

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 29th August, 2012

The House met at 9.00 a.m.

[Mr. Deputy Speaker in the Chair]

PRAYERS

QUESTIONS BY PRIVATE NOTICE

REHABILITATION OF BANGALE DAM

(Dkt. Nuh) kumuuliza Waziri wa Maji na Unyunyizaji:-

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

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

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

Mr. Deputy Speaker: Is hon. Nuh outside the Chamber on any parliamentary business, either in the country or outside the country, the Clerks-at-the-Table?

You do not have any information? That Question is dropped!

(Question dropped)

USE OF BVR SYSTEM TO CURB ELECTORAL FRAUD

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

(a) Could the Minister confirm that the Biometric Voters Registration (BVR) system by the Independent Electoral and Boundaries Commission (IEBC) is intended to curb electoral fraud, election rigging, multiple registrations and voting?

(b) Could the Minister confirm that with the BVR system, only one finger or thumb shall be scanned and it shall not be used to infringe on individual right to privacy by collecting biometric data such as eye retina scans, facial characteristics and, or hand geometry?

(c) How will a recount of votes be carried out in the absence of a paper trail in cases of electronic ballot manipulations, tampered voting process, software or computer failure without compromising the validity of election results?

(d) Could the Minister confirm that the biometric data to be collected from the over 14 million people in the voter registration will be used for the conduct of elections only and will not be shared with foreign nations, agencies and or bodies?

The Assistant Minister for Justice, National Cohesion and Constitutional Affairs
(Mr. Cheptumo): Mr. Deputy Speaker, Sir, I do not have, at this point, a sufficient answer to deal with the issues raised in this Question. I have shared this with my colleague and, with the indulgence of the Chair, I would like to give a very comprehensive answer to this Question on Tuesday. This is because the issues raised are very serious. They are very technical issues regarding the biometric registration of voters.

Mr. Deputy Speaker: This is a Question by Private Notice. Ideally, you should have an answer within 48 hours. You have had more than 48 hours. That is my presumption. Why do you want to ask again for more hours? When you say you will answer the Question on Tuesday, next week that will be how many days from today? Five days from today multiply by 24 hours is close to 100 hours. Why do you need five more days?

The Assistant Minister for Justice, National Cohesion and Constitutional Affairs
(Mr. Cheptumo): Mr. Deputy Speaker, Sir, we will be having a sitting tomorrow, Thursday and the next sitting after tomorrow will be on Tuesday. We passed the Question to the IEBC yesterday and that is why I am requesting for more time.

Mr. Deputy Speaker: Mr. Mwau, when was the Question filed and approved?

Mr. Mwau: Thank you, Mr. Deputy Speaker, Sir. The Question was filed last week.

Mr. Deputy Speaker: I understand that it went to the Ministry presumably on Friday morning? Ordinarily, the Ministry of Justice, National Cohesion and Constitutional Affairs can be forgiven for working over the weekends. This is a very special time. The matter is urgent and it deals with elections. You had Friday, Saturday, Sunday, Monday and Tuesday. Today is Wednesday and you want to ask for one more week.

The Assistant Minister for Justice, National Cohesion and Constitutional Affairs
(Mr. Cheptumo): Mr. Deputy Speaker, Sir, as much as the Question was filed last week, before me is a letter that was received in my office on Monday. Yesterday, we addressed the IEBC. On Monday, we were at the Bomas of Kenya for the Peaceful Elections Conference.

Mr. Deputy Speaker: Are you comfortable, hon. Harun Mwau, with the Question being answered on Tuesday, next week?

Mr. Mwau: Mr. Deputy Speaker, Sir, the matters raised in this Question are extremely serious because they touch on the core part of the elections and if the answers are not correct, we might find ourselves in another problem in 2013. Therefore, I will indulge the Assistant Minister what he is asking for but I would like him to ensure that he brings an answer regarding the type of software that they will use, whether it will be black box or open software because both or either have serious consequences. This is to avoid further deferment of the Question.

Mr. Midiwo: Mr. Deputy Speaker, Sir, this Question has serious implications in this country in that the Ministry of Finance is purportedly negotiating with a foreign government to give us the equipment to collect this data. It will be good for the Assistant Minister, when he answers the Question, to understand and address this nation on what will happen to the collected data after the elections, especially if the software engineers who will run this system will be from a foreign government.

We are in a scenario where our banking data is with foreigners and it was done by our Government. The foreign government knows exactly where you bank and how you bank. It will be a travesty of justice to take our bio- data and hand it over to some foreign government whom we do not know. I would like the Assistant Minister, as he comes, to address the issue of the custody of the collected data from the time it is collected and beyond elections.

Mr. Deputy Speaker: Mr. Assistant Minister, I hope you have captured the fears and concerns of the Members of Parliament. The matter has very wide ramifications. So, can you give an undertaking that you will safeguard our sovereignty to the letter?

The Assistant Minister for Justice, National Cohesion and Constitutional Affairs (Mr. Cheptumo): Thank you, Mr. Deputy Speaker. In fact, that issue raised by the hon. Member is dealt with under part “d” of the Question. So, I will be able to give a response to that particular issue on Tuesday.

Mr. Kiptanui: On a point of order, Mr. Deputy Speaker, Sir. Owing to the technicality of this Question and the issue of elections being a very serious one, would I be in order to ask that this Question be directed to the Prime Minister so that he can give a commitment as the Government on how these elections will be carried out in a free and fair way?

Mr. Deputy Speaker: Why do you think the Assistant Minister for Justice, National Cohesion and Constitutional Affairs is not up to the task as a Minister of the Government of Kenya? For your information, a Minister as per our Standing Orders is the President, the Prime Minister, the Vice-President, a Minister and an Assistant Minister. So he talks for the Government and he represents it all the way. So, the Chair directs that this Question be listed on the Order Paper on Tuesday, next week.

(Question deferred)

MURDER OF PASTOR JAMES O. ATIENO
AT ABC CHURCH IN KAYOLE

(Mr. Ochieng) to ask the Minister of State for Provincial Administration and Internal Security:-

(a) Under what circumstances was Pastor James Omoth Atieno at ABC Church in Kayole killed on 27th June, 2012?

(b) Has any suspect(s) in relation to the murder been arrested and arraigned in a court of law and, if not, when will they be arrested?

Mr. Deputy Speaker: Is Mr. Ochieng not here? Is there any valid or excusable reason for the hon. Member not to be present in the House today? Is he on any parliamentary business? The Question is dropped!

(Question dropped)

ORAL ANSWERS TO QUESTIONS

Question No.1626

COMPLETION STATUS OF FRESH PRODUCE MARKETS

Mr. Mwathi asked the Minister for Local Government:-

(a) what the status of the completion of all the fresh produce markets is in the country;

- (b) why Limuru Fresh Produce Market has not been constructed to date;
and,
(c) when the works for the market will commence and be completed.

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

(a) My Ministry is constructing 211 markets under the Economic Stimulus Programme. The completion status is as follows: 100 markets are practically complete and are ready for use representing 47 per cent of all projects. Forty nine markets are in the final stages, representing 25.3 per cent of all projects. Fifty four markets have ongoing works representing 26 per cent of all projects and three markets are in the initial stages of development representing 1.4 per cent of all projects. Five markets are under the procurement process representing 2.3 per cent of all projects.

(b) The Limuru Fresh Produce Market was initially awarded to a contractor, M/s Topulus Contractor on 7th April, 2010 at a tender sum of Kshs10,236,490.80. The tender could, however, not progress due to signing of the contract agreement because the field bills of quantities and other bills of quantities submitted to the Limuru CDF in this bid were not forwarded to the Ministry of Local Government. Efforts to get the contractor did not yield any positive result.

From the foregoing, coupled with the contractor's demand for compensation arising from delays led to the review of the contract by my Ministry. The tender was re-awarded and has now been awarded to Kenyash Inter-Business Enterprises Limited for Kshs12,116,420. A letter of award was forwarded on 29th February, 2012, and required the contractor to provide a performance bond of 5 per cent in the form of a bank guarantee.

The notification award was sent to M/s Kenyash Inter-Business Enterprises Limited through P.O. Box 23606, 00625, Nairobi, which the contractor confirmed was a wrong address and hence the delay in receiving the notification award. The correct address of the contractor, we were further advised, is P.O. Box 9252, 00200, Nairobi.

(c) The contractor submitted the performance bond plus the acceptance letter to the Ministry on 7th June, 2012, and the contract documents are being processed. Therefore, the construction work will commence once the contract process is completed.

Mr. Mwathi: Mr. Deputy Speaker, Sir, I have been following up the issue of this market since last year. Specifically on 14th June, 2011, I got an answer which had an apology from the Deputy Prime Minister and Minister for Local Government. The answer which I have---, the HANSARD here which I wish to table, says that he was sorry that it was delaying and that the work would then start in two weeks time from 14th June, last year. I have been following up without success and hence why I asked this Question.

The Assistant Minister says among the answers in part "a":-

"Efforts to get the documents from the contractor, CDF Secretariat and Limuru CDF did not yield results."

Clearly, the Assistant Minister is passing the buck. I want again with your indulgence to table the letter from the Limuru CDF sent on 13th January, 2010, clearly stating that this was in dispatch of fresh produce market tenders and evaluation report to the CDF Board which confirmed receipt.

I would further like to table a letter from the CDF Board to the Ministry forwarding 26 number tender among them Limuru Fresh Produce Market and in which they have indicated---

Mr. Deputy Speaker: It is dated?

Mr. Mwathi: This is dated 20th January, 2010.

It clearly states as follows: -

“Please, find herewith the tender documents and tender evaluation reports for 26 constituencies as per attached schedule.”

Mr. Deputy Speaker, Sir, I have the schedule here with me. Why would the Ministry, in its wisdom, find it necessary to come here and misrepresent the facts when these documents were sent to the Ministry by other Ministries more than two years ago?

I wish to table the document.

(Mr. Mwathi laid the documents on the Table)

Mr. Nguyai: Mr. Deputy Speaker, Sir, first, let me thank the hon. Member for his diligence. He has indicated that he received an apology from the Deputy Prime Minister, who was then the Minister for Local Government. The key issue, which is what I want to address, is ensuring that the project commences. All the documents he has brought as evidence to show that these documents were indeed forwarded to my Ministry can only be subjected to an investigation, which I will undertake to establish what went wrong and how they got lost.

The most important thing is for the works on the fresh produce market to commence. I would like to assure the hon. Member that if all the contract documents are in order, I will ensure that the contract is signed within next week. If there are any documents that are not there, I will not only inform the hon. Member but also ensure that our office informs the contractor to provide them within that timeframe, so that this issue can be dealt with once and for all.

Mr. Deputy Speaker, Sir, I want to indicate that we are in the very final process. I am very confident that this is a project which is about to commence.

Thank you.

Mr. Deputy Speaker: Yes, hon. Peter Mungai Mwathi.

Mr. Mwathi: Mr. Deputy Speaker, Sir, is it in order for the Assistant Minister to avoid my question? Why has he misrepresented the facts and misled the House that the documents did not get to their Ministry whereas he knew very well that they got there? I have documentary evidence to that effect. His action was to actually cancel a contract and re-advertise it, so that it can be taken by another contractor. In effect, the Ministry is being unfair to the other contractor. This is not because this contractor did not do due diligence but rather because the Ministry somehow messed up with the documents or concealed the necessary information.

Mr. Nguyai: Mr. Deputy Speaker, Sir, I was very clear in saying that this is a matter which is obviously subject to investigation. The information I was given is that there were no documents. As such, I will need to look at those documents and address the issue in terms of finding out where the documents disappeared to. I do not have the tabled documents, but I am also looking at the bigger picture, which is the construction. For anything that may have gone wrong as far as our Ministry is concerned, I will take necessary disciplinary action against the particular officers involved. We cannot allow documents to get lost within our Ministry.

Mr. Deputy Speaker: Assistant Minister, you intend to take action on this matter two solid years after it happened and, as you put it, with the assistance of the hon. Member? You said that you are going to take firm action against the officers concerned. Is that not a joke?

Mr. Nguyai: Mr. Deputy Speaker, Sir, that is why I said I had been misled. My answer says that the documents were not forwarded by Limuru CDF, and that I did not have any of those documents. That is why I have undertaken to investigate the matter to find out exactly what

happened and how the documents got lost, so that action can be taken to ensure that the people of Limuru, who have suffered, get services as remedial action is taken.

Mr. Deputy Speaker: Are documents from Limuru CDF the only ones which had not been received by your Ministry or does this included the whole set of documents on the list that the hon. Member said were forwarded to your office? Hon. Mwathi, maybe, you should shed more light on the matter. Is it only this particular document that was never seen by the Ministry officials or was it the documents of the entire list of CDFs that were basically forwarded together with it?

Mr. Mwathi: Mr. Deputy Speaker, Sir, from the answer I got, I would presume that it was my CDF's documents that were not received, because I was only prosecuting the issue of Limuru. I have, however, marked the percentage of the projects that have been done. Apart from the Limuru project, two others have not commenced. So, there are at least three projects which have not commenced. I am not sure and, therefore, not in a position to confirm that position. For the Limuru project, that is the answer he has given, which is very misleading.

Mr. Deputy Speaker: Yes, hon. Najib Balala.

Mr. Balala: Mr. Deputy Speaker, Sir, this Ministry is letting down the country. The Economic Stimulus Package projects should have been completed a long time ago. Mvita Constituency has suffered, just like Limuru Constituency, as a result of failure by the Ministry to construct the fresh produce market. We have been writing to the Ministry on the matter without getting a response for two years. They responded two years later, saying that they did not need to consult the respective local CDFs. In fact, for Mvita Constituency, the Ministry awarded the contract without the knowledge of the CDF Committee. The Ministry went ahead and identified a site which is not viable despite the fact that we have been trying to communicate with them; without getting any response.

Is it in order for the Assistant Minister to mislead the House by saying that 47 per cent of the market projects have been completed, and that there are no plans for the rest of the markets, despite the fact that we are finishing our term in December, 2012? Therefore, we need a detailed report on the status of the projects; particularly what the bottleneck is regarding markets whose construction works have not even started, like the one for Mvita Constituency.

Mr. Nguyai: Mr. Deputy Speaker, Sir, I would like to concur with the Member for Mvita that as far as the market projects are concerned, the Economic Stimulus Package started on the wrong footing. It was initially advertised by the Ministry of Finance. Upon the programme's transfer to our Ministry, we inherited quite a number of documents which were not in order, and some projects needed to be re-advertised. In the case of the Mvita project, I would like to be advised further by the hon. Member because from the report, I can see that a contractor has been awarded the contract. I believe that there is an existing market in that particular site. So, the hon. Member can give us an alternative site, so that we can get the project taking off.

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

Mr. Koech: Mr. Deputy Speaker, Sir, the Assistant Minister confirmed in this House, this morning, that he has been misled. He is being misled by his own officers. He is aware that some time back, 15 Members of Parliament stormed his office on issues of the market projects. Would I be in order to request that this Question be deferred, so that he can come back with a comprehensive answer and inform the House what action he has taken against the officers who are involved in this mess?

Mr. Deputy Speaker: Hon. Members, this is a moment when the Chair would love to be on the Benches, and not on the Chair.

Proceed, hon. Nguyai.

Mr. Nguyai: Mr. Deputy Speaker, Sir, we tabled a report in this House, which indicates that 50 per cent of the markets have been completed, and that another 40 per cent are in the process of being completed. We have never interrogated that report sufficiently but each hon. Member has a copy of it. If there is any hon. Member who has not got a copy, I am sure that he or she can get it from Room 8. When the hon. Members stormed my office, none of the projects had been completed. I can, however, assure this House that, as of now, 50 per cent of the projects have been completed, and that another 40 per cent are about to be completed.

Mr. Deputy Speaker, Sir, I can assure you that we have 50 per cent of the projects completed and we are heading towards another 30 per cent or 40 per cent to be completed. That is because of the efforts that I have put in ensuring that the individual problems that are brought into this House, I address them case by case and that is the solution that I am offering to each and every hon. Member because each case is unique and because it is unique, I offer myself again to give the best services possible.

Ms. Leshomo: Asante sana Bw. Naibu Spika. Ningependa tu kumwambia Waziri Msaidizi kwamba kwa sababu hii mambo ya masoko katika eneo Bunge zote ni mbaya, angefaa kuenda kuzunguka na kuleta ripoti ya ukweli ili ijulikane hii imeanzwa vibaya na hii imeanzwa vizuri kwa sababu nafikiri yote haijafanyika vile walikuwa wanataka.

Mr. Balala: On a point of order, Mr. Deputy Speaker, Sir. Is it in order for the Assistant Minister to say that 50 per cent has been done and these projects were started three years ago? Where is the evidence to show that 50 per cent has been done? Table the evidence so that we can trust you, Mr. Assistant Minister.

Mr. Wambugu: On a point of order, Mr. Deputy Speaker, Sir. Is the Assistant Minister in order to continue misleading this House that 47 per cent or 50 per cent of the markets are complete while we clearly remember that sometimes in May, the Minister for Local Government stood before this House and confirmed to the House that a market in Mathira called Kiereini market was ready and was supposed to be opened in two days time and even up to now this market has never been opened and that is three months down the line and yet the Minister confirmed that the market is ready for opening?

Mr. Deputy Speaker: Are the structures in place? What is the issue? Is it the opening of the market or the Assistant Minister is misleading that the market is ready?

Mr. Wambugu: Mr. Deputy Speaker, Sir, I think the minister is misleading the House because we do not even have a report. They just say it is ready. They do not come to hand over. They do not open the market and there is a big complaint.

Mr. Deputy Speaker: Does the market exist? That is the issue.

Mr. Wambugu: Mr. Deputy Speaker, Sir, the market exists but we do not know what is inside.

(Laughter)

Mr. Mwau: On a point of order, Mr. Deputy Speaker, Sir. Is the Assistant Minister in order to try to mislead the House about these markets? Over the last three years, the markets have not been completed and this House has approximately 30 sittings left and we have about four months before we go to the election. Could he confirm to the House that he is not only marking and buying time and that the markets in all the constituencies will be completed by maybe the end of October or 15th of November? Could he give the House that assurance?

Mr. Deputy Speaker: Mr. Deputy Speaker, Sir, can you respond to all those points of orders that were raised?

Mr. Nguyai: Thank you, Mr. Deputy Speaker, Sir. Kwanza, ningetaka kumweleza Mheshimiwa Leshomo kwamba tulituma timu kwa sababu hizo soko zilikuwa 211. Tuligawanya timu nne na tukaenda tukakagua kila soko halafu tukaanza orodha ya kuhakikisha kila soko imeisha. Ningetaka kumuhakikishia kwamba asilimia 50 zimekamilishwa. Zile ambazo ziko kwa mpangilio na ziko karibu kukamilishwa ni asilimia 23. Zile ambazo zinangojea na ziko katikati ni soko 44 na najua malalamiko mengi yametoka kwa sababu ya hizo 44 na zile 8 ambazo hazijaanza Mvita ikiwa mojawapo. Kwa hivyo, hii soko ya Mathira imeisha. Ni mpangilio wa kuifungua hatujaanza lakini tutahakikisha itafunguliwa. Ningeuliza Mheshimiwa ni lini anataka tuje tuifungue. Wikendi hii, nimealikwa upande wa Elgeyo Marakwet. Naenda kwa Mheshimiwa Lina Chebii na kwa Mheshimiwa Boaz Keino na kule kwingine tutaalikwa tutahakikisha kama mimi mwenyewe siwezi kuenda kufungua, tutapata maofisa wa kuzifungua lakini kile ningetaka kusema ni ya kwamba, na sasa najibu Mheshimiwa Mwau, tutahakikisha na tumeanza orodha hiyo na mimi mwenyewe ndio naiangalia. Najua kuna Waziri ambaye amesimamia Wizara hiyo. Kila mtu ambaye soko yake haijakamilika anione mimi binafsi na nitahakikisha kwamba nitaleta mkurugenzi wa soko na tutamuambia mpangilio na hizo soko tutamaliza. Si mnipigie makofi tafadhali?

(Laughter)

Mr. Kioni: On a point of order, Mr. Deputy Speaker, Sir. Is the Assistant Minister in order to continue misleading this House? He is even looking for us to clap for me like we are in a public rally while we have been complaining about these markets for the last three years. The Assistant Minister was on the Floor telling us that the market in Ndaragwa at Kiamata is at the foundation level for a whole year and all that was needed was for his officers to make payments for further construction and he is now telling us here that he is going to take disciplinary action. What disciplinary action has he taken on the officers who have failed to pay the contractor who has done just a bit of work? This Ministry is becoming a source of frustration for the whole country, and I hope the Assistant Minister is not out on some form of mission.

Mr. Deputy Speaker: Mr. Assistant Minister, you said that you took action, against who? It was zero before and now you have already got 50 per cent. What was the action you took? Did you sack or suspend somebody? What did you do?

Mr. Nguyai: Mr. Deputy Speaker, Sir, when the various hon. Members stormed my office with grievances, we formed a rapid response committee and itemised the issues that needed to be addressed to start the commencement of works. We at one point did not have sufficient funding but we now do have it to ensure that there is absolute completion of each of the projects. If there is any contractor who has been delayed in terms of payment, I would want to know and I will take the necessary action. It is a thorn in the flesh of the Ministry of Local Government that we are going to remove.

Mr. Sirat: Mr. Deputy Speaker, Sir, could the Assistant Minister tell us how he is going to complete the projects? For example, my Committee for Local Government has been investigating a few of them. We have gone to Habaswein whereby the market is 30 per cent complete but upon further investigations we came to find out that all the money, Kshs10 billion, has been misappropriated. So, how will he finish the project in Habaswein when all the money

has been misappropriated and only 30 per cent of the project has been completed? Where will he get the extra funding to complete that project tin Habaswein?

Mr. Nguyai: Mr. Deputy Speaker, Sir, I am trying to look at the Habaswein issue and what I have in the report. I would like to be given a little more time to address that specific issue and I request hon. Sirat to come to my office and then we look at it as a specific case.

Mr. Chachu: Mr. Deputy Speaker, Sir, some of these fresh produce markets have been completed. My constituency is North Horr, maybe one of the farthest constituencies from this capital City. Even those which have been completed, two years down the road, they are just rusting and gathering dust. What will the Ministry do to make these markets operational, so that they can serve the Kenyan public?

Mr. Nguyai: Mr. Deputy Speaker, Sir, the duty of ensuring the operationalising of the markets is for individual local authorities that also fall under my Ministry. We will issue a circular to ensure that they operationalize these markets, because they are also a source of revenue for the local authorities. We will also do an audit to find out the ones that have been completed and not operationalized, so that we can fast-track to ensure that the respective municipalities or councils take them over and operationalize them even if they have not been officially opened. I will issue a circular to that effect.

Mr. Deputy Speaker: The last supplementary question on the same, Mr. Mwathi. Hon. Members, the interest is a lot but this is not the only Question that we have on the Order Paper. You will appreciate that the Chair himself is an affected person.

Proceed.

Mr. Mwathi: Mr. Deputy Speaker, Sir, I want to thank the Minister for saying that he will take disciplinary action against the officers who are misleading him. I am beginning to query the competence and capacity of this Ministry. In the answer to part (c) of my Question that the contractor submitted the performance bond plus the acceptance letter to the Ministry on 7th June, 2012; next week it will be three months but the contractor has not signed that contract. How long will it take for you to sign the document to allow the contractor to be on site? He has actually been calling the Ministry to find out why the Ministry is not facilitating signing and mobilization to the site, for this project.

Mr. Deputy Speaker: Mr. Nguyai, if the written answer that the Chair is in possession of is anything to go by, in the last bit you said that:-

“Mr. Speaker, the project is expected to start as soon as the contractor submits the performance bond not later than 15th June, 2012. This is the end of the statutory period within which the award is valid.”

How do you intend to get over the law if this has not been signed yet?

Mr. Nguyai: Mr. Deputy Speaker, Sir, in the answer that I gave to part (c) I also assured the hon. Member that I will ensure that within one week that contract document is signed; it is the one that said that the performance bond plus acceptance letter were received by the Ministry on 7th June, 2012 and the contract documents are being processed. I did not have that particular answer, but I once again want to assure the hon. Member---

Mr. Deputy Speaker: It is from the Minister for Local Government; Parliamentary Question No.1626; it is signed by Hon. Frederick Gumo, EGH, MP, Acting Minister for Local Government, and is dated 13th June, 2012. How many answers do you have on the Floor? Is it the one which is in front of the Chair?

Mr. Nguyai: Mr. Deputy Speaker, Sir, the one that I have is dated 2nd August, 2012 and signed by myself. I once again assure the hon. Member. Every time a Question comes and

delays, I always make sure that I am up to speed. I want to assure this hon. Member that all documents with us--- Next week, you will have a signed contract and the contractor will be on site.

Mr. Deputy Speaker: In the event that it does not happen, Mr. Mwathi, you will be at liberty to draw the attention of the Chair to it.

Mr. Gitau is not able to ask Question No.1556 and has communicated the same to the Chair. I direct that this Question be listed on the Order Paper on day when Mr. Gitau can prosecute it.

Question No.1556

UPGRADING OF WANG'URU-GATEGI ROAD

(Question deferred)

Mr. Deputy Speaker: Question No.1609 by Mrs. Chepchumba. Where is Mrs. Chepchumba? Is she out of this place on any Parliamentary business? Clerks, do you have any communication? Question dropped.

Question No.1609

MONEY OWED TO MASINDE MULIRO UNIVERSITY BY
KAKAMEGA MUNICIPAL COUNCIL

(Question dropped)

I have already disposed of the Question by Mr. Gitau. Question No.1710 by Mrs. Odhiambo-Mabona. Where is Mrs. Odhiambo-Mabona? Any valid reason why she is not able to ask this Question this morning? Question dropped.

Question No.1710

SUSPENSION OF LAW COURSE AT KISII
UNIVERSITY COLLEGE

(Question dropped)

Question No.1600 by Mr. Kutuny. Where is Mr. Kutuny? Any reason from the Clerks Department? Question dropped.

Question No.1600

LIST OF IDPs PAID BY GOVERNMENT IN CHERANGANY

(Question dropped)

Question No.1685 by Mr. Ethuro. Mr. Ethuro is out of the country on Parliamentary business. So, the Question is deferred to a day when Mr. Ethuro can prosecute it.

Question No.1685

IRREGULAR ALLOCATION OF NCPD LAND

(Question deferred)

Question No.1337 by Mr. Kiilu, hon. Member for Makueni.

Question No.1337

SACKING OF M.S. MUNYAO BY TSC

Mr. Kiilu asked the Minister for Education:-

(a) whether he could inform the House why Mr. Mutie Samuel Munyao (TSC No. 384373) was dismissed by Teachers Service Commission (TSC) on 1st March, 2010 when the Commission was fully aware that he was suffering from acute pelvic ulcer disease (PUD); and,

(b) whether he could consider reinstating him into the service.

Mr. Deputy Speaker: Minister for Education? Where is the Minister for Education? Government side? Can any substantive Minister tell us why their colleague, the Minister for Education is not here today? Mr. Wetangula, where is your colleague?

The Minister for Trade (Mr. Wetangula): Mr. Deputy Speaker, Sir, I have no idea.

Mr. Deputy Speaker: You have no idea?

The Minister for Trade (Mr. Wetangula): I have no idea where my colleague is. I want to be honest. I have just walked in and I do not know where the Minister is. All that I can do, in terms of collective responsibility, is to tender an apology to the Chair and to the House for the absence of the Minister and request that the Question be, perhaps, put aside for round two, or if the Chair so desires, defer it to tomorrow. I will communicate with the Minister and the Leader of Government Business.

Mr. Deputy Speaker: Ordinarily, the Standing Orders of the House state that a Minister is out of order if he fails to answer a Question. Likewise, a Member of Parliament is also out of order if he fails to ask a Question. Ordinarily, one would expect the Chair to employ certain sanctions against Ministers. Even the sanctions that are employed by the Chair have their limitations in line with the Standing Orders. I get the feeling that Ministers would be too glad to be told that they cannot transact any business; they then will run away from the House because that is what they do not want to do. So, I will not give him that pleasure; this Question will be listed on the Order Paper tomorrow afternoon.

(Question deferred)

Can you communicate the same to him, Mr. Wetangula?

Next Question is No.1573 by Mr. Odhiambo, Member of Parliament for Butula.

Question No.1573

UTILIZATION OF ALTERNATIVE SOURCES OF POWER

Mr. Odhiambo asked the Minister for Energy:-

(a) whether there is a comprehensive programme that the Government has put in place to enable areas that have not utilized the wind, solar, geothermal and biomass energy have access to such sources of energy and also introduce areas which are still not being fully served from the national grid;

(b) whether he could inform the House the plans the Government has for opening up the energy sector to private sector investment so as to unlock massive energy potential to drive development in rural areas in line with Vision 2030; and,

(c) how much wind energy the Government intends to tap in the country in 2012/2013 financial year and what the level of investment is for the same.

Mr. Odhiambo: Mr. Deputy Speaker, Sir, I want to draw your attention to the fact that this Question is coming up for the second time. The first time I asked this Question many other hon. Members raised supplementary questions on the same, and the matter was considered to be very important to this nation. So, the Assistant Minister was asked to go and prepare a more detailed answer, because the one that he gave last time did not satisfy hon. Members. As I speak, I do not have a different answer from the one he provided in the previous sitting. I wish to be informed by the Assistant Minister if he has done what he was asked to do by the Chair on that day.

Mr. Deputy Speaker: Assistant Minister, are you sure you have the additional information that was sought by the hon. Member and other hon. Members in the House the last time this Question was on the Floor of the House?

Mr. Magerer: Thank you, Mr. Deputy Speaker, Sir. The issue rose out of the supplementary questions that were asked by hon. Members. It was not specifically the failure by me to satisfy the House in terms of answering the Question as was listed on the Order Paper at that time.

Mr. Deputy Speaker, Sir, I picked a number of questions that the hon. Members were interested in knowing after looking at the HANSARD. With your indulgence, I am not sure whether you want me to read all of them. Most of them were totally different questions from what the hon. Member for Butula had asked, except for part (c) of the Question which read as follows:-

“(c) How much wind energy does the Government intend to tap in the country in 2012/2013 Financial Year and what is the level of investment for the same?”

This was covered adequately in my answer to him.

So, if you guide me, Mr. Deputy Speaker, Sir, then I may want to go through all the questions which were expressed by hon. Members during that time on the Floor. I have answers for all of them, but it will take some time. I did not find it necessary to furnish the hon. Member who asked the Question because the other questions which are supposed to be answered belong to other hon. Members who actually asked the supplementary questions.

So, I seek your guidance.

Mr. Deputy Speaker: Clearly, for this Question to be listed on the Order Paper one more time, the Chair must have given a direction. The Chair must have concurred that there were

certain areas and gaps in your answer that needed to be addressed comprehensively. Do you have a copy of the HANSARD for that day? Is that a copy of the HANSARD for that day in your possession?

Mr. Magerer: Mr. Deputy Speaker, Sir, this is not the HANSARD. This is what I used to pick the questions from the engagement that we had in the House. I was trying to make sure---

Mr. Deputy Speaker: The Chair must have directed you to do “a”, “b”, “c” or “d” to the satisfaction of the House---

Mr. Magerer: Mr. Deputy Speaker, Sir, in fact, you were on the Chair and what you simply said was that I needed to provide enough information to satisfy the hon. Members.

Mr. Olago: On a point of order, Mr. Deputy Speaker, Sir. The gaps that were in the Assistant Minister’s answer last time that made it possible to have this Question answered again related to the issue of alternative energy, which is very fundamental in this country. With your permission and the indulgence of hon. Odhiambo, the Questioner, I would suggest he tables this answer, so that we can have a chance to scrutinize it thoroughly and then we will deal with it next time.

Mr. Deputy Speaker: I think you better get a copy of the HANSARD, go through it and satisfy yourself that, indeed, what you are answering right now answers the areas that the Chair did give a direction on. Because you do not have a copy of the HANSARD and the Chair does not have it either, we will have to defer this Question to another day. In the meantime, you prepare yourself adequately.

What do you have to say, Mr. Magerer?

Mr. Magerer: Mr. Deputy Speaker, Sir, I have looked at the HANSARD. I have the questions which the hon. Members had an interest in finding a substantive answer. Maybe what I did not do and which I can do now, if you allow me, is to table the way I have attempted to address the issue. I said that I could read the answers which are about 10 pages. Maybe I would take too much time of the House to do so.

Mr. Deputy Speaker: The Standing Orders of this Parliament are very clear and express; you do not come with an answer of ten pages. You must be able to give the answer in a precise and concise manner because this is Question and Answer Time.

Mr. Magerer: Mr. Deputy Speaker, Sir, there are nine questions. So, I really do not think I could do much to summarize them. These are nine questions apart from the Questions which are appearing on the Order Paper.

Mr. Deputy Speaker: I am directing that this Question be listed on the Order Paper tomorrow afternoon. In the meantime, the Chair will go through the HANSARD to acquaint himself with the exact directions that were given and I suggest that you also do the same. Go through the HANSARD and answer the gaps that essentially were noticed by the Chair. I do remember that I was on the Chair at that time. I do also remember that I gave certain directions, but I do not remember exactly what the directions that I gave were. I can only vaguely have a small recollection of what transpired that day. I will go through the HANSARD to acquaint myself with the exact direction I gave that day.

Let this Question be listed on the Order Paper tomorrow afternoon.

(Question deferred)

The next Question, hon. Mututho.

Question No.1717

STALLING OF MAIELLA-NGONDI-KONGONI ROAD

Mr. Mututho asked the Minister for Roads:-

(a) whether he could confirm that the rehabilitation works on Maiella-Ngondi-Kongoni Road (D331/E445) have stalled thereby greatly affecting Maiella residents who cannot transport their agricultural produce to the market,

(b) whether he could state the names of the two firms that were awarded the contract; and,

(c) when the works will resume and whether he could assure the House that the sections that were shoddily done will be re-done and further state when the works to upgrade the road from Suswa to Elementaita (E445/D331/D322/E446) to bitumen standard will commence.

Mr. Mututho: Mr. Deputy Speaker, Sir, with your indulgence, part “b” of the Question is completely adulterated and does not reflect what I did ask. What I had asked---

Mr. Deputy Speaker: You can only say what you are saying after the Assistant Minister has answered. That is part of the prosecution process. You will only give your opinion after the Assistant Minister has answered it.

Proceed, Assistant Minister for Roads.

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

(a) I am aware that the works on the rehabilitation of Ngondi-Maiella-Nkoriato-Suswa-Didi-Narok Road, otherwise, referred to as E445, has temporarily stalled due to continuous rainfall which hindered the progress of repair.

(b) The two firms which were awarded the contract are Messrs. Willys Kenya Ltd and Messrs. Decotec Enterprise.

(c) The works resumed after the weather conditions became favourable and were completed in early August, 2012. Reinstatement of sections damaged by the rains was first carried out to make the roads motorable. Upgrading of Roads E445/D331/D322/E446 to bitumen standards will be done as maybe prioritized by the Naivasha Constituency Roads Committee in their work plan.

Thank you, Mr. Deputy Speaker, Sir.

Mr. Mututho: Thank you, Mr. Deputy Speaker, Sir. Part (b) of the Question is completely adulterated. I had asked the following question:-

“How was the tender awarded and can the Minister give the identities of the directors of the two firms undertaking this contract?”

Mr. Deputy Speaker, Sir, what appears on the Order Paper is:-

“(b) Could the Minister state the names of the two firms that were awarded the contract?”

That means that the Assistant Minister either got the wrong Question from this Parliament or he did not capture the spirit and the wording of this particular Question. What I wanted is the process under which that tender was awarded and the names of the directors of the said companies, which now has not been answered at all.

Dr. Machage: Mr. Deputy Speaker, Sir, I answer Questions as directed to me from the Speaker’s Office. This is the Question I received. If the hon. Member so wishes to ask the Questions he is putting on the Floor, he can also file it, which I will answer on another day. But I

have answered what I received from the House.

Mr. Mututho: Mr. Deputy Speaker, Sir, it is really a sheer waste of Parliament's time for me to ask the names of the firms which are even printed on the machines themselves. What I am asking is a very serious issue: How the tender was awarded and the identities of the directors of the two firms undertaking the contract.

Mr. Deputy Speaker, Sir, I table the original Question, so that I can receive the answer of what I am asking, because that is the---

Mr. Deputy Speaker: Just table the original Question.

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

(Mr. Mututho laid the document on the Table)

Mr. Deputy Speaker: Are you maintaining that the Question as listed on the Order Paper is different from the Question the Assistant Minister has just answered?

Mr. Mututho: Mr. Deputy Speaker, Sir, it is completely different.

Mr. Deputy Speaker: Could I see that one which he has tabled?

(The Clerk-at-the-Table handed the document laid on the Table by Mr. Mututho to the Chair)

Yes, indeed, there is a variation in the way the Question has been framed, from the way the hon. Member had filed in the first place. I am directing the Clerk's Department to forward it to the Minister and let it be listed on the Order Paper next week. When is it comfortable with you to respond to it, Dr. Machage?

Dr. Machage: Mr. Deputy Speaker, Sir, any time next week is okay. But allow me to make the following statements. The Member is erroneously accusing the Ministry of adulterating the Questions. He is also accusing the Chair. To me, this is not proper and warranted. What I have brought to the House is the Question I was directed from your office to answer. This is the Question on the Order Paper. So, what I would like to state is that this Question has been adequately answered. Therefore, direct the Member to ask a different Question because I have adequately answered the Question on the Order Paper.

Mr. Deputy Speaker: Order, Assistant Minister! The Chair would clearly want to find out exactly where the change occurred. Hon. Mututho has tabled a copy of the Question that he asked. Part "b" asks: "How was the tender awarded and could the Minister give the identities of the directors of the two firms undertaking this contract?" That does not seem to appear in this Question as listed today on the Order Paper.

So, it is the Chair's responsibility to go back and find out exactly where these changes did occur---

(Mr. Mbadi sent request for intervention)

I can see you are asking for a point of order, but you do not ask for a point of order when the Chair is communicating, hon. Mbadi. Insistent as you maybe, that is the first basic rule here on the Floor of the House. So, I am directing that this Question in the manner that the Member has framed it be forwarded to the Ministry. I am not faulting the Ministry in anyway. If the Ministry did not get this Question as it is appears on this, then clearly, it cannot be the Ministry's

fault for having done that. But I will find out the information in due course. This is a non issue for the time being. The Chair is not blaming anybody. I do not think the Ministry should be blamed in this case. I am just directing it could have been a mistake in the Clerk's Department not necessarily intentional because---

Mr. Mbadi: On a point of order, Mr. Deputy Speaker, Sir. As a way forward, we used to get communications well in advance from the Speaker's Office whenever Questions are sent to the Ministry. In the event that there is a difference between your original Question and what is sent to the Ministry, it could be corrected in advance. Could this be restarted so that hon. Members get communication whenever a Question is sent to the Ministry to avoid seeing different Questions?

Mr. Deputy Speaker: Fair enough! I think you have raised a very valid point of order and the Chair will look into that right now.

Mr. Pesa: Mr. Deputy Speaker, Sir, I wanted to say exactly what hon. Mbadi has said.

Dr. Machage: Mr. Deputy Speaker, Sir, with your indulgence, would I be in order, therefore, to request that the Chair declares that today's Question has been adequately answered and another Question will be sent to the Ministry?

Mr. Deputy Speaker: Order, Order! This Question has not been asked. It has been asked only to the extent that the Member said that this is not the Question he listed. The Chair is satisfied. The Chair is not blaming the Ministry. So, when the right Question is filed, you will proceed and answer satisfactorily. You have nothing to fear hon. Assistant Minister. I think this matter has been disposed of.

Hon. James M. Kamau, why do you want to rise on a point of order on something that has already been disposed of?

Mr. James Maina Kamau: Mr. Deputy Speaker, Sir, following on what hon. Mbadi has said, it is not normal these days for a Question to appear on the Order as requested. Does it mean that one has to go to the office and follow up? What is happening, maybe, you can shade light on this one.

Mr. Deputy Speaker: That is the matter that the Chair will address with the Clerk's Department. It is a valid point of order and we will deal with it.

(Question deferred)

Next Order!

MINISTERIAL STATEMENTS

Mr. Deputy Speaker: Yes, hon. Minister for Foreign Affairs, your statement was sought by who?

The Assistant Minister for Foreign Affairs (Mr. Onyonka): Mr. Deputy Speaker, Sir, the statements were actually two; one by hon. Linturi and the other one by hon. Shebesh, but they are not in the House.

Mr. Deputy Speaker: If none of them is in the House, we will do it at the time and moment when they will be in the House. That has been our tradition.

Hon. Wetangula, I did notice you rose on a point of order. Did you change your mind or you are still on a point of order?

Proceed.

The Minister for Trade (Mr. Wetangula): Mr. Deputy Speaker, Sir, I am on a point of order. My learned senior and teacher has whispered to me that the issue I was about to raise was raised yesterday and dealt with. I wanted to raise with the Chair the desire to have properly visible clocks on the walls of this Chamber and very important writings that used to be at the entrance.

Mr. Deputy Speaker: That was handled yesterday and we will in due course by Thursday, which is tomorrow. Once you break for the week, rest assured that Tuesday next week, you will find them.

The Minister for Trade (Mr. Wetangula): Mr. Deputy Speaker, Sir, Parliament can do better. What they do in other jurisdictions is the clock will be visible on the screen. I think this is an omission that may have been occasioned during the process of installing this. It can be improved so that every Member can see and check the time on their screen.

Mr. Deputy Speaker: The Information Technology Department has taken note of that. Because there are Members who will be addressing the House from the dispatch box and there is no screen in the Dispatch Box, the Chair felt that it is also prudent to have them on the walls. If we can have those in addition to those on the screen, it will be better. But that was disposed of yesterday.

Any other Ministerial Statement? If none, next Order!

BILLS

Second Reading

THE STATUTORY INSTRUMENTS BILL

(Ms. Amina Abdalla on 15.8.2012)

(Resumption of Debate interrupted on 15.8.2012)

Mr. Deputy Speaker: Who was contributing then? Hon. Namwamba had 17 minutes and was seconding. In the circumstances, if he is not there, I will proceed and do the needful, which is to propose the Question.

(Question proposed)

I am not seeing any request unless this thing has failed. Yes, hon. Kones.

Dr. Kones: Thank you, Mr. Deputy Speaker, Sir, for giving me this chance to support the Bill.

Mr. Deputy Speaker, Sir, first of all, I want to thank the Members of the Committee on Delegated Legislation for having taken time to come up with this very important Bill. The Bill is meant to harmonize and streamline how this House will deal with delegated legislations. For a while, different departments of Ministries have been given a number of delegated responsibilities by this House and at times, it has been a bit difficult for this House to follow up whether those delegated responsibilities are in conformity with the parent Acts of this House. With the passage

of this Bill, it is really going to be very important that all delegated legislations and subsidiary rules that are made by the various departments of Government , do conform with the parent Acts.

Mr. Deputy Speaker, Sir, I have noted that this Bill has made it mandatory that where Ministries are making regulations that have got significant impacts on the people, then the people who are affected and concerned have to be involved or consulted before those regulations are effected. I think that this is really very important. The regulations also must conform to the constitutional requirement that all statutory statements and rules must have the participation of the public. That way the Bill will ensure that all the rules which our Ministries pass are consultative in nature.

Mr. Deputy Speaker, Sir, I think this Bill has come at the right time when we are also making the Independent Electoral and Boundaries Commission (IEBC) regulations that will guide the next general elections. So, with the passage of this Bill, this House will have that responsibility of scrutinizing those regulations in the manner in which this Bill has proposed. I want to request that this House approves this Bill. In fact, I have gone through it and as a Member of this Committee, I even do not see any area where we need to do amendments, except probably, to consider the situation where this Bill says that for people to give input into the regulations, then there shall be a notice which will be published in the daily newspapers. That notice will take, at least, 28 days. There are situations where we may want to have the input of the public within the shortest time. My proposal would be that we reduce the 28 days or just say “a maximum of 28 days,” because if we say “at least,” it means 28 days and above. I am suggesting that in Clause 9(iv), the notice be reduced or limited to a maximum of 28 days. Otherwise, I am in agreement and so happy with the rest of the Bill.

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

Mr. Deputy Speaker: Is there any hon. Member who wants to contribute to this Bill? I am not seeing any requests on the screen.

Hon. Kioni!

Mr. Kioni: Mr. Deputy Speaker, Sir, I want to first thank the Chair and Committee for this piece of legislation. It is important that Parliament gets to know and also reviews or allows any piece of legislation that borders on this issue.

Mr. Deputy Speaker, Sir, I want to thank the Chair of the Committee on Delegated Legislation for the work that they have done. It is important that Parliament familiarizes itself with all legislation that is done by other statutory bodies because in so doing, as representatives of the people, we are then familiar with what it is that has been done by these bodies. In the past, we have come across legislation that to some extent negates what was intended by the main statute. For us to then have a proper way of bringing this delegated legislation to Parliament, it is important--- Since we will have an opportunity to look at the provisions of the Act during the Third Reading, there are certain areas what we would want done in a different way. But suffice it to say that it is a useful legislation. I want to support and congratulate the Chair of the Committee on Delegated Legislation for her work. We will be able to make amendments during the Third Reading.

Thank you, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Under the circumstances, I call upon the Mover, hon. Amina Abdalla, to reply.

Ms. Amina Abdalla: Thank you, Mr. Deputy Speaker, Sir. I wish to thank the two Members who have spoken on the Bill.

Mr. Deputy Speaker, Sir, the development of this Bill has taken over three years and it has been extensively reviewed. So, I would just like to respond to what Dr. Kones said about a maximum of 28 days. That is a valid request and we intend to look into it.

Mr. Deputy Speaker, Sir, I need to make the House note that the lack of this regime of how to scrutinize delegated legislation can put us in a very difficult situation as a country. For example, in the Elections Act, we had said that we were not going to pass any election related regulation, unless it is passed by the House, which is one of the procedures proposed by the legislation. The Elections Act states that the regulations on elections should be ready six months to election, which means that on Tuesday next week, all the regulations should have been gazetted and passed. We also, as a House, had said that we will need to scrutinize and amend them appropriately. Those regulations have not even been tabled in the House. That means that even if they were tabled today, the House would have only one-and-a-half working days to look at them. These are regulations that have a major bearing on Kenya having peaceful elections. So, this is history where the Executive, in whichever form, does not respect Cap.2 of our laws which states that every regulation and any delegated legislation must be tabled in the House and cannot be valid unless passed by the House. This Act is not being observed. The only way to observe it is to have a regime that provides for the procedure to follow for each type of regulation. There are regulations that require public consultation and have financial implications for members of the public and all those areas. Without this regime, now that we are moving to a Presidential system of Government, we will have a lot of issues with the next Executive, because if there are no penalties when they do not table these regulations, they will have no incentive to table them. The Committee on Delegated Legislation will be a toothless bulldog if the regulations and clarity on how to go about tabling the regulations are not clear. I think that with the problems that we have seen in delegated legislation where Ministers have taken over powers that have not been given to them by the parent Act; where they have abused the powers that have been given to them; where they have made regulations that not only fail to conform to the parent Act but also even do not conform to the Constitution, that can only be tamed if we have a procedure that clearly deals with that.

Mr. Deputy Speaker, Sir, as I said before, we, as a Committee of Delegated Legislation, have had difficulties working on new regulations, mainly because we have been bogged down by non-compliance to the regulations that have been drawn up by Ministers and that have had problems. We appreciate that the regulations produced are very many, but clearly the Bill shows that the depth at which we are going to be scrutinizing is different depending on the powers. But more importantly, it gives caution to us, as a House, when we make regulations, to conform to Article 94(6) of our Constitution that requires that when we give delegated power to anybody, we clearly state the extent of that power and how that power will be scrutinized should it be abused. So, this Bill further intends to repeal Sections 27 and 34 of Cap.2, which have been inefficient in ensuring that members of the Executive conform to tabling regulations.

Finally, I would like to take this opportunity to state that having started this process in 2004, I must appreciate the changes that have taken place, and that make it easier for Members of the Back Bench to move Private Members' Bill without incurring personal financial costs. We now have a vibrant Legal Department that is able to help us to start from scratch with any legislation, and be able to interact with other bodies that strengthen the regulations that we propose. For that reason, I would like to thank the Legal Department, the Research Department of Parliament, the Law Reform Commission (LRC) for the support we have received and my Committee Members who have done a lot of extensive personal research and personal study

opportunities to ensure that we have a legislation that has not been supported by any external force in terms of legal expertise, and that has began from scratch and been produced. I would like to say that as an institution, we certainly grow not only because our Standing Orders are more flexible, but also because the institution has strengthened their capacity in legal expertise and we will only be able to get better.

With those not so many remarks, I would like to move that the Bill be read a Second Time.

(Question put and agreed to)

(The Bill was read a Second Time and committed to a Committee of the whole House tomorrow)

Second reading

THE PROHIBITION OF PYRAMID SCHEME BILL

Dr. Khalwale: Mr. Deputy Speaker, Sir, I beg to move that pyramids schemes be prohibited under a Bill called the Prohibition of Pyramid Scheme Bill, Bill No.851 of 2012.

Mr. Deputy Speaker: Order! What did you say? Bill No.851?

Dr. Khalwale: I am sorry, Mr. Deputy Speaker, Sir; it is Bill No.9. I read the wrong number.

Mr. Deputy Speaker: Proceed! Go through it one more time. Move it exactly the way it is framed.

Dr. Khalwale: Mr. Deputy Speaker, Sir, I think it is appropriate at this stage for me to make a statement on what a pyramid scheme is.

Mr. Deputy Speaker: Move the Bill first of all exactly as it is and then you may continue.

Dr. Khalwale: Mr. Deputy Speaker, Sir, I beg to move that The Prohibition of Pyramid Scheme Bill, Bill No. 9 of 2012 be read a Second Time.

This is a Bill for an Act of Parliament to prohibit certain acts in relation to pyramid schemes and to provide for connected purposes. A pyramid scheme can roughly be defined as an unregulated financial scam, which relies on pyramid investors and to which contribution is made in the hope that contributors are going to get phenomenal and instant returns on their investments.

[Mr. Deputy Speaker left the Chair]

*[The Temporary Deputy Speaker
(Ms. Amina Abdalla) took the Chair]*

Madam Temporary Deputy Speaker, the issue of pyramid schemes has a very sad history in this country. It had been taking place at a very low key basis until about the year 2006/2007 when there was a sudden proliferation in the number of pyramid schemes. Unfortunately, after operating for two years, they quickly collapsed; they sank with billions of the pyramid schemes investors' money. The respective investors suffered huge financial losses, ranging from as little

as a goat, a cow, a bull that was sold to those who actually invested millions of Kenya Shillings. When this happened, it was followed, unfortunately, by sad instances of suicide and mob justice. I remember my own classmate of four years at Musingu High School, Elphas Mweresa, who was a perpetrator of one of these schemes, was mob-lynched and thrown down from one of the high buildings here in Nairobi. I also remember several investors who committed suicide, because their retirement benefits had gone up in smoke. As a result of this, I came to this House and filed a petition on behalf of the people who had lost their millions. Parliament took it up and a recommendation was made that a taskforce be formed. This taskforce on pyramid schemes was, indeed, formed and very good job was done by it under the Ministry of Co-operatives Development and Marketing.

The sad thing was that as soon as this particular taskforce was in place, it started experiencing serious frustrations. Allow me just to bring the House up to speed on some of the frustrations that they faced. They invited some of the perpetrators of this particular crime but they refused to attend. It is important that the country knows that amongst the people who refused to attend was Mr. Njeru Ndwiga, who was the Minister for Co-operative Development and Marketing during the pyramid schemes saga. He just refused to appear! Mr. Andrew Ligale, then an Assistant Minister, was also reported by the people who lost their money as one of the main promoters of the scheme called Deci.

Bishop Sseberekare from Uganda also refused to appear as did Esther Bongo of Deci in Kisumu and many others, not to leave out Bishop Peter Ndegwa. This prescription also included poor support from the Provincial Administration, the Criminal Investigation Department (CID) and even the National Security Intelligence Service (NSIS). Frustrated as they were, the taskforce succeeded to file a report, where they flagged out 12 top pyramid schemes that fleeced Kenyans. These 12 schemes had fleeced Kenyans to the tune of Kshs7.4 billion. Top on the list was Deci with Kshs2.4 billion, Clip Investments with Kshs1.9 billion, Kenya Business Community SACCO with Kshs780 million, Sasanet Investment with Kshs739 million, Jitegemea Investment with Kshs495 million and Circuit Investment with Kshs348 million. What is important and for the House to realize why we must have this statute is that all these frustrations and possible getaway by these perpetrators was because of lack of this kind of law. For this kind of business not to be repeated, we must pass this law so that we do not lose out on what we can salvage at the moment. At the moment, we can salvage some of the savings which are still held in accounts in financial institutions and some of the banks. We can also salvage some of the assets that were acquired as a result of these investments.

Madam Temporary Deputy Speaker, I would like to bring Members to speed or highlight where the money is; the billions are still there. They are not lost. It is only that there is no law that can unlock this money. We have actual identified bank accounts in this report. The Deci Capacity Building Entrepreneur had Tujibebee, Tumaini Family Limited, Akiba Micro Finance, Sasanet Investment, Clip Investment Co-operative, King Script Publishers Limited, Kenya Christian Community SACCO, Kenya Business Community SACCO, Kenya Multi-purpose Business Entrepreneurs, Smart Life Strategy Firm, Smart Welfare Strategy Firm, Jitegemea Entrepreneurship SACCO and the African Christian in Development also called ACID. All these can be traced and found.

If we pass this Bill, then we are going to have an opportunity to get hold of some of the assets that are still there. I can give the Members just a few of them. In Clip Investment SACCO Limited, the perpetrator called Peter Ndakwe bought plots in Runda worth Kshs200 million. This is on record. With a law with the right provisions, these assets will be recovered.

The Kenya Business Community has got land in Embakasi situated near Fedha Estate. The Kenya Multi-purpose Company Limited has got a mineral plant at Athi River called Msafiri Maize Flour, an entertainment joint at Thika Road and a vehicle on loan, which is supposed to be owned by the society members. Sasanet Investment has 30 units of flats at Sunrise Estate here in Nairobi worth Kshs60 million, 11.5 acres of land in Nyari Estate in Nairobi and a deposit of Kshs40 million as a collateral that they used to borrow the money. They also have four flats along Chaka Road, 32 flats in Imara Daima and three flats in South B. these assets are there. The Kenyans who put in the money are suffering and the perpetrators are enjoying from these assets. Let this Parliament rise and pass this law so that we can get hold of these assets.

Finally, we have Spell Investments. One of the directors called Boniface Anderson Ngozia had connections with Stanbic Bank. Unfortunately, he died in a road accident and two days prior to his death, he had given instructions to the bank to transfer his money into his account. These assets are there. This Bishop called Sseberekare from Uganda, in an account in the Kakamega Branch of the Kenya Commercial Bank, transferred on the same day US\$40,000. On another day, he transferred Kshs2.7 billion. So, if the law is there, we can work through bilaterals with Uganda and recover this money. Because we want to make time for other businesses, allow me to bring Members up to speed on what the taskforce said.

The taskforce which was set up made very clear recommendations. These recommendations have never been acted on reason being that some of the players were the high and mighty, who are in the high echelons of power. They have set aside this book and it is now on the shelves, so that nothing is acted on and people continue suffering. There was a recommendation that there be formed a standing committee to preside over this matter. This has never been done by the Government. There was a recommendation that a judicial commission be formed, but the Government has refused to form it. There was a recommendation that a trust fund be set up under the Ministry of Co-operative Development and Marketing to manage the funds and the properties to be recovered. The members of the said fund were expected to include other relevant Government Ministries and agencies and Kenyans of good repute. The Government has not done this.

There was a recommendation that the CID moves on to these people. The CID, up to date, has refused to move on to these people who committed economic crimes.

Dr. Kones: On a point of order, Madam Temporary Deputy Speaker. I do not want to interfere with Dr. Khalwale, but he has mentioned some names. Is the report he is reading authentic? We would like to know what report he is quoting, so that we can trust the source of his information.

The Temporary Deputy Speaker (Ms. Amina Abdalla): Dr. Khalwale, is the taskforce report signed? Could we see a copy of it?

Dr. Khalwale: Madam Temporary Deputy Speaker, this is an official report that was given to hon. Joe Nyagah, the Minister for Co-operative Development and Marketing on 24th June, 2009. Once I finish, I will table it although this is already with the Government. I will table it, but to respond to your query, it has been signed by all the members of the taskforce who were led by hon. Francis Nyenze.

The Temporary Deputy Speaker (Ms. Amina Abdalla): So, you confirm that the four names that you have mentioned are the ones for those people who did not agree to appear before the taskforce?

Dr. Khalwale: Precisely, Madam Temporary Deputy Speaker. I was quoting directly from page 7 of the report, which I will happily table.

The Temporary Deputy Speaker (Ms. Amina Abdalla): So, hon. Kones, it is an official document. Go on, Dr. Khalwale.

Dr. Khalwale: Madam Temporary Deputy Speaker, I wanted to conclude by telling this House that the CID has refused to move on these people. For those of us who keep up with the current affairs outside this country, you remember that such a scam took place in the United States of America and a gentleman called Murdoch, a multi-billionaire, was jailed for life. Other governments of the modern world rise to the plight of their citizens and our country refuses to rise to the plight of her citizens simply because they are trying to protect a few people. This is something that this Parliament endeavors at all times to bring to an end. Allow me to just highlight a few points in the law. In Clause 3, this Bill attempts to define what a pyramid scheme is.

Madam Temporary Deputy Speaker, in Clause 4, it attempts to put into law matters to be considered when a court of law is sitting to make a deliberation on somebody who has been charged under this particular statute.

In Clause 5, Madam Temporary Deputy Speaker, we are trying to define the kind of offence in terms of the kind of punishment that you would met out to these people. We are providing that a person who knowingly promotes a pyramid scheme should know that he commits an offence and a person so commits the offence if he participates in a pyramid scheme, knows or reasonably ought to know that any benefit that person may get from participating in the scheme would be entirely or substantially derived from the introduction to the scheme of a new participant.

Madam Temporary Deputy Speaker, we are also saying that a person who induces or attempts to induce a person to participate in a scheme commits an offence; and that a person who commits an offence under sections (i) and (ii) of Clause 5 is liable to a conviction or a fine not exceeding Kshs10 million or to imprisonment for a term not exceeding ten years or both.

We have also in Clause 6 gone out of our way to ensure that if an offence under this Bill is committed by a body corporate or by a person as a member of an incorporated body and it is proved that the offence has been committed with the consent or connivance or is attributable to the neglect of a person specified above, that person also commits this offence. He is liable to be prosecuted and proceeded against and punished accordingly.

Madam Temporary Deputy Speaker, we have also in this Bill provided that the person referred to above is a person who at the time of the offence in the corporation, in the case of a body corporate is either a director, secretary, principal officer, manager of the body corporate or in the case of a member of unincorporated body, is a partner or a holder or a member or manager of the unincorporated body or in either case mentioned in (a) and (b), purporting to act in the capacity of a person referred to in the respective paragraph, is also bound by this particular statute.

We have finally provided a very critical issue that there is power to award compensation if this Bill becomes law. If a person is convicted of an offence under this Act, the court, in addition to passing any sentence that may otherwise be passed by law, order that that person pays an amount of compensation that the court thinks is reasonable to any person who has suffered financial loss resulting from that particular offence. This is important so that if you are conned by these people, you lose your Kshs100 million, it is not enough for this man just to serve a jail term of ten years when his heirs are enjoying your Kshs100 million. He should be made to be punished in jail and also his property seized so that you are compensated for you to have a return of what you had lost.

Madam Temporary Deputy Speaker, I would like to conclude by emphasizing that this Act does not in any way limit or restrict or otherwise affect any rights or claims a person would have had if this Act had not been enacted. I would like to encourage hon. Members, especially Members of the Public Accounts Committee (PAC) and the Committee on Finance, Planning and Trade who are very sensitive on the issue of the cost of running the Government, to know that the enactment of this Bill shall not, in any way, occasion additional expenditure of public funds.

I beg to move and request Mr. Kiptanui to second my Bill.

Thank you.

Mr. Kiptanui: Madam Temporary Deputy Speaker, in seconding this Bill, I would like to thank the Mover, Dr. Bonnie Khalwale, for having thought of many Kenyans who lost their money through these pyramid schemes.

I believe that, as Members of Parliament, we are very much aware and we know quite a number of our relatives, constituents and many Kenyans who lost their money through these pyramid schemes.

*[The Temporary Deputy Speaker
(Ms. Amina Abdalla) left the Chair]*

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

Mr. Temporary Deputy Speaker, Sir, in my constituency and the entire Elgeyo Marakwet County and Baringo County, I am aware of many retired civil servants and teachers who lost some substantial amount of money through these pyramid schemes. For your information, I want to believe that over Kshs40 million was lost in the two counties through these pyramid schemes. This Bill is good in terms of prohibiting the pyramid schemes.

These schemes came in different forms and names. As mentioned by Dr. Bonnie, there was one called Deci Global. Others were; Clip Investments, Magnet, Sasanet and so many others. I want to believe that before they operated in this country, they were registered by the Government. Their operations at that time were not illegal because they were registered by this Government.

Mr. Temporary Deputy Speaker, Sir, as moved by Dr. Bonnie, there was a task force by the Ministry of Co-operative Development and Marketing. They came up with a report and its recommendations to date are yet to be implemented. There was also a parliamentary report by one of our committees in this House which came up with recommendations but the Government has refused to act on these recommendations. I want to believe that by supporting this Bill, we shall put to an end the issue of pyramid schemes in this country and never again will Kenyans lose their money through these kinds of businesses. You can imagine the pain many of the people who lost their money went through. I have just mentioned that over Kshs40 million was lost in Baringo and Elgeyo Marakwet counties. These people are retirees. They thought they were going to invest their pensions in these pyramid schemes but eventually, they lost. I have been informed that many of them even died out of shock because of this kind of loss.

I want to support this Bill and say that the perpetrators of this scheme should be jailed. These people are known. Their names and operations are known by the Government. Sometimes as laymen we ask ourselves: "Is the Government benefitting from these schemes?" If the NSIS and the Ministry of State for Provincial Administration and Internal Security are doing their

work, then they know the perpetrators of these schemes. If the Government fails to act, then we will have nothing to say other than these people are known and the beneficiaries could be some of the Ministers in the Government.

Finally, Clause 5 of this Bill provides for offences in relation to pyramid schemes. I want to believe that from today henceforth, once this Bill is enacted, those who will participate in the pyramid schemes will be committing an offence and they will be liable to prosecution. I want to believe that from today henceforth, Kenyans will not lose their money though these illegal schemes.

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

(Question proposed)

Mr. Muthama: Bw. Naibu Spika wa Muda, ninashukuru kwa nafasi hii ya kuchangia katika Mswada huu ambao umeletwa na Mheshimiwa Khalwale tukijua kwamba, kwa kweli, umefika katika wakati unaofaa. Ninamshukuru Dkt. Khalwale kwa sababu mijadala yake yote katika Bunge hili imekuwa ikihakikisha kwamba taifa nzima na hasa mwananchi wa kawaida amelindwa.

Ni vyema tukubali kwa kauli moja kwamba Kenya ni nchi yenye vituko. Ni nchi ambayo sarakasi zake hasa katika mambo ya hela haziishi. Nikimsikiza ndugu yangu Dkt. Khalwale, ninajihisi kwamba labda tuna nchi ambayo haina sheria ama tuna nchi ambayo ina viwango viwili vya watu. Kiwango cha kwanza ni cha watu wa juu sana na wanaoweza kufanya wanayotaka na kutembea bila kuguswa na mtu. Kiwango cha pili ni cha watu ambao wanastahili kunyanyaswa tangu utoto wao hadi watakapoondoka kuatika taifa hili na kuenda zao.

Tukiangalia nyuma, tunaona wizi wa hela ambao umetokea katika taifa letu. Ni juzi tu tulikuwa na kizaazaa cha mambo ya mahindi katika Bunge hili. Hadi leo, huo wizi haujatatuliwa na mambo hayo yamewekwa yamekaliwa. Watu wanatembea wakiona kwamba wale walionyanyaswa wanateseka.

Pesa za *Triton*, ni juzi tu zilizungumziwa. Mabilioni ya pesa yalinyakuliwa na watu na hadi leo, kumekuwa ni kisanga cha vuta nikuvute si hapa wala pale. Kunapozungumzwa, unasikia mwizi aliyeiba yuko nchi fulani. Waliokusika na unyakuzi wa mali ya umma wako hapa nchini na hakuna chochote kimetokea.

Leo, tunaongea mambo ya De la Rue. Ni matarajio yangu kwamba tutayazungumuza mambo haya leo, tufike kikomo chake na kuona kwamba mchezo umeisha. Hakuna mtu ana uwezo au uhuru wa kuingia na kuharibu mali ya wananchi wa Kenya na kutembea anavyotaka.

Katika wizi kupitia kwa *pyramid schemes* mwaka nenda, mwaka rudi, tumekaa hapa na kutoa hela za kufanya kazi hasa kwa kitengo cha NSIS. Idara hii imepewa pesa na Bunge kila mwaka. Idara ya CID imepata pesa hapa kupitia Kamishena wa Polisi wa taifa letu. Hela tulizotoa zifanye kazi katika NSIS, ambayo kazi yake ni kuangalia mambo kama haya na kutoa taarifa mahali inatakiwa na hatua kuchukuliwa, hazikufanya hivyo. Ni kwa nini *pyramid schemes* zilianzishwa na pesa nyingi za wananchi zikapotea? Pesa zilizotajwa hapa na Mheshimiwa Khalwale zinafahamika zilipo.

Tumeongea mambo haya hapa katika Bunge hili hata kabla ya kuhama na kuenda Bunge la Zamani. Vile vile, tuliongea mambo haya kule. Je, tuna Serikali na watu walio na masikio ambao wanasikia wananchi wanavyosema ama hili limekuwa jambo la mzaha tu kuanzia mwaka wa 1963 tuliponyakuwa Uhuru wetu? Waliokuwa mbele yetu, marehemu Paul Ngei, Masinde

Muliro na wengine wamekaa hapa na kuzungumza. Ni hatua gani imechukuliwa hata siku moja?

Kwangu, kuna watu waliopoteza pesa. Wengine ndoa zimevunjika. Mpaka leo, zinaendelea kuvunjika kwa sababu umaskini ukiingia katika nyumba ambayo bibi na bwana walikuwa wakifanya kazi, na bibi ndiye aliamua kuchukua hela na kuweka katika miradi hii ya uwongo, kunakuwa na ugomvi na ndoa zinavunjika. Kuna watoto waligombana na baba zao. Leo, tumedhihirishiwa hapa kwamba wezi walioiba pesa hizi, wanajulikana. Mheshimiwa Boni Khalwale amewataja. Hata Kampuni zao amezitaja na sehemu zinazomilikiwa na wezi hao. Je, wananchi wa Kenya wanatakiwa kufanya nini? Mwizi anajulikana, pesa alizoiba zinajulikana ziko katika benki; zingine zilitumika kununua viwanja na zingine kununua ploti. Zingine zimetumika kwa kujenga. Ukienda katika jela, utapata limejaa wezi wa kuiba kuku, mbuzi na kondoo lakini wezi wanaoiba hela kama zile zinazotajwa hapa ni kama wao ndio mawakili, majaji na maofisa wanaoweka watu katika jela.

Mimi ninazungumuza kwa uchungu sana kwa sababu sioni ni kwa nini nchi ambayo ina Rais, makamu wake na Waziri Mkuu, Mawaziri na Kamishena wa Polisi, tunaongea mambo haya hapa. Tungekuwa tunaongea mambo ya kuendeleza nchi hii mbele. Lakini tuko hapa kudai haki ya mwananchi ambayo “imeibiwa”.

Hivi sasa, tunaongea kuhusu migomo ya walimu na madaktari. Walimu wengi waliweka pesa zao katika miradi hii. Wengi waliozichukua wako katika Bunge hili. Mheshimiwa Khalwale amesema ni uongozi wa juu uliohusika kuwaibia wananchi. Kwa hivyo, kama sio uongozi wa juu, hatua ingekuwa imechukuliwa. Ni hao walimu ambao baada ya kupoteza pesa, tunafanya mikataba na wao na kuwaahidi kwamba pesa zao zitalipwa. Waziri wa Elimu anatengeneza mkataba na walimu kwamba watalipwa pesa zao na mwaka unapita na hawapati pesa zao. *Pyramid schemes* zinanyakua ile kidogo wako nayo na hapa, mabepari wengine wanachukua pesa nyingi na kukataa kuwalipa.

Hao ndio watu tunategemea wasomeshe watoto wetu. Madaktari nao wanaagiziwa nyongesa ya mshahara baada ya miaka miwili. Wakati huo ukifika, maneno yanabadilika inakuwa hakuna pesa za kuwalipa.

Mimi ninasema hivi kama mtu aliyechaguliwa na wananchi wa Kenya kuwawakilisha, kupitia eneo la uwakilishi Bunge la Kangundo, kwamba tuupitishie Mswada huu mara moja naye Rais autia kidole ili kazi ifanyike. Sisi hatutaki kuona Mhe. Rais anatia kidole Miswada ambayo inafaidi Serikali peke yake. Hatutaki kuona ile ya mwananchi kama hii, inafika kwake na inakaa miezi kumi. Tutafanya kila juhudi kuhakikisha kwamba kidole kimetiwa na hatua imechukuliwa.

Kama Serikali haifanyi kazi, basi tunataka tuambiwe tufanye nini na tuende wapi. Kama Serikali haifanyi kazi haina haja kuwa mamlakani. Kama kazi imewashinda, tumeunda sheria na haiwezi kutumika na mwananchi kupewa haki yake, sioni kuna haja gani kusema tuko katika Bunge la Kumi, na tunaelekea kumaliza muhula wetu na hali hili Bunge likipitisha jambo fulani, halifanyiki.

Wakenya wanaendelea kuchoka na uamuzi wa Wakenya baada ya kuchoka hautakuwa uamuzi wa amani. Utakuwa uamuzi wa matatizo makubwa sana. Matatizo yakiingia, mabepari ndio watu wa kwanza kuumia. Wajue kwamba wakikaa katika nyumba kubwa na kuendesha magari makubwa, mwananchi wa Kenya atakapochoka atatumia mbinu zozote kujiokoa. Hii ni hata kama itabidi alale barabarani akanyagwe na gari, itakuwa hivyo. Jambo hili likitokea bepari atakuwa na maiti ambazo hawezi kuzika katika taifa hili kwa sababu zitakuwa nyingi sana. Harufu ya maiti itaharibu nchi. Hili si jambo la mchezo. Ninataka kusema kwamba ninaunga

mkono Mswada huu na moyo wangu wote na nguvu zangu zote na kusema kwamba tuupitishie ili Wakenya wasaidiwe.

Kwa hayo, niaunga mkono.

Mr. Njuguna: Mr. Temporary Deputy Speaker, Sir, because this Bill is very important could it be possible that we reduce the contribution time to at least five minutes so that most of the hon. Members who are interested will have enough time to make an input?

The Temporary Deputy Speaker (Prof. Kaloki): Very well. The consensus is that we reduce the debate time to five minutes. Is that an agreement?

Hon. Members: Yes.

Mr. Onyancha: Mr. Temporary Deputy Speaker, Sir, I rise to support this Bill and thank Dr. Khalwale for introducing it in Parliament today.

The issue about pyramid schemes is an embarrassing one. It has impoverished our people mainly because of the laxity of the Government specifically the Ministry of Finance and the Central Bank of Kenya (CBK). The CBK is the regulator that licenses deposit takers.

As we all know, these pyramid schemes were operating in broad daylight, taking people's deposits and the Government just looked aside and slept. The victims of these schemes are languishing in poverty and we must have a way to compensate them through Government funding. As we speak now, other than the old Deci these schemes are still going on. Indeed, there is one called "Community Partner Alliance" in Kisii County which is operating now. The authorities have done nothing to prevent them from taking wananchi's money.

Mr. Temporary Deputy Speaker, Sir, on the issue of assets that belonged to these pyramid schemes that have now gone under, the report of the task force must be followed. I urge the Government to read it again and implement its recommendations to the full. Of particular interest, certain assets were frozen, specifically bank accounts of some of these schemes. This money has been lying in banks, not earning interest and its fate is unknown. We demand, as Parliament, a report on all the assets that belonged to these fake institutions so that it can all be accounted for in good time.

Further, the properties owned by these institutions must be held by the Government and incomes from them placed in deposits to eventually compensate the victims of the schemes. It is my hope that sufficient caveats have been placed so that these properties do not get transferred and anybody buying these properties should be doing so at their own risk. It is just like handling stolen property. Buyers must always be aware from whom they are buying. Specifically in Bonchari, my people lost millions of shillings. Some of the managers of these schemes specifically Deci are still walking around, still building properties using wananchi's money.

An hon. Member: Shame!

Mr. Onyancha: Mr. Temporary Deputy Speaker, Sir, this is a shame and some of them, indeed, are seeking parliamentary and other elective positions. I hope the IEBC will take into account the fact that these are crooks and thieves who have stolen from wananchi.

With those few remarks, I beg to support.

Mr. Kioni: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to contribute to this very important Bill. From the outset I want to congratulate Dr. Khalwale for seizing the moment and bringing this legislation for us to deal with it because in the last three, four, five or six years we did experience daylight robbery of some individuals who exploited the poverty level within our country to do nothing else other than enrich themselves.

Nobody was spared from this because we saw the churches doing it. We saw pastors doing the same thing and pastors talking to their members or their followers who had a lot of

faith and trust in them. We actually saw pastors misusing that faith to the point where their followers gave them a lot of money. As others have said before, we now can see around the country people who continue enriching themselves from the money that they collected from Kenyans who were just trying to make ends meet and looking for ways to invest.

For Dr. Khalwale to bring an Act of Parliament to ensure that this kind of theft does not happen again in this country, it is something that we must commend him for. While moving the Bill he did mention to us the case of Murdoch who may have been the one who tutored those within our country. When they caught up with him in America, he was put behind bars for life.

In our country, we still have those individuals walking around. As the hon. Member who has just spoken said, many of them are actually eying political power. So, I am sure that we will have a few of them in the Senate. Others may end up being Governors in this country, and quite a number of them may become Members of Parliament.

If the IEBC would want to be seen to be doing something useful, it should ensure that none of those fellows find their way to the National Assembly or the Senate, or to elective office even at the county-level. If there are sitting Members of Parliament who have indulged in this malpractice, they should also be punished in the coming period by being denied the opportunity to continue representing Kenyans they have exploited in the past.

Mr. Temporary Deputy Speaker, Sir, these people used the absence of law to fleece Kenyans. They used the fact that there was a lacuna in our statutes and, specifically, the fact that the Penal Code does not clearly specify what kind of punishment would be meted out to such people, the offence not having been identified. The fact that some of the people who were involved in pyramid schemes are still within the Executive has continued to frustrate Kenyans. We are now going to have a piece of legislation to address this issue. I want to commend hon. Khalwale because he has made it very clear; that the fact that we are now going to have a law prohibiting pyramid schemes does not, in any way, bar those who were conned in the past from going to court to seek justice and compensation.

Now that we have a reformed Judiciary, we are waiting eagerly to see if it will rise to the occasion and cause those who conned others to pay back and be held responsible for the offences they committed. Even though the Penal Code does not specifically talk about pyramid schemes, I believe that this was an economic crime which can be punished through other avenues. The reformed Judiciary should not find it difficult to find its way round the Penal Code and eventually punish those offenders.

Mr. Temporary Deputy Speaker, Sir, let me also put on record the fact that many people within Nyandarua County lost their livelihood and pension money. Retired teachers, doctors and others from the Provincial Administration used the money they had been paid as pension to try and invest because they had been told that it would multiply many folds, only for them to end up becoming paupers. They can no longer afford to take their children to school. That is why I am particularly happy with the clause that deals with compensation.

The Temporary Deputy Speaker (Prof. Kaloki): Hon. Kioni, your time is up.

Mr. Kioni: Mr. Temporary Deputy Speaker, Sir, allow me to conclude my contribution.

The Temporary Deputy Speaker (Prof. Kaloki): I will allow you 30 seconds.

Mr. Kioni: Mr. Temporary Deputy Speaker, Sir, I thank you for that indulgence. In supporting this Bill, I want to say that it is instructive that even in future, if anybody is involved in this malpractice, compensation will be there. You cannot just get away with it, because there will be a jail term for you.

With those remarks, I beg to support.

The Temporary Deputy Speaker (Prof. Kaloki): Yes, hon. Njuguna.

Mr. Njuguna: Mr. Temporary Deputy Speaker, Sir, I once again thank you for giving me this chance to make my contribution.

Let me commend the Mover of this very critical Bill because it will bring the racketeers to book, and the modern slavery that has been inflicted on unsuspecting victims will come to an end.

Mr. Temporary Deputy Speaker, Sir, I understand that some of the starters of pyramid schemes came from the church. Some of them are prominent Kenyans. The law has been very silent on pyramid schemes. Therefore, the law we are making will deal with that “dragon”.

Members of many churches incurred losses. Even the small schemes of church members crumbled. Many families were impoverished by pyramid schemes. There were some people who had gone to banks and acquired loans to buy cows and houses, but all those projects collapsed. It was a terrible experience. To-date, some families are in pain. They are distressed because of pyramid schemes.

Some families are not even able to send their children to school. Therefore, once this Bill becomes law, the Government will be mandated to make sure that it carries out faster investigations into this matter, with a view to arresting and prosecuting the perpetrators of this crime in order to restore sanity and decency in this country. I strongly support the clause on recovery of resources and attachment of property because it was not prudent in the first place to allow parasites to benefit from where they never invested.

Mr. Temporary Deputy Speaker, Sir, if the prime suspect of this heinous crime in the USA has been jailed for life, why should we imagine that somebody who is holding Kshs7.5 billion belonging to other Kenyans would be jailed for ten years and fined Kshs10 million only? I would propose stiffer penalties on those holding other people’s money. We should enhance the jail term to 20 years and the monetary fine to Kshs20 million.

I would also propose that the Government formulates a compensation scheme, so that those who are suffering right now can be supported. The Kenyan society should be encouraged to be hard working, so that we can become prosperous as a result of our sweat; and not to dwell on racketeering or join schemes that deprive Kenyans of their hard earned resources.

With those remarks, I beg to support this historic law.

The Temporary Deputy Speaker (Prof. Kaloki): Yes, Eng. Maina.

Eng. Maina: Mr. Temporary Deputy Speaker, Sir, I would like to, first of all, congratulate hon. Khalwale for bringing this Bill to the House. Any arrangement like the pyramid schemes is nothing other than something arranged by those who have intellectual capacity, and who sometimes have access to power, to steal from the poor.

In this country, the ordinary people have been suffering for a long time. Money belonging to co-operative societies has been misappropriated. Pyramid schemes have no purpose other than stealing from the poor. Therefore, I would urge hon. Khalwale to look into introducing an amendment to provide for life imprisonment for anybody who deliberately comes up with a scheme to impoverish pensioners, hawkers and ladies who are trying to survive in this country by selling various items.

Mr. Temporary Deputy Speaker, Sir, I have been under a lot of pressure. In Nyeri County and elsewhere, people have been wondering whether there is government. They have been wondering whether there is a law which allows a known public figure to open up various offices in the country and one day, disappear with people’s money. There is no greater crime you can

commit to the State. These kinds of things should be brought to an end, if this country is ever going to eradicate poverty and ensure that justice prevails.

In our kind of economic system, it is important that the gains of people must be protected against these kinds of characters. I also think we should look into this Bill to see if it is possible to go back to some other day. Recently, serious schemes came up when this Parliament was on and we are aware that nothing has been done. I think we shall have failed as this Parliament if we cannot see a way we could actually encompass those offenders so that they face the law. I think harsh penalties must be meted on these people.

Mr. Temporary Deputy Speaker, Sir, I think when this Bill came and remembering that hon. Khalwale is from Western Province, I remembered the late Martin Shikuku always talking about justice to the poor. I think in his death, he must be very overjoyed that hon. Khalwale is following his footsteps. I am saying this because as a Parliament, we must ask ourselves: How are we going to come out? How shall we be regarded by history? Somebody squandered and impoverished maybe three to five million persons and we left that person go scot free.

The Temporary Deputy Speaker (Prof. Kaloki): Eng. Maina, you have 30 seconds left.

Eng. Maina: Thank you Mr. Temporary Deputy Speaker, Sir, but I think you can indulge me for another two minutes.

(Laughter)

The Temporary Deputy Speaker (Prof. Kaloki): No, please! You have 30 seconds.

Eng. Maina: Okay, Mr. Temporary Deputy Speaker, Sir and thank you. I must say that I support this Bill and I call upon the Government to take action against Bills that are passed here. It should not be like the Price Control Bill which we passed here, and I have been envisaging to bring amendments to it to force the Government to be tabling prices here because they seem to have forgotten the promise they made that they were going to regulate prices of essential commodities.

Mr. Chachu: Mr. Temporary Deputy Speaker, Sir, I stand to support this Bill and I would like to congratulate my chairman, hon. Bonny Khalwale, for this very important Bill on the prevention of pyramid schemes in this country. Many Kenyans have lost their hard earned incomes to these very dubious schemes. This is total deception. People have been deceived that they will be billionaires overnight when, in fact, they are stealing from them even the little that they have for which they have worked so hard to build over the years.

Mr. Temporary Deputy Speaker, Sir, many Kenyans have lost their assets and resources and as a result, many families have been destroyed. Many young children have lost opportunities to go to school because their parents have lost all the resources that they have built over the years to enable them to get a good education. It is so critical that we have very tough laws and regulations which will ensure that this deception by people who are stealing Kenyans' hard earned income are brought to book.

Mr. Temporary Deputy Speaker, Sir, I wish there is a way we can go back to history and even look for a way of punishing these people for crimes that they committed in the past even before this Bill which I am sure will become a law very soon. I think we should have laws that can be enforced with a lot of ease so that our Judiciary, which has been revamped and which many Kenyans have a lot of faith in, would really ensure that this law is enforced and these Kenyans who have lost their resources and who have been deceived over the years will be

assured that the necessary legal framework will be there in the country to protect their assets, resources and families from these racketeers.

With these few remarks, I support the Bill.

The Assistant Minister, Ministry of State for Public Service (Maj. Sugow): Mr. Temporary Deputy Speaker, Sir, thank you very much for giving me this opportunity to contribute to this very important Bill. Before I say anything, I just want to pick up from a point which hon. Maina has raised. A few days ago, we lost a legend as a country, a man by the term “people’s watchman”. He got that name as a result of always agitating for the rights of the downtrodden and the poor. I am very much pleased by the efforts being made by our colleague, hon. Khalwale, to in a way stepping in his shoes to continue with the struggle to take care of the interests of the poor and downtrodden in this country. So, I congratulate hon. Khalwale for maintaining that spirit.

Mr. Temporary Deputy Speaker, Sir, we are trying to fight what was called pyramid schemes. Actually, these are pyramid scandals. They are not pyramid schemes and many Kenyans are suffering today, and particularly those who have reached retirement age. They do not have the strength to go into businesses or anything. They do not have the capital because it has gone with these conmen and women, who many of them and especially the bigger ones have disappeared out this country.

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

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

Mr. Temporary Deputy Speaker, Sir, I am glad this Bill has come at an opportune moment and actually, it is long overdue. I hope that we will try our best as a country and as a House to ensure that we protect Kenyans from these conmen and women. Today, when you retire and you are 60 years old or 70 years old, the little that you get you decide to invest in these so-called schemes and it goes down the drain. You do not have the strength to do anything and then it becomes just like a death sentence. So, we should go out and ensure that these people are arrested and sentenced to life imprisonment the way one of my colleagues mentioned how it was done in the United States where not only were they sentenced to life imprisonment but even given harsher punishment where possible because indirectly sentencing somebody to life of poverty forever is not a very simple crime.

Mr. Temporary Deputy Speaker, Sir, with that, I believe this Bill should be supported by my colleagues and I am very glad that so far, there has not been any dissenting voice. Although I am not speaking for the Government but I believe that any person who probably will be speaking for that will not oppose this. It is a very noble Bill and I support the effort by the hon. Member who brought this Bill to the House.

With that, I support.

Mr. Odhiambo: Mr. Temporary Deputy Speaker, Sir, I have been patiently waiting to contribute on this Bill, and I wish to support it because hon. Khalwale has brought in a Bill which is very useful to the common man in this country. Many Kenyans have been robbed of their property and any other incomes like money, land and as he said, some of them even sold animals in order to invest in these schemes.

Mr. Temporary Deputy Speaker, Sir, I remember way back in 1985 where one of these schemes was called Collective Resources and they were operating in an office around Jeevanjee Gardens and they robbed people lots of money and the moment people discovered that they were being robbed of their money, they simply closed the office and again went and opened another office elsewhere and merely changed their name but they did the same business of pyramid schemes. As a result, many poor people who emotionally feel that they will improve their lives by investing whatever monies they have are robbed of this money and they become poor instead of becoming what they imagined they would become.

So, they ended up being frustrated and some people even ended up committing suicide. Some families even broke up because maybe one person invested in these schemes without the knowledge of their partners, and eventually when they discovered that their money had been lost, they got extremely frustrated. Therefore, it is important that we pass this Bill, so that we can protect *mwananchi* from these unscrupulous people whose aim is merely to rob Kenyans of their money without appreciating the fact that some of these people who invest in these schemes are poor. Some people even closed their businesses. I remember three or four people in my constituency who had invested in these schemes closed their businesses; they took there the money hoping that they were going to triple it but lost it in the end. So, their businesses closed down and are now suffering today. They cannot even take their children to good schools, which they used to take them to. It is important that we pass this Bill, so that we can protect Kenyans from future exploitation by such people.

With those few remarks, I support.

Dr. Monda: Mr. Temporary Deputy Speaker, Sir, I rise to support this Bill and also congratulate my colleague, Dr. Khalwale, for coming up with this Bill to protect the interests of innocent Kenyans, who get misguided by those who want to make quick money. These are informed people. They are able of coming up with ideas which they convert into schemes to rob the poor and live comfortable lives at the expense of those who do not have much. Poor people have been advised and I want this to be properly understood by Parliament. The operators of the pyramid schemes went through Government departments. They went through the Ministry of Co-operative Development and Marketing. This Ministry is not ashamed of having innocent and poor Kenyans form groups, put their meagre resources into the pyramid schemes and then the Minister for Co-operative Development and Marketing withdraws and watches Kenyans suffering.

In Kisii County alone, more than 90 groups have lost over Kshs100 million. These groups comprise of 15 widows, women or the youths. Their money amounts into millions, and they invested after getting advice from the Government through the Ministry of Co-operative Development and Marketing. When money is lost, the same Government does not take responsibility to look for the culprits and bring them to book to save the poor from losing their money. There is even tension now among the members of the groups, because they are doubting each other. They suspect that their group leaders must have known where they were investing their money. This is causing animosity amongst Kenyans who had good intentions. Several people have invested their pensions and their savings in these schemes. These savings are from their little earnings from crops. Now, children cannot go to school, families are breaking up just because racketeers must make money.

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

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

Mr. Temporary Deputy Speaker, Sir, I want to ask that when we pass this law, the President should assent to it as quickly as he has done with the other laws that we passed recently, including the constitutional laws, so that we are able to forestall these schemes because some of them are going on even now. In Kisii, we know there are some. They were mentioned by my colleague, Mr. C. Onyancha, and I do not want to repeat it. We have to stop and punish the wrongdoers effectively. We should punish them to deter any other person who would want to go the same direction.

I support this Bill and congratulate my colleague, Dr. Khalwale, once again.

Mr. Chanzu: Mr. Temporary Deputy Speaker, Sir, I rise to support this very important Bill. I want to congratulate my brother Dr. Khalwale for proving that he is interested in the welfare of the poor and the less fortunate. I also want to commend the team that was set up by the Government. This is the Francis Nyenze team. They came up with a wonderful report which was presented to the Minister for Co-operatives Development and Marketing, Mr. Joseph Nyagah, on 24th June, 2009. I see that this report has all the basic information that the Government would have used to deal with this situation. The money was lost through deceit. When I look at the Bill, it provides for offences in relation to pyramid schemes. It says:-

“a person commits an offence if he or she participates in a pyramid scheme and induces or tries to induce another person to participate in the scheme unknowingly knowing that any benefit gained from that participation is entirely from the introduction to the scheme of new participants.”

The maximum penalty for both offences is a fine of Kshs10 million or imprisonment for ten years or both.

Mr. Temporary Deputy Speaker, Sir, in my constituency Vihiga, old *mamas*, the poor and the small savers, lost money to the tune of about Kshs40 million or more through these schemes or this kind of deceit by the promoters and perpetrators of these schemes. The report says that in addition to the directors and advocates invited for interviews, the task force contacted the following persons to appear before it:-

1. National Pyramid Schemes Initiative Victims Representatives; they appeared in person;
2. Mount Kenya Pyramid Scheme Initiative Victims Representatives also appeared in person;
3. Mr. Njeru Ndwiga, former Minister for Co-operative Development and Marketing failed to appear;
4. Mr. Andrew Ligale, who alleged to have promoted DECI, also failed to appear;
5. Bishop Sibaleka, director of ACID, failed to appear;
6. Pastor Jamleck Muthaka, DECI Centre Manager, Embu. He appeared in person;
7. Gideon Mwiti, associated with New Akiba Micro-Finance and Kenya Business Circle; he did not appear personally but was represented by an advocate;
8. Esther Bongo, DECI Centre Manager, Kisumu, who failed to appear;
9. Bishop Peter Ndegwa, DECI Centre Manager, Nyeri, appeared in person.

Mr. Temporary Deputy Speaker, Sir, you can imagine the kind of impunity there is when people cannot even come and clear themselves, even if they were not involved. They failed to

appear. That is the reason why I am saying that what Dr. Khalwale has done is very important, so that we can bring this matter to light. There are those who took money from old *mamas* in groups. Some of them owned dairy cows which they were milking, but they were auctioned. Some people have committed suicide and others developed sicknesses which they did not even have before. Those who are still alive are suffering a lot. If you read through this Report, you will see that a lot of money was misappropriated. It means a lot of money for the economy was lost. There is somebody again from my constituency who was involved in this scheme. I think he had an office in one of the buildings here in town. When people went for their money, the gentleman could not address them and they pushed him out of the office and crashed to death on the perimeter below.

The Temporary Deputy Speaker (Mr. Njuguna): Okay, your time is up!

Mr. Chanzu: Just give me ten seconds to conclude, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Njuguna): Okay, you have ten seconds.

Mr. Chanzu: Mr. Temporary Deputy Speaker, Sir, this is a very important Bill. We need to encourage the small savers in this country. With introduction of bamba 10 or bamba 50 credit card, Safaricom company has penetrated in all spheres of our lives. This is the way saving schemes will work in this country. We know small savers have little money and we need to protect it, so that it can be help our economy to grow.

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

The Assistant Minister for Tourism (Ms. Mbarire): Thank you, Mr. Temporary Deputy Speaker, Sir, for granting me this opportunity to contribute to this timely Bill. I want to begin by really thanking Dr. Khalwale for finding it fit to bring it, so that we can protect all Kenyans from selfish investors who want to take advantage of unknowing Kenyans and make money out of them.

Mr. Temporary Deputy Speaker, Sir, the reason I want to support this Bill is because a lot of my constituents lost millions and millions of money to these pyramid schemes.

Secondly, I want to give a real life story of an old man who was very close and who lost over Kshs5 million to these pyramid schemes. All the family savings that he and his wife had was consumed by these schemes. When he realized that he had been conned of his life savings, he became very sick. He was admitted in a hospital for more than one month. To date, he has never recovered. Every time I meet him, he always asks me: "Is it that we do not have a Government that can protect us from these people?"

Mr. Temporary Deputy Speaker, Sir, even as I support this Bill, we must never lose sight of those people who lost money through these pyramid schemes. We must never lose sight of the fact that a task force was established by the Government of Kenya to look into this matter. They came up with a comprehensive report. This report gives basic guidelines to the Government on how to investigate this matter and bring these crooks to book, so that they could pay back the money they stole from Kenyans.

Mr. Temporary Deputy Speaker, Sir, I know the accounts operated by these crooks were frozen. We need to know how much money was in those accounts when they were frozen. We need also to know whether those accounts are still frozen or those crooks are still operating them. Is it possible for the people who lost their money to access those accounts so that they get their money back? I hope this report will not become one of the many reports that just accumulate dust in the shelves, but action will be taken against those crooks.

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

(Applause)

Eng. Gumbo: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me the chance to support this very important Bill. I want to laud my colleague, Dr. Khalwale, for bringing such an important Bill to the House.

Mr. Temporary Deputy Speaker, Sir, in my brief remarks, I want to say that those who engage in these schemes are actually criminals and they must be called by their proper names. I suggest that the penalties that have been proposed here may not be stiff enough and, maybe, at the Committee Stage, Dr. Khalwale may consider enhancing them.

Mr. Temporary Deputy Speaker, Sir, it is not just those who engage in pyramid schemes who are fleecing Kenyans. I will be proposing an amendment at the Committee Stage so that even shylocks are included among those who rip off Kenyans. It is always difficult for me to understand when shylocks, for example, charge 30 per cent per month for money they give really illegally. What kind of business can one do to make 30 per cent profit per month? So, the issue of shylocking must be bundled together with these pyramid schemes and also be considered a crime.

It is a pity that some of those people who were behind these pyramid schemes are now dead. These people should have been made to account for their sins and the crimes they committed on Kenyans.

Having said that, it is important that where we are now we use particularly the public broadcaster, Kenya Broadcasting Corporation (KBC), to teach Kenyans some amount of financial literacy. The way I know it, there are only two ways of making money in this country. You either engage in trade or steal. When it appears that you are able to make money without doing anything, then there have to be a lot of question marks. I would also urge fellow Kenyans to avoid these get-rich quick schemes. We must understand that to make money in the legal way, one must drop a sweat or two. I remember one of the big pyramid schemes by the name of Deci was operating right behind my office in the mid 2000s. I would see many people, including those who were working for me, getting loans to go and put in this scheme. Some used to claim that if you put in Kshs5,000 in that scheme, then in about four weeks, it would have gone up five times. To me, it was an amazing amount of illiteracy. If there was, indeed, a way to multiply your money five times in a period of one month, then why would anyone need to work at all? So, some amount of financial literacy is necessary so that our people can avoid these get-rich schemes.

Mr. Temporary Deputy Speaker, Sir, with those few remarks, I wish to support the Bill but with amendments, which I will discuss with the proponent of the Bill, Dr. Khalwale. Sometimes, he is a bit of a coward because when we propose good amendments, he does not follow them up. I hope that this time round, he will follow these amendments so that we also include shylocking among the crimes that are penalized by this Act.

Thank you, Mr. Temporary Deputy Speaker, Sir.

The Minister for Forestry and Wildlife (Dr. Wekesa): Thank you, Mr. Temporary Deputy Speaker, Sir. Since most of my colleagues in Government who have spoken on this Bill have agreed that it is the right Bill to come at this time, so, on behalf of the Government, I would like to make it very clear. Going by what I have seen, there has not been a single dissension from my colleagues who have spoken before me. I, therefore, want to state very clearly that on behalf of the Government, we accept this Bill.

(Applause)

It is a Bill that should have been brought in the House a year ago. Before I forget, I want to commend Dr. Khalwale who today I am told is a coward.

(Laughter)

I do not know how a bull fighter can be a coward. I think Dr. Khalwale is stepping in the nyayo of the late Shikuku. He has been in the forefront to see that justice is done.

Mr. Temporary Deputy Speaker, Sir, we have a word called “impunity.” Impunity is something that has taken root in our nation. People can do what they want to do regardless of the law. Now, we are legislators who pass laws here. These laws should be for everybody. These laws should be for the mighty and the downtrodden in our society. So, we must route out the word “impunity” from our nation. We had so many schemes in this country that fleeced our people a lot of money. In fact, this Bill should be called the Prohibition of Financial Schemes. We have had so many schemes where Kenyans have been defrauded and nothing has happened. We can name all of them. I think time has come as we domesticate the present Constitution, that indeed, we must obey the law. Every Kenyan should obey the law. It does not matter who you are. This is happening elsewhere. Every other country I have been to, people obey the law. Why should we not obey the law? Gone are the days when you could leave your house, go into a Government forest and take a piece of land and declare it is your farm. I think we should stop that.

Mr. Temporary Deputy Speaker, Sir, I was in my office, three days ago and five people came to me. They told me that they had lost Kshs50,000 because somebody told us that the Kenya Wildlife Service (KWS) were employing rangers and the Minister wanted something small. Because this person works with me, he was able to take Kshs10,000 from five innocent Kenyans. He pocketed Kshs50,000 and told the candidates to come to Kitale Town so that they could travel to Nairobi for employment. We have these schemes all over the country, because the law is not strong enough. I think this Bill will help many of the innocent Kenyans who have been robbed of their money.

With those few remarks, I beg to support.

Mr. Namwamba: Mr. Temporary Deputy Speaker, Sir, the law is intended to address mischief in a manner that makes life more bearable and society a better place for everybody.

Mr. Temporary Deputy Speaker, Sir, we have had a tendency in this country to concentrate so much on other forms of criminal conduct, for instance, lately, we have all been obsessed with *Al Shabaab* and criminal characters that engage in related activities. But we, as a country, have not been very good in confronting what is characterized as economic crimes. There is no economic crime that is worse and that has more debilitating ramifications than those crimes that are committed against ordinary people that are largely defenceless. People who fall in the category of Kenyans that were worst hit by this wave of the so-called pyramid schemes at their height. We have had heart rending stories here of retirees and pensioners who sunk all their hard earned savings into these schemes only to watch all that go down the drain.

Mr. Temporary Deputy Speaker, Sir, this law could not have come at a more appropriate time. In fact, one could say that it is, perhaps, a bit late in the day. Therefore, I really want to commend my good brother, Dr. Khalwale, for, once again, being a trail blazer by bringing this critical and also very historic piece of legislation.

Mr. Temporary Deputy Speaker, Sir, I know that any lawyer will tell you that a law is not ordinarily applied retrospectively in the sense, you do not apply it backwards. You apply a law today and into the future. So, it is absolutely heart rending further that this law will not save those in the past who have already suffered great loss. I am particularly encouraged by Clause 8 of this Bill that provides that this Act does not limit, restrict, but otherwise affect any rights or claims, a person would have had if this Act had not been enacted. That clause in a very express manner does provide a highway for those who have been affected to continue to pursue relief through available means under the law.

It is on this premise that I really want to rebuke Government for the ambivalent manner that it handled this whole saga. We have heard of attempts to investigate this matter. We have heard of a report that was produced from that process but the Government has been so slow to act on the recommendations of this report. Perhaps, this is appropriate forum or appropriate opportunity to challenge Government more to demonstrate its willingness to deal with this matter decisively and take decisive action against the perpetrators of these very heinous economic crimes against the people of this country. If possible, this House should, perhaps, consider pushing Government to even consider compensating those that were worst affected. That would show acknowledgement by Government that really this happened while the Government slept on the job.

Mr. Temporary Deputy Speaker, Sir, it is also important and I know this has already been mentioned here that it must belaboured nonetheless that this tendency by Kenyans to be fixated to get rich schemes must also be condemned. Honestly, if you are a right thinking person and you hear of a possibility someone tripling or even doubling your money in a matter of months, that kind of gullible---

(The microphone failed)

Mr. Temporary Deputy Speaker, Sir, I, therefore, want to plead with the fellow Kenyans that really, as had already been said, they will only grow their savings by hard work by a certain irreducible minimum of discipline. So, this tendency of rushing headlong thoughtlessly, I dare add, when they hear of some rosy sounding scheme that will suddenly transport them into the league of millionaires and they run to sink all their pension savings or even borrow money, this must also really be rebuked. Again, remember the people who lost money in this scheme, did not lose money with a gun held on their heads. They consciously and deliberately chose to put money in these schemes. The so-called Ponzi scheme in the United States (US) has proven that no society, however, sophisticated and whatever amount of laws--- We can legislate all the laws in this Chamber, but until we also live within the confines of certain economic disciplines, then we will continue falling prey to these kinds of schemes.

Mr. Temporary Deputy Speaker, Sir, this is a timely law. I hope that as soon as this Bill is enacted into law, His Excellency the President will move with speed to assent to it, so that it can be rolled out and protect Kenyans from any further pain.

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

Mr. M'Mithiaru: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me the opportunity to contribute and support this very important Bill. I would also like to congratulate the Mover, Dr. Khalwale.

Mr. Temporary Deputy Speaker, Sir, in the financial arena, we have very many players in terms of those who are trying to attract people to save with them and those who are in the

activity of lending money. Kenyans also seem to be very desperate, especially on issues where money is involved. If I may understand, a pyramid scheme is a scheme where the base is normally very heavy savings and very little lending. What lures people to go to them is the very attractive kinds of schemes that they have. For example, most of those pyramid schemes were paying 30 per cent interest per month. One would wonder what activity they could be involved in, which could actually ensure that all the participants in the scheme are paid that kind of money. That is already suspect. Ordinarily, many Kenyans also do not answer to the call that when something is too attractive, you should think twice. That is why I support my colleague who said earlier that Kenyans always would like to be in the club of millionaires overnight. We even have cases where Kenyans are told: "Bring your money. We shall pray for it and it will be doubled." That is really terrible. Somebody should actually be able to suspect that issue straightaway.

Mr. Temporary Deputy Speaker, Sir, I would also wish to direct the activities of these schemes to the Ministry that was concerned. Where were they when all this happened, especially when there were such schemes that ordinarily would be very suspect? I know that Kenyans would like to save and apparently the schemes fall in what we called the thrift clubs. We know also that there are other clubs, like the money lending, which involves shylocks and all that. The issue now is: How do we control any activity of all those players in the financial arena to ensure that Kenyans are not unduly defrauded? Of course, we know that the majority of them will be very unsuspecting. They may not know that they are entering into a trap. So, the law must be there to protect such people. We have the Savings and Credit Co-operative Societies (SACCOs) whose major interest is actually savings. So, for those who intend to save, the only way to do it properly is to be a member of a SACCO because that affords one an opportunity to save where money is safe and there is already a law that regulates that. There is even now a regulator who regulates the operations of the SACCOs.

Mr. Temporary Deputy Speaker, Sir, as I support this Bill, there is still need for some amendments to it to ensure that we also incorporate even areas of operations of money lenders and any other actors within the financial arena who are also out to defraud Kenyans. We will liaise with the Mover so that, at least, we move some amendments to enrich this Bill even more, so that it truly protects the Kenyans who participate in the financial arena.

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

Mr. Chepkitony: Mr. Temporary Deputy Speaker, Sir, I support this Bill. I would like to thank and congratulate hon. Bonny Khalwale for bringing this Bill.

Mr. Temporary Deputy Speaker, Sir, truly, it is really our role, as Members of Parliament, to champion such causes which have been a problem to the society. I think that Parliament is intervening through this Bill which will protect *wananchi* from being conned or undertaking fraudulent activities.

Mr. Temporary Deputy Speaker, Sir, the Bill still has got a chance to be improved. There are certain areas which I think we need to amend to make it better. There have been some suggestions of amendments. I believe that we still need to improve the definition of the Bill, because we want to be more direct. I think that the definition is not really very direct and specific to guide the law enforcers. We also need to know the implementing agency because there may be complaints and people may not go to court directly. We would like to see an agency which will be responsible for implementing the Bill. I think we need to give that responsibility to somebody, so that when a complaint is made, that agency can take action; take the matter to court and prosecute those who are promoting fraud. So, I think we need to improve on that.

Mr. Temporary Deputy Speaker, Sir, when pyramid schemes were formed, at first, we did not know which Ministry was responsible. Later on, I think it was decided that the Ministry of Co-operative Development and Marketing which was responsible and should have taken action. But when the report was made, nobody was arrested. This is because senior or powerful people were behind the scheme and nobody wanted to take action. Up to now, nobody has been taken to court because those behind it were powerful. So, I think that this Bill should really take action against whoever is promoting it regardless of what position he or she is holding in society.

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

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

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

Mr. Mwiru: Mr. Temporary Deputy Speaker, Sir, thank you for according me this opportunity to support this Bill and to say kudos to Dr. Khalwale for thinking of coming up with such a nice Bill to protect our citizens from these unscrupulous people, who want to get rich very quickly.

The only thing that I have noticed is that these people are more or less like murderers or robbers in our society. If murderers and robbers are normally put to jail for life, I would suggest that the penalties that are supposed to be meted out to these people should be stiffer than what is contained in this Bill. For example, we have seen situations where pensioners have lost all their lump sum amounts to those people, and in the process they got shocked and died just because they knew they could not live well in the society again; they had lost what they had suffered for, for 55 or 60 years of their lives. It is on that note that I feel that the penalties should be raised for the purposes of punishing these culprits. These are people who are living very flashy lives within our society in towns and the countryside. Some of the people who have swindled our people are now seeking high offices in this country. I have cases, but I do not want to mention people; I have seen that people who have swindled others are now campaigning hard using the same money they got from unsuspecting citizens.

Such people or such characters need to be taken away from the society; they need to be removed from society because they are making it lose. One of the phenomena that is there is that these people are known. But the Government of Kenya has done little, or nothing to try, and get hold of them. In fact, we have heard a report being read here that these people have not been pursued to make sure that they pay for the losses that people have incurred. Therefore, if we encourage this, more citizens will be tempted to begin the pyramid schemes. So, the Bill is very timely, but the penalties must be stiffer for the purposes of deterring future culprits.

There are quite a number of children who dropped out of school, especially those who were in universities; you will realize that the age of the victims was such they would have children in universities. What happened was that they lost all their money and their children were sent home. So, we have lost a section of the society that would have helped us in future just because of these pyramid schemes. That is why I am saying that these are people who do not mean well for our society or country, and they should be punished harder.

I want to believe that the Government is going to give – I am happy that Dr. Wekesa is here – a commitment that it will move faster and the President will assent to this Bill

immediately it is enacted by Parliament. I want to believe that, as many people who have contributed to the Bill have said, this Bill is going to sail through because most of the people have supported it; in the near future we will live in a country that does not have people who con us. These will include the shylocks we have in the country. We believe that even now shylocks are continuing and I think it is the right time the Government looked into this area to see how it is going to protect its citizens.

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

The Assistant Minister for Youth Affairs and Sports (Mr. Kabando wa Kabando): Mr. Temporary Deputy Speaker, Sir, I rise to support the Bill. Most of the people, and this has been said repeatedly, have been impoverished because of schemes designed not just by the ordinary people seeking to set up small businesses, but with the involvement of offices and individuals with influence. This influence has, obviously, curtailed investigations and punishment based on evidence that has been given. There can never be any better evidence of wrongdoing in this case than the fact that they are living Kenyans or even deceased Kenyans with witnesses as family members and agents who were involved in remitting the money was misappropriated.

This Bill is timely and is going to provide a framework that will prohibit this exploitation. In retrospect, those thousands and millions of our people who have had their pensions, their lifetime savings misappropriated--- Reports have been prepared using Government offices and public resources, but those reports have not been honoured; nothing has been done. Calls have been made for action to be taken in order for punishment to provide relief and do justice, and justice cannot be complete without return of the monies that these agencies have misappropriated.

It is a fact that involvement in these schemes has not just been treated--- Even sectors that otherwise would be expected to provide guidance to our very desperate constituents who want to invest in order to get returns on their money--- It may have been mentioned or reaffirmed that it is important for provision of serious broadcasts using the State media like the Kenya Broadcasting Corporation (KBC)--- Certain Motions that provide important benefits to the public are given airtime during campaigns to create awareness. With the reformed Judiciary those who have been aggrieved, have the opportunity and should have the courage to go to court in their respective areas of residence, that is in their counties, so that they can get remedies or recover their money.

Mr. Temporary Deputy Speaker, Sir, there has been mention of the need for everyone and every agency to do good for the society. We know that moral and ethical issues are best executed by those who profess religion; that is, those who are theologically driven and inspired. But there are those of us in this country, the so-called astrologers, who sometimes become really loud evangelical forces, and whom we sometimes witness on TVs. This is one path to impunity. This is another kind of pyramid; you use people's frustrations in searching for jobs, stability in their families, prosperity in businesses or loving spouses. In this country, we need firmness in us and in the Government, including the National Assembly. We also need enforcement forces, so that we do not have characters masquerading, for instance, as church personalities when all they seek is people to give up to the last coin in their pockets, and create another class of billionaires. These characters will "fly" across every village and give the impression that they can provide solution to problems.

The Temporary Deputy Speaker (Prof. Kaloki): I will give hon. Kabando wa Kabando one more minute to conclude his remarks. Hon. Kabando wa Kabando, I just want you to conclude your remarks.

The Assistant Minister for Youth Affairs and Sports (Mr. Kabando wa Kabando): Mr. Temporary Deputy Speaker, Sir, I conclude by saying that we have called in the past for the gazettements of over the counter trading that will allow the people who have family businesses to invest in their local areas, the equivalent of the NASDAC.

I strongly support this Bill.

The Temporary Deputy Speaker (Prof. Kaloki): Hon. Members, if it is the agreement of the House, let us have, at least, a minute each, so that we can conclude this matter.

Mr. Ruteere: Mr. Temporary Deputy Speaker, Sir, I support this Bill and appreciate the efforts by Dr. Khalwale to bring it to the House. Kenyans can very innocently and unsuspectingly be tricked into getting into these kinds of activities. The masters of these schemes are learned people who have money and can lure innocent Kenyans into getting involved into things that they do not understand. Clause 5(2) can put a lot of innocent unsuspecting Kenyans into trouble. It says that:-

“A person who participates in a pyramid scheme knows or ought reasonably to know---”.

I have an issue with that one because many of them may not know when they get involved in these schemes. The fine is very heavy. How do we differentiate those who have been tricked from those who are acting from a point of knowledge? We need to propose an amendment there because there are innocent Kenyans who may be tricked into this. The schemes are evil and should not be there. The masters of these schemes should be punished heavily, but the unsuspecting and unknowing Kenyans should be protected.

I beg to support.

Mr. Magwanga: Mr. Temporary Deputy Speaker, Sir, I rise to support this Bill. I must congratulate the Mover for a well thought Bill. If you look at the history of this country, a number of people have left others for death by stealing from innocent people. I would propose that stiffer penalties are meted against these people.

I beg to support.

Mr. Shakeel: Mr. Temporary Deputy Speaker, Sir, I stand to support the Bill. I would even suggest stiffer penalties that have been put here. In China, when people like these get away, they are taken to an equivalent of Uhuru Park and executed. I am not suggesting execution, but I am suggesting that we take certain measures. A former Member of Parliament was walking around with a huge amount of money and he was part of the pyramid scheme. We know the person who is a former Member of this Parliament.

Mr. Mwadeghu: Asante sana, Bw. Naibu Spika wa Muda. Ninaomba kuunga mkono Mswada huu. Watu wengi wameathirika kutokana na mpango huu ambao, wengi wetu tunaita “merry go-round”. Watu wengi wamestaafu, wakaweka hela zao katika mpango huu na wamepoteza fedha zao. Ninamshukuru mhe. Khalwale kwa kuuleta Msada huu na ninaomba sote tuunge mkono.

Mr. Kombo: Mr. Temporary Deputy Speaker, Sir, I also stand to support. In the past, people have suffered. I just wonder whether Dr. Khalwale could find a way of making sure that those who have suffered are compensated.

Mr. Gitari: Mr. Temporary Deputy Speaker, Sir, first of all, I want to support my colleague, Dr. Bonnie Khalwale, for bringing this good Bill.

Yesterday, we were with Mr. Nguyai in Kagumo Market when we were going on an inspection tour. That is the reason I was asked what we are doing about the pyramid schemes and the people who lost money.

I support.

The Temporary Deputy Speaker (Prof. Kaloki): Thank you, hon. Gitari. Now, I call upon Dr. Khalwale to respond.

Dr. Khalwale: Thank you, Mr. Temporary Deputy Speaker, Sir, I want to thank all the Members who have contributed. It is so nice to note that none of them has recorded dissent. I want to encourage them. They suggested amendments to improve the Bill. We still have room when the matter comes up in the Committee of the Whole House.

I also want to use this opportunity to thank two sets of people; we have an initiative called the National Pyramid Victims Initiative. This initiative is led by Pastor Samuel Kariuki together with Bishop W. Wamboilero, Eliud Thuku, Joseph Kinyua and Bishop Kinyanjui. There is another called Mt. Kenya Pyramid Scheme Initiative led by Rev. Margaret Prem, Bishop Eraustus Njoroge and Benson Kiamba.

Mr. Temporary Deputy Speaker, Sir, these are the gallant Kenyans, who after becoming victims, organized themselves to bring up this matter to the attention of this National Assembly. Bishop Pastor Samuel Kariuki then approached the Vice-President. I want to thank the Vice-President abundantly. The Vice-President then summoned me and handed me over to this group. They gave me a petition which I brought before this House and was successful. I want it to go on record as we vote that after Pastor Samuel Kariuki had given me this petition, he was ambushed on his way home and he had his eye gorged out. That is the price that Kenyans are paying. As we were debating, Pastor Samuel Kariuki has just sent me a short text thanking all of us for rising to this matter today.

I want to end by remembering that before they killed him, Josiah Mwangi Kariuki was fighting that Kenya should not be a country of ten millionaires and 10 million poor Kenyans. Little did Kariuki know that it would become worse than that, that the ten millionaires would then devise such schemes to steal from the 10 million poor Kenyans.

Hon. Members, I want to thank you and if you vote yes, then I am going to dedicate this Bill that is going to help the poor of this country to the late Joseph Martin Shikuku who lived fighting as the poor man's watchman. I thank you all.

I beg to move.

(Question put and agreed to)

ADJOURNMENT

The Temporary Deputy Speaker (Prof. Kaloki): Hon. Members, it is now time for interruption of business. This House is, therefore, adjourned until today, Wednesday 29th August, 2012, at 2.30 p.m.

The House rose at 12.30 p.m.