide the number of livestock stolen, people displaced and state when the stolen livestock will be recovered?

(c) What measures will the Minister take to restore peace and security in the affected areas and when will the Government recruit and deploy Kenya Police Reservists (KPR) in the areas?

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

(a) I am aware that cattle rustlers have severally attacked Chemoe, Yatia, Kamwitio, Chepkesin and Kapturo all within Batabwa Division of Baringo North District in the course of this month in which four people have so far lost their lives.

(b) The following is the breakdown of the number of livestock stolen and recovered and people displaced during the raids. The number of goats stolen was 598 while those recovered were 192. The balance is 406 goats. Sixty six cattle were stolen; recovered - 30; balance - 36. Twenty five sheep were stolen and none was recovered.

About 3200 people have been displaced during the violent raids and are currently camping at Batabwa and Silibo.

The DSC, Baringo North and East Pokot are jointly making efforts to recover the stolen livestock. The following measures have been put in place to restore peace and security in the area. A platoon of the Anti-Stock Theft Unit (ASTU) personnel has been deployed at Chemoe village, Tuluk Sub-location with reliable means of transport and firm instructions to contain the situation and restore normalcy.

Mr. Speaker, Sir, another platoon of police officers is being deployed at Kapturo and Cheptisin area with reliable means of transport. Regular peace meetings are being organized between the two communities to prevail upon them to co-exist peacefully and desist from cattle rustling as a way of life.

(c) The process to recruit and deploy Kenya Police Reservists (KPRs) is ongoing and soon deployment will be done after completion of vetting and appointment will then follow.

Mr. Mwaita: Mr. Speaker, Sir, I wish to thank the Assistant Minister for an honest answer and admitting that four people have lost their lives. All he did not say is that scores have been injured. He has also not said that there are over 14 schools whose pupils have been displaced. I would like to know about the recruitment of police reservists from the Assistant Minister. How long will the process of recruiting and vetting take so that normalcy can return as he has said? People have been displaced and 14 schools have been closed.

Mr. Ojode: Mr. Speaker, Sir, because of the insecurity experienced in the area, I have directed the Commissioner to send a team to fast-track the vetting of police reservists in order for us to appoint them soon. We will do that in two to three weeks. We are also planning a visit. Actually, I have spoken to Mr. Cheptumo, as the Member of Parliament for the areas, about our visit to the area. We will also be visiting the area with hon. Members from the Pokot side to create normalcy. I know it has been a bad situation; people have been displaced and schools closed. However, we are fast-tracking the appointment of the Kenya Police Reservists (KPRs).

Mr. Kiptanui: Mr. Speaker, Sir, in answering this Question, the Assistant Minister has said that 3,200 persons have been displaced and they are camping at Bartabwa. Indeed, this could be another set of Internally Displaced Persons (IDPs). Is the Government taking care of these IDPs in terms of provision of food, shelter and medication as it does for other IDPs?

Mr. Ojode: Mr. Speaker, Sir, my team on the ground said that if need be they should be provided with rations. I think that is taken care of.

Mr. Njuguna: Mr. Speaker, Sir, I thank the Assistant Minister for the positive answer he has given; what is the Ministry doing to sensitize communities on cultural practice and attitude against cattle rustling in these areas?

Mr. Ojode: Mr. Speaker, Sir, that is ongoing. We have prevailed upon the elders from the Baringo side and the Pokot side, and they are doing exactly that.

Mr. Kapondi: Mr. Speaker, Sir, what the Assistant Minister has failed to tell us is that, given the magnitude of the problem and the fact that some livestock were recovered, how many suspects has he nailed in relation to this particular issues? When you talk of over 3,000 persons displaced and a number of animals recovered, we expect some suspects to be in custody. How many suspects are in?

Mr. Ojode: Mr. Speaker, Sir, indeed, that is a genuine question. There are suspects who were arrested. Some were released because of lack of evidence. However, the investigation is still ongoing, and we will continue arresting those who are practicing this pre-Cambrian way of life. It is true that people have been displaced. We will continue with the investigations and arrests are still going on. We will arrest those who are causing mayhem.

Mr. Speaker: Last question, Mr. Mwaita.

Mr. Mwaita: Mr. Speaker, Sir, the Assistant Minister has talked about regular peace meetings. He has also talked about reliable transport. When the problem arose, he posted police personnel with reliable transport. When will the Ministry avail serviceable vehicles to the Officer Commanding Police Division (OCPD), so that he is able to contain future occurrence of this problem?

Mr. Ojode: Mr. Speaker, Sir, as I have said, the vehicles which I have provided will remain there for a while. Once the other fleet comes in, we will provide vehicles to the administrators in order to create normalcy. Therefore, do not worry about that. It is taken care of.

Mr. Speaker: Next Question by the Member for Gichugu.

ILLEGAL SUB-DIVISION OF LR NO. BARAGWI/RAIMU/22

Ms. Karua: Mr. Speaker, Sir, I beg to ask the Minister for Lands the following Question by Private Notice.

(a) Is the Minister aware that land parcel LR.No. Baragwi/Raimu/22, which belongs to Kirinyaga County Council, and which was a subject of a Civil Appeal Case No.28 of 2001, has been irregularly subdivided and transferred to a third party contrary to the court order?

(b) What is the Minister doing to reverse the irregular transaction?

The Assistant Minister for Lands (Mr. Bifwoli): Mr. Speaker, Sir, I beg the indulgence of the House to answer this Question tomorrow afternoon.

Mr. Speaker: Assistant Minister, are you asking for indulgence? For how long?

The Assistant Minister for Lands (Mr. Bifwoli): Mr. Speaker, Sir, tomorrow afternoon or Thursday afternoon; whichever is convenient to her.

Mr. Speaker: Thursday afternoon. Member for Gichugu, is that good for you?

Ms. Karua: Mr. Speaker, Sir, I think my good colleague approached me asking for tomorrow afternoon. However, his fellow Assistant Minister, whom I believe is also in the House, suggested Tuesday next week, so that they take certain actions I am asking for in the Question. If they will have done all that tomorrow, I will have no problem with the Question being answered tomorrow. What I am looking for is results.

Mr. Speaker: Thursday afternoon.

Ms. Karua: Mr. Speaker, Sir, that is okay, but I beg you not to prejudice any other Question I have this week, because it is not my fault. It is the fault of the Ministry.

Mr. Speaker: Fair enough. As long as we stick within our practice, traditions and procedures, I will not prejudice any of your Questions because of this. So, Thursday afternoon.

(Mr. Karua stood up in her place)

Member for Gichugu, I am categorical. In fact, I am so clear. A good lawyer will see that I have, in fact, conceded to your request.

(Question deferred)

Next Question by the Member for Mathioya.

DELAY IN COMPLETION OF KIRIA-INI MARKET

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

(a) Is the Minister aware that due to the non-completion of Kiria-ini Market in Mathioya Constituency funded under the *Economic Stimulus Programme*, goods worth millions of shillings are being damaged by heavy rains since traders are selling them in the open air market?

(b) When will the market be completed and commissioned for use?

(c) What are the future expansion plans for the market in view of the fact that the market serves traders from the neighbouring constituencies?

The Minister for Regional Development Authorities and Acting Minister for Local Government (Mr. Gumo): Mr. Speaker, Sir, I beg to reply.

(a) The Kiria-ini ESP Market in Mathioya Constituency that commenced on the 22nd June 2010 is practically completed.

(b) As I have already indicated, the market is practically complete and I have, therefore, instructed that it be opened for operations with immediate effect. I wish to confirm that the market will commence operations latest by tomorrow, 30th May, 2012.

(c) According to baseline studies carried out by the County Council of Murang'a, the completed market cannot adequately serve Kiria-ini, and the neighbouring constituencies. A decision was, therefore, made to construct a second market. I wish to confirm that my Ministry has awarded a contract to M/s. Charuins Ltd. towards development of a bigger market adjacent to the ESP market at a sum of Kshs84,776,034. Construction of the market will commence on 8th June 2012, and it will take approximately 18 months to complete.

Thank you.

[Mr. Speaker left the Chair]

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

Mr. Wambugu: Mr. Temporary Deputy Speaker, Sir, I wish to thank the Minister for the answer he has given about Kiriaini ESP Market. This market was started sometime in July 2009 but it is also good to confirm that it was completed sometimes last year in August. I would like to know from the Minister what has caused the delay of handing over this market to the traders. From his answer, he says that the market should be opened, latest tomorrow. Could he also confirm that he is ready to travel with me to Kiriaini to make sure that the opening and hand over is done accordingly?

Mr. Gumo: Mr. Temporary Deputy Speaker, Sir, the problem has been getting the National Environment Management Authority (NEMA) certificate so that the market could be opened. Now that the certificate has been received, it can be opened. I do not necessarily have to be there but we can ask any officer to open the market. The most important thing is for the market to operate.

Mr. Kabogo: On a point of order, Mr. Temporary Deputy Speaker, Sir. The issue of these markets has been coming to the House severally. Last week, the Assistant Minister promised this House that they will bring a comprehensive report for all the markets in the Republic. That day that he made the promise, there were three Questions on the Order Paper from hon. Members. When is this report going to come to avoid wasting time of the House?

Mr. Gumo: Mr. Temporary Deputy Speaker, Sir, I am aware that there has been a problem with most of the markets. Some of them have been constructed half-way, others have been constructed and stopped and I have decided to appoint--- I have a report which was handed over to me this afternoon which I have not gone through and I do not think it would be fair for me to table that report here and yet I do not know what it contains. So, I plan to appoint a small committee in the Ministry to go round and check the status of these markets, because it is very common that we could be told lies. I could be given information which is not true and if I bring that information to this House, I do not think it will be fair. So I would ask for a little bit of time so that I can form some small committee to go round and check on these markets physically and bring a report.

Mr. Shakeel: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the Minister aware that already the Local Authorities and Funds Accounts Committee (LAFAC) and the Implementation Committee has visited these markets and has rubbished the report that the Ministry of Local Government has presented to this House? Further to that, we would request the Minister to personally go to all these markets.

The Temporary Deputy Speaker (Mr. Ethuro): Order! The issue by Mr. Kabogo was very clear and it has been an issue in this House. All the House was asking of you was to bring a list basically stating the status of the completion of these projects. You want to propose a small team and you have not even read the report. It would have been prudent for you to read the report and then know whether you are satisfied or not. Since these Questions keep coming to the House, we wanted a comprehensive statement on the status.

Mr. Gumo: Mr. Temporary Deputy Speaker, Sir, I am sure you are aware that I just came to this Ministry a week ago. What I am being asked, I am not very clear about. You could give me a week so that I can go through this report because as you are aware majority of hon. Members always ask Questions when they know the answer. I do not want to be embarrassed to give a wrong answer and particularly when I have not gone through the report. So I would request that you give me maybe up to next week, Tuesday or Wednesday, so that I can give you a report that I have gone through.

Mr. M.H. Ali: Mr. Temporary Deputy Speaker, Sir, you heard the Minister say that some of these markets are incomplete; some have been done halfway while others have been abandoned. I can confirm to the House that the market for Mandera East has been done without any problem using Kshs10 million. So what is the reason that these other markets have stalled and yet Mandera is the furthest from Nairobi?

Mr. Gumo: Mr. Temporary Deputy Speaker, Sir, just as I said, give me a bit of time; let me get the proper comprehensive report because I am not even aware about the Mandera Market. But now that he has said it is complete, is it opened? I am not sure whether it is open or not. If it is not opened then we shall also open it.

(Several hon. Members stood up in their places)

The Temporary Deputy Speaker (Mr. Ethuro): Order, hon. Members. Minister, I am sure you have seen the interest of the House in this matter. Maybe if you promise to bring the report a bit earlier, I am sure you have sufficient capacity to read a report even for a day or two so that we stop further questions on the market. Let us get an undertaking from the Minister to bring the report earlier.

Mr. Gumo: Mr. Temporary Deputy Speaker, Sir, I can bring it next week on Tuesday.

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

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

Mr. Mwangi: I want to inform the Minister.

The Temporary Deputy Speaker (Mr. Ethuro): Minister, are you interested in the information?

Mr. Gumo: Mr. Temporary Deputy Speaker, Sir, I do not need information. I have enough information. Let me bring the report next week, then I can be given more information.

(Several hon. Members stood up in their places)

The Temporary Deputy Speaker (Mr. Ethuro): Order, hon. Members! The best way to prosecute this issue is for the report to be brought to the House and then on that basis, you can now make your interventions.

Mr. Wambugu, I think even your last question would just wait for the report.

Mr. Wambugu: Mr. Temporary Deputy Speaker, Sir, I had asked specifically when he can accompany me to go to Kiriaini to confirm that the market is open so that he gets first hand information on the status of the market. But what you heard the Minister say is that it is something simple that even an officer can go there. I would still insist that he accompanies me to Kiriaini so that he can get the first hand information but all the same, he said that he is going to construct another market that is going to handle the other bigger number of customers coming to that place. The number of people who go to Kiriaini is over 4,000---

The Temporary Deputy Speaker (Mr. Ethuro): Order, Mr. Wambugu! It is Question Time. What is the question?

Mr. Wambugu: Mr. Temporary Deputy Speaker, Sir, this is another point. That is the second question. I just wanted to know from the Minister whether in his second market; the new market, there is a programme for a sewerage system for that area because it has very many people operating around that place.

Mr. Gumo: Mr. Temporary Deputy Speaker, Sir, the market that we are going to put up will be a very big one and it will be completed next year after elections but we shall make sure that we start it before elections this year. So do not worry; everything will be okay.

(Mr. Wambugu stood up in his place)

The Temporary Deputy Speaker (Mr. Ethuro): Order, Mr. Wambugu! I think that question has been determined.

We will now go to Ordinary Questions and start with Eng. Gumbo.

ORAL ANSWERS TO QUESTIONS

Question No.1352

PRESENTATION OF CELLULAR MOBILE
PERFORMANCE ASSESSMENT REPORT

The Temporary Deputy Speaker (Mr. Ethuro): Eng. Gumbo is not here, so we will go to the next Question by Mr. Odhiambo.

Question No.1549

ERADICATION OF CMD/CBSD FROM
WESTERN/NYANZA PROVINCES

Mr. Odhiambo asked the Minister for Agriculture:-

(a) whether she was aware that cassava farmers in Nyanza and Western provinces are losing millions of shillings annually, because almost 80 per cent of their produce in harvest is lost due to mosaic and brown streak virus attack;

(b) what measures the Government is taking to eradicate Cassava Mosaic Disease (CMD) and Cassava Brown Streak Disease (CBSD) which are currently eating into the entire produce thereby aggravating staple food shortage in the regions; and,

(c) how many research centres have been put up in Nyanza and Western provinces to help fight the pandemic and whether the Government has plans of decentralizing activities of Kenya Agricultural Research Institute (KARI) for farmers to access their services easily.

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

(a) I am aware that cassava farmers in Nyanza and Western provinces are incurring significant losses in yields occasioning losses in revenue due to attack by cassava mosaic virus and cassava brown streak virus.

(b) The Government through the Kenya Agricultural Research Institute (KARI) is undertaking the following measures in order to eradicate Cassava Mosaic Disease and Cassava Brown Streak Disease:-

(i) Evaluating and recommending cassava varieties which are highly resistant to the Cassava Mosaic Disease and Cassava Brown Streak Disease. So far, seven varieties have been recommended namely, Migyera, SS4, MH95/1083, MM97/0293, MM96/2480, MM98/3567 and MM967688.

(ii) Production of cuttings which are free from diseases through primary multiplication. Over 300 million cuttings have been distributed to farmers in Western Kenya.

(iii) Training extension staff and farmers on cassava production practices.

(c) There are currently three KARI centers based in Kakamega, Kisii, Kibos and a sub-station based in Alupe, Busia, that are helping in fighting the pandemic. For better service delivery, plans are underway to widen the mandate areas of KARI centers and upgrading of KRI Alupe into a fully fledged center.

Mr. Odhiambo: Mr. Temporary Deputy Speaker, Sir, I want to thank the Assistant Minister for being honest and giving a comprehensive answer. However, in part (b) of the answer, I want to inform him that these varieties which are meant to assist the farmers, particularly those that are resistant to the Cassava Mosaic and the Cassava Brown Streak diseases, have not been given to the farmers as stipulated in the answer. Most of the farmers have not accessed these varieties. Up to now, we still have a big problem because the farmers are still being affected by these diseases. They do not access the varieties that are resistant.

(Loud consultations)

Mr. Temporary Deputy Speaker, Sir, could the Member consult in low tones?

The Temporary Deputy Speaker (Mr. Ethuro): Order, Members! Let us listen to the Member.

Mr. Odhiambo: Mr. Temporary Deputy Speaker, Sir, is the Assistant Minister aware that his answer is merely on paper but on the ground the farmers have not accessed these varieties that he has named in his answer?

Mr. Ndambuki: Mr. Temporary Deputy Speaker, Sir, we have distributed 300 million cuttings to farmers in Western Province. The problem we are faced with is that most of the farmers are still sticking to the old cassava that they have been growing. My appeal to them is to take the new cassava and do away with the one they have been planting. The cuttings are there and we have given them to the farmers. We will give even more in the coming months.

Dr. Otichilo: Mr. Temporary Deputy Speaker, Sir, first, I want to thank the Assistant Minister for the good work they are doing, particularly on research on the Cassava Mosaic Disease. This is a disease that has been a major problem on this crop. I want to thank him for the good job that is being done particularly by KARI. However, I want to know why the farmers are not willing to take new varieties of cassava which are resistant to this disease. What are the reasons?

Mr. Ndambuki: Mr. Temporary Deputy Speaker, Sir, we have distributed these cuttings, but some of the farmers are still sticking to the old variety of cassava which is not resistant to this disease. I am appealing to the farmers in Western Province to take the cuttings of the new varieties of cassava and plant them and uproot the cassava that they have been planting all the other years. This variety is being affected by the disease.

Mr. Mwangi: Mr. Temporary Deputy Speaker, Sir, the Assistant Minister has repeatedly stated that his Ministry is distributing these cuttings to Western Province. What arrangements does he have to distribute the cuttings to other areas that would plant the cassava in regard to food security especially in the lower parts of Murang'a County, particularly Kiharu Constituency?

Mr. Ndambuki: Mr. Temporary Deputy Speaker, Sir, this season, we distributed cuttings to 117 districts, including Kiharu. So, it is not that we are to doing anything. Maybe we did not reach everybody this round, but I can assure the House that we are doing all what it takes to make sure that the new varieties that we have released to the market reaches every farmer who grows cassava.

Mr. Pesa: Mr. Temporary Deputy Speaker, Sir, cassava is the staple food in Migori Constituency, which I represent. Is the Assistant Minister aware that many farmers in Migori are not aware of this new variety of cassava that he is talking about in this House? What method is he going to use to ensure that farmers down there are made aware that there is a variety of cassava that can save them from the sufferings they are undergoing?

Mr. Ndambuki: Mr. Temporary Deputy Speaker, Sir, our extension officers are teaching the DAOs. During the farmers' field day, we are talking about the new cassava especially in the areas where cassava is grown. If hon. Pesa finds out that this is not known in his constituency, he should come and let me know.

Mr. Odhiambo: Mr. Temporary Deputy Speaker, Sir, in part (c) of his answer, the Assistant Minister has indeed, mentioned the three centers and the sub-center at Alupe. It is true that they exist, but the fact that they exist does not help the farmers to get the education that they require to accept the new varieties of cassava he is talking about. Indeed, the extension officers

are supposed to educate them, but they are not doing that either. So, the farmers are still operating in the fear because they have not been given enough information on the new varieties. What is he doing to ensure that this is done, so that the farmers can accept the new varieties and improve on the production of cassava, which is the staple food in Western and Nyanza provinces?

Mr. Ndambuki: Mr. Temporary Deputy Speaker, Sir, I want to assure the Member that if that information is not on the ground, it is going to be passed. Also, through the KARI centers, that is going to be communicated and more farmers field days will be held.

Question No.1576

MURDER OF COLLINS O. MUONYA

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

(a) whether he is aware of the murder of Mr. Collins O. Muonya, an Administration Police Officer, in Sori Township, Karungu Division, Nyatike District while on patrol on 21st January, 2012;

(b) whether the suspect(s) have been apprehended and whether he could table a report on the investigation; and,

(c) what measures the Government has put in place to address insecurity in parts of Nyatike District, especially in Sori Township in Karungu Division.

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

(a) I am aware of the murder of APC Collins Muonya, No.9901056 on 22nd January, 2012 at about 2.00 a.m. within Sori Town subsequent to which a report was made to the police vide OB.No.2 of 22nd January, 2012.

(b) Following the murder, the DCIO, Nyatike, commenced the investigations vide Police Criminal Case No.633/11/2012 and two suspects, namely, Julius Ouma Owuor and Kerima Adiek Awour were later arrested. However, when the file was forwarded to the Senior State Counsel in Kisii for perusal and advice, he advised that there was no adequate evidence to try the two suspects with murder and instead directed that the file be placed before a court of competent jurisdiction for public inquest. Subsequently, the two suspects were released and further investigations are ongoing.

(c) The following measures have been put in place to forestall incidents of crime in Sori and its environs. Both foot and mobile patrols have been enhanced. Community policing initiatives have been rolled out down to the village level to facilitate intelligence information gathering. An administration police camp under the command of a Chief Inspector has been set up at Sori Town to enhance fast response to crime incidents.

Mr. Temporary Deputy Speaker, Sir, I have also transferred the commandant in-charge of Sori together with the police who were under him in order to bring new blood to investigate and ensure normalcy within the Sori- Karungu Bay.

Mr. Anyanga: Mr. Temporary Deputy Speaker, Sir, the Assistant Minister's answer is just a cover up. If you look at part (b) of my Question, where the Assistant Minister is required to table a report on the investigations, he has not done so.

Mr. Temporary Deputy Speaker, Sir, it is on the basis of that report that I intended to interrogate him further. Could you, please compel the Assistant Minister to come back to this House with that report?

Mr. Ojode: Mr. Deputy Speaker, Sir, it looks like he was not listening to what I was saying. I said that the investigation report is not yet out. Investigations are still going on. That means that we do not have a report yet. We are still investigating the incident. We are investigating the matter.

So, once the report is ready, or once the investigations are concluded, he can ask that type of question.

The Temporary Deputy Speaker (Mr. Ethuro): Order, Assistant Minister! So, when do you think the investigations will be completed then?

Mr. Ojode: Mr. Temporary Deputy Speaker, Sir, murder cases normally take awhile. I cannot want to speculate but the report will be in the public domain anyway.

The Temporary Deputy Speaker (Mr. Ethuro): Mr. Anyanga, last question.

Mr. Anyanga: Mr. Temporary Deputy Speaker, Sir, I cannot proceed with this Question without that report. This is a desperate case where a police officer's head was chopped off completely and he died instantly.

Mr. Temporary Deputy Speaker, Sir, he is trying to cover up this particular case. Could he produce the investigation report for me to come up with questions on this, *tafadhali*.

Mr. Ojode: Mr. Temporary Deputy Speaker, Sir, I think it is me who is injured and not him. I lost a police officer who was killed. So, in any case, I cannot cover up for my own officers. So, once the report is out, we will table it. It will be in the public domain. I have nothing to hide. It is me who has lost an officer and not even you. That is too dangerous for me.

Mr. Anyanga: Mr. Temporary Deputy Speaker, Sir, that particular officer comes from hon. Ojode's Constituency. It is true that his head was chopped off.

Mr. Temporary Deputy Speaker, Sir, I am still appealing to you to defer this Question for another date.

The Temporary Deputy Speaker (Mr. Ethuro): Mr. Assistant Minister, the hon. Member really feels that he is not in a position to interrogate the Question without the report. I think you will do this country a favour by telling us when you expect to have the report, so that this Question can be put on the Order Paper.

Mr. Ojode: Mr. Temporary Deputy Speaker, Sir, it is very difficult for me to say that the report will be ready on a certain day. That is because that is murder. Unless you want me to speculate---

Mr. Temporary Deputy Speaker, if you want me to speculate, then I will say, maybe, after three months or two months, whichever comes first. If the report comes first before the three months are over, I will table it.

The Temporary Deputy Speaker (Mr. Ethuro): The Question will appear on the Order Paper in two months time.

Mr. Assistant Minister, this House expects the Government to provide certain services and conclude investigations. Investigation cannot be for eternity.

(Question deferred)

Mr. Ojode: Mr. Temporary Deputy Speaker, Sir, it is true. But you know investigations are done by my officers. Then, later on, we have to take the report to the Director of Public

Prosecutions. So, actually, once the report is ready, it does not even belong to me. But the Director of Public Prosecutions can be asked to avail the report to the Member. It has nothing to do with Ojode anymore.

The Temporary Deputy Speaker (Mr. Ethuro): Next Question, hon. Mututho! Member for Naivasha!

Question No. 1390

COMPENSATION FOR
ACCIDENT VICTIMS

The Member is away on parliamentary business.

(Question deferred)

Let us move on to the next Question. The hon. Member for Ol Kalou.

Question No. 1219

STALLING OF COMMUNITY MARKET CENTRE
PROJECT IN GATIMU

Mr. Mureithi to ask the Minister for Local Government:-

(a) whether he is aware that the Government had set aside a plot of land for a community market center at Gatimu Shopping Center; and,

(b) whether he is also aware that despite availability of Kshs 200,000 from the CDF kitty for fencing and building of a toilet on the plot, the project has stalled due to illegal allocation of the plot.

The Minister for Regional Development Authorities and Acting Minister for Local Government (Mr. Gumo): Mr. Temporary Deputy Speaker, Sir, I beg to reply.

(a) I am not aware that the Government had set aside a plot for a community centre at Gatimu Shopping Centre. According to the records held by the council, there is no shopping centre known as Gatimu Shopping Centre. All the land in Gatimu Ward belong to Settlement Fund Trustee. That is not trust land and the council has no powers to allocate it.

(b) The council has not allocated any plot at the centre and, therefore, we are not aware of any stalled project. Any person who unlawfully occupies the plot has acquired it illegally without the consent of the Council.

Mr. Mureithi: Mr. Temporary Deputy Speaker, Sir, this Question has appeared in the Order Paper for a long time. During the first time, the former Minister promised this House that he will send a team to conduct investigations. The second time, the Minister accepted that he will consult the Ministry of Lands so that they can put a concerted effort.

Mr. Temporary Deputy Speaker, Sir, the last time the Question appeared, I tabled a list of ladies who had been allocated the plot and the money they were given. Could the Minister confirm what is really happening and whether he has consulted the Ministry of Lands to know how that plot ended up in the hands of private people as opposed to the ladies who have been

allocated CDF money to do the fence, build toilets and then create stalls for the market in the area?

Mr. Gumo: Mr. Temporary Deputy Speaker, Sir, the County Council of Nyandarua has not allocated any plot. Since that land belong to Settlement Trustee Fund--- It is possible that they could have been allocated those plots by the Ministry of Lands, but not by the county council. So, I am not aware.

Mr. Mureithi: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the Minister in order to deny that the Government is not a collective body? The former Minister had promised to consult with the Ministry of Lands to know how that land exchanged hands at that time. Is the Minister in order to deny what his predecessor had committed to do before this House?

Mr. Gumo: Mr. Temporary Deputy Speaker, Sir, I am sorry, I am not aware of that. But if the previous Minister had promised, maybe, I was not aware. But I can find out from the Ministry of Lands if that place was really allocated by it.

Mr. Pesa: Mr. Temporary Deputy Speaker, Sir, we have had many complaints in this country about allocations of plots especially in the municipalities. What is the Minister's take on this? Is he going to allow that to continue despite the fact his predecessor had actually banned the allocation of plots within municipalities sometimes back?

Mr. Gumo: Mr. Temporary Deputy Speaker, Sir, for the moment, the councils are not allowed to allocate any plots. If there is anybody who is still allocating plots, please, let me know. We shall take action against them. That is because municipalities and county councils are not allowed to allocate any of their land. They have been given instructions not to allocate. So, if you are aware that there is a town clerk who is still allocating land, please, let us know and we shall take action.

Mr. Kabogo: Mr. Temporary Deputy Speaker, Sir, you have heard the Minister say that municipal and local authorities are not supposed to allocate land, but we have been seeing letters of allotment here from the Ministry of Lands. They are written by the registrars and assistant commissioners on behalf of the county council purporting to allocate land to individuals. What will the Ministry do to make sure that even the Ministry of Lands here does not allocate land in the counties or in the municipalities on behalf of those counties?

Mr. Gumo: Mr. Temporary Deputy Speaker, Sir, this has been a problem for a long time. Land that belongs to the county councils or the municipalities is not supposed to be allocated by the Ministry of Lands without the authority of the respective county councils, municipal councils or city councils. So, unless the city council gives authority or it gives a letter of no objection, the Commissioner of Lands is not supposed to allocate any land on behalf of the City Council, town councils or even county councils.

The Temporary Deputy Speaker (Mr. Ethuro): Ask your last question, hon. Mureithi.

Mr. Mureithi: Mr. Temporary Deputy Speaker, Sir, the answer given by the Minister contradicts itself in part "b". It says "any person who unlawfully occupies the plot has acquired it illegally without consent of the council," yet in part "a" he says that they are not aware.

Mr. Temporary Deputy Speaker, Sir, now that he has accepted that he is going to consult the Minister for Lands, could he bring a report to this House exactly what transpired at Gatimu Market so that those 100 women do not continue languishing when the plot was grabbed by just a couple of people?

Mr. Gumo: Mr. Temporary Deputy Speaker, Sir, there are cases where land has been allocated by the Commissioner of Lands without the knowledge of the county councils or local authorities. In some cases, title deeds had been issued. If the land does not belong to the county

council or municipality, then it belongs to the Commissioner of Lands. So, unless this land belonged to the county council, the council might not know whether the Commissioner of Lands allocated it or not. So, that is why I said that we are not aware whether it had been allocated or not.

Mr. Mureithi: On a point of order, Mr. Temporary Deputy Speaker, Sir. Am I in order to request the Minister, because he belongs to the same Government, rather than passing the blame to the Minister of Lands, to consult his colleague, so that we get an appropriate answer, so that we do not inconvenience those poor ladies?

The Temporary Deputy Speaker (Mr. Ethuro): In fact, Mr. Minister, it is instructive because the Question asks:-

“Is the Minister aware that the Government had set aside a plot of land for a community market centre at Gatimu Shopping Centre?”

So, it was not only your Ministry, but also the Ministry of Lands.

Mr. Gumo: Mr. Temporary Deputy Speaker, Sir, according to my answer, I said that I am not aware that, that land was allocated, because this land does not belong to the county council. If the land does not belong to the county council and it belongs to the Commissioner of Lands, the Commissioner has the powers to allocate it without the knowledge of the county council. So, the only thing is that, may be, the hon. Member should be asking the Minister for Lands to confirm whether this land was allocated or not, because the land does not belong to the county council. How do I answer Questions that really do not fall under my Ministry?

The Temporary Deputy Speaker (Mr. Ethuro): Order! Hon. Mureithi, you will be advised to formulate an appropriate Question to the Minister for Lands.

Mr. Mureithi: Mr. Temporary Deputy Speaker, Sir, I did not hear what you said.

The Temporary Deputy Speaker (Mr. Ethuro): I am saying that arising from the Minister’s answer; you have no recourse because the Minister is not willing to consult his neighbour. Therefore, you have no recourse, but to get another Question directed to the Minister for Lands. So, let us rest that matter there.

(Question deferred)

Next Question, Member for Kasipul Kabondo.

Mr. Magwanga: Thank you, Mr. Temporary Deputy Speaker, Sir. I must apologize.

Question No. 1409

IRREGULAR PLACING OF MUKSERO
SUB-LOCATION IN KISII CENTRAL DISTRICT

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

(a) whether he is aware that the administrative boundaries of Muksero Sub-location is currently in Kisii Central District; and,

(b) what urgent steps the Government is putting in place to ensure that the sub-location is administratively controlled by the Rachuonyo District offices.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Lesrima): Mr. Temporary Deputy Speaker, Sir, this Question was adequately interrogated in this House and, indeed, the Chair referred the matter to the Departmental Committee on Equal Opportunity to deal with the specific issue to do with the marginalization which was alleged in this House and the HANSARD bears me out.

Mr. Magwanga: Mr. Temporary Deputy Speaker, Sir, the Question was referred to the Committee on Equal Opportunity. Up to now, I am actually not aware of the position. The Question is appearing on the Order Paper and that is why I asked it.

Mr. Temporary Deputy Speaker, Sir, I want to say that the same Question was asked in 2000 and a similar answer was given. I filed this Question early last year and it appeared this year. During presentations for Kasipul Kabondo Constituency to the Ligale Commission---

The Temporary Deputy Speaker (Mr. Ethuro): Order, hon. Magwanga! I think the Assistant Minister has given a copy of the HANSARD. In this HANSARD, the Chair directed the Committee on Equal Opportunity to actually consider the matter and submit the report within two weeks, which are lapsing today. So, the matter is no longer between you and the Minister. It is really for the Committee of the House. So, we need an indication from the Chair of that particular Committee on what the position is. Is there any hon. Member from the Committee on Equal Opportunity here?

I understand that they are on a parliamentary delegation. We gave them two weeks. Do we give them another two weeks? I was inclined to give them an additional week, but if they are not around, they may not do much.

I will plead with you, hon. Member for Kasipul Kabondo, that we give the Committee another two weeks, so that they can deal with this matter and come to the House.

Mr. Magwanga: Thank you, Mr. Temporary Deputy Speaker, Sir. Most obliged.

The Temporary Deputy Speaker (Mr. Ethuro): Mr. Assistant Minister, we will also expect you to be proactive because it is in your own interest also to engage the Committee, so that we do not reach a situation where the time has elapsed and nobody has taken any action.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Lesrima): Mr. Temporary Deputy Speaker, Sir, I am most obliged.

The Temporary Deputy Speaker (Mr. Ethuro): Next Question, hon. Member for Juja.

Question No.1585

DEATH OF ELIZABETH WAMBUI IN MOZAMBIQUE

Mr. Kabogo asked the Minister for Foreign Affairs:-

(a) whether he is aware that a Kenyan citizen, Ms Elizabeth Wambui Macharia died and was cremated in Mozambique, leaving behind her 2 sons, Messrs. George Kanja Wambui and Jeremy Scott Sippo aged 17 and 9 years, respectively, stranded in Maputo since November 2011; and,

(b) what urgent measures he has taken to ensure safety of the two children and when will they be repatriated to the country.

(Mr. Kabogo read out the Question)

The Temporary Deputy Speaker (Mr. Ethuro): Order, hon. Kabogo! You know the practice of the House!

Proceed, Mr. Assistant Minister!

The Assistant Minister for Foreign Affairs (Mr. Onyonka): Thank you, Mr. Temporary Deputy Speaker, Sir. I am happy to announce to the House that the two young men who were meant to come back to Kenya are travelling to Kenya any time now. The tickets have been bought by the Kenyan Government.

(Applause)

Mr. Temporary Deputy Speaker, Sir, I would like to table the ticket numbers and the times of arrival of the flights.

(Mr. Onyonka laid the document on the Table)

Mr. Temporary Deputy Speaker, Sir, with the tireless effort of the Kenyan mission office in Harare and Ambassador Josephine Owuor, they have managed to have access to these two children. I am happy and proud to announce to the hon. Member for Juja, hon. Kabogo that his esteemed citizens will be in Kenya by tomorrow.

Mr. Kabogo: Mr. Temporary Deputy Speaker, Sir, indeed, I am delighted that finally, the two children, one aged nine and the other aged 17 will be coming home tomorrow. I hope that you have seen the ticket that was laid on the Table. I have not had a chance to look at it but I would like to believe that it is a true ticket and that the children will come tomorrow. If you remember last week but one---

The Temporary Deputy Speaker (Mr. Ethuro): Mr. Kabogo, I think under the circumstances, it is good to give the Assistant Minister the benefit of the doubt. Tomorrow is not very far from today.

Mr. Kabogo: I have done so, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Ethuro): The Chair will grant you another opportunity. If by Tuesday they will not have come, you can raise this matter on the Floor of the House.

Mr. Kabogo: Mr. Temporary Deputy Speaker, Sir, I do agree with you. I am only saying that error is to human. It does happen and it did happen. The Assistant Minister promised that they would be here last Wednesday. If they will be here tomorrow, that will make it two weeks. I am happy that the Minister, and more so the Assistant Minister has done this job. I am delighted.

(Dr. Khalwale stood up in his place)

The Temporary Deputy Speaker (Mr. Ethuro): What is it Dr. Khalwale? I thought that the Question has been concluded?

Dr. Khalwale: Mr. Temporary Deputy Speaker, Sir, with your indulgence, I just wanted the good Assistant Minister who has done a very commendable job to confirm to relatives and family members of these two children that when they arrive in Nairobi, the family will not be subjected to red tape on legalities of who their father or mother is and what is their relationship. Could the Assistant Minister confirm that the children will be handed over to the

grandmother tomorrow morning? This is because we are prepared to take these children home in a heroic way so that the grandmother can know that Parliament works.

Mr. Onyonka: Mr. Temporary Deputy Speaker, Sir, I think the Member for Ikolomani has raised a critical point because the Ministry of Foreign Affairs has a responsibility. It is true that the children will not be handed over to the grandmother. The law stipulates very clearly that they will be held and handed over to the Children's Officer who will officially receive them. The officer will then hand them over to the grandmother. Basically, if there is any problem of red tape, it will take most probably a day. However, we have given instructions to the Children's Officer for Nairobi and the Children's Officer for Thika to confirm who the relatives are for it to be expedited as soon as possible. This is because of the legal implication that these children are actually minors. That is why they must be handed over to the Children's Officer who will then hand them over to the family once they have confirmed.

Mr. Kabogo: Mr. Temporary Deputy Speaker, Sir, the Assistant Minister was doing very well. Now, he is telling us that he could detain these children for another day. Why should we allow him to detain them? We already know the parents. We know the grandmother who raised this issue with me. I am prepared to go to the airport, myself, to hand over these children to the grandmother. Can the Assistant Minister confirm that he does not want to detain them another one day because they have suffered enough?

Mr. Onyonka: Mr. Temporary Deputy Speaker, Sir, the Ministry of Foreign Affairs operates with maxim and trust that verify. We will trust that hon. Kabogo and the grandmother exist but the Ministry of Foreign Affairs will be in touch with the line Ministry as the law requires them to receive these children and then they will be handed over to the grandmother. If this will take 30 minutes, that will be done tomorrow.

The Temporary Deputy Speaker (Mr. Ethuro): Order, hon. Members! I think it is our job as a House to uphold the rule of law. If that is the requirement, I think we should not push the Assistant Minister too far to do what is required of him. I am sure that with the interest of the Members, everybody will expedite the process.

We will move to the next Question.

Question No.1387

PROJECTS UNDERTAKEN BY KWS
IN WUNDANYI CONSTITUENCY

Where is the Member for Wundanyi? Is he not in?

We will move on to the next Question by the Member for Ikolomani.

Question No.1350

EXPANSION OF MASINDE MULIRO UNIVERSITY

Dr. Khalwale asked the Minister for Higher Education, Science and Technology:-

(a) whether she is aware that Masinde Muliro University has started rolling out plans for establishment of a Medical Science School; and,

(b) whether the Government could consider taking over Kakamega Approved School, which is adjacent to the university, to pave way for this development.

The Assistant Minister for Higher Education, Science and Technology (Dr. Mwiria): Mr. Temporary Deputy Speaker, Sir, I beg to reply.

(a) I am aware that Masinde Muliro University of Science and Technology has established the School of Health Sciences. The school is now offering nursing programmes and there are plans to offer other courses. Relevant professional bodies have given consent for the establishment of this programme.

(b) There are already negotiations and discussions between the university management and the relevant stakeholder groups of the Kakamega Approved School with a view to acquiring the land and facilities of the school for purposes of expanding the Masinde Muliro University of Science and Technology, School of Health Sciences.

Dr. Khalwale: Mr. Temporary Deputy Speaker, Sir, I want to thank the Assistant Minister for the straightforward answer but I would like him to clarify it a little bit more. The stakeholders are the Ministry of Higher Education, Science and Technology, the university itself, the Office of the Vice-President and Ministry of Home Affairs and, of course, the community through us, their leaders. The leaders and the community are supporting this course, so is the university and the Ministry of Higher Education, Science and Technology, the way the Assistant Minister has just told us. The only Ministry which is missing is the Office of the Vice-President and Ministry of Home Affairs. Could the Assistant Minister tell us when these consultations will be concluded so that they pave way for the commencement of this highly awaited programme?

Dr. Mwiria: Mr. Temporary Deputy Speaker, Sir, yes, the Office of the Vice-President and Ministry of Home Affairs is involved but I would like to tell the hon. Member of Parliament that as much as we will negotiate with the Ministry because it really makes sense to support this institution, the university itself and Members of Parliament like him should also negotiate with the relevant Ministry officials. I do not see a problem. The main problem we have right now is that the title deed for the land that was allocated has not been approved. However, the process is ongoing. So, I really hope that the Office of the Vice-President and Ministry of Home Affairs will not be an obstacle to an idea that will put to better value the facilities that they have. The University Nursing School will be much better than an approved school. I do not see a big problem but we shall continue to talk with them.

(Mrs. Mugo entered the Chamber)

(Applause)

Mr. Njuguna: Mr. Temporary Deputy Speaker, Sir, while thanking the Assistant Minister for the answer that he has offered, could he, in addition, indicate to the House what plans they have to make sure that Kakamega Approved School will not die a natural death?

Dr. Mwiria: Mr. Temporary Deputy Speaker, Sir, I hope that it does not die any death at all, leave alone a natural one. Once this is done, I am sure that the Office of the Vice-President and Ministry of Home Affairs as we have discussed with them, are looking for an opportunity to have the same school. It does not have to be in Kakamega as long as we have an approved school some place in this country. That is what counts. I am sure it will not be displaced completely.

Dr. Khalwale: Mr. Temporary Deputy Speaker, Sir, with the indulgence of the Chair, allow me to congratulate and welcome hon. Beth Mugo for joining us in the House this afternoon.

Allow me to inform the hon. Member for Lari that the Approved School of Kakamega has somewhere to go.

The Temporary Deputy Speaker (Mr. Ethuro): Order, hon. Dr. Khalwale! The last time I checked, you were a Member for Ikolomani and not a Minister. Your job for now is to ask questions.

Dr. Khalwale: Mr. Temporary Deputy Speaker, Sir, what advice has the Ministry given the Treasury towards infrastructural improvement of Kakamega Provincial General Hospital in anticipation of its upgrading to a teaching and referral hospital as the western region community is expecting this will be the case once this programme is rolled out by the university?

Dr. Mwiria: Mr. Temporary Deputy Speaker, Sir, the only advice we will give is to ask for more budgetary allocation to support this and it will come from the Ministry of Public Health and Sanitation and not the Ministry of Higher Education, Science and Technology. That is how the hon. Member should be approaching this issue. I hope that will happen. I think the important bit for us, as the Ministry of Higher Education, Science and Technology, is to get the facility for the university but it is up to the parent Ministries to also support them so that they can have good teaching and referral hospitals.

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

Question No.1531

PROVISION OF DETAILS OF COCAINE SEIZED IN 2004

Mr. Mwau asked the Attorney General:-

(a) whether he could provide details of all the suspect(s) linked to the approximate 1.14 tonnes of cocaine that was seized in the country in 2004;

(b) whether he could also confirm that his office was engaged in a protracted mutual assistance in 2004 requesting the Government of Netherlands to extradite the suspects to Kenya to face charges and, if so, he could provide copies of the correspondence;

(c) whether he is also aware that Mr. Oriri Onyango from the Attorney General's office and Mr. Gideon Kimilu from the Criminal Investigation Department (CID), were furnished with valuable information including telephone numbers of the suspects involved in the case and, if so, he could provide details of the suspects; and,

(d) whether he could also provide particulars of the Kenyan team, the United Kingdom team, the United States team, the UNODC team as well as names of any other agency that was involved in the investigation and destruction of the seized cocaine in 2004.

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

(a) The following persons are the suspects who were linked to the 1.14 tonnes of cocaine that was impounded in this country in 2004:

1. George Kiragu alias George Kinuthia
2. David Mugo Kiragu

3. Railton Muthungu James Nderitu alias James Nderitu
4. Ricci Angelo
5. Estella Duminga Furuli
6. Tansukhal Jivanal Thanki
7. George Washington Wango alias George Njoya Wango
8. David Alexander Gachago.

Mr. Deputy Speaker, Sir, the following Dutch nationals were also linked to the seized cocaine.

1. Robertus Johannes Stehman
2. Hendrick Baptiste Hemarij
3. Josham Neelan
4. Arien Gortor
5. Marinus Hendrik Vanwezel.

- (a) Yes, the Attorney-General's office then and not now was engaged in a protected mutual legal assistance request in 2004 directing the Government of the Netherlands to extradite the suspects to Kenya so that they could face charges. I have attached to this answer copies of the correspondence between the office of the Attorney-General of the Republic of Kenya and the Government of Netherlands.

Mr. Temporary Deputy Speaker, Sir, they include an international letter to the competent judicial authority of the Netherlands from the Attorney-General of the Republic of Kenya dated 10th February 2005; a warrant in first instance for the apprehension of one, George Kiragu in criminal case No.3165 of 2004 signed by Chief Magistrate, the hon. Aggrey Muchelule and a request for extradition letter to the Netherlands dated 7th march, 2005, Ref. AG/CR/2053/905.

- (b) Messrs Oriri Onyango and Gideon Kimilu were prosecutor and investigator respectively in this case. It is not clear from the Question by the hon. Member who furnished the alleged valuable information to the two officers. Similarly, it is also not clear which location the alleged valuable information was furnished to Messrs Oriri Onyango and Gideon Kimilu.

Mr. Temporary Deputy Speaker, Sir, the Attorney-General is aware that the two officers in the company of Chief Inspectors Peter Njeru and Dominic Mate were authorized to travel to the Netherlands on 15th January 2005 to participate in the joint investigation of this case with the Netherlands Police and the office of the Public Prosecutor in the Netherlands. This was a follow up to an earlier request by the Attorney-General regarding joint investigations of this case by Kenyan CID detectives together with the Netherlands Police authorities.

During their visit to the Netherlands, the three police officers were involved in the joint investigations of this case with their counterparts in that country. Mr. Onyango was for his part in consultations with the Director of Public Prosecutions of that country with the request of the extradition of George Kiragu to Kenya. The names of the suspects in the Netherlands were known to our officers when they travelled there. They were confirmed by the Netherlands authorities and the office of the Netherlands Police and the Public Prosecutor. Further, telephone numbers were provided. Unfortunately, these telephone numbers did not provide any material evidence.

Mr. Temporary Deputy Speaker, I have set out in my answer all the telephone numbers that were received by our officers in the Netherlands and I do not think it would be necessary for me to read them as the hon. Member has a copy of my answer.

- (c) The Kenyan team constituted of the following:

1. Mr. Keriako Tobiko – DPP
2. Mr. John Oriri Onyango – Deputy Chief State Counsel
3. Mrs. Jane Okado – Government Chemist
4. Mr. Habel Omondi – Government Chemist
5. Mr. Paul Kangethe – Government Analyst
6. Mr. Matthew Iteere – Commandant of the GSU at that point in time
7. Mr. David Kimaiyo – Representative of the Commissioner of Police
8. Mr. Gideon Kimilu – Representative of the CID
9. Mr. Justus Irungu – Representative of the Anti-Narcotics Unit.

The UNODC team constituted of Mr. Carsten Hytell – Regional Representative.

The United Kingdom team consisted of:-

1. Mr. Mark Notton who was then the British High Commissioner.
2. Mr. Mark Harding – UK Drug Liaison Officer
3. Mr. Kit Townsend – British High Commission
4. Mr. Gordon Adam – UK Liaison Office here in Nairobi
5. Mr. William Folkard – UK Forensic Science Services (FSS).

From the United States of America there was:

1. Mr. Michael Fitzpatrick – Political Counselor
2. Mr. Jeff Culver – Regional Security Law Enforcement Officer
3. Ms. Jennifer Barnes – Information Office
4. Mr. John Bestor – Federal Bureau of Investigations (FBI)
5. Mr. James Keya – US Department of Justice.

Mr. Temporary Deputy Speaker, Sir, I have submitted this answer to your Clerk.

Mr. Mwau: Mr. Temporary Deputy Speaker, Sir, I take this opportunity to thank the hon. Attorney-General for his extremely comprehensive and honest answer because in the past there has been more or less a conspiracy to conceal the truth relating to this matter. However, could he confirm where the approximate 1.14 tonnes of cocaine was seized from and by whom? Could he also inform the House whether there was any exit memo form which was sent by the police in respect of the seizure to the Government Chemist to provide a copy? Could he also confirm why the extradition from the Netherlands of the suspects has failed? Could he also inform the House whether the names of those suspects relating to 1.14 tonnes of cocaine include any names of any sitting hon. Members of this House?

Finally, could he confirm whether Gideon Kimilu, Chief Inspector Njeru and Dominic Muriithi Mate brought any cocaine from Netherlands?

Prof. Muigai: Mr. Temporary Deputy Speaker, Sir, I will have to crave your indulgence because as hon. Members are aware, the Attorney-General is no longer personally responsible for this docket and, therefore, I am not able to answer on my feet the other supplementary questions that have been asked. What I can do with your permission is to refer them back to the DPP and have further answers in a week's time.

Ms. Karua: On a point of order, Mr. Temporary Deputy Speaker, Sir. You have heard the Attorney-General's request. Perhaps with your permission then, if he is going to seek for answers, then we as hon. Members can raise further points to which he can seek further clarifications and bring a comprehensive answer. If you allow me, then I would proceed and add on the list of the things he would check.

The Temporary Deputy Speaker (Mr. Ethuro): Hon. Members, I am still contemplating whether to allow him or not because when a Question is brought to Parliament, the Minister is

expected to anticipate some of the supplementary questions that would be asked. This is a matter that is definitely in the public domain. I expected the Attorney-General of the Republic of Kenya to have expected certain supplementary questions, particularly the one as to whether any Members of the National Assembly are part of those mentioned in that report or not. So, I thought I was going to get more guidance from hon. Members before I give direction.

Dr. Khalwale: On a point of order, Mr. Temporary Deputy Speaker, Sir. Besides being our good Attorney-General, Prof. Muigai has been a Member of this House for the last one year or so. He knows that the practice here is that a Minister must come when he is prepared to take the original Questions and supplementary questions. To allow him to get away with it is not right. It means that he is trying to keep a safe distance away from this very sensitive matter. We expect him to know that he is in a hot seat, where he is supposed to serve on simple matters and complicated matters like the one before the House.

I beg that you find him out of order, so that you allow me to ask my supplementary question, which is equally hot.

The Minister for Medical Services (Prof. Anyang'-Nyong'o): Mr. Temporary Deputy Speaker, Sir, the hon. Attorney-General has said quite clearly that there are now two important offices dealing with such matters. One of them is the Office of the Director of Public Prosecutions, which is a new office that came into being with the adoption of the new Constitution. So, it will be unfair to expect the Attorney-General to trade in another province that is not his. He is being quite honest that if the question relates to another office in Government, there should be proper consultations in Government before he brings an answer to that question.

We have received a very responsible response from the Attorney-General's part. I do not think hon. Members would be fair to, first, shut themselves away from the provisions of the Constitution and, secondly, to refuse to have a competent answer after proper consultations in Government, so that the end result of getting a good answer is met. So, I do not think this guerrilla tactic would help either the hon. Members or the Attorney-General.

Mr. Kabogo: Mr. Temporary Deputy Speaker, Sir, cognizant of the fact that the Director of Public Prosecutions does not, and will never sit in this House, is it not important for the Chair to give directions on how issues that pertain to questions that are in the docket of the Director of Public Prosecutions will be answered? This matter came before this House about a month ago. During that time, it was a different issue on the role of the Director of Public Prosecutions.

It is important for the Attorney-General, if he is the one who will be taking questions that relate to that docket, to understand like any other Minister, that we expect him to answer the substantive Questions raised and the supplementary questions thereof. So, I am seeking the direction of the Chair as relates to matters that appertain to the docket of the Director of Public Prosecutions, knowing that the Director of Public Prosecutions does not sit in this House.

The Temporary Deputy Speaker (Mr. Ethuro): Do you have any response, the hon. Attorney-General?

The Attorney-General (Prof. Muigai): Mr. Temporary Deputy Speaker, Sir, I thought that I would receive a congratulatory speech from my very good friend, hon. (Dr.) Bonny Khalwale, who has repeatedly said in this House that not enough Questions are being answered by Ministers on time. I have given an answer which even the Questioner himself admitted was detailed and informed, and that it was useful to him as an answer.

The Temporary Deputy Speaker (Mr. Ethuro): The hon. Attorney-General, we do appreciate that answer. My problem, as the Chair, is basically on what hon. Kabogo has raised. Does it mean that every time hon. Members ask questions pertaining to officers who cannot

come to this House to answer, the Ministers who represent those officers here have to ask for more time to go and find out the same information or should there be anticipation on the part of those responsible Ministers, that certain questions relating to particular matters would inevitably come up? Those Ministers should seek as much information as possible so that we minimise the deferrals.

The Attorney-General (Prof. Muigai): Mr. Temporary Deputy Speaker, Sir, I thank you. As you know, and as hon. Members know, I have answered several Questions on behalf of the Director of Public Prosecutions. I have never sought to go back to him for further clarifications but, as you know, this is a very sensitive and complicated matter so much so that the question that was finally put to me by hon. Mwau was whether or not there are names of Members of Parliament in that report.

What the Director of Public Prosecutions gave me were names of the suspects who were being investigated. There was no way either I or the Director of Public Prosecutions would have anticipated that this House would want to know whether any of its Members was mentioned in that report in any form. So, I have to refer this Question back to the Director of Public Prosecutions, so that I can bring an answer that hon. Members will find useful for further deliberation.

The Temporary Deputy Speaker (Mr. Ethuro): That is fair enough, the hon. Attorney-General. If you look at part “c” of the Question, you will appreciate that among the information sought is the names of the suspects who were to be extradited to face charges in Kenya. Therefore, I will rule in the manner that hon. Martha Karua requested. You will take more supplementary questions on this matter and come back on Tuesday with a more comprehensive answer.

I hope that, being the Attorney-General of the Republic of Kenya and a professor of law, you would be in a position to discuss with the Director of Public Prosecutions even things that may not be that visible at this particular moment. Next time we may not grant you such a chance. This is a rare opportunity we are granting you for now.

Mr. Kabogo: On a point of order, Mr. Temporary Deputy Speaker, Sir. When Ministers bring issues to the House, they bring along their technical staff, who sit on the Civil Servants’ Benches. So, on the issue I had raised, I am of the opinion that we accord the Attorney-General the same privilege, so that he can have officers from the Office of the Director of Public Prosecutions seated there to help him when he comes back to answer these questions.

The Temporary Deputy Speaker (Mr. Ethuro): That is usually left to the discretion of Ministers, and the Attorney-General has heard you. So, let us proceed and have clarifications sought from the Attorney-General on this matter, starting with hon. Martha Karua, who will be followed by hon. Mbadia and hon. Khalwale.

Ms. Karua: Mr. Temporary Deputy Speaker, Sir, the purpose of investigation is to find out the truth. Even if that truth clears the suspect, it must point out who is responsible. Since this matter came up, a lot of information has come to the public domain, including the murder of a police officer, namely, Mr. Chemorei. He was murdered in connection with this drug heist. Could the Attorney-General find out if investigations have been re-opened? Names of people in high places, some of whom have worked in the highest office on the land, have also come up. Have investigations been re-opened? If he will be coming to tell us that these are not the persons responsible, he should also let us know who the people responsible are because investigations must be for reasonable conclusion of a matter, to tell us the truth. Who was behind this?

Mr. Mbadi: Mr. Temporary Deputy Speaker, Sir, I admit that matters of drugs are very sensitive. Probably, the Government needs to engage the services of *Kenya Television Network* staff that produce the *Jicho Pevu* investigative programme in order for them to unravel the mysteries behind drug trafficking in this country. That is what we see in *Jicho Pevu*.

Having said so, in the Attorney-General's answer, we have seen a number of telephone numbers that have been listed. The answer then goes ahead to say that you cannot get those suspects because the telephone numbers were not registered. I thought that the investigative capacity of the Government can unravel the mystery behind this issue. There are numerous telephone numbers. Could the Attorney-General explain to us why our investigative capacity cannot enable us to know who were using those telephone lines and whom they were calling, so that we can know the persons responsible for these acts?

Dr. Khalwale: Mr. Temporary Deputy Speaker, Sir, 1.14 tonnes of cocaine is worth billions of shillings. The Attorney-General has informed us, and we are happy to hear that teams from Kenya, United Kingdom and the United States of America were on site when this drug haul was being destroyed. Could he come with evidence to this House demonstrating that since this cocaine was packed in little sachets, sampling was done randomly to prove that what was being destroyed was actually cocaine and not *Unga Ngano*, *Unga Ugali*, *Unga Muhogo* or chalk?

The Temporary Deputy Speaker (Mr. Ethuro): Hon. Members, I see two more hon. Members are interested. We will finalize with them.

Yes, Mr. Kabogo!

Mr. Kabogo: Thank you, Mr. Temporary Deputy Speaker, Sir. It is in public domain that a Minister of State stood on the Floor of this House and mentioned names of Members of Parliament, and I was one of those hon. Members. Without moving a substantive Motion he thereafter came, sat in this House and gave an answer to the effect that we were exonerated.

The Temporary Deputy Speaker (Mr. Ethuro): Mr. Kabogo, you used the words "he named you and did not discuss you". It is only when we discuss that a substantive Motion has to be moved.

Mr. Kabogo: That is fine, Mr. Temporary Deputy Speaker, Sir. The Minister then brought a report to this House and said that we were not involved and that we were cleared. This is the case and yet we could see for the last four days the national TV, KTN run a programme called *Jicho Pevu* that talk about nothing else but this drug haul worth Kshs1.4 billion. It shows names and pictures, audio and video of high Government officers saying that drug dealing is done by the Government. It is there on part one of *Jicho Pevu*. This is in public domain. So, this is really a matter of national importance because our children are dying because of drugs.

An hon. Member: Oh, yes!

Mr. Kabogo: So, it is important for the Attorney-General to bring a comprehensive report. As hon. Karua has said, we want him to go to the bottom of this matter and tell the Kenyan public who are the drugs lords in this country---

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

Mr. Kabogo: They should be brought to book!

The Temporary Deputy Speaker (Mr. Ethuro): Order, Mr. Kabogo! I do not have to stand up for you to hear me. I said "order" and that should have been sufficient reason for you to allow me to communicate to you. We are not making contributions to a Motion. It is Question Time. We will ask specific questions that we expect the Attorney-General to come up with answers next time.

Mrs. Shebesh, I hope you will do better than Mr. Kabogo.

Mrs. Shebesh: Yes, I will, Mr. Temporary Deputy Speaker, Sir.

Could the Attorney-General, as he goes to consult the Deputy Public Prosecutor, tell us how he will deal with one Mr. Itere who was then in charge of the General Service Unit (GSU) under whose command a police officer was killed; under whose command the whole fiasco that is looking very fishy happened and he is currently our Commissioner of Police? How do we deal with his implication in this issue and the fact that he is currently the Commissioner of Police? I hope the answer will be that he would have stepped down by then.

The Temporary Deputy Speaker (Mr. Ethuro): The Attorney-General, the last one is from the Member who brought the Question, hon. Mwau. The hon. Member for Kilome, I had indulged you with very many questions. I hope you will ask one to conclude.

Mr. Mwau: Mr. Temporary Deputy Speaker, Sir, I am just concluding.

As the Attorney-General goes to look for this information, it is important for him specifically to clarify where the 1.14 tonnes of cocaine was seized from. This is because we have foreign governments which are saying 1.14 tonnes of cocaine was seized somewhere in Athi River and you have other arms of the Government saying that 1.14 tonnes of cocaine was seized in Malindi and Embakasi. It is very important that this clarification is made.

Secondly, it is important that the Attorney-General has disclosed that this was a joint investigation both by the CID, the Netherlands investigators, the American investigators, the British investigators and the United Nations investigators. It is important that a copy of that report is tabled before this House.

The Attorney-General (Prof. Muigai): Mr. Temporary Deputy Speaker, Sir, I thank hon. Members for their questions. I will go back to my colleague, the DPP and request him to substantiate on the report he has offered. Knowing him and his energy for his job, he will be more than willing to do that. So, we will try to bring back a report as soon as is practically possible.

The Temporary Deputy Speaker (Mr. Ethuro): Order, Mr. Attorney-General! We can allow you many things but not “as soon as is practically possible”. When do you think you will get the report? We must give you a date.

The Attorney-General (Prof. Muigai): May I request two weeks?

The Temporary Deputy Speaker (Mr. Ethuro): That is fine with the House.

The Attorney-General (Prof. Muigai): Thank you, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Ethuro): So, in two weeks’ time the Question will appear on the Order Paper.

Hon. Members, it is the end of Question Time. We have three Questions that were not asked. These are Question No.1352 by the Member for Rarieda; Question No.1390 by the Member for Naivasha and Question No.1387 by the Member for Wundanyi. These Members are engaged in the Budget Report writing and so they could not be available in the House this afternoon. The Questions will be deferred to Tuesday, next week. So, the Ministers who are supposed to respond to these Questions please take note that it is not because of some private reasons that the hon. Members could not come to the House. This is because of parliamentary work.

Question No.1352

PRESENTATION OF CELLULAR MOBILE
PERFORMANCE ASSESSMENT REPORT

(Question deferred)

Question No.1390

COMPENSATION FOR ACCIDENT VICTIMS

(Question deferred)

Question No.1387

PROJECTS UNDERTAKEN BY KWS IN
WUNDANYI CONSTITUENCY

(Question deferred)

We move to the next Order.

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

[Mr. Speaker took the Chair]

MINISTERIAL STATEMENTS

THE ASSANANDS HOUSE BLAST

The Minister for Medical Services (Prof. Anyang' -Nyong'o): Mr. Speaker, Sir, I would like to make the following Statement with regard to the Assanands House blast yesterday on Moi Avenue and what the Kenyatta National Hospital has done since then to help our people.

Mr. Speaker, Sir, following the blast that occurred at Assanands House along Moi Avenue on Monday, 28th May, the year of our Lord, 2012, Kenyatta National Hospital received a total of 28 casualties. Twenty three of them were treated for soft tissue injuries and discharged. Five are currently admitted at the Kenyatta National Hospital. Among those who have been admitted, two suffered 80 per cent degree burns and are currently in the Intensive Care Unit at the hospital. They are in critical but stable conditions.

I wish to thank the Kenyatta National Hospital management and team for responding fast to the incident and for their efforts in stabilizing and managing the patients. We need to appreciate the very exemplary services that our health professionals give our people especially at such critical moments when we face the painful consequences of such major disasters.

Mr. Speaker, Sir, since the Sinai fire incident in September, 2011, Kenyatta National Hospital (KNH) has attended to ten disasters with 371 victims and a total number of 900 accident victims. We have so far lost 47 people as a result of the ten disasters. The Government needs to increase its funding to the hospital to be able to effectively handle these disasters considering it is the largest referral hospital not only in the country but also in the East African region. I hope that

we, as a Ministry, shall not continue making this appeal infinitum. I beg this House to respond to our call with the agency it deserves.

Thank you.

Mr. Speaker: Yes, Member for Belgut. Minister, you may want to take notes because there may be more than one Member interested.

Mr. Keter: Mr. Speaker, Sir, for the first time I wish to thank the Minister for being active. It shows that he is no longer sleeping. He is now very active. I wish to thank him for coming up with this Statement.

I wish to know from the Minister what plans he has, so that the KNH and other public hospitals are well equipped with the necessary equipment and blood banks. Today, I heard an appeal on the radio by the KNH for people to go and donate blood. What plans do you have, so that we do not get all these things through the radio or the media?

Mr. Chanzu: Mr. Speaker, Sir, I also want to thank the Minister for being proactive on this matter. However, I thought this matter was larger than what the Minister is trying to address. Since he is a Government Minister, I would like to hear from him on what the Government is doing. Yesterday, immediately this happened the Prime Minister was at the scene. The Deputy Prime Minister was also there. They were talking about what we have always been saying when something like this has happened; we have always said that we would make sure it did not happen again, yet it has kept on happening. I want to know what the Government is doing to ensure that these kinds of happenings are detected early enough, and there is enough surveillance in public places like where it happened yesterday, so that we can avoid looking for money to treat people.

Mr. Njuguna: Mr. Speaker, Sir, I appreciate the very immediate Statement issued by the Minister; is the Minister issuing a red card through this hon. House to the effect that the resources at KNH could have been overstretched? Could he also confirm whether the bodies of the 47 Kenyans who perished at the hospital have been released to their families for final resting place? The KNH is known for retaining bodies.

Mr. Speaker: Member for Turkana Central.

Mr. Ethuro: Mr. Speaker, Sir, I want the Minister to go beyond the issue of Kenyatta National Hospital (KNH) because these incidents have happened in other areas such as Mombasa and Garissa. There is a possibility they could happen elsewhere. The issue the Minister should be addressing is to give a comprehensive state of preparedness in the entire country in terms of provincial hospitals in Garissa, Lodwar, Eldoret, Kisumu and the Kenyatta National Hospital (KNH), so that if an incident happens anywhere in the country, we are prepared at any one point.

Mr. Mwau: Mr. Speaker, Sir, I thank the hon. Minister for his wise Statement. It is important for us to notice that when the incident happened there was no Government ambulance at the site. The ambulances which were giving first aid belonged to the Red Cross and other private institutions. What is the Minister doing to ensure that the Government has its ambulances available and ready to assist in such situations throughout the country?

Mr. George Nyamweya: Mr. Speaker, Sir, earlier on when Kenya went to Somalia, I believe we were all aware that, indeed, there were going to be challenges to the country. We would like to understand from the Minister and the Government what preparation they have made regarding how to deal with these sort of activities.

You saw a huge crowd of people congregated at the scene of this incident without any form--- Other countries would take you through mock exercises, actually prepare and make sure you know what you should do when something happens. Countries like the United States of

America (USA) even prepare for nuclear fallouts. They prepare their citizens on how to react. All we are doing is just show up and express sympathy. Can we go further than that? If it is money you are saying is a challenge, I think it is important to put it in a disaster fund or special contingences fund, so that the country has a comprehensive programme on how to deal with emergencies, disasters and all these things instead of just being reactionary.

Mr. Speaker: Minister, you may respond to those.

The Minister for Medical Services (Prof. Anyang' -Nyong'o): Mr. Speaker, Sir, let me thank the Members of Parliament for raising extremely relevant and important questions. I will do my best to respond to them.

First, to my dear friend, Mr. Keter Charles, the Americans say "Chark, I am never asleep on my job". I know the hours for sleep to sleep and I choose them wisely. I will tell you that I will always respond with speed when duty calls.

Having said that, I will say again that - my sister here will bear me witness - the Ministry of Health as a whole during those many years of Nyayo rule was very under-funded. We have inherited a long history of under-equipping, under-funding and low human resource. To catch up will take time. We would have wished to catch up since the NARC Government came to power, and a lot has been done since then. We are on the road to recovery. We have, therefore, done a baseline survey of all our needs. I have said it, and will say it again, that we cannot run away from it. Over the next three years, if, indeed, we have to respond to the demands of Article 43 of the Constitution, the Kenyan Government must be prepared to pump at least Kshs83 billion into the Ministry of Medical Services before even touching the Ministry of Public Health and Sanitation. Health is a basic need of all Kenyans and we must put our money where our mouth is.

Secondly, regarding blood donation, ever since the onset of HIV/AIDS volunteers for blood donation went down considerably. This is because people who could volunteer somehow feared knowing their status. However, that is improving. Therefore, the Government depends very much, for up to 90 per cent of blood donation, on school children. This is because they are the ones who are brave enough and clean enough to give blood. So, whenever we have such disasters we will always make these appeals. We cannot run away from them because the disasters come when we are not expecting them; as much as the Government can keep a lot of blood in our blood bank, given the onset of non-communicable diseases, which often require a lot of blood donation, the demand for blood in this nation is extremely high. Given that, I want to be very honest and say that whenever we have such disasters appeals will always go out for more blood to be donated given the state of affairs in our nation.

Mr. Speaker, Sir, the second question from my friend, Mr. Chanzu, the matter is, indeed, bigger than the Ministry of Medical Services. The matter is directed to the Government. We need to have proper surveillance in our cities and elsewhere, so that we can detect danger when it is near. For that matter, the City of Nairobi has a programme of putting surveillance lights, or very complicated equipment, to be able to see what is happening in the City. I think it is called the closed circuit television (CCTV). That is being expended in the City to all corners, so that we can be prepared much better.

Having said that, at least it is important with regard to being in a state of preparedness that we become our own policemen; public education should be mounted on television and radio about disaster preparedness.

I think, maybe, I should request the Speaker that I give a Ministerial Statement on a comprehensive state of preparedness after consulting the Government, so that we can discuss the

issue of disaster preparedness comprehensively, rather than deal with it piece meal as, indeed, this House will not be prepared to accept that.

Mr. Speaker, Sir, therefore, given the frequency by which we get disasters in Kenya in general, indeed, we need to set up a substantial fund for disaster management in this country, particularly for health care delivery after disasters. So that is something that I think we should discuss in Government and bring before the House so that we approach this issue in a holistic manner. In that matter, I think I have responded to my dear friend Mr. Ethuro who asked for that Statement from me.

It is, indeed, a catch 22 situation for the KNH. When the KNH delivers health care service to somebody, they are expected to pay a certain amount because the KNH is highly subsidized. When you fail to pay that amount, it does not go away; you are still responsible for paying it. When you are deceased, the amount still does not go away; somebody must pay it. How do we deal with this catch 22 situation? I have said it in this House and I will say it again that there is no other way of dealing with this catch 22 situation until we establish a comprehensive social health insurance scheme. We could have done it more than two years ago but we were taken to court by Central Organization of Trade Unions (COTU). We won the case in the Industrial Court. We again won a case recently in the High Court but we are still being checkmated. I think this House must rise up to its feet and defend the people of Kenya so that we can get this comprehensive social health insurance fund going so that such phenomenon as the KNH or any other hospital detaining either patients or bodies can stop. But before we get a fund that can be used for financing health care beyond budgetary allocations, please, there is no other way of doing it. The bodies will continue to be detained because services must be paid for. There is nothing for nothing in this day and age. Therefore, this House must fight with us in the Ministries of Health to establish a comprehensive social health insurance which is the only way of dealing with this problem.

Mr. Speaker, Sir, there is another issue that was raised by my friend Mr. Mwau regarding ambulances. We, in the Ministry, have recognized the issue and the importance of pooling our resources in the public and private sector to provide what we call a national ambulatory and emergency service, whereby all private and public ambulances will be governed by a GPS system and whenever there is a need for ambulance, we shall dial a number and the ambulance will be provided and that ambulance will be remunerated according to the service it gives, whether it is from the private sector or the public sector. That Cabinet Memo is ready to go to the Cabinet. We delayed it because of the work on health sector laws and we needed to include that concept in the new health sector laws. The Bill is ready, it will go to the Cabinet, come to the House and the national ambulatory and emergency services Bill or Cabinet Memo will also go along with that Bill to the Cabinet and when we pass it, the phenomenon that Mr. Mwau raises today will, indeed, have been incorporated in our national system of national ambulatory and emergency system or services.

Finally, my friend, Mr. George Nyamweya talked about preparedness of Kenyans to deal with disasters. I think I would like to request Mr. George Nyamweya to allow me to deal with this issue when we issue a Statement in this House on the comprehensive state of preparedness or national preparedness for disasters and then we can come up with a programme in the Government for public awareness and public education about disasters. This is because what happened yesterday will continue to happen unless our people know how to behave when disasters occur. You know, for example, when there was a bomb blast at the American Embassy I think in 1998, people who went there to see ended up being victims. Therefore, I think our

people should be told that when there are such things, you are safer the further you are from the scene of disaster. Rather than come nearer the scene of disaster, run away as much as possible, lie on your tummy as soon as you can get your breath and wait for the rest to quieten down before you are told what is next.

Thank you.

Mr. Speaker: The Chair of the Joint Committee, you have a Statement? Mr. Mutava!

STATUS OF FORENSIC AUDIT ON DEMOLITIONS
AND EVICTIONS IN NAIROBI

Mr. Mutava: Mr. Speaker, Sir, I speak, as you indeed mentioned, as the Chairman of the Joint Committee on the demolitions and evictions at Kyangombe, the KPA Maasai Village, Mitumba Village and Eastleigh in Nairobi on the status of the forensic audit in respect of the demolitions and evictions that took place.

This House may recall that on Wednesday, 7th December, 2011 and 14th December, 2011 a report on the demolitions and evictions at Kyangombe, the KPA Maasai and Mitumba villages and Eastleigh in Nairobi was tabled and adopted respectively, with recommendations. Specifically, the House recommended that a forensic audit be undertaken by a firm in liaison and with the facilitation of the Auditor-General and report back to this House after 60 days from the date of execution of the contract. The forensic audit on Syokimau demolitions and evictions at Kyangombe, KPA Maasai and Mitumba villages and Eastleigh has progressed well since 19th March, 2012 when the contract between the Kenya National Audit Office (KENAO) and the PriceWaterHouseCoopers Ltd was signed. The audit should have been completed and report tabled before the Committee as recommended by 18th May, 2012. However, this has not been possible for the following reasons:-

(i) There was a significant delay in accessing information and documentation from Moi Air Base at Eastleigh. Indeed, the team was only allowed access to the Base on Wednesday, 16th May, 2012.

(ii) Some key institutions and persons are yet to respond to requests for a meeting key among these institutions is the Kenya Airports Authority (KAA).

(iii) Some key information is yet to be received from the various sources, particularly the Ministry of Lands and also the Ministry of State for Defence.

Due to the reasons given, the audit team has requested for an extension of a period of three weeks from 18th May 2012 for the audit team to report by 8th June, 2012. The extension has no financial implications on the part of the Government.

Thank you.

Mr. Speaker: Very well! The extension sought is granted so that the audit team tables the report before the Committee on or before 8th June, 2012.

Are there any other Statements for delivery?

(Prof. Muigai moved to the Dispatch Box)

Attorney-General, do you have a Statement which is your subject area?

The Attorney-General (Prof. Muigai): Mr. Speaker, Sir, I wanted to give notice of something. I do not know whether this would be the appropriate time.

Mr. Speaker: We are not yet there.

The Attorney-General (Prof. Muigai): Mr. Speaker, Sir, we are not there! I am guided.

Mr. Speaker: Yes, we will get there after we conclude Order No.8. Before that is called out, you would then be expected to say your piece after Order No.8.

POINTS OF ORDER

EXPLOSION AT ASSANANDS HOUSE

Mrs. Shebesh: Mr. Speaker, Sir, I rise to seek a Ministerial Statement from the Minister of State for Provincial Administration and Internal Security on the explosion at the Assanands House along Moi Avenue in Nairobi on 28th May, 2012. In the Statement, the Minister should:-

(i) State the cause of the explosion in view of the conflicting information by various arms of Government on the same.

(ii) State how many people were injured in the incident and the total loss incurred by the business people affected.

(iii) Confirm that the Government will meet the hospital bills for the casualties and compensate the people whose businesses were affected.

Mr. Speaker: Mr. Wamalwa, that may be closer to you so that you can hold brief for your colleague. It is to the Ministry of State for Provincial Administration and Internal Security, but there are elements of justice.

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. Wamalwa): Mr. Speaker, Sir, I will have the Minister deliver this Statement by Tuesday. We can just give him Thursday to prepare and then he can deliver it on Tuesday.

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

INSECURITY IN UASIN GISHU AND TRANS NZOIA COUNTIES

Mr. Kutuny: Mr. Speaker, Sir, I rise to seek a Ministerial Statement from the Minister of State for Provincial Administration and Internal Security and in charge of County Commissioners. In the Statement, he should explain the following:-

(i) What has led to the increased state of insecurity in Uasin Gishu and Trans Nzoia counties? He should state what circumstances led to the recent killing of Moi University lecturer, Mr. Jetto Tuma Ambrose and the latest killing that happened in the last two days of a prominent businessman, Mr. William Cheruiyot.

(ii) He should also provide a list of persons killed in Uasin Gishu and Trans Nzoia counties in the past four months.

(ii) He should state the number of the suspects arrested and arraigned in court.

(iii) He should also indicate the preparedness by the security apparatus to forestall attacks in these counties considering that this is the campaign period is ahead of the next general election.

Mr. Speaker: Minister for Justice, National Cohesion and Constitutional Affairs, you can still hold brief for Prof. Saitoti.

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. Wamalwa): Mr. Speaker, Sir, I will relay that request to hon. Saitoti and perhaps ask him to deliver it by Thursday next week.

Mr. Speaker: Fair enough. It is so directed. Member for Cherangany, please, note, Thursday next week. That brings us to the end of Order No.7. Next Order!

COMMITTEE OF THE WHOLE HOUSE

(Order for Committee read)

[Mr. Speaker left the Chair]

IN THE COMMITTEE

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

The Temporary Deputy Chairman (Mr. Ethuro): Order Members! We are in the Committee of the whole House and we will be considering two Bills, namely, The Partnership Bill, Bill No.26 of 2010 and then The Judicature (Amendment) Bill, Bill No.60 of 2011. We will start with The Partnership Bill.

THE PARTNERSHIP BILL

*(Clauses 2, 3, 4, 5, 6, 7,
8, 9 and 10 agreed to)*

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

*(Clauses 21, 22, 23, 24, 25, 26, 27,
28, 29 and 30 agreed to)*

*(Clauses 31, 32, 33, 34, 35, 36, 37,
38, 39 and 40 agreed to)*

*(Clauses 41, 42, 43, 44, 45, 46, 47,
48, 49 and 50 agreed to)*

*(Clauses 51, 52, 53, 54, 55, 56, 57,
58, 59 and 60 agreed to)*

*(Clauses 61, 62, 63, 64, 65, 66, 67,
68, 69 and 70 agreed to)*

*(Clauses 71, 72, 73, 74, 75, 76, 77,
78 and 79 agreed to)*

(First Schedule agreed to)

(Second Schedule agreed to)

(Third Schedule agreed to)

(Fourth Schedule agreed to)

(Fifth Schedule agreed to)

(Title agreed to)

(Clause 1 agreed to)

The Attorney-General (Prof. Muigai): Mr. Temporary Deputy Chairman, Sir, I beg to move that the Committee doth report to the House its consideration of the Partnership Bill, Bill No.26 of 2010 and its approval thereof without amendments.

The Minister of State for Public Service (Mr. Otieno) seconded.

(Question proposed)

(Question put and agreed to)

The Temporary Deputy Chairman (Mr. Ethuro): Order, hon. Members. We, therefore, move to the next Bill in the Committee of the Whole House. It is the Judicature (Amendment) Bill, Bill No.60 of 2011.

(Clauses 2, 3 and 4 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 Judicature (Amendment) Bill, Bill No.60 of 2011 and its approval thereof without amendments.

The Minister of State for Public Service (Mr. Otieno) seconded.

(Question proposed)

(Question put and agreed to)

(The House resumed)

[Mr. Speaker in the Chair]

REPORTS AND THIRD READINGS

THE PARTNERSHIP BILL

Mr. Ethuro: Mr. Speaker, Sir, I beg to report that a Committee of the whole House has considered the Partnership Bill and approved the same without amendments.

The Attorney-General (Prof. Muigai): Mr. Speaker, Sir, I beg to move that the House doth agree with the Committee in the said Report.

The Minister of State for Public Service (Mr. Otieno) seconded.

(Question proposed)

(Question put and agreed to)

The Attorney-General (Prof. Muigai): Mr. Speaker, Sir, I beg to move that the Partnership Bill, Bill No.26 of 2010 be now read a Third Time.

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. Wamalwa) seconded.

(Question proposed)

Mr. Njuguna: Mr. Speaker, Sir, I take this opportunity to thank the Attorney General for the manner in which he has moved his first Constitutional Bill in this House. This is a good spirit and the Attorney General is urged to maintain and re-double his efforts.

(Question put and agreed to)

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

THE JUDICATURE (AMENDMENT) BILL

Mr. Ethuro: Mr. Speaker, Sir, I beg to report that a Committee of the whole House has considered the Judicature (Amendment) Bill, Bill No.60 of 2011, and approved the same without amendments.

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

The Attorney General (Prof. Muigai) seconded.

(Question proposed)

(Question put and agreed to)

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. Wamalwa): Mr. Speaker, Sir, I beg to move that the Judicature (Amendment) Bill, Bill No.60 of 2011 be now read a Third Time.

The Attorney-General (Prof. Muigai) seconded.

(Question proposed)

Mr. Ethuro: Mr. Speaker, Sir, I also want to thank the Minister for Justice, National Cohesion and Constitutional Affairs for bringing this amendment to increase the number of judges. I hope it will accelerate the wheels of justice so that the normal dictum of them being too slow can now find a new meaning of being accelerated.

Mr. Njuguna: Mr. Speaker, Sir, I also wish to thank the Minister for a job well done. I would like to remind the Minister that the former Minister for Justice, National Cohesion and Constitutional Affairs approved the construction of a law court in Lari Constituency. Therefore, it is important that, that commitment is fulfilled by the new Minister.

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. Wamalwa): Mr. Speaker, Sir, I just wish to thank the Members for supporting this very important Bill.

Mr. Speaker, Sir, as you are aware, the laws that were passed to provide for vetting of judges and magistrates have taken effect. The Board of Chairman Rao has already vetted the Court of Appeal judges. Out of the nine judges, four judges went home. They are now moving to the High Court, where they are going to vet 44 judges. If we have a similar number of casualties, we are going to have a serious shortage of judges. This amendment will allow us now to add a number of Court of Appeal judges up to 30, and High Court judges up to 150. I want to thank Members for this timely amendment to allow us clear the backlog of cases.

Thank you very much.

Mr. Speaker: Minister, congratulations are in order for you. This is your first Bill. Well done.

(Question put and agreed to)

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

BILL

Second Reading

THE STATUTE LAW (MISCELLANEOUS AMENDMENTS) BILL

POINT OF ORDER

NOTIFICATION OF INTENT TO WITHDRAW SECTIONS
OF THE STATUTE LAW (MISCELLANEOUS AMENDMENTS)
BILL AT THE COMMITTEE STAGE

The Attorney-General (Prof. Muigai): Mr. Speaker, Sir, with your permission, I wish to give notice to the House that following extensive consultations with hon. Members, including the Right Hon. Prime Minister, and several constitutional Commissions; and upon further internal consultations within the State Law Office, I wish to notify the House that I will not be moving part of the Statute Law (Miscellaneous Amendments) Bill, 2012, in the Committee Stage of the House. Those three portions that I want to give notice that I no longer wish to present them are as follows: Section 3 of the Statute Law (Miscellaneous Amendments) Bill, 2012, which seeks to make amendments to the National Assembly Remuneration Act.

Mr. Speaker, Sir, I will also not be seeking to move the Schedule attached thereto. This Schedule contains amendments to the Finance Act, 2012. Over the page, I shall not be seeking to move the amendments that were earlier proposed to the National Assembly Remuneration Act, Cap. 5 in the First Schedule, Part 2. Finally, on page 1106 of the Bill, I shall not be seeking to move the amendment to the Constitutional Offices Remuneration Act, Cap. 423.

Mr. Speaker, Sir, with your permission, I want to clarify a misunderstanding that seems to have been generated around the Statute Law (Miscellaneous Amendments) Bill, 2012. Particularly, I believe that this misunderstanding has been generated in the media for a lack of appreciation of the amendments that had and are sought to be made. This Statute Law (Miscellaneous Amendments) Bill does not deal in any way with the remuneration of hon. Members of Parliament. It does not!

(Applause)

It is very misleading when it is said that the Attorney-General has brought a Bill to increase the remuneration of hon. Members of the National Assembly. It does not do any such thing. What this Bill sought to do in the parts that I have now conceded should be retracted for further consultations, further refinement and, hopefully, to be addressed at a separate time in a separate way, is the remuneration of persons who have served in the Speaker's Panel without any payment for a long period. This includes the Deputy Speaker and hon. Members of the Speaker's Panel. In my judgment, which I have now revised, I thought these were legitimate payments that ought to be made in recognition of the work done by this very important Speaker's Panel.

As this matter has become controversial and as bad faith may have been read into it, when there was none, I now wish to make those clarifications so that we may continue with the body of this Statute Law (Miscellaneous Amendments) Bill, which all of us agree is very important for securing the work that this House has to do.

I, therefore, invite you, Mr. Speaker, Sir, if it pleases you, to direct that we proceed to debate this Bill in such terms as you may deem fit, subject to the clarifications I have made.

I thank you, Mr. Speaker, Sir.

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

Mr. Speaker: Order! Order! Hon. Member for Ikolomani, we had a lot of submissions on this matter. So, what you must do – and I did undertake to give direction today and now I have heard the Attorney-General and the position that he is taking – if you stay away from repeating any submissions that may have been earlier made then, yes, I will allow you.

Hon. Member for Gwasi, please note, similarly, that repetition will not be permitted at the point where we are.

Dr. Khalwale: Thank you, Mr. Speaker, Sir. I will endeavor not to repeat. But should I make that mistake, please, treat me lightly with punishment because I was also writing a report of the Committee.

(Laughter)

Mr. Speaker, Sir, I have no problem with what the Attorney-General has said because you are competent and you are going to make a decision, one way or the other. We shall live with it. But because I am concerned about Standing Orders, maybe as you make that decision, we would like to continue learning and know what difficulty the Attorney-General is finding in allowing the Motion to go on as it is. We should debate the Bill; he has got a whole bloated Government on his side and he can lobby them to support his position; he can also cajole some of us, so that we also join him in supporting his Motion. Should he go using this route –which I find difficult to see in the Standing Orders---

But more importantly, my second point is that if the Attorney-General has found that parts of his Bill are offensive, then you should have made that application at the end of the Second Reading because hon. Members – I being one of them – have also found other areas which are equally offensive and which we would like him not to move in the Third Reading of the Bill.

Mr. Speaker, Sir, so that I do not look like I am not being very practical, I find the intended amendment of the Sexual Offences Bill, for example, should not necessarily be moved. If the Attorney-General has looked at what he is attempting to delete – the Attorney-General was not a Member of the last House and I was – we debated this particular section at length. There was wisdom in ensuring that Section 38 of the Act was there.

Mr. Speaker, Sir, allow me to tell the Attorney-General for him to consider also withdrawing it. Section 38 in the law says:-

“Any person who makes false allegations against another person to the effect that the person has committed an offence under this Act is guilty of an offence and shall be liable to punishment equal to that for the offence complained of.”

Mr. Speaker, Sir, the importance of this was that, also, the people who are suspected and accused of sexual offences, whoever steps forward to make this complaint, should have a case. If you do not protect these kind of people, people knowing that they will not be punished for giving false evidence can run rings around many people, mainly males, and we will wonder where Parliament was when this was being handled.

Mr. Speaker, Sir, the second point I would like the Attorney-General to consider withdrawing---

(Prof. Muigai stood up in his place)

Mr. Speaker: Order! Order, hon. Member for Ikolomani! The Attorney-General has a point of order.

The Attorney-General (Prof. Muigai): Mr. Speaker, Sir, I would seek your guidance here. There are two issues – and I think Dr. Khalwale did well to mention that he was not here during previous debates – about the constitutionality, propriety or legality of sections of the Bill; then there are also issues of merit as to whether the section ought to pass or not. I want to suggest, with respect, that the latter must await the debate of the Bill. Dr. Khalwale and other

hon. Members may say that what has been proposed here is not a good idea, and then the majority will carry it.

What we sought to do with the short presentation I made was to address the question of constitutionality that has stopped the discussion of the entire Bill. This goes to the question of whether or not with a Salaries and Remuneration Commission in place, this House still has the authority to make recommendations as to wages and emoluments without reference to it. We have conceded that it is such a constitutionally significant question that for the time being, we continue to dialogue about it.

Mr. Speaker, Sir, if you could guide us please.

Mr. Speaker: Order! The Member for Ikolomani, I am actually in agreement with the sentiments of the Attorney-General on that one. Can we just restrict ourselves to the constitutionality of whatever clauses the Attorney-General has alluded to and avoid going into the merits of the different sections other than those that the Attorney-General has perhaps mentioned?

Dr. Khalwale: Thank you, Mr. Speaker, Sir.

Mr. Speaker: And be careful that you do not go on a fishing mission.

Dr. Khalwale: Mr. Speaker, Sir, allow me on this one to restrict myself on a constitutional issue. This Bill also attempts to amend the industrial court. Constitutionally, the Constitution has provided that any law that is ratified by this country becomes the law of the land. The International Labour Organization (ILO) Convention No.144 tripartite to consultations for International Labour Standards Convention of 1976 was ratified by Kenya on 6th June, 1990. It provides that if there is an amendment like the one that the Minister wants to make, the three social pillars must be consulted. These are the employee, the employer and the Government.

The Minister, in moving this particular aspect of the law, is offending that provision of the Constitution. Therefore, the Chair needs to guide us. The Chair also needs to guide us on Article 162(2) (a) which envisages the establishment of a special independent court to deal with employment and labour relations. The Industrial Court Act of 2011, which we negotiated until very late at night in this House last year, was enacted to give effect to this constitutional provision. In his amendment, the Minister is attempting to stomp the Industrial Court's independence; Article 165 (5) (b) - jurisdiction of the High Court on matters falling within the purview of the court. I would like to request the Attorney-General to be equally generous to the poor workers of this country whose only recourse is a simple procedure in matters of industrial dispute. They do not use civil procedures or rules.

By making this amendment, what the Attorney-General is now saying is that a simple man in Budalangi---

Mr. Speaker: Order, the Member for Ikolomani! Order, the Member for Sirisia! I have already noticed that the Member for Ikolomani is slipping out of context. I have not heard the Attorney-General move an amendment.

Dr. Khalwale: I am sorry, Mr. Speaker, Sir. What I meant---

The Minister for Trade (Mr. Wetangula): On a point of order, Mr. Speaker, Sir. With tremendous respect to my good friend, hon. Bonny, he is actually debating the merits of the Bill because we have not reached there yet. He will convince us on the points he is canvassing and we can very well vote against them at the Committee Stage.

Mr. Speaker, Sir, the issues that the Attorney-General raised and, you rightly pointed out, are far from what our good colleague is canvassing and I think it is unhelpful in the process.

Mr. Speaker: He was just about to conclude and that is why I was bearing with him.

Dr. Khalwale: Thank you, Mr. Speaker, Sir. In conclusion, if hon. Wetangula, who is lawyer may listen to me because I am not a lawyer, I am saying that it is because of constitutional implications that the Attorney-General has made that wise decision to remove this from the Third Stage. I am appealing to the Chair that the Attorney-General treats the same amendment in this Bill that again offends sections 165 and 162 so that, again, he does not touch the Industrial Court issue and, instead, allow it to be treated the way the Constitution provides.

Mr. Speaker, Sir, could you look at it and make a ruling?

Mr. Speaker: To that extent, of course, the Member for Ikolomani you make a legitimate point.

Yes, the Member for Gwassi!

Mr. Mbadi: Thank you, Mr. Speaker, Sir. I will just highlight one issue because the others will be debating the Statute Law (Miscellaneous Amendment) Bill.

First of all, let me thank the Attorney-General for taking the step that he has taken. I must admit that I am one of the people who have consulted with the Attorney-General and he has put across exactly what he told me, that he would like to withdraw those sections that are considered by a good number of us as being unconstitutional.

However, there is one provision in this Bill that I thought would also be unconstitutional and I wanted to get the reaction of the Attorney-General on what he would do with this because it was not one of the sections that he mentioned. This is Section 112 on page 1141 which touches on the Election Act. He is remembering and inserting a new sub section which is Subsection (b) which says:-

“any election held before the first elections for Parliament under the Constitution shall be held in accordance with the provisions of the former Constitution and the law applicable under that Constitution pursuant to section 3(2) of the Sixth Schedule to the Constitution.”

To me, this is, trying through a legislation in this House, to bring back a Constitution that has already been repealed by the current Constitution. I cannot understand how we can go ahead and do that. The effect of that, in my understanding, would be to suspend the provisions of the current Constitution regarding elections until the next general Election and I do not understand why we should do that because this would include suspending Chapter 6 of the Constitution on leadership and integrity, and that chapter to me, is very critical now. This is because anybody seeking an elective post needs to be guided by that Chapter. So, I cannot understand why this became necessary. If it is necessary, will it not contradict the Constitution?

Finally, the Minister has mentioned the section that is likely to be suspended or removed from the Bill before it goes into the Committee Stage. I wanted to get a reaction from the Minister regarding the Finance Act where a section of this country and a significant one feels that we made provisions in that Act which are unconstitutional. If he has accepted that this particular section which touches on the National Assembly Remunerations Act and the Finance Act is unconstitutional, then the Finance Act, as we have it today is definitely unconstitutional. I would like to get the reaction of the Attorney-General on that.

Mr. Speaker: Interesting!

Yes, the Member for Turkana Central!

Mr. Ethuro: Mr. Speaker, Sir, first, I would like to thank the Attorney-General for acceding to the demands of some sections of this House. However, the Attorney-General must also appreciate that some of the amendments that he has removed now were also trying to address some problems – “historical injustices” in his own words.

I have a responsibility to confirm that I am one of those ones who have been taken to court for performing my duty in this House and in this institution. The purpose of some of those provisions was actually to enhance the Office of the Speaker as one branch of the Government of the Republic of Kenya. While I agree with his desire to do what he wants to do, given the fact that hon. Mbadi has been hunting him like a rabbit, he should also take into account that historical injustice---. He should also promise this House that the Government has an equal responsibility to ensure that some of us who perform particular tasks---

The Front Bench, including hon. Mbadi can confirm that only this afternoon, we have passed two Bills by playing that role.

Is that something that the Front-bench wants us to wish away with the hon. Mbadi? I want to make an appeal that the Attorney-General is not only leaving this matter out of this Statute Law (Miscellaneous Amendments) Bill but to also make sure that it goes to its logical conclusion by engaging the relevant bodies that he intends to and that is a personal undertaking on his part.

Thank you.

Ms. Karua: Thank you, Mr. Speaker, Sir. I want to actually support the proposal by the Attorney-General because when you look at Article 230 of the Constitution, the Salaries and Remuneration Commission (SRC) has the mandate to determine all matters of compensation, salary remuneration, tax and whatever you call it of constitutional office holders and, therefore, that covers Members of Parliament. So, any review to the National Assembly Remuneration Act must have the sanction of the SRC. I stand here as a member who really campaigned for this Constitution and one of the selling points I used was telling the members of the public that we shall henceforth not increase our salaries at will.

Mr. Speaker, Sir, I want to hear what my colleague, hon. Ethuro has said. There are some issues of the past where hon. Members having certain responsibilities were paid allowances and were later taken to court. I would urge that even when the Attorney-General or the Government initiates a move to deal with this, we must separate regularizing the past payments with the issue of fresh and additional payments to Members of Parliament.

What has really messed this move is that it comes with enhanced severance pay for Members of Parliament. It comes with many other office holders – Members of the Chairman’s Panel. It increases the number of people to be paid. So, you address the past and then you also provide for more money in the pocket in order to address the past. We have to convince the SRC about those monies paid in good faith and they can be able to agree to a proposal to amend to cover those past payments but they need not be joined with a demand for higher perks for ourselves at a time when members of the public are feeling the pinch of increased cost of living. We all like money but it is very insensitive and that is what is causing the hue and cry. It is also unconstitutional. That is the bottom line.

Mr. Speaker, Sir, I, therefore, also support withdrawing of the Finance Act – the proposed amendments – because you cannot purport to amend that which is already unconstitutional. Yes, the Finance Act was passed but it need not be acted upon. Actually if anybody goes to court and I know civil society has gone to court, the courts will very quickly--- If the court addresses itself, I expect it would be ruled unconstitutional because we are doing it without the recommendations of the SRC.

Then there is the other matter of including the Speaker, Deputy Speaker, Vice-Chairman of the Parliamentary Service Commission, and Members of Chairman’s Panel. These are fresh considerations which we must submit before the SRC and there is one matter which one wonders

where it was left – our retired Vice-President has never received his retirement benefits. He was forgotten even in this irregular proposal. So, what we are suggesting is that all these matters, because now they appertain to remuneration, could the Attorney-General take them to the SRC? I sympathise with hon. Membrs who were caught by payments in the past where they were advised wrongly but it can be done legitimately and it must be separated with fresh demands and that is what we will propose as a way forward, and I want to support the withdrawal of those sections of those Bills.

Eng. Rege: Mr. Speaker, Sir, thank you for giving me the opportunity to also join my colleagues in supporting this document. The section that I would like the hon. Attorney-General to consider withdrawing is the one on amending the Energy and Communications Act with regard to vandalism and allow me to give my reasons because over the last couple of years, the number of incidences of vandalism and sabotage affecting telecommunications and---

(Hon. Mbadi stood up in his place)

Mr. Speaker: Order, hon. Mbadi! We heard you and very patiently so. Let us hear hon. Eng. Rege. You want me to rule that he is out of order even when I leant backwards, beyond breaking point, to accommodate you?

Proceed, hon. Eng. Rege and please conclude in the next two minutes.

Eng. Rege: Thank you, Mr. Speaker, Sir. The effect of vandalism has been far reaching and not only affecting the service providers who lose revenue and pay dearly for repairs but also suffer reputation damage which may at times not be quantifiable. Similarly, corporate organizations that are cut off the electricity and communications grid suffer losses in billions of shillings every year in foregone revenues. Moreover, some organizations in the manufacturing sector are put under strain to meet their service level obligations with the lives of patients in hospitals being placed under risk. Of course, the biggest loser of all has been the innocent consumers and *wananchi* who have been denied the use of basic services like telephones, electricity, internet, fuel *et cetera*.

Mr. Speaker, Sir, you remember the recent incident where power was cut off at the Jomo Kenyatta International Airport (JKIA) due to vandalism of electrical cables and also a major blackout which engulfed and, in fact, it was even worse in Mombasa. The Statute Laws (Miscellaneous Amendments) Bill has several provisions. One is amending the Information and Communications Act and the other amending the Energy Act. However, the Energy and Communications Committee---

Mr. Speaker: Order, hon. Rege! You know I allowed you to conclude in two minutes. You have just ten seconds left.

Eng. Rege: Mr. Speaker, Sir, I would like the section that deals with vandalism on the Energy and Communications Act to be left for the Bill that we are bringing in tomorrow in its stand-alone unit. I have already discussed this with the Attorney-General and he is in concurrence with that.

Thank you.

Mr. Speaker: Order! Hon. Members, I have heard the Attorney-General and subsequently listened to the reaction by hon. Mbadi, hon. Dr. Khalwale, hon. Wetangula, hon. Karua and finally hon. Eng. Rege and I will at this point direct as follows:

I will take the Attorney-General by his word that he undertakes to withdraw certain sections of the Statute Law (Miscellaneous Amendments) Bill that he feels have issues to do

with constitutionality and that, therefore, they will, for purposes of order No.9, stand tantamount to being withdrawn. I will, therefore, not permit the Attorney-General to move those clauses, as he has particularised, in the Committee Stage of conduct of Business at Order No.9. That will, therefore, be the position and all hon. Members, please, be guided accordingly.

Hon. Members, in the circumstances, I had yesterday afternoon indicated that I was going to give directions or, if you like, Communication, with respect to various matters as were raised by the Member for Gwassi; away from matters pertaining to constitutionality or otherwise of the Bill. I propose to make those directions tomorrow afternoon, at 2.30 p.m.

So, in those circumstances, I will stand down Order No.9 until I give those directions, which will assist hon. Members to articulate their submissions or contributions to the debate on the Bill. So, I will stand it down until tomorrow at 2.30 p.m.

(Debate on the Statute Law (Miscellaneous Amendments) Bill was deferred)

The Minister for Trade (Mr. Wetangula): On a point of order, Mr. Speaker, Sir.

Mr. Speaker: What is it, Member for Sirisia and Minister for Trade?

The Minister for Trade (Mr. Wetangula): Mr. Speaker, Sir, just for the record, I believe that you are rescinding your earlier ruling on the same issue. What you had told the House was that the debate on the Bill goes on, your pending ruling notwithstanding; and that you will deliver a ruling on the issues that we canvassed here on Thursday but the debate should go on, anyway. I believe that you are now rescinding that ruling.

Mr. Speaker: Member for Sirisia, I am very clear in my mind. Check my choice of words. That ruling still stands. As I did say yesterday, I will give further directions but the ruling that I made with respect to deliberation of business today at Order No.9 still stands on all fronts.

Member for Sirisia, await my Communication tomorrow and you will be persuaded that that ruling still stands. Be guided accordingly.

Next Order.

BILL

Second Reading

THE KENYA SCHOOL OF LAW BILL

(The Minister for Justice, National Cohesion and Constitutional Affairs on 22.5.2012)

(Resumption of debate interrupted on 22.5. 2012)

Mr. Speaker: Minister, you have 58 minutes.

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. Wamalwa): Mr. Speaker, Sir, before the House rose last time, I was on my feet, looking at the state of legal education in our country and reminding hon. Members that at one time in this country, we had the Law Faculty at the University of Nairobi, which was the only one giving legal education at the time.

Over time, we have had a proliferation of many other institutions that are offering law degrees, apart from the University of Nairobi. Given the plethora of institutions teaching law, there is need for effective control and supervision to ensure that the quality of legal education being provided is satisfactory.

Mr. Speaker, Sir, there was also a problem, in terms of separation of roles between the Council of Legal Education (CLE) and the Kenya School of Law (LSK). This has impacted on the performance of both institutions to regulate and train students at both institutions. The biggest challenge is the number of students that are currently seeking to pursue legal education at the tertiary level. This has meant that the facilities at the LSK to accommodate the large numbers of students were severely stretched. Therefore, this has been detrimental in terms of affecting the quality of education in these institutions.

There has also been need for modernisation, in terms of curricula and legal training in these institutions. This is necessary in order for us to catch up with the challenges of the 21st Century. We need, as we reform all sectors of society, to see what can be done in terms of improving our institutions to uphold standards in legal training in our country.

Mr. Speaker, Sir, due to the problems that were being experienced at that time, the Government, through a stakeholders' forum that was convened by the Minister for Justice, National Cohesion and Constitutional Affairs then, hon. Kiraitu Murungi, appointed an inter-agency committee on development of a policy of legal framework for legal education and training in Kenya.

[Mr. Speaker left the Chair]

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

Mr. Temporary Deputy Speaker, Sir, after consultations, we got specific recommendations from this task force in terms of delivery of legal education in our country, and the necessary improvements that needed to be made. After receiving those recommendations, the Government, realising the importance of legal education and training in a democratic society, embarked on certain reforms to ensure that legal training in this country is carried to the next level.

We believe that it is essential, in order for the rule of law to be adhered to and for justice to be upheld in this country, to have training of lawyers to not just good standards but to international standards in order for them to serve effectively, compete and uphold international standards in the practice of law in our country.

Mr. Temporary Deputy Speaker, Sir, as a result of this, we have come up with a Bill to address all the recommendations that had been made by the task force to ensure that we deal with the problem of a lack of law separating the CLE from the LSK. We are, therefore, proposing to separate the CLE from the KSL. That is why we have two Bills before this House today. One Bill will specifically be dealing with the KSL and the second Bill will be dealing with the CLE.

In order to deal with the second concern and the specific recommendations made, in terms of proliferation of legal education providers, this Bill has specific provisions for effective control and supervision of quality education and training in our legal institutions.

Mr. Temporary Deputy Speaker, Sir, a third area this Bill is addressing, there being a minimal modernisation and release of programmes and curricula, our legal training institutions

have to keep pace with the emerging challenges. So, these are areas of concern as I move debate on this Bill today, informed by the recommendations of the task force that I have referred to. The specific provisions are contained in the various parts of this Bill.

Looking at the Bill, it will impact on the establishment of the School. Part I of the Bill seeks to provide for the powers and functions of the School. These are provided for under Clause 3 through to Clause 15. These are the specific provisions that will now establish the Kenya School of Law, the Board and its functions. I believe hon. Members have gone through the Bill and are familiar with the provisions.

Mr. Temporary Deputy Speaker, Sir, the other section after the establishment of the School and its functions, right from Section 16 to 17 is to deal with the issue of admissions. We have had problems where in our School of Law, particularly when in the 1970s, 1980s and 1990s we had only one faculty, standards were upheld. Top students from all schools joined the Faculty of Law, University of Nairobi because they were the best, had passed their exams highly and we had no doubt about their qualifications.

However, when with time we had many students going to other countries, the issue of admission was a serious area of concern because you could find students who had not performed well and had not met the requirements to join our universities still finding a way round to go to the School of Law.

Sections 16 and 17 provide for requirements on admission. To improve quality in terms of lawyers, there will be stringent provisions that ensure only persons who qualify are admitted to the School of Law.

Mr. Temporary Deputy Speaker, Sir, under Section 16, the specific provision is that a person shall not qualify for admission to a course of study at the school unless that person has met the admission requirements set out in the Second Schedule.

The Second Schedule sets out the requirements and all those going to our School of Law will now have to satisfy the requirements on admission for them to be admitted.

Mr. Temporary Deputy Speaker, Sir, as we move on to Part 5, we also have to ensure that the content that is administered to our students also upholds the standards required. Therefore, we are providing for academic programmes, standards in examining our students and conferment of academic awards. This right from Section 18, 19 all the way to 20 gives the new requirements that will ensure standards in programmes, in what students are taught and eventually the awards that they receive, having satisfied the examiners as provided under that part.

Eventually, we move on to Part 6 where we are looking at the financial provisions. Because of time I wish not to take up most of the afternoon. I also want to give other hon. Members time to contribute to this. In essence, this Bill targets and intends to set standards to regulate and eventually ensure that we get quality lawyers to serve this country in the 21st century.

Mr. Temporary Deputy Speaker, Sir, this is the Bill that we have separated from the council of legal education. We will request hon. Members to support this Bill.

With those few remarks, I beg to move and request the hon. Attorney-General to second.

The Attorney-General (Prof. Muigai): Mr. Temporary Deputy Speaker, Sir, it is my great pleasure to second this very important Bill. The Kenya School of Law (KSL) has performed a very important historical assignment in this country. It started training lawyers in 1964. It has metamorphosed through several stages and it has now come of age. We need a new regulatory framework by which to manage this school. Currently, it has over 1,000 students per year.

The quality of legal education is very important in the administration of justice in this country. If we demand of the judges the highest level of academic and intellectual preparedness, we must demand it of the lawyers. However, we must create a forum in which this can be attained.

Mr. Temporary Deputy Speaker, Sir, this Bill will take us a long way in professionalizing the legal profession. Hon. Members in the past have had occasion to express some concern about what has been perceived as some difficulties within the legal profession itself. This Bill is evidence that the Minister, and, indeed, the Government intends to improve the situation.

I beg to second.

(Question proposed)

The Minister for Trade (Mr. Wetangula): Mr. Temporary Deputy Speaker, Sir, thank you for according me an opportunity to contribute to this Bill. This Bill is important, is long overdue and comes at a time when we need to realign, streamline and regulate the training and provision of one of the most critical professions in this country.

Mr. Temporary Deputy Speaker, Sir, I hope that by the passage of this Bill, other critical professions will follow suit and streamline the training and admission of members of the academia into their professions. We have seen, over a period, the dilution of professionalism in this country. This is, perhaps, because of the pressure from the overwhelming population, the demand or the desire to have so many people joining choice professions. However, I think something that the Bill must address is also the commercialization of professional training in this country. When the University of Nairobi had the only Faculty of Law providing training of lawyers and the Kenya School of Law was the only post-graduate entry, we had very stringent provisions and requirements. For you to join the Faculty of Law the threshold was very high. You will find that for those who went to the university up to about ten years ago, if not 15 years ago, the threshold was different from what you find today.

Then there came a monster called “a parallel programme” at the universities. In this monster, you even have seen police constables going to the university and emerging as lawyers without any attendant background qualifications, because they are able to pay fees. You have seen all manner of people; thank God they are lawyers! Imagine if the same was happening with doctors who are dealing with people’s lives! Imagine if the same was happening with engineers who design structures that can collapse on people! You join the profession simply because you have a wallet and you can pay for it.

Mr. Temporary Deputy Speaker, Sir, every so often you have seen a building collapsing because the structural engineer was a quack! If you practice law in this country, you will see how many clients are led to disaster by ill trained lawyers; lawyers who can hardly defend their clients even after being hired to do so. There are lawyers who cannot even speak the medium of communication of lawyers; the English language and yet they carry their degrees through parallel programmes, they carry certificates from the School of Law through payment of fees and the School of Law previously has not been empowered legally to pick and choose who should join. Those who have graduated from the university, regardless of their performance, join the School of Law. That is why I laud this Bill, but we must have standard criteria so that even if you pick your degree through a parallel system, the School of Law has a choice to disallow your entry if you did not qualify in the first place to become a lawyer.

Mr. Temporary Deputy Speaker, Sir, it is this same crop of lawyers who end up being judges and if you are ill trained from what we call in law *ab initio*, it is unlikely that along the way you will pick sufficient knowledge to be a good judge. So I want to urge that we pass this Bill to empower the School of Law as the premier post-graduate training for lawyers to go back to where we were; teaching lawyers etiquette. Teaching them how a lawyer should conduct him or herself in front of her clients or in front of the courts. In the good old days, lawyers used to walk on the corridors with their hands at the back going to defend their clients. These days you go to a court and you cannot tell the difference between a criminal suspect and his lawyer. It is disastrous! You find complaints to the authorities about lawyers who pick money from their clients and never turn up in court. This is lack of etiquette and I am sure there are many hon. Members here who have suffered at the hands of ill trained lawyers. That is why we need this law. That is why we need to streamline the professionalism that we expect of lawyers.

In the old days when you were buying a property, a letter called undertaking from a lawyer to a bank or a seller was enough to hand over the property to you even if it was going to cost Kshs20 million because the word of the lawyer was respected. These days, a letter from a lawyer undertaking that he will pay after the transaction is just a piece of paper in some respects. We have seen, contrary to what we expect in this noble profession, some law firms are demanding that when another lawyer gives an undertaking, it must be accompanied by a bank guarantee. You can imagine what we have reduced our profession to; that I am giving you undertaking that you pass over the documents, we transfer this property and you will get the money at the end and you write back and say: "Give me a bank guarantee before I take your letter." This never happened in this profession and I hope that the good old days of Tudor Jackson when he used to spent time telling us what a good lawyer is; a good lawyer is not one who knows how to recite the law everywhere off head but it is one who knows where to find the law and the law is in the books. A good lawyer is one whose word is sacrosanct. It is one whose word is only as good as when a doctor tells you: "Go, you are healed." That is a good lawyer. A good lawyer; when he tells you: "This is my considered opinion on this matter." You go away feeling you have been properly advised. But these days, you give a considered opinion and the client just walks into the next office to seek an opinion on your opinion because of ill training.

Let me finish by urging that our colleagues who head Ministries that deal with professions--- I was very impressed when Mr. Obure brought here a Bill to deal with errant engineers and contractors. We passed a very good law. I hope it will be applied correctly, so that we do not have quacks masquerading as professionals. I want to urge the Ministers responsible for the medical profession also to bring similar Bills here to streamline the etiquette, conduct and professionalism of those professionals.

Mr. Temporary Deputy Speaker, Sir, you know as well as I do how many gynecologists are itching everyday to take their patients for cesarean section instead of delivering to make more money. That is unprofessional yet they do it every day. I have a friend who was advised that if his wife was going to have a normal delivery, she would not come out alive. He changed the doctor, took his wife to another hospital and she had a healthy delivery with a bouncing baby. The gynecologist wanted money on cesarean section. That is unprofessional. They do this every day. So, we also want to streamline the training, the etiquette and the conduct of doctors as professionals. I can say much more, but I want others also to contribute.

I support the Bill.

Ms. Karua: Mr. Temporary Deputy Speaker, Sir, I will be very brief to accommodate the sentiments of my colleague here. I am a product of the law school because after graduating from

the university, to turn the degree professional, one has to go to the law school. I am happy and I congratulate the Minister for bringing this Bill. I also congratulate the Minister for Education who actually sent the Bill for publication and the current Minister for moving it at this time. We need a legal framework. The law school has existed without a legal framework of its own, but in this time when it is serving so many people, it needs a legal framework. During our time, we were just about 70 and that was considered a very large group because it previously had less than 40 students. Today, the law school is having in excess of 1,000 students every year. I do not know how many times that is. It is important that we have this legal framework, so that we maintain standards, so that we also maintain professionalism among the staff, both teaching and non-teaching, at the law school.

I recall that the days I attended the law school, our parents did not have to pay money. Just like at the university, we had loans which even provided us with some allowances every month. Today, the parents are paying through the nose. This is something we need to consider and I am glad to note that the law school will be guided by a board because the decision that must be made is how to efficiently run the school, so that poor parents do not suffer by being unable to pay for their children in the law school. It is time Government institutions learnt to rely on the turn-over, namely, the large numbers, rather than to hike the fees every time they are told to look for sources of operating.

I have heard my colleague talk about lawyers and how standards have degenerated. It is not about teaching or the lack of qualifications; this is not what is responsible for the lack of the quality among the lawyers who are trained. I am one person who believes that during our time, they demanded very high, almost unattainable marks because the positions were so limited. They were only 75. When we have so many universities taking so many, it is befitting that our children who have attained Grade C and above be admitted to train as lawyers. They have the capacity. You do not have to score an A. Grade C is good, but then, once you get to the school, we should be worried about proper instructions.

This Bill is setting that framework that will help them arrive at proper training. Lawyers do not operate in a vacuum. They operate within the context of the society. If the society is rotten, its professionals will be rotten. Let us admit that we, as Kenyans, have lowered our standards. Our values are upside-down. We have had to re-write our national values in the Constitution. Until we start living those national values as leaders, we should not be heard to lament the un-professional conduct of lawyers. If we who are in this Parliament and those who serve in Government sometimes exhibit conduct that is less than honourable, then we are setting the standards in the country. This is a time for us to re-think our values and to live the values as provided for in our Constitution. I only want to comment on the proposed Section 27. Mr. Minister, if someone masquerades as a lawyer, if all you are going to ask is that he or she be put in for one year, and he or she has, perhaps, misled a client, received client's money, got documents of value from the client, that is too light a punishment and it will encourage crooks. Let us look at tightening enforcement so that we can maintain the standards we are talking about.

With those very many remarks, I beg to support.

Mr. Chanzu: Mr. Temporary Deputy Speaker, Sir, thank you for giving me this opportunity to contribute.

First of all, I just want to say I was thinking negatively about giving lawyers - the lawyer there and distinguished lawyers here--- But I just remembered that they are presidential candidates and so, I withdraw my feelings. But I want to---

(Laughter)

The Temporary Deputy Speaker (Mr. Ethuro): Hon. Chanzu, you know, to catch the Speaker's eye takes a lot of consideration.

Mr. Chanzu: That is appreciated. That is why I withdraw that feeling.

I want to congratulate the Minister for this. I think we are in times of reforms. There is no point of talking about reforms and there is no practice. You talk a lot out there about reforms and so on. I think this is a milestone if we can be able to change the law, and also be able to implement or enforce it. I just want to refer to what hon. Wetangula was talking about - the times of Tudor Jackson. That is because when we were at the Architecture Design and Development (ADD) faculty, he also taught us some elements of law. I thought I knew a lot of law. Every time, I thought that the law will protect you and it looked very simple. It looked like the law was very straightforward and it could protect you. There were issues to do with tort and nuisance. But the law does not protect us even on very clear issues. I think it is because of what we are talking about; the issue of corruption and greed. But that greed comes from ourselves. I think if the leadership cannot behave the way I have seen it behaving in our society, then I think the lawyers will also behave well. I believe it is not really a matter of training. I think it is a matter of how people conduct themselves outside, when they leave the training places. The ethics are not there. I hope the changes that we are making to the law now will put some ethics in the heads of our people.

Mr. Temporary Deputy Speaker, Sir, there is the issue of morals. Our morals are also rotten. That is why it is impossible to apply the law. You find that there is collusion between those who the law is supposed to apprehend and the lawyers. I am also told that the law that we made here sometime regarding the auctioneers, there is a lot of collusion. When they collect money or whatever they realise, it is shared between them and the lawyers. That is the conduct or the practice outside there.

So, I hope this Bill will address the issue of professional practice and conduct outside the Kenya School of Law. If it does not do so, the issue of greed will persist because it has become an issue of human nature in Kenya. We have been told that there were two *wazungus* in the university who were leading modest lifestyles. We had a very senior person in the university who had one car and a house. But today, people want to have ten houses. I do not know for what purpose somebody wants to have ten houses. I am being reminded that, also, one wants to have ten wives. I do not know whether the women also want to have ten husbands. I think it is the moral conduct of the people we must address. There must also be provisions for these people to be exposed to training from time to time in order for them to renew their licenses. We must have continuous training, so that people can be tested. Those who are found to have violated some of the requirements should not be allowed to continue practicing law. I think the measures to apprehend this must be punitive enough in order for those who are culprits not to continue in the practice.

Mr. Temporary Deputy Speaker, Sir, we have been told that the Kenya School of Law started in the 1964. That is a long time ago. It has produced many lawyers who have served our country. But I think the number that we are producing every time now is something that must be checked. Out of all this bad conduct, it looks like the profession is still marketable. So, there are a number of people who want their children to take this course at any cost without caring about the quality of the lawyers we are producing. So, there is need to ensure that there are proper regulations to regulate the practice of law. This will be achieved through this amendment Bill.

Mr. Temporary Deputy Speaker, Sir, the academic standards now in Kenya are fairly high in all the professions. However, we have been told there are other professions which also lead these lawyers to behave in an unorthodox manner. I think we also need to formulate laws which will control these other professions, so that everybody is at par. Otherwise, if we do not do so, there will be undue influence from these other sectors which need the services of these lawyers.

The Temporary Deputy Speaker (Mr. Ethuro): Order, hon. Members! Hon. Yusuf Chanzu, you will have 12 more minutes to continue when the matter next appears on the Order Paper.

ADJOURNMENT

The Temporary Deputy Speaker (Mr. Ethuro): Hon. Members it is now time for interruption of business. The House, therefore, now stands adjourned until tomorrow, Wednesday, 30th May, 2012, at 9.00 a.m.

The House rose at 6.30 p.m.